**South Carolina General Assembly**

119th Session, 2011-2012

**A43, R58, S404**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Campsen, McConnell, Land, Peeler, Alexander, Bryant, Campbell, Cleary, Coleman, Cromer, Davis, Elliott, Fair, Grooms, Hayes, Hutto, Jackson, Knotts, Leventis, Matthews, L. Martin, Massey, McGill, O'Dell, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Thomas, Verdin, Williams, Lourie, Scott, Leatherman, Shoopman, Malloy, Bright and S. Martin

Document Path: l:\s-jud\bills\campsen\jud0070.ssp.docx

Companion/Similar bill(s): 3546

Introduced in the Senate on January 20, 2011

Introduced in the House on March 8, 2011

Last Amended on February 22, 2011

Passed by the General Assembly on May 26, 2011

Governor's Action: June 7, 2011, Signed

Summary: Uniformed and Overseas Citizens Absentee Voters Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/20/2011 Senate Introduced and read first time ([Senate Journal‑page 2](file:///h:\sj%20archive\2011\01-20-11.docx))

1/20/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 2](file:///h:\sj%20archive\2011\01-20-11.docx))

1/28/2011 Senate Referred to Subcommittee: Campsen (ch), Cleary, Scott

2/16/2011 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 16](file:///h:\sj%20archive\2011\02-16-11.docx))

2/17/2011 Scrivener's error corrected

2/22/2011 Senate Committee Amendment Adopted ([Senate Journal‑page 14](file:///h:\sj%20archive\2011\02-22-11.docx))

2/23/2011 Senate Read second time ([Senate Journal‑page 33](file:///h:\sj%20archive\2011\02-23-11.docx))

2/23/2011 Senate Roll call Ayes‑42 Nays‑0 ([Senate Journal‑page 33](file:///h:\sj%20archive\2011\02-23-11.docx))

3/3/2011 Senate Read third time and sent to House ([Senate Journal‑page 20](file:///h:\sj%20archive\2011\03-03-11.docx))

3/8/2011 House Introduced and read first time ([House Journal‑page 56](file:///h:\hj%20archive\2011\03-08-11.docx))

3/8/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 57](file:///h:\hj%20archive\2011\03-08-11.docx))

5/18/2011 House Committee report: Favorable **Judiciary** ([House Journal‑page 63](file:///h:\hj%20archive\2011\05-18-11.docx))

5/24/2011 House Debate adjourned ([House Journal‑page 69](file:///h:\hj%20archive\2011\05-24-11.docx))

5/24/2011 House Debate adjourned until Wednesday, May 25, 2011 ([House Journal‑page 110](file:///h:\hj%20archive\2011\05-24-11.docx))

5/25/2011 House Read second time ([House Journal‑page 73](file:///h:\hj%20archive\2011\05-25-11.docx))

5/25/2011 House Roll call Yeas‑108 Nays‑0 ([House Journal‑page 73](file:///h:\hj%20archive\2011\05-25-11.docx))

5/26/2011 House Read third time and enrolled ([House Journal‑page 10](file:///h:\hj%20archive\2011\05-26-11.docx))

6/1/2011 Ratified R 58

6/7/2011 Signed By Governor

6/16/2011 Effective date See Act for Effective Date

6/20/2011 Act No. 43

**VERSIONS OF THIS BILL**

[1/20/2011](file:///p:\pprever\2011-12\404_20110120.docx)

[2/16/2011](file:///p:\pprever\2011-12\404_20110216.docx)

[2/17/2011](file:///p:\pprever\2011-12\404_20110217.docx)

[2/22/2011](file:///p:\pprever\2011-12\404_20110222.docx)

[5/18/2011](file:///p:\pprever\2011-12\404_20110518.docx)

(A43, R58, S404)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTERS ACT” SO AS TO AMEND SECTION 7‑15‑400, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPLICATIONS AND ISSUANCE OF WRITE‑IN ABSENTEE BALLOTS, SO AS TO LIMIT APPLICABILITY OF THE SECTION TO A QUALIFIED CITIZEN OF SOUTH CAROLINA WHO IS ELIGIBLE TO VOTE UNDER THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT AND TO ADD THAT A QUALIFIED ABSENTEE ELECTOR MAY ALTERNATIVELY SUBMIT A FEDERAL WRITE‑IN ABSENTEE BALLOT FOR ANY FEDERAL, STATE, OR LOCAL OFFICE OR BALLOT INITIATIVE; TO AMEND SECTION 7‑15‑405, RELATING TO ELIGIBLITY TO VOTE UNDER UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT, SO AS TO PROVIDE A BALLOT MAY BE SENT INSTEAD OF MAILED; BY ADDING SECTION 7‑15‑406 SO AS TO REQUIRE AN ABSENTEE BALLOT SENT PURSUANT TO THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT MUST BE MAILED TO THE ELECTOR AT LEAST FORTY‑FIVE DAYS PRIOR TO AN ELECTION; TO AMEND SECTION 7‑15‑460, AS AMENDED, RELATING TO ABSENTEE BALLOTS AS PROVIDED BY THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT, SO AS TO MAKE THE PROVISIONS APPLICABLE TO FEDERAL, STATE, AND LOCAL OFFICES, AND TO REQUIRE THAT AN ELECTRONIC FREE ACCESS BALLOT TRACKING SYSTEM IS AVAILABLE TO ELECTORS; TO AMEND SECTION 7‑15‑220, RELATING TO THE SIGNING AND WITNESSING OF THE OATH BY THE ABSENTEE BALLOT APPLICANT, SO AS TO CORRECT ARCHANE LANGUAGE AND PROVIDE AN EXCEPTION FOR WITNESS REQUIREMENTS FOR VOTERS QUALIFIED UNDER THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTERS ACT; TO AMEND SECTION 7‑15‑320, AS AMENDED, RELATING TO PERSONS QUALIFIED TO VOTE BY ABSENTEE BALLOT, SO AS TO FURTHER SPECIFY PERSONS WHO MAY VOTE BY ABSENTEE BALLOT WHETHER OR NOT THEY ARE ABSENT FROM THEIR COUNTY OF RESIDENCE ON ELECTION DAYS; AND TO AMEND SECTION 7‑15‑380, AS AMENDED, RELATING TO THE OATH OF AN ABSENTEE BALLOT APPLICANT, SO AS TO CLARIFY EXISTING LANGUAGE.**

Be it enacted by the General Assembly of the State of South Carolina:

**Title**

SECTION 1. This act may be cited as the “South Carolina Uniformed and Overseas Citizens Absentee Voters Act”.

**Special write‑in or alternate ballots**

SECTION 2. Section 7‑15‑400 of the 1976 Code is amended to read:

“Section 7‑15‑400. (A) A qualified elector of this State who is eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the United States Code, Title 42, Section 1973ff, et seq., may apply not earlier than ninety days before an election for a special write‑in absentee ballot. This ballot must be used for each general and special election and primaries for federal offices, statewide offices, and members of the General Assembly.

(B) The application for a special write‑in absentee ballot may be made on the federal postcard application form, or its electronic equivalent or on a form prescribed by the State Election Commission.

(C) In order to qualify for a special write‑in absentee ballot, the voter must state that he is unable to vote by regular absentee ballot or in person due to requirements of military service or due to living in isolated areas or extremely remote areas of the world. This statement may be made on the federal postcard application or on a form prepared by the State Election Commission and supplied and returned with the special write‑in absentee ballot.

(D) Upon receipt of this application, the County Board of Registration shall issue the special write‑in absentee ballot which must be prescribed and provided by the State Election Commission. The ballot shall list the offices for election in the general election. It may list the candidates for office if known at the time of election. This ballot shall permit the elector to vote by writing in a party preference for each federal, state, and local office, the names of specific candidates for each federal, state, and local office, or the name of the person whom the voter prefers for each office.

(E) A qualified elector may alternatively submit a federal write‑in absentee ballot for any federal, state, or local office or state or local ballot measure.”

**Specific absentee ballots may be sent rather than mailed**

SECTION 3. Section 7‑15‑405(A) of the 1976 Code, as added by Act 253 of 2006, is amended to read:

“(A) For the qualified electors of this State who are eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the United States Code, Title 42, Section 1973ff, et seq., an absentee ballot with an absentee instant runoff ballot for each potential second primary must be sent to the elector at least forty‑five days prior to the primary election.”

**Specific absentee ballots must be sent by close of next business day after request received**

SECTION 4. Article 5, Chapter 15, Title 7 of the 1976 Code is amended by adding:

“Section 7‑15‑406. For the qualified electors of this State who are eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the United States Code, Title 42, Section 1973ff, et seq., an absentee ballot must be sent to the elector at least forty‑five days prior to any election. If a qualified elector requests a ballot within the forty‑five day period before an election, an absentee ballot must be sent to the elector no later than the close of the next business day following receipt of the request.”

**Transmission of application for specific absentee ballots, availability for certain elections**

SECTION 5. Section 7‑15‑460(A) of the 1976 Code, as last amended by Act 253 of 2006, is further amended to read:

“(A) To ensure that all South Carolina residents eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the United States Code, Title 42, Section 1973ff, et seq., have the opportunity to receive and cast any ballot they would have been eligible to cast if they resided in and had remained in South Carolina, the State Election Commission must, in cooperation with United States government agencies, take all steps and action as may be necessary including, but not limited to, electronic transmissions of Standard Form 76A, or its successor form, issued by the federal government as an application for voter registration and an application for absentee ballots and electronic transmissions of absentee ballots for all elections for federal, state, and local offices to voters in accordance with his preferred method of transmission.”

**Oath not required for applicants seeking specific absentee ballots**

SECTION 6. Section 7‑15‑220 of the 1976 Code is amended to read:

“Section 7‑15‑220. (A) The oath, a copy of which is required by Section 7‑15‑200(2) to be sent each absentee ballot applicant and which is required by Section 7‑15‑230 to be returned with the absentee ballot applicant’s ballot, shall be signed by the absentee ballot applicant and witnessed. The oath shall be in the following form:

‘I hereby swear (or affirm) that I am duly qualified to vote at this election according to the Constitution of the State of South Carolina, that I have not voted during this election, that the ballot or ballots with which this oath is enclosed is my ballot and that I have received no assistance in voting my ballot that I would not have been entitled to receive had I voted in person at my voting precinct.’

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Voter

Dated on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ 20 \_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of Witness

(B) Qualified voters under the Uniformed and Overseas Citizens Absentee Voters Act are exempt from witness requirements in subsection (A).”

**Oath of absentee ballot applicants, exemptions from witness requirements**

SECTION 7. Section 7‑15‑380 of the 1976 Code, as last amended by Act 416 of 1996, is further amended to read:

“Section 7‑15‑380. (A) The oath, which is required by Section 7‑15‑370 to be imprinted on the return‑addressed envelope, furnished each absentee ballot applicant, must be signed by the absentee ballot applicant and witnessed. The address of the witness shall appear on the oath. In the event the voter cannot write because of a physical handicap or illiteracy, the voter must make his mark and have the mark witnessed by someone designated by the voter. The oath must be in the following form:

‘I hereby swear (or affirm) that I am duly qualified to vote at this election according to the Constitution of the State of South Carolina, that I have not voted during this election, that the ballot or ballots contained in this envelope is my ballot and that I have received no assistance in voting my ballot that I would not have been entitled to receive had I voted in person at my voting precinct.’

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Voter

Dated on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ 20 \_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of Witness

(B) Qualified voters under the Uniformed and Overseas Citizens Absentee Voters Act are exempt from witness requirements in subsection (A).”

**People qualified to vote by absentee ballot, exceptions**

SECTION 8. Section 7‑15‑320 of the 1976 Code, as last amended by Act 25 of 1997, is further amended to read:

“Section 7‑15‑320. (A) A qualified elector in any of the following categories must be permitted to vote by absentee ballot in all elections when he is absent from his county of residence on election day during the hours the polls are open, to an extent that it prevents him from voting in person:

(1) students, their spouses, and dependents residing with them;

(2) members of the Armed Forces and Merchant Marines of the United States, their spouses, and dependents residing with them;

(3) persons serving with the American Red Cross or with the United Service Organizations (USO) who are attached to and serving with the Armed Forces of the United States, their spouses, and dependents residing with them;

(4) governmental employees, their spouses, and dependents residing with them;

(5) persons on vacation (who by virtue of vacation plans will be absent from their county of residence on election day); or

(6) overseas citizens.

(B) A qualified elector in any of the following categories must be permitted to vote by absentee ballot in all elections, whether or not he is absent from his county of residence on election day:

(1) physically disabled persons;

(2) persons whose employment obligations require that they be at their place of employment during the hours that the polls are open and present written certification of that obligation to the county registration board;

(3) certified poll watchers, poll managers, county voter registration board members and staff, countyand state election commission members and staff working on election day;

(4) persons attending sick or physically disabled persons;

(5) persons admitted to hospitals as emergency patients on the day of an election or within a four‑day period before the election;

(6) persons with a death or funeral in the family within a three‑day period before the election;

(7) persons who will be serving as jurors in a state or federal court on election day;

(8) persons sixty‑five years of age or older; or

(9) persons confined to a jail or pretrial facility pending disposition of arrest or trial.”

**Severability clause**

SECTION 9. If any section, subsection paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this chapter and each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 10. This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

Ratified the 1st day of June, 2011.

Approved the 7th day of June, 2011.

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