

UNIFORM MILITARY AND OVERSEAS VOTERS ACT

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-NINETEENTH YEAR
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WITH PREFATORY NOTE AND COMMENTS

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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UNIFORM MILITARY AND OVERSEAS VOTERS ACT

PREFATORY NOTE

Over five million military personnel and overseas civilians face a variety of legal and logistical obstacles to participating in American elections. These problems persist notwithstanding repeated congressional efforts, as well as various state efforts, to facilitate these voters' ability to vote, most prominently the enactment of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA), and its amendment with the Military and Overseas Voter Empowerment Act of 2009 (MOVE). The obstacles include: difficulties in registering to vote from abroad; ballots or ballot applications that never arrive; frequent changes of address; slow mail delivery times to and from overseas citizens, especially military personnel; failures to complete absentee voting materials properly, including noncompliance with notarization or verification requirements that can be difficult to meet abroad; and difficulties in obtaining information about issues and candidates.

Data from the 2006 federal midterm election provide dramatic evidence of the problems that these voters have recently faced. In 2006 U.S. military personnel were slightly more likely to have registered to vote than the general U.S. population (87% vs. 83%), yet the voter participation rate among the military was about half that of the general population (roughly 20% vs. roughly 40%). Furthermore, only 25% of overseas and military voters who requested an absentee ballot in 2006 completed and returned one, compared to 85% of all voters who requested an absentee ballot. Meanwhile, more than one in five ballots cast by military service members was rejected.

Although some of these figures improved during the high-interest 2008 presidential election, the overall picture remains troubling. In 2008, roughly two-thirds of those overseas and military voters who requested a ballot returned it, and the rejection rate for those ballots dropped to under one in fifteen ballots. Yet both of these rates remain substantially worse than the comparable 2008 rates for absentee voters generally (which were a return rate of over 90%, and a ballot rejection rate of 1.7%). Meanwhile, according to data collected by the U.S. Election Assistance Commission, fewer than 700,000 absentee ballots were returned by military and overseas voters in 2008. This figure is not much different from the comparable figure for the 2006 federal midterm elections, meaning that the voter participation rate among these voters remained well below 20%, despite the fact that among voters generally the 2008 election produced an overall voter participation rate of over 61%, the largest in four decades. Without additional reforms to the voting processes for military and overseas voters, their ability to participate in American elections likely will continue to suffer.

Strong popular support exists among the American public to make voting much easier and more reliable for these voters than it has been. A 2008 public opinion survey conducted for the Pew Center on the States found "strong universal support . . . across age, regional, and party lines" for the idea that military and overseas voters should be able to participate in elections "back home." A variety of stakeholders who participated in the ULC drafting process for this act were overwhelmingly of a similar disposition.

In important part, the obstacles that overseas and military voters face can be traced to the fact that American elections are conducted at the state and local levels under procedures that often vary dramatically by jurisdiction. This lack of uniformity complicates any federal effort, such as the UOCAVA, to assist these voters to surmount the other major obstacles that they face. For instance, while some states permit overseas absentee ballots to arrive up to ten days after Election Day, other states require that all absentee ballots, including those from overseas, be received by Election Day. Meanwhile, some states permit overseas and military voters to request, and in a smaller number of cases also to cast, an absentee ballot electronically, but other states require transmission by regular mail. Some states require a notary or other witness to vouch for the absentee voter's execution of the absentee ballot affirmation. These and other variations across states both complicate the procedures developed under the UOCAVA to help overseas and military voters, and make it difficult for consular officials, the U.S. military, and non-governmental voting assistance groups to give standard advice to these voters.

In confronting these problems, this act has two independent purposes that can only be achieved through uniform state legislation. The first is to extend to state elections the assistance and protections for military and overseas voters currently found in federal law, which covers only biennial federal elections. The second is to bring greater uniformity to the military and overseas voting processes, which the several states will continue to have primary responsibility for administering, in both federal and non-federal elections. In addition to these two primary purposes, many provisions of the act also enhance the assistance and protections provided to military and overseas voters, wherever this can be done without compromising the integrity of the voting process or imposing inappropriately on election officials.

Critical to both enhancing and bringing uniformity to the voting process for military and overseas voters is establishing adequate time for this group of voters to request, receive, and return a ballot. Directly related to the amount of time needed to accomplish these voting processes is the extent to which electronic transmission mechanisms are employed. The act requires that electronic transmission methods be available for purposes of requesting and receiving unvoted ballots, but does not require the use of electronic means for transmitting voted ballots. This is because no consensus yet exists on the question of whether and how electronic voting can occur securely and privately. However, using electronic transmission methods for just those steps in the absentee voting process prior to the casting of a ballot (such as registering to vote, requesting an absentee ballot, and receiving a blank ballot) can alone dramatically reduce the time required to permit these voters to vote successfully.

Without uniform state legislation, military and overseas voters will continue to confront a panoply of diverging voting requirements, notwithstanding the important role that UOCAVA has played in facilitating military and overseas voting in federal elections for more than two decades, and the additional enhancements that the MOVE Act of 2009 provides. Accordingly, this act should be widely adopted both to simplify the voting process for these voters, and to extend similar protections to state elections not covered by existing federal law.

UNIFORM MILITARY AND OVERSEAS VOTERS ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Military and Overseas Voters Act.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Covered voter” means:

(A) a uniformed-service voter or an overseas voter who is registered to vote in this state;

(B) a uniformed-service voter defined in paragraph (9)(A) whose voting residence is in this state and who otherwise satisfies this state’s voter eligibility requirements;

(C) an overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements;

(D) an overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements; or

(E) an overseas voter who was born outside the United States, is not described in subparagraph (C) or (D), and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements, if:

(i) the last place where a parent or legal guardian of the voter was, or under this [act] would have been, eligible to vote before leaving the United States is within this state; and

(ii) the voter has not previously registered to vote in any other state.

(2) “Dependent” means an individual recognized as a dependent by a uniformed service.

(3) “Federal postcard application” means the application prescribed under Section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff(b)(2).

(4) “Federal write-in absentee ballot” means the ballot described in Section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff-2.

(5) “Military-overseas ballot” means:

(A) a federal write-in absentee ballot;

(B) a ballot specifically prepared or distributed for use by a covered voter in accordance with this [act]; or

(C) a ballot cast by a covered voter in accordance with this [act].

(6) “Overseas voter” means a United States citizen who is outside the United States.

(7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(8) “Uniformed service” means:

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

(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(C) the National Guard and state militia.

(9) “Uniformed-service voter” means an individual who is qualified to vote and is:

(A) 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;

(B) a member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;

(C) a member on activated status of the National Guard or state militia; or

(D) a spouse or dependent of a member referred to in this paragraph.

(10) “United States”, used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Comment

The act’s definition of the term “covered voter” builds upon the definitions of “absent uniformed service voter” and “overseas voter” in the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), 42 U.S.C. § 1973ff-6(1), but simplifies these definitions and expands them to cover members of the National Guard. However, unlike in the UOCAVA, the act’s coverage of uniformed service voters is based on a voter’s status as an active member of one of the defined services, whether or not the voter is absent from the place of voting. The definition of “uniformed service voter” does not specify that the place where the voter is qualified to vote be in the enacting state because that would create a problem for a spouse (or dependent) who is eligible to vote in this state but whose uniformed service member is eligible in another state. A uniformed service voter still must meet an enacting state’s eligibility requirements (including residency in that state) in order to vote in that state.

The definition of “covered voter,” in paragraph (1)(E), also extends the act’s coverage to U.S. citizens born abroad who have not established a voting residency in the United States. Although UOCAVA makes no provision for these citizens, eighteen states already permit these citizens to participate in at least some elections, if their parents are eligible to vote in that state (or in some cases if they are a spouse or dependent of a person eligible to vote in that state). These states include: Arizona, Colorado (federal offices only), Delaware (federal offices only), Georgia, Hawaii, Illinois, Iowa, Massachusetts, Michigan, Nebraska, New York (federal offices only), North Dakota (federal offices only), Oklahoma, Rhode Island (federal offices only), Tennessee, Washington, West Virginia, and Wisconsin (federal offices only).

The definition makes no distinction between overseas voters merely traveling abroad, voters temporarily living overseas, and voters permanently residing overseas. Other provisions of an enacting state’s existing law may do so, however, and may limit the elections in which voters permanently overseas can vote. Without such distinctions elsewhere in existing state law,

this act would enable all overseas voters to vote in all elections covered in Section 3. Because the act does not require that overseas voters “reside” abroad, it facilitates voting by a wide variety of U.S. citizens, including missionaries, students abroad, and even tourists who because of health or other unanticipated problems or events may have extended their time out of the United States beyond their original plans, but for whom a state’s regular absentee balloting process may be difficult to use.

SECTION 3. ELECTIONS COVERED. The voting procedures in this [act] apply to:

(1) a general, special, [presidential preference,] [or] primary [, or runoff] election for federal office;

(2) a general, special, [recall,] [or] primary [, or runoff] election for statewide or state legislative office or state ballot measure; and

(3) a general, special, [recall,] [or] primary [, or runoff] election for local government office or local ballot measure conducted under [insert relevant state law] [for which absentee voting or voting by mail is available for other voters].

Legislative Note: The bracketed language in paragraphs (1), (2), and (3) pertaining to presidential preference, recall, and runoff elections is only for states with such elections. In paragraph (3), the bracketed reference to “relevant state law” refers to the portion of the state election code or equivalent state statute that governs the conduct of local elections, to the extent that an enacting state wishes to include local elections in the coverage of this act.

Comment

The first category of elections delineated in this section is the only category covered by the UOCAVA. However, even for these elections, this act provides additional accommodations to military and overseas voters that are not provided under the UOCAVA. The second and third categories of state and local elections extend the act’s accommodations to non-federal elections not within the UOCAVA scope. These two categories are distinguished primarily to permit an enacting state more easily to consider providing different accommodations to military and overseas voters depending on the type of election.

SECTION 4. ROLE OF [SECRETARY OF STATE].

(a) The [Secretary of State] is the state official responsible for implementing this [act] and the state’s responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act,

42 U.S.C. Section 1973ff et seq.

(b) The [Secretary of State] shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots. The [Secretary of State] may delegate the responsibility under this subsection only to the state office designated in compliance with Section 102(b)(1) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff-1(b)(1).

(c) The [Secretary of State] shall 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 [act].

(d) The [Secretary of State] shall:

(1) develop standardized absentee-voting materials, including privacy and transmission envelopes 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 state; and

(2) to the extent reasonably possible, coordinate with other states to carry out this subsection.

(e) The [Secretary of State] shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of an overseas-military ballot. The declaration must be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this [act]. The [Secretary of State] 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.

Comment

Each state will need to supply the appropriate title for its chief elections authority, whether it is the Secretary of State, head or director of the State Board of Elections, or other official or entity. Where this authority is an organization, rather than an individual, the phrase “state official” in subsection (a) may also merit alternative phrasing. The expectation is that this authority in turn will delegate its duties at least in part to the same office that the state has designated to fulfill the UOCAVA requirement that the state designate a state office to facilitate the state’s compliance with the UOCAVA. Other duties may naturally devolve to local election officials, depending on how the state has structured its election processes generally.

In most states, the implementing authority specified in subsection (a) presumably already has authority to promulgate rules according to the existing rulemaking procedures of the state. States in which this rulemaking authority is not already established may wish to include additional language establishing authority to make rules to implement this act.

The requirement that states develop “standardized” voting materials is not meant to require statewide uniformity in voting equipment and processes where such uniformity does not already exist. Thus, in states using different voting systems in different jurisdictions around the state, “standardized” voting materials may include one standard for jurisdictions using one system, and another standard for jurisdictions using another system. Nevertheless, the state’s chief elections authority should work with local election officials to simplify and standardize as much as possible the materials provided to voters, including developing standard identifying labels and other markings on such materials to expedite their handling. Such standardization is critical primarily because it will simplify the voting experiences of covered voters and enable a variety of support groups to provide more effective assistance to these voters as a group. Greater uniformity also should ease administrative duties and facilitate future reforms to the voting process.

The “electronic equivalent” of privacy envelopes and transmission envelopes means at a minimum a template or instructions to accompany the electronic delivery of an unvoted ballot that assist the voter to prepare and use appropriate envelopes to return the voter’s marked ballot if the voter is returning the ballot physically through the mail. If a state is allowing a voter to return a marked ballot electronically, the state generally should employ digital encryption or other security measures to provide comparable protection of the integrity and secrecy of the marked ballot.

The electronic transmission method established under subsection (c) should be designed to protect the integrity of the transmission and the privacy of the voter’s personal data contained in the transmission. To a similar end, the recent amendments to UOCAVA include provisions requiring that “to the extent practicable,” electronic transmission methods “shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter is protected” and also shall “protect the security and integrity of the transmission.”

SECTION 5. OVERSEAS VOTER'S REGISTRATION ADDRESS. In registering to vote, an overseas voter who is eligible to vote in this state shall use and must be assigned to the voting [precinct] [district] of the address of the last place of residence of the voter in this state, or, in the case of a voter described by Section 2(1)(E), the address of the last place of residence in this state of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter must be assigned an address for voting purposes.

Comment

This section specifies the address of the last place of residence as the address to be used as the voter registration address, and instructs election officials to assign an administratively convenient address to a voter who has no last place of residence in the state. When election officials must assign a voter a non-standard address, where possible they should place the voter in the same precinct or district as the last place of residence, were it still a recognized residential address.

SECTION 6. METHODS OF REGISTERING TO VOTE.

(a) To apply to register to vote, in addition to any other approved method, a covered voter may use a federal postcard application, or the application's electronic equivalent.

(b) A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot[, if the declaration is received by [insert this state's voter registration deadline for that election]]. [If the declaration is received after that date, it must be treated as an application to register to vote for subsequent elections.]

(c) The [Secretary of State] shall ensure that the electronic transmission system described in Section 4(c) is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to register to vote.

Comment

Both this section and Section 7 are designed to encourage the use of the federal postcard application while yet allowing military and overseas voters to use a state's pre-existing voter forms, and to permit states to develop alternative forms if they wish. However, the sections are not intended to require states or local election jurisdictions to revise their existing forms, or to prepare new forms for voters covered under this act. Instead, to the extent that a state's existing forms do not collect sufficient information to properly classify overseas and military voters, Section 7(e) requires voters who use the state forms to affirmatively indicate their status as a covered voter. States that choose to revise their forms for whatever reason should ensure that the revised forms facilitate voting under this act.

SECTION 7. METHODS OF APPLYING FOR MILITARY-OVERSEAS

BALLOT.

(a) A covered voter who is registered to vote in this state may apply for a military-overseas ballot using either the regular [absentee ballot] application in use in the voter's jurisdiction under [reference state law on regular absentee ballots] or the federal postcard application or the application's electronic equivalent.

(b) A covered voter who is not registered to vote in this state may use a federal postcard application or the application's electronic equivalent to apply simultaneously to register to vote under Section 6 and for a military-overseas ballot.

(c) The [Secretary of State] shall ensure that the electronic transmission system described in Section 4(c) 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 election official. The voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

(d) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official

by [insert the later of the fifth day before the election or the last day for other voters in this state to apply for [an absentee ballot] for that election].

(e) To receive the benefits of this [act], a covered voter must inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:

(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; and

(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) This [act] does not preclude a covered voter from voting under [insert state law on regular absentee voting].]

Comment

The reference in subsection 7(a) to the voter’s “jurisdiction” is a reference to the place where the voter is registered to vote. Both this section and Section 6 are designed to encourage the use of the federal postcard application while yet allowing military and overseas voters to use a state’s pre-existing voter forms, and to permit states to develop alternative forms if they wish. However, the sections are not intended to require states or local election jurisdictions to revise their existing forms, or to prepare new forms for voters covered under this act. Instead, to the extent that a state’s existing forms do not collect sufficient information to properly classify overseas and military voters, Section 7(e) requires voters who use the state forms to affirmatively indicate their status as a covered voter. The bracketed language in subsection (d) mirrors bracketed language in the first sentence of section 8, and allows covered voters in states with an existing absentee ballot application deadline that is closer than five days before election day to take advantage of that later deadline.

SECTION 8. TIMELINESS AND SCOPE OF APPLICATION FOR MILITARY-OVERSEAS BALLOT. An application for a military-overseas ballot is timely if received by [insert the later of the fifth day before the election or the last day for other voters in this state to

apply for [an absentee ballot] for that election]. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an application for a military-overseas ballot for the general election. [An application for a military-overseas ballot is effective for a runoff election necessary to conclude the election for which the application was submitted.]

Legislative Note: The bracketed language about a runoff election is only for states with runoff elections.

Comment

Many states accept regular absentee ballot applications up until just a few days before an election, or later. Because military and overseas voters can use electronic transmission methods both to request and to receive blank ballots, this section allows them to take advantage of an application deadline close to the election.

SECTION 9. TRANSMISSION OF UNVOTED BALLOTS.

(a) For an election described in Section 3 for which this state has not received a waiver pursuant to Section 579 of the Military and Overseas Voter Empowerment Act, 42 U.S.C. 1973ff-1(g)(2), not later than 45 days before the election or, if the 45th day before the election is a weekend or holiday, not later than the business day preceding the 45th day, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.

(b) A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose facsimile transmission or electronic mail delivery, or, if offered by the voter's jurisdiction, Internet delivery. The election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.

(c) If a ballot application from a covered voter arrives after the jurisdiction begins

transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit them to the voter not later than two business days after the application arrives.

SECTION 10. TIMELY CASTING OF BALLOT. To be valid, a military-overseas ballot must be received by the appropriate local election official not later than the close of the polls, or the voter must submit the ballot for mailing[, electronic transmission,] or other authorized means of delivery not later than 12:01 a.m., at the place where the voter completes the ballot, on the date of the election.

Comment

Requiring that the ballot be completed by 12:01 a.m. local time on Election Day ensures that covered voters will not be able to cast a vote with knowledge of the election night returns of the jurisdiction whose ballot the voter is voting. One way in which a military-overseas ballot may be submitted for mailing by a uniformed service member is by giving the ballot to the mail clerk or designated service member responsible for handling mail for a particular unit of the uniformed services. Also allowing a valid ballot to be received by local officials through the close of the polls will increase the voting time available in those circumstances in which facsimile or other electronic transmission of voted ballots is permitted.

SECTION 11. 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 described in Section 3.

SECTION 12. RECEIPT OF VOTED BALLOT.

(a) A valid military-overseas ballot cast in accordance with Section 10 must be counted if it is delivered by the end of business on the business day before [the latest deadline for completing the county canvass or other local tabulation used to determine the final official results] to the address that the appropriate state or local election office has specified.

(b) 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.

Legislative Note: Enacting states will need to ensure that the perjury laws of the enacting state cover a declaration or affirmation made by the voter under this section.

Comment

The bracketed language in subsection (a) is intended to capture the deadline for the event when local election officials complete or certify their official counting of ballots, by whatever name that event is known in the state. Even those ballots of overseas and military voters that arrive after election day can and must be included in these official results if local election officials have received them by the day before the deadline for this event, giving local election officials that day to process them before making their return or certification.

The act precludes rejecting a military-overseas ballot for lack of a postmark (or for a late postmark) in light of the fact that many pieces of military mail enter the postal system through delivery to a mail clerk in a remote location without a postmark, and are only postmarked some days later when they reach a more established facility.

SECTION 13. DECLARATION. A military-overseas ballot must include or be accompanied by a declaration signed by the voter that a material misstatement of fact in completing the ballot may be grounds for a conviction of perjury under the laws of the United States or this state.

Legislative Note: Enacting states will need to ensure that the perjury laws of the enacting state cover a declaration or affirmation made by the voter under this section.

Comment

A declaration made under this section should be structured as an affirmation that plainly subjects a covered voter to the perjury laws of the enacting state.

SECTION 14. CONFIRMATION OF RECEIPT OF APPLICATION AND VOTED BALLOT. The [Secretary of State], in coordination with local election officials, shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet 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.

SECTION 15. USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.

(a) The local election official shall request an electronic-mail address from each covered voter who registers to vote after [the effective date of this [act]]. An electronic-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 local election official and is exempt from disclosure under [the public records laws of this state]. The address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location. The request for an electronic-mail address must describe the purposes for which the electronic-mail address may be used and include a statement that any other use or disclosure of the electronic-mail address is prohibited.

(b) A covered voter who provides an electronic-mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period the voter specifies[, including for any runoff elections that occur as a result of such elections]. An election official shall provide a military-overseas ballot to a voter who makes a standing request for each election to which the request is applicable. A covered voter who is entitled to receive a military-overseas ballot for a primary election under this subsection is entitled to receive a military-overseas ballot for the general

election.

***Legislative Note:** In connection with the bracketed language in subsection (a) concerning public records laws, some states require that exceptions to these laws also be specified in the public records law itself. In subsection (b), the bracketed language pertaining to runoff elections is only for states with runoff elections.*

Comment

Subsection (a) facilitates the collection of voter e-mail addresses, but depends on assuring voters that their e-mail addresses will not become available for the use of political campaigns and marketers. The subsection allows those jurisdictions that use third-party vendors to print, mail, or otherwise distribute ballots to disclose the e-mail addresses to these vendors, acting as their agents, only for purposes of authorized communications about the voting process. Such jurisdictions should ensure that their vendor contracts properly preclude the vendors from using the addresses other than as authorized by this act. Subsection (b) then ties a voter's ability to make a standing request for a military-absentee ballot to the voter's provision of an e-mail address. This approach is intended to reduce the large quantity of election material that was returned as undeliverable when sent out in hardcopy to an outdated physical address under the now repealed UOCAVA provision that had permitted voters to make a standing request for absentee ballots for two federal election cycles.

SECTION 16. PUBLICATION OF ELECTION NOTICE.

(a) At least 100 days before a regularly scheduled election and as soon as practicable before an election not regularly scheduled, an official in each jurisdiction charged with printing and distributing ballots and balloting material shall prepare an election notice for that jurisdiction, to be used in conjunction with a federal write-in absentee ballot. The election notice must contain a list of all of the ballot measures and federal, state, and local offices that as of that date the official expects to be on the ballot on the date of the election. The notice also must contain specific instructions for how a 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) A covered voter may request a copy of an election notice. The official charged with preparing the election notice shall send the notice to the voter by facsimile, electronic mail, or regular mail, as the voter requests.

(c) As soon as [ballot styles are certified], and not later than the date ballots are required to be transmitted to voters under [insert state law on regular absentee voter authorization], the official charged with preparing the election notice under subsection (a) shall update the notice with the certified candidates for each office and ballot measure questions and make the updated notice publicly available.

(d) A local election jurisdiction that maintains an Internet website shall make the election notice prepared under subsection (a) and updated versions of the election notice regularly available on the website.

***Legislative Note:** The bracketed language “[ballot styles are certified]” in subsection (c) is intended to cover the event when the final ballot for candidates (and issues, when applicable) is available.*

Comment

This section ensures that election jurisdictions facilitate voting first by making readily available to overseas and military voters a list of the offices and issues to be contested at an upcoming election, and later by also making candidate names readily and quickly available to these voters, thereby permitting voters who have not received the printed ballot to make the most effective use of the federal write-in absentee ballot.

SECTION 17. PROHIBITION OF NONSUBSTANTIVE REQUIREMENTS.

(a) If a voter’s mistake or omission in the completion of a document under this [act] does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted under this [act]. In a write-in ballot authorized by this [act] [or in a vote for a write-in candidate on a regular ballot], if the intention of the voter is discernable under this state’s uniform definition of what constitutes a vote, an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party must be accepted as a valid vote.

(b) Notarization is not required for the execution of a document under this [act]. An authentication, other than the declaration specified in Section 13 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under this [act]. The declaration and any information in the declaration may be compared with information on file to ascertain the validity of the document.

Comment

The reference in subsection (a) to a state's uniform definition of what constitutes a vote acknowledges that states are required by the Help America Vote Act, 42 U.S.C. Section 15481(a)(6), to provide a uniform definition of what constitutes a vote. Under subsection (b), jurisdictions that match the signatures accompanying absentee voters' ballots with the signatures that the jurisdiction maintains in its registered voter file may continue to do so.

SECTION 18. EQUITABLE RELIEF. A court may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, this [act] on application by:

- (1) a covered voter alleging a grievance under this [act]; or
- (2) an election official in this state.

Comment

In addition to providing an enforcement mechanism for other provisions of this act, this section would also empower courts to adopt emergency rules or procedures in the event that exigent circumstances otherwise make compliance with the act impossible or impracticable.

SECTION 19. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Comment

The act also should be construed in harmony with the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff et seq.

SECTION 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

[SECTION 21. REPEALS. The following are repealed:

- (1)
- (2)
- (3)]

SECTION 22. EFFECTIVE DATE. This [act] takes effect