



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/05/04, by Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

10 ILCS 5/20-1	from Ch. 46, par. 20-1
10 ILCS 5/20-2	from Ch. 46, par. 20-2
10 ILCS 5/20-2.1	from Ch. 46, par. 20-2.1
10 ILCS 5/20-2.2	from Ch. 46, par. 20-2.2
10 ILCS 5/20-4	from Ch. 46, par. 20-4
10 ILCS 5/20-5	from Ch. 46, par. 20-5
10 ILCS 5/20-6	from Ch. 46, par. 20-6
10 ILCS 5/20-7	from Ch. 46, par. 20-7
10 ILCS 5/20-8	from Ch. 46, par. 20-8

Amends the Election Code. Authorizes (i) civilian citizens outside the U.S. voting for federal officials, (ii) Merchant Marines and their qualified spouses and dependents, (iii) federal government employees stationed outside the U.S. and their qualified spouses and dependents, and (iv) citizens temporarily residing outside the U.S. and their qualified spouses and dependents to register to vote, request absentee ballots, and vote by fax machine or other electronic means (now, only members of the Armed Forces and their qualified spouses and dependents). Redefines "Armed Forces" to include the Reserve component and the Illinois National Guard. Requires election authorities to have the means to send and receive fax and other electronic transmissions. Requires the State Board of Elections to adopt necessary rules. Effective immediately.

LRB093 21047 JAM 47068 b

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing
5 Sections 20-1, 20-2, 20-2.1, 20-2.2, 20-4, 20-5, 20-6, 20-7,
6 and 20-8 as follows:

7 (10 ILCS 5/20-1) (from Ch. 46, par. 20-1)

8 Sec. 20-1. The following words and phrases contained in
9 this Article shall be construed as follows:

10 1. "Territorial limits of the United States" means each of
11 the several States of the United States and includes the
12 District of Columbia, the Commonwealth of Puerto Rico, Guam and
13 the Virgin Islands; but does not include American Samoa, the
14 Canal Zone, the Trust Territory of the Pacific Islands or any
15 other territory or possession of the United States.

16 2. "Member of the United States Service" means (a) members
17 of the Armed Forces, Reserve component of the United States
18 Armed Forces, or Illinois National Guard, while on active duty
19 and their spouses and dependents of voting age when residing
20 with or accompanying them, (b) members of the Merchant Marine
21 of the United States and their spouses and dependents when
22 residing with or accompanying them and (c) United States
23 government employees serving outside the territorial limits of
24 the United States.

25 3. "Citizens of the United States temporarily residing
26 outside the territorial limits of the United States" means
27 civilian citizens of the United States and their spouses and
28 dependents of voting age when residing with or accompanying
29 them, who maintain a precinct residence in a county in this
30 State and whose intent to return may be ascertained.

31 4. "Non-Resident Civilian Citizens" means civilian
32 citizens of the United States (a) who reside outside the

1 territorial limits of the United States, (b) who had maintained
2 a precinct residence in a county in this State immediately
3 prior to their departure from the United States, (c) who do not
4 maintain a residence and are not registered to vote in any
5 other State, and (d) whose intent to return to this State may
6 be uncertain.

7 5. "Official postcard" means the postcard application for
8 registration to vote or for an absentee ballot in the form
9 provided in Section 204(c) of the Federal Voting Rights Act of
10 1955, as amended (42 U.S.C. 1973cc-14(c)).

11 6. "Federal office" means the offices of President and
12 Vice-President of the United States, United States Senator,
13 Representative in Congress, delegates and alternate delegates
14 to the national nominating conventions and candidates for the
15 Presidential Preference Primary.

16 7. "Federal election" means any general, primary or special
17 election at which candidates are nominated or elected to
18 Federal office.

19 8. "Dependent", for purposes of this Article, shall mean a
20 father, mother, brother, sister, son or daughter.

21 (Source: P.A. 81-953.)

22 (10 ILCS 5/20-2) (from Ch. 46, par. 20-2)

23 Sec. 20-2. Any member of the United States Service,
24 otherwise qualified to vote, who expects in the course of his
25 duties to be absent from the county in which he resides on the
26 day of holding any election may make application for an
27 absentee ballot to the election authority having jurisdiction
28 over his precinct of residence on the official postcard or on a
29 form furnished by the election authority as prescribed by
30 Section 20-3 of this Article not less than 10 days before the
31 election. The request for an application for an absentee ballot
32 may be made by a facsimile machine or electronic transmission.
33 Each election authority in the State shall establish the means
34 by which to send and receive absentee ballot request forms by
35 facsimile machine or electronic transmission. A request

1 pursuant to this Section shall entitle the applicant to an
2 absentee ballot for every election in one calendar year. The
3 original application for ballot shall be kept in the office of
4 the election authority for one year as authorization to send a
5 ballot to the voter for each election to be held within that
6 calendar year. A certified copy of such application for ballot
7 shall be sent each election with the absentee ballot to the
8 polling place to be used in lieu of the original application
9 for ballot. No registration shall be required in order to vote
10 pursuant to this Section.

11 Ballots under this Section shall be mailed or transmitted
12 by facsimile or other electronic means by the election
13 authority in the manner prescribed by Section 20-5 of this
14 Article and not otherwise. Ballots voted under this Section
15 must be returned to the election authority in sufficient time
16 for delivery to the proper precinct polling place before the
17 closing of the polls on the day of the election. Prior to the
18 next general election taking place after the effective date of
19 this amendatory Act of the 93rd General Assembly, the State
20 Board of Elections shall promulgate rules for sending and
21 receiving applications, postcards, and ballots by facsimile or
22 electronic transmission. Rules shall include, at a minimum, a
23 requirement that returned ballots must be accompanied by the
24 voter's signature, electronic or written, consenting to a
25 waiver of the voter's right to secrecy of the ballot.

26 (Source: P.A. 86-875.)

27 (10 ILCS 5/20-2.1) (from Ch. 46, par. 20-2.1)

28 Sec. 20-2.1. Citizens of the United States temporarily
29 residing outside the territorial limits of the United States
30 who are not registered but otherwise qualified to vote and who
31 expect to be absent from their county of residence during the
32 periods of voter registration provided for in Articles 4, 5 or
33 6 of this Code and on the day of holding any election, may make
34 simultaneous application to the election authority having
35 jurisdiction over their precinct of residence for an absentee

1 registration and absentee ballot not less than 30 days before
2 the election. The request for an absentee registration and an
3 application for an absentee ballot may be made by a facsimile
4 machine or electronic transmission. Such application may be
5 made on the official postcard or on a form furnished by the
6 election authority as prescribed by Section 20-3 of this
7 Article. A request pursuant to this Section shall entitle the
8 applicant to an absentee ballot for every election in one
9 calendar year. The original application for ballot shall be
10 kept in the office of the election authority for one year as
11 authorization to send a ballot to the voter for each election
12 to be held within that calendar year. A certified copy of such
13 application for ballot shall be sent each election with the
14 absentee ballot to the polling place to be used in lieu of the
15 original application for ballot.

16 Registration shall be required in order to vote pursuant to
17 this Section. However, if the election authority receives one
18 of such applications after 30 days but not less than 10 days
19 before a Federal election, said applicant shall be sent a
20 ballot containing the Federal offices only and registration for
21 that election shall be waived.

22 Ballots under this Section shall be mailed or transmitted
23 by facsimile or other electronic means by the election
24 authority in the manner prescribed by Section 20-5 of this
25 Article and not otherwise. Prior to the next general election
26 taking place after the effective date of this amendatory Act of
27 the 93rd General Assembly, the State Board of Elections shall
28 promulgate rules for sending and receiving applications,
29 postcards, and ballots by facsimile or electronic
30 transmission. Rules shall include, at a minimum, a requirement
31 that returned ballots must be accompanied by the voter's
32 signature, electronic or written, consenting to a waiver of the
33 voter's right to secrecy of the ballot.

34 Ballots under this Section must be returned to the election
35 authority in sufficient time for delivery to the proper
36 precinct polling place before the closing of the polls on the

1 day of the election.

2 (Source: P.A. 86-875.)

3 (10 ILCS 5/20-2.2) (from Ch. 46, par. 20-2.2)

4 Sec. 20-2.2. Any non-resident civilian citizen, otherwise
5 qualified to vote, may make application to the election
6 authority having jurisdiction over his precinct of former
7 residence for an absentee ballot containing the Federal offices
8 only not less than 10 days before a Federal election. Such
9 application may be made ~~only~~ on the official postcard or by
10 facsimile or electronic transmission. A request pursuant to
11 this Section shall entitle the applicant to an absentee ballot
12 for every election in one calendar year at which Federal
13 offices are filled. The original application for ballot shall
14 be kept in the office of the election authority for one year as
15 authorization to send a ballot to the voter for each election
16 to be held within that calendar year at which Federal offices
17 are filled. A certified copy of such application for ballot
18 shall be sent each election with the absentee ballot to the
19 polling place to be used in lieu of the original application
20 for ballot. No registration shall be required in order to vote
21 pursuant to this Section. Ballots under this Section shall be
22 mailed or transmitted by facsimile or other electronic means by
23 the election authority in the manner prescribed by Section 20-5
24 of this Article and not otherwise. Prior to the next general
25 election taking place after the effective date of this
26 amendatory Act of the 93rd General Assembly, the State Board of
27 Elections shall promulgate rules for sending and receiving
28 applications, postcards, and ballots by facsimile or
29 electronic transmission. Rules shall include, at a minimum, a
30 requirement that returned ballots must be accompanied by the
31 voter's signature, electronic or written, consenting to a
32 waiver of the voter's right to secrecy of the ballot. Ballots
33 under this Section must be returned to the election authority
34 in sufficient time for delivery to the proper precinct polling
35 place before the closing of the polls on the day of the

1 election.

2 (Source: P.A. 86-875.)

3 (10 ILCS 5/20-4) (from Ch. 46, par. 20-4)

4 Sec. 20-4. Immediately upon the receipt of the official
5 postcard or an application as provided in Section 20-3 within
6 the times heretofore prescribed, the election authority shall
7 ascertain whether or not such applicant is legally entitled to
8 vote as requested. If the election authority ascertains that
9 the applicant is lawfully entitled to vote, it shall enter the
10 name, street address, ward and precinct number of such
11 applicant on a list to be posted in his or its office in a place
12 accessible to the public. As soon as the official ballot is
13 prepared the election authority shall immediately deliver the
14 same to the applicant in person, ~~or~~ by mail, or by use of a
15 facsimile machine or electronic transmission, in the manner
16 prescribed in Section 20-5.

17 If any such election authority receives a second or
18 additional application which it believes is from the same
19 person, he or it shall submit it to the chief judge of the
20 circuit court or any judge of that court designated by the
21 chief judge. If the chief judge or his designate determines
22 that the application submitted to him is a second or additional
23 one, he shall so notify the election authority who shall
24 disregard the second or additional application.

25 The election authority shall maintain a list for each
26 election of the voters to whom it has issued absentee ballots.
27 The list shall be maintained for each precinct within the
28 jurisdiction of the election authority. Prior to the opening of
29 the polls on election day, the election authority shall deliver
30 to the judges of election in each precinct the list of
31 registered voters in that precinct to whom absentee ballots
32 have been issued.

33 Election authorities may transmit, by facsimile machine or
34 electronic means, a ballot simultaneously with transmitting an
35 application for absentee ballot; provided that no such ballot

1 shall be counted unless an application has been completed by
 2 the voter and its authenticity verified prior to or
 3 simultaneously with receipt of the completed ballot by the
 4 election authority.

5 (Source: P.A. 81-0155; 81-0953; 81-1509.)

6 (10 ILCS 5/20-5) (from Ch. 46, par. 20-5)

7 Sec. 20-5. The election authority shall fold the ballot or
 8 ballots in the manner specified by the statute for folding
 9 ballots prior to their deposit in the ballot box and shall
 10 enclose such ballot in an envelope unsealed to be furnished by
 11 it, which envelope shall bear upon the face thereof the name,
 12 official title and post office address of the election
 13 authority, and upon the other side of such envelope there shall
 14 be printed a certification in substantially the following form:

15 "CERTIFICATION

16 I state that I am a resident/former resident of the
 17 precinct of the city/village/township of,
 18 (Designation to be made by Election Authority) or of the
 19 ward in the city of (Designation to be made by
 20 Election Authority) residing at in said
 21 city/village/township in the county of and State of
 22 Illinois; that I am a

- 23 1. () member of the United States Service
- 24 2. () citizen of the United States temporarily residing
- 25 outside the territorial limits of the United States
- 26 3. () nonresident civilian citizen

27 and desire to cast the enclosed ballot pursuant to Article 20
 28 of The Election Code; that I am lawfully entitled to vote in
 29 such precinct at the election to be held on
 30

31 I further state that I marked the enclosed ballot in
 32 secret.

33 Under penalties as provided by law pursuant to Article 29
 34 of The Election Code, the undersigned certifies that the
 35 statements set forth in this certification are true and

1 correct.

2 (Name)
 3
 4 (Service Address)"
 5
 6
 7

8 If the ballot enclosed is to be voted at a primary
 9 election, the certification shall designate the name of the
 10 political party with which the voter is affiliated.

11 In addition to the above, the election authority shall
 12 provide printed slips giving full instructions regarding the
 13 manner of completing the forms and affidavits for absentee
 14 registration or the manner of marking and returning the ballot
 15 in order that the same may be counted, and shall furnish one of
 16 the printed slips to each of the applicants at the same time
 17 the registration materials or ballot is delivered to him.

18 In addition to the above, if a ballot to be provided to an
 19 elector pursuant to this Section contains a public question
 20 described in subsection (b) of Section 28-6 and the territory
 21 concerning which the question is to be submitted is not
 22 described on the ballot due to the space limitations of such
 23 ballot, the election authority shall provide a printed copy of
 24 a notice of the public question, which shall include a
 25 description of the territory in the manner required by Section
 26 16-7. The notice shall be furnished to the elector at the same
 27 time the ballot is delivered to the elector.

28 The envelope in which such registration or such ballot is
 29 mailed to the voter as well as the envelope in which the
 30 registration materials or the ballot is returned by the voter
 31 shall have printed across the face thereof two parallel
 32 horizontal red bars, each one-quarter inch wide, extending from
 33 one side of the envelope to the other side, with an intervening
 34 space of one-quarter inch, the top bar to be one and
 35 one-quarter inches from the top of the envelope, and with the
 36 words "Official Election Balloting Material-VIA AIR MAIL"

1 between the bars. In the upper right corner of such envelope in
2 a box, there shall be printed the words: "U.S. Postage Paid 42
3 USC 1973". All printing on the face of such envelopes shall be
4 in red, including an appropriate inscription or blank in the
5 upper left corner of return address of sender.

6 Election authorities transmitting ballots by facsimile
7 machines or electronic transmission shall, to the extent
8 practical, provide the voter by facsimile machine or electronic
9 transmission with the same instructions, certification, and
10 other materials required when sending them by mail. Prior to
11 the next general election taking place after the effective date
12 of this amendatory Act of the 93rd General Assembly, the State
13 Board of Elections shall promulgate rules for sending and
14 receiving applications, postcards, and ballots by facsimile or
15 electronic transmission.

16 (Source: P.A. 84-1467.)

17 (10 ILCS 5/20-6) (from Ch. 46, par. 20-6)

18 Sec. 20-6. Such absent voter shall make and subscribe to
19 the certifications provided for in the application and on the
20 return envelope for the ballot, and such ballot or ballots
21 shall then be folded by such voter in the manner required to be
22 folded before depositing the same in the ballot box, and be
23 deposited in such envelope and the envelope securely sealed.
24 Such envelope shall be mailed by such voter, to the officer
25 issuing the ballot or, if more convenient, it may be delivered
26 in person.

27 When the election authority accepts ballots by facsimile
28 machine or electronic means, the voter may complete the ballot
29 and transmit it by facsimile machine or electronic means to the
30 election authority, accompanied by an electronic or written
31 signature consenting to a waiver of the voter's right to
32 secrecy of the ballot. The election authority shall adopt
33 procedures to limit access to completed ballots received by
34 facsimile machine or electronic means.

35 If the absent voter wishes to return a marked ballot that

1 the voter received from the election authority by facsimile
2 machine or electronic transmission, the voter may use 2 plain
3 envelopes, marking one as the security envelope into which the
4 voter shall insert the marked ballot and marking the outside
5 envelope as the return envelope for mailing. Such envelopes
6 shall be sent to the proper election authority with sufficient
7 paid postage affixed.

8 (Source: P.A. 81-155.)

9 (10 ILCS 5/20-7) (from Ch. 46, par. 20-7)

10 Sec. 20-7. Upon receipt of such absent voter's ballot, the
11 officer or officers above described shall forthwith enclose the
12 same unopened, together with the application made by said
13 absent voter in a large or carrier envelope which shall be
14 securely sealed and endorsed with the name and official title
15 of such officer and the words, "This envelope contains an
16 absent voter's ballot and must be opened on election day,"
17 together with the number and description of the precinct in
18 which said ballot is to be voted, and such officer shall
19 thereafter safely keep the same in his office until counted by
20 him as provided in the next section.

21 When a ballot is received by facsimile machine or
22 electronic transmission, the election authority shall take the
23 necessary steps to prepare the ballot for counting, either in
24 the office of the election authority or in the precinct, in a
25 manner reasonably consistent with the procedure required in
26 this Section.

27 (Source: P.A. 81-155.)

28 (10 ILCS 5/20-8) (from Ch. 46, par. 20-8)

29 Sec. 20-8. In case any such ballot is received by the
30 election authority prior to the delivery of the official
31 ballots to the judges of election of the precinct in which said
32 elector resides, such ballot envelope and application, sealed
33 in the carrier envelope, shall be enclosed in the same package
34 with the other official ballots and therewith delivered to the

1 judges of such precinct. In case the official ballots for such
2 precinct have been delivered to the judges of election at the
3 time of the receipt by the election authority of such absent
4 voter's ballot, it shall immediately enclose said envelope
5 containing the absent voter's ballot, together with his
6 application therefor, in a larger or carrier envelope which
7 shall be securely sealed and addressed on the face to the
8 judges of election, giving the name or number of precinct,
9 street and number of polling place, city or town in which such
10 absent voter is a qualified elector, and the words, "This
11 envelope contains an absent voter's ballot and must be opened
12 only on election day at the polls immediately after the polls
13 are closed," mailing the same, postage prepaid, to such judges
14 of election, or if more convenient he or it may deliver such
15 absent voter's ballot to the judges of election in person or by
16 duly deputized agent and secure his receipt for delivery of
17 such ballot or ballots. Absent voter's ballots postmarked after
18 11:59 p.m. of the day immediately preceding the election
19 returned to the election authority too late to be delivered to
20 the proper polling place before the closing of the polls on the
21 day of election shall be endorsed by the person receiving the
22 same with the day and hour of receipt and shall be safely kept
23 unopened by the election authority for the period of time
24 required for the preservation of ballots used at such election,
25 and shall then, without being opened, be destroyed in like
26 manner as the used ballots of such election.

27 If the election authority receives from the same voter both
28 a marked absent voter's ballot returned by mail and a marked
29 absent voter's ballot returned by facsimile machine or
30 electronic transmission, the election authority shall count
31 the ballot returned by mail. The ballot returned by facsimile
32 or electronic transmission shall not be counted but shall be
33 marked "Rejected Duplicate FAX Ballot" and preserved with other
34 unopened, uncounted ballots.

35 All absent voters' ballots received by the election
36 authority after 12:00 noon on election day or too late for

1 delivery to the proper polling place before the closing of the
2 polls on election day, except ballots returned by mail
3 postmarked after midnight preceding the opening of the polls on
4 election day, shall be counted in the office of the election
5 authority on the day of the election after 7:00 p.m. All absent
6 voters' ballots delivered in error to the wrong precinct
7 polling place shall be returned to the election authority and
8 counted under this provision. Absent voter's ballots
9 transmitted by the voter to the election authority via
10 facsimile machine or electronic means may be counted in the
11 office of the election authority under this Section or they may
12 be delivered to the judges of election in the appropriate
13 precinct for counting as provided in Section 20-9.

14 Such counting shall commence no later than 8:00 p.m. and
15 shall be conducted by a panel or panels of election judges
16 appointed in the manner provided by law. Such counting shall
17 continue until all absent voters' ballots received as aforesaid
18 have been counted.

19 The procedures set forth in Section 19-9 of this Act and
20 Articles 17 and 18 of this Code, shall apply to all absent
21 voters' ballots counted under this provision; except that votes
22 shall be recorded without regard to precinct designation.

23 Where certain absent voters' ballots are counted in the
24 office of the election authority as provided in this Section,
25 each political party, candidate and qualified civic
26 organization shall be entitled to have present one pollwatcher
27 for each panel of election judges therein assigned.

28 (Source: P.A. 84-861.)

29 Section 99. Effective date. This Act takes effect upon
30 becoming law.