

**ELECTIONS (25 PA.C.S.) - UNIFORM MILITARY AND OVERSEAS VOTERS
ACT**

Act of Oct. 24, 2012, P.L. 1490, No. 189

Cl. 25

Session of 2012
No. 2012-189

SB 1255

AN ACT

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

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

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

CHAPTER 35

UNIFORM MILITARY AND OVERSEAS VOTERS

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§ 3501. Short title of chapter.

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

§ 3502. Definitions.

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

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

(1) Is:

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

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

(2) Is on active duty.

(3) Maintains a voting residence in this Commonwealth.

(4) Otherwise satisfies the voter eligibility requirements of the Commonwealth.

"County election board." Officials having jurisdiction over the conduct of elections in a county under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

"Covered voter." All of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A Federal write-in absentee ballot.

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

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

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

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

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

"Qualified elector." An individual who:

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

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

"Secretary." The Secretary of the Commonwealth.

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

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

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

"Uniformed service." All of the following:

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

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

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

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

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

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

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

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

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

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

§ 3503. Duties and responsibilities of secretary.

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

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

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

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

(2) Develop standardized absentee-voting materials and their electronic equivalents, authentication materials and voting instructions to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this Commonwealth.

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

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

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

- (A) identity;
- (B) eligibility to vote;
- (C) status as a covered voter; and
- (D) timely and proper completion of a military-overseas ballot.

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

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

§ 3504. (Reserved).

§ 3505. Registering to vote.

(a) General rule.--A covered voter who desires to vote in an election but who is not registered must register to vote within the time periods required by the Election Code. Notwithstanding the provisions of subsection (b) (2) or any other law, neither an active uniformed-service voter nor a veteran of a uniformed service who is bedridden or hospitalized due to illness or physical disability shall be required to register to vote prior to or simultaneous with the submission of a military-overseas ballot.

(b) Simultaneous registration.--

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

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

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

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

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

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

(a) Registered voters.--A covered voter who is registered to vote in this Commonwealth may apply for a military-overseas ballot using either the absentee ballot application provided under the Election Code or the Federal postcard application.

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

(c) Electronic transmission system.--

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

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

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

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

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

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

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

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

§ 3507. Timeliness and scope of ballot application.

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

(b) Standing request.--

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

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

(c) E-mail address information.--

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

(2) An e-mail address provided by a covered voter may not be made available to the public or any individual or organization other than an authorized agent of the county

election board and shall be exempt from disclosure under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

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

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

§ 3508. Transmission of unvoted ballots.

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

(1) Except as set forth in paragraph (2), not later than 45 days before the election, the county election board in each jurisdiction participating in the election shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application. Notwithstanding 1 Pa.C.S. § 1908 (relating to computation of time), if the 45th day before the election is a Saturday, Sunday or holiday, the ballot and materials shall be transmitted not later than the business day preceding the 45th day.

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

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

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

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

(c) Method of transmission.--A covered voter may request that a ballot and balloting materials be sent to the voter by mail or by Internet delivery. The county election board shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.

(d) Receipt of additional applications.--If a ballot application from a covered voter arrives after the county

election board begins transmitting ballots and balloting materials to voters, the county election board shall transmit a ballot and ballot materials to the voter not later than 48 hours after the application is received.

§ 3509. Timely casting of ballot.

To be valid:

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

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

§ 3510. Federal write-in absentee ballot.

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

§ 3511. Receipt of voted ballot.

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

(b) Rule regarding postmarks.--If, at the time of completing a military-overseas ballot and balloting materials, the voter has declared under penalty of perjury that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark or no postmark.

§ 3512. Confirmation of receipt of application and voted ballot.

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

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

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

§ 3513. (Reserved).

§ 3514. Election notices.

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

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

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

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

(c) Updated notices.--The county election board shall update the notice prepared under subsection (a) with the names of the

candidates for each office and the specific information about ballot questions promptly upon becoming aware of the existence of the candidates and ballot questions and shall make the updated notice publicly available.

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

§ 3515. Prohibition of nonsubstantive requirements.

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

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

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

(b) Write-in ballots.--In a write-in ballot authorized by this chapter or in a vote for a write-in candidate on a regular ballot used by a covered voter, if the intention of the voter is discernable under the standards that define what constitutes a valid vote developed pursuant to section 204(h) of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, an abbreviation, misspelling or other minor variation in the form of the name of a candidate or a political party shall be accepted as a valid vote.

(c) Notarization.--Notarization is not required for the execution of a document to be submitted under this chapter. An authentication, other than the state declaration or the FWAB declaration, is not required for execution of a document under this chapter. The state declaration and FWAB declaration, and any information in either declaration, may be compared with information on file to ascertain the validity of the document.

§ 3516. Equitable relief.

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

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

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

§ 3517. Uniformity of application and construction.

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

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

To the extent permitted by section 102 of the Electronic Signatures in Global and National Commerce Act (Public Law 106-229, 15 U.S.C. § 7002), this chapter may modify or supersede provisions of that act.

§ 3519. Construction.

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

Section 2. This act shall apply as follows:

(1) Except as provided in paragraph (2), this act shall apply to elections which occur after January 1, 2013.

(2) The addition of 25 Pa.C.S. § 3514 shall apply to elections following a date to be determined by the Department of State. Once determined, the department shall publish such date in the Pennsylvania Bulletin and post it on the department's publicly accessible Internet website.

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

APPROVED--The 24th day of October, A.D. 2012.

TOM CORBETT