

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To enact, on a temporary basis, the Uniform Military and Overseas Voters Act; to expand the class of covered military and overseas voters; to extend to District elections the assistance and protections for military and overseas voters currently found in federal law; to require that absentee ballots for all elections be sent at least 45 days before an election; to require the electronic transmission of voting materials, including blank absentee ballots for all elections, upon request; to extend the acceptance of the Federal Write-In Absentee Ballot as a back-up measure for all elections; to amend the District of Columbia Election Code of 1955 to accommodate the federal Military and Overseas Voter Empowerment Act's requirement that the District of Columbia Board of Elections and Ethics transmit validly requested absentee ballots no later than 45 days before a federal election to those absent uniformed services and overseas voters who timely requested such ballots; and to allow more time for the board to resolve challenges to nominating and ballot measure petitions; to amend the District of Columbia Theft and White Collar Crimes Act of 1982 to provide that a person signing a declaration required under the Uniform Military and Overseas Voters Act knowing that the facts stated in the filing are not true may be prosecuted for the offense of making a false statement; and to amend the District of Columbia Election Code of 1955 and the Advisory Neighborhood Councils Act of 1976 to make conforming adjustments to time frames applicable to elections necessary to implement the Uniform Military and Overseas Voters Act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Comprehensive Military and Overseas Voters Accommodation Temporary Act of 2011".

TITLE I. UNIFORM MILITARY AND OVERSEAS VOTERS ACT

Sec. 101. Short title.

This title may be cited as the "Uniform Military and Overseas Voters Temporary Act of 2011".

Sec. 102. Definitions.

Note,
§ 1-1001.05

For the purposes of this act, the term:

(1) "Board" means the District of Columbia Board of Elections and Ethics, established by section 3 of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.03).

(2) "Covered voter" means:

(A) A uniformed-service voter or an overseas voter who is registered to vote in the District;

(B) A uniformed-service voter whose voting residence is in the District and who otherwise satisfies the District's voter eligibility requirements;

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

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

(E) An overseas voter who was born outside the United States, is not described in subparagraphs (C) or (D) of this paragraph, and, except for a District residency requirement, otherwise satisfies the District's voter eligibility requirements if:

(i) Before leaving the United States, the voter's last place of residence was with a parent or legal guardian who resided within the District; and

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

(3) "Dependent" means an individual recognized as a dependent of a uniformed service voter.

(4) "District" means the District of Columbia.

(5) "Federal postcard application" means the application prescribed under section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1986 (100 Stat. 924; 42 U.S.C. § 1973ff(b)(2)).

(6) "Federal write-in absentee ballot" means the ballot described in section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1986 (100 Stat. 925; 42 U.S.C. § 1973ff-2).

(7) "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.

(8) "Overseas voter" means a United States citizen who is outside the United States.

(9) "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.

(10) "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.

(11) "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.

(12) "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.

Sec. 103. Elections covered.

The voting procedures in this act apply to:

(1) A general, special, or primary election for President, Vice President, or District of Columbia Delegate to the United States House of Representatives;

(2) A general, special, or primary election for Mayor, Chairman of the Council, member of the Council, member of the Board of Education, or Attorney General for the District of Columbia;

(3) An initiative, referendum, or recall measure; and

(4) A proposed Charter amendment.

Sec. 104. Role of Board.

(a) The Board is responsible for implementing this act and the District's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1986 (100 Stat. 924; 42 U.S.C. 1973ff *et seq.*).

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

(c) The Board 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 Board 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 the District; and

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

(e) The Board 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 Board 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.

Sec. 105. Overseas voter's registration address.

In registering to vote, an overseas voter who is eligible to vote in the District must be assigned to the voting precinct of the address of the last place of residence of the voter in the District, or, in the case of a voter described by section 102(2)(E), the address of the last place of residence in the District 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.

Sec. 106. Methods of registering to vote.

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

(b) A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote if the declaration is received by 30 days before the election.

(c) The Board shall ensure that the electronic transmission system described in section 104(c) is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the Board. The voter may use the electronic transmission system or any other method approved under federal law to register to vote.

Sec. 107. Methods of applying for military-overseas ballot.

(a) A covered voter who is registered to vote in the District may apply for a military-overseas ballot using either the regular absentee ballot application on the form prescribed by the Board or the federal postcard application or the application's electronic equivalent.

(b) A covered voter who is not registered to vote in the District may use a federal postcard application or the application's electronic equivalent to apply to register to vote under section 106

and for a military-overseas ballot.

(c) The Board shall ensure that the electronic transmission system described in section 104(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 Board. The voter may use the electronic transmission system or any other method approved under federal law 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 Board by the 7th day before the election.

(e) To receive the benefits of this act, a covered voter must inform the Board that the voter is a covered voter. Methods of informing the Board 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 with a regular absentee ballot as authorized by the Board.

Sec. 108. Timeliness and scope of application for military-overseas ballot.

An application for a military-overseas ballot is timely if received by the 7th day before the 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.

Sec. 109. Transmission of unvoted ballots.

(a) For an election described in section 103 for which the District has not received a waiver pursuant to section 102(g)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1986 (100 Stat. 925; 42 U.S.C. § 1973ff-1(g)(2)), no later than 45 days before the election or, if the 45th day before the election is a weekend or holiday, no later than the business day preceding the 45th day, the Board 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 District, Internet delivery. The Board 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 District begins transmitting ballots and balloting materials to voters, the Board shall transmit the ballot and balloting materials to the voter no later than 2 business days after the application arrives.

Sec. 110. Timely casting of ballot.

To be valid, a military-overseas ballot must be submitted by the voter on the date of the election by mailing electronic transmission or other authorized means of delivery no later than 12:01 a.m. at the place where the voter completes the ballot.

Sec. 111. 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 103.

Sec. 112. Receipt of voted ballot.

(a) A valid military-overseas ballot cast in accordance with section 110 must be counted if it is delivered within 10 days after the election to the address that the Board 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.

Sec. 113. 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 making a false statement under the laws of the District.

Sec. 114. Confirmation of receipt of application and voted ballot.

The Board 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.

Sec. 115. Use of voter's electronic-mail address.

(a) The Board 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, or by any other District voter, may not be made available to the public or any individual or organization other than an authorized agent of the Board and is exempt from disclosure under the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*). 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 of the date of the application or another shorter period that the voter specifies. The Board 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.

Sec. 116. 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, the Board 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 and District offices which, as of that date the Board expects to be on the ballot on the date of the election. The notice also must contain specific instructions as to 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 Board shall send the election notice to the voter by facsimile, electronic mail, or regular mail, as the voter requests.

(c) No later than 45 days before an election, the Board shall update the election notice described in subsection (a) of this section with the certified candidates for each office and ballot measure questions and make the updated notice publicly available.

(d) The Board shall make the election notice prepared under subsection (a) of this section and updated versions of the election notice regularly available on the Board's Internet website.

Sec. 117. 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 shall not invalidate the document. Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified size or weight, shall 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 the District'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 shall 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 113 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for the 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.

Sec. 118. Equitable relief.

The Superior Court of the District of Columbia may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with or to enforce this act on application by:

- (1) A covered voter alleging a grievance under this act; or
- (2) An election official in the District.

Sec. 119. 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.

Sec. 120. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 464; 15 U.S.C. § 7001 *et seq.*) ("Act"), but does not modify, limit, or supersede section 101(c) of that Act (15 U.S.C. § 7001(c)), or authorize electronic delivery of any of the notices described in section 103(b) of that Act (15 U.S.C. § 7003(b)).

Sec. 121. Conforming amendments.

(a) Section 5(a) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.05(a)), is amended as follows: Note,
§ 1-1001.05

(1) Paragraph (14) is amended by striking the phrase "and related acts" and inserting the phrase "the Uniform Military and Overseas Voters Temporary Act of 2011, passed on 2nd reading on December 6, 2011 (Enrolled version of Bill 19-547), and related acts" in its place.

(2) Paragraph (15) is amended by striking the word "and" after the semicolon.

(3) Paragraph (16) is amended by striking the period and inserting the phrase "and" in its place.

(4) A new paragraph (17) is added to read as follows:

"(17) Perform duties imposed upon it by the Uniform Military and Overseas Voters Temporary Act of 2011", passed on 2nd reading on December 6, 2011 (Enrolled version of Bill 19-547).".

(b) Section 404(a) of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-2405(a)), is amended by striking the period and inserting the phrase "or if that person makes an affirmation by signing a declaration under section 113 of the Uniform Military and Overseas Voters Temporary Act of 2011, passed on 2nd reading on December 6, 2011 (Enrolled version of Bill 19-547), knowing that the facts stated in the filing are not true in any material respect." in its place. Note,
§ 22-2405

TITLE II. MILITARY AND OVERSEAS VOTER ACCOMMODATIONS

Sec. 201. Short title.

This title may be cited as the “Board of Elections and Ethics Military and Overseas Voter Accommodation Temporary Amendment Act of 2011”.

(a) The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

(1) Section 5(b) (D.C. Official Code § 1-1001.05(b)) is amended as follows:

Note,
§ 1-1001.05

(A) Paragraph (2) is amended by striking the phrase “60 days” and inserting the phrase “90 days” in its place.

(B) Paragraph (3)(A) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking the phrase “60 days” and inserting the phrase “90 days” in its place.

(ii) Sub-subparagraph (ii) is amended by striking the phrase “60 days” and inserting the phrase “90 days” in its place;

(iii) Sub-subparagraph (iii) is amended by striking the phrase “60 days” and inserting the phrase “90 days” in its place.

(iv) Sub-subparagraph (iv) is amended by striking the phrase “60 days” and inserting the phrase “90 days” in its place.

(2) Section 8 (D.C. Official Code § 1-1001.08) is amended as follows :

Note,
§ 1-1001.08

(A) Subsection (a)(1)(B) is amended by striking the phrase “69th day” and inserting the phrase “90th day” in its place.

(B) Subsection (f) is amended by striking the phrase “as of July 1st of the year in which the election is to be held is presented to the Board on or before the third Tuesday in August preceding the date of the presidential election” and inserting the phrase “as shown by the records of the Board as of the 144th day before the date of the presidential election, is presented to the Board on or before the 90th day before the date of the presidential election” in its place.

(C) Subsection (i) is amended as follows:

(i) Paragraph (1) is amended as follows:

(I) Subparagraph (A) is amended by striking the phrase “69 days” and inserting the phrase “90 days” in its place.

(II) Subparagraph (B) is amended by striking the phrase “123rd day” and inserting the phrase “144th day” in its place.

(ii) Paragraph (2) is amended by striking the phrase “69 days” and inserting the phrase “90 days” in its place.

(iii) Paragraph (3) is amended by striking the phrase “123rd day” and inserting the phrase “144th day” in its place.

(iv) Paragraph (4) is amended by striking the phrase “123rd day preceding the date of such election and may not be filed with the Board before the 94th day” and inserting the phrase “144th day preceding the date of such election and may not be filed with the Board before the 115th day” in its place.

(D) Subsection (j)(1) is amended as follows:

(i) Subparagraph (A) is amended by striking the phrase “69 days” and inserting the phrase “90 days” in its place.

(ii) Subparagraph (B) is amended by striking the phrase “123 days” wherever it appears and inserting the phrase “144 days” in its place.

(E) Subsection (n) is amended as follows:

(i) Strike the phrase “69th calendar day” and insert the phrase “90th calendar day” in its place.

(ii) Strike the phrase “123rd day preceding the date of such election and may not be filed with the Board before the 94th day” and insert the phrase “144th day preceding the date of such election and may not be filed with the Board before the 115th day” in its place.

(F) Subsection (o)(2) is amended by striking the phrase “15 days” and inserting the phrase “20 days” in its place.

(b) Section 6(b) of the Advisory Neighborhood Councils Act of 1975, effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.05(b)), is amended as follows:

Note,
§ 1-309.05

(1) Paragraph (1)(A) is amended by striking the phrase “60th calendar day” and inserting the phrase “90th calendar day” in its place.

(2) Paragraph (2) is amended by striking the phrase “90th calendar day” and inserting the phrase “144th calendar day” in its place.

TITLE III. EFFECTIVE DATE; FISCAL IMPACT STATEMENT.

Sec. 301. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 302. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia