



Lynda Jacobsen

*Bill Analysis*  
Legislative Service Commission

## **H.B. 586**

124th General Assembly  
(As Introduced)

**Reps. Wilson, Carano, R. Miller, D. Miller, Distel, Lendrum, Rhine, Hoops, Flannery, Seaver, Ogg, Damschroder, Boccieri, Coates, Sulzer, Allen, Perry, Fedor, Woodard**

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### **BILL SUMMARY**

- Requires the designation of "Independent" to be printed on a ballot under the name of each candidate who files a nominating petition.

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### **CONTENT AND OPERATION**

#### **Statutory requirements for ballot designation**

Section 3505.03 of the Revised Code specifies the form that must be substantially followed in the printing of ballots for various offices in Ohio. The statute prescribes the order in which the various offices are to be placed on a ballot and other requirements, such as the rotation of candidate names from precinct to precinct and the manner in which a candidate's party affiliation is to be printed.

Under the name of each candidate who was nominated at a primary election and under the name of each candidate certified by a political party committee to fill a vacancy in a party nomination must be printed the name of the political party by which the candidate was nominated or certified. The name of the political party must be in less prominent type face than the type face in which the candidate's name is printed. Existing law prohibits any other words, designations, or emblems descriptive of a candidate, a candidate's political affiliation, or the manner in which a candidate was nominated or certified from appearing on the ballot. (Sec. 3505.03.)

#### **Constitutionality of existing law's ballot designation provisions**

Existing section 3505.03 has been held to be in violation of the First and Fourteenth Amendments to the United States Constitution insofar as it prohibits a candidate who files a nominating petition from being identified as unaffiliated with a political party, or "Independent." In *Rosen v. Brown*, the United States

Court of Appeals for the Sixth Circuit held that prohibiting a candidate from being identified as an "Independent" unconstitutionally burdened the right of individuals to associate for the advancement of political beliefs and of qualified voters to cast their votes effectively.<sup>1</sup> A subsequent case by the same court held that the ballot designation provisions of this section are constitutional as applied to minor political parties.<sup>2</sup>

**Changes proposed by the bill**

The bill generally retains the provisions of existing law regarding the ballot designations of candidates as they apply to major and minor political parties. For candidates who file nominating petitions, however, a new ballot designation is provided. Under the name of each candidate appearing on the ballot who filed a nominating petition, the designation of "Independent" must be printed. The designation of "Independent" must be in less prominent type face than the type face in which the candidate's name is printed. (Sec. 3505.03.)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	05-22-02	p. 1799

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<sup>1</sup> 970 F.2d 169 (6th Cir. 1992).

<sup>2</sup> *Schrader v. Blackwell*, 241 F.3d 783 (6th Cir. 2001).