



H.B. 406

124th General Assembly
(As Introduced)

Reps. Reidelbach, Hollister, Seitz, Calvert, Seaver, Niehaus, G. Smith, Schmidt, Setzer, Husted, Latta, Kearns, Webster, Patton, Williams, Distel, Lendrum, Faber, Schneider, Carmichael, Flowers

BILL SUMMARY

- Authorizes the Secretary of State to publish and distribute election statistics, official rosters, pamphlet laws, and session laws in an electronic format.
- Allows the Secretary of State to publish these documents electronically without complying with rules promulgated by the Department of Administrative Services.

CONTENT AND OPERATION

Current law

Publication of the election statistics and official rosters

Current law requires the Secretary of State (the Secretary) to biennially compile and publish 2,500 copies of the election statistics of Ohio; 4,000 copies of the official roster of federal, state, and county officers; and 2,500 copies of the official roster of township and municipal officers (sec. 111.12(A)).

Distribution of the pamphlet laws

Additionally, current law requires the Secretary to distribute the pamphlet laws. The pamphlet laws are to be distributed in the following manner (sec. 149.09):

- One copy to each county law library;
- One copy to each county auditor;

- 100 copies to the State Library Board;
- Any remaining copies to interested persons who request them.

Publication and distribution of the session laws

Finally, current law requires the Secretary to either annually or biennially publish and distribute a maximum of 900 copies of the session laws in a permanently bound form. These permanently bound volumes must contain copies of all enrolled acts, joint resolutions, a subject index, a table indicating the Revised Code sections affected, and a certificate that the laws, as assembled in each volume, are true copies of the original enrolled acts in the Secretary's office.

The Secretary must distribute the bound volumes of the session laws in the following manner:

- 109 copies to the Clerk of the House of Representatives.
- 43 copies to the Clerk of the Senate.
- One copy to each county auditor.
- One copy to each county law library.
- 75 copies to the Ohio Supreme Court.
- Two copies to the Division of the Library of Congress.
- Two copies to the State Library.
- Two copies to the Ohio Historical Society.
- 13 copies to the Legislative Service Commission.
- 200 copies may be distributed, free of charge, to public officials.

Remaining copies may be sold by the Secretary at a price to be determined by the Department of Administrative Services (DAS), but the selling price cannot exceed by 10% the cost of publication and distribution. (Sec. 149.091.)

Electronic records and signatures under the Uniform Electronic Transactions Act

The Uniform Electronic Transactions Act (UETA) authorizes state agencies to utilize electronic records and electronic signatures.¹ Generally, state agencies must determine if, and the extent to which, they will send and receive electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. (Sec. 1306.20(A), not in the bill.)

Furthermore, DAS must prescribe administrative rules governing the use of electronic records and electronic signatures by the agencies. The rules adopted by DAS must address all of the following (sec. 1306.21(A)(1) through (4), not in the bill):

- The minimum requirements for the method of creation, maintenance, and security of electronic records and electronic signatures;
- The control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and audibility of electronic records;
- Any other required attributes for electronic records that are specified for corresponding nonelectronic records or are reasonably necessary under the circumstances;
- The type of electronic signature required for those electronic records that must be signed;
- The manner and format in which the electronic signature must be affixed to the electronic record for those electronic records that must be signed;
- The identity of, or criteria that must be met by, any third party used by the person filing a document to facilitate the process for those electronic records that must be signed.

Additionally, DAS may adopt rules addressing the consistency and interoperability among state agencies with regard to electronic transactions, electronic signatures, and security procedures (sec. 1306.21(B)(1), not in the bill).

¹ R.C. 1306.20(I) defines "state agency as every organized body, office, or agency established by the laws of Ohio for the exercise of any function of state government, but does not include the General Assembly, any legislative agency, the Ohio Supreme Court, the other courts of record in the state, or any judicial agency.

If a state agency creates, uses, receives, or retains *electronic records*, any rules adopted by the state agency relating to electronic records must be consistent with the rules adopted by the DAS. Additionally, if a state agency creates, uses, or receives *electronic signatures*, the state agency must create, use, or receive the signatures in accordance with these DAS rules. (Sec. 1306.20(C) and (D), not in the bill.)

Finally, current law allows a state agency to waive requirements in the Revised Code, other than requirements concerning electronic transactions, that relate to the method of posting or displaying records, the manner of sending, communicating, or transmitting records, or the manner of formatting records (sec. 1306.20(B)(1)(a) through (c), not in the bill).

Changes proposed by the bill

Publication of the election statistics and the official roster

The bill states that the Secretary may compile and publish biennially the election statistics of Ohio, the official roster of federal, state, and county officers, and the official roster of township and municipal officers *in an electronic format* pursuant to the UETA in lieu of compiling and publishing these documents in a paper, book, or other nonelectronic format. (See **COMMENT 1**.) Additionally, the bill states that any rules adopted by the Secretary for electronically publishing these documents pursuant to the UETA *do not have to be consistent* with the previously discussed rules adopted by the DAS pursuant to the UETA for electronic records and signatures. (Sec. 111.12(B)(1).)

Finally, notwithstanding the previously discussed provisions in the UETA allowing an agency to waive certain requirements in the Revised Code, the Secretary must maintain the ability to compile and publish, and must compile and publish, the official rosters and election statistics in a paper, book, or other nonelectronic format for the purposes of public documents requests made under the Open Records Law and must provide a copy of any of these documents in their paper, book, or other nonelectronic format upon such a request. The bill states, however, that the Secretary is not required to produce more physical copies of the documents than existing law currently requires. (Sec. 111.12(B)(2).) (See **COMMENT 2**.)

Distribution of pamphlet laws

The bill also authorizes the Secretary of State to produce and distribute the pamphlet laws *in an electronic format* pursuant to the UETA. (See **COMMENT 1**.) If the Secretary produces and distributes the pamphlet laws in an electronic format, the Secretary must adopt rules establishing a schedule for the

electronic distribution of the pamphlet laws to county law libraries, county auditors, and the State Library Board as currently required under existing law. Additionally, the rules may authorize the compiling of one or more pamphlet laws in the same electronic distribution. (Sec. 149.09(B)(1).)

As with the electronic publication of the official rosters and election statistics, the bill states that any rules adopted by the Secretary for the electronic publishing of the pamphlet laws pursuant to the UETA *do not have to be consistent* with the rules adopted by DAS under the UETA for electronic records and signatures (sec. 149.09(B)(1)).

Finally, notwithstanding the previously discussed provisions in current law allowing an agency to waive certain requirements in the Revised Code, the Secretary must maintain the ability to produce and distribute the pamphlet laws in a nonelectronic format for the purposes of public documents requests made under the Open Records Law and must provide a copy upon such a request (sec. 149.09(B)(2)). (See **COMMENT 2**.)

Publication and distribution of the session laws

The bill authorizes the Secretary to compile, publish, and distribute the session laws *in an electronic format* under the UETA in lieu of producing it in a paper format (see **COMMENT 1**). If the Secretary compiles and publishes the session laws in an electronic format, the session laws must include copies of all enrolled acts, joint resolutions, a subject index, and a table indicating the Revised Code sections affected. Each compilation of session laws must include the Secretary's certificate that the laws as compiled and published are true copies of the original enrolled acts and joint resolutions in the Secretary's office. (Sec. 149.091(B)(2) and (3).)

Additionally, the bill allows the session laws to be distributed in an electronic format to the Clerk of the House of Representatives, the Clerk of the Senate, each county auditor, each county law library, the Ohio Supreme Court, the Library of Congress, the State Library, the Ohio Historical Society, and the Legislative Service Commission in a lesser number than that prescribed by existing law if the individual or entity consents to the lesser distribution (sec. 149.091(B)(4)).

Notwithstanding the maximum number of compilations permitted to be distributed by the Secretary under existing law, the electronic format of the session laws may be distributed to public officials free of charge. Additionally, the session laws may be sold in an electronic format to other individuals or entities at a price to be determined by the Department of Administrative Services, but that

selling price must not exceed by 10% the cost of publication and distribution. (Sec. 149.091(B)(5) and (6).)

Finally, as with the electronic publication and distribution of the official roster and election statistics and pamphlet laws, the bill states that any rules adopted by the Secretary relative to the publication and distribution of the session laws in an electronic format pursuant to the UETA *do not have to be consistent* with the rules adopted by DAS under the UETA for electronic records and signatures (sec. 149.091(B)(1)).

COMMENT

1. The UETA currently allows the Secretary of State to publish and distribute electronically the official rosters, the election statistics, the pamphlet laws, and the session laws. The Secretary, however, is subject to the rules promulgated by DAS under the UETA with regard to electronic records and electronic signatures.

2. Pursuant to the Open Records Law, all public records must be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. If a person chooses to obtain a copy of a public record, the public office or person responsible for the public record must permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. (Sec. 149.43(B)(1) and (2), not in the bill.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-17-01	p. 950

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