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Bill Analysis

Legislative Service Commission

Sub. S.B. 79*

125th General Assembly
(As Reported by H. Education)

Sens. Stivers, Mumper, Miller

BILL SUMMARY

- Permits school district boards of education and governing boards of educational service centers to adopt resolutions authorizing a nonpartisan primary election to nominate candidates for positions as members of those boards.
- Limits the holding of a primary election for nominating candidates to a school district board or educational service center governing board to years in which the number of candidates for nomination is more than twice the number of available seats on the board at the general election.
- Specifies that a resolution adopting procedures for a primary election cannot be rescinded for at least five years.

CONTENT AND OPERATION

Existing law

(R.C. 3513.254 and 3513.255)

Existing law specifies the manner in which members of city, local, and exempted village boards of education and governing boards of educational service centers (ESCs) are to be nominated and elected. The name of each candidate must appear on the nonpartisan ballot, and candidates are nominated by petition. Nominating petitions for the candidates must be signed by a specified number of qualified electors of the school district, or, in the case of an ESC, by a specified number of electors who reside either in the school districts over which the ESC

* *This analysis was prepared before the report of the House Education Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

governing board has jurisdiction or in the subdistrict in which the candidate is running.¹ Nominating petitions must be filed with the board of elections no later than 4 p.m. of the 75th day before the day of the general election.

A nominating petition may not be accepted for filing by a board of elections if it appears to contain more than three times the minimum number of required signatures. The board also cannot accept for filing a nominating petition if the person, for the same election, has already become a candidate by other means for a municipal or township office or for any other position as a member of an ESC governing board or of a city, local, or exempted village board of education.

When a nominating petition has been accepted for filing by a board of elections, it cannot be invalidated if, upon verification of the signatures, the board finds that the number of signatures exceeds three times the minimum number of required signatures. The board may discontinue verifying a nominating petition when the number of verified signatures equals that minimum number.

Changes proposed by the bill

The bill retains the process described above for nominating and electing members of city, local, and exempted village boards of education and ESC governing boards. However, it also permits a school district or ESC to use a nonpartisan primary election under certain conditions to winnow the number of candidates for those boards.

Adoption of resolution authorizing nonpartisan primary election

(R.C. 3513.256(A) and (C))

Under the bill, a school district board of education or ESC governing board may adopt, upon a three-fifths vote of its membership, a resolution establishing procedures for a nonpartisan primary election. These procedures must specify that:

(1) The primary election will be held on the same day as the primary election for all other candidates for public office in that year;

¹ *The reference in current R.C. 3513.254 to electing members to the governing board of an ESC containing a single school district is obsolete. The Revised Code section cross-referenced in that regard (R.C. 3311.051) was repealed on July 1, 1997; subsequent to that repeal, all ESCs contain more than one school district. Thus, all ESC governing boards are elected pursuant to the procedure set forth in R.C. 3513.255 for ESCs containing more than one school district.*

(2) Nominating petitions must be filed with the board of elections not later than 4 p.m. of the 75th day before the primary election;

(3) The primary election takes place only if the number of candidates for nomination for a seat on the district or ESC board, as verified by the board of elections, is more than twice the number of available seats on that board in the general election; and

(4) The number of candidates who advance from the primary election to the general election is equal to twice the number of available seats on the board in the general election.

If a school district board or ESC governing board adopts a resolution establishing procedures for a primary election, it must inform the appropriate board of elections. To apply for a particular election, the resolution must be adopted at least 120 days before the deadline set by the resolution to become a candidate for nomination at that election. The candidates nominated under the resolution's procedures must appear on the nonpartisan ballot at the general election. Unless the resolution is rescinded, it applies to all subsequent nominations for a position as a member of that board.

Rescission of resolution

(R.C. 3513.256(B) and (D))

A school district or ESC board may pass a resolution rescinding the use of a nonpartisan primary election, but it cannot do so until at least five years after passage of the resolution that originally adopted procedures for that election. A resolution to rescind authorization for a primary election must be approved by three-fifths of the board's members. In addition, the board of elections must be notified of the change.

The new resolution will not apply to a particular election unless it is adopted at least 120 days prior to the deadline to become a candidate for nomination at that election under the procedures the resolution is rescinding. The resolution would apply to all subsequent nominations for a position as a member of that board. Nothing in the bill, however, prohibits a board that has rescinded a resolution from subsequently adopting another resolution authorizing the same or different procedure for a nonpartisan primary election.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-01-03	p. 310
Reported, S. Education	04-28-04	p. 1776
Passed Senate (32-1)	04-28-04	p. 1782
Reported, H. Education	---	---

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