



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5018

by Rep. David E. Miller

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
10 ILCS 5/20-2.3 rep.	

Amends the Election Code. Includes members of the U.S. Armed Forces Reserves and the Illinois National Guard, and their spouses and dependents when residing with or accompanying them, among the persons covered by the Code's provisions for military, non-resident, and overseas voters. Authorizes these voters to transmit ballots and ballot applications by fax or electronic means (now, military voters may fax ballot applications). Requires election authorities to have the capability to send and receive fax and electronic transmissions. Requires the State Board of Elections to adopt appropriate rules. Effective immediately.

LRB095 18064 JAM 44147 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 components 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

1 the United States.

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

8 4. "Non-Resident Civilian Citizens" means civilian
9 citizens of the United States (a) who reside outside the
10 territorial limits of the United States, (b) who had maintained
11 a precinct residence in a county in this State immediately
12 prior to their departure from the United States, (c) who do not
13 maintain a residence and are not registered to vote in any
14 other State, and (d) whose intent to return to this State may
15 be uncertain.

16 5. "Official postcard" means the postcard application for
17 registration to vote or for an absentee ballot in the form
18 provided in Section 204(c) of the Federal Voting Rights Act of
19 1955, as amended (42 U.S.C. 1973cc-14(c)).

20 6. "Federal office" means the offices of President and
21 Vice-President of the United States, United States Senator,
22 Representative in Congress, delegates and alternate delegates
23 to the national nominating conventions and candidates for the
24 Presidential Preference Primary.

25 7. "Federal election" means any general, primary or special
26 election at which candidates are nominated or elected to

1 Federal office.

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

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

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

6 Sec. 20-2. Any member of the United States Service,
7 otherwise qualified to vote, who expects in the course of his
8 duties to be absent from the county in which he resides on the
9 day of holding any election may make application for an
10 absentee ballot to the election authority having jurisdiction
11 over his precinct of residence on the official postcard or on a
12 form furnished by the election authority as prescribed by
13 Section 20-3 of this Article not less than 10 days before the
14 election. An application for an absentee ballot may be sent to
15 the election authority by mail, by facsimile transmission, or
16 by other electronic means. Each election authority shall
17 establish means by which to send and receive absentee ballot
18 request forms by facsimile transmission or by other electronic
19 means. A request pursuant to this Section shall entitle the
20 applicant to an absentee ballot for every election in one
21 calendar year. The original application for ballot shall be
22 kept in the office of the election authority for one year as
23 authorization to send a ballot to the voter for each election
24 to be held within that calendar year. A certified copy of such
25 application for ballot shall be sent each election with the

1 absentee ballot to the election authority's central ballot
2 counting location to be used in lieu of the original
3 application for ballot. No registration shall be required in
4 order to vote pursuant to this Section.

5 Ballots under this Section shall be mailed or transmitted
6 by facsimile or by other electronic means by the election
7 authority in the manner prescribed by Section 20-5 of this
8 Article and not otherwise. Ballots voted under this Section may
9 be returned to the election authority by mail or by facsimile
10 transmission and must be returned to the election authority in
11 sufficient time for delivery to the election authority's
12 central ballot counting location before the closing of the
13 polls on the day of the election. Prior to the next general
14 election taking place after the effective date of this
15 amendatory Act of the 95th General Assembly, the State Board of
16 Elections shall promulgate rules for sending and receiving
17 applications, post cards, and ballots by facsimile or by other
18 electronic means. Rules shall include, at a minimum, a
19 requirement that returned ballots must be accompanied by the
20 voter's signature consenting to a waiver of the voter's right
21 to secrecy of the ballot.

22 (Source: P.A. 94-1000, eff. 7-3-06.)

23 (10 ILCS 5/20-2.1) (from Ch. 46, par. 20-2.1)

24 Sec. 20-2.1. Citizens of the United States temporarily
25 residing outside the territorial limits of the United States

1 who are not registered but otherwise qualified to vote and who
2 expect to be absent from their county of residence during the
3 periods of voter registration provided for in Articles 4, 5 or
4 6 of this Code and on the day of holding any election, may make
5 simultaneous application to the election authority having
6 jurisdiction over their precinct of residence for an absentee
7 registration and absentee ballot not less than 30 days before
8 the election. Such application may be made on the official
9 postcard or on a form furnished by the election authority as
10 prescribed by Section 20-3 of this Article and may be
11 transmitted to the election authority by mail or by facsimile.
12 A request for an application for an absentee ballot may be made
13 by a facsimile machine or by other electronic means. An
14 application ~~A request~~ pursuant to this Section shall entitle
15 the applicant to an absentee ballot for every election in one
16 calendar year. The original application for ballot shall be
17 kept in the office of the election authority for one year as
18 authorization to send a ballot to the voter for each election
19 to be held within that calendar year. A certified copy of such
20 application for ballot shall be sent each election with the
21 absentee ballot to the election authority's central ballot
22 counting location to be used in lieu of the original
23 application for ballot.

24 Registration shall be required in order to vote pursuant to
25 this Section. However, if the election authority receives one
26 of such applications after 30 days but not less than 10 days

1 before a Federal election, said applicant shall be sent a
2 ballot containing the Federal offices only and registration for
3 that election shall be waived.

4 Ballots under this Section shall be mailed or transmitted
5 by facsimile or by other electronic means by the election
6 authority in the manner prescribed by Section 20-5 of this
7 Article and not otherwise. Prior to the next general election
8 taking place after the effective date of this amendatory Act of
9 the 95th General Assembly, the State Board of Elections shall
10 promulgate rules for sending and receiving applications, post
11 cards, and ballots by facsimile. Rules shall include, at a
12 minimum, a requirement that ballots returned by facsimile must
13 be accompanied by the voter's signature consenting to a waiver
14 of the voter's right to secrecy of the ballot.

15 Ballots under this Section must be returned to the election
16 authority in sufficient time for delivery to the election
17 authority's central ballot counting location before the
18 closing of the polls on the day of the election.

19 (Source: P.A. 94-1000, eff. 7-3-06.)

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

21 Sec. 20-2.2. Any non-resident civilian citizen, otherwise
22 qualified to vote, may make application to the election
23 authority having jurisdiction over his precinct of former
24 residence for an absentee ballot containing the Federal offices
25 only not less than 10 days before a Federal election. Such

1 application may be made only on the official postcard and may
2 be made by facsimile or electronic transmission. A request
3 pursuant to this Section shall entitle the applicant to an
4 absentee ballot for every election in one calendar year at
5 which Federal offices are filled. The original application for
6 ballot shall be kept in the office of the election authority
7 for one year as authorization to send a ballot to the voter for
8 each election to be held within that calendar year at which
9 Federal offices are filled. A certified copy of such
10 application for ballot shall be sent each election with the
11 absentee ballot to the election authority's central ballot
12 counting location to be used in lieu of the original
13 application for ballot. No registration shall be required in
14 order to vote pursuant to this Section. Ballots under this
15 Section shall be mailed or transmitted by facsimile or by other
16 electronic means by the election authority in the manner
17 prescribed by Section 20-5 of this Article and not otherwise.
18 Ballots under this Section must be returned to the election
19 authority in sufficient time for delivery to the election
20 authority's central ballot counting location before the
21 closing of the polls on the day of the election. Prior to the
22 next general election taking place after the effective date of
23 this amendatory Act of the 95th General Assembly, the State
24 Board of Elections shall promulgate rules for sending and
25 receiving applications, post cards, and ballots by facsimile.
26 Rules shall include, at a minimum, a requirement that ballots

1 returned by facsimile must be accompanied by the voter's
2 signature consenting to a waiver of the voter's right to
3 secrecy of the ballot.

4 (Source: P.A. 94-1000, eff. 7-3-06.)

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

6 Sec. 20-4. Immediately upon the receipt of the official
7 postcard or an application as provided in Section 20-3 within
8 the times heretofore prescribed, the election authority shall
9 ascertain whether or not such applicant is legally entitled to
10 vote as requested, including verification of the applicant's
11 signature by comparison with the signature on the official
12 registration record card, if any. If the election authority
13 ascertains that the applicant is lawfully entitled to vote, it
14 shall enter the name, street address, ward and precinct number
15 of such applicant on a list to be posted in his or its office in
16 a place accessible to the public. Within one day after posting
17 the name and other information of an applicant for a ballot,
18 the election authority shall transmit that name and posted
19 information to the State Board of Elections, which shall
20 maintain the names and other information in an electronic
21 format on its website, arranged by county and accessible to
22 State and local political committees. As soon as the official
23 ballot is prepared the election authority shall immediately
24 deliver the same to the applicant in person or by mail, in the
25 manner prescribed in Section 20-5, or by use of a facsimile

1 machine or by other electronic transmission.

2 If any such election authority receives a second or
3 additional application which it believes is from the same
4 person, he or it shall submit it to the chief judge of the
5 circuit court or any judge of that court designated by the
6 chief judge. If the chief judge or his designate determines
7 that the application submitted to him is a second or additional
8 one, he shall so notify the election authority who shall
9 disregard the second or additional application.

10 The election authority shall maintain a list for each
11 election of the voters to whom it has issued absentee ballots.
12 The list shall be maintained for each precinct within the
13 jurisdiction of the election authority. Prior to the opening of
14 the polls on election day, the election authority shall deliver
15 to the judges of election in each precinct the list of
16 registered voters in that precinct to whom absentee ballots
17 have been issued.

18 Election authorities may transmit by facsimile or other
19 electronic means a ballot simultaneously with transmitting an
20 application for absentee ballot; however, no such ballot shall
21 be counted unless an application has been completed by the
22 voter and the election authority ascertains that the applicant
23 is lawfully entitled to vote as provided in this Section.

24 (Source: P.A. 94-645, eff. 8-22-05; 94-1000, eff. 7-3-06.)

25 (10 ILCS 5/20-5) (from Ch. 46, par. 20-5)

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

9 "CERTIFICATION

10 I state that I am a resident/former resident of the
 11 precinct of the city/village/township of,
 12 (Designation to be made by Election Authority) or of the
 13 ward in the city of (Designation to be made by
 14 Election Authority) residing at in said
 15 city/village/township in the county of and State of
 16 Illinois; that I am a

- 17 1. () member of the United States Service
- 18 2. () citizen of the United States temporarily residing
- 19 outside the territorial limits of the United States
- 20 3. () nonresident civilian citizen

21 and desire to cast the enclosed ballot pursuant to Article 20
 22 of The Election Code; that I am lawfully entitled to vote in
 23 such precinct at the election to be held on
 24

25 I further state that I marked the enclosed ballot in
 26 secret.

1 Under penalties as provided by law pursuant to Article 29
 2 of The Election Code, the undersigned certifies that the
 3 statements set forth in this certification are true and
 4 correct.

5 (Name)
 6
 7 (Service Address)"
 8
 9
 10

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

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

21 In addition to the above, if a ballot to be provided to an
 22 elector pursuant to this Section contains a public question
 23 described in subsection (b) of Section 28-6 and the territory
 24 concerning which the question is to be submitted is not
 25 described on the ballot due to the space limitations of such
 26 ballot, the election authority shall provide a printed copy of

1 a notice of the public question, which shall include a
2 description of the territory in the manner required by Section
3 16-7. The notice shall be furnished to the elector at the same
4 time the ballot is delivered to the elector.

5 The envelope in which such registration or such ballot is
6 mailed to the voter as well as the envelope in which the
7 registration materials or the ballot is returned by the voter
8 shall have printed across the face thereof two parallel
9 horizontal red bars, each one-quarter inch wide, extending from
10 one side of the envelope to the other side, with an intervening
11 space of one-quarter inch, the top bar to be one and
12 one-quarter inches from the top of the envelope, and with the
13 words "Official Election Balloting Material-VIA AIR MAIL"
14 between the bars. In the upper right corner of such envelope in
15 a box, there shall be printed the words: "U.S. Postage Paid 42
16 USC 1973". All printing on the face of such envelopes shall be
17 in red, including an appropriate inscription or blank in the
18 upper left corner of return address of sender.

19 Election authorities transmitting ballots by facsimile
20 machines or electronic means shall, to the extent practicable,
21 provide the voter by such means with the same instructions,
22 certification, and other materials required when sending by
23 mail. Prior to the next general election taking place after the
24 effective date of this amendatory Act of the 95th General
25 Assembly, the State Board of Elections shall promulgate rules
26 for sending and receiving applications, post cards, and ballots

1 by facsimile or by other electronic means.

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

3 (10 ILCS 5/20-6) (from Ch. 46, par. 20-6)

4 Sec. 20-6. Such absent voter shall make and subscribe to
5 the certifications provided for in the application and on the
6 return envelope for the ballot, and such ballot or ballots
7 shall then be folded by such voter in the manner required to be
8 folded before depositing the same in the ballot box, and be
9 deposited in such envelope and the envelope securely sealed.
10 Such envelope shall be mailed by such voter, to the officer
11 issuing the ballot or, if more convenient, it may be delivered
12 in person.

13 When the election authority accepts voted ballots by
14 facsimile machine, the voter may complete the ballot and return
15 it by facsimile machine to the election authority, accompanied
16 by a written signature consenting to a waiver of the voter's
17 right to secrecy of the ballot. The election authority shall
18 adopt procedures to limit access to completed ballots received
19 by facsimile machine.

20 If the absent voter wishes to return by mail a marked
21 ballot that the voter received from the election authority by
22 facsimile machine, the voter may use 2 plain envelopes, marking
23 one as the security envelope into which the voter shall insert
24 the marked ballot, and marking the outside envelope as the
25 return envelope for mailing, or the voter may use a single

1 envelope, provided the voter includes a waiver of the voter's
2 right to secrecy of the ballot. The envelope or envelopes shall
3 be sent to the proper election authority with sufficient paid
4 postage affixed.

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

6 (10 ILCS 5/20-7) (from Ch. 46, par. 20-7)

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

18 When the election authority permits the return of voted
19 ballots by use of facsimile machines, the election authority
20 shall take the necessary steps to prepare the ballot for
21 counting in a manner reasonably consistent with the procedure
22 required in this Section.

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

24 (10 ILCS 5/20-8) (from Ch. 46, par. 20-8)

1 Sec. 20-8. Time and place of counting ballots.

2 (a) (Blank.)

3 (b) Each absent voter's ballot returned to an election
4 authority, by any means authorized by this Article, and
5 received by that election authority before the closing of the
6 polls on election day shall be endorsed by the receiving
7 election authority with the day and hour of receipt and shall
8 be counted in the central ballot counting location of the
9 election authority on the day of the election after 7:00 p.m.,
10 except as provided in subsections (g) and (g-5).

11 (c) Each absent voter's ballot that is mailed to an
12 election authority and postmarked by the midnight preceding the
13 opening of the polls on election day, but that is received by
14 the election authority after the polls close on election day
15 and before the close of the period for counting provisional
16 ballots cast at that election, shall be endorsed by the
17 receiving authority with the day and hour of receipt and shall
18 be counted at the central ballot counting location of the
19 election authority during the period for counting provisional
20 ballots.

21 Each absent voter's ballot that is mailed to an election
22 authority absent a postmark, but that is received by the
23 election authority after the polls close on election day and
24 before the close of the period for counting provisional ballots
25 cast at that election, shall be endorsed by the receiving
26 authority with the day and hour of receipt, opened to inspect

1 the date inserted on the certification, and, if the
2 certification date is a date preceding the election day and the
3 ballot is otherwise found to be valid under the requirements of
4 this Section, counted at the central ballot counting location
5 of the election authority during the period for counting
6 provisional ballots. Absent a date on the certification, the
7 ballot shall not be counted.

8 (d) Special write-in absentee voter's blank ballots
9 returned to an election authority, by any means authorized by
10 this Article, and received by the election authority at any
11 time before the closing of the polls on election day shall be
12 endorsed by the receiving election authority with the day and
13 hour of receipt and shall be counted at the central ballot
14 counting location of the election authority during the same
15 period provided for counting absent voters' ballots under
16 subsections (b), (g), and (g-5). Special write-in absentee
17 voter's blank ballot that are mailed to an election authority
18 and postmarked by midnight preceding the opening of the polls
19 on election day, but that are received by the election
20 authority after the polls close on election day and before the
21 closing of the period for counting provisional ballots cast at
22 that election, shall be endorsed by the receiving authority
23 with the day and hour of receipt and shall be counted at the
24 central ballot counting location of the election authority
25 during the same periods provided for counting absent voters'
26 ballots under subsection (c).

1 (e) Except as otherwise provided in this Section, absent
2 voters' ballots and special write-in absentee voter's blank
3 ballots received by the election authority after the closing of
4 the polls on the day of election shall be endorsed by the
5 person receiving the ballots with the day and hour of receipt
6 and shall be safely kept unopened by the election authority for
7 the period of time required for the preservation of ballots
8 used at the election, and shall then, without being opened, be
9 destroyed in like manner as the used ballots of that election.

10 (f) Counting required under this Section to begin on
11 election day after the closing of the polls shall commence no
12 later than 8:00 p.m. and shall be conducted by a panel or
13 panels of election judges appointed in the manner provided by
14 law. The counting shall continue until all absent voters'
15 ballots and special write-in absentee voter's blank ballots
16 required to be counted on election day have been counted. If
17 the election authority receives from the same voter both a
18 marked absent voter's ballot returned by mail and a marked
19 absent voter's ballot returned by facsimile machine, the
20 election authority shall count the ballot returned by mail. The
21 ballot returned by facsimile shall not be counted but shall be
22 marked "Rejected Duplicate FAX Ballot" and preserved with other
23 unopened, uncounted ballots.

24 (g) The procedures set forth in Articles 17 and 18 of this
25 Code shall apply to all ballots counted under this Section. In
26 addition, within 2 days after a ballot subject to this Article

1 is received, but in all cases before the close of the period
2 for counting provisional ballots, the election judge or
3 official shall compare the voter's signature on the
4 certification envelope of that ballot with the signature of the
5 voter on file in the office of the election authority. If the
6 election judge or official determines that the 2 signatures
7 match, and that the voter is otherwise qualified to cast a
8 ballot under this Article, the election authority shall cast
9 and count the ballot on election day or the day the ballot is
10 determined to be valid, whichever is later, adding the results
11 to the precinct in which the voter is registered. If the
12 election judge or official determines that the signatures do
13 not match, or that the voter is not qualified to cast a ballot
14 under this Article, then without opening the certification
15 envelope, the judge or official shall mark across the face of
16 the certification envelope the word "Rejected" and shall not
17 cast or count the ballot.

18 In addition to the voter's signatures not matching, a
19 ballot subject to this Article may be rejected by the election
20 judge or official:

21 (1) if the ballot envelope is open or has been opened
22 and resealed;

23 (2) if the voter has already cast an early or grace
24 period ballot;

25 (3) if the voter voted in person on election day or the
26 voter is not a duly registered voter in the precinct; or

1 (4) on any other basis set forth in this Code.

2 If the election judge or official determines that any of
3 these reasons apply, the judge or official shall mark across
4 the face of the certification envelope the word "Rejected" and
5 shall not cast or count the ballot.

6 (g-5) If a ballot subject to this Article is rejected by
7 the election judge or official for any reason, the election
8 authority shall, within 2 days after the rejection but in all
9 cases before the close of the period for counting provisional
10 ballots, notify the voter that his or her ballot was rejected.
11 The notice shall inform the voter of the reason or reasons the
12 ballot was rejected and shall state that the voter may appear
13 before the election authority, on or before the 14th day after
14 the election, to show cause as to why the ballot should not be
15 rejected. The voter may present evidence to the election
16 authority supporting his or her contention that the ballot
17 should be counted. The election authority shall appoint a panel
18 of 3 election judges to review the contested ballot,
19 application, and certification envelope, as well as any
20 evidence submitted by the absentee voter. No more than 2
21 election judges on the reviewing panel shall be of the same
22 political party. The reviewing panel of election judges shall
23 make a final determination as to the validity of the contested
24 ballot. The judges' determination shall not be reviewable
25 either administratively or judicially.

26 A ballot subject to this subsection that is determined to

1 be valid shall be counted before the close of the period for
2 counting provisional ballots.

3 (g-10) All ballots determined to be valid shall be added to
4 the vote totals for the precincts for which they were cast in
5 the order in which the ballots were opened.

6 (h) Each political party, candidate, and qualified civic
7 organization shall be entitled to have present one pollwatcher
8 for each panel of election judges therein assigned.

9 (Source: P.A. 94-557, eff. 8-12-05; 94-1000, eff. 7-3-06;
10 95-699, eff. 11-9-07.)

11 (10 ILCS 5/20-2.3 rep.)

12 Section 10. The Election Code is amended by repealing
13 Section 20-2.3.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.