



Final Analysis

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Legislative Service Commission

Sub. H.B. 312

126th General Assembly
(As Passed by the General Assembly)

Reps. C. Evans, Trakas, Williams, Allen, S. Patton, D. Evans, Key, Law, Uecker, Hughes, DeWine, Wolpert, White, Barrett, Blessing, Calvert, Combs, Flowers, Latta, McGregor, J., Patton, T., Reidelbach, Schaffer, Schlichter, Setzer, Smith, G., Taylor, Wagoner, Woodard

Sens. Harris, Spada, Goodman

Effective date: *

ACT SUMMARY

- Requires a board of elections to ensure that the minimum number of handicapped parking spaces are designated at polling places in accordance with federal regulations and state law.
- Requires the director of the board of elections in each county, before the day of an election, to sign a statement verifying that each polling place that will be used in that county meets the handicapped parking requirements, and requires that statement to be sent to the Secretary of State.
- Permits petitions proposing to place statewide or local initiatives or referenda on the ballot to be withdrawn by a majority of the committee representing the petitioners, provided that a written notice of the withdrawal is filed with the appropriate public office before the 60th day before the election at which the question or issue is scheduled to appear on the ballot.
- Prohibits petitions that have been so withdrawn from being resubmitted.

** The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Specifies that the provisions permitting initiative and referendum petitions to be withdrawn must be considered remedial in operation and must be applied to any petition for which ballot language has not yet been approved, regardless of when the petition was filed and regardless of whether the petition has been verified.

CONTENT AND OPERATION

Facilitating voting by handicapped individuals

Handicapped accessibility for polling places

Continuing law generally requires a board of elections to ensure that polling places are free of barriers that would impede ingress and egress of handicapped persons. Their entrances must be level or provided with a nonskid ramp of not over 8% gradient, and their doors must be a minimum of 32 inches wide. However, upon certification by a board of elections that a good faith, but unsuccessful, effort has been made to modify or change the location of a polling place, the Secretary of State may exempt a polling place from these requirements. (R.C. 3501.29(B).)

Handicapped parking at polling places

New requirements imposed by the act. The act retains the latter accessibility requirements and also imposes requirements for handicapped parking at polling places. Under the act, a board of elections must ensure that the minimum number of special parking locations, also known as handicapped parking spaces or disability parking spaces, for handicapped persons are *designated* at polling places *in accordance with federal regulations and state law* (see below).¹ (R.C. 3501.29(B)(1)(b).)

The act requires the director of the board of elections in each county to sign a statement before the day of an election. The statement must verify that each polling place that will be used in that county at that election meets the handicapped parking requirements. The signed statement must be sent to the Secretary of State by certified mail. (R.C. 3501.29(E).)

General requirements for special parking locations: background law.

The Transportation Law, which generally adheres to federal law, requires special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, to be provided and designated by all political subdivisions, by

¹ 28 C.F.R. Part 36, Appendix A.

the state, and by all agencies and instrumentalities of the state at all offices and facilities where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations must be designated through the posting of an elevated sign that is imprinted with the international symbol of access and must be reasonably close to exits, entrances, elevators, and ramps. (R.C. 4511.69(E).)

No owner of an office, facility, or parking garage where special parking locations are required to be designated may fail to properly mark the special parking locations or fail to maintain the markings of the special locations, including the erection and maintenance of the elevated signs. An owner who fails to properly mark that parking must first be issued a warning. If the person previously has been convicted of or pleaded guilty to a *Revised Code* violation for such a failure or to a *violation of a substantially similar municipal ordinance* for such a failure, the offender must be fined not more than \$25 for each parking location that is not properly marked or whose markings are not properly maintained. (R.C. 4511.69(H) and (J)(3).)

Only a vehicle (1) that is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk or by or for a handicapped person and (2) that is displaying a valid windshield placard or special license plates may be stopped, stand, or be parked in such a special parking location (R.C. 4511.69(F)(1)). Any motor vehicle that is parked in a marked special parking location in violation of this provision may be towed or otherwise removed by the relevant law enforcement agency. A motor vehicle that is towed or removed must not be released to its owner until the owner presents proof of ownership and pays all towing and storage fees normally imposed by that political subdivision for towing and storing motor vehicles.² (R.C. 4511.69(F)(2).)

A person who stops, stands, or parks in a marked special parking location but is not eligible to do so is guilty of a misdemeanor. The person generally must be fined not less than \$250 or more than \$500. However, the person cannot be fined more than \$100 if the person is able to prove (1) that the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license or handicapped license plates that then were valid but (2) the offender or the person neglected to display the placard or license plates. (R.C. 4511.69(J)(2).)

² *If the motor vehicle is a leased vehicle, it must not be released to the lessee until the lessee presents proof that that person is the lessee and pays all towing and storage fees normally imposed by that political subdivision for towing and storing motor vehicles.*

Withdrawal of initiative and referendum petitions

In general

Former law prohibited *any petition* from being withdrawn after it was filed in a public office. The act continues this rule only for a declaration of candidacy, nominating petition, or other *petition* for the purpose of *becoming a candidate*. Thus, the act establishes an exception to this rule for the withdrawal of initiative and referendum petitions. (R.C. 3501.38(I)(2)(a).)

With respect to initiative and referendum petitions, the act prohibits the presentation to or the filing with the Secretary of State, a board of elections, or any other public office of a petition "for the purpose of the holding of an election on any question or issue" after that petition *has been withdrawn from a public office*. But, the act essentially provides that this new rule does *not prevent* a question or issue petition from being withdrawn, before the 60th day before the election at which the question or issue is scheduled to appear on the ballot, by the filing with the same public office with which the petition was filed of a *written notice of the withdrawal* by a majority of the members of the petitioning committee. (R.C. 3501.38(I)(2)(b) and related amendments to R.C. 3501.05.)

Special statewide initiative and referendum provisions

The act contains specific procedures for the withdrawal of statewide initiative and referendum petitions that are consistent with the general provisions discussed above. Specifically, under the act, at any time before the 60th day before the day of an election at which a statewide initiative or referendum is scheduled to appear on the ballot, a majority of the members of the committee named to represent the petitioners is permitted to withdraw the petition by giving written notice of the withdrawal to the Secretary of State. After a majority of the committee gives notice that the petition is withdrawn, all of the following apply (see **COMMENT**):

(1) If the Ohio Ballot Board has not already certified the ballot language at the time a majority of the members of the committee gives the written notice of the withdrawal, the Board must not certify ballot language for that proposed initiative or referendum to the Secretary of State. The Ohio Ballot Board is generally responsible, under continuing law, for prescribing the ballot language for statewide initiatives and referenda.

(2) The Secretary of State must not certify a ballot form or wording to the boards of elections that includes ballot language for the proposed initiative or referendum. Continuing law generally requires the Secretary of State to certify to

the boards of elections the form and wording of state referendum questions and issues.

(3) The proposed initiative or referendum must not appear on the ballot.

A petition that is filed, and subsequently withdrawn pursuant to this procedure, cannot be resubmitted. (R.C. 3519.08 and related amendments to R.C. 3501.05(I) and 3505.01.)

Applicability to previously filed petitions

Statewide questions or issues. The act specifies that its provisions relating to the withdrawal of statewide initiative and referendum petitions must be considered to be *purely remedial* in operation and must be applied to any statewide initiative or referendum petition for which the Secretary of State has not yet certified a ballot form or wording to the boards of elections. The provisions relating to the withdrawal of statewide initiative and referendum petitions apply regardless of when the statewide initiative or referendum petition was filed with the Secretary of State and regardless of whether the petition has been verified by the Secretary of State. (Section 3(A).)

Local questions or issues. The act specifies that its provisions relating to the withdrawal of initiative and referendum petitions filed for a municipal corporation, county, township, other political subdivision, or other statutory body exercising governmental authority must be considered to be *purely remedial* in operation and must be applied to any initiative or referendum petition for which the applicable board of elections has not yet given approval to or submitted to the Secretary of State ballot language and for which the Secretary of State has not yet given final approval to ballot language. The provisions relating to the withdrawal of those initiative and referendum petitions apply regardless of when the initiative or referendum petition was filed and regardless of whether the petition has been verified. (Section 3(B).)

COMMENT

Article II, Section 1a of the Ohio Constitution specifies that, when a petition proposing an amendment to the Constitution contains the required number of signatures and the full text of the proposal is filed with the Secretary of State and verified, the Secretary of State must submit the proposed constitutional amendment for the approval or rejection of the electors. The Ohio Constitution does not specify any mechanism for the withdrawal of such a petition.

HISTORY

ACTION	DATE
Introduced	07-12-05
Reported, H. Elections and Ethics	05-11-06
Passed House (90-0)	05-16-06
Reported, S. State & Local Gov't & Veterans Affairs	05-23-06
Passed Senate (24-8)	05-23-06
House concurred in Senate amendments (65-28)	05-23-06

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