



Ohio Legislative Service Commission

Final Analysis

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Sub. S.B. 205

130th General Assembly
(As Passed by the General Assembly)

Sens. Coley, Seitz, Burke, Eklund, Jordan, Uecker

Reps. Becker, Huffman, Maag, Stebelton, Terhar, Wachtmann, Batchelder

Effective date: June 1, 2014

ACT SUMMARY

- Permits the Secretary of State to mail unsolicited applications for absent voter's ballots only for a general election and only if the General Assembly has made an appropriation for that particular mailing.
- Prohibits any other public official or employee who is acting in an official capacity, and any public office, from mailing any unsolicited applications for absent voter's ballots.
- Permits the Secretary of State to send unsolicited applications for absent voter's ballots for elections in 2014, regardless of whether the General Assembly has made an appropriation for that purpose.
- Prohibits a board of elections from prepaying the return postage for any application for absent voter's ballots and for any absent voter's ballots that it delivers to an elector.
- Generally prohibits an election official from filling out any portion of an absent voter's ballot application, or from filling out any portion of an absent voter's ballot or absent voter's ballot identification envelope, on behalf of a voter.
- Allows the Secretary of State or a board of elections to preprint an applicant's name and address on an application for absent voter's ballots before mailing that application to the applicant.

- Permits a board of elections to preprint an elector's name and address on an absent voter's ballot identification envelope before mailing the ballots to the elector.
- Permits a disabled or illiterate elector to receive assistance in the marking of the voter's ballot and the completion of the absent voter's ballot identification envelope.
- Allows a person's right to vote to be challenged on the ground that the identification statement of voter is incomplete, and specifies that, if the election officials find that the statement accompanying an absent voter's ballot is *incomplete* or insufficient, the vote must not be accepted or counted.
- Specifies the circumstances under which an absent voter's ballot identification envelope must be considered incomplete.
- Requires a board of elections to contact an absent voter whose identification envelope is incomplete or does not match the information in the statewide voter registration database by mail to inform the voter of the defect.
- Permits such an absent voter to deliver a written form to the office of the board, in person or by mail, not later than the seventh day after the day of the election in order to cure the defect.

CONTENT AND OPERATION

Postage and mailing of absent voter's ballots and applications

Unsolicited applications for absent voter's ballots

The act permits the Secretary of State to mail unsolicited applications for absent voter's ballots to individuals only under the following circumstances:¹

- The applications may be mailed only for a general election.
- The applications may be mailed only if the General Assembly has made an appropriation for that particular mailing.

Under no other circumstance may a public official or employee who is acting in an official capacity or any public office mail unsolicited applications for absent voter's ballots to any individuals.²

¹ R.C. 3501.05.

² R.C. 3501.05.



For 2014, the act makes an exception to this general rule. Under the act, the Secretary of State may mail unsolicited applications for absent voter's ballots to individuals for elections occurring in 2014, regardless of whether the General Assembly has made an appropriation for that purpose.³

Return postage

The act prohibits a board of elections from prepaying the return postage when it delivers any of the following to an elector:

- An application for absent voter's ballots;⁴
- Absent voter's ballots;⁵
- A federal post card application or another application for uniformed services or overseas absent voter's ballots;⁶
- Uniformed services or overseas absent voter's ballots.⁷

Continuing law requires absent voter's ballots that are returned by mail to be sent postage prepaid. However, prior law did not include any language specifying who was responsible for prepaying that postage.⁸

Completion of absent voter's ballots and applications

The act generally prohibits an election official from filling out any portion of an absent voter's ballot application, or from filling out any portion of an absent voter's ballot or absent voter's ballot identification envelope, on behalf of a voter. However, the act permits the Secretary of State or a board of elections to preprint an applicant's name and address on an application for absent voter's ballots before mailing that application to an applicant. And, the act allows a board to preprint an elector's name and address on an absent voter's ballot identification envelope before mailing the ballots to the elector.⁹ The act also makes an exception for assistance provided to a disabled or

³ Section 3 of the act.

⁴ R.C. 3509.03.

⁵ R.C. 3509.04.

⁶ R.C. 3511.02.

⁷ R.C. 3511.04.

⁸ R.C. 3509.05, not in the act.

⁹ R.C. 3509.03, 3509.04, 3511.02, 3511.05(E), and 3511.10.



illiterate elector (see "**Assistance for disabled or illiterate electors casting absent voter's ballots**," below).

Incomplete or defective absent voter's ballot identification envelopes

Challenging absent voter's ballots as incomplete

The act allows a person's right to vote to be challenged on the ground that the identification statement of voter is incomplete. If the election officials find that the statement accompanying an absent voter's ballot is *incomplete* or insufficient, the vote must not be accepted or counted.

Under the act, an absent voter's ballot identification envelope must be considered incomplete if it does not include all of the following:

- The voter's name;
- The voter's residence address;
- The voter's date of birth;
- The voter's signature; and
- One of the following forms of identification, which the act does not change:
 - The voter's driver's license number;
 - The last four digits of the voter's Social Security number; or
 - A copy of a current and valid photo identification, a military identification, or a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of voter registration mailed by a board of elections, that shows the voter's name and address.

The act specifies that the requirement that the voter provide the voter's date of birth is satisfied if the voter provided a date of birth and any of the following is true:

- The month and day of the voter's date of birth on the identification envelope are not different from the month and day of the voter's date of birth contained in the statewide voter registration database.



- The voter's date of birth contained in the statewide voter registration database is January 1, 1800.
- The board of elections has found, by a vote of at least three of its members, that the voter has met the other requirements above concerning the voter's name, residence address, signature, and identification.

Continuing law permits an absent voter's right to vote to be challenged on the ground that the signature on the envelope is not the same as the signature on the registration form or upon any of the other grounds for which the right of persons to vote may be lawfully challenged.¹⁰

Cure period

The act requires a board of elections to contact an absent voter if the election officials find that the identification envelope statement of voter is incomplete or that the information contained in the statement does not conform to the information contained in the statewide voter registration database concerning the voter. The election officials must mail a written notice to the voter, informing the voter of the nature of the defect. The notice must inform the voter that in order for the voter's ballot to be counted, the voter must provide the necessary information to the board in writing and on a form prescribed by the Secretary of State not later than the seventh day after the day of the election.

The voter may deliver the form to the office of the board in person or by mail. If the voter provides the necessary information to the board not later than the seventh day after the day of the election and the ballot is not successfully challenged on another basis, the ballot must be counted. If the voter does not do so, and if the election officials find that the statement accompanying the ballot is incomplete or insufficient, the ballot must not be counted.

Prior law specified only that if the election officials found that the statement accompanying an absent voter's ballot was insufficient, the vote must not have been accepted or counted. The previous statute did not provide an absent voter the opportunity to cure a defective identification statement.¹¹

¹⁰ R.C. 3509.06(D) and 3509.07.

¹¹ R.C. 3509.06(D) and 3509.07.



Assistance for disabled or illiterate electors casting absent voter's ballots

The act expands the provision of prior law that allowed a disabled elector to receive assistance in casting the elector's ballot. Under the act, an elector who does both of the following may be accompanied in the voting booth and aided by any person of the elector's choice, other than the elector's employer, an agent of the elector's employer, or an officer or agent of the elector's union, if any:

(1) Appears to vote on the day of an election or appears at the office of the board of elections to cast absent voter's ballots in person; and

(2) Declares to the presiding judge of elections or to the election official who is accepting applications to cast absent voter's ballots in person that the elector is unable to mark the elector's ballot by reason of blindness, disability, or illiteracy.

Under previous law, electors could receive assistance in the same manner only at a polling place on the day of an election.¹²

HISTORY

ACTION	DATE
Introduced	10-10-13
Reported, S. State Gov't Oversight & Reform	11-06-13
Passed Senate (22-11)	11-06-13
Reported, H. Policy & Legislative Oversight	02-12-14
Passed House (60-38)	02-19-14
Senate concurred in House amendments (22-10)	02-19-14

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¹² R.C. 3505.24.

