

## LAW REVIEW<sup>1</sup> 21032

May 2021

### Military Voting in 2021

By Captain Samuel F. Wright, JAGC, USN (Ret.)<sup>2</sup>

#### 7.2—Service member or spouse voting and domicile

New Jersey and Virginia will conduct gubernatorial and state legislative elections in 2021.<sup>3</sup> Albany (NY), Albuquerque (NM), Anchorage (AK), Atlanta (GA), Atlantic City (NJ), Birmingham (AL), Boston (MA), Buffalo (NY), Burlington (VT), Charlotte (NC), Cincinnati (OH), Cleveland (OH), Detroit (MI), Fort Worth (TX), Hoboken (NJ), Jackson (MS), Jersey City (NJ), Lansing (MI), Manchester (NH), Miami (FL), Minneapolis (MN), New Orleans (LA), New York (NY), Omaha (NE), Pittsburgh (PA), Rochester (NY), San Antonio (TX), Seattle (WA), and Syracuse (NY) will conduct mayoral elections this year.<sup>4</sup> There will likely be special elections to fill vacancies in the United States House of Representatives and perhaps in the United States Senate.

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<sup>1</sup>I invite the reader's attention to [www.roa.org/lawcenter](http://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.

<sup>2</sup>BA 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](mailto:SWright@roa.org).

<sup>3</sup>[https://en.wikipedia.org/wiki/2021\\_United\\_States\\_elections](https://en.wikipedia.org/wiki/2021_United_States_elections).

<sup>4</sup>*Id.*

The United States Coast Guard distributed the attached notice to Coast Guard personnel, to make them aware of the opportunity to vote in 2021 and to explain the necessary procedures. The Army, Navy, Marine Corps, Air Force, Space Force, Public Health Service commissioned corps, and National Oceanic & Atmospheric Administration commissioned corps should send out similar notices, if they have not already done so. Active-duty members of the uniformed services and their accompanying voting-age spouses and dependents are eligible to vote in these elections by absentee ballot.<sup>5</sup>

To vote this year, or in any year, the first step is to ascertain *where are you domiciled? What state is your legal residence?* Remember that you have one domicile for all legal purposes. You cannot be a Floridian<sup>6</sup> for tax purposes and a Nebraskan (or a domiciliary of some other state) for voting purposes. If you register to vote or vote in the state where you physically reside, to be close to your place of military duty, you will thereby become a domiciliary of that state and you will be required to pay state income tax and personal property tax in that state.<sup>7</sup>

#### **Please join or support ROA**

This article is one of 1800-plus “Law Review” articles available at <https://www.roa.org/page/lawcenter>. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. New articles are added each month.

ROA is almost a century old—it was established in 1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For many decades, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation’s defense needs.

Indeed, ROA is the *only* national military organization that exclusively supports America’s Reserve and National Guard.

Through these articles, and by other means, we have sought to educate service members, their spouses, and their attorneys about their legal rights and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA or eligible to join, but please understand that ROA members, through their

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<sup>5</sup>If you are physically present at the place of your domicile, you should vote in person on Election Day or during the early voting period.

<sup>6</sup>Florida is one of nine states that have no state income tax. The other eight states are Alaska, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming.

<sup>7</sup>See Law Review 19078 (September 2019).

dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

If you are now serving or have ever served in any one of our nation's seven uniformed services, you are eligible for membership in ROA, and a one-year membership only costs \$20. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve.

If you are eligible for ROA membership, please join. You can join on-line at [www.roa.org](http://www.roa.org) or call ROA at 800-809-9448.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

Reserve Officers Association  
1 Constitution Ave. NE  
Washington, DC 20002



15 JAN 21

UNCLAS  
ALCGPSC 004/21

SUBJ: 2021 VOTER REGISTRATION AND ABSENTEE BALLOT NOTIFICATION A. Coast Guard Voting Assistance Program, COMDTINST 1742.3 (series)

1. The right of U.S. citizens to vote is protected by the U.S. Constitution. Every voter must have the opportunity to register and vote, in person or by absentee, in any election for which he or she is eligible. To vote in U.S. elections, Coast Guard members and their eligible dependents must be registered in their state of legal residence.

2. 2021 is a federal voting off-year, however off-cycle special elections can be expected, and all eligible voters are encouraged to vote. If members or their voting eligible dependents do not expect to be present in their state of legal residence to vote, they may do so by using an absentee ballot.

3. Eligible voters who wish to register and vote absentee should do so by completing the Federal Post Card Application (FPCA). Please note that each state has their own deadlines for the receipt of absentee ballot requests and can be up to 21 days prior to the election.

4. The FPCA (SF-76) can be completed easily online at the Federal Voting Assistance Program (FVAP) website: <http://www.fvap.gov>. The website has an automated assistant to help members complete, save, and print the FPCA. Additionally, they can print a pre- paid envelope template for submission by mail. The FPCA is postage-paid within the U.S. Postal Service system, including APO and FPO addresses. Many states and territories allow return of FPCAs by fax. Note: Each state or territory has specific instructions for completing and submitting to local election offices.

5. Per REF (A), commands should provide the FPCA to all assigned military personnel and their eligible family members by:

- a. Communicating the FPCA availability on the FVAP website to all members.
- b. Having Unit Voting Assistance Officers (UVAO) registered and trained with FVAP. Please see <https://www.fvap.gov/vao/overview> on how to be a UVAO.
- c. Providing FPCAs in hardcopy or electronic means to members. COVID-19 has impacted FVAP's supply of printed forms and voting material. All documents should be downloaded off the website at: <http://www.fvap.gov>.

6. For questions, please contact the Service Voting Action Officer, Ms. Keirsten Current at [keirsten.e.current2@uscg.mil](mailto:keirsten.e.current2@uscg.mil).

7. Released by RDML S. N. Gilreath, Commander, Personnel Service Center.

8. Internet release is authorized.



Question for the Coast Guard?

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