Ohio Legislative Service Commission

Bill Analysis

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Am. Sub. S.B. 109*

130th General Assembly
(As Reported by H. Policy and Legislative Oversight)

Sens. Obhof, Eklund, Faber, Hite, LaRose, Peterson

BILL SUMMARY

Election administration

- Requires the Secretary of State to adopt rules to establish procedures and standards for doing all of the following: determining when a board of elections shall be placed under official oversight, placing a board under official oversight, a board to transition out of being under official oversight, and the Secretary of State to supervise a board that is under official oversight.

- 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."

- Permits a board of elections to select two precinct election officials who are not members of the same political party, instead of the usual four precinct officials, to serve as the precinct officials for a precinct at a special election, if the board determines that four officials are not required.

- Requires the Secretary of State, beginning in 2017, to appoint two new members to each board of elections on March 1 of each odd-numbered year, instead of on March 1 of each even-numbered year, as under current law.

- Requires the Secretary of State, in 2014 and 2016, to appoint two new members to each board of elections to serve three-year terms, instead of the usual four-year terms, in order to transition to the new appointment schedule.

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

- Requires a political subdivision or other entity to certify a ballot question or issue to a board of elections in paper form, and prohibits them from making that certification electronically.

- Requires a board of elections to send copies of campaign finance statements filed with the board and the board's certification that each polling place in the county meets the requirements for accessibility for the disabled to the Secretary of State by certified mail or electronically, rather than requiring those documents to be sent by certified mail.

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

Observers for in-person absent voting

- Permits election observers to be appointed to serve at the board of elections during the time absent voter's ballots may be cast in person, and specifies the manner in which those observers must be appointed.

Ballots

- Changes a provision that requires the facsimile signatures of members of boards of elections to appear on the back of the ballot to instead require those signatures to appear at the end of the ballot.

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

- Eliminates provisions that refer to ballots for separate offices or issues being placed in separate ballot boxes within a precinct polling location.

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.

- 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.

- 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.

CONTENT AND OPERATION

Election administration

Official oversight over a board of elections

The bill requires the Secretary of State to create a program to place a board of elections under official oversight. The Secretary of State must adopt rules establishing procedures and standards for all of the following:

(1) Determining when a board of elections must be placed under the Secretary of State's official oversight;

(2) Placing a board under official oversight;

(3) Supervising a board that is under official oversight; and

(4) Allowing a board that is under official oversight to transition out of it.[1]

Precinct election officials

The bill changes all references to "judges of elections" to refer to "precinct election officials," and changes references to the "presiding judge" to the "voting location manager."[2]

The bill also reduces the number of precinct election officials required for a precinct at a special election. If a board of elections determines that the usual four precinct election officials are not required for a precinct at a special election, the bill allows the board to select two precinct election officials who are not members of the same political party, to serve as the precinct election officials for that precinct in that special election.[3]

Terms of members of boards of elections

The bill alters the schedule by which new members are appointed to the boards of elections. Under the bill, beginning in 2017, on March 1 of each odd-numbered year, the Secretary of State must appoint two new board members of different political

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[1] R.C. 3501.05(DD).

[2] R.C. 3501.01, 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, 3505.17, 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.

[3] R.C. 3501.22.

parties to serve four-year terms. Currently, two new members of different political parties are appointed on March 1 of each even-numbered year to serve four-year terms. Under continuing law, the four board members' terms are staggered so that every two years, two members' terms expire and two new members replace them.

In order to transition to the new appointment schedule without shortening the terms of existing members, the bill requires the Secretary of State to appoint two new board members of different political parties on March 1, 2014, and on March 1, 2016, for terms of three years.[4]

Method of certifying questions and issues to the ballot

The bill specifies that when a political subdivision or other entity certifies a question or issue to a board of elections for placement on the ballot, the certification must be in paper form. A board of elections may not accept such a certification in electronic form.

The current statute appears not to specify which form that certification must take. The Ohio Supreme Court has interpreted the statute as allowing electronic certification of a ballot question or issue to a board of elections.[5]

Method for boards of elections to send required documents to the Secretary of State

Under the bill, the boards of elections may send certain documents to the Secretary of State either by certified mail or electronically. Under current law, those documents may be sent only by certified mail. Specifically, the bill permits a board to send the following documents to the Secretary of State electronically:

- A campaign finance statement filed with the board;
- The certification that each polling place in the county meets the requirements for accessibility for the disabled.[6]

Notifying candidates of identical names

The bill also changes the process for notifying candidates with identical surnames how they will be identified on the ballot. Under the bill, a board of elections

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[4] R.C. 3501.06.

[5] R.C. 3501.02 (not in the bill) and 3501.021. See *State ex rel. Orange Township Board of Trustees v. Delaware County Board of Elections*, 135 Ohio St.3d 162, 2013-Ohio-36 (2013).

[6] R.C. 3501.29(E), 3517.106, and 3517.11.

or the Secretary of State must notify such candidates by certified mail, instead of by special delivery or telegram, as required under current law.[7]

Observers for in-person absent voting

The bill permits election observers to be appointed to serve at the board of elections during the time absent voter's ballots may be cast in person. Under continuing law, a political party or a group of candidates may appoint observers in a similar manner to serve at the polls and at the board of elections on Election Day.

The bill requires the political party or group of candidates appointing observers for in-person absent voting to notify the board of elections not less than 11 days before those ballots are required to be printed and available for use. The notification must be made on a form prescribed by the Secretary of State. The party or group may amend the notification by filing an amendment with the board at any time until 4 p.m. of the day before an observer is appointed to serve.

Under the bill, observers for in-person absent voting may file their certificates of appointment with the board of elections the day before or on the day they are scheduled to observe.[8]

Ballots

Location of facsimile signatures on the ballot

The bill requires the facsimile signatures of the members of the board of elections to appear at the end of the ballot. Current law requires those signatures to appear on the back of the ballot.[9]

Elimination of references to punch card ballots

The bill eliminates all references to punch card ballots, including counting standards for circumstances in which chads are not completely detached from the ballots.[10]

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[7] R.C. 3513.131.

[8] R.C. 3505.21. Currently, as the result of an Ohio Supreme Court decision, the boards of elections allow observers to be appointed for in-person absent voting. *State ex rel. Stokes v. Brunner*, 130 Ohio St.3d 250, 2008-Ohio-5392 (2008).

[9] R.C. 3505.08.

[10] R.C. 3506.12, 3506.15, 3509.01, and 3515.04.

Elimination of references to multiple "ballot boxes"

The bill eliminates provisions of law that refer to ballots for separate offices or issues being placed in separate ballot boxes within a precinct polling location and instead requires only a single ballot box at each location.[11]

Electronic pollbooks

Under the bill, the Board of Voting Machine Examiners may test, and the Secretary of State may certify, electronic pollbooks for use in Ohio in the same manner as voting equipment is tested and certified. "Electronic pollbook" means an electronic list of registered voters for a particular precinct or polling location that may be transported to a polling location.

If the Secretary of State certifies an electronic pollbook, the boards of elections may adopt equipment of the same make and model for use at elections, instead of using poll lists or signatures pollbooks, as long as the equipment operates identically to the certified equipment.

The bill requires a board that opts to use electronic pollbooks to notify the Secretary of State of that decision. The Secretary of State then must provide the board with rules, instructions, directives, and advisories regarding the examination, testing, and use of electronic pollbooks, including rules regarding the sealing of the information in the pollbooks.[12]

HISTORY

ACTION	DATE
Introduced	04-16-13
Reported, S. State Gov't Oversight & Reform	05-08-13
Passed Senate (23-10)	05-08-13
Reported, H. Policy & Legislative Oversight	---

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[11] R.C. 2101.44, 3501.30, 3505.07, 3505.08, 3505.16, 3505.23, and 3513.18.

[12] R.C. 3506.021 and 3506.05.