Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 194 of the 129th G.A. **Date**: June 22, 2011

Status: As Reported by Senate Government Oversight & Reform **Sponsor**: Reps. Mecklenborg and Blessing

Local Impact Statement Procedure Required: No

Contents: Makes various revisions to the Election Law

State Fiscal Highlights

- **Statewide voter registration database.** The bill allows for online voter registration and allows voters to update registration information electronically. The bill also changes the way the statewide voter registration database is administered. Cumulatively, these changes could result in some 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.
- **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

- **Precinct minimums.** The bill establishes a minimum number of 500 registered voters per precinct in municipal corporations. According to the Statewide Voter Registration Database records, there are 9,763 voting precincts in the state. Of that number, approximately 1,100 (11.3%) have fewer than 500 registered voters. If the bill results in the consolidation of polling locations, it could reduce the number of pollworkers needed to staff these locations.
- **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 boards of elections to contract with other board of elections, education service centers, or county automatic data processing boards for the provision of election services, subject to the approval of the applicable boards of county commissioners. The bill also creates a bulk purchasing program to be overseen by the SOS that county boards of elections may use to buy elections supplies. Together, these changes could generate some operating efficiencies and costs savings for preparing and conducting elections.
- **Bid threshold increase for ballot printing contracts.** The bill increases the competitive bidding threshold that applies to ballot printing contracts from $10,000 to $25,000. Competitive bidding procedures require that any such requests for bids be published in a newspaper of general circulation within the applicable county. Overall, raising the bidding threshold could reduce the administrative and advertising costs that boards of elections incur for overseeing these contracts, as well as the cost of the ballots themselves.
- **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 for printing paper copies of pollbooks. Many of the vendors that manufacture voting machines also produce these electronic pollbooks.
- **February and August special elections.** The bill requires the political subdivision seeking a ballot measure to be placed on the ballot for a February or August special election to pay 65% of the estimated election costs up front. Currently, the subdivision responsible for the costs is billed by the county board of elections after the election has been conducted.

Detailed Fiscal Analysis

Overview

The bill makes many revisions to the election laws affecting the Secretary of State (SOS), certain state agencies, 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.

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, Social Security number, Ohio driver's license number, or state identification card number, signature, and date of birth on the provisional ballot envelope. Otherwise, if the voter has identification but did not bring it to the polling place, the voter has until the close of the polls on election day to appear at the board of elections with that identification. The bill also specifies that an individual who falsely files an affirmation that he or she has no identification is considered to have committed election falsification, 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, although it is doubtful that any violators would be sentenced to the maximum penalty. 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 14th 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. However, any person in line to cast an in-person absent voter's ballot when the polling location is closing must be allowed to cast a ballot. This provision shortens the amount of time for in-person absentee voting, which could reduce some costs for county boards of elections for operating these absent voter locations.

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

Online registration and voter registration database updates

The bill requires the SOS, by rule, to establish a secure online voter registration process if applicants meet certain criteria, and that this system must be operational by July 1, 2012. As part of the online registration process, an individual must supply a valid Ohio driver's license number or Ohio identification card number. Additionally, the SOS is required to obtain a copy of the individual's signature that is on file with the

Bureau of Motor Vehicles (BMV) to be considered the applicant's signature for matching purposes. 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. The bill also requires the SOS to include a voter's voting history in the database, information that will need to be provided by county boards of elections.

The SOS will incur some new costs as a result of these requirements. Since these changes will in all likelihood reduce the volume of applications that county boards of elections will be required to process, their expenses will be reduced. It could also be that allowing voters to both register and change information online will reduce the number of address inconsistencies at the polls on the day of an election. In turn, this could reduce the number of provisional ballots cast and cut some of the costs that boards of elections incur for processing provisional ballots. To estimate the cost the SOS might incur for implementing this new system, LSC looked at other state that have recently instituted online voter registration. The state of Arizona's VRAZ-I online voter registration system cost less than $500,000 to create and implement. The state of Oregon created and implemented its online voter registration system for approximately $200,000. Whether or not Ohio's costs would be in the same range is difficult to determine, and ultimately depends on the system's specifications.

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. Appropriations for this line item in H.B. 153, the main operating budget for FY 2012-2013, pending in the General Assembly, are $2.1 million in each fiscal year.

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 SOS is also required to notify applicable county boards of elections whenever the SOS purges any voter from the database. The likely outcome of these changes is that the process of purging voter records will become more efficient.

The bill also shifts the responsibility of cross-checking voter registration information with the National Change of Address Service from the SOS to county boards of elections. Under current law, the SOS is required to send its voter registration information to the National Change of Address Service in the first quarter of each odd-numbered year. The service then sends the SOS information on any registered voter that has moved in the last three years. In turn, the SOS transmits this information to the appropriate county boards of elections. The bill removes the SOS from this process, and instead requires county boards of elections to coordinate directly with the National Change of Address Service. Assuming this information is sent in electronic format, the cost of shifting this responsibility to county boards of elections is likely minimal. Overall, however, this change appears to make the process of cross-checking voter registration data 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

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.

Precinct minimums

The bill requires voting precincts in municipal corporations to have a minimum of 500 registered voters. The bill makes an exception to this minimum if the precinct minimum varies within five per cent or less of 500 registered voters. The bill also allows counties to request the SOS for a waiver from the minimum precinct size if the county can adequately explain why a waiver is necessary.

Statewide Voter Registration Database records indicate that there are 9,763 voting precincts in the state. Of that number, approximately 1,100 (11.3%) have fewer than 500 registered voters. Most of these appear to be in smaller counties or areas outside of municipal corporations. However, even for precincts within municipal corporations, it is difficult to determine exactly how many precincts could be consolidated with others as a result of the bill. Some county boards of elections, for example, could move voters from larger precincts within municipal corporations to smaller ones to satisfy the minimum 500 voter per precinct requirement. Lesser populated counties have more precincts within municipal corporations that are below the 500 registered voter minimum, and would be more likely to consolidate precincts under the bill. Another consideration is that, especially within municipal corporations, many polling locations contain multiple precincts. In these cases, while precincts might be consolidated, county boards of elections will still bear the cost of operating the polling location. Finally, counties are permitted to employ four to six pollworkers per precinct. Consolidating precincts will reduce the number of pollworkers needed; thereby reducing staffing costs.

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 than one selection 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. The exception to this is in cases where a person filling out a provisional or absentee ballot over-votes by both selecting a

candidate listed on the ballot and writing in that same candidate's name. Under these circumstances, the ballot will be counted. Overall, this change could reduce the time associated with determining voter intent for particular over-votes, and thereby reduce ballot counting costs for boards of elections.

Special primary and presidential elections 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. Moving this primary date has no apparent fiscal impact on county boards of elections or the overall cost of conducting these elections.

Special elections costs

The bill requires a political subdivision seeking a measure to be placed on the February or August special election ballot to pay 65% of the estimated election costs up front. Currently, the subdivision responsible for the costs is billed by the county board of elections after the election has been conducted. While this provision does not alter the total costs of an election, it does allow county boards of election to receive a portion of reimbursement up front to defray the initial costs the board incurs in conducting the election.

Presidential elections – former registered voters

The bill allows a former registered voter to vote a presidential ballot in a presidential general election in person or by mail if that voter moved out of the state less than 30 days before the presidential election, and does not meet the residency requirements of the new state of residence in order to be a registered voter in that state. The voter must have been eligible to vote in Ohio at the time he or she moved. Overall, there could be some additional costs to county boards of elections to verify that any such voter would meet these requirements. However, there are likely to be very few such ballots cast.

Pollworker staffing requirements

The bill permits a board of elections to select two pollworkers 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 bill also reduces the number of pollworkers required to work in a multiple precinct polling location. Generally, precincts are staffed with either four or six pollworkers. Under the bill, in a multiple precinct polling location, there must be four pollworkers for the first precinct, plus an additional two for every additional precinct in that polling location. This provision would reduce the number of pollworkers in such locations. As an example, if there was a polling location with five precincts, there would be at least 20 pollworkers staffing that location under current law. Under the bill, there could be as few as 12 in that location. This would reduce pollworker staffing costs to county boards of elections. 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 pollworkers, which generally are paid a minimum of $101.50 for working an election. Reducing the mandatory number of precinct officials will lower these costs.

Elections contracts

The bill permits a board of elections to contract with another board of elections, an educational service center, or a county automatic data processing board for the provision of election services, subject to the approval by the applicable boards of county commissioners. Automatic data processing boards are the county authorities statutorily required to oversee centralized IT services in county government. These services could entail, for example, the storage and transport of voting machinery. As an illustration, the Franklin County Board of Elections currently contracts with a vendor for transporting all machines to the applicable polling places for each election, and for the storage of this equipment. The cost of these services is currently $92,000 per year. Under the authority in the bill, the Board could explore alternatives that could reduce costs.

Bulk purchasing program operated by the Secretary of State

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. Under this arrangement, a county board of elections must agree to the terms and conditions that the SOS prescribes for participating in the program, and must make payments directly to the vendors for the goods acquired. 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 boards of elections.

Increasing the competitive bidding threshold for ballot printing contracts

The bill also increases the threshold that applies to ballot printing contracts from $10,000 to $25,000. This could reduce ballot printing costs in two ways. First, it could reduce the number of bid notices published in general circulation newspapers by some small number. Secondly, increasing the bidding threshold could reduce administrative costs related to soliciting bids for ballot printing. Finally, this change could also reduce the cost that county boards of elections incur for ballot printing costs.