

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 1255** Session of
2011

INTRODUCED BY ROBBINS, ALLOWAY, BAKER, BOSCOLA, BROWNE, COSTA,
ERICKSON, FOLMER, FONTANA, HUGHES, MENSCH, ORIE, PIPPY,
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D. WHITE, YUDICHAK, GREENLEAF, TARTAGLIONE, BRUBAKER, FERLO
AND FARNESE, SEPTEMBER 20, 2011

SENATOR MCILHINNEY, STATE GOVERNMENT, AS AMENDED, MAY 8, 2012

AN ACT

1 Amending Title 25 (Elections) of the Pennsylvania Consolidated
2 Statutes, enacting the Uniform Military and Overseas Voters
3 Act.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 25 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 35

9 UNIFORM MILITARY AND OVERSEAS VOTERS

10 Sec.

11 3501. Short title of chapter.

12 3502. Definitions.

13 3503. Duties and responsibilities of secretary.

14 3504. (Reserved).

15 3505. Registering to vote.

16 3506. Methods of applying for military-overseas ballot.

17 3507. Timeliness and scope of ballot application.

- 1 3508. Transmission of unvoted ballots.
2 3509. Timely casting of ballot.
3 3510. Federal write-in absentee ballot.
4 3511. Receipt of voted ballot.
5 3512. Confirmation of receipt of application and voted ballot.
6 3513. (Reserved).
7 3514. Election notices.
8 3515. Prohibition of nonsubstantive requirements.
9 3516. Equitable relief.
10 3517. Uniformity of application and construction.
11 3518. Relation to Electronic Signatures in Global and National
12 Commerce Act.
13 3519. Construction.

14 § 3501. Short title of chapter.

15 This chapter shall be known and may be cited as the Uniform
16 Military and Overseas Voters Act.

17 § 3502. Definitions.

18 The following words and phrases when used in this chapter
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Active uniformed-service voter." A uniformed-service voter
22 who meets all of the following paragraphs:

23 (1) Is:

24 (i) a member of the active or reserve components of
25 the Army, Navy, Air Force, Marine Corps or Coast Guard of
26 the United States; or

27 (ii) a member of the National Guard or the
28 Pennsylvania National Guard.

29 (2) Is on active duty.

30 (3) Maintains a voting residence in this Commonwealth.

1 (4) Otherwise satisfies the voter eligibility
2 requirements of the Commonwealth.
3 "County election board." Officials having jurisdiction over
4 the conduct of elections in a county under the act of June 3,
5 1937 (P.L.1333, No.320), known as the Pennsylvania Election
6 Code.

7 "Covered voter." All of the following:

8 (1) A uniformed-service voter who is registered to vote
9 in this Commonwealth.

10 (2) An overseas voter who is registered to vote in this
11 Commonwealth.

12 (3) A uniformed-service voter who is not registered to
13 vote in this Commonwealth but who otherwise satisfies the
14 voter eligibility requirements of this Commonwealth.

15 (4) An overseas voter who is not registered to vote in
16 this Commonwealth but who otherwise satisfies the voter
17 eligibility requirements of this Commonwealth, including
18 residency requirements.

19 "Dependent." An individual recognized as a dependent by a
20 uniformed service.

21 "Election." A general election, municipal election, special
22 election or primary election.

23 "Election Code." The act of June 3, 1937 (P.L.1333, No.320),
24 known as the Pennsylvania Election Code, and the provisions of
25 this title other than this chapter.

26 "Election district." A district, division or precinct
27 established under the act of June 3, 1937 (P.L.1333, No.320),
28 known as the Pennsylvania Election Code, in which all qualified
29 electors are eligible to vote in the same polling place.

30 "Federal postcard application." The application prescribed

1 under section 101(b)(2) of the Uniformed and Overseas Citizens
2 Absentee Voting Act (Public Law 99-410, 42 U.S.C. § 1973ff(b)
3 (2)). The term includes the application's electronic equivalent.

4 "Federal write-in absentee ballot." The ballot described in
5 section 103 of the Uniformed and Overseas Citizens Absentee
6 Voting Act (Public Law 99-410, 42 U.S.C. § 1973ff-2).

7 "FWAB declaration." The declaration which accompanies the
8 Federal write-in absentee ballot.

9 "General election." The election which the Constitution of
10 Pennsylvania requires to be held in even-numbered years.

11 "Military-overseas ballot." All of the following:

12 (1) A Federal write-in absentee ballot.

13 (2) A ballot specifically prepared or distributed for
14 use by a covered voter in accordance with this chapter.

15 (3) A ballot cast by a covered voter in accordance with
16 this chapter.

17 "Municipal election." The election which the Constitution of
18 Pennsylvania requires to be held in odd-numbered years.

19 "Overseas voter." A qualified elector who is outside the
20 United States.

21 "Primary election." An election held for the purpose of
22 nominating candidates for public offices to be voted for at a
23 general election or a municipal election.

24 "Qualified elector." An individual who:

25 (1) possesses all of the qualifications for voting
26 prescribed by the Constitution of Pennsylvania and the laws
27 of this Commonwealth; or

28 (2) being otherwise qualified by continued residence in
29 the individual's election district, obtains qualifications
30 under paragraph (1) before the next ensuing election.

1 "Secretary." The Secretary of the Commonwealth.

2 "Special election." An election authorized by law, other
3 than a general election, a municipal election or a primary
4 election.

5 "State." A state of the United States, the District of
6 Columbia, Puerto Rico, the Virgin Islands or any territory or
7 insular possession subject to the jurisdiction of the United
8 States.

9 "State declaration." The declaration prescribed by the
10 secretary under section 3503(c)(4) (relating to duties and
11 responsibilities of secretary).

12 "Uniformed service." All of the following:

13 (1) Active and reserve components of the Army, Navy, Air
14 Force, Marine Corps or Coast Guard of the United States.

15 (2) The United States merchant marine, the Commissioned
16 Corps of the Public Health Service of the Department of
17 Health and Human Services or the Commissioned Corps of the
18 National Oceanic and Atmospheric Administration of the United
19 States.

20 (3) The National Guard and the Pennsylvania National
21 Guard.

22 "Uniformed-service voter." A qualified elector who is one of
23 the following:

24 (1) A member of the active or reserve components of the
25 Army, Navy, Air Force, Marine Corps or Coast Guard of the
26 United States who is on active duty.

27 (2) A member of the United States merchant marine, the
28 Commissioned Corps of the Public Health Service of the
29 Department of Health and Human Services or the Commissioned
30 Corps of the National Oceanic and Atmospheric Administration

1 of the United States.

2 (3) A member on activated status of the National Guard
3 or Pennsylvania National Guard.

4 (4) A spouse or dependent of an individual referred to
5 in paragraph (1), (2) or (3).

6 (5) A veteran of a uniformed service who is bedridden or
7 hospitalized due to illness or physical disability.

8 "United States." When used in the territorial sense, the
9 several states, the District of Columbia, Puerto Rico, the
10 Virgin Islands and any territory or insular possession subject
11 to the jurisdiction of the United States.

12 § 3503. Duties and responsibilities of secretary.

13 (a) Responsible official.--The secretary is the official in
14 the Commonwealth responsible for implementing this chapter and
15 the Commonwealth's responsibilities under the Uniformed and
16 Overseas Citizens Absentee Voting Act (Public Law 99-410, 42
17 U.S.C. § 1973ff et seq.).

18 (b) Information to covered voters.--The secretary shall make
19 available to covered voters information regarding voter
20 registration procedures for covered voters and procedures for
21 casting military-overseas ballots.

22 (c) Other duties.--The secretary shall do all of the
23 following:

24 (1) Establish an electronic transmission system through
25 which a covered voter may apply for and receive voter
26 registration materials, military-overseas ballots and other
27 information under this chapter.

28 (2) Develop standardized absentee-voting materials and
29 their electronic equivalents, authentication materials and
30 voting instructions to be used with the military-overseas

1 ballot of a voter authorized to vote in any jurisdiction in
2 this Commonwealth.

3 (3) To the extent reasonably possible, coordinate with
4 other states to carry out the provisions of this subsection.

5 (4) Prescribe the form and content of a declaration for
6 use by a covered voter who does not use the Federal write-in
7 absentee ballot in accordance with the following:

8 (i) The declaration shall require the covered voter
9 to swear or affirm, under penalty of perjury, specific
10 representations pertaining to the voter's:

11 (A) identity;

12 (B) eligibility to vote;

13 (C) status as a covered voter; and

14 (D) timely and proper completion of a military-
15 overseas ballot.

16 (ii) The declaration shall be based on the FWAB
17 declaration, as modified to be consistent with this
18 chapter.

19 (iii) The secretary shall ensure that a form for the
20 execution of the declaration, including an indication of
21 the date of execution of the declaration, is a prominent
22 part of all balloting materials for which the declaration
23 is required.

24 § 3504. (Reserved).

25 § 3505. Registering to vote.

26 (a) General rule.--A covered voter who desires to vote in an
27 election but who is not registered must register to vote within
28 the time periods required by the Election Code. Notwithstanding
29 the provisions of subsection (b) (2) or any other law, neither an
30 active uniformed-service voter nor a veteran of a uniformed

1 service who is bedridden or hospitalized due to illness or
2 physical disability shall be required to register to vote prior
3 to or simultaneous with the submission of a military-overseas
4 ballot.

5 (b) Simultaneous registration.--

6 (1) A covered voter may use the Federal postcard
7 application to register to vote and to apply for a military-
8 overseas ballot at the same time.

9 (2) A uniformed-service voter may use the Federal write-
10 in absentee ballot to register to vote and to vote at the
11 same time.

12 (3) The use of the Federal postcard application under
13 paragraph (1) and the Federal write-in absentee ballot under
14 paragraph (2) to register to vote is in addition to any other
15 registration method allowed by law.

16 (c) Electronic transmission system.--The secretary shall
17 ensure that the electronic transmission system described in
18 section 3503(c) (relating to duties and responsibilities of
19 secretary) is capable of accepting a Federal postcard
20 application and any other approved electronic registration
21 application sent to the appropriate county election board. The
22 voter may use the electronic transmission system or any other
23 approved method to register to vote.

24 (d) Construction.--Nothing in this section shall require a
25 covered voter to register to vote, prior to or concurrently with
26 voting, if the covered voter is otherwise entitled under
27 applicable provisions of the Election Code or any other statute
28 to vote without registering.

29 § 3506. Methods of applying for military-overseas ballot.

30 (a) Registered voters.--A covered voter who is registered to

1 vote in this Commonwealth may apply for a military-overseas
2 ballot using either the absentee ballot application provided
3 under the Election Code or the Federal postcard application.

4 (b) Nonregistered voters.--A covered voter who is not
5 registered to vote in this Commonwealth may use a Federal
6 postcard application to simultaneously register to vote under
7 section 3505 (relating to registering to vote) and to apply for
8 a military-overseas ballot.

9 (c) Electronic transmission system.--

10 (1) The secretary shall ensure that the electronic
11 transmission system described in section 3503(c) (relating to
12 duties and responsibilities of secretary) is capable of
13 accepting the submission of both a Federal postcard
14 application and any other approved electronic
15 military-overseas ballot application sent to the appropriate
16 county election board.

17 (2) The covered voter may use the electronic
18 transmission system or any other approved method to apply for
19 a military-overseas ballot.

20 (d) Use of Federal write-in absentee ballot.--A
21 uniformed-service voter may use the Federal write-in absentee
22 ballot to apply for a military-overseas ballot and to vote at
23 the same time.

24 (e) Status of a covered voter.--To receive the benefits of
25 this chapter, a covered voter must inform the appropriate county
26 election board that the voter is a covered voter. Methods of
27 informing the appropriate county election board that a voter is
28 a covered voter include all of the following:

29 (1) The use of a Federal postcard application or Federal
30 write-in absentee ballot.

1 (2) The use of an overseas address on an approved voter
2 registration application or ballot application.

3 (3) The inclusion on an approved voter registration
4 application or ballot application of other information
5 sufficient to identify the voter as a covered voter.

6 (f) Construction.--Nothing in this chapter shall preclude a
7 covered voter from voting absentee under applicable provisions
8 of the Election Code.

9 § 3507. Timeliness and scope of ballot application.

10 (a) General rule.--A covered voter may apply at any time
11 before an election for a military-overseas ballot.

12 (b) Standing request.--

13 (1) An application for a military-overseas ballot for a
14 primary election shall be considered a standing request for a
15 military-overseas ballot for a special election, a general
16 election or a municipal election, occurring subsequent to the
17 primary election in the same calendar year.

18 (2) A county election board shall provide a military-
19 overseas ballot to a voter who makes a standing request for
20 each election to which the request is applicable.

21 (c) E-mail address information.--

22 (1) A county election board shall provide an opportunity
23 for each covered voter who registers to vote after the
24 effective date of this section to furnish the county election
25 board with an e-mail address, unless the information has
26 already been provided by the covered voter. A separate
27 mailing shall not be required for the county election board
28 to comply with this paragraph. Any contact the county
29 election board has with a covered voter who registers to vote
30 after the effective date of this section in which the voter's

1 e-mail address is requested is sufficient.

2 (2) An e-mail address provided by a covered voter may
3 not be made available to the public or any individual or
4 organization other than an authorized agent of the county
5 election board and shall be exempt from disclosure under the
6 act of February 14, 2008 (P.L.6, No.3), known as the Right-
7 to-Know Law.

8 (3) The e-mail address may be used only for official
9 communication with the voter about the voting process,
10 including transmitting military-overseas ballots and ballot
11 materials, if the voter has requested electronic
12 transmission, and verifying the voter's mailing address and
13 physical location.

14 (4) A special request for an e-mail address shall
15 describe the purposes for which the e-mail address may be
16 used and include a statement that any other use or disclosure
17 of the e-mail address is prohibited.

18 § 3508. Transmission of unvoted ballots.

19 (a) General rule.--Subject to subsection (b), for an
20 election for which the Commonwealth has not received a waiver
21 under section 102(g) (2) of the Uniformed and Overseas Citizens
22 Absentee Voting Act (Public Law 99-410, 42 U.S.C. § 1973ff-1(g)
23 (2)), the following apply:

24 (1) Except as set forth in paragraph (2), not later than
25 45 days before the election, the county election board in
26 each jurisdiction participating in the election shall
27 transmit a ballot and balloting materials to all covered
28 voters who by that date submit a valid military-overseas
29 ballot application. Notwithstanding 1 Pa.C.S. § 1908
30 (relating to computation of time), if the 45th day before the

1 election is a Saturday, Sunday or holiday, the ballot and
2 materials shall be transmitted not later than the business
3 day preceding the 45th day.

4 (2) If the calling of a special election would make it
5 impossible to comply with paragraph (1), the county election
6 board shall transmit the ballot and balloting materials
7 within five days following receipt of the county election
8 board's receipt of the information necessary to prepare the
9 ballots and materials.

10 (b) Covered voters in extremely remote or isolated areas.--

11 (1) Except as set forth in paragraph (2), not later than
12 50 days before a primary election and not later than 70 days
13 before a general election or a municipal election, the county
14 election board in each jurisdiction participating in the
15 election shall transmit a ballot and balloting materials to
16 all covered voters in extremely remote or isolated areas, as
17 those terms are defined or used by the Department of Defense,
18 who by that date submit a valid military-overseas ballot
19 application. Notwithstanding 1 Pa.C.S. § 1908, if the 50th
20 day or the 70th day preceding the applicable election is a
21 weekend or holiday, ballots and materials shall be
22 transmitted not later than the business day preceding the
23 50th or 70th day, respectively.

24 (2) If the calling of a special election would make it
25 impossible to comply with paragraph (1), the county election
26 board shall transmit the ballot and balloting materials
27 within five days following receipt of the county election
28 board's receipt of the information necessary to prepare the
29 ballots and materials.

30 (c) Method of transmission.--A covered voter may request

1 that a ballot and balloting materials be sent to the voter by
2 mail or by Internet delivery. The county election board shall
3 transmit the ballot and balloting materials to the voter using
4 the means of transmission chosen by the voter.

5 (d) Receipt of additional applications.--If a ballot
6 application from a covered voter arrives after the county
7 election board begins transmitting ballots and balloting
8 materials to voters, the county election board shall transmit a
9 ballot and ballot materials to the voter not later than 48 hours
10 after the application is received.

11 § 3509. Timely casting of ballot.

12 To be valid:

13 (1) a military-overseas ballot must be received by the
14 appropriate county election board not later than the close of
15 the polls; or

16 (2) the voter must submit the ballot for mailing or
17 other authorized means of delivery not later than 11:59 p.m.
18 at the place where the voter completes the ballot on the date
19 immediately preceding the date of the election.

20 § 3510. Federal write-in absentee ballot.

21 A covered voter may use a Federal write-in absentee ballot to
22 vote for all offices and ballot measures in an election.

23 § 3511. Receipt of voted ballot.

24 (a) Delivery governs.--A valid military-overseas ballot cast
25 under section 3509 (relating to timely casting of ballot) shall
26 be counted if it is delivered by 5 p.m. on the seventh day
27 following the election to the address that the appropriate
28 county election board has specified.

29 (b) Rule regarding postmarks.--If, at the time of completing
30 a military-overseas ballot and balloting materials, the voter

1 has declared under penalty of perjury that the ballot was timely
2 submitted, the ballot may not be rejected on the basis that it
3 has a late postmark, an unreadable postmark or no postmark.
4 § 3512. Confirmation of receipt of application and voted
5 ballot.

6 The secretary, in coordination with county election boards,
7 shall implement an electronic free-access system by which a
8 covered voter may determine by telephone, e-mail or Internet
9 website whether:

10 (1) the voter's Federal postcard application or other
11 registration or military-overseas ballot application has been
12 received and accepted; and

13 (2) the voter's military-overseas ballot has been
14 received and the current status of the ballot.

15 § 3513. (Reserved).

16 § 3514. Election notices.

17 (a) Preparation of notice.--At least 90 days before an
18 election other than a special election and as soon as
19 practicable before a special election, the county election board
20 in each jurisdiction participating in the election shall prepare
21 an election notice for that jurisdiction to be used in
22 conjunction with a Federal write-in absentee ballot. The
23 election notice shall contain all of the following:

24 (1) A list of all of the ballot measures and Federal,
25 Commonwealth and local offices which, as of the date of the
26 notice, the county election board expects to be on the ballot
27 on the date of the election.

28 (2) Specific instructions for how a covered voter is to
29 indicate on the Federal write-in absentee ballot the voter's
30 choice for each office to be filled and for each ballot

1 measure to be contested.

2 (b) Request for notice.--A covered voter may request a copy
3 of an election notice prepared under subsection (a). The county
4 election board shall send the notice to the covered voter by
5 facsimile, e-mail, over the Internet or by regular mail, as the
6 voter requests.

7 (c) Updated notices.--The county election board shall update
8 the notice prepared under subsection (a) with the names of the
9 candidates for each office and the specific information about
10 ballot questions, promptly upon becoming aware of the existence
11 of the candidates and ballot questions, and shall make the
12 updated notice publicly available.

13 (d) Availability of notice.--A county election board that
14 maintains a publicly accessible Internet website shall make the
15 election notice prepared under subsection (a) and updated
16 versions of the election notice available on the Internet
17 website.

18 § 3515. Prohibition of nonsubstantive requirements.

19 (a) Mistake, omission or failure to satisfy.--None of the
20 following shall invalidate a document submitted under this
21 chapter:

22 (1) A voter's mistake or omission in the completion of a
23 document under this chapter as long as the mistake or
24 omission does not prevent determining whether a covered voter
25 is eligible to vote.

26 (2) Failure to satisfy a nonsubstantive requirement,
27 such as using paper or envelopes of a specified size or
28 weight.

29 (b) Write-in ballots.--In a write-in ballot authorized by
30 this chapter or in a vote for a write-in candidate on a regular

1 ballot used by a covered voter, if the intention of the voter is
2 discernable under the standards that define what constitutes a
3 valid vote developed pursuant to section 204(h) of the act of
4 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
5 Election Code, an abbreviation, misspelling or other minor
6 variation in the form of the name of a candidate or a political
7 party shall be accepted as a valid vote.

8 (c) Notarization.--Notarization is not required for the
9 execution of a document to be submitted under this chapter. An
10 authentication, other than the state declaration or the FWAB
11 declaration, is not required for execution of a document under
12 this chapter. The state declaration and FWAB declaration, and
13 any information in either declaration, may be compared with
14 information on file to ascertain the validity of the document.
15 § 3516. Equitable relief.

16 A court may issue an injunction or grant equitable relief
17 appropriate to ensure substantial compliance with, or enforce,
18 this chapter on application by any of the following:

19 (1) A covered voter alleging a grievance under this
20 chapter.

21 (2) An authorized officer or agent of a county election
22 board.

23 § 3517. Uniformity of application and construction.

24 In applying and construing this chapter, consideration shall
25 be given to the need to promote uniformity of the law with
26 respect to its subject matter among states that enact it.

27 § 3518. Relation to Electronic Signatures in Global and
28 National Commerce Act.

29 To the extent permitted by section 102 of the Electronic
30 Signatures in Global and National Commerce Act (Public Law

1 106-229, 15 U.S.C. § 7002), this chapter may modify or supersede
2 provisions of that act.
3 § 3519. Construction.

4 This chapter is intended to be read in concert with the
5 Election Code. Unless otherwise specifically provided in this
6 chapter, if any provision of this chapter is inconsistent with a
7 provision of the Election Code, the provisions of this chapter
8 shall prevail.

9 ~~Section 2. This act shall apply to elections which occur~~ ←
10 ~~after January 1, 2013.~~

11 SECTION 2. THIS ACT SHALL APPLY AS FOLLOWS: ←

12 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THIS ACT SHALL
13 APPLY TO ELECTIONS WHICH OCCUR AFTER JANUARY 1, 2013.

14 (2) THE ADDITION OF 25 PA.C.S. § 3514 SHALL APPLY TO
15 ELECTIONS FOLLOWING A DATE TO BE DETERMINED BY THE DEPARTMENT
16 OF STATE. ONCE DETERMINED, THE DEPARTMENT SHALL PUBLISH SUCH
17 DATE IN THE PENNSYLVANIA BULLETIN AND POST IT ON THE
18 DEPARTMENT'S PUBLICLY ACCESSIBLE INTERNET WEBSITE.

19 Section 3. This act shall take effect in 60 days.