



S.B. 284

126th General Assembly
(As Introduced)

Sens. R. Miller, Fingerhut

BILL SUMMARY

- Prohibits, as a misdemeanor of the first degree, a person from knowingly deceiving another person about (1) the time, place, or manner of conducting a general, primary, or special election in this state or (2) the qualifications for or restrictions on voter eligibility for any of those elections.
- Confers upon any person aggrieved by a violation of that prohibition a civil remedy: to commence, in the appropriate court of common pleas, a civil action or other proper proceeding for preventive relief, including a permanent or temporary injunction, restraining order, or other order.
- Prohibits a person, with the intent to prevent another person from exercising the right to vote in an election, from knowingly deceiving another person about any matter enumerated in (1) or (2) above, and prescribes enhanced criminal penalties for violations of this prohibition.
- Requires the Attorney General to investigate reports of alleged acts of deception made to the Attorney General's office, and to respond to determined violations of the bill's prohibitions (1) by undertaking all effective measures necessary to provide correct information to the affected voters and (2) by referring the matter for criminal prosecution to the appropriate prosecuting attorney.
- Requires the Attorney General to submit, following each election, to the General Assembly a specified report regarding allegations of acts of deception pertaining to that election.
- Requires the Attorney General also to conduct a study on the feasibility of providing correct information through forms of public broadcast to

voters affected by acts of deception, and to report of the study's results to the General Assembly.

CONTENT AND OPERATION

Prohibitions

First prohibition, criminal penalty, and civil remedy

The bill prohibits any person, whether acting under color of law or otherwise, from knowingly *deceiving* another person about (a) the time, place, or manner of conducting a general, primary, or special election in Ohio or (b) the qualifications for or restrictions on voter eligibility for any of those elections. A violation of this prohibition is a misdemeanor of the first degree (R.C. 3599.40--not in the bill).¹ In addition, any person aggrieved by a violation of this prohibition has a civil remedy: to commence, in the appropriate court of common pleas, a *civil action* or other proper proceeding *for preventive relief*. That relief may include a permanent or temporary injunction, restraining order, or other order. (R.C. 3517.25(A).)

On the 76th day after each primary, general, or special election, the clerk of the court of common pleas of each county must report to the Attorney General information on each civil action for preventive relief that was commenced in the county and that involved allegations of deceptive tactics that violated the bill's first prohibition and that related to the particular election (R.C. 3517.25(D)).

Second prohibition and penalty

The bill also prohibits a person, *with the intent* to prevent another person from exercising the right to vote in an election, from knowingly deceiving that other person about (a) the time, place, or manner of conducting a general, primary, or special election in Ohio or (b) the qualifications for or restrictions on voter eligibility for any of those elections.² A violation of this prohibition is punishable

¹ *The bill does not prescribe a distinct criminal penalty for a violation of this prohibition. Therefore, R.C. 3599.40 applies to the prohibition. It generally provides that a violation of the Election Law that is not otherwise covered by the Law is a misdemeanor of the first degree. Under the Criminal Code, the maximum definite jail term for such a misdemeanor is 180 days and the maximum fine for that misdemeanor is \$1,000 (R.C. 2929.24(A) and 2929.28(A)--not in the bill).*

² *Throughout the remainder of this analysis, deceiving another about (a) the time, place, or manner of conducting a general, primary, or special election in Ohio or (b) the qualifications for or restrictions on voter eligibility for any of those elections is referred*

by a fine of not more than \$100,000, imprisonment for not more than one year, or both such a fine and imprisonment. (R.C. 3517.25(B).)

Reports of acts of deception to the Attorney General and follow-up action

Any person may report to the Attorney General's office any act of deception covered by the bill. The Attorney General *generally* must investigate a report within 48 hours of its receipt. If the investigation results in the Attorney General's determination that an act of deception occurred, the Attorney General must undertake all effective measures necessary to provide correct *information to the affected* voters (see below) and must refer the matter for *criminal prosecution* to the prosecuting attorney of the county in which the act of deception allegedly occurred. (R.C. 3517.25(C)(1) and (2)(a).)

But, if a report of an act of deception is received within 72 hours before the day of the election, the Attorney General *immediately* must investigate that report. And, if the investigation results in the Attorney General's determination that an act of deception occurred, the Attorney General *immediately* must undertake all effective measures necessary to provide correct information to the affected voters (see below) and must refer the matter to the appropriate prosecuting attorney for criminal prosecution (R.C. 3517.25(C)(2)(b)).

The bill requires the Attorney General to develop in consultation with the Secretary of State, and to adopt in accordance with R.C. 111.15, *rules* regarding the effective measures necessary to provide correct information to voters affected by an act of deception. The rules must address the methods and means of the Attorney General's provision of correct information to the affected voters (referred to as "corrective actions" in the bill). (R.C. 3517.25(C)(3).)

Attorney General report to the General Assembly

Not later than 90 days after any primary, general, or special election, the Attorney General must submit to the General Assembly a report compiling and detailing any allegations of acts of deception reported to the Attorney General under the bill. Each of these reports must include (1) detailed information on specific allegations of deceptive tactics, (2) all corrective actions taken in response to those allegations, (3) the effectiveness of those corrective actions, (4) information reported to the Attorney General by clerks of courts of common pleas relative to civil actions for preventive relief commenced by aggrieved persons in connection with acts of deception, (5) statistical compilations regarding the

to as "an act of deception." The bill uses interchangeably "an act of deception" and "deceptive tactic."



number of allegations of acts of deception that were made and the types of deceptive tactics that were alleged, (6) the geographic locations of and the populations affected by alleged deceptive information, and (7) the status of investigations of allegations of acts of deception. (R.C. 3517.25(E)(1).) The bill allows the Attorney General to withhold from any such report any information that the Attorney General determines would unduly interfere with an ongoing investigation of an allegation of an act of deception (R.C. 3517.25(E)(2)).

The Attorney General must make available to the public on the Internet and through other appropriate means each report submitted to the General Assembly pursuant to the bill (R.C. 3517.25(E)(3)).

Attorney General study

The Attorney General must conduct a study on the feasibility of providing correct information to voters affected by acts of deception through public service announcements, the emergency alert system, or other *forms of public broadcast*. Not later than 180 days after the bill's effective date, the Attorney General must submit to the General Assembly a report detailing the results of that study. (Section 2 of the bill.)

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 03-09-06 |

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