



March 10, 2021

Senate Committee on Governmental Oversight and Accountability  
Florida Senate  
Senator Ray Wesley Rodrigues, Chair

Dear Chair Rodrigues and Members of the Governmental Oversight and Accountability Committee:

I write on behalf of Fair Elections Center to express our opposition to the CS for SB 90, related to vote by mail. This CS would make it harder for Floridians to vote by mail. It would also violate federal law as to voter assistance, and would needlessly require supervisors to do more work to achieve the same results.

This testimony focuses on three changes PCS/CS/SB 90 would make:

- Reducing the number of elections for which one request for a vote-by-mail ballot is sufficient to all elections just through the next regularly scheduled general election, and by making this retroactive, requiring people who applied in 2020 to reapply contrary to their expectations
- Limiting persons who may lawfully be in possession of a vote-by-mail ballot to the voter and the voter's immediate family;
- Prohibiting the use of drop boxes for return of a vote-by-mail ballot.

**Canceling Currently Valid Requests for Vote by Mail Applications, Creating More Work for Supervisors**

This bill will make it harder for Floridians to vote by mail, in addition to making supervisors' work even more difficult. Informational and systemic barriers already make it challenging for some voters to cast ballots, and these additional barriers will exacerbate this issue by making it harder to apply. Voters who require assistance to apply, such as the many Floridians with disabilities, will be particularly hard-hit by these changes. By requiring voters to apply more often, this bill will create additional work for supervisors of elections, and will create administrative hurdles as to voters who have already applied and whose applications would have otherwise remained active, by requiring supervisors to reassess and duplicate work that has already been done with respect to those

voters. Notably, under current law, these ballot requests are already considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable. Thus this provision does not address any problem.

### **Limiting Assistance with Voting in Violation of Federal Law**

By limiting the persons who may possess voters' ballots only to immediate family, the CS limits the assistance disabled and limited-English-proficient voters can seek when voting by mail in violation of Section 208 of the federal Voting Rights Act. Section 208 requires that voters who need assistance to vote by reason of their disability or inability to write (including limited English proficiency) be allowed to select *any person* of their choice to help them vote who is not their employer or union rep. Courts have held that state laws that put stricter limits on who the voter can choose as their assister violate Section 208. *OCA-Greater Houston v. Texas*, 867 F.3d 604, (5th Cir. 2017); *Democracy N.C. v. N.C. State Bd. of Elections*, 476 F. Supp. 3d 158, 235 (M.D.N.C. 2020), *reconsideration denied*, No. 1:20CV457, 2020 WL 6591396 (M.D.N.C. Sept. 30, 2020).

Moreover, many voters in need of assistance lack access to an immediate family member to assist them.

### **Eliminating Voter Access by Banning Drop Boxes**

This bill would also make voting less accessible by banning ballot drop boxes, despite that a significant majority of Florida voters support having this option. Drop boxes help supervisors make vote by email more efficient, and they reduce burdens on USPS. Removing them will also make voting disproportionately less accessible and fair for voters of color, low-income communities, individuals with disabilities, and other marginalized voters.

Thank you for the opportunity to express these concerns. If you have further questions, please contact me at this email address.

Sincerely,

Michelle E. Kanter Cohen  
Senior Counsel  
Fair Elections Center  
mkantercohen@fairelectionscenter.org