



NAACP
FLORIDA STATE CONFERENCE

ALL VOTING
FLORIDA



Demos



October 11, 2022

Via Email Only

Cord Byrd

Secretary of State

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CC: Governor Ron DeSantis

RE: Hurricane Ian Recovery; Emergency Actions to Ensure Voting Access

Dear Secretary Byrd, Director Matthews, and Mr. McVay,

The Florida State Conference of the NAACP, All Voting is Local Florida, Common Cause Florida, Equal Ground, ACLU of Florida, Campaign Legal Center, Demos, LatinoJustice PRLDEF, and the Lawyers' Committee for Civil Rights Under Law write to express our concern about the impact of Hurricane Ian on Floridians' ability to successfully vote in the ongoing general election. The destruction caused by Hurricane Ian has significantly disrupted election administration in affected counties,¹ as well as United States Postal Service ("USPS") operations,² and has displaced thousands of Floridians to locales across the state who must now attempt to identify alternative means of voting while they remain unable to return to their homes and struggle to meet basic needs.

¹ See, e.g., Miles Cohen, ABC News, *Florida Election Supervisors Scramble to Get Power Back Ahead of Mail-in Ballot Deadline* (Sept. 30, 2022), available at <https://abcnews.go.com/amp/Politics/florida-election-supervisors-scramble-power-back-ahead-mail/story?id=90776574>; Bianca Padró Ocasio, Miami Herald, *Mail ballot delays possible in parts of Florida amid Hurricane Ian, election official says* (Sept. 30, 2022), available at <https://www.miamiherald.com/article266574356.html>.

² See, e.g., Dave Osborn, Fort Myers News-Press, *Hurricane Ian: USPS suspends service as storm reaches Florida: Which cities are affected?* (Sept 27, 2022), available at <https://www.news-press.com/story/weather/hurricane/2022/09/27/hurricane-ian-where-postal-service-suspended-florida-naples-fort-myers-sarasota-tampa-bradenton/10445769002/>; USPS, *Service alerts: Residential service disruptions* (last accessed Oct. 7, 2022) <https://about.usps.com/newsroom/service-alerts/residential/welcome.htm>.

Recognizing this, we respectfully request that the Department of State (“DOS”) take the following emergency actions to ensure voting access for all Floridians, in light of the continuing effects of this devastating natural disaster. Pursuant to Section 4 of Executive Order 22-218, issued September 23, 2022, as amended by Executive Order 22-219, issued September 24, 2022, state agencies currently have the authority to “suspend the provisions of any regulatory statute, order, or rule, if strict compliance with the provisions of the statute, order, or rule would prevent, hinder, or delay necessary action in coping with the emergency.”³ Each of the actions outlined below are necessary to cope with the ongoing emergency by ensuring voting access for affected Floridians,⁴ and thus within the authority of DOS under existing Executive Orders. To the extent that you believe a new Executive Order is needed to provide additional authority to undertake any of these actions, we request that the Governor issue such an order.

1. Voter Registration

- a. Extend the Voter Registration Deadline statewide from October 11 to October 18;
- b. Allow completed voter registration forms to be submitted to any SOE office statewide, not just to the office in the county where the registrant resides;

2. Early Voting

- a. Extend the mandatory Early Voting period in affected counties⁵ from October 29 through November 5 to October 24 through November 7, or, in the alternative, allow SOEs in affected counties to conduct early voting every day beginning October 24 through November 7;⁶
- b. Extend the mandatory Early Voting hours in affected counties from 8 hours to 12 hours per day throughout the Early Voting period;
- c. Allow SOEs in affected counties to designate additional Early Voting Sites, provided that Early Voting sites are geographically located so as to provide all voters in the county an equal opportunity to cast a ballot;⁷

3. Vote-By-Mail

³ See Florida Department of State, Emergency Order Number 22-01, “Emergency Management/Elections – Hurricane Ian,” issued September 30, 2022 (extending the filing deadline for campaign finance reports by one week), available at <https://files.floridados.gov/media/705930/emergency-order-22-01.pdf>.

⁴ We further note that many of these same actions were taken in 2018 following Hurricane Michael. See Executive Order 18-283, available at <https://www.flgov.com/wp-content/uploads/2018/10/SLT-BIZHUB18101809500.pdf>.

⁵ We suggest that you define “affected counties” as any county currently subject to any Federal Emergency Management Agency (“FEMA”) disaster designation. See <https://www.fema.gov/disaster/4673/designated-areas> (listing Florida counties currently subject to FEMA disaster designation).

⁶ Lee County SOE Tommy Doyle has separately requested this action, see Jacob Ogles, Florida Politics, *Tommy Doyle lays out hopes for Election Day after Hurricane Ian* (Oct. 7, 2022), available at <https://floridapolitics.com/archives/562489-tommy-doyle-lays-out-hopes-for-election-day-after-hurricane-ian/>. This action was also taken in 2018 following Hurricane Michael, see Executive Order 18-283, available at <https://www.flgov.com/wp-content/uploads/2018/10/SLT-BIZHUB18101809500.pdf>.

⁷ This action was also taken in 2018 following Hurricane Michael, see Executive Order 18-283, available at <https://www.flgov.com/wp-content/uploads/2018/10/SLT-BIZHUB18101809500.pdf>.

- a. Allow SOEs in affected counties to accept written (including email) or telephonic requests for a VBM ballot to be mailed to an address other than the voter’s address on file;⁸
 - b. Allow SOEs to send VBM ballots via forwardable mail such that displaced voters who have provided a forwarding address to USPS do not need to request a new ballot, and work with USPS officials to ensure VBM ballots are forwarded;⁹
 - c. Allow SOEs to offer voters the opportunity to cast ballots, including VBM ballots, directly at supervised emergency shelters housing voters displaced from their homes, and at other supervised or assisted living centers and nursing homes in affected counties;
 - d. Allow SOEs in affected counties to expand their use of Secure Ballot Intake Stations (“SBINS”), both in quantity and location;
 - e. Provide for expanded use of mobile SBINS in affected counties, provided that mobile SBINS are geographically disbursed so as to provide all voters in the county an equal opportunity to cast a ballot;
4. Polling Locations
- a. Allow SOEs in affected counties to relocate or consolidate polling locations, including Early Voting locations, provided that polling locations are geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, and that SOEs consult with community members about the final location of polling places;¹⁰ and
 - b. Allow voters in affected counties to cast their ballot at any polling location within the county, or in the alternative, allow SOEs in affected counties to create polling locations at which any voter in the county can cast their ballot (“vote centers”), provided that vote centers are geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, and that SOEs consult with community members about the final location of vote centers.¹¹

⁸ Lee County SOE Tommy Doyle has separately requested this action, *see* Jacob Ogles, Florida Politics, *Tommy Doyle lays out hopes for Election Day after Hurricane Ian* (Oct. 7, 2022), available at <https://floridapolitics.com/archives/562489-tommy-doyle-lays-out-hopes-for-election-day-after-hurricane-ian/>. This action was also taken in 2018 following Hurricane Michael, *see* Executive Order 18-283, available at <https://www.flgov.com/wp-content/uploads/2018/10/SLT-BIZHUB18101809500.pdf>. We also note that, because voters must now provide their Driver License number or the last four digits of their Social Security number when requesting a VBM ballot, this action should not raise security concerns.

⁹ This action was also taken in 2018 following Hurricane Michael, *see* Executive Order 18-283, available at <https://www.flgov.com/wp-content/uploads/2018/10/SLT-BIZHUB18101809500.pdf>. We also note that outgoing VBM ballot envelopes are marked “DO NOT FORWARD” and also “OFFICIAL VOTE-BY-MAIL BALLOTING MATERIAL.” Accordingly, SOEs and DOS should work with USPS officials to recognize Florida election mail marked “OFFICIAL VOTE-BY-MAIL BALLOTING MATERIAL” as forwardable on a temporary basis between now and November 8.

¹⁰ Lee County SOE Tommy Doyle has separately requested this action, *see* Jacob Ogles, Florida Politics, *Tommy Doyle lays out hopes for Election Day after Hurricane Ian* (Oct. 7, 2022), available at <https://floridapolitics.com/archives/562489-tommy-doyle-lays-out-hopes-for-election-day-after-hurricane-ian/>. This action was also taken in 2018 following Hurricane Michael, *see* Executive Order 18-283, available at <https://www.flgov.com/wp-content/uploads/2018/10/SLT-BIZHUB18101809500.pdf>.

¹¹ Lee County SOE Tommy Doyle has separately requested this action, *see* Jacob Ogles, Florida Politics, *Tommy Doyle lays out hopes for Election Day after Hurricane Ian* (Oct. 7, 2022), available at <https://floridapolitics.com/archives/562489-tommy-doyle-lays-out-hopes-for-election-day-after-hurricane-ian/>. This

We further request that you update the website for the Division of Emergency Management¹² with any changes to any voting procedures through Election Day, November 8, and the close of the canvassing period. We further request that you provide a prominent link to that website on the websites for the Division of Elections,¹³ the Department of State's Contact Your Supervisors of Elections website,¹⁴ and the individual counties' disaster information and Supervisor of Elections websites. This will allow voters to access up-to-date information about county-level elections infrastructure even where counties lacking power or other resources may not be able to update their individual county websites.

Specifically, we request that you make the following information available on the Division of Emergency Management website, and that this information be updated in real time as changes are made:

1. The days and hours during which individual county Supervisor of Elections' offices will be open and fully functional, including locations and contact information for county Supervisors of Elections in affected counties;
2. The dates, hours, and locations for Early Voting;
3. The dates, hours, and locations for Election Day voting;
4. The dates, hours, and locations for VBM drop-off at SBINS;
5. How to vote in person at Early Voting and vote center locations, including whether displaced voters can vote at these locations if they are outside of their county; and
6. How to vote by VBM ballot for voters in affected counties, including:
 - a. How voters can obtain and cast a VBM ballot if they cannot access their mailing address;
 - b. How voters can obtain and cast a VBM ballot if they have already requested, but cannot locate their VBM ballot; and
 - c. How voters can verify whether a VBM ballot they have already sent back was received, and what to do if it was lost or destroyed.

We appreciate the work you, the SOEs, and others are doing to maintain and restore critical election infrastructure in the face of a serious natural disaster. We stand ready to consult on any aspect of the above and related voter access issues, and assist in providing information to voters through the nonpartisan Election Protection coalition and 866-OUR-VOTE hotline.

Thank you for your attention and cooperation,

Julie M. Houk, Managing Counsel for Election Protection
Ryan Snow, Counsel, Voting Rights Project

action was also taken in 2018 following Hurricane Michael, *see* Executive Order 18-283, *available at* <https://www.flgov.com/wp-content/uploads/2018/10/SLT-BIZHUB18101809500.pdf>.

¹² <https://www.floridadisaster.org/info/>

¹³ <https://dos.myflorida.com/elections/>. Note that the link to the webpage for Hurricane Ian Election Resources is currently only available under the "For Voters" dropdown menu, *see* <https://dos.myflorida.com/elections/for-voters/hurricane-ian-election-resources/>. We request that this link instead be featured prominently on the front page of the Division of Elections website.

¹⁴ <https://dos.elections.myflorida.com/supervisors/>

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