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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. A. Miller and Hicks-Hudson

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### SUMMARY

- Permits uniformed services and overseas absent voters in certain situations to return their absent voter's ballots electronically.
- Requires the Secretary of State to compile a list keeping track of those certain situations, including designated combat zones and categories of service qualifying for hazardous duty pay.
- Prescribes rules and procedures for voter instructions on returning a ballot electronically, and for processing and counting Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) ballots received electronically; requires the Secretary to prescribe additional rules and procedures.
- Clarifies that UOCAVA ballots must be submitted for mailing no later than the close of polls on election day, rather than 12:01 a.m. on election day.

### DETAILED ANALYSIS

#### Returning UOCAVA ballots electronically

The bill makes changes to Chapter 3511 of the Revised Code, which implements federal requirements – the Uniformed and Overseas Citizens Absentee Voting Act, or “UOCAVA” – for absent voter's ballots for electors who are in the military or are overseas. Under continuing law, absent voter's ballots may be sent to UOCAVA voters electronically, who may then print out the ballots and mail or deliver them to the board of elections.

The bill permits uniformed services and overseas voters, in certain situations, to return an absent voter's ballot electronically, rather than having to print and mail them. The Secretary of State must prescribe procedures for an elector to submit an absent voter's ballot securely and privately by electronic means.

Under continuing law, a uniformed services voter is a qualified voter who is a member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine, commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the U.S., or a member of the National Guard or the organized militia if on active status. This includes spouses or dependents of these members.<sup>1</sup> The definition has not been updated to include the U.S. Space Force, although it might be considered to be included as a branch of the Air Force.

Overseas voters are persons outside of the U.S. who were eligible to vote in and were an Ohio resident before leaving the U.S. This also includes minors who would have been eligible to vote in Ohio but left the U.S. before they turned 18, and minors who are born outside of the U.S. to parents or legal guardians who last were or would have been eligible to vote in Ohio, and who have not previously registered to vote in any other state.<sup>2</sup> Of those persons, the bill only applies to uniformed services electors, overseas electors who are employees or contractors of the U.S. government, and their spouses and dependents. In addition, when the elector applies for an absent voter's ballot, or any time after the elector applies but before the election, any one of the following must apply:

- The elector is a uniformed services voter or overseas voter who serves, works, or stays in an area currently designated as a combat zone by executive order of the U.S. president;
- The elector is a uniformed services voter whose current service is designated by the U.S. Department of Defense as being in direct support of military operations in a combat zone;
- The elector is a uniformed services voter whose current service qualifies for hazardous duty pay under federal law;<sup>3</sup>
- The Secretary of State determines that, because of circumstances related to the elector's status, it is impracticable to return the absent voter's ballots to the appropriate board of elections by mail or by personal delivery.

Note that the second and third bullets only apply to uniformed services voters, while the first and fourth may apply to uniformed services or overseas voters.

The Secretary of State, not later than the 60<sup>th</sup> day before an election, must compile a list reflecting the criteria listed above. The list must include areas currently designated as combat zones,<sup>4</sup> all categories of current service that are designated by the U.S. Department of Defense

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<sup>1</sup> R.C. 3511.01(C) and (D), not in the bill.

<sup>2</sup> R.C. 3511.01(B), not in the bill.

<sup>3</sup> 37 United States Code (U.S.C.) 351(a)(1) or (3).

<sup>4</sup> For information on U.S. designated combat zones, see [Defense Finance and Accounting Service table](#), which is available on the Defense Finance and Accounting Service's website: [dfas.mil/](https://dfas.mil/).

as being in direct support of military operations in a combat zone, all categories of current service that qualify for hazardous duty pay, and any additional categories of electors for whom the Secretary determines it is impracticable to return the elector's absent voter's ballots to the appropriate board of elections by mail or by personal delivery.<sup>5</sup>

## **Board of elections procedures**

The bill requires boards of elections, when sending absent voter's ballots to UOCAVA voters, whether by mail or electronically, to include a copy of the Secretary of State's list of conditions under which a vote may be returned electronically (see above). The ballot also must be sent with instructions on how to return a vote electronically, including what documents to attach.<sup>6</sup>

Additionally, the Secretary must prescribe procedures under which a bipartisan team of election officials processes the ballot. After receiving the ballot, the bipartisan team essentially must recreate the voter's ballot on official paper so that it may be scanned. They must print or otherwise create a faithful paper version of the marked ballots, the completed identification envelope statement of voter, and any additional identification document submitted with the ballots. They must refrain from disclosing the markings on the ballots to any person. They then must attach the identification envelope statement of voter to the face of an identification envelope, seal the ballots in the envelope, and attach any additional identification document submitted with the ballots to the identification envelope.<sup>7</sup>

This process is not very different from how boards of elections currently process UOCAVA ballots – those that are printed, filled out, and mailed still must be recreated on official ballot paper in order to be scanned.

## **Ballot return deadline**

The bill clarifies that a UOCAVA ballot must be submitted no later than the close of polls on election day. Current law is somewhat contradictory – one paragraph specifies that the ballot must be submitted no later than 12:01 a.m. on the date of the election, at the place where the voter completes the ballot, while another paragraph specifies that electors “outside the United States on election day” must mail the return envelope before the close of polls on election day. In practice, this has not had much of an effect on election administration, as there is no place on the ballot form for the elector to indicate at what time the ballot was cast.

The bill eliminates the discrepancy by deleting the language requiring ballots to be submitted by 12:01 a.m., and clarifies that all UOCAVA ballots must be submitted by the close of polls on election day.<sup>8</sup>

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<sup>5</sup> R.C. 3511.091; conforming changes throughout.

<sup>6</sup> R.C. 3511.05.

<sup>7</sup> R.C. 3511.11(A).

<sup>8</sup> R.C. 3511.09(B).

The bill further clarifies that a UOCAVA ballot received after the close of polls on election day through the tenth day after the election must be processed and counted on the 11<sup>th</sup> day after the election, unless there is some indication that the voter signed the ballot after the close of polls on election day. This is in accordance with continuing law.<sup>9</sup>

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## HISTORY

Action	Date
Introduced	03-09-22

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<sup>9</sup> R.C. 3511.11(C) and (D); R.C. 3509.06, not in the bill.