



Ohio Legislative Service Commission

Final Analysis

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Am. Sub. H.B. 194 129th General Assembly (As Passed by the General Assembly)

Reps. Mecklenborg and Blessing, Combs, Anielski, Baker, Boose, Brenner, Bubp, Buchy, Coley, Grossman, Hackett, Huffman, Maag, Martin, Newbold, Slaby, Uecker, Batchelder

Sens. Faber, Bacon, Beagle, Coley, Hite, Jones, Jordan, Lehner, Niehaus, Schaffer, Seitz, Widener

Effective date: The act was to be subject to a referendum vote on November 6, 2012. Effective August 15, 2012, S.B. 295 repealed H.B. 194. H.B. 194 was removed from the referendum.

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* This version adds information to the effective date to explain why a referendum vote was not held.

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ACT SUMMARY

Election administration

Presumption of pollworker error

- Specifies that, in any administrative review or legal action brought regarding the actions of any election official, all of the following apply:
 - No election official can be presumed to have committed any error in the course of the election official's duties, unless that error is independently proven by the facts of the administrative review or legal proceeding.
 - If an election official has been found to have committed an error with respect to a particular person or set of circumstances, that election official must not be presumed to have committed an error with respect to any other person or set of circumstances.

--If election officials in one precinct, polling location, or county are found to have committed an error with respect to a particular person or set of circumstances, that error shall not be presumed to have occurred in any other precinct, polling location, or county.¹

Use of Social Security number as identification

- Requires a person who uses a Social Security number as identification under the Election Law to provide the full nine digits of that number, instead of the last four digits, as under prior law.
- Specifies that the Social Security number of an elector or voter registration applicant is not a public record and must be redacted on records made publicly available.²

Documentation for voters with a former address on their ID

- 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.³

Contracts for the provision of election services

- Permits a board of elections to contract with another board of elections in this state with a county automatic data processing board, or with an educational service center for the provision of election services, including any statutory duties imposed upon the board.⁴
- Requires any contract entered into under this provision to be approved by the boards of county commissioners of the affected counties.

¹ R.C. 3501.40.

² R.C. 3501.13, 3503.14, 3503.19, 3503.20, 3503.28, 3505.18, 3505.181, 3505.183, 3509.03, 3509.031, 3509.04, 3509.05, 3511.02, 3511.05, and 3511.09. Am. Sub. H.B. 224 of the 129th General Assembly repealed the nine-digit requirement and reinstated the last four digit language before the provisions of this act took effect.

³ R.C. 3503.16(B)(1)(a) and 3505.18(A)(1).

⁴ R.C. 3501.111.

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.⁵

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.⁶

Number of precinct officials at a special election

- 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.⁷

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 1990.⁸
- Clarifies that an elector is only eligible to vote in the elector's car if the elector is unable to enter the polling place due to the inaccessibility of the polling place.⁹

Journalist access to polling places

- Specifies that a journalist must be allowed reasonable access to a polling place during an election.¹⁰

⁵ R.C. 3501.302.

⁶ R.C. 3501.301 and 3505.13.

⁷ R.C. 3501.22.

⁸ R.C. 3501.29.

⁹ R.C. 3501.29.

¹⁰ R.C. 3501.35.

Qualifications to circulate an election petition

- 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.¹¹

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.¹²

Certification of unofficial election results

- Eliminates a provision that required boards of elections to certify the unofficial election results to the Secretary of State by certified mail.¹³

Minimum precinct size

- Establishes a minimum precinct size of 500 electors for precincts located in a municipal corporation.
- Specifies that a board of elections does not violate the minimum precinct size if its minimum precinct size varies from the statutory minimum by 5% or less.
- Permits a board of elections to apply to the Secretary of State for a waiver from the minimum precinct size requirement, and requires a board that applies for a waiver to identify the affected precincts and to explain the reason for the waiver request.
- Permits the Secretary of State to waive the minimum precinct size requirement, upon application of a board of elections, and requires the Secretary of State to notify the board of the waiver in writing.¹⁴

¹¹ R.C. 3503.06.

¹² R.C. 3505.20.

¹³ R.C. 3505.30.

¹⁴ R.C. 3501.18.

- Specifies that the minimum precinct size requirements do not apply to a precinct established at a state or national home for disabled soldiers.¹⁵
- Requires a board of elections to rearrange and combine precincts as necessary to comply with the minimum precinct size requirements not later than December 31, 2011.¹⁶

Time for use of voting machines

- Increases from five minutes to ten minutes the maximum time a voter may occupy a voting compartment or use a voting machine when all the compartments or machines are in use and voters are waiting to occupy them.
- Specifies that this time limit does not apply to a person who is disabled and requires accommodation to the extent required under the Americans with Disabilities Act of 1990.¹⁷

Official oversight over a board of elections

- 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.¹⁸

Number of precinct officials at multiple precinct polling locations

- Permits a board of elections that opts to use multiple precinct polling locations in lieu of any or all individual precinct polling locations to appoint a reduced number of precinct election officials to staff the polling location.
- Specifies, for the first precinct combined in a multiple precinct polling location, that four precinct election officials are to be appointed (not more than one-half of them being members of the same political party), and for each additional precinct combined into the multiple precinct polling location, that two precinct election officials are to be appointed (each of them being members of different political parties).

¹⁵ R.C. 3501.20.

¹⁶ Section 6 of the act.

¹⁷ R.C. 3505.23.

¹⁸ R.C. 3501.05.

- Specifies that the board of elections is to designate as the single voting location manager for a multiple precinct polling location, one of the precinct election officials who is a member of the political party whose candidate for Governor received the highest number of votes at the most recent general election for that office in the precincts combined in the multiple precinct polling location.¹⁹

Directives issued by the Secretary of State

- Changes the time during which the Secretary of State may not issue permanent directives from the period beginning 90 days before an election until 40 days after an election to the period beginning 30 days before an election until 30 days after the election.²⁰

Training of election officials

- Permits the Secretary of State to mandate training, in addition to that required under continuing law, for election officials on a continuing basis in an effort to achieve election uniformity.²¹

Temporary election employees and sick/vacation leave

- Permits a board of elections to hire temporary employees, as well as part-time employees.
- Specifies that nonfull-time, part-time, or temporary employees must only be paid for sick or vacation time subject to action adopted by the board.²²

Elimination of political party challenge

- 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.²³

¹⁹ R.C. 3501.22.

²⁰ R.C. 3501.053.

²¹ R.C. 3501.27.

²² R.C. 3501.14.

²³ R.C. 3513.05 and 3513.19.

Font size for statewide ballot issue advertising

- Reduces the font size from 10-point to 8-point for printing information on statewide ballot issues in newspapers.²⁴

Initiative and referendum petitions

Supreme Court jurisdiction over challenges to initiative and referendum petitions

- Specifies, under Ohio Constitution, article II, section 1g, that the Supreme Court of Ohio has original, exclusive jurisdiction in all challenges to initiative and referendum petitions.

Filing requirements for initiative and referendum petitions

- Requires the petitioner of any petition to designate on each part-petition filed with the Secretary of State the county in which the petition was circulated and a sequential number for each part-petition.
- Requires a petitioner, when filing the petition, to also file (1) an electronic copy of the petition along with a verification that the electronic copy is a true representation of the original paper petition filed with the Secretary of State, (2) a summary of the number of part-petitions filed per county and the number of signatures on each part-petition, and (3) an index of the electronic copy.
- Specifies that, for a request made for inspection or copying of a petition, the request is fulfilled when the Secretary of State provides inspection of or copies of the electronic copy of the petition, and specifies that this provision applies from the time of the initial petition filing until the part-petitions are returned to the Secretary of State after the boards of elections determine the sufficiency of the part-petitions.
- Specifies that discrepancies between the original paper petition and the electronic copy of the petition do not render the petition invalid, but specifies that such discrepancies, if the product of fraud, are subject to criminal penalties for election falsification.²⁵

²⁴ R.C. 7.101.

²⁵ R.C. 3519.16.

Notifying initiative and referendum petitioners of signature verification results

- Requires the Secretary of State to notify, by certified mail, each member of the committee in charge of the circulation of the petition as to the sufficiency or insufficiency of the petition.
- Specifies that the ten-day period to obtain additional signatures begins after the first member of the committee receives notice of the petition's insufficiency by certified mail from the Secretary of State.²⁶

Collection of additional signatures on petitions

- Prohibits the circulator of a petition from collecting additional signatures during the period beginning on the date a petition is filed and ending on the date that the Secretary of State determines the sufficiency of the signatures that were originally filed.²⁷

Primary and special elections

Changing presidential primary election from March to May

- Changes the date of the presidential primary election in each presidential election year from the first Tuesday after the first Monday in March to the first Tuesday after the first Monday in May.
- Eliminates the provision that permitted a special election to be conducted on the first Tuesday after the first Monday in March in the year in which a presidential primary election is held.²⁸

Determination of whether to conduct primary election

- Changes the basis for calculating whether a primary election should be conducted from the number of declarations of candidacy filed to the number of candidates certified to appear on the ballot.²⁹

²⁶ R.C. 3519.16.

²⁷ R.C. 3519.16.

²⁸ R.C. 511.27, 1545.21, 3501.01, 3513.12, and 3513.262.

²⁹ R.C. 3513.02.

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
 - Divide 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.³⁰

Candidates

Notifying candidates of identical names

- Changes the process for notifying candidates that they have identical names from special delivery or telegram to certified mail.³¹

Withdrawal of a candidate

- Specifies the process for removing a person's name from the ballot when the candidate withdraws before any election, not just a primary election.³²

Ballots

Ballots with more marks than legal selections (overvotes)

- Retains a provision of continuing law that generally prohibits ballots from being counted that are marked contrary to law, except in the case of technical error.
- 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 than the number of selections that the voter is allowed by law to make for that office, question, or issue.
- Specifies that a voter marks more selections for a particular office than the voter is allowed by law to make for that office if the voter marks the ballot for a candidate and also writes in the name of the candidate as a write-in vote.
- Requires an otherwise overvoted ballot to be counted if all of the following apply:
 - (1) The voter marks the ballot for a candidate and writes in the identical candidate's name;
 - (2) The ballots are counted at a central location using automatic tabulating equipment; and

³⁰ R.C. 3501.17.

³¹ R.C. 3513.131,

³² R.C. 3513.30.

(3) At least three members of the board of elections agree that the candidate's name, as it appears on the ballot, and the name of the candidate written in by the voter are identical.³³

- Requires a voter's ballot to be invalidated for the overvoted office, question, or issue, but specifies that the ballot is not to be invalidated for any other office, question, or issue for which the voter has not marked an excess number of selections.³⁴

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.³⁵

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.³⁶

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).³⁷
- 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.

³³ R.C. 3505.28.

³⁴ R.C. 3505.28.

³⁵ R.C. 3506.12, 3506.15, 3509.01, 3515.04, and repeal of 3506.16.

³⁶ R.C. 3505.05.

³⁷ R.C. 3505.11.

Voter registration

Administration of the statewide voter registration database

- Requires the Secretary of State to administer the statewide voter registration database and make it continuously available to each board of elections and to other agencies as authorized by law.³⁸
- Requires the Secretary of State to adopt rules establishing a uniform method for addressing instances in which records contained in the statewide voter registration database do not conform with records maintained by the Bureau of Motor Vehicles.

Data-sharing with state agencies and other states

- Requires state agencies, including the Department of Health, Bureau of Motor Vehicles, Department of Job and Family Services, and the Department of Rehabilitation and Correction, to provide any information and data to the Secretary of State that the Secretary of State considers necessary to maintain the statewide voter registration database.
- Requires the Secretary of State to ensure that any information or data provided to the Secretary of State by another agency that is confidential while in the possession of the agency providing the information or data remains confidential while in the possession of the Secretary of State.
- Prohibits information provided by another agency from being used to update the name and address of a registered elector, and specifies that an elector's name and address may only be updated as a result of the elector's actions in filing a notice of change of name, change of address, or both.
- Requires a board of elections to contact a registered elector at the address on file with the board to verify the accuracy of information in the statewide voter registration database, if information received from another agency identifies a discrepancy between the information maintained in the database and information maintained by the other agency.
- Specifies that an agency is not required to provide information or data to the Secretary of State if doing so is prohibited by federal law or regulation.³⁹

³⁸ R.C. 3503.15 and 3501.05.

³⁹ R.C. 3503.15.

- Permits the Secretary of State to enter into agreements to share information or data with other states or groups of states, as the Secretary of State considers necessary, in order to maintain the statewide voter registration database.
- Requires the Secretary of State generally to ensure that any information or data provided to the Secretary of State by another state that is confidential while in the possession of the state providing the information or data remains confidential while in the possession of the Secretary of State, but permits the Secretary of State to provide otherwise confidential information or data to persons or organizations that are engaging in legitimate governmental purposes related to the maintenance of the statewide voter registration database.⁴⁰

Persons eligible to purge voters from the statewide voter registration database

- Eliminates a provision requiring boards of elections to purge a voter's name and voter registration from the statewide voter registration database upon cancellation of the voter's registration, and requires the Secretary of State to specify, by rule, the persons authorized to add, delete, modify, or print records in the database.⁴¹
- Requires the Secretary of State to notify the applicable board of elections of each voter that the Secretary of State has purged from the statewide voter registration database.⁴²

Cancellation of voter registrations due to death

- 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.

⁴⁰ R.C. 3503.15.

⁴¹ R.C. 3501.05 and 3503.15.

⁴² R.C. 3501.05 and 3503.15.

- Requires a board of elections or the Secretary of State promptly to cancel the registration of each elector who is named in a death report filed under these provisions.⁴³
- Requires the registration of a registered elector to be cancelled upon the filing with the board of elections of a certified copy of the death certificate of the registered elector by the deceased elector's spouse, parent, or child, by the administrator of the deceased elector's estate, or by the executor of the deceased elector's will.⁴⁴

Online voter registration

- Requires the Secretary of State, by rule, to establish a secure online process for voter registration, which will allow a voter registration to be submitted online to the Secretary of State through the Internet.
- 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 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.⁴⁵
- 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.

⁴³ R.C. 3503.18 and 3503.21(A)(2).

⁴⁴ R.C. 3503.21(A)(3).

⁴⁵ R.C. 3503.20. Although this act established online voter registration and online updating of voter registration information, those provisions were repealed by Am. Sub. H.B. 224 of the 129th General Assembly before they could be implemented.

- Specifies that a voter registration application submitted online through the Internet is not required to contain a signature to be considered valid.
- 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.
- Requires the online registration process to be operational not later than July 1, 2012.⁴⁶

Online updating of voter registration information

- Permits a registered voter to use the online voter registration process to update the elector's name, address, or both.⁴⁷

Sending of acknowledgment notice

- Permits a board of elections to send an acknowledgment notice, as prescribed by the Secretary of State, to any registered elector at any time to facilitate the maintenance and accuracy of the statewide voter registration database.⁴⁸

Address verification with national change of address database

- Requires boards of elections, instead of the Secretary of State, to verify the address information of each registered voter in the county with the national change of address database.
- Increases the frequency at which the verification is to be conducted, from once in every odd-numbered year to at least once in each year.⁴⁹

Database information available online

- Removes, by striking through the word "only," its apparent limiting effect on the information from the statewide voter registration database – voter names, voter

⁴⁶ R.C. 3503.14(E) and 3503.20(B) and (E).

⁴⁷ R.C. 3503.20(B). Although this act established online voter registration and online updating of voter registration information, those provisions were repealed by Am. Sub. H.B. 224 of the 129th General Assembly before they could be implemented.

⁴⁸ R.C. 3503.22.

⁴⁹ R.C. 3503.21.

addresses, voter precinct numbers, and voter voting histories – that can be made available on the Secretary of State's web site.⁵⁰

Persons who are compensated for registering voters

- Eliminates provisions that required persons who are compensated for registering voters to register with the Secretary of State and complete a training program regarding voter registration.
- Eliminates the requirement that the Secretary of State establish a training program for persons who are compensated for registering voters.⁵¹

Voter registration informational brochure

- Eliminates the requirement that a board of elections, designated agency, public high school, public vocational school, public library, county treasurer, or deputy registrar of motor vehicles distribute an informational brochure regarding voter registration to each person who requests more than two voter registration forms at one time.⁵²

Clarification on return process for voter registration forms

- Ensures that various provisions of law governing the submission of voter registration forms consistently describe the manner and location to which those forms may be returned.⁵³

Incomplete voter registration applications

- Requires the Secretary of State to establish, by rule, a uniform process for notifying individuals who have submitted an incomplete voter registration application of the incomplete status of that application, and requires the process to permit such an individual to provide any information required to complete the application.⁵⁴

⁵⁰ R.C. 3503.15(G)(1)(a).

⁵¹ R.C. 3503.28 and repeal of section 3503.29.

⁵² R.C. 3503.28.

⁵³ R.C. 3503.19.

⁵⁴ R.C. 3503.05.

Provisional ballots

Changes in categories of provisional voters

- 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 may be required to cast a provisional ballot.
- Eliminates the requirement that an elector who changes the elector's name and remains within a precinct cast a provisional ballot, and instead permits an elector who changes the elector's name but stays in the same precinct to vote a regular ballot.
- Requires an elector who moves from one county to another and changes the elector's name to vote a provisional ballot in the same manner as any other elector who moves from one county to another without updating the elector's registration information must vote a provisional ballot.
- Requires an individual who is casting a ballot after the time for the closing of the polls pursuant to a court order extending the time for the closing of the polls to cast a provisional ballot.⁵⁵

Provisional ballots cast by voters without identification

- Eliminates a provision of existing law permitting individuals without identification to execute an affirmation and have that individual's provisional ballot counted.
- Requires an individual who does not have or cannot provide identification to the election officials to vote a provisional ballot and permits such an individual to provide identification to the board of elections not later than the close of the polls or to provide the individual's Social Security number on the provisional ballot envelope, and allows such a person's ballot to be counted if the identification is so provided or the Social Security number is verified with the Bureau of Motor Vehicles.⁵⁶

⁵⁵ R.C. 3503.16 and 3505.181.

⁵⁶ R.C. 3505.18, 3505.181, and 3505.183. Am. Sub. H.B. 224 of the 129th General Assembly eliminated these provisions and instead requires an elector without identification to provide the last four digits of the elector's Social Security number or the elector's driver's license or state identification card number, which number must be compared to the elector's information in the statewide voter registration database.

Requirement to direct voters to the correct precinct

- Permits, instead of requires, an election official to direct a voter who is in the wrong precinct to the voter's correct precinct.
- Specifies that it is the duty of the individual casting the ballot to ensure that the individual is casting that ballot in the correct precinct.
- Specifies that, if an election official attempts to direct an individual to the correct precinct and the individual subsequently casts a ballot in the wrong precinct, (1) that ballot shall not be counted, and (2) the ballot being cast in the wrong precinct shall not be considered to be caused by an error on the part of the election official.⁵⁷

Provisional ballot affirmation form

- Eliminates the provisional ballot affirmation form established in prior law, and instead requires the Secretary of State to prescribe the form of the written affirmation, which affirmation must be printed on the face of the provisional ballot envelope.⁵⁸
- Eliminates a provision that required election officials to record on the provisional ballot envelope the type of identification provided by a provisional voter.⁵⁹

Provisional voters who decline to execute the required affirmation

- Prohibits the election official from recording any of the information required to be provided by the provisional voter on the provisional ballot affirmation when the voter declines to execute the affirmation.
- Requires the election official to explain to an individual who declines to execute the affirmation that the individual's provisional ballot will not be counted.
- Eliminates a provision that required the election officials to record the name of an individual who declined to execute the affirmation and transmit that information with the provisional ballot for the purpose of ballot verification.

⁵⁷ R.C. 3505.181(C).

⁵⁸ R.C. 3505.182.

⁵⁹ R.C. 3505.181.

- Eliminates a provision that permitted such an individual's provisional ballot to be counted if the election officials determined that the individual was eligible to vote.⁶⁰

Elimination of ten-day period to provide additional information

- Eliminates the option for an elector 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.
- Eliminates the requirement that election officials note on the provisional ballot affirmation whether a provisional voter is required to appear at the board of elections within ten days to provide additional information.
- Eliminates a provision that prohibited election officials from determining the validity of a provisional ballot until they received the required information from the provisional voter or ten days elapsed, whichever occurs first.
- Eliminates a provision that required election officials, when considering the validity of a provisional ballot, to review additional information provided by the provisional voter within ten days after the day of the election.⁶¹
- Eliminates a provision that permitted a voter registration application hearing or a challenge hearing that was postponed until after the election to be conducted during the ten days following the election, and requires the hearing to be conducted not later than ten days after it was received.⁶²

Determining validity of provisional ballots

- Specifies that, when determining whether a provisional ballot is valid and entitled to be counted, the board of elections must examine the affirmation executed by the provisional voter, the Statewide Voter Registration Database, and other records maintained by the board of elections.
- Requires the provisional voter to provide all of the following information on the affirmation for the provisional ballot to be eligible to be counted:

(1) The elector's printed name;

(2) The elector's signature;

⁶⁰ R.C. 3505.181(B) and 3505.183(B)(1).

⁶¹ R.C. 3505.181 and 3505.183.

⁶² R.C. 3503.24.

- (3) The elector's date of birth;
- (4) The elector's Social Security number, Ohio driver's license number, or state identification card number, or an affirmative notation that the elector provided the required identification to the election officials;
- (5) The elector's residence address;
- (6) A statement that the individual is a registered voter in the jurisdiction in which the provisional ballot is being voted; and
- (7) A statement that the individual is eligible to vote in the election in which the provisional ballot is being voted.⁶³

Use of provisional ballot affirmation as notice of change of address or name

- Requires the provisional ballot affirmation of elector who votes a provisional ballot due to a change of residence, change of name, or both, to serve as the change of residence or change of name form, instead of requiring the elector to complete and sign a separate form.⁶⁴

Assistance for disabled and illiterate electors

- Specifies that nothing in the Provisional Ballot Law is in derogation of the provisions of continuing law that permit a blind, disabled, or illiterate elector to receive assistance in the marking of the elector's ballot by two precinct election officials of different political parties.
- Permits a blind, disabled, or illiterate elector to receive assistance in marking that elector's provisional ballot and in completing the required affirmation in the same manner as an elector may receive assistance on the day of an election.⁶⁵
- Clarifies that the provisions of law that permit a blind, disabled, or illiterate elector to receive assistance in the marking of the elector's ballot by two precinct election officials of different political parties supersedes any contrary provision of law.⁶⁶

⁶³ R.C. 3505.183(B)(1).

⁶⁴ R.C. 3503.16.

⁶⁵ R.C. 3505.181(F).

⁶⁶ R.C. 3505.24.

Absent voting

Time for in-person and mail-in absent voting

- Requires absent voter's ballots that will not be cast in person to be printed and ready for use on the 21st day before an election, except for military and overseas voters, whose ballots must be available 45 days before an election.
- Requires absent voter's ballots to be printed and ready for use for in-person voting beginning on the 17th day before the election through 6 p.m. on the last Friday before the election, except that in-person ballots must not be available for use on Sundays.
- Specifies that, on days absent voter's ballots may be cast in person, those ballots must be available Monday through Friday from 8 a.m. through 6 p.m. and Saturday from 8 a.m. to 12 p.m.⁶⁷
- Requires electors who are waiting in line at the time for the close of in-person absent voting on a particular day to be permitted to cast their ballots before the in-person absent voting location may close.⁶⁸
- Changes the time during which a registered elector who has moved or changed the elector's name may appear in person at the office of the board to fill out a change of residence or change of name form and vote in person to match the time during which any other elector may appear at the office of the board and cast an absent voter's ballot in person.
- Changes the time during which a disabled elector who has moved or changed the elector's name may request an absent voter's ballot and simultaneously update the elector's address or name to match the time during which any other elector may request an absent voter's ballot (21 days before an election).⁶⁹

Process for in-person absent voting

- Specifies that all of the following apply to the casting of absent voter's ballots in person:⁷⁰

⁶⁷ R.C. 3509.01, 3503.16, and 3511.10.

⁶⁸ R.C. 3509.01.

⁶⁹ R.C. 3503.16.

⁷⁰ R.C. 3509.051.

--The absent voter must provide identification in the same manner as a voter who casts a ballot in person on the day of an election.

--The absent voter is not required to complete an absent voter's ballot identification envelope.

--The board of elections must provide a signature book to be signed by absent voters who are casting their ballots in person.

--If a board of elections employs more than one location for casting absent voter's ballots in person before an election, an electronic pollbook that provides real time access to voting records must be used at each such location.

--No person other than a precinct election official is to be permitted to challenge the right to vote of an absent voter who is casting a ballot in person. The precinct election officials may challenge such a voter's right to vote in the same manner as a challenge may be made on the day of an election.

--No absent voter may receive a replacement ballot after the voter's absent voter's ballot has been scanned or entered into automatic tabulating equipment.

Location for in-person absent voting

- Generally requires voters who cast in-person absent ballots or who otherwise must cast ballots at the board to vote at the main office of the board of elections.⁷¹
- Permits a board of elections to allow electors to cast absent voter's ballots in person at a branch office of the board if (1) at least three members of the board vote to establish a branch office at a specified location for the applicable election and (2) at least three members of the board determine, as part of that vote, that the board of elections lacks the physical capacity at the office of the board to conduct in-person absent voting at that location for the applicable election.
- Requires the determination of whether to establish a branch office at which electors may cast absent voter's ballots in person before an election to be made separately for each election based on the projected physical capacity requirements for in-person absent voting at that election.⁷²

⁷¹ R.C. 3501.10, 3503.16, 3509.02, 3509.03, 3509.031, 3509.04, 3509.05, 3511.02, 3511.05, and 3511.09.

⁷² R.C. 3501.10(C), 3503.16, and 3509.02.

Voters waiting in line at the end of in-person voting for the day

- Requires voters who are waiting in line at the time for the close of in-person absent voting on a particular day to be permitted to cast their ballots before the in-person absent voting location may close.⁷³

Unsolicited applications for absent voter's ballots

- Prohibits a board of elections from mailing any unsolicited applications for absent voter's ballots.
- Permits a board of elections to mail an absent voter's ballot application only to an elector who has requested such an application.⁷⁴

Prepayment of return postage costs

- Prohibits a board of elections from prepaying the return postage on absent voter's ballot applications.⁷⁵
- Requires absent voters to send their marked ballots to a board of elections with the postage prepaid.⁷⁶

Entity responsible for sending and receiving absent voter's ballots

- Requires the board of elections, rather than the director, to deliver absent voter's ballots to voters who request them, and requires those ballots to be returned to the board, rather than to the director.⁷⁷

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

⁷³ R.C. 3509.01.

⁷⁴ R.C. 3509.03 and 3509.031.

⁷⁵ R.C. 3509.03 and 3509.031.

⁷⁶ R.C. 3509.05 (continuing law) and 3511.09.

⁷⁷ R.C. 3509.03, 3509.031, 3509.04, 3509.05, 3509.06, 3509.08, 3509.09, 3511.02, 3511.04, 3511.05, 3511.06, 3511.07, 3511.08, 3511.09, 3511.10, 3511.11, and 3511.13.

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.⁷⁸

Vote totals for absent voter's ballots

- Requires a board of elections, when tallying the results of absent voter's ballots, to add those votes to the vote totals for the precincts in which the applicable absent voters reside.⁷⁹

Challenging absent voters based on incomplete envelopes

- Permits the precinct election officials to challenge the right to vote of an absent voter if the identification envelope statement of voter has not been completed, unless the ballot is a uniformed services or overseas absent voter's ballot.⁸⁰

Stub A requirements

- Prohibits an absent voter's ballot from being accepted or counted if Stub A is not included in the envelope with the ballot, instead of prohibiting the ballot from being counted if Stub A is detached, as under current law.⁸¹

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.⁸²

Absent voters casting ballots in nursing homes and other facilities

- Specifies that persons who receive their ballots in person from two election officials in a nursing home, hospital, or other facility, or persons in those facilities who vote

⁷⁸ R.C. 3509.05(C).

⁷⁹ R.C. 3509.06.

⁸⁰ R.C. 3509.06.

⁸¹ R.C. 3509.07.

⁸² R.C. 3511.14.

with assistance, are considered to have voted an absent voter's ballot by mail, for the purpose of the law governing voter identification.⁸³

Required fields for absent voter's ballots

- Requires the Statement of Voter on a completed absent voter's ballot identification envelope to contain the voter's date of birth.⁸⁴

Election observers

Observing during the casting of in-person absent voter's ballots

- 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.
- Requires the political party or group of candidates appointing observers to notify the board of elections of observers appointed to serve at the board of elections during the time absent voter's ballots may be cast in person not less than 11 days before those ballots are required to be printed and available for use, and requires the notification to be made on forms prescribed by the Secretary of State.⁸⁵
- Specifies that the notice may be amended by filing an amendment with the board of elections at any time until 4 p.m. of the day before an observer is appointed to serve.
- Specifies that observers may file their certificates of appointment with the board of elections the day before or on the day they are scheduled to observe.

Activities of election observers who serve during the casting of the ballots

- Permits election observers who serve during the casting of the ballots only to watch and listen to election officials engaging in their duties and to interactions between voters and election officials and to take notes on their observations, other than by means of a photographic, video, or audio recording.
- Specifies that observations must not delay election officials in performing their duties or voters in casting their ballots.
- Prohibits an observer who serves during the casting of the ballots from interacting with any precinct election official or with any voter while the observer is inside the

⁸³ R.C. 3509.08.

⁸⁴ R.C. 3509.07.

⁸⁵ R.C. 3505.21.

polling place, within the area between the polling place and the small United States flags placed on the thoroughfares and walkways leading to the polling place, or within ten feet of any elector in line waiting to vote, if the line of electors waiting to vote extends beyond those small flags.

- Specifies that an observer who violates this prohibition is subject to the default penalty applicable to a violation of the Election Law, a misdemeanor of the first degree.
- Specifies that no violation of the prohibition occurs as a result of an incidental interaction between an observer and a voter or a precinct election official, such as an exchange of greetings.⁸⁶

Electronic pollbooks

Certification by the Board of Voting Machine Examiners

- 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.⁸⁷

Adoption for use by a board of elections

- 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.⁸⁸

⁸⁶ R.C. 3505.21.

⁸⁷ R.C. 3506.05.

⁸⁸ R.C. 3506.021.

Campaign-related changes

- Eliminates provisions that were permanently enjoined due to their unconstitutionality, which governed the expenditure of personal funds by candidates and permitted the opponents of personal funds candidates to accept contributions in excess of the contribution limits.⁸⁹
- Eliminates provisions that were permanently enjoined due to their unconstitutionality, which prohibited corporations and labor organizations from using their money and property for political purposes.⁹⁰
- Specifies that the definition of "political contributing entity" includes a corporation or labor organization, subject to the continuing prohibition against corporations and labor organizations making contributions directly to candidates.⁹¹
- Specifies that none of the act's changes prohibit a labor organization from making a contribution to a candidate's campaign committee or to another political entity or from making an independent expenditure.⁹²
- Specifies that the changes to the definition of political contributing entity supersede the provisions of rule 111-3-05 of the Administrative Code, which governs the reporting of independent expenditures by corporations, and that, on and after the effective date of the new definition, rule 111-3-05 is void and must have no further effect.⁹³
- Specifies that the provisions of continuing law regarding the registration of federal political committees do not apply to the federal political committee of a member of, or a candidate to become a member of, Ohio's Congressional delegation.⁹⁴
- Prohibits a local elected official, during the 90 days before that elected official's name appears on the ballot at an election, from producing or disseminating any mass mailing or any form of advertising mailed from the official's office or advertised in a

⁸⁹ R.C. 3517.10, 3517.102, 3517.103, 3517.153, 3517.154, 3517.155, and 3517.992(X) and (Y), and repeal of R.C. 3517.1010.

⁹⁰ R.C. 3517.1011, 3517.992, and 3599.03.

⁹¹ R.C. 3517.01.

⁹² R.C. 3599.03.

⁹³ Section 7 of the act.

⁹⁴ R.C. 3517.107.

periodical, on radio, by Internet, on television, or through a similar medium that includes the name or photograph of the elected official.

- Permits a document or any form of advertising produced or disseminated during the 90-day period to include the name of the office the official holds, but not the name or photograph of the official.
- Specifies that no violation of this prohibition occurs, and that no fine is to be imposed, if an elected official sends out daily and regular normal office correspondence that (1) is from the official's actual office or associated with the duties of the official's office, but not including any other board or commission that the official serves on, (2) in the ordinary course of business, (3) is issued on a regular schedule throughout the year, (4) is directly necessary for the conduct of business by the office, such as tax bills, and (5) is sent during the 90 days before the date of any election at which the elected official's name will appear on the ballot.⁹⁵

Maintaining order at polling places

- Eliminates the prohibition against loitering, congregating, or campaigning within the area marked by the small flags outside a polling place and instead prohibits persons from loitering, congregating, or campaigning within 50 feet of the entrance of a polling place.
- Specifies that a person who violates this prohibition is guilty of a minor misdemeanor, except that, if the person refuses to comply with the election officials or law enforcement officers who are enforcing the prohibition, the person is guilty of a misdemeanor of the first degree.⁹⁶
- Prohibits the line of waiting voters and persons loitering, congregating, or campaigning near that line from impeding the normal flow of traffic or access to the entrance or exit of any business or organization in the vicinity.⁹⁷

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.⁹⁸

⁹⁵ R.C. 3517.211.

⁹⁶ R.C. 3501.35(A).

⁹⁷ R.C. 3501.35(D).

⁹⁸ R.C. 3517.01 and 3517.012.

- Specifies that Directives 2011-01 and 2009-21 issued by the Secretary of State, which address the petition requirements for new political parties, are void and must not be enforced or have effect on or after the effective date of these changes.⁹⁹

Presidential ballots for former electors

- Clarifies that a former Ohio elector is eligible to vote in a presidential general election in Ohio in person or by mail if:
 - The former elector moved out of Ohio not more than 30 days before the day of the presidential general election;
 - The former elector has not resided in the former elector's new state long enough to be eligible to vote in the presidential general election;
 - The former elector was registered to vote in Ohio at the time the former elector left Ohio; and
 - The former elector would be eligible to vote in Ohio if the former resident were a resident of Ohio.
- Requires a former Ohio elector to submit a completed certificate of intent to vote for presidential and vice-presidential electors, under penalty of election falsification, to the board of elections not later than noon of the third day before the day of the election.
- Requires the elector to submit, with the certificate of intent to vote for presidential and vice-presidential electors, a properly completed and signed Ohio voter registration cancellation request on a form prescribed by the Secretary of State.
- Requires the board of elections electronically to transmit any certificate of intent to vote for presidential and vice-presidential electors to the Secretary of State within one business day, rather than 25 days before the election.¹⁰⁰

⁹⁹ Section 5 of the act.

¹⁰⁰ R.C. 3504.01, 3504.02, 3504.04, and 3504.05.

Voter history

- Requires a board of elections to maintain a list of registered voters in the county who cast a ballot at each election, which list must be provided to the Secretary of State after each election.¹⁰¹
- Requires the Secretary of State to compile the voting history of each registered elector who casts a ballot in an election, for inclusion in the statewide voter registration database.
- Requires the Secretary of State to determine, by rule, the length of an elector's voting history that is to be included in the database.¹⁰²

Consent decrees under the Election Law

- Specifies that, in any action brought challenging the constitutionality, legality, or enforcement of any provision of the Ohio Constitution governing elections or the Election Law is to be deemed to have been brought against the state, and all of the following apply:
 - The General Assembly must be notified of the filing of the action;
 - The General Assembly has the right to intervene in the action;
 - The General Assembly must be notified of any proposed consent decree before the consent decree is agreed to by the court; and
 - The General Assembly has the right to intervene in the action to object to any proposed consent decree.¹⁰³

Miscellaneous

Transporting students to vote during regular school hours

- Prohibits a public school, a community school, a STEM school, or a chartered nonpublic school from transporting students to a polling place during regular school hours for the purpose of casting a ballot.¹⁰⁴

¹⁰¹ R.C. 3501.11.

¹⁰² R.C. 3501.05.

¹⁰³ R.C. 3501.50.

¹⁰⁴ R.C. 3599.30.

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

- 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 mail or electronically, rather than requiring those documents to be sent by certified mail, as required under prior law.¹⁰⁵

Eliminate reference to multiple "ballot boxes"

- Eliminates provisions that referred to ballots for separate offices or issues being placed in separate ballot boxes within a precinct polling location.¹⁰⁶

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 election, as required by Article XVII, Section 2 of the Ohio Constitution, instead of 56 days, as specified in prior law.¹⁰⁷
- 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.¹⁰⁸
- 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.¹⁰⁹

¹⁰⁵ R.C. 3501.29, 3517.106, and 3517.11.

¹⁰⁶ R.C. 2101.44, 3501.30, 3505.07, 3505.08, 3505.16, 3505.23, and 3513.18.

¹⁰⁷ R.C. 3.02, 302.09, 305.02, 503.24, 733.31, 1901.10, 2301.02, and 3513.31 (Sections 3 and 4 of the act).

¹⁰⁸ R.C. 3509.01(D)(2).

¹⁰⁹ R.C. 3501.02 (Sections 3 and 4 of the act).

- Eliminates statutory language governing protests against statewide initiative and referendum petitions and the verification of those petitions, which the Ohio Supreme Court now has exclusive jurisdiction over.¹¹⁰

Voter identification

- Specifies that it is the intent of the General Assembly that the provisions of H.B. 159 of the 129th General Assembly, if enacted, prevail over any conflicting provisions of this act for the purpose of determining the types of identification that are acceptable for voting under the Election Law.¹¹¹

Elimination of obsolete cross-reference in Voter Identification Law

- 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.¹¹²

Renaming "judges of election" to "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."¹¹³

Determination of voting location manager

- Specifies that the 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, when tallying the combined vote for Governor for all such precincts.¹¹⁴

Correction of cross-reference

- Corrects an incorrect cross-reference to refer to the correct section of the Revised Code.¹¹⁵

¹¹⁰ R.C. 3519.16 and Article II, Section 1g, Ohio Constitution.

¹¹¹ Section 8 of the act.

¹¹² R.C. 3503.14, 3509.03, 3509.031, 3509.04, 3509.05, 3511.02, 3511.05, and 3511.09.

¹¹³ R.C. 3501.051, 3501.13, 3501.17, 3501.22, 3501.26, 3501.27, 3501.28, 3501.29, 3501.30, 3501.301, 3501.32, 3501.33, 3501.35, 3501.37, 3503.02, 3503.26, 3505.17, 3505.20, 3505.21, 3505.23, 3505.26, 3505.29, 3505.31, 3509.06, 3513.19, 3513.21, 3599.07, 3599.17, 3599.19, and 3599.31.

¹¹⁴ R.C. 3501.22.

¹¹⁵ R.C. 3501.38(A).

- Whether a person is a registered elector is determined, not under R.C. 3503.11 (which concerns voter registration through motor vehicle registrars), but under R.C. 3503.01 (registered electors).

Insertion of missing word

- Inserts the word "one" to clarify that the Ohio Ballot Board may divide initiative petitions into individual petitions containing only *one* proposed law or constitutional amendment.¹¹⁶

Location of facsimile signatures on the ballot

- Changes a provision that required 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.¹¹⁷

HISTORY

ACTION	DATE
Introduced	04-12-11
Reported, H. State Gov't & Elections	05-18-11
Passed House (54-40)	05-18-11
Reported, S. Government Oversight & Reform	06-22-11
Passed Senate (23-10)	06-23-11
House concurred in Senate amendments (59-40)	06-29-11

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¹¹⁶ R.C. 3519.01.

¹¹⁷ R.C. 3505.08.

