

2014 -- S 2849

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO ELECTIONS

Introduced By: Senators McCaffrey, Lombardi, and Goodwin

Date Introduced: April 03, 2014

Referred To: Senate Judiciary

(Board of Elections)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 17-9.1-26 of the General Laws in Chapter 17-9.1 entitled
2 "Registration of Voters" is hereby amended to read as follows:
3 **17-9.1-26. Confirmation process -- Verification of the address of registered voter. --**
4 (a) (1) Whenever: (i) an acknowledgement card, which was mailed to a voter whose application
5 to register to vote has been accepted, is returned as undeliverable; (ii) through the periodic
6 updating of voter registration records as provided in section 17-9.1-27, a change of address is
7 detected for any voter; (iii) as the result of a challenge under section 17-9.1-28, the challenged
8 voter fails to appear before the local board; or (iv) a mailing by the jury commissioner to a voter
9 is returned as undeliverable; the local board shall begin the confirmation process described in
10 subsection (b) of this section. (2) Whenever any other official mailing from either the state board
11 or a local board or from the office of the secretary of state, which official mailing has been sent to
12 at least a majority of the registered voters in a particular city or town, is returned as undeliverable
13 to any one or more of the voters to whom it was mailed, the local board may commence the
14 confirmation process described in subsection (b) of this section. (b) The confirmation notice shall
15 be sent by first-class forwardable mail and shall be of any size or other specifications that shall be
16 determined by the state board. The notice shall include a voter registration form that may be used
17 by the voter to verify or correct the voter's residence address for voting purposes. (c) The
18 confirmation notice shall be prepared in substantially the following form and shall contain
19 substantially the following information, subject to any additional information as may be required

1 by the state board; provided, that the wording of the form may be revised and updated from time
2 to time by the state board in a manner to make its content as easily readable and understandable
3 as possible:

4 The board of canvassers has received information that you may no longer reside at the
5 address from which you are currently registered. If you have not permanently changed your
6 residence address or if you have permanently changed your residence address but continue to live
7 in the same city or town you should immediately return the voter registration form no later than
8 fourteen (14) days after the date of this mailing even if this notice was mailed to your correct
9 current address. If the voter registration form is not returned, affirmation or confirmation of your
10 current address may be required at the polls on election day. If the registration form is not
11 returned and you do not vote by _____ which is the date of the second general election
12 following the date of this mailing, then your name may be removed from the voter registration
13 list. If you have permanently changed residence address to another city or town in Rhode Island,
14 please complete, and return the completed voter registration form to the local board of canvassers
15 in the city or town of your current address.

16 (d) The confirmation notice shall be mailed to both the voter's current registered address
17 and any new residence address, to the extent both addresses are available to the local board. (e) If
18 a confirmation notice is mailed to a voter and returned as undeliverable, or if delivered and the
19 voter has not responded within fourteen (14) days from the date of the mailing, the voter shall
20 remain on or be placed on the inactive list and shall not be permitted to vote until the voter has
21 signed an affirmation form at either the approved polling place or at the local board of canvassers
22 as provided in this chapter. [Any application for a mail ballot under § 17-20-2.1 or an emergency](#)
23 [mail ballot under § 17-20-2.2 shall serve as a proper affirmation form under this section, if the](#)
24 [address is the same as the voter's current address on record with the board of canvassers.](#) If the
25 voter fails to vote by the second general election following the date of the confirmation mailing,
26 then the voter shall be removed from the voting list. Notwithstanding the foregoing provisions, if
27 the confirmation mailing was based upon the change of address information provided by or
28 through the United States Postal Service National Change of Address Program, and the voter has
29 failed to respond to the confirmation mailing, the voter shall remain on the active list of voters
30 and shall not be required to sign the affirmation form. In these cases, the voter's residence address
31 for voting purposes will be changed by the local board to the new address as indicated by the
32 National Change of Address Program. (f) Local boards shall be required to maintain for a period
33 of at least two (2) years a record of all outgoing confirmation mailings, including the reasons for
34 the mailing of the confirmations. Records shall be kept in a fashion that may be determined by the

1 state board.

2 SECTION 2. Sections 17-20-2.1, 17-20-2.2, 17-20-10, 17-20-13.1, 17-20-19, 17-20-23
3 and 17-20-27 of the General Laws in Chapter 17-20 entitled "Mail Ballots" are hereby amended
4 to read as follows:

5 **17-20-2.1. Requirements for validity of mail ballot and mail ballot applications.** -- (a)

6 Any legally qualified elector of this state whose name appears upon the official voting list of the
7 city, town, or district of the city or town where the elector is qualified, and who desires to avail
8 himself or herself of the right granted to him or her by the Constitution and declared in this
9 chapter, may obtain from the local board in the city or town an affidavit form prepared by the
10 secretary of state as prescribed in this section, setting forth the elector's application for a mail
11 ballot.

12 (b) Whenever any person is unable to sign his or her name because of physical
13 incapacity or otherwise, that person shall make his or her mark "X".

14 (c) The application, when duly executed, shall be delivered in person or by mail so that it
15 is received by the local board not later than four o'clock (4:00) p.m. on the twenty-first (21st) day
16 before the day of any election referred to in section 17-20-1.

17 (d) In addition to those requirements set forth elsewhere in this chapter, a mail ballot, in
18 order to be valid, must have been cast in conformance with the following procedures:

19 (1) All mail ballots issued pursuant to subdivision 17-20-2(1) shall be mailed to the
20 elector at the Rhode Island address provided by the elector on the application. In order to be
21 valid, the signature on all certifying envelopes containing a voted ballot must be made before a
22 notary public or before two (2) witnesses who shall set forth their addresses on the form.

23 (2) All applications for mail ballots pursuant to section 17-20-2(2) must state under oath
24 the name and location of the hospital, convalescent home, nursing home, or similar institution
25 where the elector is confined. All mail ballots issued pursuant to subdivision 17-20-2(2) shall be
26 delivered to the elector at the hospital, convalescent home, nursing home, or similar institution
27 where the elector is confined; and the ballots shall be voted and witnessed in conformance with
28 the provisions of section 17-20-14.

29 (3) All mail ballots issued pursuant to subdivision 17-20-2(3) shall be mailed to the
30 address provided by the elector on the application or sent to the board of canvassers in the city or
31 town where the elector maintains his or her voting residence. In order to be valid, the signature of
32 the elector on the certifying envelope containing voted ballots does not need to be notarized or
33 witnessed. Any voter qualified to receive a mail ballot pursuant to subdivision 17-20-2(3) shall
34 also be entitled to cast a ballot pursuant to the provisions of United States Public Law 99-410

1 ("UOCAVA Act").

2 (4) All mail ballots issued pursuant to subdivision 17-20-2(4) may be mailed to the
3 elector at the address within the United States provided by the elector on the application or sent to
4 the board of canvassers in the city or town where the elector maintains his or her voting
5 residence. In order to be valid, the signature on all certifying envelopes containing a voted ballot
6 must be made before a notary public, or other person authorized by law to administer oaths where
7 signed, or where the elector voted, or before two (2) witnesses who shall set forth their addresses
8 on the form. In order to be valid, all ballots sent to the elector at the board of canvassers must be
9 voted in conformance with the provisions of section 17-20-14.2.

10 (e) Any person knowingly and willfully making a false application or certification, or
11 knowingly and willfully aiding and abetting in the making of a false application or certification,
12 shall be guilty of a felony and shall be subject to the penalties provided for in section 17-26-1.

13 (f) In no way shall a mail ballot application be disqualified if the voter's circumstances
14 change between the time of making the application and voting his or her mail ballot as long as
15 voter remains qualified to receive a mail ballot under the provisions of section 17-20-2. The local
16 board of canvassers shall provide the state board of elections with written notification of any
17 change in circumstances to a mail ballot voter.

18 [\(g\) Any individual who files for a mail ballot under this section shall be determined to](#)
19 [have met the affirmation requirement under § 17-9.1-26.](#)

20 **17-20-2.2. Requirements for validity of emergency mail ballots.** -- (a) Any legally
21 qualified elector of this state whose name appears upon the official voting list of the town or
22 district of the city or town where the elector is so qualified, who on account of circumstances
23 manifested twenty (20) days or less prior to any election becomes eligible to vote by mail ballot
24 according to this chapter, may obtain from the local board an application for an emergency mail
25 ballot.

26 (b) The emergency mail ballot application, when duly executed, shall be delivered in
27 person or by mail so that it shall be received by the local board not later than four o'clock (4:00)
28 p.m. on the last day preceding the date of the election.

29 (c) The elector shall execute the emergency mail ballot application in accordance with
30 the requirements of this chapter, which application shall contain a certificate setting forth the
31 facts relating to the circumstances necessitating the application.

32 (d) In addition to those requirements set forth elsewhere in this chapter, an emergency
33 mail ballot, in order to be valid, must have been cast in conformance with the following
34 procedures:

1 (1) All mail ballots issued pursuant to subdivision 17-20-2(1) shall be mailed to the
2 elector at the State of Rhode Island address provided on the application by the office of the
3 secretary of state, or delivered by the local board to a person presenting written authorization
4 from the elector to receive the ballots, or cast in private at the local board of canvassers. In order
5 to be valid, the signature of the voter on the certifying envelope containing a voted ballot must be
6 made before a notary public, or other person authorized by law to administer oaths where signed,
7 or where the elector voted, or before two (2) witnesses who shall set forth their addresses on the
8 form. In order to be valid, all ballots sent to the elector at the board of canvassers must be voted
9 in conformance with the provisions of section 17-20-14.2.

10 (2) All applications for emergency mail ballots pursuant to subdivision 17-20-2(2) must
11 state under oath the name and location of the hospital, convalescent home, nursing home, or
12 similar institution where the elector is confined. All mail ballots issued pursuant to this
13 subdivision shall be delivered to the elector by the bi-partisan pair of supervisors, appointed in
14 conformance with this chapter, and shall be voted and witnessed in conformance with the
15 provisions of section 17-20-14.

16 (3) All mail ballots issued pursuant to subdivision 17-20-2(3) shall be mailed by the
17 office of the secretary of state to the elector at an address provided by the elector on the
18 application, or cast at the board of canvassers in the city or town where the elector maintains his
19 or her voting residence. The signature of the elector on the certifying envelope containing the
20 voted ballots issued pursuant to the subdivision does not need to be notarized or witnessed. Any
21 voter qualified to receive a mail ballot pursuant to subdivision 17-20-2(3) shall also be entitled to
22 cast a ballot pursuant to the provisions of United States Public Law 99-410 ("UOCAVA Act").

23 (4) All mail ballots issued pursuant to subdivision 17-20-2(4) shall be cast at the board of
24 canvassers in the city or town where the elector maintains his or her voting residence or mailed
25 by the office of the secretary of state to the elector at the address within the United States
26 provided by the elector on the application, or delivered to the voter by a person presenting written
27 authorization by the voter to pick up the ballot. In order to be valid, the signature of the voter on
28 all certifying envelopes containing a voted ballot must be made before a notary public, or other
29 person authorized by law to administer oaths where signed, or where the elector voted, or before
30 two (2) witnesses who shall set forth their addresses on the form. In order to be valid, all ballots
31 sent to the elector at the board of canvassers must be voted in conformance with the provisions of
32 section 17-20-14.2.

33 (e) The secretary of state shall provide each of the several boards of canvassers with a
34 sufficient number of mail ballots for their voting districts so that the local boards may provide the

1 appropriate ballot or ballots to the applicants. It shall be the duty of each board of canvassers to
2 process each emergency ballot application in accordance with this chapter, and it shall be the duty
3 of each board to return to the secretary of state any ballots not issued immediately after each
4 election.

5 (f) Any person knowingly and willfully making a false application or certification, or
6 knowingly and willfully aiding and abetting in the making of a false application or certification,
7 shall be guilty of a felony and shall be subject to the penalties provided for in section 17-26-1.

8 [\(g\) Any individual who files for a mail ballot under this section shall be determined to](#)
9 [have met the affirmation requirement under § 17-9.1-26.](#)

10 **17-20-10. Certification of applications -- Issuance of ballots -- Marking of lists --**

11 **Mailing address.** -- (a) Upon receipt of the application, the local board shall immediately
12 examine it and determine whether it complies with each of the requirements set forth by this
13 chapter and compare the signature on the ballot application with the signature contained on the
14 original registration card, except as may be otherwise provided by law, to satisfy itself that the
15 applicant is a qualified voter. Upon determining that it does meet each requirement of this chapter
16 and that the signature appears to be the same, the local board shall mark the application
17 "accepted" and record in the space provided on the ballot application the senatorial,
18 representative, and voting district in which the applicant should vote.

19 (b) The local board shall also record the city or town code and district information in the
20 mailing label section of the mail ballot application. The local board shall also print or type the
21 name of the elector and the complete mailing address in that section. If the local board does not
22 accept the application, the local board shall return the application to the elector, together with a
23 form prescribed by the secretary of state, specifying the reason or reasons for the return of the
24 application.

25 (c) Not later than 4:00 p.m. on the eighteenth (18th) day before the day of any election
26 referred to in this chapter or within seven (7) days of receipt by the local board, whichever occurs
27 first, the local board shall certify the applications to the secretary of state through the CVRS
28 system as this procedure is prescribed by the secretary of state. Upon the certification of a mail
29 ballot application to the secretary of state, the local board shall enter on the voting list the fact
30 that a mail ballot application for the voter has been certified and shall cause the delivery of the
31 certified mail ballot applications together with the signed certified listing thereof in sealed
32 packages to the state board of elections.

33 (d) (1) Upon the ballots becoming available, the secretary of state shall immediately,
34 issue and mail, by first class mail, postage prepaid, a mail ballot to each eligible voter who has

1 been certified. With respect to voters who have applied for these mail ballots under the provisions
2 of subdivision 17-20-2(1), the secretary of state shall include with the mail ballots a stamped
3 return envelope addressed: ~~"Board of Elections, 50 Branch Avenue, Providence, Rhode Island~~
4 ~~02904-2790"~~ [to the current address of the board of elections.](#)

5 (2) The secretary of state shall include on the mail ballot envelope a numerical or
6 alphabetical code designating the city or town where the voter resides. The secretary of state shall
7 immediately thereafter indicate on the voter's record that the secretary of state has sent mail
8 ballots provided, that this mark shall serve solely to indicate that a mail ballot has been issued and
9 shall not be construed as voting in the election.

10 (e) Prior to each election, the secretary of state shall also furnish to the chairperson of the
11 state committee of each political party a list of the names and residence addresses of all persons
12 to whom mail ballots have been issued. The secretary of state shall also furnish to a candidate for
13 political office upon request a list of the names and residence addresses of all persons to whom
14 mail ballots have been issued within his or her district.

15 (f) If a ballot is returned to the secretary of state by the postal service as undeliverable,
16 the secretary of state shall consult with the appropriate local board to determine the accuracy of
17 the mailing address, and the secretary of state shall be required to remail the ballot to the voter
18 using the corrected address provided by the local board. If the local board is unable to provide a
19 different address than that to which the ballot was originally mailed, the ballot shall be reissued
20 by the secretary of state to the board of canvassers in the city or town where the voter resides
21 utilizing the numerical or alphabetical code established in subsection (d) of this section. The
22 board shall then attempt to notify the voter at his or her place of residence that the ballot has been
23 returned as undeliverable. The ballot must be voted and witnessed in accordance with the
24 provisions of this chapter.

25 (g) The acceptance of a mail ballot application by the board of canvassers and the
26 issuance of a mail ballot by the secretary of state shall not create any presumption as to the
27 accuracy of the information provided by the applicant or as to the applicant's compliance with the
28 provisions of this chapter. Any inaccuracy in the provided information or irregularity in the
29 application may be raised as a challenge to the ballot before the board of elections at the time of
30 certification. If the challenge raised at that time is meritorious, the ballot shall be voided.

31 (h) Within two (2) business days of receipt by the local board, the board shall certify
32 emergency mail ballot applications and shall cause the delivery of the emergency mail ballot
33 applications, and certification sheet in sealed packages to the state board of elections.

34 **17-20-13.1. Form of emergency mail ballot application.** -- The emergency mail ballot

1 application to be subscribed by the voters before receiving a mail ballot shall, in addition to any
2 directions that may be printed, stamped, or written on the application by authority of the secretary
3 of state, be in substantially the following form:

4 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS EMERGENCY
5 APPLICATION OF VOTER FOR BALLOT FOR ELECTION ON_____

6 (COMPLETE HIGHLIGHTED SECTIONS)

7 NOTE - THIS APPLICATION MUST BE RECEIVED BY THE BOARD OF CANVASSERS
8 OF YOUR CITY OR TOWN NOT LATER THAN 4:00 P.M. ON_____

9 BOX A (PRINT OR TYPE)

10 NAME_____

11 VOTING ADDRESS_____

12 CITY/TOWN_____

13 STATE RI ZIP CODE_____ DATE OF BIRTH_____

14 PHONE#_____

15 BOX B (PRINT OR TYPE) NAME OF INSTITUTION (IF APPLICABLE_____

16 ADDRESS_____

17 ADDRESS_____

18 CITY/TOWN_____

19 STATE_____ ZIP CODE_____

20 ~~I CERTIFY THAT I AM ELIGIBLE FOR A MAIL BALLOT ON THE FOLLOWING BASIS:~~

21 ~~(CHECK ONE ONLY)~~

22 () 1. I am incapacitated to such an extent that it would be an undue hardship to vote at
23 the polls because of illness, mental or physical disability, blindness or a serious impairment of
24 mobility. If not voting ballot at local board, ballot will be mailed to the address in BOX A above
25 or to the Rhode Island address provided in BOX B above. If the ballot is to be delivered by the
26 local board of canvassers to a person presenting written authorization to pick up the ballot,
27 complete BOX A above and fill in the person's name below.

28 I hereby authorize _____ to pick up my ballot
29 at my local board of canvassers.

30 () 2. I am confined in a hospital, convalescent home, nursing home, rest home, or similar
31 institution within the State of Rhode Island. Provide the name and address of the facility where
32 you are residing in BOX B above.

33 () 3. I am employed or in service intimately connected with military operations or
34 because I am a spouse or dependent of such person, or I am a United States citizen who will be

1 outside the United States. If not voting ballot at local board, provide address in BOX B above.

2 () 4. I may not be able to vote at the polling place in my city or town on the day of the
3 election. If the ballot is not being mailed to your voter registration address (BOX A above) please
4 provide the address within the United States where you are temporarily residing in BOX B above.
5 If you request that your ballot be sent to your local board of canvassers please indicate so in BOX
6 B above. I hereby authorize _____ to pick up my
7 ballot at my local board of canvassers.

8 ~~Under the pains and penalty of perjury, I certify that on account of the following~~
9 ~~circumstances manifested twenty (20) days or less prior to the election for which I make this~~
10 ~~application. I will be unable to vote at the polls.~~

11 ~~BOX D OATH OF VOTER~~

12 I declare that all of the information I have provided on this form is true and correct to the
13 best of my knowledge. I further state that I am not a qualified voter of any other city or town or
14 state and have not claimed and do not intend to claim the right to vote in any other city or town or
15 state. If unable to sign name because of physical incapacity or otherwise, applicant shall make his
16 or her mark "X".

17 SIGNATURE IN FULL _____

18 Please note: A Power of Attorney signature is not valid in Rhode Island.

19 **17-20-19. Envelopes for return of ballots.** -- Envelopes for the enclosure and return of
20 mail ballots and their enclosing certified envelope shall have the printed or written address:
21 ~~"Board of Elections, 50 Branch Ave., Providence, Rhode Island 02904 2790"~~ [to the current](#)
22 [address of the board of elections](#); and shall be forwarded by the secretary of state to each mail
23 voter whose application for the mail ballot has been received and accepted.

24 **17-20-23. Marking and certification of ballot.** -- (a) A voter desiring to vote for all
25 candidates of one political party for national and state, or city or town, offices, shall fill in the
26 appropriate space next to the designation of that party upon the appropriate ballot. A voter casting
27 a straight party vote may also individually vote for candidates and, in doing so, the straight party
28 vote will not be counted for that office and the individual vote, or votes in the case where more
29 than one candidate will be elected for an office, will override the straight party vote for that
30 office.

31 (b) A voter may omit to mark as provided in subsection (a) of this section and may vote
32 for the candidates of the voter's choice by making a mark in the space provided opposite their
33 respective names.

34 (c) In case a voter desires to vote upon a question submitted to the vote of the electors of

1 the state, the voter shall mark in the appropriate space associated with the answer that the voter
2 desires to give.

3 (d) Voters receiving a mail ballot pursuant to subdivisions 17-20-2(1), (2), and (4) shall
4 mark the ballot in the presence of two (2) witnesses or some officer authorized by the law of the
5 place where marked to administer oaths. Voters receiving a mail ballot pursuant to subdivision
6 17-20-2(3) do not need to have their ballot witnessed or notarized. Except as otherwise provided
7 for by this chapter, the voter shall not allow the official or witnesses to see how he or she marks
8 the ballot and the official or witnesses shall hold no communication with the voter, nor the voter
9 with the official or witnesses, as to how the voter is to vote. Thereafter, the voter shall enclose
10 and seal the ballot in the envelope provided for it. The voter shall then execute before the official
11 or witnesses the certification on the envelope. The voter shall then ~~enclose and seal the certified~~
12 ~~envelope with the ballot in the envelope addressed to the state board and cause the envelope to be~~
13 ~~delivered to the state board on or before election day~~ cause the certified envelope containing the
14 ballot to be delivered to the state board not later than the time prescribed by § 17-18-11 for the
15 closing of polling places on the day of the election.

16 (e) These ballots shall be counted only if received within the time limited by this chapter.

17 (f) There shall be a space provided on the general election ballot to allow the voter to
18 write in the names of persons not in nomination by any party as provided for in sections 17-19-31
19 and 17-20-24.

20 **17-20-27. Sealing of ballots and voting list.** -- The state board shall, at the completion of
21 the count of all votes cast at any election, securely store all ballots cast in the election, and after
22 the certification of the results of the elections, the state board shall place all ballots received from
23 mail voters together with the certified envelopes containing the ballots in a steel box or package
24 and shall seal the ballots and envelopes in open meetings of the board by affixing at least four (4)
25 adhesive labels, and the members of the board shall sign the labels by affixing their signatures in
26 ink to each of the labels, and thereafter no steel box or package shall upon any pretense be
27 reopened by any person, except upon order of the general assembly or a court of competent
28 jurisdiction, but shall be held by the board ~~until the first day of September in the second (2nd)~~
29 ~~year~~ for a period of twenty-two (22) months after the ballots were cast, when they may then be
30 destroyed. The certified copies of the voting lists of mail voters and the applications referred to in
31 section 17-20-10 shall likewise be safely sealed and kept by the board for the same length of time.

32 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO ELECTIONS

1 This act would change the requirement for affirmation of inactive voters who apply for
2 either a mail ballot or emergency mail ballot, and would allow the application to serve as the
3 affirmation. This act would also require mail ballots to be sent to the current address of the board
4 of elections. It would also mandate that mail ballots must be saved for twenty-two (22) months in
5 accordance with federal laws.

6 This act would take effect upon passage.

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