



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Abby McMahon

### **S.B. 305**

132nd General Assembly  
(As Introduced)

**Sens.** LaRose, Eklund, Beagle, Wilson, Sykes, Schiavoni, Terhar, Hoagland, Huffman

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### **BILL SUMMARY**

- Creates the Office for the Uniformed Services Absent Voter to provide training and assistance to uniformed services absent voters who want to vote in an election while absent as a result of active duty.
  - Requires the Secretary of State to appoint a Director for the Office.
  - Requires the Adjutant General to establish a process for determining when a uniformed services voter will be absent as a result of active duty and provide that information to the Office, as practicable.
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### **CONTENT AND OPERATION**

#### **Office for the Uniformed Services Absent Voter**

The bill creates the Office for the Uniformed Services Absent Voter. The Office is within the Secretary of State's Office and the Secretary must appoint a Director. Under the bill, when a uniformed services voter may become absent from the voter's place of residence as a result of active duty, the Adjutant General must notify the Office, as practicable. A uniformed services voter is a member of the active and reserve components of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, a 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, a member of the National Guard and Organized Militia who is on activated status, or a spouse of a uniformed services voter.

Under the bill, before a uniformed services voter becomes absent as a result of active duty, the Office for Uniformed Services Absent Voter must, as practicable:

(1) conduct training for the voter to provide information about any programs available to assist in voting while absent and (2) provide and assist in completing any application or form required to register and vote under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Additionally, the Adjutant General must establish a process for determining when a uniformed services voter will be absent from the voter's place of residence as a result of active duty and provide that information to the Office, as practicable.

The bill also requires the Office for Uniformed Services Absent Voter to conduct yearly training, provided by the Secretary, to voting assistance officers that are required to assist voters under UOCAVA. Under UOCAVA, there is the Federal Voting Assistance Program, which requires voting assistance officers to be trained and available to provide information and assistance to members of the armed forces on voting matters.

Under continuing federal law, UOCAVA requires each state to designate a single office that is responsible for providing information regarding voter registration and absent voter's ballot procedures for uniformed services and overseas citizen voters to vote in elections for federal office. The Secretary of State is designated as the single state office responsible for the implementation of UOCAVA requirements in Ohio.<sup>1</sup>

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## COMMENT

The bill may be challenged on the ground that it violates the 14th Amendment equal protection clause by treating uniformed services electors differently than other nonuniformed services electors. In *Obama for America v. Husted*, the court reviewed a provision that specified that in-person absent voting ended at 6 p.m. on the Friday before the day of an election, but permitted uniformed services and overseas absent voters to cast absent voter's ballots in person not later than the close of the polls on the day of an election. The court enjoined the provision on the ground that it violated the 14th Amendment equal protection rights of electors who are not uniformed services or overseas absent voters because it treated the two absent voter groups differently.<sup>2</sup>

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<sup>1</sup> R.C. 3501.05, 3511.17, and 5913.01; R.C. 3511.01(C) and (D), not in the bill; See also 10 United States Code (U.S.C.) 1566(f) and 52 U.S.C. 20302 and 20305.

<sup>2</sup> *Obama for America v. Husted*, 2014 U.S. Dist. LEXIS 79409, Case No. 2:12-CV-00636 (S.D. Ohio June 11, 2014).



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## HISTORY

ACTION

DATE

Introduced

06-01-18

