

§ 1973ee-2. Selection of registration facilities

(a) Each State or political subdivision responsible for registration for Federal elections shall provide a reasonable number of accessible permanent registration facilities.

(b) Subsection (a) of this section does not apply to any State that has in effect a system that provides an opportunity for each potential voter to register by mail or at the residence of such voter.

(Pub. L. 98-435, § 4, Sept. 28, 1984, 98 Stat. 1679.)

§ 1973ee-3. Registration and voting aids**(a) Printed instructions; telecommunications devices for the deaf**

Each State shall make available registration and voting aids for Federal elections for handicapped and elderly individuals, including—

- (1) instructions, printed in large type, conspicuously displayed at each permanent registration facility and each polling place; and
- (2) information by telecommunications devices for the deaf.

(b) Medical certification

No notarization or medical certification shall be required of a handicapped voter with respect to an absentee ballot or an application for such ballot, except that medical certification may be required when the certification establishes eligibility, under State law—

- (1) to automatically receive an application or a ballot on a continuing basis; or
- (2) to apply for an absentee ballot after the deadline has passed.

(c) Notice of availability of aids

The chief election officer of each State shall provide public notice, calculated to reach elderly and handicapped voters, of the availability of aids under this section, assistance under section 1973aa-6 of this title, and the procedures for voting by absentee ballot, not later than general public notice of registration and voting is provided.

(Pub. L. 98-435, § 5, Sept. 28, 1984, 98 Stat. 1679.)

§ 1973ee-4. Enforcement**(a) Action for declaratory or injunctive relief**

If a State or political subdivision does not comply with this subchapter, the United States Attorney General or a person who is personally aggrieved by the noncompliance may bring an action for declaratory or injunctive relief in the appropriate district court.

(b) Prerequisite notice of noncompliance

An action may be brought under this section only if the plaintiff notifies the chief election officer of the State of the noncompliance and a period of 45 days has elapsed since the date of notification.

(c) Attorney fees

Notwithstanding any other provision of law, no award of attorney fees may be made with respect to an action under this section, except in any action brought to enforce the original judgment of the court.

(Pub. L. 98-435, § 6, Sept. 28, 1984, 98 Stat. 1679.)

§ 1973ee-5. Relationship to Voting Rights Act of 1965

This subchapter shall not be construed to impair any right guaranteed by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(Pub. L. 98-435, § 7, Sept. 28, 1984, 98 Stat. 1679.)

REFERENCES IN TEXT

The Voting Rights Act of 1965, referred to in text, is Pub. L. 89-110, Aug. 6, 1965, 79 Stat. 437, as amended, which is classified generally to subchapters I-A (§1973 et seq.), I-B (§1973aa et seq.), and I-C (§1973bb et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of this title and Tables.

§ 1973ee-6. Definitions

As used in this subchapter, the term—

(1) “accessible” means accessible to handicapped and elderly individuals for the purpose of voting or registration, as determined under guidelines established by the chief election officer of the State involved;

(2) “elderly” means 65 years of age or older;

(3) “Federal election” means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) “handicapped” means having a temporary or permanent physical disability; and

(5) “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession¹ of the United States.

(Pub. L. 98-435, § 8, Sept. 28, 1984, 98 Stat. 1679.)

SUBCHAPTER I-G—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

PRIOR PROVISIONS

Provisions similar to this subchapter were contained in subchapters I-D and I-E (1973cc et seq. and 1973dd et seq.) of this chapter prior to repeal by Pub. L. 99-410.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1973gg-4 of this title; title 10 section 1566; title 18 section 608; title 39 section 3406.

§ 1973ff. Federal responsibilities**(a) Presidential designee**

The President shall designate the head of an executive department to have primary responsibility for Federal functions under this subchapter.

(b) Duties of Presidential designee

The Presidential designee shall—

(1) consult State and local election officials in carrying out this subchapter;

(2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States as required under section 1973ff-1(4) of this title;

¹ So in original. Probably should be “possession”.

(3) carry out section 1973ff-2 of this title with respect to the Federal write-in absentee ballot for overseas voters in general elections for Federal office;

(4) prescribe a suggested design for absentee ballot mailing envelopes for use by the States as recommended in section 1973ff-3¹ of this title;

(5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions; and

(6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this subchapter, including a statistical analysis of uniformed services voter participation, a general assessment of overseas nonmilitary participation, and a description of State-Federal cooperation.

(c) Duties of other Federal officials

(1) In general

The head of each Government department, agency, or other entity shall, upon request of the Presidential designee, distribute balloting materials and otherwise cooperate in carrying out this subchapter.

(2) Administrator of General Services

As directed by the Presidential designee, the Administrator of General Services shall furnish official post card forms (prescribed under subsection (b) of this section) and Federal write-in absentee ballots (prescribed under section 1973ff-2 of this title).

(Pub. L. 99-410, title I, §101, Aug. 28, 1986, 100 Stat. 924; Pub. L. 105-277, div. G, title XXII, §2219(c), Oct. 21, 1998, 112 Stat. 2681-817; Pub. L. 107-107, div. A, title XVI, §1606(a)(2), Dec. 28, 2001, 115 Stat. 1279.)

REFERENCES IN TEXT

Section 1973ff-3 of this title, referred to in subsec. (b)(4), was amended generally by Pub. L. 107-107, div. A, title XVI, §1606(b), Dec. 28, 2001, 115 Stat. 1279, and, as so amended, no longer contains provisions relating to designs for absentee ballot mailing envelopes.

AMENDMENTS

2001—Subsec. (b)(2). Pub. L. 107-107 substituted “as required under section 1973ff-1(4) of this title” for “as recommended in section 1973ff-3 of this title”.

1998—Subsec. (b)(6). Pub. L. 105-277 substituted “of uniformed services voter participation, a general assessment of overseas nonmilitary participation,” for “of voter participation”.

EFFECTIVE DATE

Section 204 of Pub. L. 99-410 provided that: “The amendments and repeals made by this Act [see Short Title note below] shall apply with respect to elections taking place after December 31, 1987.”

SENSE OF CONGRESS REGARDING THE IMPORTANCE OF VOTING

Pub. L. 107-107, div. A, title XVI, §1601, Dec. 28, 2001, 115 Stat. 1274, provided that:

¹ See References in Text note below.

“(a) SENSE OF CONGRESS.—It is the sense of Congress that each person who is an administrator of a Federal, State, or local election—

“(1) should be aware of the importance of the ability of each uniformed services voter to exercise the right to vote; and

“(2) should perform that person’s duties as an election administrator with the intent to ensure that—

“(A) each uniformed services voter receives the utmost consideration and cooperation when voting;

“(B) each valid ballot cast by such a voter is duly counted; and

“(C) all eligible American voters, regardless of race, ethnicity, disability, the language they speak, or the resources of the community in which they live, should have an equal opportunity to cast a vote and to have that vote counted.

“(b) UNIFORMED SERVICES VOTER DEFINED.—In this section, the term ‘uniformed services voter’ means—

“(1) a member of a uniformed service (as defined in section 101(a)(5) of title 10, United States Code) in active service;

“(2) a member of the merchant marine (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-6)); and

“(3) a spouse or dependent of a member referred to in paragraph (1) or (2) who is qualified to vote.”

ELECTRONIC VOTING DEMONSTRATION PROJECT

Pub. L. 107-107, div. A, title XVI, §1604, Dec. 28, 2001, 115 Stat. 1277, provided that:

“(a) ESTABLISHMENT OF DEMONSTRATION PROJECT.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Defense shall carry out a demonstration project under which absent uniformed services voters are permitted to cast ballots in the regularly scheduled general election for Federal office for November 2002 through an electronic voting system. The project shall be carried out with participation of sufficient numbers of absent uniformed services voters so that the results are statistically relevant.

“(2) AUTHORITY TO DELAY IMPLEMENTATION.—If the Secretary of Defense determines that the implementation of the demonstration project under paragraph (1) with respect to the regularly scheduled general election for Federal office for November 2002 may adversely affect the national security of the United States, the Secretary may delay the implementation of such demonstration project until the regularly scheduled general election for Federal office for November 2004. The Secretary shall notify the Committee on Armed Services and the Committee on Rules and Administration of the Senate and the Committee on Armed Services and the Committee on House Administration of the House of Representatives of any decision to delay implementation of the demonstration project.

“(b) COORDINATION WITH STATE ELECTION OFFICIALS.—The Secretary shall carry out the demonstration project under this section through cooperative agreements with State election officials of States that agree to participate in the project.

“(c) REPORT TO CONGRESS.—Not later than June 1 of the year following the year in which the demonstration project is conducted under this section, the Secretary of Defense shall submit to Congress a report analyzing the demonstration project. The Secretary shall include in the report any recommendations the Secretary considers appropriate for continuing the project on an expanded basis for absent uniformed services voters during the next regularly scheduled general election for Federal office.

“(d) DEFINITIONS.—In this section:

“(1) ABSENT UNIFORMED SERVICES VOTER.—The term ‘absent uniformed services voter’ has the meaning given that term in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-6(1)).

“(2) STATE.—The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.”

GOVERNORS’ REPORTS ON IMPLEMENTATION OF RECOMMENDATIONS FOR CHANGES IN STATE LAW MADE UNDER FEDERAL VOTING ASSISTANCE PROGRAM

Pub. L. 107–107, div. A, title XVI, § 1605, Dec. 28, 2001, 115 Stat. 1277, provided that:

“(a) REPORTS.—(1) Whenever a State receives a uniformed services voting assistance legislative recommendation from the Secretary of Defense, acting as the Presidential designee, the chief executive authority of that State shall, not later than 90 days after receipt of that recommendation, provide a report on the status of implementation of that recommendation by that State.

“(2) If a legislative recommendation referred to in paragraph (1) has been implemented, in whole or in part, by a State, the report of the chief executive authority of that State under that paragraph with respect to that recommendation shall include a description of the changes made to State law to implement the recommendation. If the recommendation has not been implemented, the report shall include a statement of the status of the recommendation before the State legislature and a statement of any recommendation the chief executive officer has made or intends to make to the legislature with respect to that recommendation.

“(3) Any report under paragraph (1) shall be transmitted to the Secretary of Defense, acting as the Presidential designee. The Secretary shall transmit a copy of the response to each Member of Congress who represents that State.

“(b) PERIOD OF APPLICABILITY.—This section applies with respect to any uniformed services voting assistance legislative recommendation transmitted to a State by the Secretary of Defense, acting as the Presidential designee, during the three-year period beginning on the date of the enactment of this Act [Dec. 28, 2001].

“(c) DEFINITIONS.—In this section:

“(1) The term ‘uniformed services voting assistance legislative recommendation’ means a recommendation of the Presidential designee for a modification in the laws of a State for the purpose of improving the access to the polls of absent uniformed services voters and overseas voters.

“(2) The term ‘Presidential designee’ means the head of the executive department designated by the President under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(a)).

“(3) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

“(4) The term ‘Member of Congress’ includes a Delegate or Resident Commissioner to the Congress.”

EX. ORD. NO. 12642. DESIGNATION OF SECRETARY OF DEFENSE AS PRESIDENTIAL DESIGNEE

Ex. Ord. No. 12642, June 8, 1988, 53 F.R. 21975, provided: By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99–410) (“the Act”) [42 U.S.C. 1973ff(a)], it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is hereby designated as the “Presidential designee” under Title I of the Act [42 U.S.C. 1973ff et seq.].

SEC. 2. In order to effectuate the purposes of the Act [see Short Title note above], the Secretary of Defense is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this Order to any person or persons within the Department of Defense.

RONALD REAGAN.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973ff-1, 1973ff-3, 1973ff-6 of this title.

§ 1973ff-1. State responsibilities

Each State shall—

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

(2) accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;

(3) permit overseas voters to use Federal write-in absentee ballots (in accordance with section 1973ff-2 of this title) in general elections for Federal office; and

(4) use the official post card form (prescribed under section 1973ff of this title) for simultaneous voter registration application and absentee ballot application.

(Pub. L. 99–410, title I, § 102, Aug. 28, 1986, 100 Stat. 925; Pub. L. 107–107, div. A, title XVI, § 1606(a)(1), Dec. 28, 2001, 115 Stat. 1278.)

AMENDMENTS

2001—Par. (2). Pub. L. 107–107, § 1606(a)(1)(A), struck out “general, special, primary, or runoff” before “election for Federal office” and “and” after semicolon at end and inserted “and absentee ballot application” after “voter registration application”.

Par. (4). Pub. L. 107–107, § 1606(a)(1)(B), (C), added par. (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973ff, 1973ff-3 of this title.

§ 1973ff-2. Federal write-in absentee ballot for overseas voters in general elections for Federal office

(a) In general

The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general elections for Federal office by overseas voters who make timely application for, and do not receive, States, absentee ballots.

(b) Submission and processing

Except as otherwise provided in this subchapter, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an overseas voter shall not be counted—

(1) if the ballot is submitted from any location in the United States;

(2) if the application of the overseas voter for a State absentee ballot is received by the appropriate State election official less than 30 days before the general election; or

(3) if a State absentee ballot of the overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

(c) Special rules

The following rules shall apply with respect to Federal write-in absentee ballots: