

**MILITARY AND OVERSEAS CITIZENS
ABSENTEE VOTER AMENDMENTS**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

Senate Sponsor: Dan R. Eastman

LONG TITLE

General Description:

This bill modifies the Election Code by amending provisions for registration and voting by certain military and overseas citizen voters.

Highlighted Provisions:

This bill:

- ▶ allows military and overseas voters who are currently deployed in hostile fire zones or areas where mail service is reliable to register, obtain an absentee ballot, and vote through electronic transmission;
- ▶ provides definitions for the federal postcard application form and hostile fire zones;
- ▶ requires the eligible voters to file the federal postcard application form no later than 20 days before the day of the election;
- ▶ provides procedures for the electronic transmission and receipt of forms and ballots by the county clerks;
- ▶ requires the eligible voters to waive their right to a secret ballot and to affirm that they are currently deployed in a hostile fire zone or other area where the mail service is unreliable; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **20A-3-403**, as enacted by Chapter 1, Laws of Utah 1993

33 ENACTS:

34 **20A-3-408.5**, Utah Code Annotated 1953



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **20A-3-403** is amended to read:

38 **20A-3-403. Definitions.**

39 As used in this part:

40 (1) (a) "Ballot," "disabled voter's ballot" and "official Utah military ballot" means the
41 same ballots that will be submitted to and used by other voters of Utah at the primary or
42 general election.

43 (b) "Ballot" includes any official federal ballot provided by any Act of Congress to
44 allow voting by voters in the military service of the United States.

45 (2) "Federal postcard application form" means the form created by the Federal Voting
46 Assistance Program (FVAP) which allows military and overseas citizens to register to vote and
47 apply for an absentee ballot.

48 (3) "Hostile fire zone" means a geographical area in which forces are assigned on
49 official temporary duty and placed in imminent danger of being exposed to hostile fire or
50 explosion of hostile mines.

51 [~~2~~] (4) "Military voter" means each person who is qualified as a voter under the Utah
52 Constitution and laws or who is eligible for registration and who would, by registration, be
53 qualified to vote, and who is:

54 (a) a member of the armed forces of the United States while in the active service or is
55 the spouse or dependent of that member;

56 (b) a member of the merchant marine of the United States or is the spouse or dependent
57 of that member;

58 (c) a civilian employee of the United States in all categories who is serving outside the

59 territorial limits of the United States whether or not the employee is subject to the civil service
60 laws and the Classification Act of 1949, and whether or not the employee is paid from funds
61 appropriated by the Congress or is the spouse or dependent of that member when residing with
62 or accompanying them; and

63 (d) a member of religious groups or welfare agencies assisting members of the armed
64 forces, who is officially attached to and serving with the armed forces, or is the spouse or
65 dependent of that member.

66 [~~3~~] (5) "Overseas citizen voter" means:

67 (a) a member of the armed forces of the United States while in the active service or the
68 spouse or dependent of that member;

69 (b) a member of the merchant marines of the United States or the spouse or dependent
70 of that member; and

71 (c) a citizen of the United States residing outside the territorial limits of the United
72 States or the spouse or dependent of that member when residing with them or accompanying
73 them.

74 Section 2. Section **20A-3-408.5** is enacted to read:

75 **20A-3-408.5. Electronic registration and voting by military and overseas citizen**
76 **voters in a hostile fire zone -- Procedures for accepting and processing a federal postcard**
77 **application form -- Returned ballot.**

78 (1) A military voter, an overseas citizen voter, or other voter covered under the federal
79 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) shall be allowed to
80 transmit their federal postcard application form electronically to the county clerk in their
81 county of residence if the voter is currently deployed in:

82 (a) a hostile fire zone; or

83 (b) other area where the mail service is unreliable and not sufficient to accommodate
84 timely mail service.

85 (2) A voter covered under Subsection (1), shall file the federal postcard application
86 form no later than 20 days before the day of the election in accordance with Subsection
87 20A-3-304(3)(a)(ii).

88 (3) Upon receiving a federal postcard application form under this section a county clerk
89 shall review the federal postcard application form to verify:

90 (a) compliance with this section; and
91 (b) that the form has been properly completed and signed.
92 (4) Upon a determination of compliance under Subsection (3), a county clerk shall:
93 (a) register the voter, unless the voter is already registered;
94 (b) process the absentee ballot request; and
95 (c) electronically transmit a ballot to the voter who filed the federal postcard
96 application form.
97 (5) A voter who receives a ballot under this section may transmit the ballot
98 electronically to the county clerk in their county of residence if the voter:
99 (a) agrees to waive the right to a secret ballot in accordance with this section; and
100 (b) affirms in writing that the voter is currently deployed in:
101 (i) a hostile fire zone; or
102 (ii) other area where the mail service is unreliable and not sufficient to accommodate
103 timely mail service.
104 (6) The electronically transmitted ballot shall be accompanied by the following
105 statements: "I understand that by electronically transmitting my voted ballot I am voluntarily
106 waiving my right to a secret ballot. Signature of voter _____ Date _____"; and
107 "I affirm that I am currently deployed in a hostile fire zone" or
108 "I affirm that I am currently deployed in an area where mail service is unreliable and not
109 sufficient to accommodate timely mail service."
110 (7) Notwithstanding the provisions of Subsections (5) and (6), the completed ballot
111 transmitted under this section is considered a private record under Title 63, Chapter 2,
112 Government Records Access and Management Act.
113 (8) A ballot transmitted under Subsection (5) shall be:
114 (a) transmitted no later than the date that is one day before the election day in
115 accordance with Section 20A-3-406; and
116 (b) received by the county clerk before the date of the official canvass in accordance
117 with Subsection 20A-3-306(2)(b).
118 (9) Upon the receipt of an electronically transmitted ballot under this section, a county
119 clerk shall:
120 (a) verify the voter's signature from the federal postcard application form and ensure

121 that it matches the voter's signature on the return ballot;

122 (b) duplicate the electronically transmitted ballot onto a regular ballot used by the
123 county for resident voters; and

124 (c) maintain the electronically transmitted ballot for 22 months in accordance with
125 Subsection 20A-4-202(2).

Legislative Review Note

as of 11-29-05 2:27 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel