
A BILL FOR AN ACT

RELATING TO THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 **UNIFORM MILITARY AND OVERSEAS VOTERS ACT**

6 § -1 **Short title.** This chapter may be cited as the
7 Uniform Military and Overseas Voters Act.

8 § -2 **Definitions.** In this chapter:

9 "Covered voter" means:

- 10 (1) A uniformed-service voter or an overseas voter who is
11 registered to vote in this State;
- 12 (2) A uniformed-service voter defined in paragraph (1) of
13 that definition whose voting residence is in this
14 State and who otherwise satisfies this State's voter
15 eligibility requirements;
- 16 (3) An overseas voter who, before leaving the United
17 States, was last eligible to vote in this State and,



1 except for a state residency requirement, otherwise
2 satisfies this State's voter eligibility requirements;

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

8 or

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

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

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

20 "Dependent" means an individual recognized as a dependent
21 by a uniformed service.



1 "Federal postcard application" means the application
2 prescribed under section 101(b)(2) of the Uniformed and Overseas
3 Citizens Absentee Voting Act, 42 United States Code Section
4 1973ff(b)(2).

5 "Federal write-in absentee ballot" means the ballot
6 described in Section 103 of the Uniformed and Overseas Citizens
7 Absentee Voting Act, 42 United States Code Section 1973ff-2.

8 "Military-overseas ballot" means:

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

14 "Overseas voter" means a United States citizen who is
15 outside the United States.

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

20 "Uniformed service" means:



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

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

8 (3) The National Guard and state militia.

9 "Uniformed-service voter" means an individual who is
10 qualified to vote and is:

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

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

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

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



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

5 **§ -3 Elections covered.** The voting procedures in this
6 chapter apply to:

- 7 (1) A general, special, presidential preference, or
8 primary election for federal office;
- 9 (2) A general, special, or primary election for statewide
10 or state legislative office or state ballot measure;
11 and
- 12 (3) A general, special, recall, primary, or runoff
13 election for local government office or local ballot
14 measure conducted under section 11-91.5 for which
15 absentee voting or voting by mail is available for
16 other voters.

17 **§ -4 Role of chief election officer.** (a) The chief
18 election officer shall be the state official responsible for
19 implementing this chapter and the State's responsibilities under
20 the Uniformed and Overseas Citizens Absentee Voting Act, 42
21 United States Code Section 1973ff et seq.



1 (b) The chief election officer shall make available to
2 covered voters information regarding voter registration
3 procedures for covered voters and procedures for casting
4 military-overseas ballots. The chief election officer may
5 delegate the responsibility under this subsection only to the
6 state office designated in compliance with section 102(b)(1) of
7 the Uniformed and Overseas Citizens Absentee Voting Act, 42
8 United States Code Section 1973ff-1(b)(1).

9 (c) The chief election officer shall establish an
10 electronic transmission system through which a covered voter may
11 apply for and receive voter registration materials, military-
12 overseas ballots, and other information under this chapter.

13 (d) The chief election officer shall:

14 (1) Develop standardized absentee-voting materials,
15 including privacy and transmission envelopes and their
16 electronic equivalents, authentication materials, and
17 voting instructions, to be used with the military-
18 overseas ballot of a voter authorized to vote in any
19 jurisdiction in this State; and

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



1 (e) The chief election officer shall prescribe the form
2 and content of a declaration for use by a covered voter to swear
3 or affirm specific representations pertaining to the voter's
4 identity, eligibility to vote, status as a covered voter, and
5 timely and proper completion of an overseas-military ballot.
6 The declaration shall be based on the declaration prescribed to
7 accompany a federal write-in absentee ballot, as modified to be
8 consistent with this chapter. The chief election officer shall
9 ensure that a form for the execution of the declaration,
10 including an indication of the date of execution of the
11 declaration, is a prominent part of all balloting materials for
12 which the declaration is required.

13 **§ -5 Overseas voter's registration address.** In
14 registering to vote, an overseas voter who is eligible to vote
15 in this State shall use and be assigned to the voting precinct
16 of the address of the last place of residence of the voter in
17 this State, or, in the case of a voter described by paragraph
18 (5) of the definition of "covered voter," the address of the
19 last place of residence in this State of the parent or legal
20 guardian of the voter. If that address is no longer a
21 recognized residential address, the voter shall be assigned an
22 address for voting purposes.



1 **§ -6 Methods of registering to vote.** (a) To apply to
2 register to vote, in addition to any other approved method, a
3 covered voter may use a federal postcard application, or the
4 application's electronic equivalent.

5 (b) A covered voter may use the declaration accompanying a
6 federal write-in absentee ballot to apply to register to vote
7 simultaneously with the submission of the federal write-in
8 absentee ballot, if the declaration is received not later than
9 thirty days prior to the election pursuant to section 11-16. If
10 the declaration is received after that date, it must be treated
11 as an application to register to vote for subsequent elections.

12 (c) The chief election officer shall ensure that the
13 electronic transmission system described in section -4(c) is
14 capable of accepting both a federal postcard application and any
15 other approved electronic registration application sent to the
16 appropriate election official. The voter may use the electronic
17 transmission system or any other approved method to register to
18 vote.

19 **§ -7 Methods of applying for military-overseas ballot.**

20 (a) A covered voter who is registered to vote in this State may
21 apply for a military-overseas ballot using the regular absentee
22 ballot application in use in the voter's jurisdiction under



1 section 11-16 or the federal postcard application or the
2 application's electronic equivalent.

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

8 (c) The chief election officer shall ensure that the
9 electronic transmission system described in section -4(c) is
10 capable of accepting the submission of both a federal postcard
11 application and any other approved electronic military-overseas
12 ballot application sent to the appropriate election official.
13 The voter may use the electronic transmission system or any
14 other approved method to apply for a military-overseas ballot.

15 (d) A covered voter may use the declaration accompanying a
16 federal write-in absentee ballot as an application for a
17 military-overseas ballot simultaneously with the submission of
18 the federal write-in absentee ballot, if the declaration is
19 received by the appropriate election official by the fifth day
20 before the election.

21 (e) To receive the benefits of this chapter, a covered
22 voter shall inform the appropriate election official that the



1 voter is a covered voter. Methods of informing the appropriate
2 election official that a voter is a covered voter include:

- 3 (1) The use of a federal postcard application or federal
4 write-in absentee ballot;
- 5 (2) The use of an overseas address on an approved voter
6 registration application or ballot application; and
- 7 (3) The inclusion on an approved voter registration
8 application or ballot application of other information
9 sufficient to identify the voter as a covered voter.

10 (f) This chapter does not preclude a covered voter from
11 voting under chapter 15.

12 **§ -8 Timeliness and scope of application for military-**
13 **overseas ballot.** An application for a military-overseas ballot
14 shall be timely if received by the fifth day before the election
15 for that election. An application for a military-overseas
16 ballot for a primary election, whether or not timely, shall be
17 effective as an application for a military-overseas ballot for
18 the general election. An application for a military-overseas
19 ballot shall be effective for a runoff election necessary to
20 conclude the election for which the application was submitted.

21 **§ -9 Transmission of unvoted ballots.** (a) For an
22 election described in section -3 for which this State has not



1 received a waiver pursuant to section 579 of the Military and
2 Overseas Voter Empowerment Act, 42 United States Code Section
3 1973ff-1(g)(2), not later than forty-five days before the
4 election or, if the forty-fifth day before the election is a
5 weekend or holiday, not later than the business day preceding
6 the forty-fifth day, the election official in each jurisdiction
7 charged with distributing a ballot and balloting materials shall
8 transmit a ballot and balloting materials to all covered voters
9 who by that date submit a valid military-overseas ballot
10 application.

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

19 (c) If a ballot application from a covered voter arrives
20 after the jurisdiction begins transmitting ballots and balloting
21 materials to voters, the official charged with distributing a



1 ballot and balloting materials shall transmit them to the voter
2 not later than two business days after the application arrives.

3 **§ -10 Timely casting of ballot.** To be valid, a
4 military-overseas ballot shall be received by the appropriate
5 local election official not later than the close of the polls,
6 or the voter shall submit the ballot for mailing or other
7 authorized means of delivery not later than 12:01 a.m., at the
8 place where the voter completes the ballot, on the date of the
9 election.

10 **§ -11 Federal write-in absentee ballot.** A covered voter
11 may use a federal write-in absentee ballot to vote for all
12 offices and ballot measures in an election described in
13 section -3.

14 **§ -12 Receipt of voted ballot.** (a) A valid military-
15 overseas ballot cast in accordance with section -10 shall be
16 counted if it is delivered by the end of business on the
17 business day before the election day to the address that the
18 appropriate state or local election office has specified.

19 (b) If, at the time of completing a military-overseas
20 ballot and balloting materials, the voter has declared or
21 affirmed under penalty of unsworn falsification to authorities
22 that the ballot was timely submitted, the ballot may not be



1 rejected on the basis that it has a late postmark, an unreadable
2 postmark, or no postmark.

3 **§ -13 Declaration.** A military-overseas ballot shall
4 include or be accompanied by a declaration or affirmation signed
5 by the voter that a material misstatement of fact in completing
6 the ballot may be grounds for a conviction of perjury or related
7 offenses under the laws of the United States or this State.

8 **§ -14 Confirmation of receipt of application and voted**
9 **ballot.** The chief election officer, in coordination with local
10 election officials, shall implement an electronic free-access
11 system by which a covered voter may determine by telephone,
12 electronic mail, or Internet whether:

13 (1) The voter's federal postcard application or other
14 registration or military-overseas ballot application
15 has been received and accepted; and

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

18 **§ -15 Use of voter's electronic-mail address.** (a) The
19 local election official shall request an electronic-mail address
20 from each covered voter who registers to vote after the
21 effective date of this chapter. An electronic-mail address
22 provided by a covered voter may not be made available to the



1 public or any individual or organization other than an
2 authorized agent of the local election official and is exempt
3 from disclosure under chapter 92F. The address may be used only
4 for official communication with the voter about the voting
5 process, including transmitting military-overseas ballots and
6 election materials if the voter has requested electronic
7 transmission, and verifying the voter's mailing address and
8 physical location. The request for an electronic-mail address
9 must describe the purposes for which the electronic-mail address
10 may be used and include a statement that any other use or
11 disclosure of the electronic-mail address is prohibited.

12 (b) A covered voter who provides an electronic-mail
13 address may request that the voter's application for a military-
14 overseas ballot be considered a standing request for electronic
15 delivery of a ballot for all elections held through December 31
16 of the year following the calendar year of the date of the
17 application or another shorter period the voter specifies,
18 including for any runoff elections that occur as a result of
19 those elections. An election official shall provide a military-
20 overseas ballot to a voter who makes a standing request for each
21 election to which the request is applicable. A covered voter
22 who is entitled to receive a military-overseas ballot for a



1 primary election under this subsection is entitled to receive a
2 military-overseas ballot for the general election.

3 **§ -16 Publication of election notice.** (a) At least one
4 hundred days before a regularly scheduled election and as soon
5 as practicable before an election not regularly scheduled, an
6 official in each jurisdiction charged with printing and
7 distributing ballots and balloting material shall prepare an
8 election notice for that jurisdiction, to be used in conjunction
9 with a federal write-in absentee ballot. The election notice
10 must contain a list of all of the ballot measures and federal,
11 state, and local offices that as of that date the official
12 expects to be on the ballot on the date of the election. The
13 notice also must contain specific instructions for how a voter
14 is to indicate on the federal write-in absentee ballot the
15 voter's choice for each office to be filled and for each ballot
16 measure to be contested.

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

21 (c) As soon as ballot styles are finalized pursuant to
22 section 11-119, and not later than the date ballots are required



1 to be transmitted to voters under section 15-4, the official
2 charged with preparing the election notice under subsection (a)
3 shall update the notice with the certified candidates for each
4 office and ballot measure questions and make the updated notice
5 publicly available.

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

10 **§ -17 Prohibition of nonsubstantive requirements.**

11 (a) If a voter's mistake or omission in the completion of a
12 document under this chapter does not prevent determining whether
13 a covered voter is eligible to vote, the mistake or omission
14 shall not invalidate the document. Failure to satisfy a
15 nonsubstantive requirement, such as using paper or envelopes of
16 a specified size or weight, shall not invalidate a document
17 submitted under this chapter. In a write-in ballot authorized
18 by this chapter if the intention of the voter is discernible
19 under this State's uniform definition of what constitutes a
20 vote, an abbreviation, misspelling, or other minor variation in
21 the form of the name of a candidate or a political party shall
22 be accepted as a valid vote.



1 (b) Notarization is not required for the execution of a
2 document under this chapter. An authentication, other than the
3 declaration specified in section -13 or the declaration on
4 the federal postcard application and federal write-in absentee
5 ballot, shall not be required for execution of a document under
6 this chapter. The declaration and any information in the
7 declaration may be compared with information on file to
8 ascertain the validity of the document.

9 **§ -18 Equitable relief.** A court may issue an injunction
10 or grant other equitable relief appropriate to ensure
11 substantial compliance with, or enforce, this chapter on
12 application by:

13 (1) A covered voter alleging a grievance under this
14 chapter; or

15 (2) An election official in this State.

16 **§ -19 Relation to Electronic Signatures in Global and**
17 **National Commerce Act.** This chapter modifies, limits, and
18 supersedes the Electronic Signatures in Global and National
19 Commerce Act, 15 United States Code Section 7001 et seq., but
20 does not modify, limit, or supersede Section 101(c) of that act,
21 15 United States Code Section 7001(c), or authorize electronic



1 delivery of any of the notices described in section 103(b) of
2 that act, 15 United States Code Section 7003(b)."

3 SECTION 2. This Act shall take effect on July 1, 2020.



Report Title:

Military and Overseas Voters Act

Description:

Enacts Uniform Military and Overseas Voters Act to ensure ability of members of the military and others eligible voters who are overseas to participate in all elections for federal, state, and local offices. Authorizes ballots and balloting materials to be transmitted by facsimile or electronic mail. Effective July 1, 2020. (HB461 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

