



Written Testimony  
Secretary of State Glenda E. Hood  
EAC Hearing on Provisional Ballots  
February 23, 2005, Columbus, Ohio

---

- I welcome the opportunity to talk to the commission about what Florida learned during the successful 2004 election cycle and the changes we will seek during the 2005 legislative session to continue to improve Florida's election process.
- The greatest outcome of the 2004 elections – in Florida and elsewhere – is that our citizens were engaged in the election like never before and were energized to participate in our democracy at unprecedented high levels.
- According to a recent survey Florida had a 27% increase in voter turnout for the 2004 Presidential election as compared to the 2000 Presidential election.
- On General Election Day 10.3 million voters were registered in Florida and 7.6 million ballots were counted.
- Despite the daunting challenges of four hurricanes in six weeks and overwhelming media scrutiny, Florida's Supervisors of Elections persevered and conducted an overwhelmingly successful primary and general elections.

**Background – Provisional Ballots in Florida**

- During the 2000 general election, there were numerous reports of voters presenting themselves at the polls only to find that their names were not on the precinct register.
- The law at that time required that if the person's name was not on the precinct register, the poll worker was to contact the Supervisor of Elections' office to verify that the person was eligible to vote.

- Upon such verification, the voter was allowed to cast a ballot.
- Due to high voter turnout for the 2000 general election, along with the typically high volume of calls from voters on Election Day, in many instances the poll workers were not able to reach the supervisor's office to verify the person's status.
- Some voters were turned away, others were told to come back later, and still others were allowed to vote even though their eligibility was questionable. *There was no uniformity!*
- In response to this problem, the 2001 Florida Legislature adopted provisional ballots for Florida. A provisional ballot is used when a person claims to be properly registered in the county and eligible to vote in the election but their name does not appear on the precinct register and the poll worker can not get through to the supervisor of elections to determine the person's eligibility.
- Once voted, the provisional ballot is placed in an envelope, the person executes a Provisional Ballot Voter's Certificate and the ballot is returned to the supervisor of elections.
- If it is determined that the person was eligible to vote, the provisional ballot is counted.
- One of the most contentious discussions of provisional ballots in the Legislature revolved around whether to count the ballot if the voter cast it in a precinct other than that in which he or she has legal residence. Florida law requires a person to cast their ballot in their correct precinct in order for the vote to be counted.
- In 2002, Congress mandated provisional ballots for all federal elections. HAVA, however, left the implementation of provisional ballots to the discretion of the states. Because of the state's long history of precinct based voting, Florida continues to require the voter to be in the proper precinct in order for his or her ballot to be counted.
- Prior to the 2004 General Election, Florida's law requiring that the person be in the correct precinct in order for his or her ballot to count was challenged in federal court.

- The Florida Supreme Court upheld the state law requiring voters to cast their ballots in the proper precinct.
- Provisional ballots are provided at the polling place to the following individuals for many reasons including:
  - ✓ A person whose name is not on the precinct register and the poll worker is unable to verify whether or not the person is a registered voter of the county.
  - ✓ A person whose name is not on the precinct register and the poll worker verifies that the person is not registered in the county, but the person maintains that he or she is entitled to vote.
  - ✓ A voter whose name is on the precinct register with an indication that he or she has received an absentee ballot and the poll worker is unable to verify whether the absentee ballot has been returned to the supervisor of elections.
  - ✓ A voter whose name is on the precinct register with an indication that he or she has received an absentee ballot and the poll worker confirms that the supervisor of elections has received the voted absentee ballot, but the voter maintains that he or she has not returned the absentee ballot.
  - ✓ A person whose name is not on the precinct register but who has completed either the change of name or change of residence affirmation and the poll worker is unable to verify whether the person is a registered voter of the county.
  - ✓ A person who is noted on the precinct register as required to show identification under s. 97.0535 (first time voter who registered to vote by mail) but does not produce the identification.
  - ✓ A challenged voter who refuses to complete the affirmation oath or whom a majority of the clerk and inspectors doubt the eligibility of.

### **Provisional Ballots**

- Ten thousand provisional ballots were cast by eligible voters and were counted.
- Florida's number of provisional ballots cast was substantially lower than most other states which is testimony to Florida's Supervisors and their tireless efforts in maintaining the voter registration rolls and educating their voters.
- In addition Florida has standards in place for counting provisional ballots.
  - ✓ Must be a registered voter
  - ✓ Must be casting ballot in correct precinct
  - ✓ Signatures must match
- The most common reasons provisional ballots cast during the 2004 election cycle were not counted:
  - ✓ Person was not registered to vote (this could be because they weren't registered at all or application was received after book closing)
  - ✓ Voter was not in correct precinct

### **Looking Ahead**

- This coming legislative session our goal is to fine tune the successful election reforms put in place by our legislature, ensure uniformity in the application of state election laws, and resolve some of the challenges experienced during this past election.
- The voting machines worked as they should, early voting was a tremendous success, requests for absentee ballots was unprecedented, and provisional ballots ensured that no one was turned away at the polls.
- All the reforms put in place and accomplishments achieved since 2000 have served Florida's voters very well. The 2004 election, as well as the numerous elections that have taken place across the

state since the reforms were put in place, illustrate the importance of the uniform application of the election laws.

- We will be proposing to our legislature to put in place a process in which the voter has three days from the election to bring forth evidence that shows why their vote should in fact be counted.
- Canvassing boards will then count the provisional ballots unless there is a preponderance of evidence that shows the voter has not met the necessary criteria.
- We have heard the Supervisor's concerns regarding various deadlines and need to review the short timelines for counting provisional ballots and conducting recounts. We will be recommending and proposing some changes to those deadlines that will still adhere to Florida's current certification deadlines.

### ***Final Remarks***

- Florida is proud of the success we experienced this past election cycle, however here is more to be accomplished.
- Over the past four years Florida has led the nation in election reform. Various segments of HAVA were even patterned after the work of the Florida legislature.
- I am confident that through hard work and continued commitment we will build on these reforms and continue to improve the state's elections process for all Florida voters.