
A BILL FOR AN ACT

RELATING TO MILITARY AND OVERSEAS VOTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 15, Hawaii Revised Statutes, is amended
2 by adding a new part to be appropriately designated and to read
3 as follows:

4 "PART . UNIFORM MILITARY AND OVERSEAS VOTERS ACT

5 §15-A Short title. This part may be cited as the Uniform
6 Military and Overseas Voters Act.

7 §15-B Definitions. For the purpose of this part:

8 "Covered voter" means:

- 9 (1) A uniformed-service voter or an overseas voter who is
10 registered to vote in this State;
- 11 (2) A person described in paragraph (1) of the definition
12 of "uniform-service voter" whose voting residence is
13 in this State and who otherwise satisfies this State's
14 voter eligibility requirements;
- 15 (3) An overseas voter who, before leaving the United
16 States, was last eligible to vote in this State and,
17 except for a state residency requirement, otherwise
18 satisfies this State's voter eligibility requirements;



1 (4) An overseas voter who, before leaving the United
2 States, would have been last eligible to vote in this
3 State had the voter then been of voting age and,
4 except for a state residency requirement, otherwise
5 satisfies this State's voter eligibility requirements;
6 or

7 (5) An overseas voter who was born outside the United
8 States, is not described in paragraph (3) or (4), and,
9 except for a state residency requirement, otherwise
10 satisfies this State's voter eligibility requirements,
11 if:

12 (A) The last place where a parent or legal guardian
13 of the voter was, or under this part would have
14 been, eligible to vote before leaving the United
15 States is within this State; and

16 (B) The voter has not previously registered to vote
17 in any other state.

18 "Dependent" means an individual recognized as a dependent
19 by a uniformed service.

20 "Federal postcard application" means the application
21 prescribed under Section 101(b)(2) of the Uniformed and Overseas



1 Citizens Absentee Voting Act, Title 42 United States Code
2 Section 1973ff.

3 "Federal write-in absentee ballot" means the ballot
4 described in Section 103 of the Uniformed and Overseas Citizens
5 Absentee Voting Act, Title 42 United States Code Section 1973ff.

6 "Military-overseas ballot" means:

- 7 (1) A federal write-in absentee ballot;
8 (2) A ballot specifically prepared or distributed for use
9 by a covered voter in accordance with this part; or
10 (3) A ballot cast by a covered voter in accordance with
11 this part.

12 "Overseas voter" means a United States citizen who is
13 outside the United States.

14 "State" means a state of the United States, the District of
15 Columbia, Puerto Rico, the United States Virgin Islands, or any
16 territory or insular possession subject to the jurisdiction of
17 the United States.

18 "Uniformed service" means:

- 19 (1) Active and reserve components of the Army, Navy, Air
20 Force, Marine Corps, or Coast Guard of the United
21 States;



1 (2) The Merchant Marine, the commissioned corps of the
2 Public Health Service, or the commissioned corps of
3 the National Oceanic and Atmospheric Administration of
4 the United States; or

5 (3) The National Guard and state militia.

6 "Uniformed-service voter" means an individual who is
7 qualified to vote and is:

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

11 (2) A member of the Merchant Marine, the commissioned
12 corps of the Public Health Service, or the
13 commissioned corps of the National Oceanic and
14 Atmospheric Administration of the United States;

15 (3) A member on activated status of the National Guard or
16 state militia; or

17 (4) A spouse or dependent of a member referred to in this
18 definition.

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



1 **§15-C Elections covered.** The voting procedures in this
2 part apply to:

3 (1) A general, special, primary, or runoff election for
4 federal office;

5 (2) A general, special, primary, or runoff election for
6 statewide or state legislative office or state ballot
7 measure; and

8 (3) A general, special, primary, or runoff election for
9 county government office or county ballot measure.

10 **§15-D Role of chief election officer.** (a) The chief
11 election officer shall be responsible for implementing this part
12 and the State's responsibilities under the Uniformed and
13 Overseas Citizens Absentee Voting Act, Title 42 United States
14 Code Section 1973ff.

15 (b) The chief election officer shall make available to
16 covered voters information regarding voter registration
17 procedures for covered voters and procedures for casting
18 military-overseas ballots. The chief election officer may
19 delegate the responsibility under this subsection only to the
20 state office designated in compliance with Section 102(b)(1) of
21 the Uniformed and Overseas Citizens Absentee Voting Act, Title
22 42 United States Code Section 1973ff.



1 (c) The chief election officer shall establish an
2 electronic transmission system through which a covered voter may
3 apply for and receive voter registration materials, military-
4 overseas ballots, and other information under this part.

5 (d) The chief election officer shall:

6 (1) Develop standardized absentee-voting materials,
7 including privacy and transmission envelopes and their
8 electronic equivalents, authentication materials, and
9 voting instructions, to be used with the military-
10 overseas ballot of a voter authorized to vote in any
11 jurisdiction in this State; and

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

14 (e) The chief election officer shall prescribe the form
15 and content of a declaration for use by a covered voter to swear
16 or affirm specific representations pertaining to the voter's
17 identity, eligibility to vote, status as a covered voter, and
18 timely and proper completion of an overseas-military ballot.

19 The declaration shall be based on the declaration prescribed to
20 accompany a federal write-in absentee ballot, as modified to be
21 consistent with this part. The chief election officer shall
22 ensure that a form for the execution of the declaration,



1 including an indication of the date of execution of the
2 declaration, is a prominent part of all balloting materials for
3 which the declaration is required.

4 **§15-E Overseas voter's registration address.** In
5 registering to vote, an overseas voter who is eligible to vote
6 in this State shall use and shall be assigned to the voting
7 precinct of the address of the last place of residence of the
8 voter in this State, or, in the case of a covered voter, the
9 address of the last place of residence in this State of the
10 parent or legal guardian of the voter. If that address is no
11 longer a recognized residential address, the voter shall be
12 assigned an address for voting purposes.

13 **§15-F Methods of registering to vote.** (a) To apply to
14 register to vote, in addition to any other approved method, a
15 covered voter may use a federal postcard application or the
16 application's electronic equivalent.

17 (b) A covered voter may use the declaration accompanying a
18 federal write-in absentee ballot to apply to register to vote
19 simultaneously with the submission of the federal write-in
20 absentee ballot, if the declaration is received by the voter
21 registration deadline for that election. If the declaration is



1 received after that date, it shall be treated as an application
2 to register to vote for subsequent elections.

3 (c) The chief election officer shall ensure that the
4 electronic transmission system under section 15-D is capable of
5 accepting both a federal postcard application and any other
6 approved electronic registration application sent to the
7 appropriate election official.

8 **§15-G Methods of applying for military-overseas ballot.**

9 (a) A covered voter who is registered to vote in this State may
10 apply for a military-overseas ballot using the regular absentee
11 ballot application in use in the voter's jurisdiction under this
12 chapter or the federal postcard application or the application's
13 electronic equivalent.

14 (b) A covered voter who is not registered to vote in this
15 State may use a federal postcard application or the
16 application's electronic equivalent to apply simultaneously to
17 register to vote under section 15-F and for a military-overseas
18 ballot.

19 (c) The chief election officer shall ensure that the
20 electronic transmission system described under section 15-D is
21 capable of accepting the submission of a federal postcard



1 application and any other approved electronic military-overseas
2 ballot application sent to the appropriate election official.

3 (d) A covered voter may use the declaration accompanying a
4 federal write-in absentee ballot as an application for a
5 military-overseas ballot simultaneously with the submission of
6 the federal write-in absentee ballot, if the declaration is
7 received by the appropriate election official by the last day
8 for other voters in this State to apply for an absentee ballot
9 under section 15-4.

10 (e) To receive the benefits of this part, a covered voter
11 shall inform the appropriate election official that the voter is
12 a covered voter. Methods of informing the appropriate election
13 official that a voter is a covered voter include:

- 14 (1) The use of a federal postcard application or federal
15 write-in absentee ballot;
- 16 (2) The use of an overseas address on an approved voter
17 registration application or ballot application; and
- 18 (3) The inclusion on an approved voter registration
19 application or ballot application of other information
20 sufficient to identify the voter as a covered voter.



1 (f) This part does not preclude a covered voter from
2 voting under the regular absentee voting provisions of this
3 chapter.

4 **§15-H Timeliness and scope of application for military-**
5 **overseas ballot.** An application for a military-overseas ballot
6 is timely if received by the last day for other voters in this
7 State to apply for an absentee ballot under section 15-4.

8 An application for a military-overseas ballot for a primary
9 election, whether or not timely, is effective as an application
10 for a military-overseas ballot for the general election.

11 An application for a military-overseas ballot is effective
12 for a runoff election necessary to conclude the election for
13 which the application was submitted.

14 **§15-I Transmission of unvoted ballots.** (a) For a covered
15 election described in section 15-C for which this State has not
16 received a waiver pursuant to Section 579 of the Military and
17 Overseas Voter Empowerment Act, Title 42 United States Code
18 Section 1973ff, the election official in each jurisdiction
19 charged with distributing a ballot and balloting materials shall
20 transmit a ballot and balloting materials no later than forty-
21 five days before the election to all covered voters who submit a
22 valid military-overseas ballot application by that date.



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

9 (c) If a ballot application from a covered voter arrives
10 after the jurisdiction begins transmitting ballots and balloting
11 materials to voters, the official charged with distributing a
12 ballot and balloting materials shall transmit them to the voter
13 not later than two business days after the application arrives.

14 **§15-J Timely casting of ballot.** For a ballot to be
15 considered validly cast:

16 (1) A military-overseas ballot shall be received by the
17 appropriate county election official not later than
18 the close of the polls; or

19 (2) The voter shall submit the ballot for mailing,
20 electronic transmission, or other authorized means of
21 delivery in sufficient time for the chief election
22 officer to receive the ballot by the election day.



1 **§15-K Federal write-in absentee ballot.** A covered voter
2 may use a federal write-in absentee ballot to vote for all
3 offices and ballot measures in a covered election described in
4 section 15-C.

5 **§15-L Receipt of voted ballot.** (a) A valid military-
6 overseas ballot cast in accordance with section 15-J shall be
7 counted if it is delivered not later than the closing of the
8 polls on any election day.

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

14 **§15-M Declaration.** A military-overseas ballot shall
15 include or be accompanied by a declaration signed by the voter
16 that a material misstatement of fact in completing the ballot
17 may be grounds for a conviction of perjury under the laws of the
18 United States or this State.

19 **§15-N Confirmation of receipt of application and voted**
20 **ballot.** The chief election officer, in coordination with county
21 election officials, shall implement an electronic free-access



1 system by which a covered voter may determine by telephone,
2 electronic mail, or the Internet whether:

3 (1) The voter's federal postcard application or other
4 registration or military-overseas ballot application
5 has been received and accepted; and

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

8 **§15-0 Use of voter's electronic mail address.** (a) The
9 appropriate county election official shall request an electronic
10 mail address from each covered voter who registers to vote after
11 the effective date of this Act. An electronic mail address
12 provided by a covered voter may not be made available to the
13 public or any individual or organization other than an
14 authorized agent of the county election official and is exempt
15 from disclosure under chapter 92F. The address may be used only
16 for official communication with the voter about the voting
17 process, including transmitting military-overseas ballots and
18 election materials if the voter has requested electronic
19 transmission, and verifying the voter's mailing address and
20 physical location. The request for an electronic mail address
21 shall describe the purposes for which the electronic mail



1 address may be used and include a statement that any other use
2 or disclosure of the electronic mail address is prohibited.

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

16 **§15-P Publication of election notice.** (a) At least one
17 hundred days before a regularly scheduled election and as soon
18 as practicable before an election not regularly scheduled, an
19 official in each jurisdiction charged with printing and
20 distributing ballots and balloting material shall prepare an
21 election notice for that jurisdiction, to be used in conjunction
22 with a federal write-in absentee ballot. The election notice



1 shall contain a list of all of the ballot measures and federal,
2 state, and local offices that as of that date the official
3 expects to be on the ballot on the date of the election. The
4 notice shall also contain specific instructions for how a voter
5 is to indicate on the federal write-in absentee ballot the
6 voter's choice for each office to be filled and for each ballot
7 measure to be contested.

8 (b) A covered voter may request a copy of an election
9 notice. The official charged with preparing the election notice
10 shall send the notice to the voter by facsimile, electronic
11 mail, or regular mail, as the voter requests.

12 (c) As soon as ballot forms are certified, and not later
13 than the date ballots are required to be transmitted to voters
14 under this chapter, the official charged with preparing the
15 election notice under subsection (a) shall update the notice
16 with the certified candidates for each office and ballot measure
17 questions and make the updated notice publicly available.

18 (d) A county election jurisdiction that maintains an
19 internet website shall make the election notice prepared under
20 subsection (a) and updated versions of the election notice
21 regularly available on the website.



1 **§15-Q Prohibition of nonsubstantive requirements.** (a) If
2 a voter's mistake or omission in the completion of a document
3 under this part does not prevent determining whether a covered
4 voter is eligible to vote, the mistake or omission shall not
5 invalidate the document. Failure to satisfy a nonsubstantive
6 requirement, such as using paper or envelopes of a specified
7 size or weight, shall not invalidate a document submitted under
8 this part. In a write-in ballot authorized by this part, if the
9 intention of the voter is discernable under this State's uniform
10 definition of what constitutes a vote, an abbreviation,
11 misspelling, or other minor variation in the form of the name of
12 a candidate or a political party shall be accepted as a valid
13 vote.

14 (b) Notarization shall not be required for the execution
15 of a document under this part. An authentication, other than
16 the declaration specified in section 15-M or the declaration on
17 the federal postcard application and federal write-in absentee
18 ballot, is not required for execution of a document under this
19 part. The declaration and any information in the declaration
20 may be compared with information on file to ascertain the
21 validity of the document.



1 **§15-R Equitable relief.** A court may issue an injunction
2 or grant other equitable relief appropriate to ensure
3 substantial compliance with, or enforce, this part upon
4 application by:

5 (1) A covered voter alleging a grievance under this part;

6 or

7 (2) An election official in this State.

8 **§15-S Uniformity of application and construction.** In
9 applying and construing this Act, consideration shall be given
10 to the need to promote uniformity of the law with respect to its
11 subject matter among states that enact it.

12 **§15-T Relation to Electronic Signatures in Global and**
13 **National Commerce Act.** This part modifies, limits, and
14 supersedes the Electronic Signatures in Global and National
15 Commerce Act, Title 15 United States Code Section 7001 et seq.,
16 but does not modify, limit, or supersede Section 101(c) of that
17 Act, Title 15 United States Code Section 7001(c) et seq., or
18 authorize electronic delivery of any of the notices described in
19 Section 103(b) of that Act, or Title 15 United States Code
20 Section 7003(b)."



1 SECTION 2. Chapter 15, Hawaii Revised Statutes, is amended
2 by designating sections 15-1 through 15-14 as part I, entitled
3 "General Provisions".

4 SECTION 3. Section 15-3.5, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§15-3.5] Federal write-in absentee ballot.~~
7 ~~Notwithstanding the provisions of this chapter and chapters 11~~
8 ~~and 16, the federal write-in absentee ballot for overseas voters~~
9 ~~in general elections for federal office which must be prescribed~~
10 ~~under section 1973ff of title 42, United States Code, as~~
11 ~~amended, may be used in general elections for federal offices."]~~

12 SECTION 4. In codifying the new sections added by section
13 1 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 5. In printing this Act, the revisor of statutes
17 shall insert the effective date of this Act in the appropriate
18 place in section 1 of this Act.

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken.

21 SECTION 7. This Act shall take effect upon its approval.

22



Report Title:

Elections; Uniformed Services and Overseas Absentee Voters

Description:

Implements voting provisions for uniformed services and overseas absentee voters, including electronic transmission of balloting materials, as required by the Military and Overseas Voter Empowerment Act. (SD1)

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