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States Move to Allow Overseas and Military Voters to Cast Ballots by Internet

By IAN URBINA

WASHINGTON — Nearly three million overseas and military voters from at least 33 states will be permitted to cast ballots over the Internet in November using e-mail or fax, in part because of new regulations proposed last month by the federal agency that oversees voting.

The move comes as state and federal election officials are trying to find faster ways to handle the ballots of these voters, which often go uncounted in elections because of distance and unreliable mail service.

About 22 percent of military and overseas voters surveyed were unable to return their ballots in the 2008 election because of such problems, according to the Overseas Vote Foundation, a nonpartisan advocacy group.

Cybersecurity experts, election officials and voting-integrity advocates, however, have raised concerns about the plan. They point out that e-mail messages can be intercepted, that voting Web sites can be hacked or taken down by malicious attacks, and that the secrecy of ballots is hard to ensure once they are sent over the Web.

“The commission’s decision basically takes the hazards we’ve seen with electronic voting and puts them on steroids,” said John Bonifaz, legal director of Voter Action, a nonprofit voting rights group that sent a letter last month to the Election Assistance Commission, the agency that released the proposed guidelines.

A handful of states has allowed voters to cast ballots by e-mail or fax in prior elections, though the methods were usually limited to residents from specific pilot counties or to military voters in combat zones.

The coming election will be the first in which Internet voting will play a major role, now that 33 states have passed measures to allow their voters to cast ballots over the Internet.

Critics of the increased use of Internet voting say the commission is violating federal law by not allowing enough time for public comment on the guidelines and by circumventing the technical board that is supposed to review any such new regulations.

In 2008, about 2.9 million people overseas from the 33 states that now allow Internet voting were eligible to vote, according to a 2008 study by the United States Election Project at George Mason University. About 507,000 of them requested ballots.

State election officials have been pushing hard for better ways to handle overseas voters, and many have said they plan to use Internet voting.

Last year, Congress mandated that the election commission create guidelines for pilot programs to assist overseas voting, including Internet voting. While the commission's certification of voting technology is not mandatory, most states seek it.

Jeannie Layson, a spokeswoman for the commission, emphasized that the proposed guidelines, which will be finalized this month, are still only in draft form, that they would apply to only the November election and that new regulations would be devised for later elections.

"The E.A.C. hopes that the work we do in 2010 will assist states already running pilot programs to improve services for military and overseas voters," Ms. Layson said.

A number of high-profile cases of hacking, including an attack on Google this year and on the national electrical grid and air traffic control systems last year, have raised new concerns about the security of Internet voting. And razor-thin margins of victory are anticipated in dozens of House, Senate and governor's races this year, creating an added potential for disputed elections.

Critics of the new guidelines say they are flawed because they allow voting machine vendors to do some of the performance and security testing themselves. The results of those tests will then be submitted to the commission for certification.

Most security experts support the idea of using the Internet for registering to vote and for accessing blank ballots, but not for transmitting completed ballots.

Some lawmakers have vowed to slow the shift toward Internet voting.

Representative Carolyn B. Maloney, Democrat of New York, and Representative Michael McCaul, Republican of Texas, are working on legislation to establish a two-year moratorium on the electronic submission of ballots until stronger security standards are established.

Representative Rush D. Holt, Democrat of New Jersey, has a bill pending that would in effect ban Internet voting.

The Defense Department decided last year not to create its own Internet voting system until it first receives recommendations from a technical advisory committee that was created by the Help America Vote Act, which Congress passed in 2002.

Last year, the Pew Center on the States found that more than one-third of states did not provide military voters stationed abroad with enough time to vote.

Initial steps have been taken to address the problem. In last year's Defense Department authorization bill, several provisions were added, including one requiring all states to provide military voters with ballots at least 45 days before the election.

It also allowed states to initiate pilot programs for testing the use of Internet voting, but some states have misinterpreted that as requiring such systems.

Most of the states that have created pilot programs for Internet voting will allow voters to send completed ballots as an e-mail attachment. Others use fax, which used to be limited to phone lines. But because of the growing use of voice-over-Internet phone service, faxes are increasingly being sent on the Web.

"We have nothing but positive things to say about our experience," said Pat Hollarn, who retired last year as supervisor of elections for Okaloosa County, Fla., which has allowed voters to cast ballots via e-mail since 2000. Ms. Hollarn said she continued to support expanded Internet voting.

She explained that rather than allowing voters to cast ballots by e-mail, her county uses encryption software and sends these ballots through a protected virtual private network. The voters can cast ballots only from special kiosks in the foreign country.

Richard A. Clarke, a cybersecurity expert and the former counterterrorism chief under Presidents Bill Clinton and George W. Bush, said he remained skeptical about ballots being sent over the Internet.

"The ultimate solution is for some foundation or organization to put up a large cash prize and take actual voting systems that will be used and allow anyone to try to hack them," he said.

Chris Whitmire, a spokesman for the South Carolina Election Commission, said that his state had been receiving ballots by e-mail and fax since 2006 and that he had heard no complaints from voters who chose those methods.

"What we do hear is thanks from voters who previously couldn't get their ballots returned in time," he said, explaining that voters receive a blank ballot attached to an e-mail message, print it, mark it by hand, scan it and send it back to be counted.

Johnnie McLean, the deputy director for administration at the North Carolina State Board of Elections, which has offered overseas and military voters the option to use e-mail or fax for their ballots since 2006, said that when she gets a call from a soldier overseas who has missed deadlines but wants to vote, she is glad she has the e-mail option.

“Even though there are security issues,” Ms. McLean said, “those soldiers are real happy, too, that they don’t have to lose their right to vote.”

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