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COMPARISON OF THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT AND CONNECTICUT LAW

By: Kristin Sullivan, Principal Analyst
Amanda Gordon, Research Fellow

You asked (1) for a summary of the Uniform Military and Overseas Voters Act (UMOVA) and (2) whether Connecticut law conforms.

SUMMARY

In July 2010, the Uniform Law Commission released UMOVA as a model law to (1) bring greater uniformity to military and overseas voting procedures and (2) extend to state and local elections protections for military and overseas voters that are not already covered by federal law. The commission's goal is to have the legislature in each state adopt UMOVA by the November 2012 election.

UMOVA expands upon the 2009 federal Military and Overseas Voter Empowerment (MOVE) Act (P.L. 111-84). Among other things, the MOVE Act requires states to allow (1) applications for absentee ballots to be issued and submitted by electronic means and (2) military and overseas absentee ballots to be issued by electronic means.

The Connecticut General Assembly passed [PA 10-1](#), June Special Session (JSS) (§§ 35-39) in response to the MOVE Act. Although the MOVE Act applies only to federal elections, Connecticut has extended most provisions to state and local elections. Thus, current state law partially complies with UMOVA. However, UMOVA contains some

provisions that are not covered by the MOVE Act or state law. For example, it requires states to count absentee ballots from military and overseas voters that are (1) submitted for delivery by 12:01 a.m. local time on the day of an election (based on where the voter is located) and (2) received by the close of business on the day before local officials certify official election results (§ 10). By law in Connecticut, town clerks must receive these ballots by the close of polls for them to be considered timely (CGS §§ [9-140b](#) and [9-158g](#)).

BACKGROUND: FEDERAL LAW

The Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA) (P.L. 99-410) requires U.S. states and territories to allow certain U.S. citizens to (1) register and vote by absentee ballot in federal elections and (2) submit a “back-up” Federal Write-In Absentee Ballot (FWAB) if they have made a timely application for, but have not received, their state absentee ballot. These citizens, known as UOCAVA voters, include (1) members of the armed forces, (2) their spouses or dependent family members living where they are stationed, and (3) U.S. citizens residing outside the country.

The MOVE Act amended UOCAVA and required states, by the November 2010 general election to, among other things:

1. establish procedures allowing UOCAVA voters to request voter registration and absentee ballot applications by mail or electronically for general, special, and primary elections for federal office;
2. designate at least one means of electronic communication for (a) UOCAVA voters to request voter registration and absentee ballot applications, (b) sending voter registration and absentee ballot applications to voters, and (c) providing UOCAVA voters with election and voting information;
3. develop procedures for transmitting blank ballots to UOCAVA voters by mail and electronically for general, special, and primary elections for federal office;
4. transmit absentee ballots to voters at least 45 days before an election; and
5. develop a free access system that allows a UOCAVA voter to determine whether his or her absentee ballot was received.

FWAB Exemption

Connecticut accepts the back-up FWAB, even though it qualified for an exemption from this requirement under UOCAVA. To qualify for the exemption, state absentee ballots must be available at least 90 days before an election to uniformed services voters who, by reason of active duty or service, are absent from the U.S. Additionally, as soon as the Office of the Secretary of the State completes the official candidate list, the ballots must be available to individuals residing overseas, either permanently or temporarily, who are qualified to vote in their last place of U.S. residence (42 U.S.C. § 1973ff-2(f)).

COMPARISON OF UMOVA AND CONNECTICUT LAW

The Uniform Law Commission released UMOVA to bring greater uniformity to laws governing military and overseas voting. Generally, UMOVA extends the UOCAVA and MOVE Act provisions, which apply to federal elections only, to state and local elections, including primaries and regular and special elections. But it also adds new provisions. Connecticut complies with most, but not all, UMOVA provisions. Table 1 summarizes UMOVA’s major provisions and indicates whether Connecticut law has a parallel or similar provision or not (as the shaded areas indicate).

Table 1: Comparison of UMOVA and Connecticut law

Provision	UMOVA	Connecticut Law
Covered Voters	<p>Covered voters include:</p> <ol style="list-style-type: none"> 1. a uniformed-service voter or an overseas voter who is registered to vote in the state; 2. a uniformed-service voter whose voting residence is in the state and who otherwise satisfies the state’s voter eligibility requirements; 3. an overseas voter who, before leaving the United States, was last eligible to vote in the state and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements; 4. 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 	<p>Covered voters include:</p> <ol style="list-style-type: none"> 1. a member of the armed forces or an overseas voter who is registered to vote in the state or 2. a member of the armed forces whose voting residence is in the state and who otherwise satisfies the state’s voter eligibility requirements. <p>(U.S. citizens who last lived in Connecticut before moving abroad may currently vote for federal offices only.)</p> <p>In addition, PA 10-1, JSS makes U.S. citizens age 18 and older who were born outside the country but whose parent or guardian was a Connecticut resident before leaving the country eligible to vote by presidential or overseas ballot, but only in federal elections.</p>

Table 1: Continued

Provision	UMOVA	Connecticut Law
	<p>5. an overseas voter who was born outside the United States and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if (a) the last place where a parent or legal guardian of the voter was, or would have been, eligible to vote before leaving the United States is within this state and (b) the voter has not previously registered to vote in any other state.</p> <p>"Uniformed services voters" means individuals who are qualified to vote and (1) active duty U.S. uniformed services members, (2) merchant marine members, and (3) their families. The "uniformed services" are the U. S. Army, Navy, Marine Corps, Air Force, and Coast Guard, as well as the Public Health Service Commissioned Corps and the National Oceanic and Atmospheric Administration Commissioned Corps.</p> <p>"Overseas voter" means U. S. citizens residing outside the country (§ 1).</p>	<p>State law generally defines "armed forces" members in the same way that UOCAVA and UMOVA define "uniformed services" members, though in Connecticut they include Coast and Geodetic Survey members.</p>
Covered Elections	Applies to federal, state, and local elections.	Changes made under PA 10-1, JSS (§§ 35-39) to comply with the MOVE Act apply to federal, state, and local elections.
Role of the secretary of the state	<p>UMOVA requires the secretary of the state to:</p> <ol style="list-style-type: none"> 1. provide information for covered voters on voter registration and ballot casting procedures; 2. establish an electronic transmission system that covered voters may use to apply for and receive voter registration materials, military-overseas ballots, and relevant information; 3. develop standardized absentee-voting materials for use with the military-overseas ballot; and 4. prescribe a declaration form, based on the FWAB, for covered voters to affirm identify, voting eligibility, and timely and proper completion of an overseas-military ballot (§ 4). <p>(Sections 6 and 7 require the secretary of the state to ensure that the electronic transmission system can accept the federal postcard and other electronic voter registration and ballot applications.)</p>	<p>State law requires the secretary of the state to:</p> <ol style="list-style-type: none"> 1. publish on her website the Voter Guide containing voter registration and ballot casting procedures; 2. prescribe standard absentee voting materials; 3. prescribe a certification (i.e., declaration form) to accompany an electronic overseas-military ballot for covered voters to affirm identify and voting eligibility, among other things (CGS §§ <u>9-4a</u>, <u>9-140</u>, <u>9-153d</u>, <u>9-153e</u>, and <u>9-153f</u>). <p>State law authorizes (1) applications for absentee ballot to be issued and returned electronically and (2) military and overseas absentee ballots to be issued electronically. Individuals must mail the original absentee ballot application to the town clerk. An absentee ballot is not counted unless the</p>

Table 1: Continued

Provision	UMOVA	Connecticut Law
		completed original application is received by no later than the day before a primary or election (CGS § <u>9-140 (h)</u>).
Overseas Voter's Registration Address	Under UOCAVA, a voter's registration address is his or her last residential address or that of his or her parent or legal guardian. If that address is no longer a recognized residential address, then the voter must be assigned an address (§ 5).	State law requires military and overseas to voters register using their last residential address. It additionally specifies that a person may not be deemed to have lost his or her residence for purposes of electoral qualification by reason of absence due to service in the armed forces (CGS §§ <u>9-26</u> and <u>9-40a</u>).
Methods of Registering to Vote	<p>Individuals may apply to register to vote using (1) a federal postcard application, in printed or electronic format or (2) the declaration accompanying a federal write-in absentee ballot (in which case the individual applies to register and submits the ballot simultaneously) (§ 6).</p> <p>The electronic transmission system must have the capacity to accept the federal postcard application and any other approved electronic registration application (§ 6).</p>	<p>Individuals may register in printed or electronic format using (1) the federal postcard application, (2) the declaration accompanying a federal write-in absentee ballot, or (3) the state's voter registration application. (To register electronically using the state's application, an individual may download the form off the secretary's website, fill it out, scan it, and email it back to the appropriate election official.)</p> <p>If an individual registers using the state application, they must also submit a separate absentee ballot application (CGS §§ <u>9-26</u>, <u>9-153e</u>, and <u>9-153f</u>).</p>
Methods of Applying for Military-Overseas Ballot	<p>An individual who is registered to vote may apply for a military-overseas ballot using the (1) state absentee ballot application or (2) the federal postcard application, in printed or electronic format. An individual who is not registered may use the federal postcard application to apply simultaneously for the ballot and to register to vote.</p> <p>Voters may also use the declaration accompanying the FWAB as an application for a military-overseas ballot (§ 7).</p>	<p>An individual who is registered to vote may apply for a military-overseas ballot using (1) the state's absentee ballot application or (2) the federal postcard application, in printed or electronic format. An individual who is not registered to vote may use the federal postcard application to apply simultaneously for the ballot and to register to vote (CGS §§ <u>9-140</u>, <u>9-153e</u>, and <u>9-153f</u>).</p> <p>Voters may also use the declaration accompanying the FWAB as an application for a military-overseas ballot.</p>

Table 1: Continued

Provision	UMOVA	Connecticut Law
Timeliness and Scope of Application for Military-Overseas Absentee Ballot	<p>A military-overseas ballot application is timely if received by the fifth day before the election or the last day for other voters in the state to apply for an absentee ballot for that election, whichever is later.</p> <p>An application for a primary election is always effective as an application for the general election, whether it is timely or not (§ 8).</p>	<p>State law prohibits absentee ballots from being issued on the day of a primary or election, or after the polls open on the day of a referendum. This means town clerks must receive absentee ballot applications no later than the day before a primary or election, or the opening of the polls open for a referendum (CGS § 9-140 (h)).</p> <p>An application for a primary is honored as an application for the general election for the remainder of the calendar year (CGS § 9-153f).</p>
Transmission of Unvoted Ballots	<p>Applies to states that have not qualified for the hardship exemption under UOCAVA. Election officials must send a ballot and balloting materials no later than 45 days before the election to all voters who submit a valid military-overseas ballot application. If an application arrives after the state begins sending materials to voters, materials must be sent no later than two business days.</p> <p>A voter may request that a ballot and balloting materials be sent by electronically by facsimile, electronic mail (e-mail), or through the Internet delivery (§ 9).</p>	<p>Connecticut has qualified for the FWAB exemption, which means that it makes state absentee ballots available (1) 90 days before the election to uniformed services voters who, by reason of active duty or service, are absent from the U.S. and (2) as soon as the Office of the Secretary of the State completes the official list to overseas voters.</p> <p>Also, Election officials must transmit ballots and balloting materials within 24 hours of receiving an application that arrives after the 45-day window (CGS §§ 9-140 and 9-153e).</p>
Timely Casting of Ballot	<p>A military-overseas ballot is timely if received by the election official by the close of polls, or submitted for mailing or transmission no later than 12:01 a.m. on the day of an election (§ 10).</p>	<p>To be cast, an absentee ballot must be received by the town clerk by the close of polls (CGS §§ 9-140b and 9-158g).</p>
Federal Write-In Absentee Ballot	<p>A covered voter can use a federal absentee ballot to vote for all offices and ballot measures (§ 11).</p>	<p>In practice, Connecticut accepts the federal absentee ballot for all offices and ballot measures, including a primary (CGS § 9-153f).</p>
Receipt of Voted Ballot	<p>A military-overseas ballot must be counted if it is received by the end of business on the business day before the final deadline for completing the canvass or other tabulation to finalize election results. A ballot may not be rejected if a voter has declared under penalty of perjury that the ballot was timely (§ 12).</p>	<p>The final canvass of votes for presidential electors, members of Congress, state officers and members of the General Assembly generally occurs during the month in which the votes were cast. On the other hand, military-overseas ballots must be received by the town clerk by the close of polls in order to be counted (CGS §§ 9-140b, 9-158g, and 9-315 et seq.). (A statement listing</p>

Table 1: Continued

Provision	UMOVA	Connecticut Law
		finalized results must be delivered to the secretary of the state within 10 days after a municipal election (CGS § 9-320).)
Declaration	A military-overseas ballot must include or be accompanied by a declaration that the voter can be convicted of perjury for a material misstatement of fact (§ 13).	<p>State law requires absentee ballots, including military-overseas ballots, to include a voter certification (CGS §§ 9-137, 9-140b, 9-153e, 9-153f, and 9-158g).</p> <p>According to the Office of the Secretary of the State, the certification contains a declaration that the voter can be convicted of perjury for a material misstatement of fact.</p>
Confirmation of Receipt of Application and Voted Ballot	The Secretary of State must implement an electronic free-access system that allows a voter to determine—by telephone, electronic mail, or Internet—the status of his or her federal postcard application or other application, military-overseas ballot application, and military-overseas ballot (§ 14).	According to the Office of the Secretary of the State, it modified its website to comply with MOVE Act requirements and to allow voters to check the status of an absentee ballot (http://www.dir.ct.gov/sots/LookUp.aspx). The office's designated electronic contact is its legislation and elections administration division's email address: lead@po.state.ct.us .
Use of Voter's Electronic-Mail Address	<p>The election official must request an e-mail address from each covered voter who registers to vote after the act's effective date. The request must describe how the e-mail address can be used. E-mail addresses may not be disclosed to third parties, and may only be used for communications about the voting process and verifying a voter's mailing address and location.</p> <p>A voter who provides an e-mail address can make a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the application date (§ 15).</p>	<p>State law does not require election officials to request an e-mail address from covered voters. Electronic communication occurs at the request of the voter (CGS §§ 9-140, 9-153e, and 9-153f).</p> <p>In practice, Connecticut accepts the federal absentee ballot for all offices and ballot measures, including a primary (CGS § 9-153f).</p>
Publication of Election Notice	An election notice must be prepared at least 100 days before a regularly scheduled election and as soon as practicable before an election not regularly scheduled. The notice must contain (1) a list of all the offices and ballot measures that are expected to be on the ballot and (2) specific instructions on how to vote using the federal absentee ballot. The notice must be updated with the certified candidates for	State law does not have a comparable election notice requirement. Generally, election officials must warn elections not more than 15, nor less than five, days beforehand. The warning must give notice of the voting hours, polling locations, and for a referendum, the question (CGS 9-225 , 9-226 , 9-369 , and 9-369a).

Table 1: Continued

Provision	UMOVA	Connecticut Law
	<p>each office and ballot measures no later than the date ballots are required to be transmitted to voters. A voter can request a copy of a notice and it must be sent by facsimile, e-mail, or regular mail. If a jurisdiction maintains an Internet website, the election notice and updated versions of it must be available on the website (§ 16).</p>	
<p>Prohibition of Nonsubstantive Requirements</p>	<p>A mistake or omission (that does not prevent determining whether a voter is eligible to vote), or failure to satisfy a nonsubstantive requirement does not invalidate a document under the act. An abbreviation, misspelling, or other minor variation of a candidate's name or political party must be accepted as a valid vote if the voter's intention is discernable. Execution of a document under this act does not generally require notarization or authentication (§ 17).</p>	<p>According to the Office of the Secretary of the State, write-in votes for nominated candidates (including absentee ballots) should be counted even if the candidate's name is not complete or is misspelled, provided election officials can determine the candidate's identity (CGS §§ 9-150a and 9-265). The Connecticut Supreme Court has ruled that a write-in of the number and letter of a candidate's placement on the ballot must be counted. (<i>In re Election of U.S. Representative for the Second Congressional District</i>, 231 Conn. 602, 667 (1994). (See examples in the Procedure Manual for Counting Absentee Ballots, which is posted on the secretary's website.) Connecticut does not require absentee ballots to be notarized.</p>

N/A means not applicable.

KS: ek