



Bill Analysis

William J. Heaphy, III
John S. VanNorman

Legislative Service Commission

S.B. 101

126th General Assembly
(As Introduced)

Sens. Fedor, Dann, Roberts, Prentiss, Mallory, Hagan, Fingerhut, Wilson Zurz

BILL SUMMARY

- Proposes changes in the Election Law pertaining to the duties of the Americans with Disabilities coordinator in the Secretary of State's office, the training of poll workers in accordance with a standardized curriculum the Secretary of State must prescribe, specified mandatory reports to the General Assembly by the Secretary of State following each general, primary, or special election, county board of elections notifications to voter registration applicants whose applications are incomplete, the "public record" status of the names and addresses of electors whose voter registrations are cancelled and of the reason for that cancellation, the counting of ballots that are not spoiled in their entirety, the procedure for the conduct of any recount of ballots, the payment of the costs of a recount other than an automatic recount, specified prohibited political activities of a holder of the Secretary of State's office, and specified prohibited activities that affect the outcome of a primary, convention, or election.

TABLE OF CONTENTS

Background and overview..... 2
 Recent acts establishing current law 2
 Overview of S.B. 101 3
Changes proposed by the bill 4
 Americans with Disabilities Act coordinator duties 4
 Training of poll workers..... 5
 Reports to the General Assembly..... 5
 Voter registrations 6
 Ballot counting..... 6

Recount procedure.....	7
Payment of recount costs.....	8
Prohibited conduct by the Secretary of State.....	10
Further prohibited conduct by the Secretary of State	10
Prohibited statements relative to an election	11

CONTENT AND OPERATION

Background and overview

Recent acts establishing current law

Sub. H.B. 234. Sub. H.B. 234 of the 126th General Assembly modified the Election Law (Title XXXV of the Revised Code) by (1) authorizing a board of elections, in conjunction with a board of education of a city, local, or exempted village school district, the governing authority of a community school, or the chief administrator of a nonpublic school, to establish a program to allow certain students to serve as election officials, (2) establishing eligibility criteria for students to participate in and serve as election officials in such a program, (3) authorizing a board of education, governing authority, or chief administrator to establish additional criteria for students to participate in and serve as election officials in such a program, (4) specifying that not more than one precinct officer in any given precinct may be an individual under 18 years of age, (5) permitting all necessary and proper expenses of a board of elections pertaining to the conduct of elections, including any employee compensation and benefit expenses, to be considered by a court of common pleas in a mandamus action in determining the amount necessary to be appropriated by a board of county commissioners to the county's board of elections, and (6) making *numerous revisions to the Absent Voter's Ballots Law, the Armed Service Absent Voter's Ballots Law, and two related laws*, including permitting any qualified elector to vote by absent voter's ballots at an election and eliminating the qualifications that electors were required to meet under former law in order to vote by absent voter's ballots. This act took effect on January 27, 2006. Several of its absent voter's ballots and armed service absent voter's ballots provisions were modified by the act discussed immediately below.

Am. Sub. H.B. 3. Am. Sub. H.B. 3 of the 126th General Assembly made numerous modifications and additions to the statutes contained in the Election Law and changes to certain other election-related statutes dealing with the following topics: voter registration; the statewide voter registration database; mailed notification of general elections; publication of notice of elections; voting at locations other than a board of elections or a precinct polling place; the use of an attorney in fact by a disabled voter; voter identification and the meaning of

"photo identification" for purposes of the Election Law; the use of precinct voting location guides; challenges of registered voters; the use of observers; provisional ballots; absent voter's ballots and armed service absent voter's ballots; recounts; election calendars; the nomination and election of municipal court candidates (judges and certain clerks); Secretary of State election instructions and publications; prohibitions against the Secretary of State and the Attorney General serving in certain capacities; voting machines, marking devices, and automatic tabulating equipment; duplicate candidacy prohibitions; offenses concerning declarations of candidacy and petitions, declarations of intent to be a write-in candidate, nominating petitions, and other petitions; interference with elections; campaigning near the line of waiting voters; a private cause of action for "harassment in violation of the Election Law"; the Attorney General's authority to commence criminal actions for election fraud; initiative and referendum petitions; prohibitions applicable to convicted felons; the notice of intent to retire for candidates; federal election contests; completion of the canvass; and Campaign Finance Law matters. It also made miscellaneous modifications or additions in the Election Law related to voting information posting at polling places, the posting of certain information on the Ohio Elections Commission's web site, inappropriate references to the declaration of intent to be a write-in candidate, the names of certain offenses, the updating of voters' signatures used in poll lists or signature pollbooks, expenses incurred by a board of elections, and other matters. Portions of Am. Sub. H.B. 3 took effect on May 2, 2006, and other provisions of that act take effect on June 1, 2006, and January 1, 2009. As noted above, Am. Sub. H.B. 3 modified a few of Sub. H.B. 234's absent voter's ballots and armed service absent voter's ballots provisions.

Overview of S.B. 101

Many of S.B. 101's provisions address the same Election Law topics as the two acts mentioned above. Some of those provisions are identical or similar in nature to those acts' recently enacted provisions, but a few vary in some manner. S.B. 101 addresses the following topics that the two acts also addressed (albeit in a different manner in a few cases): the issuance and posting on the Secretary of State's web site of directives and advisories as to the proper methods of conducting elections (R.C. 3501.05(B)), provisional ballots (R.C. 3501.05(W), 3505.181, 3509.20, and 3511.20), the elimination of challengers (R.C. 3501.05, 3501.30, 3501.33, 3501.35, 3503.24, 3505.16, 3505.18, 3505.19 (outright repealed), 3505.20 (outright repealed), 3505.21, 3505.22 (outright repealed), 3505.25, 3506.13, 3509.06, 3509.07, 3511.12, 3513.19 (outright repealed), 3513.20 (outright repealed), 3517.014 (outright repealed), 3517.015, 3517.016, 3523.05, 3599.111, and 3599.38), board of elections web sites and the statewide voter registration database insofar as voters can check online for their correct precinct and polling place (R.C. 3501.19), the availability per precinct of a specified

number of voting machines, marking devices, or automatic tabulating equipment in counties that use the same as their primary voting system (R.C. 3506.20), "no fault" absent voter's balloting (R.C. 3509.02, 3509.03, 3509.04, 3509.06, and 3509.08), prohibitions against the Secretary of State serving in certain capacities (R.C. 3517.01(B)(2), 3517.081(E) and (F), and 3517.992(S)), and prohibitions and penalties for the failure to return voter registration applications within the appropriate time to an appropriate location (R.C. 3599.111).¹

The body of this analysis focuses generally only on the provisions of S.B. 101 that had *no counterpart* in the two acts. Those provisions are summarized in this analysis in a detailed "dot point" fashion along with citations to the relevant statutes.

Changes proposed by the bill²

Americans with Disabilities Act coordinator duties

- Requires the Americans with Disabilities Act (ADA) coordinator within the Office of the Secretary of State, prior to the 120th day before a general election, to inspect the interior and exterior premises of all polling places to ensure that they are in compliance with the requirements of the Americans with Disabilities Act of 1990. If the coordinator determines that those premises of any polling place are not in compliance, either the premises must be brought into compliance or, with the advice of and input from the local board of elections, the polling place must be relocated to other premises that are in compliance. These provisions replace current law's duty that the ADA coordinator assist the Secretary of State with ensuring that there is equal access to polling places for persons with disabilities. (R.C. 3501.05(V)(1)(a).)

¹ For a summary of Am. Sub. H.B. 3's enacted provisions or of Sub. H.B. 234's enacted provisions that overlap S.B. 101's topics, please see the Legislative Service Commission's final analyses for those acts or the **COMMENT** to this analysis which contains abbreviated background information in this regard. The reader also should be made aware that the text of numerous statutes in S.B. 101 reflect existing law at the time the bill was drafted, but, because Am. Sub. H.B. 3 and Sub. H.B. 234 amended many of those same statutes and enacted several new Revised Code sections, they no longer reflect existing law in S.B. 101.

² Please note that the citations in this portion of the analysis are to the Revised Code sections and divisions as they appear in S.B. 101. Many sections were amended (restructured) or enacted in Am. Sub. H.B. 3 or Sub. H.B. 234, and, thus, relevant current law citations might be different.

- Allows the ADA coordinator to appoint one or more qualified designees to carry out the latter duties (R.C. 3501.05(V)(1)(b)).
- Continues the following current law duties of the ADA coordinator: (1) to assist the Secretary of State with ensuring that each voter may cast the voter's ballot in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters, and (2) to advise the Secretary of State in the development of standards for the certification of voting machines, marking devices, and automatic tabulating equipment (R.C. 3501.05(V)(2) and (3)).

Training of poll workers

- Requires the Secretary of State to prepare a *standardized curriculum* that must be used for the training of all precinct polling place judges and clerks in Ohio (R.C. 3501.05(X)).
- Continues the current law requirement that all judges of elections be qualified electors who have completed a program of instruction that the applicable county board of elections has established (R.C. 3501.27(A)). As under current law, that program must be one the Secretary of State prescribes for the instruction of election officers in the *rules, procedures, and law relating to elections* (R.C. 3501.27(B)).
- Modifies current law, which (1) required boards of elections to use in each program of instruction the training materials the Secretary of State prepared and (2) permitted boards of elections to use in each program of instruction additional materials prepared by or on behalf of the board, by instead requiring each program of instruction to use the *standardized curriculum* that the bill requires the Secretary of State to prepare (R.C. 3501.27(B)).

Reports to the General Assembly

- Enacts a new statute that requires the Secretary of State, or the chief election officer of the state if other than the Secretary of State, not later than two months after the completion of the canvass of the election returns for each primary, general, or special election, to submit a report to the Senate and the House of Representatives regarding that election. The report must include, but is not limited to, (1) the number of absent voter's ballots requested, (2) the number of absent voter's ballots cast, (3) the number of provisional ballots

requested, (4) the number of provisional ballots cast, (5) the number of voter registration applications received, (6) the number of voter registration applications that were not processed due to errors on the application, (7) the number of ballots rejected as a result of overvotes or spoiling marks, and (8) the number of times the Secretary of State's or the chief election officer's name, likeness, voice, or image was used on publicly distributed voter education documents and advertisements since the last report made under the bill's requirement (R.C. 3501.40).

Voter registrations

- Requires each county board of elections that receives a voter registration application that is *incomplete*, other than incomplete with respect to a question as to whether the applicant would like to register to vote, to make all reasonable efforts to contact the applicant and request the applicant to provide whatever information is necessary to complete the application. A board of elections would be prohibited from retaining an incomplete voter registration application for more than 30 days after the receipt of that application without making all reasonable efforts to contact the applicant. (R.C. 3503.19(C)(2).)
- Specifies that (1) the name and address of each registered elector whose registration is *cancelled* for a reason authorized by law and (2) the reason the registered elector's registration was cancelled are matters of *public record* subject to inspection and copying in accordance with the Public Records Law (R.C. 3503.21(E) and R.C. 149.43--not in the bill).

Ballot counting

- Specifies that a ballot *cannot be rejected in its entirety* on the basis that the ballot is spoiled, if the voter's choice may be determined for one or more offices, issues, or questions on the unspoiled portion of that ballot. The unspoiled portion of that ballot must be counted with respect to any offices, issues, or questions for which the voter's choice may be determined. (R.C. 3505.28(A).)
- Continues all of the following ballot counting rules of current law:
 - A ballot cannot be counted if it is marked contrary to law, except that no ballot can be rejected for any technical error unless it is impossible to determine the voter's choice.

--If two or more ballots are found folded together among the ballots removed from a ballot box, they must be deemed to be fraudulent and cannot be counted.

--A ballot cannot be rejected because of being marked with ink or by any writing instrument other than one of the pencils provided by the county board of elections.

Recount procedure

Modifies the *recount procedure* to work as follows (R.C. 3515.04):

- Similar to current law, at the time and place fixed for making a recount, the county board of elections, in the presence of all observers (replaced "witnesses" in Am. Sub. H.B. 3) who may be in attendance, must open the sealed containers containing the ballots to be recounted.
- Unlike current law, which required the board of elections to then count those ballots, the board must begin the recount by *hand recounting a random sampling* of 10% of those ballots. See two dot points below.
- Similar to current law, if a county used punch card ballots and if a chad is attached to a punch card ballot by three or four corners, the voter must be deemed by the board of elections, in the recount, not to have recorded a candidate, question, or issue choice at the particular position on the ballot, and a vote cannot be counted at that particular position on the ballot in the recount. Also, similar to current law, (a) ballots may be handled only by the members of the board of elections or by the director or other employees of the board, (b) "observers" must be permitted to see the ballots, but not to touch them, and (c) the board cannot permit the counting or tabulation of votes shown on the ballots for any nomination, or for election to any office or position, or upon any question or issue, other than the votes shown on the ballots for the nomination, election, question, or issue concerning which a recount of ballots was applied for. The bill clarifies that restriction (c) above also applies to votes shown on ballots other than those concerning which an *automatic recount* is being conducted pursuant to R.C. 3515.011.
- Unlike current law, after recounting a random sampling of 10% of the ballots (see two dot points above), the board of elections must determine whether the recount of the random sampling indicates the

potential that, if the board completes the recount of all of the relevant ballots, the applicant or the declared defeated nominee or candidate in an automatic recount, in the case of a person for whom votes were cast for nomination or election, would be declared to be nominated or elected, or the result of an election upon a question or issue would be declared to be contrary to the result as originally declared. If the board determines that there is such a potential, the board must complete the recount of all of the relevant ballots with the *cost of that recount charged to the office of the Secretary of State*. But, if the board determines otherwise, it must not recount the remainder of the relevant ballots.

- Similar to current law, at any time before the ballots from all of the precincts listed in an application for the recount or involved in the automatic recount have been recounted, the applicant, or the declared defeated nominee or candidate or each of the declared defeated nominees or candidates entitled to file a request prior to the commencement of a recount as provided in R.C. 3515.03, may file with the board of elections a written request to stop the recount and not recount the ballots from the precincts so listed or so involved that have not been recounted before the request. If, upon the request, the board finds that results of the votes in the precincts recounted, if substituted for the results of the votes in those precincts as shown in the abstract of the votes in those precincts, would not cause the applicant or the declared defeated nominee or candidate in an automatic recount, in the case of a person for whom votes were cast for nomination or election, to be declared nominated or elected or the result of an election upon a question or issue to be declared to be contrary to the result as originally declared, it must grant the request and cannot recount the ballots of the precincts listed in the application for recount or involved in the automatic recount that have not been recounted before that time. If the board finds otherwise, it must deny the request and continue to recount ballots until the ballots from all of the precincts listed in the application for recount or subject to the automatic recount have been recounted.

Payment of recount costs

Modifies the provisions governing the payment of the costs of a recount (other than an automatic recount) as follows (R.C. 3515.07):³

³ *The reader should note that this current law discussion reflects Am. Sub. H.B. 3's provisions. The dollar figures proposed by S.B. 101 are actually lower than those*

- Similar to current law, the charges for making a recount of votes of precincts listed in an application for a recount filed with the county board of elections must be fixed by the board and include all expenses incurred by the board because of the application other than the regular operating expenses that the board would have incurred if the application had not been filed. The total amount of charges so fixed divided by the number of precincts listed in the application, the votes of which were recounted, generally must be the charge per precinct for the recount of the votes of the precincts listed in the application, the votes of which were recounted. But, as enacted by Am. Sub. H.B. 3, the charges per precinct so fixed cannot be more than \$50 or less than \$5 for each precinct the votes of which were recounted.
- Substitutes the deduction procedure mentioned in the next dot point for the following deduction procedure *of current law*: the board of elections must deduct the charge per precinct from the money deposited with the board by the applicant for the recount at the time of filing the application, and the balance of the money so deposited must be returned to the applicant. However, *no deduction can occur* for a recount of votes cast for a nomination or for an election to an office or position in any precinct if the total number of votes cast in that precinct for the applicant, as recorded by the recount, is more than 4% larger than the number of votes for the applicant in that precinct recorded in the original certified abstract; and no deduction can occur for a recount of votes cast in any precinct upon a question or issue if the total number of votes in that precinct on the same side of that question or issue as the side represented by the applicant, as recorded by the recount, is more than 4% larger than the number of votes in that precinct on the same side of that question or issue recorded in the original certified abstract; and *no deduction can occur* in a recount if, upon its completion, the applicant is declared nominated or elected or the result concerning a question or issue is declared to be the opposite to the original declaration of the result.
- Establishes the following *new deduction procedure*. The board of elections must deduct the charge per precinct from the money deposited with the board by the applicant for the recount at the time

enacted by Am. Sub. H.B. 3 and, thus, are not discussed in this analysis as a change that S.B. 101 would make if enacted. See in the latter regard R.C. 3515.03 and 3515.07 which proposed increases from former law's \$10 amounts to \$20 amounts.



of filing the application, and the balance of the money so deposited must be returned to the applicant. However, *no deduction can occur* for a recount of votes cast for a nomination or for an election to an office or position in any precinct or for a recount of votes cast in any precinct upon a question or issue if the board of elections *completes the recount of all the relevant ballots* under the revised "**Recount procedure**," discussed above.

- Similar to current law, all moneys deposited with a board of elections by an applicant must be deposited in a special depository fund with the county treasurer. The expenses of a recount and refunds must be paid from that fund upon order of the board of elections. Any balance remaining in that fund must be paid into the general fund of the county.

Prohibited conduct by the Secretary of State

- With the exception of his or her own campaign, the Secretary of State (or the chief election officer of the state other than the Secretary of State) would be prohibited from (1) soliciting or accepting a contribution in support of or opposition to a candidate, (2) making a contribution or expenditure, including an independent expenditure, in support of or opposition to a candidate, or (3) making a speech at a political meeting in support of or opposition to a candidate or publicly endorsing or opposing a candidate (R.C. 3517.093).
- And, in conjunction with his or her own campaign, the Secretary of State (or the chief election officer of the state other than the Secretary of State) would be prohibited from appearing in joint campaign advertisements or conducting joint fundraising activities with a candidate for another office (R.C. 3517.093).
- Prescribes for a violation of either the previously mentioned prohibitions, which are located in the Campaign Finance Law, misdemeanor of the first degree penalties (R.C. 3517.992(F)).

Further prohibited conduct by the Secretary of State

- Prohibits the Secretary of State (or the chief election officer of the state other than the Secretary of State) from (1) being a member of or a treasurer or deputy treasurer of a committee supporting or opposing a ballot issue or question (also covered by Am. Sub. H.B. 3--see **COMMENT** 1), (2) soliciting or accepting a contribution in

support of or opposition to a ballot issue or question, (3) making a contribution or expenditure, including an independent expenditure, in support of or opposition to a ballot issue or question, (4) making a speech at a political meeting in support of or opposition to a ballot issue or question or publicly endorsing or opposing a ballot issue or question, or (5) in conjunction with his or her own campaign, appear in joint campaign advertisements or conduct joint fundraising activities in support of or opposition to a ballot issue or question (R.C. 3517.094).

- Prescribes for a violation of the previously mentioned prohibition, which is located in the Campaign Finance Law, misdemeanor of the first degree penalties (R.C. 3517.992(F)).

Prohibited statements relative to an election

- Prohibits any person, before, during, or after any primary, convention, or election, from knowingly making any false statement to affect the outcome of the primary, convention, or election, including any false statement regarding the date on which the primary, convention, or election is held. The bill specifies that a violation of the prohibition is a felony of the fourth degree, and, if the offender *is a candidate*, the offender also must forfeit the nomination the offender received at the primary or convention with respect to which the offense was committed, or if the offender *was elected to any office*, the offender also must forfeit the office to which the offender was elected at the election with respect to which the offense was committed. (R.C. 3599.07.)

COMMENT

1. The following is a summary of *some* of Am. Sub. H.B. 3's enacted provisions that address topics (albeit occasionally in different manners) that S.B. 101 also addresses:

Statewide voter registration database

--Beginning June 1, 2006, requires the Secretary of State, as part of the statewide voter registration database, to make available online during the 30 days prior to an election a web site interface that allows a voter to search for the polling location at which the voter may cast a ballot, and requires boards of elections to provide to the Secretary of State, during that time and for that purpose, updated locations of precinct polling places within one business day (R.C. 3503.15(G)(1)(b), (2), and (3)).



Challenges of registered voters

--Changed from 11 days prior to an election to 20 days prior to an election the deadline after which persons may not challenge the right to vote of a registered elector (R.C. 3503.24(A), 3505.19, and 3505.20).

--Permits pre-election challenges to be decided from the records of the board of elections without a hearing under certain circumstances (R.C. 3503.24(B) and 3505.19).

--Generally requires pre-election challenge hearings, when required, to be conducted, and the challenge to be decided, within ten days after the board of elections receives the challenge, but permits, in certain circumstances, those challenges to be resolved after the day of the election (R.C. 3503.24(B) and (D)).

--Eliminates the ability of any person, other than an election official, to challenge an elector's right to vote on the day of an election (R.C. 3505.20, 3505.21, 3505.22, 3505.25, and 3513.19(A)).

Use of observers

--Specifies that each of the act's provisions concerning the use of observers that are discussed below does not take effect until June 1, 2006 (Section 5 of the act).

--Replaces election "challengers" and "witnesses" with election "observers"; permits those observers to perform the duties formerly performed by election challengers and witnesses, except that observers are not permitted to challenge an elector's right to vote on election day; and confers new authority on observers with respect to provisional ballots (R.C. 3501.26, 3501.30(A)(4), 3501.33, 3501.35(B), 3501.90, 3505.16, 3505.183, 3505.21, 3505.22, 3505.25, 3505.26, 3505.27(A), 3505.32(B), 3506.12(B), 3506.13, 3509.06(E) and (F), 3513.22(B), 3515.03, 3515.04, 3515.13, 3523.05, and 3599.38(A)).

Provisional ballots

Requirements applicable prior to June 1, 2006:

--Mandates, for the May 2, 2006, primary election and for any special election conducted on that day, that provisional ballots meeting the requirements of federal law be made available to all voters for state and local elections (offices, questions, and issues) as if the ballots for those elections were ballots for an election for federal office (Section 9(B) of the act).

--Mandates, that for the May 2, 2006, primary election, that provisional ballots meeting the requirements of federal law be made available to all voters for an election for federal office (Section 9(C) of the act).

Requirements applicable on and after June 1, 2006:

--Specifies that each of the act's provisions concerning provisional ballots that are discussed below does not take effect until June 1, 2006 (Section 9(A) of the act).

--Establishes provisional ballots for the purposes of all elections conducted in this state, and specifies the voters eligible to cast a provisional ballot (R.C. 3501.05(X), 3501.19(C), 3503.16(B) and (C), 3503.19(C)(2) and (3), 3503.24(D)(3), 3505.18(A), 3505.181(A) and (C), 3505.20(A), (B), (C), and (D), 3505.22, 3509.09(B) and (C), 3511.13(B) and (C), and 3513.20).

Recounts

--Increases from \$10 to \$50 (a) the maximum per precinct charge that may be imposed for conducting a non-automatic recount and (b) the amount per precinct involved that must be deposited with a board of elections at the time of the recount application, and provides for the periodic indexing of the amounts for inflation (R.C. 3515.03, 3515.07, and 3515.072).

Secretary of State election instructions and publications

--Requires directives and advisories issued by the Secretary of State regarding the proper methods of conducting elections to be published on the Secretary of State's web site as soon as is practicable after they are issued, but not later than the close of business on the same day as they are issued; and requires those directives and advisories to be maintained on that web site while they are in effect and in an archive format thereafter (R.C. 3501.05(B)).

--Requires the Secretary of State to ensure that all directives, advisories, other instructions, or decisions issued or made during or as a result of any conference call or teleconference call with a board of elections (1) to discuss the proper methods and procedures for conducting elections, (2) to answer questions regarding elections, or (3) to discuss the interpretation of directives, advisories, or other instructions issued by the Secretary of State are posted on the Secretary of State's web site as soon as is practicable after the completion of the conference call or teleconference call, but not later than the close of business on the same day as the call takes place (R.C. 3501.05(W)).

--Requires the Secretary of State to publish a report on the Secretary of State's web site not later than one month after the completion of the canvass of the

election returns for each primary and general election identifying, by county, the number of absent voter's ballots and provisional ballots that were cast and the number of each of those types of ballots that were counted (R.C. 3501.05(X)).

Prohibitions against the Secretary of State serving in certain capacities

--Prohibits the Secretary of State from serving as a campaign treasurer or in any other official capacity for (1) any campaign committee for any state or local office other than an office to which the Secretary of State is seeking election, (2) any principal campaign committee or other authorized committee for any federal office other than an office to which the Secretary of State is seeking election, or (3) any committee named in an initiative petition, any committee named in a referendum petition, any person making disbursements for the direct costs of producing or airing electioneering communications, or any other committee regulated under the Campaign Finance Law (R.C. 3501.052(A), (B), and (C) and Section 12).

Voting machines, marking devices, and automatic tabulating equipment

--Requires each board of elections to conduct a full vote of the board during a public session of the board on the allocation and distribution of voting machines, marking devices, and automatic tabulating equipment for each precinct in the county (R.C. 3501.11(I)).

--Requires the Secretary of State, beginning in 2013 and every eight years thereafter, to establish a minimum number of machines that a county must have if it selects DRE voting machines as its primary voting system, and establishes a formula that the Secretary of State must use in establishing this number (R.C. 3506.22(A) and (B)). Section 514.03 of Am. Sub. H.B. 66 of the 126th General Assembly created a formula that the Secretary of State must use in establishing the minimum number of machines that a county must acquire if it selects DRE voting machines as its primary voting system and purchases those machines using funds provided under the Help America Vote Act of 2002. The act provides that, if a county selects DRE voting machines as the primary voting system to be used in the county after the act's effective date but before 2013, it must purchase the minimum number of machines as established by the Secretary of State pursuant to that original formula (R.C. 3506.22(C)).

--Specifies that a VVPAT must be treated as are other ballots for purposes of the Public Records Law, and requires it to be retained in accordance with the county records retention schedule established under the County Records Commission Law after the relevant time period prescribed for its preservation under the Election Law (similar to paper ballots) or as ordered by the Secretary of State or a court of competent jurisdiction (R.C. 3506.18(C)).

--Provides that, if a VVPAT is made available to the public, any information on it that identifies the particular DRE voting machine that produced it must be redacted (R.C. 3506.18(D)).

2. A common topic between S.B. 101 and Sub. H.B. 234 is changes to the Absent Voter's Ballots Law and the Armed Service Absent Voter's Ballots Law. The following were the changes made by the act in those laws and certain related laws:

Qualifications for a "regular" absent voter's ballot

--Permits any qualified elector to vote by absent voter's ballots at an election.

--Eliminates the qualifications that electors were required to meet under former law in order to vote by absent voter's ballots.

--Specifies in the Absent Voter's Ballots Law that overseas voters covered by the federal "Uniformed and Overseas Citizens Absentee Voting Act," other than absent uniformed services voters, may apply for an absent voter's ballot as provided in the Absent Voter's Ballots Law.

Required information and identification

--Eliminates provisions of former law that required certain information to be included in an absent voter's ballot application or armed service absent voter's ballot application consistent with the changes mentioned above, but specifies certain other information and forms of supporting documentation that must be included in or accompany an application (note these provisions were affected by Am. Sub. H.B. 3 too).

--Specifies that the director of the board of elections must promptly notify a voter who submits an incomplete absent voter's ballot application or armed service absent voter's ballot application about the information required to be provided to complete that application.

--Eliminates provisions of former law that required certain information to be included with a returned absent voter's ballot or armed service absent voter's ballot consistent with the changes mentioned above, but specifies certain other information (including date of birth) and forms of supporting documentation that must be included in or accompany the returned ballot.

--Specifies that, if the identification required to be included in or accompany a returned absent voter's ballot or armed service absent voter's ballot is not provided, the ballot must not be counted.

Casting a ballot in the precinct on the day of an election when an absentee ballot has been previously requested

--Permits a registered elector who has requested an absent voter's ballot or armed service absent voter's ballot that the director of the board of elections purportedly has received or has not received to cast another ballot in the precinct on the day of an election, and, if both an absent voter's ballot or armed service absent voter's ballot and another ballot are received by the board of elections under these circumstances, specifies which of them will be counted (note these provisions were affected by Am. Sub. H.B. 3).

--Relatedly requires the poll list or signature pollbook for each precinct to identify each registered elector in that precinct who requested either an absent voter's ballot or an armed service absent voter's ballot for the given election.

New prohibitions

--Establishes additional prohibitions applicable to the failure to return an absent voter's ballot application on behalf of another person and to the unauthorized possession of another person's absent voter's ballot (note these provisions were affected by Am. Sub. H.B. 3).

--Prohibits the reckless disclosure of the count or any portion of the count of absent voter's ballots in such a manner as to jeopardize the secrecy of any individual ballot.

HISTORY

ACTION	DATE
Introduced	03-08-05

S0101-I-corrected-126.doc/jc