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CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

June 4, 2015

**H. 3154**

Introduced by Reps. J.E. Smith, G.M. Smith, Cobb‑Hunter, M.S. McLeod, Toole, Weeks, Whipper, Robinson‑Simpson, Quinn and Bales

S. Printed 5/29/15--S.

Read the first time April 29, 2015.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 15, TITLE 7 SO AS TO ENACT THE “SOUTH CAROLINA UNIFORM MILITARY AND OVERSEAS VOTERS ACT”, TO DEFINE NECESSARY TERMS, AND PROVIDE REGISTRATION AND ABSENTEE VOTING ALTERNATIVES FOR CERTAIN MILITARY AND OVERSEAS VOTERS.

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

SECTION 1. Section 7‑13‑350(B) of the 1976 Code is amended to read:

“(B) Candidates for President and Vice President must be certified not later than twelve o’clock noon on ~~September tenth~~ the first Tuesday following the first Monday in September to the State Election Commission~~, or if September tenth falls on Sunday, not later than twelve o’clock noon on the following Monday~~.”

SECTION 2. Section 7‑15‑10 of the 1976 Code is amended to read:

“Section 7‑15‑10. The State Election Commission is responsible for carrying out the provisions of ~~Article 3 and Article 5 of~~ this chapter. The commission may promulgate regulations, and must have drafted, printed, and distributed all forms that are required to make it possible for persons ~~listed in Section 7‑15‑320~~ eligible to vote by absentee ballot in primary, general, and special elections. Regulations promulgated pursuant to this section must be promulgated in accordance with the Administrative Procedures Act.”

SECTION 3. Section 7‑15‑20 of the 1976 Code is amended to read:

“Section 7‑15‑20. Article 3, ~~and~~ Article 5, and Article 9 of this chapter shall be liberally construed in order to effectuate their purposes.”

SECTION 4. Section 7‑15‑310 of the 1976 Code, as last amended by Act 392 of 2000, is further amended to read:

“Section 7‑15‑310. As used in this article:

(1) ~~The term~~ ‘Members of the Armed Forces of the United States’ means members of the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the United States Coast Guard, or any of their respective components.

(2) ~~The term~~ ‘Members of the Merchant Marine of the United States’ means all officers and men engaged in maritime service on board ships.

(3) ~~The term~~ ‘Students’ means all persons residing outside of the counties of their respective residences, enrolled in an institution of learning.

(4) ~~The term~~ ‘Physically disabled person’ means a person who, because of injury or illness, cannot be present in person at his voting place on election day.

(5) ~~The term~~ ‘Registration form’ means Standard Form 76, or ~~any~~ a subsequent form replacing it, authorized by the federal government or the state form described in Section 7‑15‑120.

(6) ~~The term~~ ‘Persons in employment’ means those persons who by virtue of their employment obligations are unable to vote in person.

(7) ~~The term~~ ‘Authorized representative’ means a registered elector who, with the voter’s permission, acts on behalf of a voter unable to go to the polls because of illness or disability resulting in his confinement in a hospital, sanatorium, nursing home, or place of residence, or a voter unable because of a physical handicap to go to his polling place or because of ~~such~~ a handicap is unable to vote at his polling place due to existing architectural barriers which that deny him physical access to the polling place, voting booth, or voting apparatus or machinery. Under no circumstance shall a candidate or a member of a candidate’s paid campaign staff or volunteers reimbursed for the time they expend on campaign activity be considered an ‘authorized representative’ of an elector desiring to vote by absentee ballot.

(8) ~~The term~~ ‘Immediate family’ means a person’s spouse, parents, children, brothers, sisters, grandparents, grandchildren, and mothers‑in‑law, fathers‑in‑law, brothers‑in‑law, sisters‑in‑law, sons‑in‑law, and daughters‑in‑law.

(9) ~~The term~~ ‘Overseas citizen’ means a citizen of the United States residing outside of the United States as specified by Section 7‑15‑110.”

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

“Article 9

South Carolina Uniform Military and Overseas Voters

Section 7‑15‑600. This act may be cited as the ‘South Carolina Uniform Military and Overseas Voters Act’.

Section 7‑15‑610. As used in this article:

(1) ‘Members of the Armed Forces of the United States’ means members of the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the United States Coast Guard, or any of their respective components.

(2) ‘Members of the Merchant Marine of the United States’ means all officers and men engaged in maritime service on board ships.

(3) ‘Registration form’ means Standard Form 76, or a subsequent form replacing it, authorized by the federal government or the state form described in Section 7‑15‑120.

(4) ‘Overseas citizen’ means a citizen of the United States residing outside of the United States who is a:

(a) member of the Armed Forces of the United States;

(b) member of the Merchant Marine of the United States;

(c) person serving with the American Red Cross or the United Service Organizations (USO) attached to and serving with the Armed Forces of the United States outside of the county of his residence in South Carolina;

(d) members or employees of any department of the United States Government serving overseas;

(e) citizen of the United States residing outside the United States:

(i) if he last resided in South Carolina immediately before his departure from the United States;

(ii) if he could have met all qualifications to vote in federal elections in South Carolina even though while residing outside the United States he does not have a place of abode or other address in South Carolina; even if his intent to return to South Carolina may be uncertain, as long as he has complied with all applicable South Carolina qualifications and requirements which are consistent with the Uniformed and Overseas Absentee Voting Act (Public Law 99‑410).

(5) ‘Covered voter’ means:

(a) a uniformed‑service voter or an overseas voter who is registered to vote in this State;

(b) a uniformed‑service voter whose voting residence is in this State and who otherwise satisfies this state’s voter eligibility requirements;

(c) an overseas voter who, before leaving the United States, was last eligible to vote in this State and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements;

(d) an overseas voter who, before leaving the United States, would have been last eligible to vote in this State had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements; or

(e) an overseas voter who was born outside the United States, is not described in subitem (c) or (d), and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements, if:

(i) the last place where a parent or legal guardian of the voter was, or under this article would have been, eligible to vote before leaving the United States is within this State; and

(ii) the voter has not previously registered to vote in any other state.

(6) ‘Dependent’ means an individual recognized as a dependent by a uniformed service.

(7) ‘Federal postcard application’ means the application prescribed under Section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff(b)(2), or its successor.

(8) ‘Federal write‑in absentee ballot’ means the ballot described in Section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff‑2, or its successor.

(9) ‘Military‑overseas ballot’ means:

(a) a federal write‑in absentee ballot;

(b) a ballot specifically prepared or distributed for use by a covered voter in accordance with this article; or

(c) a ballot cast by a covered voter in accordance with this article.

(10) ‘Overseas voter’ means a United States citizen who resides outside the United States.

(11) ‘Uniformed‑service’ means:

(a) active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

(b) the 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; or

(c) the National Guard or organized militia.

(12) ‘Uniformed‑service voter’ means an individual who is qualified to vote and is:

(a) a member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(b) a member of the 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;

(c) a member on activated status of the National Guard or organized militia; or

(d) a spouse or dependent of a member referred to in this item.

Section 7‑15‑620. Notwithstanding other provisions of law, a voter who meets the requirements of this article may utilize the absentee ballot process established by this article, or as otherwise permitted by state or federal law.

Section 7‑15‑630. Applications for, and issuance of, special write‑in absentee ballots; alternate submission of federal write‑in absentee ballot.

(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., or its successor, 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 voter registration and elections 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.

Section 7‑15‑640. (A) A covered voter may use a federal postcard application, the federal postcard application’s electronic equivalent, or another method approved by the federal government or the State Election Commission to apply to register to vote.

(B) A covered voter may use the declaration accompanying a federal write‑in absentee ballot to apply to register to vote simultaneously with the submission of the federal write‑in absentee ballot, if the declaration is received before the closure of the registration books for that election pursuant to Sections 7‑5‑120, 7‑5‑150 or 7‑5‑155, as appropriate. If the declaration is received after that date, it must be treated as an application to register to vote for subsequent elections.

(C) The Executive Director of the State Election Commission shall ensure that the election commission’s electronic transmission system is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to register to vote.

Section 7‑15‑650. Voters eligible to vote under Uniformed and Overseas Citizens Absentee Voting Act; absentee instant runoff ballots for second primaries.

(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., or its successor, 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.

(B) The absentee instant runoff ballots for second primaries must be prepared by the authority charged with conducting the election.

(C) The absentee instant runoff ballot for a second primary shall permit the elector to vote his order of preference for each candidate for each office by indicating a rank next to the candidate’s name on the ballot. However, the elector shall not be required to indicate his preference for more than one candidate on the ballot if he so chooses.

(D) The special absentee ballot shall be designated as an ‘absentee instant runoff ballot’ and be clearly distinguishable from the regular absentee ballot.

(E) Instructions explaining the absentee instant runoff voting process must be provided with the ballot to the qualified elector.

(F) The State Election Commission shall promulgate regulations necessary for the implementation of this section.

Section 7‑15‑660. An overseas voter who is registering to vote, and who is eligible to vote in this State shall use, and must be assigned to, the voting precinct of the address of the voter’s last place of residence in this State, or in the case of a voter described by Section 7‑15‑610(5)(e), the address of the voter’s parent’s or legal guardian’s place of last residence in this State. If that address is no longer a recognized residential address, the overseas voter must be assigned an address within the voting precinct of the last place of residence for voting purposes.

Section 7‑15‑670. (A) A covered voter may use the declaration accompanying a federal write‑in absentee ballot as an application for a military‑overseas ballot simultaneously with the submission of the federal write‑in absentee ballot, if the declaration is received by the appropriate election official by seven o’clock p.m. on election day*.*

(B) To receive the benefits of this article, a covered voter must inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:

(1) the use of a federal postcard application or federal write‑in absentee ballot;

(2) the use of an overseas address on an approved voter registration application or ballot application; and

(3) the inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

Section 7‑15‑680. An absentee ballot must be sent to a covered voter, upon the voter’s request, at least forty‑five days prior to any election. However, if a ballot application from a covered voter arrives within the forty‑five day period, an absentee ballot must be sent to the covered voter no later than five o’clock p.m. on the next business day after the application arrives.

Section 7‑15‑690. (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., or its successor, 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.

(B) The State Election Commission shall promulgate regulations necessary for the implementation of this section.

Section 7‑15‑700. (A) A valid military‑overseas ballot must be counted if it is delivered to the address that the State Election Commission or county board of voter registration and elections, as appropriate, has specified by the close of business on the business day before the county canvass.

(B) If, at the time of completing a military‑overseas ballot and balloting materials, the voter has declared under penalty of perjury that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark as long as the ballot was received in accordance with subsection (A).

Section 7‑15‑710. A military‑overseas ballot must include, or be accompanied by, a declaration signed by the voter that a material misstatement of fact in completing the ballot may be grounds for a conviction of perjury under the laws of the United States or this State.

Section 7‑15‑720. The Executive Director of the State Election Commission, in coordination withthe county boards of voter registration and elections shall implement an electronic free‑access system by which a covered voter may determine whether:

(1) the voter’s federal postcard application or other registration or military‑overseas ballot application has been received and accepted; or

(2) the voter’s military‑overseas ballot has been received and the current status of the ballot.

Section 7‑15‑730. (A) The county board of voter registration and elections or the State Election Commission, as appropriate, shall request an electronic‑mail address from each covered voter who registers to vote after the effective date of this article. An electronic‑mail address provided by a covered voter may not be made available to the public or any individual or organization other than an employee or official with the county board of voter registration and elections or the State Election Commission, and is exempt from disclosure under the Freedom of Information laws of this State. The electronic‑mail address may be used only for official communication with the covered voter about the voting process, including transmitting military‑overseas ballots and election materials if the voter has requested electronic transmission, and verifying the covered voter’s mailing address and physical location. The request for an electronic‑mail address must describe the purposes for which the electronic‑mail address may be used and include a statement that any other use or disclosure of the electronic‑mail address is prohibited.

(B) A covered voter who provides an electronic‑mail address may request that the voter’s application for a military‑overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December thirty‑first of the year following the calendar year of the date of the application or another shorter period the voter specifies, including for any runoff elections that occur as a result of those elections. An election official or employee shall provide a military‑overseas ballot to a covered voter who makes a standing request for each election to which the request is applicable. A covered voter who is entitled to receive a military‑overseas ballot for a primary election under this subsection is entitled to receive a military‑overseas ballot for the general election.

Section 7‑15‑740. (A) At least one hundred days before a regularly scheduled election and as soon as practicable before an election not regularly scheduled, the Executive Director of the State Election Commission shall prepare appropriate election notices to be used in conjunction with a federal write‑in absentee ballot. The election notice must contain a list of all of the ballot measures and federal, state, and local offices that as of that date the official expects to be on the ballot on the date of the election. The notice also must contain specific instructions for how a voter is to indicate on the federal write‑in absentee ballot the voter’s choice for each office to be filled and for each ballot measure to be contested.

(B) A covered voter may request a copy of an election notice. The executive director shall send the notice to the voter by facsimile, electronic mail, or regular mail, as the voter requests.

(C) As soon as ballot styles are certified, and not later than the date ballots are required to be transmitted to voters pursuant to Article 5, Chapter 15 of this title, the executive director shall update the notice with the certified candidates for each office and ballot measure questions and make the updated notice publicly available.

(D) A county board of voter registration and elections that maintains an online website shall make the election notice available by linking to the State Election Commission website.

Section 7‑15‑750. (A) If a covered voter’s mistake or omission in the completion of a document pursuant to this article does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted pursuant to this article. In a write‑in ballot authorized by this article or in a vote for a write‑in candidate on a regular ballot, if the intention of the voter is discernable pursuant to the laws of this State, an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party must be accepted as a valid vote.

(B) Notarization is not required for the execution of a document pursuant to this article. An authentication, other than the declaration specified in Section 7‑15‑710, or the declaration on the federal postcard application and federal write‑in absentee ballot, is not required for execution of a document pursuant to this article. The declaration and any information in the declaration may be compared with information on file to ascertain the validity of the document.

Section 7‑15‑760. A court may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, this article on application by:

(1) a covered voter alleging a grievance under this article; or

(2) an election official in this State.”

SECTION 7. The 1976 Code of Laws is amended by repealing Sections 7‑15‑400, 7‑15‑405, 7‑15‑406, and 7‑15‑460.

SECTION 8. The provisions of this act are severable. 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 the act, the General Assembly hereby declaring that it would have passed 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, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 9. This act takes effect upon approval by the Governor.

/s/Sen. Robert W. Hayes, Jr. /s/Rep. James E. Smith, Jr.

/s/Sen. George E. “Chip” Campsen III /s/Rep. Wendy K. Nanney

/s/Sen. John L. Scott, Jr. /s/Rep. Rick Quinn

On Part of the Senate. On Part of the House.

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