

SENATE BILL REPORT

SB 5017

As Reported by Senate Committee On:
State Government, Tribal Affairs & Elections, January 17, 2025

Title: An act relating to adopting national standards for uniformed and overseas civilian voting, including conforming amendments to existing statute.

Brief Description: Adopting national standards for uniformed and overseas civilian voting, including conforming amendments to existing statute.

Sponsors: Senators Nobles, Dhingra, Liias, Pedersen, Saldaña, Trudeau and Wellman; by request of Secretary of State, Uniform Law Commission.

Brief History:

Committee Activity: State Government, Tribal Affairs & Elections: 1/14/25, 1/17/25 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Adopts the Uniform Military and Overseas Voters Act (UMOVA) to extend to state elections law protections found in federal law for military and overseas voters and to bring greater uniformity to the military and overseas voting processes in state law.
- Updates provisions throughout the Revised Code of Washington for consistency with UMOVA.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL AFFAIRS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5017 be substituted therefor, and the substitute bill do pass.

Signed by Senators Valdez, Chair; Krishnadasan, Vice Chair; Wilson, J., Ranking Member; Kauffman, Riccelli and Short.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: That it be referred without recommendation.

Signed by Senator Hasegawa.

Staff: William Bridges (786-7312)

Background: Overseas and Uniformed Service Voters. Federal law allows U.S. citizens living abroad or who are active military or uniformed services members, to register and vote absentee in federal elections. The most prominent of the federal laws is the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Washington voting statutes and regulations have implemented these federal voting rights.

Rights of Uniformed and Overseas Voters under Washington Law. *Eligible Citizens.* The following citizen service and overseas voters are exempt from regular voting registration and ballot requirements:

- active members of the U.S. uniformed services—Army, Navy, Air Force, Marine Corps, and Coast Guard, Merchant Marine, and the commissioned corps of the Public Health Service and the National Oceanic and Atmospheric Administration, and their spouses and dependents;
- students or faculty at a U.S. military academy;
- members of a religious group or welfare agency officially attached to and serving with the armed forces of the U.S.; or
- Washington residents living overseas, who are generally qualified to vote in the last place in which they or their parents or other family member were domiciled before leaving the U.S..

Voter Registration. A service or overseas voter may register to vote by providing the following:

- a voter registration application issued by the state of Washington;
- a federal post card application issued by the Federal Voting Assistance Program (FVAP);
- a federal write-in absentee ballot issued by FVAP;
- a national mail voter registration form issued by the Election Assistance Commission; or
- a ballot with a valid signature on the ballot declaration attesting to eligibility.

Service or overseas voters do not have to be registered to request a ballot. They may request a ballot and register after the usual registration deadlines have passed. A service or overseas voter must use their most recent residential address in Washington, or the most recent residential address in Washington of a family member.

Service or overseas voters are not required to provide a driver's license number, Social Security number or other form of identification so long as the specified declaration is signed on the absentee ballot.

The status of service or overseas voters is protected from public disclosure except for the voter's name, address—unless covered by the confidentially program for domestic violence victims—political jurisdiction, gender, year of birth, voting record, date of registration, and registration number.

Requesting and Returning Ballots. Service or overseas voters may request or return a ballot by the following:

- a federal post card application issued by FVAP;
- a federal write-in absentee ballot issued by FVAP;
- mail, email, or fax if specifically requested by the voter; or
- any manner that is in substantial compliance with rules regarding applications for special absentee ballots.

Special absentee ballots are for registered voters who complete an application stating they will be unable to vote and return a regular ballot by normal mail delivery within the period provided for regular ballots.

Responding to Ballot Requests. Election officials shall perform all their duties, such as responding to requests for ballots, in an expeditious manner.

Mailing Ballots. Except if a recount or litigation is pending, county auditors must mail ballots to service and overseas voters at least 30 days before each special election, and at least 45 days before each primary or general election, or any special election that involves federal office.

Processing Ballots. The date on the ballot declaration associated with the voter's signature determines the validity of the ballot. The signature on the ballot declaration must be dated no later than election day.

Mailed ballots from service or overseas voters must be signed not later than the day of the election and received not later than close of business the day before certification of the election, which occurs 14 days after a primary or special election and 21 days after a general election. Ballots returned by fax or email must be received no later than 8:00 p.m. on election day. Voters may receive notice their ballots have been received through an internet portal.

Abbreviations, misspellings, or other minor variations in the form of the name of a candidate or a political party shall be disregarded in determining the validity of a federal write-in absentee ballot, or a special absentee ballot if the intention of the voter can be ascertained.

Special Absentee Ballots. In addition to federal absentee ballots under UOCAVA, state law provides for special absentee ballots to be used for state elections. Auditors must provide a special absentee ballot to a registered voter who completes an application stating they will

be unable to vote and return a regular ballot by normal mail delivery within the period provided for regular ballots. A special absentee ballot may not be requested more than 90 days before the applicable state primary or general election.

National Conference of Commissioners on Uniform State Laws. Established in 1892, the Uniform Law Commission is a nonpartisan, volunteer organization that researches, drafts, and promotes enactment of uniform state laws in areas where uniformity is desirable and practical. Commissioners are lawyers, qualified to practice law, who have been appointed by their respective states. In Washington, the Governor appoints up to four commissioners. The Code Reviser is also a commissioner.

Washington has adopted 76 uniform laws recommended by the Uniform Law Commission.

Uniform Military and Overseas Voters Act. Promulgated by the Uniform Law Commission in 2010, the Uniform Military and Overseas Voters Act (UMOVA) extends to state elections the assistance and protections for military and overseas voters currently found in federal law, particularly UOCAVA. According to the Uniform Law Commission, UMOVA extends to state elections laws protections found in federal law to military and overseas voters and brings greater uniformity to the military and overseas voting processes in state laws.

As of 2024, UMOVA has been adopted by the District of Columbia and the following 14 states: Colorado, Hawaii, Kentucky, Missouri, Montana, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, Utah, and Virginia.

Summary of Bill (First Substitute): Adopting the Uniform Military and Overseas Voters Act. Because Washington voting statutes and regulations already implement federal voting rights for U.S. citizens living abroad or who are active military or uniformed services members, there are few substantive changes required in Washington law.

Creating Additional Requirements When the State Responds to Ballot Requests From Service or Overseas Voters. Ballots requested by an overseas or service voter must be mailed or transmitted as soon as practicable after the request arrives. If a request is within 20 days prior to an election and the voter has provided an email address, a notification should be immediately provided on how to obtain a ballot by email or online in the event the voter does not receive it by election day. An electronic free-access system is required to notify the voter that the voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted.

Requiring a Disclosure Statement When the State Requests Email Addresses From Service and Overseas Voters. When the state requests an email address from a service or overseas voter, the request must describe the purposes for which the email address may be used and include a statement that any other use or disclosure of the email address is prohibited.

Requiring the Development of a Ballot-Return Portal. The Secretary of State must explore options for an electronic ballot portal to be available for UOCAVA voters not able to access standard mail return of voted ballots. Only UOCAVA voters shall be permitted to use an approved portal to return voted ballots. No electronic portal may be approved or deployed without express statutory authority. The Secretary of State must provide annual progress reports to the legislature by December 1st of each calendar year, with a final report due by December 1, 2028.

Other changes required by UMOVA include the following:

- authorizing courts to grant injunctive and equitable relief to ensure substantial compliance or enforcement of UMOVA;
- requesting courts to apply and construe UMOVA to promote uniformity of the law among the enacting states;
- adopting language to avoid preemption of state law by the federal Electronic Signatures in Global and National Commerce Act; and
- revising other provisions of the Revised Code of Washington for consistency with UMOVA.

EFFECT OF CHANGES MADE BY STATE GOVERNMENT, TRIBAL AFFAIRS & ELECTIONS COMMITTEE (First Substitute):

- Removes an invalid reference to the Uniformed and Overseas Citizens Absentee Voting Act.
- Includes Washington State ballot declaration where the federal write-in absentee ballot declaration is referenced.
- Removes text that does not apply to the State of Washington as voters are automatically mailed ballots without any requirement for a ballot application.
- Clarifies how a military or overseas voter can notify an election official of their covered status.
- Changes the requirement for a ballot to be mailed from not later than two business days to as soon as practicable.
- Changes the deadline for a list of known candidates and availability of a special absentee ballot from 100 to 90 days to align with state election deadlines.
- Removes the exemption to the requirement to provide ID for overseas or service voters registering by signing a ballot return envelope.
- Adds proof of eligibility under the federal uniformed and overseas citizens absentee voting act as a valid form of alternative identification.
- Removes the authority for the secretary of state to approve an electronic ballot portal.
- Provides that no electronic ballot portal may be approved or deployed without express statutory authority.
- Requires the secretary of state to provide annual progress reports to the Legislature by December 1st of each calendar year, with a final report due by December 1, 2028.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Ensuring every eligible voter can participate in our democracy is one of the most important responsibilities of legislators. This bill strengthens voting access for uniformed and overseas citizen voters, ensuring they can participate fully in our elections while aligning Washington's processes with national standards. Washington has led the way in providing proactive service to these voters, automatically sending ballots for every election instead of requiring voters to request them each time. However, our system lacks a reliable way to update records when someone leaves military service or an expat passes away. This bill addresses that gap by introducing a framework to maintain accurate voter rolls while preserving the exceptional level of service these voters rely on. It also acknowledges the unique challenges faced by different groups. Military voters are accustomed to frequent relocations and often update their records, while civilian expatriates may not realize they need to update their records until election time. The bill allows a pilot project for a more secure form of electronic voting, possibly one based on the military common access card.

CON: This bill is a solution in search of problem. It expands the category of expat voters and does an end-run around constitutional residency requirements, which will promote voter fraud. The bill promotes the creation of an irresponsible and risky internet portal that would not only create a single point of failure but make an attractive target for foreign interference. This is why four federal agencies are opposed to such a portal.

Persons Testifying: PRO: Senator T'wina Nobles, Prime Sponsor; Steve Hobbs, Office of Secretary of State; Mary Hall, Thurston County Auditor ; Lindsay Beaver, Uniform Law Commission; Linda Farmer, WSACA Legislative Co Chair; Stuart Holmes, Office of Secretary of State.

CON: Lorilee Gates; C. Jay Coles, Verified Voting; Erica Engelhart; Susannah Goodman, Common Cause.

Persons Signed In To Testify But Not Testifying: No one.