



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. [H.B. 194 of the 129th G.A.](#) **Date:** May 4, 2011
Status: In House State Government & Elections **Sponsor:** Reps. Mecklenborg and Blessing

Local Impact Statement Procedure Required: No

Contents: Makes various revisions to election laws

State Fiscal Highlights

- **Statewide voter registration database.** The bill changes the way the statewide voter registration database is administered. Cumulatively, these changes could result in minimal cost increases for the Secretary of State (SOS), as well as the Department of Health, the Bureau of Motor Vehicles, the Department of Job and Family Services, and the Department of Rehabilitation and Correction. Under the bill, these agencies are required to supply SOS with certain information. For SOS, voter registration database expenses are paid from GRF appropriation item 050321, Operating Expenses.
- **Voter registration training.** The bill removes the requirement that the SOS provide voter registration training for all individuals that are compensated for registering voters. The bill also eliminates the requirement that any such individuals register with the SOS. This provision will result in some small GRF cost savings for the SOS.
- **Electronic pollbooks.** The bill requires the Board of Voting Machine Examiners to examine, test, and certify electronic pollbooks. When a vendor submits a pollbook for testing under the bill, the vendor is required to pay a fee of \$1,600 to defray the testing and certification expenses of the board. This fee is deposited into the Board of Voting Machine Examiners Fund (Fund 4S80). There are seven such vendors in the United States.
- **Special primary elections.** The bill eliminates the ability to conduct a special primary election if a congressional candidate withdraws, dies, or is disqualified before the primary or general election. Although these types of special election occur infrequently, this provision could result in significant cost savings for the state. Under current law, the SOS reimburses county boards of elections for such congressional special elections through its BOE Reimbursement and Education Fund (Fund 5FG0). This fund itself is supported by GRF transfers approved by the Controlling Board from GRF appropriation item 911401, Emergency Purposes/Contingencies.

- **Bulk purchase of elections supplies.** The bill permits the SOS to enter into agreements for the bulk purchase of election supplies in order to reduce the costs for those purchases by boards of elections. This will primarily involve ballot and other printing-related supplies.

Local Fiscal Highlights

- **Provisional and absent voter ballot process.** The bill makes numerous changes to both the provisional ballot process and absent voter's ballot process. In total, these changes, which are discussed in detail in the "Detailed Fiscal Analysis" section, could result in some cost savings for county boards of elections.
- **Elections contracts and bulk purchasing of supplies.** The bill permits a board of elections to contract with another board of elections in this state or with a county automatic data processing board for the provision of election services in the county. The bill also creates a bulk purchasing program to be operated by the SOS which county boards of elections may use to buy elections supplies.
- **Electronic pollbooks.** The bill permits counties to use any type of certified electronic pollbook in future elections. While there would be up-front costs associated with purchasing these pollbooks, that cost would be partially offset by the reduction in costs associated with printing paper copies of pollbooks. Many of the vendors that manufacture voting machines also produce these electronic pollbooks.

Detailed Fiscal Analysis

Overview

The bill makes many revisions to the election laws affecting the Secretary of State (SOS) and county boards of elections. The provisions of the bill that LSC believes have some fiscal effect on the state and political subdivisions are outlined in this analysis. The analysis is organized by subject heading. Overall, most of the provisions in the bill appear to result in cost savings for boards of elections.

Provisional ballots

Changes in provisional ballot categories

The bill makes several changes to the provisional ballot processes in current law. First, the bill consolidates several categories of voters who are required to cast a provisional ballot because of lack of identification into a single category, thereby reducing the number of reasons that a voter is required to vote provisionally. The bill also revises the list of persons required to cast provisional ballots under other categories. Finally, the bill establishes a new category of provisional ballot for individuals casting a ballot after the time for the closing of the polls pursuant to a court order extending the time the polls are open. Altogether, these provisions could reduce the number of provisional ballots cast in an election, potentially reducing verification costs for county boards of elections. According to the SOS, during the 2010 General Election, there were approximately 105,000 provisional ballots cast, of which approximately 90% were counted. Of the 10% that were not counted, over half were not counted because the individual was not registered to vote.

Provisional voters without identification

Under current law, provisional voters that lack any forms of permissible voter identification may execute an affirmation that they do not have identification. Under the bill, the voter must provide his or her name, address, last four digits of the voter's Social Security number, or the voter's Ohio driver's license number or state identification card number, the voter's signature, and date of birth. If the voter does not have identification and declines to execute this affirmation of identification, the provisional ballot will not be counted. Finally, the bill eliminates the option for a voter who does not provide identification or who does not provide documentation to resolve a polling place challenge to provide that information to the board of elections within ten days after the election. Taken together, these provisions will reduce the number of provisional ballots that require verification, thereby reducing ballot verification costs for boards of elections.

Voter challenges

The bill eliminates the detailed questions that a precinct official currently must ask a voter who is challenged based on citizenship and eliminates a requirement that a naturalized citizen show their naturalization certificate. The bill also 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. These provisions could also potentially reduce the number of provisional ballots cast during an election.

Absent voting

In-person and mail-in absent voting

The bill revises the times at which absent voter's ballots must be printed and ready for use, depending on the type of voter. For all voters other than absent uniformed services voters who are applying to vote absentee other than in-person, the ballots must be ready by the 21st day before the day of the election. In-person absent voter's ballots must be printed and ready for use on the tenth day before the day of the election and must continue to be available for use through 6 p.m. on the last Friday before the day of the election. This provision shortens the amount of time for in-person absentee voting, which could reduce some costs for county boards of elections.

In-person absent voting locations

The bill eliminates a board of elections' authority to permit absent voter's ballots to be cast in-person at a branch office of the board. Instead, absent voter's ballots may only be cast in-person at the board of elections. Under these new requirements, while boards of elections will forego the expense of operating additional in-person absent voter locations, it is possible that they could now incur some new costs at their main offices to handle in-person absent voting at those locations. But overall, the net effect is a cost savings. As an example, the Franklin County Board of Elections spent a total of \$225,015 to conduct in-person absentee voting at Veterans' Memorial Coliseum for the 2008 presidential election; \$142,433 of this cost was for staffing.

Absent voters' ballot applications

The bill prohibits a board of elections from mailing any unsolicited applications for absent voters' ballots, and instead specifies that a board only mail an absent voter's ballot application to a voter who has requested one. Additionally, the bill prohibits a board of elections that mails an absent voter's ballot application from prepaying the return postage for that application or for the absent voter's ballot. Instead, under the bill the voter is responsible for paying the postage costs. This change will result in some reduction in mailing expenses, although not all counties pay for the postage for absent voter's ballots or applications. Franklin County does pay these costs, and typically sends unsolicited absent voters' applications to individuals that have historically opted to vote by absent voter's ballot. During the 2010 general election, the county spent approximately \$115,000 for mailing approximately 160,000 absent voter's ballots for the 2010 general election.

Voter registration

Statewide voter registration database

Under the bill, the Secretary of State must administer the statewide voter registration database and make it continuously available to each board of elections and other authorized agencies. Currently, county boards of elections can modify their county registered voter database, and that information can be uploaded to the statewide database. Instead of relying on the uploaded information, under the bill the SOS will be responsible for editing this data. As a result, the SOS could incur some new costs for overseeing the database, although the SOS does not anticipate needing any additional employees to handle these duties. Voter registration database expenses are currently paid from the Secretary of State's GRF appropriation item 050321, Operating Expenses, which covers many of the Elections Division's expenses. The FY 2011 appropriation for this line item is \$2.3 million.

Data sharing with other entities

The bill requires state agencies, including the Department of Health, the Bureau of Motor Vehicles, the Department of Job and Family Services, and the Department of Rehabilitation and Correction to provide any information and data to the SOS that is necessary in order to maintain the database, such as names, addresses, and Social Security numbers. Although these agencies could incur some new expenses for providing this information to the SOS, the extent of these additional costs is not clear as of this writing.

Purging records from the statewide voter registration database

The bill eliminates the provision that requires county boards of elections to purge a voter's name and voter registration from the database when necessary. Instead, the bill requires the chief health officer of each political subdivision and the Director of Health to file with the SOS and each board of elections, on a monthly basis, information regarding all persons over the age of 18 that have died in the last month. The bill also requires the SOS and Director of Health to jointly establish a secure electronic system through which the two entities will exchange required information regarding the death of a registered voter. The bill also requires the SOS to promptly cancel the registration of a voter who is named in the death report filed under the bill. One likely outcome of these changes is that the process of purging voter records will become more efficient.

Online availability and updating of the database

The bill expands the information from the statewide voter registration database that is available online through the SOS web site. The bill also requires the SOS to establish a secure online process to allow registered voters who have changed their place of residence to update their voter registration information through the Internet. However, in order to update voter registration information online, the voter must have already updated this information with the Bureau of Motor Vehicles. Overall, allowing voters to change such information online could act to reduce the number of address

inconsistencies at the polls on the day of an election. This could in turn reduce the number of provisional ballots cast.

Persons compensated for registering voters

The bill eliminates provisions in election law that require persons that are compensated for registering voters to register with the SOS and complete a training program regarding voter registration procedures. The bill also eliminates the requirement that the SOS establish a training program for persons that are compensated for registering voters. To date, this training has been conducted through an Internet-based program accessible through the SOS web site. This will result in some very minimal cost savings for the SOS. Additionally, the bill eliminates current law provisions that require the circulator of an initiative referendum petition to be a resident of Ohio, and eliminates provisions that require circulators of all other election petitions to be a resident and registered to vote for 30 days before the next election. There is no apparent fiscal effect to these provisions.

Election observers

Observing during in-person absentee voting

The bill expands the times and locations for which elections observers may be appointed by permitting a political party or group of five or more candidates to also appoint an observer for any time during which a board of elections permits in-person absentee voting at the board of elections. The bill also specifies that a journalist must be allowed reasonable access to a polling place during an election. These provisions may result in an increased number of election observers that file notification and observe in-person absentee voting. However, any related cost increases that boards of elections will incur for processing these requests are likely to be incidental.

Activities of elections observers

Current law does not elaborate on the permissible activities of election observers at the time of an election. The bill changes this by specifying that election observers may only watch and listen to the activities conducted by precinct election officials as long as the precinct election officials are not delayed in performing their duties. Observers may also take notes on observations other than by means of audio, video, or photograph. The bill, however, prohibits an observer who serves during the casting of ballots from interacting with any precinct official or any voter while the observer is inside the polling place, within the area between the polling place and small United States flags or within ten feet of any elector in line waiting to vote if the line extends beyond those flags. Any observer that violates these provisions is subject to the default penalty applicable to a violation of election law, which is a first degree misdemeanor. Generally, such an offense carries a penalty of no more than six months in jail and a fine of up to \$1,000. Overall, it is difficult to imagine that this maximum would be imposed for an election law violation such as this.

Although few observers are likely to be charged under this prohibition, county and municipal courts could incur some new costs for handling these cases. Some of these additional costs could be recovered through court costs and fines. In addition to local court costs, for all misdemeanor penalties there is a \$29 state court cost. Of this amount, \$20 is forwarded to the Indigent Defense Support Fund (Fund 5DYO) and \$9 is deposited into the Victims of Crime/Reparations Fund (Fund 4020). Again, the number of cases resulting from this provision of the bill is likely to be small.

Electronic pollbooks

Certification by Board of Voting Machine Examiners

The bill establishes a process for the approval and use of electronic pollbooks. These devices consist of an electronic list of registered voters for a particular precinct or polling location that may be transported to a polling location. Under the bill, the Board of Voting Machine Examiners, under the SOS, is authorized to test the devices for their integrity and approve electronic pollbooks in the same manner as the board tests and approves voting machines. Once this occurs, the SOS may certify the devices for use in an election. As with voting machines, a pollbook vendor is required to pay a fee of \$1,600 (proposed to be increased to \$2,400 in H.B. 153, the main operating budget) when a pollbook is submitted for testing. This fee is deposited into the Board of Voting Machine Examiners Fund (Fund 4S80). There are seven vendors in the United States that manufacture electronic pollbooks. Overall, counties that opt to use electronic pollbooks will incur up-front costs for purchasing these devices. The cost will ultimately depend on the vendor and contract specifications, but as an example, the state of Virginia entered into a contract with a vendor in which the hardware bundle for the pollbook was approximately \$2,500 per unit.

Other provisions

Changing the presidential primary election from March to May

The bill changes the date on which the primary election is held, in presidential years, from March to May. Generally, moving this primary date has no fiscal impact on county boards of elections as all other special elections are held in the same manner as in current law.

Ballot printing and counting

The bill 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. This provision could result in a county preparing fewer ballots on demand, and thereby reducing ballot printing costs. However, it is probable such savings would be minimal.

The bill also specifies that a ballot is marked contrary to law and does not contain a technical error if the voter marks more selections for a particular office, question, or issue and therefore will not be counted with respect to the particular race, issue, or question in which the error occurred. This provision could presumably reduce the time

associated with determining voter intent for particular over-votes, and thereby reduce ballot counting costs for boards of elections.

Special and primary elections provisions

The bill permits a board of elections to select two precinct officials who are not members of the same political party, instead of the usual four, to serve as precinct officials for a precinct at a special election, if the board determines that four officials are not required. The latest estimated cost for conducting a special election, as determined by the SOS, is \$1,026 per precinct, based upon the composite average of special election costs for special elections held from 2006 through 2008. Part of this cost is for compensation of poll workers, which generally are paid a minimum of \$101.50 for working an election. Reducing the mandatory number of precinct officials will lower these costs.

The bill also eliminates the ability to conduct a special primary election if a congressional candidate withdraws, dies, or is disqualified before the primary or general election. Although this situation occurs infrequently, eliminating the special election in these circumstances could significantly reduce costs. Current law requires the SOS to reimburse county boards of elections for holding special congressional elections with the approval of the Controlling Board. Under this process, funding is transferred from the GRF, under line item 911401, Emergency Purposes/Contingencies, to the BOE Reimbursement and Education Fund (Fund 5FG0) used by the SOS to make these reimbursements. As a recent example, the Secretary of State reimbursed Clinton, Highland, Montgomery, and Warren counties a total of \$272,236 for the costs of conducting a July 13, 2010 special primary election for a candidate vacancy in the 3rd Congressional District.

Election contracts and bulk purchasing of supplies

The bill permits a board of elections to contract with another board of elections in this state or with a county automatic data processing board for the provision of election services in the county. The automatic data processing boards are the county authorities statutorily required to oversee centralized IT services in county government. Presumably, counties would only use this authority when they can acquire these services at a lower cost than when they are performed by the board of elections.

The bill also permits the SOS to enter into agreements for the bulk purchase of election supplies in order to reduce the costs for those purchases by boards of elections. Under this arrangement, a county board of elections must agree to be bound by the terms and conditions that the SOS prescribes, and must make payments directly to the vendors. Although it is difficult to estimate the potential savings to be gleaned from this bulk purchasing authority, presumably the SOS could negotiate bulk purchasing prices that are lower than what each county could negotiate individually, thereby reducing supply costs to county boards of elections.