

"NEWS YOU CAN USE"

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New Laws Enacted to Assist Military and Overseas Civilian Voters Ready for Implementation

As detailed in a *News You Can Use* edition released in April (Issue No. 476), Michigan voters covered under the federal Military and Overseas Voter Empowerment Act (MOVE Act) and the related state level legislation must be able to take any of the following actions in advance of the August 3, 2010 primary:

- Obtain a blank Federal Post Card Application (FPCA) form via e-mail or fax upon request.
- Obtain an absent voter ballot via e-mail or fax upon request.
- Check the status of a requested absent voter ballot through an online "AV Ballot Tracker" system.

Instructional PowerPoints Available: To assist county, city and township clerks with the implementation of the new requirements, three newly created PowerPoints are available that offer instruction on:

- Processing Requests for an E-mailed or Faxed Voter Registration or Absent Voter Ballot Application Form.
- Creating Absent Voter Ballots That Will Be Sent By E-mail or Fax.
- Receiving and Processing Voted Absent Voter Ballots.

The PowerPoints can be accessed on the Department's Web site:

http://www.michigan.gov/sos/0,1607,7-127-1633_11976---,00.html

Frequently Asked Questions

1) ***Who can obtain an absent voter ballot via e-mail or fax?***

Covered voters who can receive an absent voter ballot by e-mail or fax are as follows:

- A member of a uniformed service on active duty who is absent from his or her city or township of residence. (Voter can be inside the United States or outside the United States.)

- A member of the Merchant Marine who, by reason of service in the Merchant Marine, is absent from his or her city or township of residence. (Voter can be inside the United States or outside the United States.)
- A spouse or dependent of a member of a uniformed service or a member of the Merchant Marine who, by reason of the active duty or service of the member, is absent from his or her city or township of residence. (Voter can be inside the United States or outside the United States.)
- A civilian voter who is outside the United States and is eligible to vote in Michigan.

2) *What methods of ballot delivery can a covered voter choose?*

The voter may ask that his or her ballot be sent by e-mail or fax. The ballot must be sent in the manner requested.

While there has been some discussion that a request for a faxed ballot could not be honored, it has been concluded that there is nothing to prevent a covered voter from asking that his or her ballot be sent by fax.

3) *How will a covered voter indicate that he or she wishes to obtain a ballot by e-mail or fax?*

In most cases, the voter will e-mail, fax or mail a Federal Post Card Application (FPCA) form to the clerk that states that the voter wishes to receive his or her ballot by e-mail or fax. (“E-MAIL” and “FAX” checkoff boxes are provided on the FPCA form.) A covered voter would also be free to indicate that he or she wishes to receive a ballot by e-mail or fax in a letter or on a standard absentee ballot request form. As is customary, the request must include the voter’s signature or mark for verification purposes.

4) *Are military and overseas civilian voters required to submit an absent voter ballot application for every election?*

No. An absent voter ballot application submitted by a covered voter must be honored for every election conducted in the voter’s jurisdiction through the end of the calendar year. The federal law that required clerks to honor absent voter ballot requests submitted by covered voters for **two** federal election cycles has been repealed.

Example: If a covered voter submitted an absent voter ballot request in January 2010, the voter would be eligible to receive ballots for all elections held in 2010. If the same voter wished to receive ballots in 2011, he or she would have to submit an absent voter ballot request on or after January 1, 2011. If the same voter wished to receive ballots in 2012, he or she would have to submit an absent voter ballot request on or after January 1, 2012.

5) Can a covered voter change the manner he or she wishes to receive ballots from one election to the next?

Yes. There is nothing to prevent a covered voter from changing how he or she wishes to receive ballots during the calendar year. Of course, it would be necessary for a voter wishing to make such a change to communicate his or her new ballot transmission preference to the clerk in an e-mail, letter or fax.

6) How do I proceed if the voter indicates that he or she wishes to receive a ballot by e-mail or fax?

If the voter wishes to receive a ballot by e-mail, use the "Statewide Lookup" Web site to create the voter's ballot. After creating the voter's ballot, e-mail the ballot, the voting instructions and a voter certificate to the voter. (Instructions for performing this task are included in the above referenced PowerPoints. The instructions include a recommended e-mail message that should be sent to the voter.) Include your name and mailing address in the e-mail you send to the voter. The voter will need your mailing address to return the ballot.

If the voter wishes to receive a ballot by fax, use the "Statewide Lookup" Web site to create and print a ballot for the voter. Also print the voting instructions and a voter certificate. (Instructions for performing this task are included in the above referenced PowerPoints.) After printing the materials, transmit the ballot, voting instructions and voter certificate to the voter using the fax number supplied by the voter. Include your name and mailing address on the fax cover sheet. The voter will need your mailing address to return the ballot.

7) What if I do not have the capabilities to e-mail or fax a ballot to a covered voter who indicates that he or she wishes to receive an e-mailed or faxed ballot?

Assistance must be obtained through the county clerk's office. In all cases, a request for an e-mailed or faxed ballot that is received from a covered voter must be honored without delay.

8) What if my attempt to e-mail or fax a ballot to a covered voter fails?

Reasonable attempts must be made to send the ballot to the voter in the manner requested by the voter. In certain situations, it may make sense to contact the voter if a rapid means of communication is available. For example, if a voter indicates that he or she wishes to receive a faxed ballot and multiple attempts to fax the ballot fail, communicating with the voter by phone or e-mail may help to rectify the matter.

If repeated attempts to send the ballot in the manner requested by the voter fail and you are unable to contact the voter to resolve the problem involved, a ballot must be mailed to the voter.

9) ***How does the voter mark and return a ballot that he or she received by e-mail or fax?***

The special voting instructions that must be included with an e-mailed or faxed ballot explain everything that the voter needs to know to mark and return the ballot. The instructions emphasize that the voter must take the following actions:

- The voter must return the voted ballot to the clerk by mail. (Ballots cannot be returned by e-mail or fax.)
- The voter must sign the voter certificate provided with the ballot and enclose it with the ballot.
- The voter must write his or her return address and the words “OFFICIAL ABSENT VOTER’S BALLOT” on the outside of the sealed envelope.

A sample copy of the voter instructions and voter certificate are provided with this newsletter.

10) ***What actions do I need to take after an e-mailed or faxed ballot is returned to my office by the voter?***

Note the date that the ballot return envelope was received on the outside of the return envelope, on the absent voter ballot request form and on the AV list. After documenting the return of the ballot, secure the ballot with the regular absent voter ballots returned to your office. The ballot **cannot** be removed from the envelope used by the voter to return the ballot until election day.

On election day, the absent voter ballot (still sealed in the enveloped used by the voter to return the ballot) must be delivered to the precinct board or absent voter counting board for processing.

11) ***How is the absent voter ballot processed?***

As an initial step, the envelope used by the voter to return the ballot must be opened to verify that the ballot is accompanied by the required voter certificate and that the voter has signed the certificate. This check must be performed without exposing any votes marked on the ballot.

- If a signed voter certificate is enclosed with the ballot and the signature matches the signature appearing on the voter’s absent voter ballot request, the inspectors remove the ballot from the envelope and place it in a ballot container for safekeeping. (The tabulator auxiliary bin can be used for this purpose.) Again, it is important that this step be performed without exposing any votes marked on the ballot. The envelope used by the voter to return the ballot and the signed certificate must be delivered back to the clerk after the precinct board or absent voter counting board has completed its work. NOTE:

- The absent voter ballot must be accompanied by the voter’s absent voter ballot application when the absent voter ballot is delivered to the precinct board or absent voter counting board. The absent voter ballot application is needed for the signature verification step.
- If the precinct board or the absent voter counting board has two or more e-mailed or faxed absent voter ballots to process, placing the ballots in a ballot container before duplicating the ballots is an important step as it renders the ballots anonymous.
- If the e-mailed or faxed ballots are printed on multiple pages, each ballot should be stapled together to ensure that the ballot remains intact during the processing procedure.
- The ballot is void if the signature appearing on the certificate does not match the signature appearing on the voter’s absent voter ballot application or the voter did not enclose a signed voter certificate with the ballot. In such a case, the ballot is not removed from the envelope used by the voter to return the ballot; the envelope is marked “REJECTED”; and the envelope is set aside for delivery to the clerk after the precinct board or absent voter counting board has completed its work.

After the precinct board or absent voter counting board has opened all of the ballot return envelopes received from covered voters, the ballots that were accepted must be removed from the ballot container and duplicated. Standard duplicating procedures are used to transfer the valid votes marked on each e-mailed or faxed ballot to a standard optical scan ballot. The ballot is then tabulated. The original ballots returned by the voters must be placed in the special envelope labeled: “Original Ballots for Which Duplicates Were Made.”

The above referenced PowerPoints provide additional information on the ballot processing procedures which must be performed at the precinct or absent voter counting board level.

12) *What actions should be taken if a covered voter submits two ballot return envelopes?*

The ballot return envelope that carries the most recent postmark should be forwarded to the precinct or absent voter counting board for processing. If the postmark dates cannot be determined for any reason, the return envelope that arrived last should be forwarded to the precinct or absent voter counting board for processing.

If the envelope that is opened does not contain a signed voter certificate, the other return envelope should be forwarded to the precinct or absent voter counting board for processing. If the second envelope is found to contain both a ballot and a signed voter certificate, the second ballot should be processed.

To ensure the proper handling of such situations, the first return envelope forwarded for processing should be accompanied by a note that advises the election inspectors to

contact the clerk for further instruction if the return envelope does not contain both a ballot and a signed voter certificate.

13) *What actions should be taken if a covered voter submits his or her voted ballot by e-mail or fax?*

An attempt must be made to contact the voter to advise that the ballot must be returned by mail with a signed voter certificate. A ballot returned by e-mail or fax cannot be processed or counted. Such ballots must be marked "REJECTED" and maintained in the clerk's office.

14) *Are ballots that have been e-mailed or faxed to covered voters subject to the standard ballot return deadline?*

Yes. Ballots that have been e-mailed or faxed to covered voters must be returned to the clerk's office no later than 8:00 p.m. on the date of the election. Ballots that arrive in the clerk's office after 8:00 p.m. on the date of the election are void and cannot be counted.

15) *Are Federal Write-In Absentee Ballots (FWABs) submitted by covered voters who receive an e-mailed or faxed ballot treated any differently?*

No. If a covered voter returns both an FWAB and an absent voter ballot sent to the voter by e-mail or fax by 8:00 p.m. on the date of the election, the absent voter ballot counts and the FWAB does not count.

At this date, military and overseas civilian voters eligible to vote in Michigan can submit an FWAB for an even-numbered year November general election only. Beginning in 2011, military and overseas civilian voters eligible to vote in Michigan can submit an FWAB for any federal election. This would include the even-numbered year August primary, the even-numbered year November general election and any special elections conducted to fill federal offices.

Given the above, it is worth noting that military and overseas civilian voters eligible to vote in Michigan cannot submit an FWAB for the upcoming August 3, 2010 primary.

16) *How do I proceed if the voter indicates that he or she wishes to receive a blank Federal Post Card Application (FPCA) form by e-mail or fax?*

If the voter wishes to receive an FPCA form by e-mail, you must send the voter an e-mail with an attached FPCA form or a link to the FPCA form that appears on the Web site maintained by the Federal Voting Assistance Program office (www.fvap.gov).

If the voter wishes to receive an FPCA form by fax, you must print an FPCA form and fax it to the voter.

If you do not have the capabilities to e-mail or fax an FPCA form to a covered voter who indicates that he or she wishes to receive the form by e-mail or fax, assistance must be received through the county clerk's office. In all cases, such requests must be honored without delay.

Additional Information Available: If you have any questions regarding the new laws enacted to assist military and overseas civilian voters, please do not hesitate to contact the Michigan Department of State's Bureau of Elections. Phone: (517) 373-2540. E-mail: Elections@Michigan.gov

**INSTRUCTIONS FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS
VOTERS RECEIVING AN ABSENTEE BALLOT BY E-MAIL OR FAX**

- Step 1. Print the ballot and the certificate sent with the ballot on paper that is at least 8 ½" x 11" in size. (This step is not necessary if you received your ballot by fax.)
- Step 2. Mark your votes on the printed ballot. Before marking your ballot, carefully read the voting instructions provided below.
- Step 3. Read the certificate sent with the ballot. After reading the certificate, sign and date the certificate where indicated.
- Step 4. If you are disabled or otherwise unable to mark the ballot and required assistance in voting the ballot, have the person who assisted you complete the section in the certificate entitled "TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING BY ANOTHER PERSON."
- Step 5. Fold the ballot to conceal your votes.
- Step 6. Place the folded ballot and the signed certificate in an envelope and securely seal the envelope. If you do not enclose the signed certificate with your ballot, your ballot will not be counted.

Step 7. Write your name and return address on the outside of the sealed envelope. Print "OFFICIAL ABSENT VOTER'S BALLOT" beneath your return address. Be sure to enclose the signed certificate in the envelope with your voted ballot.

- Step 8. Address the envelope to the clerk, place the necessary postage on the envelope and deposit the envelope in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier. Mail your ballot as soon as possible to ensure that it arrives in time to be counted!

The ballot must reach the clerk or an authorized assistant of the clerk no later than 8:00 p.m. on election day. An absent voter ballot received by the clerk or assistant of the clerk after the close of the polls on election day will not be counted.

-- IMPORTANT NOTE --

The ballot and signed certificate cannot be returned to the clerk by e-mail or fax.

A voted ballot that is returned to the clerk by e-mail or fax will not be counted.

VOTING INSTRUCTIONS

To Vote: Completely darken the oval opposite each choice. Any type of pen or pencil may be used to mark your choices.

Partisan Primary: Partisan *primaries* are held to *nominate* candidates to partisan offices. You cannot cast votes under both parties; you must cast votes under one party only. If you vote under both parties in a partisan primary, the partisan section of your ballot will not be counted.

Special Partisan Election: If a special election scheduled to fill a partisan office appears on the ballot, you can vote under any party of your choice. You are not restricted to the party you selected when participating in the partisan primary.

Nonpartisan Offices: If nonpartisan offices appear on the ballot, the offices must be voted by casting individual votes for the candidates of your choice.

Avoid “Overvoting”: When voting the partisan and nonpartisan sections of the ballot, do not cast a vote for more candidates than are indicated under the office title.

Proposals: If proposals appear on the ballot, the proposals must be voted by casting a “Yes” vote or a “No” vote on each question.

Write-In Candidates: To vote for a candidate whose name is not printed on the ballot, write or place the name of that candidate in the blank space provided and completely darken the oval. Do not cast a write-in vote for a candidate whose name is already printed on the ballot for that office.

WARNING

All of the following actions are violations of the Michigan election law and are illegal in this state:

- (1) To vote an absent voter ballot at a meeting or gathering at which other people are voting absent voter ballots.
- (2) For a person who is assisting an absent voter in marking the ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.
- (3) For a person who is present and knows that a person is voting an absent voter ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.
- (4) For a person other than the absent voter or a person whose job it is to handle mail before, during, or after being transported by a public postal service, express mail service, parcel post service, or common carrier, but only during the normal course of his or her employment to be in possession of a voted or unvoted absent voter ballot.

VOTER CERTIFICATE

This certificate must be signed and enclosed with your ballot.

I swear or affirm under penalty of perjury, that I am:

- (1) A member of the Uniformed Services or merchant marine on active duty; or an eligible spouse or dependent of such a member; or, a U.S. citizen temporarily residing outside the U.S., or, other U.S. citizen residing outside the U.S.; and
- (2) I am a U.S. citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; and
- (3) I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and
- (4) I am not registered, requesting a ballot, or voting in any other jurisdiction in the U.S., except the jurisdiction cited in this voting form.

In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under State or Federal law. I have not been influenced.

My signature and date below indicate when I completed this document.

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction of perjury.

I further acknowledge that by choosing to receive my absentee ballot through an electronic transmission I am voluntarily waving my right to a secret ballot.

Signed: _____ Date: _____ / _____ / _____

Printed Name: _____

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TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING BY ANOTHER PERSON

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in marking his or her absent voter ballot pursuant to his or her directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other person.

Signature of Person Assisting Voter

Printed Name of Person Assisting Voter

Street Address or R.R.

City, Township or Village

A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A FELONY.