

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 200

SPONSOR: Committee on Ethics and Elections and Senator King

SUBJECT: Elections; Military and Overseas Voter Protection Act

DATE: March 24, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bradshaw	Bradshaw	EE	Favorable/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 200 creates the Military and Overseas Voter Protection Act to facilitate the provisions of the federal Uniformed and Overseas Citizens Absentee Voting Act.

The bill contains the following provisions:

- Persons recently discharged from service or separated from employment overseas are allowed to register after the book closing date for an election under certain circumstances;
- Overseas voters may request a state write-in ballot if they anticipate that they will not be able to receive and vote a regular absentee ballot for the election;
- Supervisors of elections are required to inform overseas voters of the names of candidates on the ballot, if the voter has provided an e-mail address;
- The date signed is added to the Voter’s Certificate on absentee ballot envelopes;
- There is a presumption that an absentee ballot received from an overseas voter was mailed on the date stated on the Voter’s Certificate, regardless of the absence of a postmark or the existence of a postmark that is later than the date of the election;
- The Department of State is required to adopt rules authorizing a supervisor of elections to receive requests for absentee ballots and voted ballots from overseas voters under certain conditions;
- The Elections Canvassing Commission is authorized to adopt rules to facilitate absentee voting by persons directly affected by a local or national emergency; and
- The deadline for certification of election results for the general election is changed to the 11th day following the election to allow for the inclusion of votes from overseas voters.

This bill substantially amends the following sections of the Florida Statutes: ss. 101.62, 101.64, 101.65, 102.111, and 102.112. The bill also creates unnumbered sections of the Florida Statutes.

II. Present Situation:

The Uniformed and Overseas Citizens Absentee Voting Act (“the Act”)(42 U.S.C. 1973 ff *et. seq.*) requires states to allow certain persons to register and vote absentee in federal elections. The Act covers citizens who are members of the Uniformed Services and Merchant Marine, and their spouses and dependents, and citizens residing outside of the United States. Members of the Armed Forces and Merchant Marine and their spouses and dependents are allowed to vote absentee while away from their place of voting residence, wherever stationed, either within or outside of the United States. Other U.S. citizens residing outside of the United States and its territories may vote in the state where they last resided prior to leaving the United States.

In addition, the Act requires states to accept a Federal Write-In Absentee Ballot from military and overseas voters under certain conditions.

- The voter must have requested a regular absentee ballot at least 30 days prior to the election and not have received the ballot;
- Voters must meet all of the regular requirements for voting in the state; and
- Voters must be overseas and have a foreign mailing address or an APO/FPO postmark.

Florida holds three elections in a nine-week period. The first primary election is held 9 weeks prior to the general election and the second primary election is held 5 weeks prior to the general election. In the early 1980’s, the Federal Government sued the State of Florida claiming that the state’s system of holding three elections in nine weeks violated the Uniformed and Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act. The suit alleged that the nine week span did not provide sufficient time for supervisors of elections to prepare absentee ballots, mail them to overseas voters, and have the voters return them by election day. A federal district court entered a temporary restraining order on November 6, 1980, extending by 10 days the deadline for receipt of the 1980 general election ballots cast pursuant to the federal acts.

In early 1982, the State of Florida and the Federal Government entered into a consent decree covering federal contests. The decree required overseas absentee ballots in the 1982 general election to be counted if the ballots were postmarked by election day and received by the supervisors no later than 10 days after the election. In addition, the decree required that absentee ballots for the 1982 first primary be mailed to overseas electors at least 35 days before the first primary. Finally, the consent decree directed that a plan of compliance be drawn to provide for the mailing of overseas ballots at least 35 days prior to the deadline for the receipt of ballots.

In 1984, the federal district court approved Florida’s plan of compliance, which modified the election schedule and resulted in the adoption of Rule 1C-7.013, F.A.C. (subsequently renumbered as 1S-7.013, F.A.C.). This rule required the supervisors of elections to mail overseas absentee ballots for federal office at least 35 days prior to the election. The rule also provided that, with respect to a presidential preference primary or general election for federal office, an otherwise proper overseas ballot postmarked or signed and dated no later than the date of the election must be counted if received up to 10 days after the election.

In an effort to further facilitate absentee voting by overseas electors, the 1989 Legislature adopted the advance ballot system still in use today. Under Florida's advance ballot system, supervisors of elections mail first primary absentee ballots to qualified overseas electors not less than 35 days before the first primary. Subsequently, the supervisors mail *advance* ballots for the second primary and general election at least 45 days prior to these elections, followed by regular second primary and general election ballots when they become available. If both ballots for the same election are returned, only the regular ballot is counted.

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 200 creates the Military and Overseas Voter Protection Act to facilitate the provisions of the federal Uniformed and Overseas Citizens Absentee Voting Act.

Under the provisions of the act, persons who have been overseas and have been discharged or separated from the service or from employment are allowed to register to vote after the books have closed for an election. To be allowed to register late, the person must provide documentation indicating that they were discharged or separated after the books closed and, therefore, would have otherwise been precluded from registering to vote.

The bill allows an overseas voter who anticipates that he or she will not be able to vote an absentee ballot during the regular absentee ballot voting period to request a state-write in ballot. The state write-in ballot will contain a list of all offices for which the voter would otherwise be entitled to vote. The voter may designate his or her choice by writing in the name of the candidate or by writing in the name of the political party, in which case the ballot will be counted for the candidate of that political party, if there is such a party candidate on the ballot.

The bill maintains the current provisions requiring advance ballots to be sent to overseas electors, if the regular absentee ballots for the second primary and general elections are not available 45 days before the respective elections. The bill requires the supervisors of elections to inform the voter of the names of candidates who will be on the ballot via electronic transmission, if the e-mail address of the overseas absentee voter is known.

Committee Substitute for Senate Bill 200 adds a date line to the Voter's Certificate on the absentee ballot envelope and provides that for overseas voters, there is a presumption that the ballot was mailed on the date stated and witnessed on the outside of the envelope, regardless of the absence of a postmark or a postmark which is later than the date of the election. The date for certification of general election returns is moved from the 7th day following the general election to the 11th day following the general election, to provide for the certification of overseas absentee ballots received and counted 10 days following the election.

The bill requires the Department of State to adopt rules providing for the receipt of absentee ballot requests and for the receipt of voted absentee ballots by facsimile machine or other electronic means from overseas voters. The rule must provide that in order to accept a voted ballot, the verification of the voter must be determined, the security of the transmission must be established and each ballot received must be recorded.

Finally, the bill authorizes the Elections Canvassing Commission to adopt rules during national or local emergency situations which provide procedures or requirements to facilitate absentee voting by persons directly affected by the emergency.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.