

LAW REVIEW¹ 13116
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Military Voting in 2013

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

7.2—Service member or military spouse voting and domicile

7.4—How a Service Member or Military Spouse Can Vote

Five states (Kentucky, Louisiana, Mississippi, New Jersey, and Virginia) conduct their important state elections in November of odd-numbered years. In New Jersey and Virginia, statewide elections for Governor and other offices are held this year, in addition to state legislative elections. In Kentucky, Louisiana, and Mississippi the state legislative elections are held this year and the gubernatorial elections in 2015. Many cities (including New York City and Houston) are conducting mayoral elections on November 5, 2013.

VIRGINIA

On November 5, Virginia will elect a new Governor, Lieutenant Governor, and Attorney General, and all seats in the House of Delegates (lower house of the legislature) are also on the

¹I invite the reader's attention to www.roa.org/lawcenter. You will find more than 2000 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997.

²BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. For 43 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 36 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

ballot. State Senators were elected for a four-year term in 2011 and will not be on the ballot again until 2015.

The polls are open from 6 am until 7 pm. If you are out of town or expect to be out of town on November 5, you should apply for an absentee ballot *today*. Absentee ballots for members of the armed forces and military family members and overseas voters should be mailed out not later than September 21, but of course the local Registrar of Voters cannot mail out your ballot until he or she has your application in hand.

If you are a member of the armed forces on active duty, or if you are the voting age spouse or dependent of a service member, or if you are outside the United States, you can use the Federal Post Card Application (FPCA) to apply for your ballot and simultaneously register to vote. You can find a “wizard” for FPCA completion at www.overseasvotefoundation.org, the website of the Overseas Vote Foundation. That website also has an Election Official Directory, so that you can find the address of the Registrar of Voters of your county or independent city in Virginia.

If you are on active duty in the armed forces, or if you are the voting-age spouse or dependent of a service member, and if you are domiciled in Virginia, you are eligible to use the FPCA and to vote by absentee ballot in this election, regardless of whether you are currently living within or outside the United States. If you are uncertain as to where you are domiciled, make an appointment to see a military legal assistance attorney or send me an e-mail at SWright@roa.org.

If you are a Virginian living outside the United States *temporarily*, and if you *intend to return* to Virginia, then you are eligible to vote in this election. If you last lived in Virginia before leaving the United States, and if you are outside the United States *indefinitely* and have no *intent to return* to Virginia, you are eligible to vote by absentee ballot in Virginia in primary, general, special, and runoff elections for *federal office*, *but you are not eligible to vote in the November 5 state election*.

Here are the names, party affiliations, and postal and e-mail addresses for the Virginia candidates for Governor, Lieutenant Governor, and Attorney General:

Governor

Democrat *Terry R. McAuliffe* 1601 N. Kent St., Suite 900 - Arlington, VA 22209
info@terrymcauliffe.com

Republican *Ken T. Cuccinelli II* 10560 Main St., Suite 218 - Fairfax, VA 22030 ken@cuccinelli.com
Libertarian *Robert C. Sarvis* PO Box 224 - Annandale, VA 22003 info@robertsarvis.com

Lieutenant Governor

Democrat *Ralph S. Northam* PO Box 597 - Richmond, VA 23218 ralph@ralphnortham.com
Republican *E. W. Jackson* PO Box 15003 - Chesapeake, VA 23328 jackson@jacksonforlg.com

Attorney General

Democrat *Mark R. Herring* PO Box 6201 - Leesburg, VA 20178-7428 kevin@herringforag.com
Republican *Mark D. Obenshain* PO Box 555 - Harrisonburg, VA 22803-0555
campaign@markobenshain.com

For more information about Virginia elections, go to <http://www.sbe.virginia.gov/>. After Election Day, you can go to that site to learn who won.

NEW JERSEY

New Jersey will elect its Governor and Lieutenant Governor (running as a slate, as the President and Vice President run together) on November 5. State legislators and other officials will also be elected. The polls will be open from 6 am until 8 pm. If you are out of town, or if you expect to be out of town on Election Day, you should apply for your absentee ballot *today*.

In 2013, Republican Governor Chris Christie and Lieutenant Governor Kim Guadagno are running for reelection. The Democrat candidates are Barbara Buono for Governor and Milly Silva for Lieutenant Governor.

Also this year, but not simultaneously, New Jersey will conduct a special election for the office of United States Senator, to fill the vacancy caused by the recent death of Senator Frank Lautenberg. That special election will be held on October 16. Because it is not on the same day as the gubernatorial election, you will need to apply separately for an absentee ballot for the special election. In the Senate election, the two candidates are Cory Booker (Democrat) and Steve Lonegan (Republican).

If you are a member of the armed forces on active duty, or if you are the voting age spouse or dependent of a service member, or if you are outside the United States, you can use the Federal Post Card Application (FPCA) to apply for your ballot and simultaneously register to vote. You can find a "wizard" for FPCA completion at www.overseasvotefoundation.org, the website of the Overseas Vote Foundation. That website also has an Election Official Directory, so that you can find the address of the local election official for your New Jersey county.

If you are on active duty in the armed forces, or if you are the voting-age spouse or dependent of a service member, and if you are domiciled in New Jersey, you are eligible to use the FPCA and to vote by absentee ballot in this election, regardless of whether you are currently living within or outside the United States. If you are uncertain as to where you are domiciled, make an appointment to see a military legal assistance attorney or send me an e-mail at SWright@roa.org.

If you are a New Jersey domiciliary living outside the United States *temporarily*, and if you *intend to return* to New Jersey, then you are eligible to vote in the state election as well as the special election for the United States Senate. If you last lived in New Jersey before leaving the United States, and if you are outside the United States *indefinitely* and have no *intent to return* to New Jersey, you are eligible to vote by absentee ballot in New Jersey in primary, general, special, and runoff elections for *federal office, including the October 16 special Senate election, but you are not eligible to vote in the November 5 state election.*

For more information about New Jersey elections, please go to:

<http://nj.gov/state/elections/voting-information-military-overseas.html>