



Ohio Legislative Service Commission

Bill Analysis

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S.B. 43

128th General Assembly
(As Introduced)

Sens. D. Miller, Fedor, Turner, Smith, R. Miller, Roberts, Coughlin, Sawyer

BILL SUMMARY

- Allows a political party to select delegates to its national presidential nominating convention according to the party's constitution and bylaws.
- Eliminates the requirement that these delegates be directly elected at the presidential primary election.

CONTENT AND OPERATION

Existing law

Presidential primary elections

Under existing law, "primary" or "primary election" means an election held for the purpose of nominating persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties and as delegates and alternates to the conventions of political parties. Primary elections generally are held on the first Tuesday after the first Monday in May of each year, except in years in which a presidential primary election is held. A "presidential primary election" is a primary election at which an election is held for the purpose of choosing delegates and alternates to the national conventions of the major political parties. In years in which a presidential primary election is held, all primary elections must be held on the first Tuesday after the first Monday in March, except as otherwise authorized by municipal or county charter. (R.C. 3501.01(E).)

Procedures for selecting delegates to the national party convention

There are currently two alternate procedures for selecting delegates to each national party convention. The systems differ for candidates who wish to appear on the statewide ballot and for those who only wish to appear on the ballot in certain Congressional districts.

Under the procedure for candidates for President of the United States who wish to appear on the statewide ballot, each person seeking to be elected as a delegate or alternate to the national convention of the person's political party must sign and file a written statement of their first and second choices for nomination as the candidate of the person's party for the presidency of the United States, along with the person's declaration of candidacy and certificate. The person seeking to be elected as a delegate or alternate also may file a signed declaration that, if elected as a delegate or alternate to the national party convention, the person will support the candidate for President of the United States selected by the voters of the person's party at the primary.

A person who is a first choice for President of candidates seeking election as delegates and alternates must file a list, indicating the order in which certificates of election are to be issued to delegate or alternate candidates to whose candidacy the person has consented, with the Secretary of State prior to the day of the election. (R.C. 3513.12.)

Under the alternate procedure, any candidate for the presidency of the United States who is eligible to receive payments under the federal Presidential Primary Matching Payment Account Act¹ may file a declaration of candidacy with the Secretary of State. This declaration must be filed by 4 p.m. of the 60th day before the presidential primary election held in the same year the candidate is eligible to receive such payments and must indicate the Congressional districts where the person's candidacy is to be submitted to the voters. Along with this declaration, the candidate must also file a list of candidates for district delegate and alternate to the national convention of the candidate's political party who have been selected in accordance with rules adopted by the state central committee of the candidate's political party. Those candidates for district delegate and alternate also must file a declaration of candidacy and a signed, written statement of their first and second choices for nomination as the candidate for the presidency of the United States, not later than 4 p.m. on the 60th day before the presidential primary election. Candidates for delegate at large and alternate at large who submit a declaration of candidacy under this alternate procedure must be selected in accordance with rules adopted by the state central committee of the presidential candidate's political party. (R.C. 3513.121.)

R.C. 3513.151 stipulates that under either procedure the names of the candidates for delegate and alternate to the national convention generally must appear on the ballot. If the names do appear, they must be arranged so that an elector may record the vote in the space provided for it by the name of the first choice for President. The names of candidates for delegate at large and alternate at large to the national

¹ 88 Stat. 1297 (1974), 26 U.S.C. 9031 *et seq.*, as amended.

convention of a political party do not appear on the ballot. Existing law also provides procedures for the rotation of names on the ballot and coordination with political party rules.

Changes proposed by the bill

The bill alters the procedures by which major party candidates access the ballot for the Ohio primary for the office of the President of the United States. As under the existing system, there are two alternate procedures that may be followed, depending upon whether the candidate wishes to appear on the ballot statewide or by individual Congressional district (R.C. 3513.12(A)).

Procedures under R.C. 3513.12(B)(1) for selecting delegates to the national party convention--statewide ballot

Under R.C. 3513.12(B)(1), a candidate for the presidency of the United States must file, or must designate a qualified elector to file on the candidate's behalf, a declaration of candidacy and a petition signed by at least 1,000 qualified electors who are members of the same political party as the candidate. The declaration of candidacy and petition must be filed in the same manner as those documents are filed for a candidacy that is to be submitted to electors throughout the state.

Procedures under R.C. 3513.12(B)(2) for selecting delegates to the national party convention--individual Congressional districts

Alternately, under R.C. 3513.12(B)(2), any candidate for the presidency of the United States who is eligible to receive payments under the Presidential Primary Matching Payment Account Act may file, or may designate a qualified elector to file on the candidate's behalf, a declaration of candidacy and petition with the Secretary of State not later than 4 p.m. of the 60th day before the presidential primary held in the same year the candidate is eligible to receive the payments. The candidate must provide written consent for the candidate's name to be used, and the declaration of candidacy and petition must be filed in the same manner as a declaration of candidacy and petition is filed for a candidacy that is to be submitted to the electors of a Congressional district.

The candidate must indicate, on the declaration, the Congressional districts in which the candidacy is to be submitted to the electors and must file a separate petition paper for each Congressional district. Each petition paper must be signed by at least 50 qualified electors residing in the district who are members of the same political party as the candidate.

The form used for a declaration of candidacy must be substantially similar to the general declaration of candidacy and petition form; however, the Secretary of State must modify that form to include spaces for a presidential candidate to indicate which Congressional districts the candidate wishes to submit the candidate's candidacy and may modify it in other ways necessary to adapt it to use by presidential candidates.

Other procedures

A vote cast for a candidate in a presidential primary election must be considered to be a vote for the selection of the applicable number of delegates, as determined by the constitution and bylaws of the political party for which the candidate is seeking nomination, to vote for that candidate as the first choice for nomination as the candidate of the political party for the presidency of the United States at the political party's national convention (R.C. 3513.12(C)).

Each major political party must file with the Secretary of State the rules of the party that affect the selection of delegates and alternates to its party nominating convention. These rules must be adopted by the state central committee of that political party at a meeting open to all members of the committee's party and must be filed by the state central committee's chairperson not later than 15 days prior to the date of the presidential primary election. (R.C. 3513.12(D)(1).)

After the presidential primary election, the Secretary of State must issue a certificate of nomination to the state central committee of each major political party indicating the candidate selected at the primary as the first choice for nomination as the candidate of the political party for the presidency of the United States. The party then selects delegates and alternates to its national convention in accordance with the party's constitution and bylaws. At each national convention, the delegates must select, as their first choice, the candidate who is identified on the certificate of nomination provided by the Secretary of State. (R.C. 3513.12(D)(2) and (3).)

The bill makes various conforming changes related to the new procedures (R.C. 3501.01(E)(2), 3513.04, 3513.10(C), 3513.13, 3513.14, 3513.15, and 3513.30).

HISTORY

ACTION	DATE
Introduced	02-10-09

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