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Bill Analysis

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BILL SUMMARY

Election administration

Secretary of State oversight of boards of elections

- Requires the Secretary of State to adopt rules, under Chapter 119. of the Revised Code, to establish circumstances under which the Secretary of State will assume official oversight or control of a board of elections.
- Requires those rules to include various levels of oversight or control and a mechanism, timeline, and benchmarks for a board of elections to transition out of that oversight or control.¹

Secretary of State directives

- Specifies that if the Secretary of State issues a permanent directive without following the continuing-law requirement to provide the opportunity for public review and public comment, the directive is not enforceable.
- Specifies that the Secretary of State may not issue a permanent directive during the period beginning 60, instead of 90, days prior to the day of an election and ending on the 40th day following the day of that election, and that the Secretary of State may only issue a temporary directive during that period.
- Requires each temporary directive to include that designation and an expiration date.
- Requires each directive that has expired to be identified as expired on the Secretary of State's web site.
- Requires any forms, appendices, or additional information attached to an expired temporary directive to be removed from all locations on the Secretary of State's web site except for the archive of previously published directives.²

Election administration plans

- Requires each board of elections to create an election administration plan and to submit it to the Secretary of State not later than 60 days before each presidential

¹ R.C. 3501.05(DD).

² R.C. 3501.053.



primary election and not later than 120 days before each general election conducted in an even-numbered year.

- Requires the plan to include certain detailed information, including information about precinct staffing, preparation, and supplies, resource allocation, election day communication, security, and contingency planning, as well as any other information the Secretary of State requires and any other information the board chooses to include.
- Requires the Secretary of State to make each county's plan publicly available on the Secretary of State's web site, with information redacted only as authorized by law and with a note regarding the reason for each redaction.³

Communication between boards of elections and the Secretary of State

- Requires certain notices sent by boards of elections to the Secretary of State to be sent by mail or electronically, instead of by certified mail, as required under current law.⁴

Notifying candidates of identical names

- Changes the process for notifying candidates that they have identical names from special delivery or telegram to certified mail.⁵

Prepayment of special election costs

- Requires a board of elections, not less than 15 business days before the deadline for submitting a question or issue for placement on the ballot at a special election, to determine the estimated cost of the special election by:

--Preparing and filing with the board of county commissioners and the Secretary of State, the estimated cost for preparing for and conducting an election on one question or issue, one nomination for office, or one election to office in each precinct in the county at that special election; and

³ R.C. 3501.40. Under a consent decree that expires January 11, 2015, the boards of elections currently create and submit election administration plans that conform to similar, although not identical, requirements. *League of Women Voters of Ohio v. Brunner*, Case No. 3:05-CV-7309 (N.D. Ohio, W. Div. June 19, 2009), available at moritzlaw.osu.edu/electionlaw/litigation/documents/LWVBlackwell-Order-6-19-09.pdf, accessed December 13, 2012.

⁴ R.C. 3501.29, 3505.30, 3517.106, and 3517.11.

⁵ R.C. 3513.131.



--Dividing that cost by the number of registered voters in the county.

- Requires the board of elections to provide to a political subdivision that is seeking to submit a question or issue, or a nomination for or election to office, at a special election with the estimated cost for preparing for and conducting the special election.
- Requires the estimated cost to be calculated either (1) by multiplying the number of registered voters in the political subdivision by the estimated cost or (2) by multiplying the estimated cost per precinct by the number of precincts in the political subdivision.
- Requires the political subdivision placing the question or issue, or nomination for or election to office, on the ballot to pay to the county elections revenue fund 65% of the estimated cost of the special election not less than ten business days after the deadline for submitting questions and issues for placement on the ballot.
- Requires the board of elections, not later than 60 days after the date of a special election, to provide to each political subdivision the true and accurate cost for the question or issue or nomination for or election to office that the political subdivision submitted to the voters at the special election.
- Requires a political subdivision that paid less than the actual cost to remit to the county elections revenue fund, the difference between the amount paid and the actual cost within 30 days after being notified of the actual cost.
- Requires the board of county commissioners to remit, from the county elections revenue fund, within 30 days after receiving notice of the overpayment from the board of elections, to a political subdivision that paid more than the actual cost, the amount by which the subdivision's payment exceeded the actual cost.⁶

Bulk purchase of election supplies

- Permits the Secretary of State to enter into agreements for the bulk purchase of election supplies in order to reduce the costs for those purchases by boards of elections.
- Requires a board of elections that desires to participate in such agreements to file a written request for inclusion with the Secretary of State agreeing to be bound by the terms and conditions that the Secretary of State prescribes and to make payments directly to the vendor under each agreement.

⁶ R.C. 3501.17.



- Requires that a board of elections be permitted to view the terms and conditions of each purchase agreement prior to committing to abide by those terms.
- Requires the terms of each purchase agreement to provide a mechanism for a board of elections to opt out of participation.⁷

Bid threshold for ballots and election supplies

- Increases from \$10,000 to \$25,000 the cost of a contract for printing ballots and furnishing other election supplies that may be let without competitive bidding.⁸

Removal of local issues from the ballot

- Permits a political subdivision, taxing authority, or other entity that placed an issue on the ballot to remove that issue from the ballot at any time prior to the 70th day before the election using the same process that the entity used to originally certify the issue for the ballot.
- Requires a board of elections to remove the issue from the ballot, upon receipt of a notification that the issue has been withdrawn.⁹

Ballots

Ballot boxes

- Eliminates the requirement that the boards of elections provide ballot boxes for the purpose of conducting an election on the question of whether to combine a probate court and a court of common pleas, but maintains the requirement that the boards provide all supplies necessary to conduct such an election.¹⁰

Ballot stubs

- Allows a board of elections to decide whether to use ballot stubs instead of requiring the use of ballot stubs.¹¹

⁷ R.C. 3501.302.

⁸ R.C. 3501.301 and 3505.13.

⁹ R.C. 3505.05.

¹⁰ R.C. 2101.44.

¹¹ R.C. 3501.26, 3505.03, 3505.04, 3505.06, 3505.08, 3505.10, 3505.11, 3505.18(B), 3505.23, 3505.26, 3506.08, 3506.09, 3509.05, 3513.13, and 3513.14.

- Prohibits a ballot from being rejected on the grounds that Stub A is detached from or has not been returned with the marked ballot.
- Requires the precinct election officials, if a voter returns a ballot without Stub A, to note that fact in the pollbook and to deposit the ballot in the ballot box.¹²

Elimination of references to punch card ballots

- Eliminates all references to punch card ballots, including counting standards for circumstances in which chads are not completely detached from the ballots.¹³

Ballot printing

- Eliminates the requirement that all ballots be printed in Ohio, but requires that ballots printed in Ohio be given a preference, unless ballots printed in Ohio are not available at competitive prices or the ballots will not be reasonably available as required for the timing of ballot preparation and voting.¹⁴

Number of ballots required to be prepared for ballots on demand

- Specifies a process for determining the minimum number of ballots to be prepared in a county that uses ballots on demand for a primary election, if no primary election was held four years previously (the election typically used to determine the comparable number of ballots to be produced).
- Specifies, in that event, that the number of ballots to be prepared is the total number of electors in the precinct who voted in a similarly situated primary, as determined by the board of elections.¹⁵

Voter identification

- Permits an elector to provide the elector's state identification card number as identification on a voter registration form, an absent voter's ballot application, or an absent voter's ballot statement of voter, in addition to allowing the elector's driver's license number or the last four digits of the elector's Social Security number to serve as identification, as current law allows.

¹² R.C. 3505.23 and 3509.07.

¹³ R.C. 3506.12, 3506.15, 3509.01, 3515.04, and repeal of 3506.16.

¹⁴ R.C. 3505.13.

¹⁵ R.C. 3505.11.

- Allows a registrant to provide the registrant's telephone number or electronic mail address on a voter registration form.
- Permits an elector to provide the elector's driver's license or state identification card number as identification on a provisional ballot affirmation, in addition to allowing the last four digits of the elector's Social Security number to serve as identification, as current law allows.¹⁶
- Defines "photo identification" as any government-issued document, card, badge, license, or other item that includes the image of the voter and the voter's first and last name.
- Specifies that photo identification need not include an expiration date, address, or other information and that if the identification does contain an address, it need not match the voter's registration address.¹⁷
- Eliminates a provision that required a pollworker to record in the pollbook the last four digits of an elector's driver's license number or state identification card number, if the driver's license or state identification card provided by the elector as identification contained the elector's former address.¹⁸
- Removes from various provisions of the Election Law the prohibition against using a notice of election for voter identification purposes, since the law requiring the notice of election to be sent was previously repealed and the document no longer exists.¹⁹

Voter registration

Online voter registration and update of registration

- Requires the Secretary of State, by rule and within one year of the bill's effective date, to establish a secure online process for voter registration, which will allow a voter registration or a voter registration update to be submitted online to the Secretary of State through the Internet.

¹⁶ R.C. 3503.14, 3505.18, 3505.181, 3505.182, 3505.183, 3509.03, 3509.04, 3509.05, 3511.02, 3511.05, and 3511.09.

¹⁷ R.C. 3501.01(AA) and 3505.182.

¹⁸ R.C. 3503.16(B)(1)(a) and 3505.18(A)(1).

¹⁹ R.C. 3503.14, 3503.16, 3503.19, 3503.28, 3505.18, 3505.181, 3505.182, 3505.183, 3509.03, 3509.04, 3509.05, 3511.02, 3511.05, and 3511.09.

- Requires an online applicant to be registered to vote, if all of the following apply: (1) the application contains all of the required information, including the last four digits of the applicant's Social Security number, (2) the applicant is qualified to register to vote, and (3) the applicant attests to the truth and accuracy of the information in the online application under penalty of election falsification using the applicant's Ohio driver's license number or the number of the applicant's Ohio identification card as proof of the applicant's identity.
- Requires the Secretary of State to obtain an electronic copy of the applicant's signature that is on file with the Bureau of Motor Vehicles for each application submitted online through the Internet.
- Requires the Secretary of State to employ whatever security measures the Secretary of State considers necessary to ensure the integrity and accuracy of voter registration information submitted via the Internet.
- Includes a statement that an applicant must click to agree, which acknowledges that the individual is providing the individual's correct information and granting permission for the Bureau of Motor Vehicles to share the individual's signature for election purposes.
- Specifies that the applicant's signature obtained from the Bureau of Motor Vehicles must be considered the applicant's signature for all election and signature-matching purposes.²⁰

Designated agencies

- Expands the category of designated agencies that must participate in the Secretary of State's program for registering voters to include any public or government office or independent contractor engaged by such an office with which Ohioans who are eligible to register to vote interact for the purpose of registering, applying, recertifying, renewing, participating, or updating information pertaining to a certification or license issued by the state or a state government program.
- Exempts from the above requirement independent contractors who are operating under a contract that exists prior to the effective date of the bill, but specifies that such contractors will become designated agencies by entering into a new contract after the bill takes effect.

²⁰ R.C. 3503.20.

- Eliminates current language specifically requiring deputy registrars of motor vehicles to conduct voter registration activities, as those offices are now included in the broader definition of designated agencies.²¹
- Requires each designated agency affirmatively to offer to each eligible Ohio resident who interacts with the agency in the manner specified above the opportunity to register to vote or to update the person's voter registration.
- Requires a designated agency that allows individuals to apply for services online or to register, apply, recertify, renew, participate, or update information pertaining to a state certification or license online to provide users with a link to the online voter registration system.
- Eliminates a provision of law that specified that the Department of Job and Family Services and its departments, divisions, and programs must limit its voter registration program to the requirements of the Secretary of State, R.C. 3503.10, and the National Voter Registration Act.²²
- Permits a registered elector who is providing change of address information at a designated agency to opt to have that change of address also serve as a change of address for voter registration purposes, and requires a designated agency that receives such a request to forward the address change to the Secretary of State.
- Requires the Secretary of State to pursue any necessary agreements with designated agencies to facilitate the electronic updating of voter registration information to comply with the National Voter Registration Act of 1993 and to improve the voter registration process in Ohio, and specifies requirements for such an agreement.²³

Data-sharing with state agencies

- Requires each state agency to provide any information and data to the Secretary of State that the Secretary of State considers necessary in order to maintain the statewide voter registration database, except where prohibited by federal law or regulation.
- Requires the Secretary of State to ensure that any information or data provided to the Secretary of State that is confidential in the possession of the entity providing the data remains confidential while in the Secretary of State's possession.

²¹ R.C. 3501.01(X), 3501.05, 3501.11(Y), 3503.09, 3503.16, 3503.19, and 3503.28.

²² R.C. 3503.10.

²³ R.C. 3503.15.

- Requires a board of elections to contact a registered elector to verify the accuracy of the information in the statewide voter registration database regarding that elector if information provided pursuant to the bill's data-sharing provisions does not match the information in the statewide voter registration database.
- Prohibits such a discrepancy from being sufficient grounds to permit the removal of a voter from the statewide voter registration database, unless required by federal law.²⁴

Statewide voter registration database

Statewide voter registration database search functions

- Requires the Secretary of State, beginning not later than 6 months after the effective date of the bill, to allow searchable access to the statewide voter registration database on the Secretary of State's web site.
- Specifies detailed requirements for the search capabilities of the statewide voter registration database, including wildcard searching (in which the search terms include a symbol to represent an unknown word or character) and searching for a precinct or polling location by address or partial address during certain times.²⁵

Board of elections search procedure

- Specifies a detailed order of methods for a board of elections to conduct a search of the statewide voter registration database for the purpose of evaluating an absent voter's ballot application, an absent voter's ballot, or a provisional ballot.
- Permits a board of elections to modify the search procedure as required based on the technology of the board.
- If the board modifies the search procedure, requires the board to make the procedure publicly available not later than 60 days prior to the next primary, special, or general election.²⁶

²⁴ R.C. 3503.15.

²⁵ R.C. 3503.15 and NetLingo: The Internet Dictionary, "Wild card or *.*," netlingo.com/word/wild-card-or.php, accessed December 19, 2012.

²⁶ R.C. 3503.151.



Public records exceptions

- Permits a registered elector, or the employer of such an elector, whose residential and familial information is exempt from being a public record – for example, a police officer or a prosecutor – to notify the Secretary of State or the board of elections of the elector's county of that fact.
- Requires the Secretary of State or the board of elections to revise that information in the searchable web site access of the statewide voter registration database to permit a name search to show only the elector's precinct voting location, but not the elector's residential information.²⁷

Deficient voter registration applications

- Permits a board of elections that receives an incomplete or deficient voter registration application prior to the deadline to register to vote before an election to notify the applicant of the deficiency.
- Permits the board to make that notification using whatever means the board deems appropriate in consideration of the timeframe needed to meet applicable deadlines and the effort needed to complete or cure the deficiency.
- Requires the board, when possible, to complete the application or correct any deficiency by confirming information with the applicant via telephone, fax, electronic mail, or postal mail.
- Requires the board to register the applicant, send the applicant a confirmation, and permit the applicant to vote in that election if the applicant completes the application or cures the deficiency not later than ten days before the day of the election.²⁸

Challenges to voter registrations

- Requires an elector who challenges a voter registration to have personal knowledge of the grounds for the challenge.
- Requires a board of elections to hold a hearing in order to grant a challenge to a voter registration or an elector's application to correct a precinct registration list, but permits a challenge or application to be denied solely on the basis of the board's records.

²⁷ R.C. 149.43 (not in the bill) and 3503.15.

²⁸ R.C. 3503.19(C)(4).



- Requires an affirmative vote of three out of four members of a board of elections in order to cancel an elector's registration as a result of a challenge.
- Permits a board of elections to order a challenger to pay the administrative costs of investigating and hearing the challenge and any costs incurred by the challenged elector in defending the person's right to vote, if the board determines that the challenge is frivolous or is not based upon the challenger's personal knowledge.²⁹

Cancellation of voter registrations

Cancellation due to death, incompetence, or criminal conviction

- Requires the chief health officer of each political subdivision and the Director of Health to file with the Secretary of State and each board of elections, at least monthly, the names, Social Security numbers, dates of birth, dates of death, and residences of all persons over 18 years of age, who have died within the subdivision or within Ohio or another state, within the month.
- Requires the Secretary of State and the Director of Health jointly to establish a secure electronic system through which they can exchange the required information regarding the death of a registered elector.
- Requires the Secretary of State or a board of elections, upon receiving a report from certain entities that an elector has died, been adjudicated incompetent, or been convicted of a crime that disenfranchises the elector, to send notice to the elector's registration address that the registration will be canceled unless the report is disputed within 30 days.
- Requires the Secretary of State or the board of elections promptly to cancel the elector's registration if the report is not disputed within 30 days.
- Provides that if an individual whose registration has been canceled under this process appears to vote, in which case the individual would be required to cast a provisional ballot, the board of elections must investigate the cancellation and determine whether it was made in error.
- Requires the board to reinstate the elector's registration and to count the provisional ballot if the board determines that the cancellation was made in error.³⁰

²⁹ R.C. 3503.24.

³⁰ R.C. 3503.18 and 3503.21.

Notice of cancellation due to inactivity after moving to another county

- Requires that when an elector's registration is canceled because the elector moved to another county and failed to vote in any election during the period of two federal elections after the mailing of a confirmation notice, a notice of the cancellation must be mailed to the elector's last known address.³¹

Paid voter registration workers

- Eliminates additional requirements for paid voter registration workers, which have been permanently enjoined, including pre-registering and completing online training, signing affirmations and providing information, and personally delivering or mailing completed forms to the Secretary of State or a board of elections.³²
- Eliminates a prohibition against compensating voter registration workers on a per-registration or per-volume basis.³³

Penalties regarding voter registration workers

- Increases the penalty from a first degree misdemeanor to a fifth degree felony, and from a fifth degree felony to a fourth degree felony for an aggravated offense, for a voter registration worker who fails properly to submit a voter registration form or who knowingly returns the form to an improper location.³⁴

Absent voting

Times for in-person absent voting

- Requires absent voter's ballots to be available for use in person beginning on the 35th day before the day of the election through 2:00 p.m. on the day before Election Day, during the following minimum hours:
 - During the first three weeks of in-person absent voting, from 8 a.m. through 5 p.m. Monday through Friday and through 9 p.m. on the last day of voter registration for that election.

³¹ R.C. 3503.21.

³² R.C. 3503.14, 3503.19, 3503.28, and 3599.11 and repeal of R.C. 3503.29. A federal court permanently enjoined these provisions on the ground that they violate the workers' First Amendment rights. *Project Vote v. Blackwell*, 455 F. Supp.2d 694 (N.D. Ohio 2006); partial summary judgment granted in *Project Vote v. Blackwell*, 2008 U.S. Dist. LEXIS 9878 (N.D. Ohio 2008).

³³ Repeal of R.C. 3599.111.

³⁴ R.C. 3599.11(B).



- Beginning on the third Monday before Election Day, from 8 a.m. through 7 p.m. Monday through Friday, from 8 a.m. through 5 p.m. on Saturday, and from 12 p.m. through 8 p.m. on Sunday.
- Beginning on the second Monday before Election Day, from 8 a.m. through 9 p.m. Monday through Friday, from 8 a.m. through 8 p.m. on Saturday, and from 12 p.m. through 8 p.m. on Sunday.
- On the last Monday before Election Day, from 8 a.m. through 2 p.m.
- Permits a board of elections to alter those hours based on the individual facts and needs of the electors in the county by a vote of not less than three members of the board, subject to the following requirements:
 - Ballots must be available until 9 p.m. on the last day of voter registration for that election.
 - Ballots must be available for a minimum of 30 hours each week on weekdays throughout the 35-day period, with at least ten of those hours occurring after 5 p.m.
 - Ballots must be available for a minimum of eight hours on a Saturday and a minimum of four hours on a Sunday within the last two weekends before the day of the election.
 - Ballots must be available from at least 8 a.m. through 2 p.m. on the day before the day of the election.
- Specifies that if, at the time of the close of in-person absent voting on a particular day, there are voters waiting in line to cast their ballots, the voting location must be kept open until those waiting voters have cast their ballots.³⁵

Locations for in-person absent voting

- Allows a board of elections to permit in-person absent voting at one or more offices or branch offices of the board.

³⁵ R.C. 3509.01, 3509.03, and 3511.02.

- Requires the board of elections of a county with a population that, as determined by the most recent decennial federal census, is twice the mean population of an Ohio county to have at least two locations for in-person absent voting for an election conducted in an even-numbered year, with the locations determined by a majority vote of the board.
- Requires a board of elections that maintains more than one location for in-person absent voting to use technology that provides live updates to the statewide voter registration database to indicate which electors have cast ballots for that election.³⁶

Online application for absent voter's ballots

- Requires the Secretary of State, by rule and within one year of the bill's effective date, to establish a secure online process for applying to vote by absent voter's ballots.
- Requires an online applicant to be sent absent voter's ballots, if all of the following apply:
 - The application contains all of the required information.
 - The applicant is registered to vote and is eligible to vote in that election.
 - The applicant attests to the truth and accuracy of the information in the online application under penalty of election falsification using the applicant's Ohio driver's license number, the number of the applicant's Ohio identification card, or the last four digits of the applicant's social security number as proof of the applicant's identity.
- Requires the Secretary of State to obtain an electronic copy of the applicant's signature that is on file with the statewide voter registration database for each application submitted electronically, and requires that electronic signature to be used as the elector's signature on the ballot application, for the purpose of signature matching.
- Requires the Secretary of State to employ whatever security measures the Secretary of State considers necessary to ensure the integrity and accuracy of the information submitted electronically.

³⁶ R.C. 3501.10.

- Includes a statement that an applicant must click to agree, which acknowledges that the individual is providing the individual's correct information and granting permission for the Secretary of State to use the individual's signature in the statewide voter registration database to validate the application.³⁷

Mailing unsolicited applications for absent voter's ballots

- Requires the Secretary of State to mail an application for absent voter's ballots to each registered elector in Ohio not earlier than September 20 and not later than October 1 of any statewide general election year.
- Requires the Secretary of State, not later than 20 days before the day of that election, to mail an application for absent voter's ballots to each person who registered to vote or updated the person's voter registration after the initial mailing.³⁸

Disabled electors

- Permits an elector who is unable to travel to the polls because of personal illness, physical disability, infirmity, or confinement in a jail or workhouse under sentence for a misdemeanor or awaiting trial on a felony or misdemeanor to apply for an absent voter's ballot by fax or electronic mail, in addition to permitting such a person to apply in writing, as under current law.
- Requires an elector who does so to include a signed paper application in the return envelope with the elector's completed absent voter's ballot, or, if the elector votes with the assistance of board of elections employees, to send the signed paper application with those employees.³⁹

Deficient absent voter's ballots and applications

- Permits a board of elections that, as required under continuing law, contacts an applicant regarding a deficient absent voter's ballot application to do so using whatever means the board deems appropriate in consideration of the timeframe needed to meet applicable deadlines and the effort needed to complete the application.
- Permits a board of elections that receives an insufficient or defective absent voter's ballot to contact the voter using whatever means the board deems appropriate in

³⁷ R.C. 3509.032.

³⁸ R.C. 3509.031.

³⁹ R.C. 3503.16(G) and 3509.08.

consideration of the timeframe needed to meet applicable deadlines and the effort needed to correct the problem.

- Provides that if the insufficient or defective absent voter's ballot is not completed or cured before the eleventh day after the election, the vote must not be accepted or counted.
- Requires the board, when possible, to complete the application or the absent voter's ballot by confirming information with the applicant or the voter via telephone, fax, electronic mail, or postal mail.⁴⁰

Sealing of unsealed envelopes; inserting ballots

- Requires the board of elections, upon receiving any return envelope before the eleventh day after the day of an election, to open the return envelope but not the identification envelope contained within it.
- Requires the board of elections to place voted ballots in the identification envelope and seal it, if the board opens the return envelope and discovers that the ballots are not properly enclosed and sealed in the identification envelope, in the same manner as the board inserts ballots and seals envelopes for uniformed services and overseas voters under existing law.
- Requires the board of elections to seal an identification envelope that is not properly sealed.⁴¹

Counting absent voter's ballots

- Eliminates a current requirement that election officials compare the signature on the absent voter's ballot identification envelope with the signature on the elector's voter registration form.
- Specifies that if election officials are able to determine the identity of an absent voter, the ballot must be presumed to be valid.
- Requires a vote of at least three out of four members of a board of elections to find that an absent voter's ballot is not eligible for counting.

⁴⁰ R.C. 3509.04, 3509.07, 3511.04, and 3511.11.

⁴¹ R.C. 3509.05(C).



- Specifies that, if an absent voter's right to vote is challenged and the precinct officials are unable to resolve the challenge, the sealed envelope must be delivered to the board of elections so the board can vote to resolve the challenges.
- Specifies that if an elector receives an absent voter's ballot for an incorrect precinct from the election officials and the elector marks and returns that ballot, the ballot must be counted if the elector was otherwise eligible to vote in that election and the ballot contained identical candidate choices, questions, and issues to the ballot that the elector was eligible to vote.
- Requires the election officials to remake such a ballot for all of the candidate choices, questions, and issues for which the elector was eligible to vote, if the voted ballot is not identical to the ballot the elector was eligible to vote.⁴²

Uniformed services and overseas absent voters

Disaster responders

- Allows any elector who is dispatched as part of a military, civilian, or corporate response to a federal- or state-declared disaster at any time during the 35 days prior to the day of an election to vote in the same manner as a uniformed services or overseas absent voter.⁴³

Use of federal write-in absentee ballot for state and local elections

- Requires a board of elections to accept and process federal write-in absentee ballots for all federal, state, and local elections conducted in any year.⁴⁴

Electronic submission of uniformed services and overseas absent voter's ballots

- Permits the Secretary of State to establish by rule a mechanism to accept completed uniformed services and overseas absent voter's ballots through electronic means, including but not limited to fax and electronic mail, provided that the rules include requirements to protect ballot security and anonymity.⁴⁵

⁴² R.C. 3509.06, 3509.07, and 3511.11.

⁴³ R.C. 3511.012.

⁴⁴ R.C. 3511.14.

⁴⁵ R.C. 3511.021.



Election Day procedures

Maximum precinct size

- Eliminates the ability of a board of elections to seek a waiver from the Secretary of State of the requirement that each precinct contain no more than 1,400 electors, including a precinct that consists of a state or national home for disabled soldiers.⁴⁶

Precinct election officials

- Changes all references to "judges of election" to refer to "precinct election officials," and changes references to the "presiding judge" to the "voting location manager."⁴⁷

Number of precinct election officials

- Eliminates the current requirement of four precinct election officials per precinct for any election.
- For a general election in an even-numbered year, requires a minimum of six precinct election officials for any precinct with a population of 1,000 or fewer and a minimum of eight precinct election officials for any precinct with a population of more than 1,000 electors, plus at least four precinct election officials in even-numbered increments for each additional precinct combined in a multiple precinct polling location.
- For all primary elections, special elections, and general elections in an odd-numbered year, requires a minimum of four precinct election officials per precinct, plus at least two precinct election officials in even-numbered increments for each additional precinct combined in a multiple precinct polling location.⁴⁸

Training of precinct election officials

- Permits the Secretary of State to adopt rules under Chapter 119. of the Revised Code to mandate training for election officials on a continuing basis in an effort to achieve election uniformity, in addition to the training required under continuing law.⁴⁹

⁴⁶ R.C. 3501.18, 3501.20, and 3506.12.

⁴⁷ R.C. 3501.01(U) 3501.051, 3501.11, 3501.13, 3501.17, 3501.22, 3501.26, 3501.27, 3501.28, 3501.29, 3501.30, 3501.31, 3501.32, 3501.33, 3501.35, 3501.37, 3503.02, 3503.26, 3505.16, 3505.17, 3505.18, 3505.20, 3505.21, 3505.23, 3505.24, 3505.26, 3505.29, 3505.30, 3505.31, 3509.06, 3513.19, 3513.21, 3599.07, 3599.17, 3599.19, and 3599.31.

⁴⁸ R.C. 3501.22.

⁴⁹ R.C. 3501.27.



Student precinct election officials

- Requires each public or private institution of higher education operating in Ohio to grant any student who serves as a precinct election official in Ohio an excused absence from any class, coursework, exam, or other requirement scheduled on the day of that election.
- Requires the institution of higher education to provide a mechanism for such a student to make up the missed class, coursework, exam, or other requirement.⁵⁰

Voting location managers

- Provides that a voting location manager must be a member of the political party whose candidate received the highest number of votes for Governor in the precincts whose polling places are located at the applicable voting location, instead of a member of the dominant political party.
- Requires a single voting location manager in a multiple precinct polling location.⁵¹

Polling place hours

- Eliminates a provision of existing law that allows a polling place located on an island that is not connected to the mainland by a highway or a bridge to close earlier than 7:30 p.m. if all registered voters in the precinct have voted.⁵²

Pollbooks

- For a general election in an even-numbered year, for each 1,000 electors in a precinct or multiple precinct polling location, requires the pollbooks to be divided into at least three alphabetical sections.⁵³

Certification of electronic pollbooks

- Authorizes the Board of Voting Machine Examiners to test, and the Secretary of State to certify, electronic pollbooks for use in Ohio in the same manner as voting equipment is tested and certified.

⁵⁰ R.C. 3501.22.

⁵¹ R.C. 3501.22(A).

⁵² R.C. 3501.32(B).

⁵³ R.C. 3501.30.

- Specifies that, if an electronic pollbook is certified by the Secretary of State, equipment of the same model and make may be adopted for use at elections, as long as it operates in an identical manner.⁵⁴

Use of electronic pollbooks

- Permits a board of elections to adopt the use of any electronic pollbook that has been certified for use in Ohio, instead of using pollbooks or signature poll lists.
- Requires a board of elections that opts to use electronic pollbooks to notify the Secretary of State of that decision.
- Requires the Secretary of State to provide rules, instructions, directives, and advisories regarding the examination, testing, and use of electronic pollbooks to boards of elections that have adopted them.
- Requires each precinct polling location that uses electronic pollbooks to have at least two electronic pollbook interfaces, regardless of the number of electors who reside in that precinct, and increases that number by at least one for each additional precinct combined in a multiple precinct polling location.⁵⁵

Polling place accessibility

- Eliminates the requirement that ramps have a grade of not more than 8% and instead requires ramps to comply with the Americans with Disabilities Act of 1990.
- Permits an elector to vote in the elector's car, regardless of whether the Secretary of State has exempted the polling place from compliance with accessibility requirements, if the elector is unable to enter the polling place due to the inaccessibility of the polling place or the nature of the elector's disability or limitation.
- Eliminates the ability of a disabled elector to receive and cast a ballot at the door of a polling place if the Secretary of State has exempted the polling place from compliance with accessibility requirements.⁵⁶

⁵⁴ R.C. 3506.05.

⁵⁵ R.C. 3506.021.

⁵⁶ R.C. 3501.29.

Voter challenges

- Eliminates the detailed questions that precinct officials previously were required to ask a voter who is challenged based on citizenship, and eliminates a requirement that naturalized citizens provide their naturalization certificate.
- Eliminates the authority for a presiding judge to ask questions not specified in law as the judge considers necessary to determine an elector's qualifications to vote at an election.⁵⁷
- Eliminates the ability to challenge a voter based on the person's political party affiliation.
- Relocates, but otherwise does not change, provisions of continuing law specifying the process for determining a person's political party affiliation.⁵⁸

Cause of action for denial of right to vote

- Prohibits any person who is acting under color of law from denying an individual's right to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act necessary to vote, if the error or omission is not material in determining whether the individual is qualified to vote in that election.
- Creates a civil cause of action for the following individuals and groups to sue each person who acted under color of law to deny an elector's right to vote, in order to obtain a court order, monetary damages, attorney's fees, and court costs:
 - An elector whose right to vote has been denied;
 - A candidate in that election, or the candidate's political party, if the outcome of the candidate's race may have been affected by the alleged violation;
 - The committee responsible for an initiative or referendum petition, if the outcome of the question or issue arising from that petition may have been affected by the alleged violation.
- Requires a court to hear such a case, even if the alleged violation did not impact enough votes to alter the results of any particular election.

⁵⁷ R.C. 3505.20.

⁵⁸ R.C. 3513.05, 3513.19, 3517.014, and 3517.015 and repeal of R.C. 3517.016.



- Specifies that a precinct election official is personally liable under this cause of action only if the precinct election official's actions were willful or wanton, and that if the precinct election official's actions were not willful or wanton, the applicable board of elections is liable for the precinct election official's actions.⁵⁹

Time for use of voting machines

- Eliminates a provision of existing law that prohibited a voter from using a voting compartment or machine for more than five minutes when all compartments or machines are in use and voters are waiting to occupy them.
- Requires precinct election officials, after a voter has used a voting compartment or machine for more than ten minutes, and in five minute intervals thereafter, to ask whether the voter requires assistance in marking the voter's ballots.⁶⁰

Completion of ballot casting process on an electronic voting machine

- Specifies that when a voter uses a direct recording electronic voting machine and leaves the polling location after making ballot selections but prior to casting the ballot, and only a single step of the voting process remains for the ballot to be cast, a bipartisan pair of precinct election officials must cast the elector's ballot.
- Requires a bipartisan pair of precinct election officials to cancel such a ballot if more than a single step of the voting process remains for the ballot to be cast.⁶¹

Delivery of voted ballots to a board of elections

- Specifies that a precinct election official, instead of an employee or appointee of the board of elections who has taken an oath to uphold the law and promptly and securely to perform the person's duties, of a different political party than the voting location manager, must accompany a voting location manager in delivering voted ballots and other materials to the board.⁶²

⁵⁹ R.C. 3501.91.

⁶⁰ R.C. 3505.23.

⁶¹ R.C. 3506.17.

⁶² R.C. 3505.31.

Counting ballots

- Provides that if a voter has marked a ballot for a particular candidate and also has written in the same candidate's name as a write-in candidate for the same office, the ballot must not be invalidated with respect to that office.
- Requires such a ballot to be separated, remade, marked as remade, and tabulated for the official canvass of the election returns and for any recount or postelection audit.⁶³
- Specifies that if there is a tie vote among the members of a board of elections in determining whether a particular ballot, or portion of a ballot, is eligible to be counted, that ballot or portion must be counted as a valid vote.⁶⁴

Provisional ballots

Categories of provisional voters

- Permits an elector who does not have or cannot provide the required identification to cast a provisional ballot by providing the last four digits of the elector's Social Security number or the elector's Ohio driver's license number or state identification card number.
- Permits an elector who does not have or cannot provide the required identification or any of those numbers to cast a provisional ballot by signing an affirmation to that effect.
- Eliminates a provision of law that permitted an elector who declines to execute an affirmation to cast a provisional ballot.
- Requires the election official, if an individual declines to execute an affirmation, to note on the affirmation form that the individual refused to execute the affirmation, but not to record any other information, including the individual's name.
- Permits an elector to cast a provisional ballot if the elector refuses to travel to the polling place for the correct jurisdiction or if a precinct election official fails to direct the elector to the polling place for the correct jurisdiction, and eliminates a provision of law specifying that such an elector's ballot must not be opened or counted.

⁶³ R.C. 3506.21.

⁶⁴ R.C. 3505.27, 3506.21, and 3513.21.



- Requires an individual who is casting a ballot after the time for the closing of the polls pursuant to a court order extending that time to cast a provisional ballot.⁶⁵
- Permits an elector who has had a change of name and has remained within the precinct to complete and sign a notice of change of name and cast a regular ballot, instead of a provisional ballot, if the elector provides the precinct election officials with proof of a legal name change.
- Permits an elector who appears to vote and offers a name that differs from the elector's name as it appears in the pollbook to complete and sign a notice of change of name for the purpose of correcting the voter registration records and to cast a regular ballot, if the precinct election officials determine that the discrepancy is due to a clerical error.⁶⁶

Provisional ballot affirmation form

- Changes the provisional ballot affirmation form to require a provisional voter to provide only the voter's name, address, and signature and the last four digits of the voter's Social Security number or the voter's driver's license or state identification card number.
- Specifies that the form must recommend that a provisional voter provide the voter's date of birth, telephone number, and electronic mail address.⁶⁷

Election official verification statement on provisional ballot affirmation form

- Revises the portion of the provisional ballot affirmation form in which the election official indicates whether a voter who did not have the required identification provided the last four digits of the voter's Social Security number or the voter's driver's license or state identification card number or executed an affirmation.
- Requires the election official to complete a detailed list of questions regarding whether the voter was listed at the correct address in the pollbook, whether the election official directed the voter to the correct precinct and polling location, and whether the voter refused to go to that precinct and polling location.
- Requires the election official, for a voter who casts a ballot after the time for the closing of the polls pursuant to a court order, to record the fact that the ballot was

⁶⁵ R.C. 3505.18(A) and 3505.181, 3505.182, and 3505.183.

⁶⁶ R.C. 3503.16 and 3505.181(A)(9).

⁶⁷ R.C. 3505.182.

cast at that time and whether the voter would have been eligible to cast a regular ballot, if the ballot were cast prior to the closing time.

- Requires the election official to sign the verification statement under penalty of election falsification.⁶⁸

Provisional ballot affirmation form as update of elector's registration

- Allows an elector to submit a change of name or address at an in-person absent voting location at which the elector is eligible to cast an absent voter's ballot for that election, as well as at the elector's polling place or at the board of elections.
- Allows an elector who has moved, changed the elector's name, or both to cast a provisional ballot at an in-person absent voting location at which the elector is eligible to cast an absent voter's ballot for that election, as well as at the elector's polling place or at the board of elections.
- Requires the board of elections to use the elector's provisional ballot affirmation to update the individual's registration.
- Requires the board to contact such an elector not later than 60 days before the day of the next election to complete the update if the affirmation is lacking any required information to update the elector's registration.
- Permits the board to contact the elector using whatever means the board deems appropriate in consideration of the timeframe needed to meet applicable deadlines and the effort needed to update the elector's registration.
- Requires the board, whenever possible, to update the registration by confirming information with the elector via telephone, fax, electronic mail, or postal mail.⁶⁹

Providing additional information to a board of elections

- Permits any provisional voter to provide additional information or documentation to the board of elections within ten days after the day of the election in order to have the provisional ballot counted.
- Requires provisional voters who did not provide identification, who were challenged at the polls and were not determined to be eligible to vote, or whose pre-

⁶⁸ R.C. 3505.181 and 3505.182.

⁶⁹ R.C. 3503.16 and 3505.181(E).



election registration or challenge hearing has been postponed until after the day of the election, to provide that additional information.

- Requires a board of elections to contact a provisional voter who must provide additional information using whatever means the board deems appropriate in consideration of the timeframe needed to meet applicable deadlines.
- Requires the board, whenever possible, to obtain the required information from those individuals via telephone, fax, electronic mail, or postal mail.⁷⁰

List of individuals who cast provisional ballots

- Requires each board of elections, not later than five days after the day of an election, to compile a list of the names and, if available, voter registration addresses, of each person who cast a provisional ballot in that county at that election.
- Requires the list to identify each individual who is required to provide additional information for the individual's ballot to be counted.
- Provides that the list is a public record, and requires the board either to make the list available on its web site or to provide a copy of the list within 24 hours after receiving a request for one.⁷¹

Counting provisional ballots

- Specifies that if a board of elections is able to determine the identity of a provisional voter, the ballot must be presumed to be valid.
- Requires a vote of at least three out of four members of a board of elections to find that a provisional ballot is not eligible for counting.
- Provides that the last four digits of a provisional voter's Social Security number or the voter's driver's license number or state identification card number are sufficient to identify the voter.
- Specifies that a provisional ballot affirmation that does not include the voter's name, or that has the voter's name in an incorrect location, must not be rejected if the board determines the voter's identity based on the voter's signature or by other means.

⁷⁰ R.C. 3505.181(B), 3505.182, and 3505.183.

⁷¹ R.C. 3505.181 and 3505.184.

- Specifies that a provisional ballot affirmation that contains the voter's signature in an incorrect location must not be rejected if the signature would have been sufficient if placed in the correct location on the affirmation.
- Prohibits a board of elections from rejecting a provisional ballot on the ground that any portion of the affirmation required to be completed by a precinct election official is incomplete.
- Requires that if a voter cast a provisional ballot in the wrong precinct polling location, the ballot must be counted if the voter was otherwise eligible to vote in that election and the ballot contained identical candidate choices, questions, and issues to the ballot the individual would have been eligible to cast in the correct precinct polling location.
- Requires that if the affirmation on a wrong-precinct ballot does not include documentation that a provisional voter was properly directed to the correct precinct and polling location, the board of elections must remake the ballot for all of the candidate choices, questions, and issues for which the voter would have been eligible to cast a ballot in the correct precinct polling location.
- Provides that if there is a tie vote among the members of a board of elections in determining whether to count a provisional ballot, that ballot must be counted.⁷²

Election contests

- Permits a contest of a nomination or election to a federal office to be filed in a state court.⁷³

Petition circulators

- Eliminates provisions that required the circulator of an initiative or referendum petition to be a resident of Ohio, and eliminates provisions requiring circulators of all other election petitions to be a resident and registered to vote for 30 days before the next election.⁷⁴

⁷² R.C. 3505.183 and 3505.20.

⁷³ R.C. 3515.08.

⁷⁴ R.C. 3503.06.



- Eliminates a permanently enjoined prohibition against compensating petition circulators on a per-signature or per-volume basis or on any basis other than time worked.⁷⁵

New political parties

- Reduces from 120 days to 90 days before a primary election the deadline for a petition to be filed to establish a new political party.⁷⁶

Elections Modernization Task Force

- Creates the Elections Modernization Task Force to investigate and receive information related to modernizing Ohio's elections process, including voter registration, absent voting, in-person absent voting, provisional voting, voting technology, the statewide voter registration database, and the use of voting centers in lieu of precincts.
- Specifies the bipartisan composition and organization of the Task Force, which includes members of the General Assembly, the President and Vice-President of the Ohio Association of Election Officials, experts in election law or administration, and the Secretary of State, who is a nonvoting member.
- Requires the Task Force to meet publicly not less than once per quarter and sets a timeline for the Task Force to make reports of its findings and recommendations to the General Assembly, the Governor, and the Constitutional Modernization Commission.
- Specifies that the Task Force continues to exist for a minimum of three years, or until three-quarters of the members of the Task Force vote to dissolve it.⁷⁷

Changes required for consistency with the Ohio Constitution

- Changes provisions that specify the process for filling vacancies in office to require an election to be held to fill a vacancy that occurs more than 40 days before an

⁷⁵ Repeal of R.C. 3599.111. A federal court has permanently enjoined this prohibition on the ground that it violates petition circulators' First Amendment rights of free speech and association. *Citizens for Tax Reform v. Deters*, 518 F.3d 375 (6th Cir. 2008).

⁷⁶ R.C. 3517.01 and 3517.012.

⁷⁷ R.C. 3501.50.



election, as required by Article XVII, Section 2 of the Ohio Constitution, instead of 56 days, as specified in prior law.⁷⁸

- Specifies that, if an election is required to be held to fill a vacancy that occurs after absent voter's ballots have been printed and distributed for an election, the board of elections must print and distribute a supplemental ballot for that election to each absent voter who has requested a ballot for that election as many days before the election as reasonably possible.⁷⁹
- Changes a provision that stated that an initiative or referendum will appear on the ballot at the first general election that occurs 90 or 60 days, respectively, after the petition is filed to conform to recent changes made to the Ohio Constitution, which place those issues on the ballot at the next general election occurring at least 125 days after the petition is filed.⁸⁰

Technical corrections

- Corrects the capitalization in references to the Ohio Constitution.⁸¹
- Corrects an incorrect cross reference to the section specifying who is a registered elector.⁸²

Name of bill

- Specifies that the bill must be known as the Voter Protection Act.⁸³

COMMENT

Numerous sections of the Election Law, as they appear in the bill, have since been amended. Additionally, some provisions of the bill have been enacted in similar form. The Revised Code sections that appear in the bill need to be updated in order to reflect those changes and to show how the bill will affect the law as it currently exists.

⁷⁸ R.C. 3.02, 302.09, 305.02, 503.24, 733.31, 1901.10, 2301.02, and 3513.31.

⁷⁹ R.C. 3509.01(D)(2).

⁸⁰ R.C. 3501.02.

⁸¹ R.C. 7.101.

⁸² R.C. 3501.38.

⁸³ Section 3 of the bill.



HISTORY

ACTION

DATE

Introduced

02-12-13

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