



Lynda J. Jacobsen

*Bill Analysis*  
Legislative Service Commission

## **H.B. 571**

123rd General Assembly  
(As Introduced)

**Reps. Peterson, Britton, Buehrer, Flannery, Hartnett, Grendell, Mottley, Redfern**

---

### **BILL SUMMARY**

- Permits a board of elections to conduct an election by mail if the board has not certified any candidates for placement on the ballot, if the election by mail has been requested by a legislative or taxing authority placing an issue or question on the ballot, and if the approval of at least three members of the board of elections and of each other legislative or taxing authority placing an issue or question on the ballot is obtained.
- Permits a board of elections to conduct an election by mail if the board has not certified any candidates for placement on the ballot, if the board has not received a request for an election by mail from a legislative or taxing authority placing an issue or question on the ballot, and if the board of elections, after the vote of at least three members of the board, requests and receives the approval of the legislative or taxing authority for the election by mail.
- Requires election by mail ballots, instructions for completing and returning those ballots, and voter identification and return envelopes for those ballots to be prepared and mailed to each qualified elector who is entitled to vote on the issue or question on or before the 25th day before the election.
- Generally requires electors to return election by mail ballots to the board of elections by 7:30 p.m. on the day of the election by mail, personal delivery, or delivery by specified members of the voter's family.
- Provides a method for obtaining replacement election by mail ballots if the elector certifies that the elector has not previously marked and returned a

ballot for that election, did not receive a ballot prior to the 15th day before the election, or received a ballot that was destroyed, lost, or spoiled.

- Requires a board of elections to appoint special election judges to count election by mail ballots, and creates a special procedure for counting those ballots.
- Provides for challenges of election by mail ballots when the elector's purported signature does not match the registration card, the elector is not a qualified elector in the precinct, more than one ballot is included in an envelope, or the judges have sufficient proof that the elector has died.

---

## TABLE OF CONTENTS

Circumstances under which a board of elections may conduct elections by mail .....	2
In general .....	2
Request of a legislative or taxing authority located in a single county.....	3
Request of a legislative or taxing authority located in more than one county .....	4
Request of the board with approval of the legislative or taxing authority .....	4
Notice of elections by mail.....	5
Conduct of an election by mail.....	5
Persons entitled to vote in an election by mail .....	5
Preparation of election by mail ballots by a board of elections .....	5
Marking and returning election by mail ballots.....	8
Replacement ballots.....	9
Counting election by mail ballots .....	10

---

## CONTENT AND OPERATION

### *Circumstances under which a board of elections may conduct elections by mail*

#### *In general*

Under existing law, except for the specified circumstances in which electors are permitted to vote by absent voter's ballots, elections are required to be conducted in person at polling places selected by county boards of elections (secs. 3501.18 and 3505.18--not in the bill).<sup>1</sup>

---

<sup>1</sup> Section 3509.02 of the Revised Code permits electors to vote by absent voter's ballots under the following circumstances: (1) the elector is 62 years of age or older, (2) the

The bill permits elections to be conducted by mail under three specified circumstances when a board of elections has *not certified any candidates* for placement on the ballot (sec. 3507.01(A)). The bill does not affect the provisions of existing law requiring elections to be conducted in person at polling places selected by county boards of elections for elections in which a board has certified candidates for placement on the ballot.

**Request of a legislative or taxing authority located in a single county**

The legislative authority of any political subdivision in the county or any taxing authority in the county that has a question or issue certified to or by the board of elections for placement on the ballot may request that the election be conducted by mail. A request for an election by mail generally must be in writing and must be submitted to the board of elections by 4 p.m. of the 75th day before the election for which the request is being made. In the case of a question to adopt or amend a municipal corporation or county charter, however, the request must be made by 4 p.m. on the 60th day before the election for which the request is being made. The request must be submitted with the petition, ordinance, or resolution, if any, calling for an election for the submission of one or more questions or issues, as specified under existing law. The election must be conducted by mail if at least three members of the board of elections approve the request. (Sec. 3507.01(A)(1).) In determining whether to approve a request for an election by mail, the board of elections must consider the cost and the administrative advantages and disadvantages of conducting an election by mail (sec. 3507.01(C)).

---

*elector's employment as a full-time firefighter, peace officer, or provider of emergency medical services may prevent the elector from voting at the elector's polling place on the day of the election, (3) the elector is a member of the organized militia serving on active duty in Ohio, (4) the elector will be absent from the polling place on the day of the election because of the elector's entry, or the entry of a member of the elector's family, into a hospital for medical or surgical treatment, (5) the elector is confined in a jail or workhouse under sentence for a misdemeanor or is awaiting trial on a felony or misdemeanor charge, (6) the elector will be unable to vote on the day of the election due to observance of the elector's religious belief, (7) the elector will be absent from the county in which the elector's voting residence is located on the day of an election, and (8) the elector has a physical disability, illness, or infirmity.*

*Chapter 3511. of the Revised Code codifies the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff, specifying procedures by which members of the Armed Services serving outside Ohio, and their spouses and dependents residing with them, may vote by absent voter's ballots.*

If more than one political subdivision or taxing authority has a question or issue certified for placement on the ballot, the board of elections *must not conduct* an election by mail without the approval of each of those political subdivisions or taxing authorities and the approval of at least three members of the board (sec. 3507.01(B)).

**Request of a legislative or taxing authority located in more than one county**

If the political subdivision or taxing authority requesting an election by mail is located in more than one county, it must submit the required written request, with copies of any required petition, ordinance, or resolution, to the board of elections *in each county in which the political subdivision or taxing authority is located*. The election will only be conducted by mail if the request is approved by at least three members of each board of elections that receives the request. (Sec. 3507.01(A)(2) and (B).)

If more than one political subdivision or taxing authority has a question or issue certified for placement on the ballot, and if any of those political subdivisions or taxing authorities is located in more than one county, a board of elections must not conduct an election by mail without the approval of (1) each of those political subdivisions or taxing authorities and (2) at least three members of the board of elections of each county in which those political subdivisions or taxing authorities are located (sec. 3507.01(B)).

**Request of the board with approval of the legislative or taxing authority**

If a board of elections has not received a request to conduct an election by mail from the legislative authority of the relevant political subdivision or from the relevant taxing authority, the board, by affirmative vote of at least three of its members, may seek the approval of the relevant political subdivision or taxing authority to conduct an election by mail. The board must not conduct an election by mail unless it receives the approval of the legislative authority of the political subdivision or the approval of the taxing authority. If the political subdivision or taxing authority is located in more than one county, the political subdivision or taxing authority must not approve an election by mail without being requested by the affirmative votes of at least three members of the board of elections of each county in which the political subdivision or taxing authority is located. (Sec. 3507.01(A)(3).)

**Notice of elections by mail**

Under continuing law, at least ten days before an election, the board of elections is required to give public notice of the election by a proclamation posted

in a conspicuous place in the courthouse and city hall or by one insertion in a newspaper published in the county, or, if no newspaper is published in the county, in a newspaper of general circulation in the county (sec. 3501.03(A)). The bill retains these provisions with regard to elections in which the board has certified a candidate or candidates for the ballot, and requires the board, in the case of an election by mail, to give the notice at least ten days before the date on which the board mails the election by mail ballots. The notice must indicate when and where a person who is a qualified elector may vote if the person moves from one precinct to another or changes names on or prior to the day before the election and has not filed with the board a change of residence or change of name. (Sec. 3501.03(B).)

### **Conduct of an election by mail**

#### **Persons entitled to vote in an election by mail**

Any qualified elector who is a resident of a political subdivision or whose taxing authority has a question or issue certified for placement on the ballot as of the day of the election is entitled to vote at an election by mail when that type of election is held. Any qualified elector of that type who moves from one precinct to another or who changes names on or prior to the day before the day of the election and who has not filed a notice of change of residence or notice of change of name with the board of elections may vote at that election, but only at the office of the board of elections or another site designated by the board. (Sec. 3507.06.)

#### **Preparation of election by mail ballots by a board of elections**

A board of elections must provide proper ballots for use at each election at which an election by mail is conducted. The size, type of paper, and form of the ballots must be approved for use at the election by the board, and the ballots must be of the same size, printed on the same type of paper, and in the same form as has been approved for use at the election by persons who are entitled to vote by absent voter's ballots. The ballots must be designated as "election by mail ballots" and must be printed and ready for mailing on or before the 25th day before the election. The director of the board of elections in each county must forward a copy of an election by mail ballot to the Secretary of State at least 25 days before the election. (Sec. 3507.05.)

The procedure for obtaining election by mail ballots is in addition to procedures provided under existing law for obtaining absent voter's ballots. But, absent voter's ballots provided for under existing law must be printed and ready for mailing on or before the 25th day before the election in precincts in which an election by mail is conducted. (Sec. 3507.09.)

The board of elections must mail a proper ballot, postage prepaid, to each qualified elector in the county who is entitled to vote on the question or issue, or questions or issues, certified for placement on the ballot. The ballots must be mailed on or before the 25th day before the election. With each ballot, the board also must mail both of the following (sec. 3507.02(A)):

- Instructions prescribed by the Secretary of State describing (1) how to mark and return the ballot, (2) how to obtain a replacement ballot if necessary, and (3) when and where to vote if the voter is a qualified elector who moves from one precinct to another or who changes the voter's name on or prior to the day before the day of the election and who has not filed a notice of change of residence or change of name with the board of elections;
- An unsealed envelope that must have printed on its face a form substantially as follows:

Identification Envelope

Statement of Voter

I, the undersigned voter, declare under penalty of election falsification all of the following:

I am a qualified elector of the state of Ohio.

The ballot within this identification envelope contained no voting marks of any kind when I received it, and I caused the ballot to be marked, enclosed in the identification envelope, and sealed in that envelope.

My voting residence in Ohio is ..... (street and number, if any, or rural route and number) of ..... (city, village, or township).

I have not previously marked and returned an election by mail ballot for this special election.

The statements above are true, as I verily believe.

.....



(Signature of Voter)

THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BOTH.

The board also must mail with the ballot, instruction sheet, and unsealed identification envelope an *unsealed return envelope* on the face of which must be printed the board's official title and postal address. The board may, but is not required, to have postage prepaid on the unsealed return envelope. Several blank lines must be printed on the upper left corner of the face of the return envelope, on which the voter may write the voter's name and return address. Below the blank lines, a box must be printed and beside it, the words "check if out-of-country."<sup>2</sup> The return envelope is required to be sized so that the identification envelope can be conveniently placed within it for returning the identification envelope to the board. (Sec. 3507.02(B).)

On the back of *each identification envelope and each return envelope*, the following must be printed (sec. 3507.02(C)):

Instructions to Voter:

If the flap on this envelope is so firmly stuck to the back of the envelope when you receive it as to require forcible opening in order to use it, open the envelope in the manner least injurious to it, and, after marking your ballots and enclosing them in the envelope for mailing them to the board of elections, reclose the envelope in the most practicable way, by sealing or otherwise, and sign the blank line printed below.

The flap on this envelope was firmly stuck to the back of the envelope when it was received, and required forced opening before sealing and mailing.

.....

<sup>2</sup> A voter must check the box if the voter will be outside the country on election day (sec. 3507.02(B)).



(Signature of Voter)

**Marking and returning election by mail ballots**

After receiving an election by mail ballot, and before placing any marks on that ballot, an elector is required to note whether there are any voting marks on the ballot. If there are any voting marks on the ballot, the elector immediately must return the ballot to the board of elections. If there are no voting marks on the ballot, the elector must (1) mark the ballot, (2) fold it in a manner so that the stub on it and the endorsements and facsimile signatures of the members of the board of elections on the back of it are visible, and (3) place and seal the ballot within the identification envelope received from the board of elections. The elector must then complete and sign the Statement of Voter on the outside of the identification envelope, under penalty of election falsification. (Sec. 3507.03(A).)

After signing the Statement of Voter, the elector generally must mail the identification envelope inside the return envelope, postage prepaid, to the board of elections from which the elector received it. Alternatively, the elector may choose to personally deliver the return envelope to the board, or the following individuals may personally deliver the return envelope to the board: the elector's spouse, father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother or half-brother, sister or half-sister, son, daughter, adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, niece, or full-time caregiver. The return envelope must not be transmitted to the board in any other manner, except as provided under current law for disabled voters, voters confined in jail, or voters unable to travel to a voting booth due to hospital confinement as a result of an accident or unforeseeable medical emergency (sec. 3509.08, not in, but referred to in, the bill). An elector who will be out of the country on the day of the election is required to check the box on the return envelope indicating that fact. (Sec. 3507.03(A).)

All envelopes containing marked election by mail ballots generally must be received by the board of elections by 7:30 p.m. on the day of the election. Election by mail ballots received after the deadline must not be counted, but the board is required to keep the late ballots in the sealed identification envelopes in which they are received, until the time provided under existing law for the destruction of all other ballots used at the election for which the ballots were provided (sec. 3505.31, not in, but referred to in, the bill). At that time, the uncounted late ballots must be destroyed. (Sec. 3507.03(B).)

If a return envelope indicates that the voter will be outside the country on the day of the election, the return envelope must be signed and postmarked by 7:30 p.m. on the day of the election and must be received by the board of elections

before the 11th day after the election. Ballots received between 7:30 p.m. on the day of the election and the close of business on the tenth day after the election must be counted on or after the 11th day after the election in the manner provided under existing law for counting absent voter's ballots (sec. 3509.06, not in, but referred to in, the bill). Any ballots that are signed or postmarked after 7:30 p.m. on the day of the election or that are received after the tenth day after the election must not be counted, but are required to be kept by the board in their sealed identification envelopes and destroyed at the time provided under existing law for the destruction of all other ballots used at the election for which those ballots were provided. (Sec. 3507.03(C).)

### **Replacement ballots**

The director of a board of elections is required to maintain a record of the name and address of each person to whom the board mails or gives an election by mail ballot. After the board has mailed or given an election by mail ballot to an elector for a particular election, it must not mail or give a replacement ballot to that elector for that election except as provided below. (Sec. 3507.04(D).)

An elector who wishes to obtain a replacement ballot must request the ballot in writing, and may obtain it in person or by mail. The request must contain one or more of the following statements made under penalty of election falsification (sec. 3507.04(A) and (B)(1)):

(1) The elector has not previously marked and returned an election by mail ballot for that election.

(2) The elector has not received an election by mail ballot prior to the 15th day before the election.

(3) The elector received an election by mail ballot, but it was destroyed, lost, or spoiled.

An elector who wishes to vote by a replacement ballot *in person* must deliver the written request for a replacement ballot to the board of elections no later than noon on the day of the election. An elector who wishes to vote by a replacement ballot *by mail* must deliver or cause to be delivered the written request to the board no later than the close of business on the third day prior to the election. (Sec. 3507.04(B)(2).)

The board of elections may designate the office of the board or one or more other appropriate sites in the county as the place or places where an elector may obtain an election by mail replacement ballot in person. When a replacement ballot is given to an elector at the office of the board or other appropriate site

designated by the board, the elector may retire to a voting compartment provided by the board and mark the replacement ballot. After marking the replacement ballot, the elector must (1) fold it, (2) place it in the identification envelope provided, (3) seal the identification envelope, (4) fill in and sign the statement on the envelope under penalty of election falsification, and (5) deliver the envelope to an employee of the board. (Sec. 3507.04(C).)

The board of elections must not mail or give a replacement ballot to any elector for any particular election if the board has received an identification envelope purporting to contain a marked election by mail ballot from that elector for that election (sec. 3507.04(E)). The director of the board of elections must maintain a record of the name and address of each person to whom the board mails or gives a replacement ballot (sec. 3507.04(D)).

### **Counting election by mail ballots**

A board of elections must count election by mail ballots at the office of the board or at another site designated by the board for the counting of those ballots. The board must appoint special election judges, who may be employees of the board, to count the ballots. The judges have the same authority as is exercised by precinct judges. The votes cast at the election by mail must be totaled, and the ballots must be preserved by the board in the same manner and for the same length of time as provided for ballots from non-mail elections under existing law (sec. 3505.31, not in, but referred to in, the bill). (Sec. 3507.07(A).)

Each of the identification envelopes purporting to contain an election by mail ballot that are delivered to the special election judges must be handled in the following manner (sec. 3507.07(B)):

(1) The signature of the elector on the outside of each identification envelope must be compared with the signature of that elector on that elector's registration form. Any challenger appointed under existing law may challenge the right of the elector named on the identification envelope to vote the election by mail ballot on the ground that the signature on the envelope is not the same as the signature on the registration form, or upon any of the other grounds upon which the right of persons to vote may be lawfully challenged (sec. 3505.21, not in, but referred to in, the bill). If no challenge is made, or if a challenge is made and not sustained, a judge must open the envelope without defacing the Statement of Voter and without mutilating the ballot inside, and must remove the ballot from the envelope. The ballot must then be counted.

(2) The name of each elector voting who is entitled to vote an election by mail ballot must be entered in a pollbook, poll list, or signature pollbook, and the

elector's registration card must be marked to indicate that the elector has voted. The date of the election also must be entered on the elector's registration form.

(3) If any challenge of the right of the elector to vote an election by mail ballot is made and sustained, the identification envelope of the elector must not be opened and must be endorsed "not counted," with the reasons for not counting it.

If any of the following are found with respect to an election by mail ballot, that ballot must *not be accepted or counted* (sec. 3507.08):

- The Statement of Voter accompanying an election by mail ballot is insufficient.
- The elector's signature on the outside of the identification envelope purporting to contain an election by mail ballot does not correspond to the signature on the elector's registration form.
- The elector is not a qualified elector in the precinct.
- The ballot envelope contains more than one ballot for any one question or issue or any voted ballot that the elector is not entitled to vote.
- The judges have sufficient proof that the elector who marked and forwarded the elector's ballot has died.

The vote of any election by mail voter may be challenged for cause in the same manner as votes are challenged under existing law, and the board of elections must determine the legality of the election by mail ballot. Every election by mail ballot that is not counted must be endorsed on the back "not counted," with the reasons for not counting it, and must be enclosed and retained by the board of elections along with the contested ballots. (Sec. 3507.08.)

Finally, person may disclose the count or any portion of the count, including the percentage of the count, of election by mail ballots prior to 7:30 p.m. on the day of the election (sec. 3507.07(C)).

---

## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-03-00	p. 1585

H0571-I.123/ejs

