

# HOUSE BILL REPORT

## HB 1000

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### As Amended by the Senate

**Title:** An act relating to overseas and service voters.

**Brief Description:** Concerning overseas and service voters.

**Sponsors:** Representatives Hurst, Stanford, Blake, Finn, Ladenburg, Goodman, Appleton, Pearson and Moeller.

#### **Brief History:**

##### **Committee Activity:**

State Government & Tribal Affairs: 1/12/11 [DP].

##### **Floor Activity:**

Passed House: 2/4/11, 95-0.

Senate Amended.

Passed Senate: 4/12/11, 46-0.

#### **Brief Summary of Bill**

- Revises and clarifies statutory provisions governing the voting process for overseas and service voters.

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### HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

**Majority Report:** Do pass. Signed by 10 members: Representatives Hunt, Chair; Appleton, Vice Chair; Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander, Condotta, Dunshee, Hurst, McCoy and Miloscia.

**Staff:** Thamas Osborn (786-7129).

#### **Background:**

County auditors must mail ballots to all overseas and service voters at least 30 days before any primary, general election, or special election. Requests for ballots made by overseas or service voters after that day must be processed immediately by the auditor. Ballots must reach the county auditor before the results are certified in order for the votes to count.

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

Certification occurs no later than 15 days after a primary or special election and no later than 21 days after a general election.

The information on the envelopes for overseas and service voters must contain specified information and instructions, including:

- the date of the signature on the ballot envelope is considered the date of mailing and the envelope must be signed by election day;
- the signed declaration on the envelope is the equivalent of voter registration;
- an overseas or service voter may fax a voted ballot and accompanying envelope if the voter agrees to waive secrecy;
- a ballot sent by fax will be counted if the original documents are received before certification of the election;
- a voter may obtain a ballot via electronic mail, which the voter may return by mail; and
- instructions regarding the use of the electronic ballot must include the website address of the Office of the Secretary of State.

"Service voter" is defined as any voter of the state who is a member of the United States Armed Forces (USAF) either in active service or as a member of the military reserves, a student or faculty member of a United States military academy, a member of the Merchant Marines, or a member of a religious group or welfare agency officially serving with the USAF. "Overseas voter" is defined as any voter of the state outside the territorial limits of the United States.

### **Summary of Bill:**

#### Introduction.

The act revises and clarifies the statutory provisions governing the voting process applicable to overseas and service voters, including those pertaining to:

- the means used by county auditors in the sending or transmission of paper and electronic ballots;
- the means by which a voter may return a voted ballot;
- requests by voters to receive ballots by electronic means; and
- the voting instructions that must accompany a ballot sent by an auditor.

#### Receipt and Return of Ballots.

Voters are explicitly authorized to obtain a ballot via fax, electronic mail (e-mail), or other electronic means. A voter may return a voted ballot via fax or e-mail, provided the voter includes a signed declaration with the voted ballot. In addition to, or in place of, receiving a ballot by mail, a voter may request the auditor to send all future ballots by fax, e-mail, or other available means.

#### Instructions to be Included with Ballots.

The voting instructions that must be provided to overseas and service voters are revised so as to require the following information:

- the signed declaration on the ballot envelope is the equivalent of voter registration if the voter is not already registered to vote;
- a voter may receive a ballot by fax, in addition to the electronic methods allowed under statute;
- instructions as to how a voter may return a ballot by fax or e-mail; and
- a voter may request to receive all future ballots by fax, e-mail, or other electronic means.

The act deletes the requirement that a voter receive notice from the auditor that a ballot sent by fax will be counted only if the original documents are received before certification of the election.

#### Other Voting Methods Authorized by Federal Agencies.

Overseas or service voters may use the forms and methods available through the United States Department of Defense and the United States Election Assistance Commission in order to register to vote, request a ballot, or transmit a ballot.

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment (1) strikes all provisions of the original bill; (2) removes the requirement that service and overseas voters waive secrecy in order to return a ballot by fax or e-mail; (3) requires that an overseas or service voter be provided with a secrecy cover sheet and instructions for returning the ballot and signed declaration by fax or e-mail; (4) requires that a voted ballot and signed declaration returned by fax or e-mail must be received by 8:00 p.m. on the day of the election or primary; (5) requires a county auditor to use established procedures to maintain ballot secrecy for those ballots returned by electronic means; (6) requires a county auditor to mail ballots to each overseas and service voter at least 30 days before each special election and at least 45 days before each primary or general election; (7) establishes procedures for a registered voter to receive a replacement ballot; and (8) requires that voted ballots of service and overseas voters that are returned by mail either be received by the county auditor by 8:00 p.m. on the day of the election or primary or be postmarked no later than the day of the election or primary.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

#### **Staff Summary of Public Testimony:**

(In support) Under current statute, overseas and service voters are greatly disadvantaged regarding the receipt and return of paper ballots. Service personnel and others living overseas often reside in areas or countries where mail service is poor or even nonexistent. This results in the disenfranchisement of many such voters. Furthermore, combat zones and other areas of military conflict create conditions where the receipt and return of paper ballots

is all but impossible. Research has shown that, in fact, a great many service personnel have been unable to vote under the current system used in this state. Our overseas military personnel are entitled to a voting system that ensures the opportunity to participate in the electoral process.

Passage of this bill will be a big step towards ensuring that service and overseas voters will receive ballots and have an opportunity to vote. Facilitating voting by electronic means, as opposed to paper ballots, is the best means of achieving this goal. It simplifies the overseas voting process and yields results that are consistent and fair. Many states use electronic voting methods for service and overseas voters and these systems have worked very well. Polling of military personnel has shown that a large majority of military personnel favor electronic voting methods. This is due, in part, to the fact that e-mail is readily available overseas and even in combat zones. Furthermore, the use of electronic voting systems has not resulted in voter fraud or ballot security issues. All branches of the military have come out in support of state implementation of systems for electronic voting.

(Opposed) None.

**Persons Testifying:** Representative Hurst, prime sponsor; General Timothy Lowenberg, Washington National Guard; Sam Reed, Secretary of State; Mark San Souci, Department of Defense State Liaison Office Northwest; Mike Partridge, Veterans Legislative Coalition; Kim Wyman, Washington Association of County Auditors; Skip Moore, Washington State Association of Counties; and James McMahan, Washington Association of County Officials.

**Persons Signed In To Testify But Not Testifying:** None.