

(125th General Assembly)
(Substitute House Bill Number 262)

AN ACT

To amend sections 124.57, 3501.05, 3501.10, 3501.28, 3506.01, 3506.05, 3506.06, 3506.10, 3509.07, 3513.052, 3517.109, 3517.1010, 3519.16, 4117.03, 4301.323, 4301.355, and 4301.365 and to enact sections 3506.17, 3506.18, and 3506.19 of the Revised Code and to amend Section 99 of Am. Sub. H.B. 95 of the 125th General Assembly to revise the Election Law, the Liquor Control Law, the Collective Bargaining Law, or the Campaign Finance Law by increasing the maximum poll worker pay, permitting employees of the state and of political subdivisions to work as judges of elections and receive poll worker pay in addition to their regular employment compensation under certain circumstances, eliminating the required ballot language describing certain past local option elections when a local option election is held on sales of alcoholic beverages at a specific location, changing the ballot language for certain of those local option elections to specify that the election applies to spirituous liquor instead of intoxicating liquor, establishing requirements for protests against initiative or referendum petitions, prohibiting collective bargaining between county boards of elections and their employees, requiring all direct recording electronic voting machines used in this state to include a voter verified paper audit trail, changing the process for counties to acquire voting systems using funds made available pursuant to the Help America Vote Act of 2002, changing the applicability of the law relative to the disposal of excess funds and excess

aggregate contributions, and making other changes, and to make an appropriation.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 124.57, 3501.05, 3501.10, 3501.28, 3506.01, 3506.05, 3506.06, 3506.10, 3509.07, 3513.052, 3517.109, 3517.1010, 3519.16, 4117.03, 4301.323, 4301.355, and 4301.365 be amended and sections 3506.17, 3506.18, and 3506.19 of the Revised Code be enacted to read as follows:

Sec. 124.57. (A) No officer or employee in the classified service of the state, the several counties, cities, and city school districts ~~thereof of the state, and or the~~ civil service townships; of the state shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political party or for any candidate for public office; nor shall any person solicit directly or indirectly, orally or by letter, or be in any manner concerned in soliciting, any such assessment, contribution, or payment from any officer or employee in the classified service of the state ~~and, the several counties, cities, or city school districts thereof of the state,~~ or the civil service townships of the state; nor shall any officer or employee in the classified service of the state, the several counties, cities, and city school districts ~~thereof of the state, and or the~~ civil service townships; of the state be an officer in any political organization or take part in politics other than to vote as the officer or employee pleases and to express freely political opinions.

(B)(1) Nothing in division (A) of this section prohibits an officer or employee described in that division from serving as a precinct election official under section 3501.22 of the Revised Code. ~~An officer or employee who serves as a precinct election official may use vacation leave to so serve.~~

(2) Nothing in division (A) of this section prohibits an employee of the Ohio cooperative extension service whose position is transferred from the unclassified civil service to the classified civil service and who also holds the office of president of a city legislative authority from completing the existing term of office as president.

Sec. 3501.05. The secretary of state shall do all of the following:

(A) Appoint all members of boards of elections;

(B) Issue instructions by directives and advisories to members of the boards as to the proper methods of conducting elections;

(C) Prepare rules and instructions for the conduct of elections;
(D) Publish and furnish to the boards from time to time a sufficient number of indexed copies of all election laws then in force;

(E) Edit and issue all pamphlets concerning proposed laws or amendments required by law to be submitted to the voters;

(F) Prescribe the form of registration cards, blanks, and records;

(G) Determine and prescribe the forms of ballots and the forms of all blanks, cards of instructions, pollbooks, tally sheets, certificates of election, and forms and blanks required by law for use by candidates, committees, and boards;

(H) Prepare the ballot title or statement to be placed on the ballot for any proposed law or amendment to the constitution to be submitted to the voters of the state;

(I) Certify to the several boards the forms of ballots and names of candidates for state offices, and the form and wording of state referendum questions and issues, as they shall appear on the ballot;

(J) Give final approval to ballot language for any local question or issue approved and transmitted by boards of elections under section 3501.11 of the Revised Code;

(K) Receive all initiative and referendum petitions on state questions and issues and determine and certify to the sufficiency of those petitions;

(L) Require such reports from the several boards as are provided by law, or as the secretary of state considers necessary;

(M) Compel the observance by election officers in the several counties of the requirements of the election laws;

(N)(1) Except as otherwise provided in division (N)(2) of this section, investigate the administration of election laws, frauds, and irregularities in elections in any county, and report violations of election laws to the attorney general or prosecuting attorney, or both, for prosecution;

(2) On and after August 24, 1995, report a failure to comply with or a violation of a provision in sections 3517.08 to 3517.13, 3517.17, 3517.18, 3517.20 to 3517.22, 3599.03, or 3599.031 of the Revised Code, whenever the secretary of state has or should have knowledge of a failure to comply with or a violation of a provision in one of those sections, by filing a complaint with the Ohio elections commission under section 3517.153 of the Revised Code;

(O) Make an annual report to the governor containing the results of elections, the cost of elections in the various counties, a tabulation of the votes in the several political subdivisions, and other information and recommendations relative to elections the secretary of state considers

desirable;

(P) Prescribe and distribute to boards of elections a list of instructions indicating all legal steps necessary to petition successfully for local option elections under sections 4301.32 to 4301.41, 4303.29, 4305.14, and 4305.15 of the Revised Code;

(Q) Prescribe a general program to remove ineligible voters from official registration lists by reason of change of residence, which shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 and the National Voter Registration Act of 1993, including a program that uses the national change of address service provided by the United States postal system through its licensees;

(R) Prescribe a general program for registering voters or updating voter registration information, such as name and residence changes, at designated agencies, the offices of deputy registrars of motor vehicles, public high schools and vocational schools, public libraries, and the offices of county treasurers, and prescribe a program of distribution of voter registration forms through those agencies, the offices of the registrar and deputy registrars of motor vehicles, public high schools and vocational schools, public libraries, and the offices of county treasurers;

(S) To the extent feasible, provide copies, at no cost and upon request, of the voter registration form in post offices in this state;

(T) Adopt rules pursuant to section 111.15 of the Revised Code for the purpose of implementing the program for registering voters at designated agencies and the offices of the registrar and deputy registrars of motor vehicles consistent with this chapter;

(U) Specify, by a directive issued not later than thirty-five days prior to the date of an election, the date by which the boards shall complete the canvass of election returns under section 3505.32 or 3513.22 of the Revised Code;

(V) Establish the full-time position of Americans with Disabilities Act coordinator within the office of the secretary of state to do all of the following:

(1) Assist the secretary of state with ensuring that there is equal access to polling places for persons with disabilities;

(2) Assist the secretary of state with ensuring that each voter may cast the voter's ballot in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters;

(3) Advise the secretary of state in the development of standards for the certification of voting machines, marking devices, and automatic tabulating equipment.

(W) Perform other duties required by law.

Whenever a primary election is held under section 3513.32 of the Revised Code or a special election is held under section 3521.03 of the Revised Code to fill a vacancy in the office of representative to congress, the secretary of state shall establish a deadline, notwithstanding any other deadline required under the Revised Code, by which any or all of the following shall occur: the filing of a declaration of candidacy and petitions or a statement of candidacy and nominating petition together with the applicable filing fee; the filing of protests against the candidacy of any person filing a declaration of candidacy or nominating petition; the filing of a declaration of intent to be a write-in candidate; the filing of campaign finance reports; the preparation of, and the making of corrections or challenges to, precinct voter registration lists; the receipt of applications for absent voter's ballots or armed service absent voter's ballots; the supplying of election materials to precincts by boards of elections; the holding of hearings by boards of elections to consider challenges to the right of a person to appear on a voter registration list; and the scheduling of programs to instruct or reinstruct election officers.

In the performance of the secretary of state's duties as the chief election officer, the secretary of state may administer oaths, issue subpoenas, summon witnesses, compel the production of books, papers, records, and other evidence, and fix the time and place for hearing any matters relating to the administration and enforcement of the election laws.

In any controversy involving or arising out of the adoption of registration or the appropriation of funds for registration, the secretary of state may, through the attorney general, bring an action in the name of the state in the court of common pleas of the county where the cause of action arose or in an adjoining county, to adjudicate the question.

In any action involving the laws in Title XXXV of the Revised Code wherein the interpretation of those laws is in issue in such a manner that the result of the action will affect the lawful duties of the secretary of state or of any board of elections, the secretary of state may, on the secretary of state's motion, be made a party.

The secretary of state may apply to any court that is hearing a case in which the secretary of state is a party, for a change of venue as a substantive right, and the change of venue shall be allowed, and the case removed to the court of common pleas of an adjoining county named in the application or, if there are cases pending in more than one jurisdiction that involve the same or similar issues, the court of common pleas of Franklin county.

Public high schools and vocational schools, public libraries, and the

office of a county treasurer shall implement voter registration programs as directed by the secretary of state pursuant to this section.

Sec. 3501.10. (A) The board of elections shall, as an expense of the board, provide suitable rooms for its offices and records and the necessary and proper furniture and supplies for ~~such~~ those rooms. The board may lease such offices and rooms, necessary to its operation, for ~~such~~ the length of time and upon ~~such~~ the terms as the board deems in the best interests of the public, provided that the term of any such lease shall not exceed fifteen years.

Thirty days prior to entering into such a lease, the board shall notify the board of county commissioners in writing of its intent to enter into the lease. The notice shall specify the terms and conditions of the lease. Prior to the thirtieth day after receiving that notice and before any lease is entered into, the board of county commissioners may reject the proposed lease by a majority vote. After receiving written notification of the rejection by the board of county commissioners, the board of elections shall not enter into the lease that was rejected, but may immediately enter into additional lease negotiations, subject to the requirements of this section.

The board of elections in any county may, by resolution, request that the board of county commissioners submit to the electors of the county, in accordance with section 133.18 of the Revised Code, the question of issuing bonds for the acquisition of real estate and the construction on it of a suitable building with necessary furniture and equipment for the proper administration of the duties of the board of elections. The resolution declaring the necessity for issuing such bonds shall relate only to the acquisition of real estate and to the construction, furnishing, and equipping of a building as provided in this division.

(B) The board of elections in each county shall keep its offices, or one or more of its branch registration offices, open for the performance of its duties ~~an additional seven hours each week for three weeks before the close~~ until nine p.m. on the last day of registration before a general or primary election. At all other times during each week, the board shall keep its offices and rooms open for a period of time that ~~such~~ the board considers necessary for the performance of its duties.

(C) The board of elections may maintain permanent or temporary branch offices at any place within the county.

Sec. 3501.28. (A) As used in this section:

(1) "Fair Labor Standards Act" or "Act" means the "Fair Labor Standards Act of 1938," 52 Stat. 1062, 29 U.S.C.A. 201, as amended.

(2) "Full election day" means the period of time between the opening of

the polls and the completion of the procedures contained in section 3501.26 of the Revised Code.

(3) "Services" means services at each general, primary, or special election.

~~(B) For any election held in 1997 on or after the effective date of this amendment, each judge of an election in a county shall be paid for the judge's services at the same hourly rate, which shall be the minimum hourly rate established by the Fair Labor Standards Act.~~

~~(C) Beginning with calendar year 1998, each judge of an election in a county shall be paid for the judge's services at the same hourly rate, which shall be not less than the minimum hourly rate established by the Fair Labor Standards Act and not more than eighty-five dollars per diem.~~

(C) Beginning with calendar year 2004, each judge of an election in a county shall be paid for the judge's services at the same hourly rate, which shall be not less than the minimum hourly rate established by the Fair Labor Standards Act and not more than ninety-five dollars per diem.

~~(D) Beginning with calendar year 1998, the~~ The secretary of state shall establish, by rule adopted under section 111.15 of the Revised Code, the maximum amount of per diem compensation that may be paid to judges of an election under this section each time the Fair Labor Standards Act is amended to increase the minimum hourly rate established by the act. Upon learning of such an increase, the secretary of state shall determine by what percentage the minimum hourly rate has been increased under the act and establish a new maximum amount of per diem compensation that judges of an election may be paid under this section that is increased by the same percentage that the minimum hourly rate has been increased under the act.

~~(E)(1) Beginning with calendar year 1990, no~~ (a) No board of elections shall increase the pay of a judge of an election under this section during a calendar year unless the board has given written notice of the proposed increase to the board of county commissioners not later than the first day of October of the preceding calendar year. ~~Beginning with calendar year 1998, except~~

(b) Except as otherwise provided in division (E)(2) of this section, no a board of elections ~~shall~~ may increase the pay of a judge of an election during a calendar year by ~~more than~~ up to, but not exceeding, nine per cent over the compensation paid to a judge of an election in the county where the board is located during the previous calendar year, if the compensation so paid during the previous calendar year was eighty-five dollars or less per diem.

(c) Except as otherwise provided in division (E)(2) of this section, a

board of elections may increase the pay of a judge of an election during a calendar year by up to, but not exceeding, four and one-half per cent over the compensation paid to a judge of an election in the county where the board is located during the previous calendar year, if the compensation so paid during the previous calendar year was more than eighty-five but less than ninety-five dollars per diem.

(2) The board of county commissioners may review and comment upon a proposed increase and may enter into a written agreement with a board of elections to permit an increase in the compensation paid to judges of an election for their services during a calendar year that is greater than the ~~nine per cent~~ applicable percentage limitation described in division (E)(1)(b) or (c) of this section.

(F) No judge of an election who works less than the full election day shall be paid the maximum amount allowed under this section or the maximum amount as set by the board of elections, whichever is less.

(G)(1) Except as otherwise provided in divisions (G)(4) to (6) of this section, any employee of the state or of any political subdivision of the state may serve as a judge of elections on the day of an election without loss of the employee's regular compensation for that day as follows:

(a) For employees of a county office, department, commission, board, or other entity, or of a court of common pleas, county court, or county-operated municipal court, as defined in section 1901.03 of the Revised Code, the employee's appointing authority may permit leave with pay for this service in accordance with a resolution setting forth the terms and conditions for that leave passed by the board of county commissioners.

(b) For all other employees of a political subdivision of the state, leave with pay for this service shall be subject to the terms and conditions set forth in an ordinance or a resolution passed by the legislative authority of the applicable political subdivision.

(c) For state employees, leave with pay for this service shall be subject to the terms and conditions set forth by the head of the state agency, as defined in section 1.60 of the Revised Code, by which the person is employed.

(2) Any terms and conditions set forth by a board of county commissioners, legislative authority of a political subdivision, or head of a state agency under division (G)(1) of this section shall include a standard procedure for deciding which employees are permitted to receive leave with pay if multiple employees of an entity or court described in division (G)(1)(a) of this section, of an entity of a political subdivision described in division (G)(1)(b) of this section, or of a state agency as defined in section

1.60 of the Revised Code apply to serve as a judge of elections on the day of an election. This procedure shall be applied uniformly to all similarly situated employees.

(3) Any employee who is eligible for leave with pay under division (G)(1) of this section shall receive, in addition to the employee's regular compensation, the compensation paid to the judge of an election under division (B), (C), or (D) of this section.

(4) Division (G)(1) of this section does not apply to either of the following:

(a) Election officials;

(b) Public school teachers.

(5) Nothing in division (G)(1) of this section supersedes or negates any provision of a collective bargaining agreement in effect under Chapter 4117. of the Revised Code.

(6) If a board of county commissioners, legislative authority of a political subdivision, or head of a state agency fails to set forth any terms and conditions under division (G)(1) of this section, an employee of an entity or court described in division (G)(1)(a) of this section, of an entity of a political subdivision described in division (G)(1)(b) of this section, or of a state agency as defined in section 1.60 of the Revised Code may use personal leave, vacation leave, or compensatory time, or take unpaid leave, to serve as a judge of elections on the day of an election.

(H) The board of elections may withhold the compensation of any precinct official for failure to obey the instructions of the board or to comply with the law relating to the duties of such precinct judge. Any payment a judge of an election is entitled to receive under section 3501.36 of the Revised Code is in addition to the compensation the judge is entitled to receive under this section.

Sec. 3506.01. As used in this chapter and Chapters 3501., 3503., 3505., 3509., 3511., 3513., 3515., 3517., 3519., 3521., 3523., and 3599. of the Revised Code:

(A) "Marking device" means an apparatus operated by a voter to record ~~his~~ the voter's choices through the piercing or marking of ballots enabling them to be examined and counted by automatic tabulating equipment.

(B) "Ballot" means the official election presentation of offices and candidates, including write-in candidates, and of questions and issues, and the means by which votes are recorded.

(C) "Automatic tabulating equipment" means a machine or interconnected or interrelated machines that will automatically examine and count votes recorded on ballots.

(D) "Central counting station" means a location, or one of a number of locations, designated by the board of elections for the automatic examining, sorting, or counting of ballots.

(E) "Voting machines" means mechanical or electronic equipment for the direct recording and tabulation of votes.

(F) "Direct recording electronic voting machine" means a voting machine that records votes by means of a ballot display provided with mechanical or electro-optical components that can be actuated by the voter, that processes the data by means of a computer program, and that records voting data and ballot images in internal or external memory components. A "direct recording electronic voting machine" produces a tabulation of the voting data stored in a removable memory component and in printed copy.

(G) "Help America Vote Act of 2002" means the "Help America Vote Act of 2002," Public Law 107-252, 116 Stat. 1666.

(H) "Voter verified paper audit trail" means a physical paper printout on which the voter's ballot choices, as registered by a direct recording electronic voting machine, are recorded. The voter shall be permitted to visually or audibly inspect the contents of the physical paper printout. The physical paper printout shall be securely retained at the polling place until the close of the polls on the day of the election; the secretary of state shall adopt rules under Chapter 119. of the Revised Code specifying the manner of storing the physical paper printout at the polling place. After the physical paper printout is produced, but before the voter's ballot is recorded, the voter shall have an opportunity to accept or reject the contents of the printout as matching the voter's ballot choices. If a voter rejects the contents of the physical paper printout, the system that produces the voter verified paper audit trail shall invalidate the printout and permit the voter to recast the voter's ballot. On and after the first federal election that occurs after January 1, 2006, unless required sooner by the Help America Vote Act of 2002, any system that produces a voter verified paper audit trail shall be accessible to disabled voters, including visually impaired voters, in the same manner as the direct recording electronic voting machine that produces it.

Sec. 3506.05. (A) As used in this section, except when used as part of the phrase "tabulating equipment" or "automatic tabulating equipment":

(1) "Equipment" means a voting machine, marking device, automatic tabulating equipment, or software;

(2) "Vendor" means the person that owns, manufactures, distributes, or has the legal right to control the use of equipment, or ~~his~~ the person's agent.

(B) No voting machine, marking device, automatic tabulating equipment, or software for the purpose of casting or tabulating votes or for

communications among systems involved in the tabulation, storage, or casting of votes shall be purchased, leased, put in use, or continued to be used, except for experimental use as provided in division (B) of section 3506.04 of the Revised Code, unless it, ~~and~~ a manual of procedures governing its use, and training materials, service, and other support arrangements, have been certified by the secretary of state and unless the board of elections of each county where the equipment will be used has assured that a demonstration of the use of ~~such~~ the equipment has been made available to all interested electors. The secretary of state shall appoint a board of voting machine examiners to examine and approve equipment and ~~examine and approve~~ its related manuals and support arrangements. The board shall consist of one competent and experienced election officer and two persons who are knowledgeable about the operation of such equipment, who shall serve during the secretary of state's term.

(1) For ~~his~~ the member's service, each member of ~~such~~ the board shall receive three hundred dollars per day for each combination of marking device, tabulating equipment, and voting machine examined and reported, but in no event shall a member receive more than six hundred dollars to examine and report on any one marking device, item of tabulating equipment, or voting machine. Each member of the board shall be reimbursed for expenses ~~he~~ the member incurs during an examination or during the performance of any related duties that may be required by the secretary of state. Reimbursement of these expenses shall be made in accordance with, and shall not exceed, the rates provided for under section 126.31 of the Revised Code.

(2) Neither the secretary of state nor the board, nor any public officer who participates in the authorization, examination, testing, or purchase of equipment, shall have any pecuniary interest in the equipment or any affiliation with the vendor.

(C)(1) A vendor who desires to have the secretary of state certify equipment shall first submit the equipment, ~~and~~ all current related procedural manuals, and a current description of all related support arrangements, to the board of voting machine examiners for examination, testing, and approval. The submission shall be accompanied by a fee of eighteen hundred dollars and a detailed explanation of the construction and method of operation of the equipment, a full statement of its advantages, and a list of the patents and copyrights used in operations essential to the processes of vote recording and tabulating, vote storage, system security, and other crucial operations of the equipment as may be determined by the board. An additional fee, in an amount to be set by rules promulgated by the

board, may be imposed to pay for the costs of alternative testing or testing by persons other than board members, record-keeping, and other extraordinary costs incurred in the examination process. Moneys not used shall be returned to the person or entity submitting the equipment for examination.

(2) Fees collected by the secretary of state under this section shall be deposited into the state treasury to the credit of the board of voting machine examiners fund, which is hereby created. All moneys credited to this fund shall be used solely for the purpose of paying for the services and expenses of each member of the board ~~of voting machine examiners~~ or for ~~such~~ other expenses ~~as may be~~ incurred relating to the examination, testing, reporting, or certification of voting machine devices, the performance of any related duties as required by the secretary of state, or the reimbursement of any person submitting an examination fee as provided in this chapter.

(D) Within sixty days after the submission of the equipment and payment of the fee, or as soon thereafter as is reasonably practicable, but in any event within not more than ninety days after the submission and payment, the board of voting machine examiners shall examine the equipment and file with the secretary of state a written report ~~thereon~~ on the equipment with its recommendations and its determination or condition of approval regarding whether the equipment, manual, and other related materials or arrangements meet the criteria set forth in sections 3506.07 and 3506.10 of the Revised Code and can be safely used by the voters at elections under the conditions prescribed in Title XXXV of the Revised Code, or a written statement of reasons for which testing requires a longer period. The board may grant temporary approval for the purpose of allowing experimental use of equipment. If the board finds that the equipment meets the criteria set forth in sections 3506.06, 3506.07, and 3506.10 of the Revised Code, can be used safely and can be depended upon to record and count accurately and continuously the votes of electors, and has the capacity to be warranted, maintained, and serviced, it shall approve the equipment and recommend that the secretary of state certify the equipment. The secretary of state shall notify all boards of elections of any such certification. ~~Such equipment~~ Equipment of the same model and make, if it provides for recording of voter intent, system security, voter privacy, retention of vote, and communication of voting records in an identical manner, may then be adopted for use at elections.

(E) The vendor shall notify the secretary of state, who shall then notify the board of voting machine examiners, of any enhancement and any significant adjustment to the hardware or software that could result in a

patent or copyright change or that significantly alters the methods of recording voter intent, system security, voter privacy, retention of the vote, communication of voting records, and connections between the system and other systems. The vendor shall provide the secretary of state with an updated operations manual for the equipment, and the secretary of state shall forward the manual to the board. Upon receiving such a notification and manual, the board may require the vendor to submit the equipment to an examination and test in order for the equipment to remain certified. The board or the secretary of state shall periodically examine, test, and inspect certified equipment to determine continued compliance with the requirements of this chapter and the initial certification. Any examination, test, or inspection conducted for the purpose of continuing certification of any equipment in which a significant problem has been uncovered or in which a record of continuing problems exists shall be performed pursuant to divisions (C) and (D) of this section, in the same manner as the examination, test, or inspection is performed for initial approval and certification.

(F) If, at any time after the certification of equipment, the board of voting machine examiners or the secretary of state is notified by ~~the~~ a board of elections of any significant problem with the equipment or determines that the equipment fails to meet the requirements necessary for approval or continued compliance with the requirements of this chapter, or if the board of voting machine examiners determines that there are significant enhancements or adjustments to the hardware or software, or if notice of such enhancements or adjustments has not been given as required by division (E) of this section, the secretary of state shall notify the users and vendors of that equipment that certification of the equipment may be withdrawn.

(G)(1) The notice given by the secretary of state under division (F) of this section shall be in writing and shall specify both of the following:

(a) The reasons why the certification may be withdrawn;

(b) The date on which certification will be withdrawn unless the vendor takes satisfactory corrective measures or explains why there are no problems with the equipment or why the enhancements or adjustments to the equipment are not significant.

(2) A vendor who receives a notice under division (F) of this section shall, within thirty days after receiving it, submit to the board of voting machine examiners in writing a description of the corrective measures taken and the date on which they were taken, or the explanation required under division (G)(1)(b) of this section.

(3) Not later than fifteen days after receiving a written description or

explanation under division (G)(2) of this section from a vendor, the board shall determine whether the corrective measures taken or the explanation is satisfactory to allow continued certification of the equipment, and the secretary of state shall send the vendor a written notice of the board's determination, specifying the reasons for it. If the board has determined that the measures taken or the explanation given is unsatisfactory, the notice shall include the effective date of withdrawal of the certification. This date may be different from the date originally specified in division (G)(1)(b) of this section.

(4) A vendor who receives a notice under division (G)(3) of this section indicating a decision to withdraw certification may, within thirty days after receiving it, request in writing that the board hold a hearing to reconsider its decision. Any interested party shall be given the opportunity to submit testimony or documentation in support of or in opposition to the board's recommendation to withdraw certification. Failure of the vendor to take appropriate steps as described in division (G)(1)(b) or to comply with division (G)(2) of this section results in a waiver of ~~his~~ the vendor's rights under division (G)(4) of this section.

(H)(1) The secretary of state, in consultation with the board of voting machine examiners, shall establish, by rule, guidelines for the approval, certification, and continued certification of the voting machines, marking devices, and tabulating equipment to be used under Title XXXV of the Revised Code. The guidelines shall establish procedures requiring vendors or computer software developers to place in escrow with an independent escrow agent approved by the secretary of state a copy of all source code and related documentation, together with periodic updates as they become known or available. The secretary of state shall require that the documentation include a system configuration and that the source code include all relevant program statements in low- or high-level languages. As used in this division, "source code" does not include variable codes created for specific elections.

(2) Nothing in any rule adopted under division (H) of this section shall be construed to limit the ability of the secretary of state to follow or adopt, or to preclude ~~him~~ the secretary of state from following or adopting, any guidelines proposed by the federal ~~elections~~ election commission or, any entity authorized by the federal ~~elections~~ election commission to propose guidelines, the election assistance commission, or any entity authorized by the election assistance commission to propose guidelines.

(3) ~~As used in division (H) of this section, "source code" does not include variable codes created for specific elections.~~ (a) Before the initial

certification of any direct recording electronic voting machine with a voter verified paper audit trail, and as a condition for the continued certification and use of those machines, the secretary of state shall establish, by rule, standards for the certification of those machines. Those standards shall include, but are not limited to, all of the following:

(i) A definition of a voter verified paper audit trail as a paper record of the voter's choices that is verified by the voter prior to the casting of the voter's ballot and that is securely retained by the board of elections;

(ii) Requirements that the voter verified paper audit trail shall not be retained by any voter and shall not contain individual voter information;

(iii) A prohibition against the production by any direct recording electronic voting machine of anything that legally could be removed by the voter from the polling place, such as a receipt or voter confirmation;

(iv) A requirement that paper used in producing a voter verified paper audit trail be sturdy, clean, and resistant to degradation.

(v) A requirement that the voter verified paper audit trail shall be capable of being optically scanned for the purpose of conducting a recount or other audit of the voting machine and shall be readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic codes.

(b) The secretary of state, by rule adopted under Chapter 119. of the Revised Code, may waive the requirement under division (H)(3)(a)(v) of this section, if the secretary of state determines that the requirement is cost prohibitive.

Sec. 3506.06. No marking device shall be approved by the board of voting machine examiners or certified by the secretary of state, or be purchased, rented, or otherwise acquired, or used, unless it fulfills the following requirements:

(A) It shall permit and require voting in absolute secrecy, and shall be so constructed that no person can see or know for whom any other elector has voted or is voting, except an elector who is assisting a voter as prescribed by section 3505.24 of the Revised Code.

(B) It shall permit each elector to vote at any election for all persons and offices for whom and for which ~~he~~ the elector is lawfully entitled to vote, whether or not the name of any such person appears on a ballot as a candidate; to vote for as many persons for an office as ~~he~~ the elector is entitled to vote for; and to vote for or against any question upon which ~~he~~ the elector is entitled to vote.

(C) It shall permit each elector to write in the names of persons for whom ~~he~~ the elector desires to vote, whose names do not appear upon the

ballot, if such write-in candidates are permitted by law.

(D) It shall permit each elector, at all presidential elections, by one punch or mark to vote for candidates of one party for president, vice president, and presidential electors.

(E) It shall be durably constructed of material of good quality in a neat and ~~workmanlike~~ workerlike manner, and in form ~~which~~ that shall make it safely transportable.

(F) It shall be so constructed that a voter may readily learn the method of operating it and may expeditiously cast ~~his~~ the voter's vote for all candidates of ~~his~~ the voter's choice.

(G) It shall not provide to a voter any type of receipt or voter confirmation that the voter legally may retain after leaving the polling place.

Sec. 3506.10. No voting machine shall be approved by the board of voting machine examiners or certified by the secretary of state, or be purchased, rented, or otherwise acquired, or used, except when specifically allowed for experimental use, as provided in section 3506.04 of the Revised Code, unless it fulfills the following requirements:

(A) It shall permit and require voting in absolute secrecy, and shall be so constructed that no person can see or know for whom any other elector has voted or is voting, except an elector who is assisting a voter as prescribed by section 3505.24 of the Revised Code.

(B) It shall permit each elector to vote at any election for all persons and offices for whom and for which ~~he~~ the elector is lawfully entitled to vote, whether or not the name of any such person appears on a ballot label as a candidate; to vote for as many persons for an office as ~~he~~ the elector is entitled to vote for; and to vote for or against any question upon which ~~he~~ the elector is entitled to vote.

(C) It shall preclude each elector from voting for any candidate or upon any question for whom or upon which ~~he~~ the elector is not entitled to vote, from voting for more persons for any office than ~~he~~ the elector is entitled to vote for, and from voting for any candidates for the same office or upon any question more than once.

(D) It shall permit each voter to deposit, write in, or affix, upon devices provided for that purpose, ballots containing the names of persons for whom ~~he~~ the voter desires to vote, whose names do not appear upon the voting machine. ~~Such~~ Those devices shall be susceptible of identification as to party affiliations when used at a primary election.

(E) It shall permit each elector to change ~~his~~ the elector's vote for any candidate or upon any question appearing upon the ballot labels, up to the time ~~he~~ the elector starts to register ~~his~~ the elector's vote.

(F) It shall permit each elector, at all presidential elections, by one device to vote for candidates of one party for president, vice-president, and presidential electors.

(G) It shall be capable of adjustment by election officers so as to permit each elector, at a primary election, to vote only for the candidates of the party with which ~~he~~ the elector has declared ~~his~~ the elector's affiliation and shall preclude ~~him~~ the elector from voting for any candidate seeking nomination by any other political party; and to vote for the candidates for nonpartisan nomination or election.

(H) It shall have separate voting devices for candidates and questions, which shall be arranged in separate rows or columns. It shall be so arranged that one or more adjacent rows or columns may be assigned to the candidates of each political party at primary elections.

(I) It shall have a counter, or other device, the register of which is visible from the outside of the machine, and which will show at any time during the voting the total number of electors who have voted; and also a protective counter, or other device, the register of which cannot be reset, which will record the cumulative total number of movements of the internal counters.

(J) It shall be provided with locks and seals by the use of which, immediately after the polls are closed or the operation of the machine for an election is completed, no further changes to the internal counters can be allowed.

(K) It shall have the capacity to contain the names of candidates constituting the tickets of at least five political parties, and independent groups and such number of questions not exceeding fifteen as the secretary of state shall specify.

(L) It shall be durably constructed of material of good quality in a neat and ~~workmanlike~~ workerlike manner, and in form ~~which~~ that shall make it safely transportable.

(M) It shall be so constructed that a voter may readily learn the method of operating it, may expeditiously cast ~~his~~ a vote for all candidates of ~~his~~ the voter's choice, and when operated properly shall register and record correctly and accurately every vote cast.

(N) It shall be provided with a screen, hood, or curtain, which will conceal the voter while voting. During the voting, it shall preclude every person from seeing or knowing the number of votes registered for any candidate or question and from tampering with any of the internal counters.

(O) It shall not provide to a voter any type of receipt or voter confirmation that the voter legally may retain after leaving the polling place.

(P) On and after the first federal election that occurs after January 1, 2006, unless required sooner by the Help America Vote Act of 2002, if the voting machine is a direct recording electronic voting machine, it shall include a voter verified paper audit trail.

Before any voting machine is purchased, rented, or otherwise acquired, or used, the person or corporation owning or manufacturing ~~such that~~ machine or having the legal right to control the use of ~~the that~~ machine shall give an adequate guarantee in writing and post a bond in an amount sufficient to cover the cost of any recount or new election resulting from or directly related to the use or malfunction of the equipment, accompanied by satisfactory surety, all as determined by the secretary of state, with the board of county commissioners, guaranteeing and securing that ~~such those~~ machines have been and continue to be certified by the secretary of state in accordance with section 3506.05 of the Revised Code, comply fully with the requirements of this section, and will correctly, accurately, and continuously register and record every vote cast, and further guaranteeing ~~such those~~ machines against defects in ~~workmanship~~ ~~workmanship~~ and materials for a period of five years from the date of ~~their~~ acquisition ~~thereof~~.

Sec. 3506.17. There is hereby created in the state treasury the county electronic voting machine maintenance fund. All moneys received pursuant to the Help America Vote Act of 2002 that are not approved for release by the controlling board as of the first federal election that occurs after January 1, 2006, shall be deposited in the state treasury to the credit of the fund. The secretary of state shall adopt rules for the fair and equitable distribution of moneys credited to the fund. Moneys credited to the fund shall be expended for the purposes for which those moneys were received under the Help America Vote Act of 2002 and may only be expended pursuant to a plan approved by the controlling board.

Sec. 3506.18. (A) For any recount of an election in which ballots are cast using a direct recording electronic voting machine with a voter verified paper audit trail, the voter verified paper audit trail shall serve as the official ballot to be recounted.

(B) Voter verified paper audit trails shall be preserved in the same manner and for the same time period as paper ballots are preserved under section 3505.31 of the Revised Code.

Sec. 3506.19. On and after the first federal election that occurs after January 1, 2006, unless required sooner by the Help America Vote Act of 2002, each polling location shall have available for use at all elections at least one direct recording electronic voting machine that is accessible for individuals with disabilities, including nonvisual accessibility for the blind

and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

Sec. 3509.07. If election officials find that the statement accompanying an absent voter's ballot or absent voter's presidential ballot is insufficient, that the signatures do not correspond with the person's registration signature, that the applicant is not a qualified elector in the precinct, that the ballot envelope contains more than one ballot of any one kind, or any voted ballot that the elector is not entitled to vote,; or that Stub A is detached from the absent voter's ballot or absent voter's presidential ballot, the vote shall not be accepted or counted. ~~Whenever it appears to the election officials by sufficient proof that any elector who has marked and forwarded the elector's ballot as provided in section 3509.05 of the Revised Code has died, the ballot of the deceased voter shall not be counted.~~ The vote of any absent voter may be challenged for cause in the same manner as other votes are challenged, and the election officials shall determine the legality of that ballot. Every ballot not counted shall be indorsed on its back "Not Counted" with the reasons the ballot was not counted, and shall be enclosed and returned to or retained by the board of elections along with the contested ballots.

Sec. 3513.052. (A) No person shall seek nomination or election to any of the following offices or positions at the same election by filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition, or by becoming a candidate through party nomination in a primary election, or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code:

- (1) Two or more state offices;
- (2) Two or more county offices;
- (3) A state office and a county office;

(4) Any combination of two or more municipal or township offices, positions as a member of a city, local, or exempted village board of education, or positions as a member of a governing board of an educational service center.

(B) The secretary of state or a board of elections shall not accept for filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or

3513.31 of the Revised Code for:

(1) Any state or county office, if the declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition is for a state or county office;

(2) Any municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition is for a municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center.

(C)(1) If the secretary of state determines, before the day of the primary election, that a person is seeking nomination to more than one office at that election in violation of division (A) of this section, the secretary of state shall do one of the following:

(a) If each office or the district for each office for which the person is seeking nomination is wholly within a single county, the secretary of state shall notify the board of elections of that county. The board then shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The board shall vote promptly to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the board determines that the person sought to become a candidate for more than one of those offices on the same date, the board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking nomination is a state office or an office with a district larger than a single county, the secretary of state shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a

candidate for any of those offices. If the secretary of state determines that the person sought to become a candidate for more than one of those offices on the same date, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(2) If a board of elections determines, before the day of the primary election, that a person is seeking nomination to more than one office at that election in violation of division (A) of this section, the board shall do one of the following:

(a) If each office or the district for each office for which the person is seeking nomination is wholly within that county, the board shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The board shall vote promptly to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the board determines that the person sought to become a candidate for more than one of those offices on the same date, the board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking nomination is a state office or an office with a district larger than a single county, the board shall notify the secretary of state. The secretary of state then shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the secretary of state determines that the person sought to become a candidate

for more than one of those offices on the same date, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(D)(1) If the secretary of state determines, after the day of the primary election and before the day of the general election, that a person is seeking election to more than one office at that election in violation of division (A) of this section, the secretary of state shall do one of the following:

(a) If each office or the district for each office for which the person is seeking election is wholly within a single county, the secretary of state shall notify the board of elections of that county. The board then shall determine the offices for which the person seeks to appear as a candidate on the ballot. The board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking election is a state office or an office with a district larger than a single county, the secretary of state shall promptly investigate and determine the offices for which the person seeks to appear as a candidate on the ballot. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under

section 3505.03 of the Revised Code.

(2) If a board of elections determines, after the day of the primary election and before the day of the general election, that a person is seeking election to more than one office at that election in violation of division (A) of this section, the board of elections shall do one of the following:

(a) If each office or the district for each office for which the person is seeking election is wholly within that county, the board shall determine the offices for which the person seeks to appear as a candidate on the ballot. The board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking election is a state office or an office with a district larger than a single county, the board shall notify the secretary of state. The secretary of state promptly shall investigate and determine the offices for which the person seeks to appear as a candidate on the ballot. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(E) When a person is disqualified as a candidate under division (C) or (D) of this section, that person's name shall not appear on the ballots for any office for which that person has been disqualified as a candidate. If the ballots have already been prepared, the board of elections shall remove the name of the disqualified candidate from the ballots to the extent practicable in the time remaining before the election and according to the directions of

the secretary of state. If the name is not removed from the ballots before the day of the election, the votes for the disqualified candidate are void and shall not be counted.

(F) Any vacancy created by the disqualification of a person as a candidate under division (C) or (D) of this section may be filled in the manner provided for in sections 3513.30 and 3513.31 of the Revised Code.

~~(G) Nothing in this section or section 3513.04, 3513.041, 3513.05, 3513.251, 3513.253, 3513.254, 3513.255, 3513.257, 3513.259, or 3513.261 of the Revised Code prohibits, and the secretary of state or a board of elections shall not disqualify, a person from being a candidate to fill a vacant office as otherwise provided by law.~~

~~(H)~~ Nothing in this section or section 3513.04, 3513.041, 3513.05, 3513.251, 3513.253, 3513.254, 3513.255, 3513.257, 3513.259, or 3513.261 of the Revised Code prohibits, and the secretary of state or a board of elections shall not disqualify, a person from being a candidate for an office, if that person timely withdraws as a candidate for any offices specified in division (A) of this section for which that person first sought to become a candidate by filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition, by party nomination in a primary election, or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code.

~~(H)~~(H) As used in this section:

(1) "State office" means the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, member of the general assembly, chief justice of the supreme court, and justice of the supreme court.

(2) "Timely withdraws" means either of the following:

(a) Withdrawing as a candidate before the applicable deadline for filing a declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition for the subsequent office for which the person is seeking to become a candidate at the same election;

(b) Withdrawing as a candidate before the applicable deadline for the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, if the person is seeking to become a candidate for a subsequent office at the same election under either of those sections.

Sec. 3517.109. (A) As used in this section:

(1) "Candidate" has the same meaning as in section 3517.01 of the Revised Code but includes only candidates for the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, and member of the

general assembly.

(2) "Statewide candidate" means the joint candidates for the offices of governor and lieutenant governor or a candidate for the office of secretary of state, auditor of state, treasurer of state, attorney general, and member of the state board of education.

(3) "Senate candidate" means a candidate for the office of state senator.

(4) "House candidate" means a candidate for the office of state representative.

(5) "State office" means the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, and member of the general assembly.

(6) "Aggregate contribution" means the total of all contributions from a contributor during the pre-filing period.

(7) "Allowable aggregate contribution" means all of the following:

(a) In the case of a contribution from a contributor whose contributions are subject to the contribution limits described in ~~divisions~~ division (B)(1), (2), (3), (6)(a), or (7) of section 3517.102 of the Revised Code, that portion of the amount of the contributor's aggregate contribution that does not exceed the preprimary contribution limit applicable to that contributor.

(b) In the case of a contribution or contributions from a contributor whose contributions are not subject to the contribution limits described in divisions (B)(1), (2), (3), (6)(a), or (7) of section 3517.102 of the Revised Code, the total of the following:

(i) That portion of the aggregate contribution that was received as in-kind services;

(ii) That portion of the aggregate contribution that was received as cash and does not exceed the applicable preprimary cash transfer or contribution limits described in division (B)(6)(b) of section 3517.102 of the Revised Code.

(8) "Excess aggregate contribution" means, for each contributor, the amount by which that contributor's aggregate contribution exceeds that contributor's allowable aggregate contribution.

(9) "Pre-filing period" means the period of time ending on the day that the candidacy petitions are due for the state office for which the candidate has filed and beginning on the latest date of the following:

(a) The first day of January of the year following the general election in which that state office was last on the ballot;

(b) The first day of January of the year following the general election in which the candidate was last a candidate for any office;

(c) The first day of the month following the primary election in which the candidate was last a candidate for any office;

~~(d) The date of the primary election held in 1996.~~

(10) "Filing date" means the last date on which a candidacy petition may be filed for an office.

(11) "Applicable carry-in limit" means thirty-five thousand dollars if the candidate is a house candidate or a candidate for the state board of education, one hundred thousand dollars if the candidate is a senate candidate, and two hundred thousand dollars if the candidate is a statewide candidate other than a candidate for the state board of education.

(12) "Campaign asset" means prepaid, purchased, or donated assets available to the candidate on the date of the filing deadline for the office the candidate is seeking that will be consumed or depleted in the course of the candidate's election campaign, including, but not limited to, postage, prepaid rent for campaign headquarters, prepaid radio, television, and newspaper advertising, and other prepaid consulting and personal services.

(13) "Permitted funds" means the sum of the following:

- (a) The total of the allowable aggregate contribution of each contributor;
- (b) The applicable carry-in limit.

(14) "Excess funds" means the amount by which the sum of the total cash on hand and total reported campaign assets exceeds permitted funds.

(15) "Covered candidate" means both of the following:

(a) A candidate who, during the pre-filing period, accepts or has a campaign committee that accepts contributions on the candidate's behalf for the purpose of nominating or electing the candidate to any office not subject to the contribution limits prescribed in section 3517.102 of the Revised Code;

(b) A person who, during the pre-filing period, accepts or has a campaign committee that accepts contributions on the person's behalf prior to the person deciding upon or announcing the office for which the person will become a candidate for nomination or election.

~~(B)(1) Beginning in calendar year 1998 for house candidates and beginning in calendar year 2000 for senate candidates and statewide candidates and in each calendar year thereafter, each Each candidate who files for state office, not later than the filing date for that office, shall dispose of any excess funds ~~and~~. Each covered candidate who files for state office, not later than the filing date for that office, shall dispose of any excess aggregate contributions.~~

~~(2) In calendar year 1998, each candidate who files for statewide office or state senate, not later than the filing date for that office, shall dispose of~~

~~any excess aggregate contributions.~~

(C) Any campaign committee that is required to dispose of excess funds or excess aggregate contributions under division (B) of this section shall dispose of that excess amount or amounts by doing any of the following:

(1) Giving the amount to the treasurer of state for deposit into the state treasury to the credit of the Ohio elections commission fund;

(2) Giving the amount to individuals who made contributions to that campaign committee as a refund of all or part of their contributions;

(3) Giving the amount to a corporation that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c) of the Internal Revenue Code.

~~(D) No (1) Subject to division (D)(2) of this section, no candidate or covered candidate shall appear on the ballot, even if the candidate has been certified to appear on the ballot, unless the candidate's or covered candidate's campaign committee has disposed of excess funds and, excess aggregate contributions, or both as required by divisions (B) and (C) of this section.~~

(2) If the excess aggregate contributions accepted by a covered candidate or a covered candidate's campaign committee aggregate a total of less than five thousand dollars from all contributors, that candidate shall not be prohibited from appearing on the ballot under division (D)(1) of this section.

(E)(1) The campaign committee of each candidate required to dispose of excess funds ~~or excess aggregate contributions~~ under this section shall file a report, on a form prescribed by the secretary of state, with the official or board with which the candidate is required to file statements under section 3517.11 of the Revised Code. The report shall be filed by the seventh day following the filing deadline for the office the candidate is seeking, shall indicate the amount of excess funds ~~and the source and amount of each excess aggregate contribution~~ disposed of, and shall describe the manner in which the campaign committee disposed of the excess ~~amounts~~ amount.

(2) In addition to the information required to be included in a report filed under division (E)(1) of this section, the campaign committee of each covered candidate required to dispose of excess aggregate contributions under this section shall include in that report the source and amount of each excess aggregate contribution disposed of and shall describe the manner in which the campaign committee disposed of the excess amount.

(F)(1) ~~Beginning in calendar year 1998, each~~ Each campaign committee of a candidate who has filed a declaration of candidacy or a nominating petition for a state office, not later than seven days after the date of the filing

deadline for the office the candidate is seeking, shall file a declaration of filing-day finances, on a form prescribed by the secretary of state, with the official or board with which the candidate is required to file statements under section 3517.11 of the Revised Code.

(2) A declaration of filing-day finances shall list all of the following:

(a) The amount of cash on hand in the candidate's campaign fund on the date of the filing deadline for the office the candidate is seeking.

(b) The value and description of all campaign assets worth five hundred dollars or more available to the candidate on the date of the filing. Assets purchased by the campaign shall be valued at actual cost, and in-kind contributions shall be valued at market value.

(c) The total of all aggregate contributions;

(d) The total of all allowable aggregate contributions;

~~(e) The total of all excess aggregate contributions;~~

~~(f) For each contributor, if any, for whom there is an excess aggregate contribution, the name, address, aggregate contribution, and excess aggregate contribution;~~

~~(g) The applicable carry-in limit, if any.~~

(3) In addition to the information required to be included in a report of filing-day finances filed under division (F)(1) of this section, the campaign committee of each covered candidate shall include both of the following in that report:

(a) The total of all excess aggregate contributions;

(b) For each contributor, if any, for whom there is an excess aggregate contribution, the name, address, aggregate contribution, and excess aggregate contribution.

(G) A campaign committee of a candidate is not required to file a declaration of filing-day finances under division (F) of this section if all of the following apply:

(1) The campaign committee has not accepted, during the pre-filing period, any aggregate contribution greater than the applicable amount.

(2) The campaign committee had less than the carry-in amount in cash on hand at the beginning of the pre-filing period.

(3) The candidate files a declaration, on a form prescribed by the secretary of state, with the official or board with which the candidate is required to file statements under section 3517.11 of the Revised Code not later than seven days after the date of the filing deadline for the office that candidate is seeking, stating that the candidate's campaign committee has not accepted aggregate contributions as described in division (G)(1) of this section and has less than the carry-in amount in cash on hand as described in

division (G)(2) of this section.

Sec. 3517.1010. (A) As used in this section:

(1) "Aggregate contribution," "allowable aggregate contribution," "excess aggregate contribution," and "pre-filing period" have the same meanings as in section 3517.109 of the Revised Code.

(2) "Filing deadline" means the last date on which a candidacy petition may be filed for an office.

(3) "Campaign asset" means prepaid, purchased, or donated assets, goods, or services available to the candidate's campaign committee on the date specified in the filing required under division (F) of this section that will be consumed, depleted, or used in the course of the candidate's election campaign, including, but not limited to, postage, rent for any campaign office, radio, television, and newspaper advertising, and consulting and personal services.

(4) "Permitted funds" means one of the following:

(a) In the case of a disposal of excess funds under division (B)(1) of this section, the sum of the primary carry-in amount and the product of both of the following:

(i) The sum of the campaign committee's net cash on hand and the campaign committee's total reported campaign assets on the day of the primary election less the primary carry-in amount;

(ii) The ratio of the sum of the allowable aggregate contributions of each contributor to the sum of all contributions received, during the period extending from the first day on which, in accordance with division (D) of section 3517.103 of the Revised Code, the contribution limitations prescribed in section 3517.102 of the Revised Code no longer apply to the campaign committee through the end of the primary election period.

For the purposes of division (A)(4)(a) of this section, the allowable aggregate contribution of each contributor is calculated as if the limitations on contributions prescribed in section 3517.102 of the Revised Code were in effect.

As used in division (A)(4)(a) of this section, "primary carry-in amount" is the sum of the campaign committee's cash on hand and reported campaign assets as reported on the campaign committee's declaration of no limits filed pursuant to division (D) of section 3517.103 of the Revised Code.

(b) In the case of a disposal of excess funds under division (B)(5) of this section, the product of both of the following:

(i) The sum of the cash on hand and reported campaign assets at the end of the thirty-first day of December immediately following the general election;

(ii) The ratio of the sum of the allowable aggregate contributions of each contributor and the general carry-in amount to the sum of all contributions received during the general election period and the general carry-in amount.

For the purposes of division (A)(4)(b) of this section, when a candidate has filed a declaration of no limits under division (D)(2) of section 3517.103 of the Revised Code, the allowable aggregate contribution calculated for each contributor is calculated as if the limitations on contributions prescribed in section 3517.102 of the Revised Code were in effect.

As used in division (A)(4)(b) of this section, "general carry-in amount" is the sum of the campaign committee's reported campaign assets and net cash on hand as of the day of the primary election, after the committee has disposed of excess funds under division (B)(1) of this section, if required. "General election period" has the same meaning as in section 3517.102 of the Revised Code.

(5) "Excess funds" means the amount by which the sum of the campaign committee's cash on hand on the date specified in the filing required to be made under division (F) of this section and total reported campaign assets exceeds permitted funds.

(6) "Net cash on hand" means the cash on hand on the day of the primary election less the sum of all debts and obligations reported under division (F) of this section.

(B)(1) Except as otherwise provided in division (G) of this section, the campaign committee of any candidate who has filed a declaration of no limits in accordance with division (D) of section 3517.103 of the Revised Code, and to which the contribution limitations prescribed in section 3517.102 of the Revised Code no longer apply during a primary election period, shall dispose of any excess funds not later than fourteen days after the day on which the primary election was held.

(2) The campaign committee of any candidate that has filed a personal funds notice under division (C)(1) or (2) of section 3517.103 of the Revised Code shall, at the end of the primary election period, do one of the following:

(a) Return that portion of the personal funds remaining in the candidate's campaign committee fund at the end of the primary election period that are excess funds not later than fourteen days after the day on which the primary election was held;

(b) Retain the personal funds remaining in the candidate's campaign committee fund at the end of the primary election period and file a statement with the secretary of state declaring that the campaign committee will retain

those remaining personal funds in the committee's campaign fund and indicating the amount of remaining personal funds that would be characterized as excess funds.

(3) If a campaign committee elects to retain personal funds pursuant to division (B)(2)(b) of this section, both of the following apply:

(a) The amount characterized as excess funds is considered to be an expenditure of personal funds for the purpose of determining whether the amount of personal funds the campaign committee has received under division (C)(1) or (2) of section 3517.103 of the Revised Code during an election period exceeds the amounts specified in those divisions.

(b) The campaign committee is not a designated state campaign committee for the purpose of making contributions to a legislative campaign fund or to the state candidate fund of a state or county political party.

(4) Except as otherwise provided in division (G) of this section, the campaign committee of any candidate that has expended personal funds in excess of the amount specified in division (C)(1) or (2) of section 3517.103 of the Revised Code shall dispose of any excess funds not later than fourteen days after the day on which the primary election is held or the thirty-first day of December after the day on which the general election was held, whichever is applicable, or choose to retain personal funds under division (B)(2) of this section. The calculation of excess funds under this division shall be made in the same manner that a campaign committee is required to dispose of excess funds under division (B)(1) or (5) of this section, whichever election period is applicable. For the purposes of this division, the allowable aggregate contribution of each contributor, including one or more contributions from the candidate and from the candidate's spouse, parents, children, sons-in-law, daughters-in-law, brothers, sisters, grandparents, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, or grandparents by marriage, is calculated for that contributor as if the contribution limitations prescribed by section 3517.102 of the Revised Code were in effect.

(5) Except as otherwise provided in division (G) of this section, the campaign committee of any candidate to which, in accordance with division (D) of section 3517.103 of the Revised Code, the contribution limitations prescribed in section 3517.102 of the Revised Code no longer apply during a general election period shall dispose of any excess funds not later than the thirty-first day of December after the day on which the general election was held.

(6) Notwithstanding ~~divisions~~ division (B)(1) ~~and (2)~~ of section 3517.109 of the Revised Code, the amount of excess aggregate contributions

required to be disposed of under ~~those divisions~~ that division by a candidate whose contribution limitations have been reimposed pursuant to division (D)(4) of section 3517.103 of the Revised Code is limited to no more than the sum of the following:

(a) The difference between the sum of the cash on hand and reported campaign assets on the date of the declaration of candidacy filing deadline, date of death, or date of withdrawal, whichever is applicable, less the sum of the cash on hand and reported campaign assets reported on the campaign committee's declaration of no limits under division (D)(2) of section 3517.103 of the Revised Code;

(b) The sum of the aggregate excess contributions of all contributors made from the beginning of the primary election period to the day immediately preceding the day on which contribution limitations prescribed in section 3517.102 of the Revised Code became inapplicable pursuant to division (D)(1) of section 3517.103 of the Revised Code.

(C) Any campaign committee that is required to dispose of excess funds or excess aggregate contributions under division (B) of this section shall dispose of the excess amount or amounts in accordance with division (C) of section 3517.109 of the Revised Code.

(D)(1) Any candidate who knowingly fails to dispose of excess funds or excess aggregate contributions as required by divisions (B) and (C) of this section, except a candidate whose campaign committee has been given a letter of substantial compliance as provided for in division (D)(2) of this section, shall not appear on the ballot, even if the candidate has been certified to appear on the ballot.

(2) The secretary of state shall, after initially examining and reviewing any declaration provided for in division (F) of this section and making a determination that a campaign committee has substantially complied with the disposal requirements of division (B) of this section, promptly issue to the candidate's campaign committee a letter certifying that committee's substantial compliance.

(3) The campaign committee of a candidate for ~~statewide~~ state office as defined in division (A) of section 3517.109 of the Revised Code has not substantially complied with the disposal requirements of division (B) of this section if, upon initial review of a declaration filed pursuant to division (F) of this section, it is discovered that the candidate's campaign committee has failed to dispose of excess funds or excess aggregate contributions totaling in the aggregate more than ten thousand dollars.

(4) The campaign committee of a candidate for member of the general assembly has not substantially complied with the disposal requirements of

division (B) of this section if, upon initial review of a declaration filed pursuant to division (F) of this section, it is discovered that the candidate's campaign committee has failed to dispose of excess funds or excess aggregate contributions totaling in the aggregate more than twenty-five hundred dollars.

(5) Any campaign committee that has received a letter indicating substantial compliance as provided for in division (D)(2) of this section shall, within thirty days after receiving such a letter, fully comply with the disposal requirements of division (B) of this section.

(E) When the campaign committee of a candidate files a personal funds notice in accordance with division (C), or a declaration of no limits in accordance with division (D), of section 3517.103 of the Revised Code, the campaign committee of each such candidate shall file in the case of a primary election period a declaration of primary-day finances not later than fourteen days after the day on which the primary election was held, or shall file in the case of a general election period a declaration of year-end finances not later than the last business day of January of the next calendar year immediately following the day on which the general election was held.

(F) The declaration of primary-day finances and declaration of year-end finances shall be filed on a form prescribed by the secretary of state and shall list all of the following:

(1) The amount of net cash on hand in the candidate's campaign committee fund at the end of the day on which the primary election was held or cash on hand on the thirty-first day of December immediately following the day on which the general election was held, whichever is appropriate;

(2) In the case of a declaration of primary-day finances, any debt or other obligation incurred by the committee during the primary election period and related to the primary election of the campaign committee's candidate;

(3) The value and description of all campaign assets worth five hundred dollars or more available to the candidate at the end of the day on which the primary election was held or on the thirty-first day of December immediately following the day on which the general election was held;

(4) The total of all aggregate contributions received by the candidate's campaign committee during the primary or general election period;

(5) The total of all allowable aggregate contributions received by the candidate's campaign committee during the primary or general election period, whichever is applicable. The allowable aggregate contribution of each contributor shall be calculated as if the contribution limitations prescribed by section 3517.102 of the Revised Code were in effect.

(6) A description of all excess funds and excess aggregate contributions disposed of by the candidate's campaign committee in accordance with division (B) of this section for that election.

(G) The campaign committee of a candidate is not required to dispose of excess funds or excess aggregate contributions under division (B) of this section if both of the following apply:

(1) The campaign committee has not accepted any aggregate contribution greater than the amount applicable under ~~those divisions, excluding the amount of any contribution accepted before the day of the primary election held in 1996 that division.~~

(2) The campaign committee files on a form, prescribed by the secretary of state, with the official or board with which the candidate is required to file statements under section 3517.11 of the Revised Code, stating that the committee has not accepted aggregate contributions as described in division (G)(1) of this section.

Sec. 3519.16. ~~If the~~ The circulator of any part-petition, the committee interested ~~therein in the petition,~~ or any elector ~~files may file~~ with the board of elections a protest against the board's findings made pursuant to section 3519.15 of the Revised Code, ~~then.~~ Protests shall be in writing and shall specify reasons for the protest. Protests for all initiative and referendum petitions other than those to be voted on by electors throughout the entire state shall be filed not later than four p.m. of the sixty-fourth day before the day of the election. Once a protest is filed, the board shall proceed to establish the sufficiency or insufficiency of the signatures and of the verification thereof of those signatures in an action before the court of common pleas in the county. Such The action must shall be brought within three days after the protest has been is filed, and the case it shall be heard forthwith by a judge of such that court, whose decision shall be certified to the board. The signatures which that are adjudged sufficient or the part-petitions which that are adjudged properly verified shall be included with the others by the board, and those found insufficient and all those part-petitions which that are adjudged not properly verified shall not be included. The

The properly verified part-petitions, together with the report of the board, shall be returned to the secretary of state not less than fifty days before the election, provided that, in the case of an initiated law to be presented to the general assembly, the boards shall promptly check and return the petitions together with their report. The secretary of state shall notify the ~~chairman~~ chairperson of the committee in charge of the circulation as to the sufficiency or insufficiency of the petition and the

extent of the insufficiency. ~~If~~

If the petition is found insufficient because of an insufficient number of valid signatures, ~~such~~ the committee shall be allowed ten additional days after ~~such~~ the notification by the secretary of state for the filing of additional signatures to ~~such~~ the petition. The part-petitions of the supplementary petition ~~which~~ that appear to the secretary of state to be properly verified, upon their receipt ~~thereof~~ by the secretary of state, shall forthwith be forwarded to the boards of the several counties together with the part-petitions of the original petition ~~which~~ that have been properly verified; ~~and~~. They shall be immediately examined and passed upon as to the validity and sufficiency of the signatures ~~thereon~~ on them by each of ~~such~~ the boards and returned within five days to the secretary of state with the ~~boards'~~ report of each board. No signature on a supplementary part-petition ~~which~~ that is the same as a signature on an original part-petition shall be counted. The number of signatures in both the original and supplementary petitions, properly verified, shall be used by the secretary of state in determining the total number of signatures to the petition ~~which~~ he ~~that~~ the secretary of state shall record and announce. If they are sufficient, ~~then~~ ~~such~~ the amendment, proposed law, or law shall be placed on the ballot as required by law. If the petition is found insufficient, the secretary of state shall notify the committee in charge of the circulation of the petition.

Sec. 4117.03. (A) Public employees have the right to:

(1) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Chapter 4117. of the Revised Code, any employee organization of their own choosing;

(2) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;

(3) Representation by an employee organization;

(4) Bargain collectively with their public employers to determine wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements;

(5) Present grievances and have them adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and as long as the bargaining representatives have the opportunity to be present at the adjustment.

(B) Persons on active duty or acting in any capacity as members of the organized militia do not have collective bargaining rights.

(C) ~~Nothing~~ Except as provided in division (D) of this section, nothing

in Chapter 4117. of the Revised Code prohibits public employers from electing to engage in collective bargaining, to meet and confer, to hold discussions, or to engage in any other form of collective negotiations with public employees who are not subject to Chapter 4117. of the Revised Code pursuant to division (C) of section 4117.01 of the Revised Code.

(D) A public employer shall not engage in collective bargaining or other forms of collective negotiations with the employees of county boards of elections referred to in division (C)(12) of section 4117.01 of the Revised Code.

Sec. 4301.323. The electors of an election precinct may exercise the privilege of local option on the sale of beer ~~and any intoxicating, wine and mixed beverages, or spirituous~~ liquor at a particular location within the precinct if the petitioner for local option election is one of the following:

(A) An applicant for the issuance or transfer of a liquor permit at, or to, a particular location within the precinct;

(B) The holder of a liquor permit at a particular location within the precinct;

(C) A person who operates or seeks to operate a liquor agency store at a particular location within the precinct;

(D) The designated agent for an applicant, liquor permit holder, or liquor agency store described in division (A), (B), or (C) of this section.

The privilege conferred by this section is in addition to the privilege conferred on the electors of precincts under section 4301.32, 4301.321, 4301.322, or 4305.14 of the Revised Code.

Sec. 4301.355. (A) If a petition is filed under section 4301.333 of the Revised Code for the submission of the question or questions set forth in this section, it shall be held in the precinct as ordered by the board of elections under that section. The expense of holding the election shall be charged to the municipal corporation or township of which the precinct is a part.

(B) At the election, one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct:

(1) "Shall the sale of (insert beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor) be permitted by (insert name of applicant, liquor permit holder, or liquor agency store, including trade or fictitious name under which applicant for, or holder of, liquor permit or liquor agency store either intends to do, or does, business at the particular location), an (insert "applicant for" or "holder of" or "operator of") a (insert class name of liquor permit or permits followed by the words

"liquor permit(s)" or, if appropriate, the words "liquor agency store for the State of Ohio"), who is engaged in the business of (insert general nature of the business in which applicant or liquor permit holder is engaged or will be engaged in at the particular location, as described in the petition) at (insert address of the particular location within the precinct as set forth in the petition) in this precinct?"

(2) "Shall the sale of (insert beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor) be permitted for sale on Sunday between the hours of (insert "ten a.m. and midnight" or "one p.m. and midnight") by (insert name of applicant, liquor permit holder, or liquor agency store, including trade or fictitious name under which applicant for, or holder of, liquor permit or liquor agency store either intends to do, or does, business at the particular location), an (insert "applicant for a D-6 liquor permit," "holder of a D-6 liquor permit," "applicant for or holder of an A-1-A, A-2, C-1, C-2x, D-1, D-2x, D-3, D-3x, D-4, D-5, D-5b, D-5c, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 liquor permit," if only the approval of beer sales is sought, or "liquor agency store") who is engaged in the business of (insert general nature of the business in which applicant or liquor permit holder is engaged or will be engaged in at the particular location, as described in the petition) at (insert address of the particular location within the precinct) in this precinct?"

~~(C) If the sale of beer, wine and mixed beverages, or intoxicating liquor has been approved at a particular location within the precinct at a previous election held under this section, the ballot also shall include the following statement:~~

~~"At a previous election held under section 4301.355 of the Revised Code, the electors approved the sale of (insert beer, wine and mixed beverages, or intoxicating liquor, as appropriate) at (insert business name and address of the particular location or locations within the precinct where that sale has been approved at a previous election under section 4301.355 of the Revised Code)."~~

~~(D)~~ The board of elections shall furnish printed ballots at the election as provided under section 3505.06 of the Revised Code, except that a separate ballot shall be used for the election under this section. The question ~~and, if applicable, the statement~~ set forth in this section shall be printed on each ballot, and the board shall insert in the question ~~and statement~~ appropriate words to complete ~~each~~ it. Votes shall be cast as provided under section 3505.06 of the Revised Code.

Sec. 4301.365. (A) If a majority of the electors in a precinct vote "yes" on questions (B)(1) and (2) as set forth in section 4301.355 of the Revised

Code, the sale of beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location and for the use, and during the hours on Sunday, specified in the questions under each permit applied for by the petitioner or at the address listed for the liquor agency store, subject only to this chapter and Chapter 4303. of the Revised Code. Failure to continue to use the particular location for any proposed or stated use set forth in the petition is grounds for the denial of a renewal of the liquor permit under division (A) of section 4303.271 of the Revised Code or is grounds for the nonrenewal or cancellation of the liquor agency store contract by the division of liquor control, except in the case where the liquor permit holder or liquor agency store decides to cease the sale of beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor, whichever was the subject of the election, on Sundays.

(B) Except as otherwise provided in division (H) of this section, if a majority of the electors in a precinct vote "yes" on question (B)(1) and "no" on question (B)(2) as set forth in section 4301.355 of the Revised Code, the sale of beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location for the use specified in question (B)(1) of section 4301.355 of the Revised Code and under each permit applied for by the petitioner, except for a D-6 permit, subject only to this chapter and Chapter 4303. of the Revised Code.

(C) If a majority of the electors in a precinct vote "no" on question (B)(1) as set forth in section 4301.355 of the Revised Code, no sales of beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location for the use specified in the petition during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(D) If a majority of the electors in a precinct vote only on question (B)(2) as set forth in section 4301.355 of the Revised Code and that vote results in a majority "yes" vote, sales of beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location for the use and during the hours specified in the petition on Sunday during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(E) Except as otherwise provided in division (H) of this section, if a majority of the electors in a precinct vote only on question (B)(2) as set forth in section 4301.355 of the Revised Code and that vote results in a majority "no" vote, no sales of beer, wine and mixed beverages, or

~~intoxicating~~ spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location for the use and during the hours specified in the petition on Sunday during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(F) In case of elections in the same precinct for the question or questions set forth in section 4301.355 of the Revised Code and for a question or questions set forth in section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code, the results of the election held on the question or questions set forth in section 4301.355 of the Revised Code shall apply to the particular location notwithstanding the results of the election held on the question or questions set forth in section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code.

(G) Sections 4301.32 to 4301.41 of the Revised Code do not prohibit the transfer of ownership of a permit that was issued to a particular location as the result of an election held on sales of beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor at that particular location as long as the general nature of the business at that particular location described in the petition for that election remains the same after the transfer.

(H) If question (B)(2) as set forth in section 4301.355 of the Revised Code is submitted to the electors of a precinct proposing to authorize the sale of beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor between the hours of ten a.m. and midnight at a particular location at which the sale of beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor is already allowed between the hours of one p.m. and midnight and the question submitted is defeated, the sale of beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor between the hours of one p.m. and midnight shall continue at that particular location.

SECTION 2. That existing sections 124.57, 3501.05, 3501.10, 3501.28, 3506.01, 3506.05, 3506.06, 3506.10, 3509.07, 3513.052, 3517.109, 3517.1010, 3519.16, 4117.03, 4301.323, 4301.355, and 4301.365 of the Revised Code are hereby repealed.

SECTION 3. (A) As used in this section:

(1) "Automatic tabulating equipment, "ballot," "direct recording electronic voting machine," "marking device," "voter verified paper audit trail," and "voting machines" have the same meanings as in section 3506.01 of the Revised Code.

(2) "County originally scheduled to acquire voting machines during the

2004 calendar year" means:

(a) The following counties that are scheduled, pursuant to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, to acquire voting machines, marking devices, or automatic tabulating equipment for use in the August 2004 special election with funds made available pursuant to the Help America Vote Act of 2002: Adams, Auglaize, Brown, Carroll, Crawford, Delaware, Hardin, Harrison, Henry, Logan, Medina, Mercer, Portage, Putnam, and Trumbull;

(b) The following counties that are scheduled, pursuant to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, to acquire voting machines, marking devices, or automatic tabulating equipment for use in the November 2004 general election with funds made available pursuant to the Help America Vote Act of 2002: Butler, Columbiana, Darke, Fairfield, Gallia, Huron, Jackson, Lorain, Lucas, Madison, Morgan, Paulding, Richland, Tuscarawas, Washington, and Williams.

(3) "Help America Vote Act of 2002" means the "Help America Vote Act of 2002," Public Law 107-252, 116 Stat. 1666.

(4) "Ohio state plan" means the state plan prepared by the Secretary of State and the state plan committee for the state of Ohio pursuant to the Help America Vote Act of 2002.

(B)(1)(a) If the board of elections of a county originally scheduled to acquire voting machines during the 2004 calendar year wishes to acquire voting machines, marking devices, or automatic tabulating equipment for use during the 2004 calendar year according to the schedule proposed pursuant to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, with funds made available pursuant to the Help America Vote Act of 2002, the board may vote to reaffirm any prior decision made under that process to so acquire and use voting machines, marking devices, or automatic tabulating equipment at a meeting held within thirty days after the effective date of this section.

(b) If the board of elections of a county originally scheduled to acquire voting machines during the 2004 calendar year fails to vote on a decision under division (B)(1)(a) of this section within thirty days after the effective date of this section, the county shall not acquire voting machines, marking devices, or automatic tabulating equipment for use during the 2004 calendar year with funds made available pursuant to the Help America Vote Act of 2002. The Secretary of State shall not compel the board of elections of a county originally scheduled to acquire voting machines during the 2004

calendar year to vote to acquire voting machines, marking devices, or automatic tabulating equipment under division (B)(1)(a) of this section.

(c) If the board of elections of a county originally scheduled to acquire voting machines during the 2004 calendar year votes to reaffirm a prior decision to acquire voting machines, marking devices, or automatic tabulating equipment for use during the 2004 calendar year with funds made available pursuant to the Help America Vote Act of 2002 under division (B)(1)(a) of this section, that county shall proceed with the acquisition of the selected voting machines, marking devices, or automatic tabulating equipment with those funds according to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004. The Secretary of State shall purchase the selected voting machines, marking devices, or automatic tabulating equipment for the county by acting as an agent on behalf of the board of county commissioners of that county.

(2)(a) A county may acquire voting machines, marking devices, or automatic tabulating equipment for use during the 2005 calendar year pursuant to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, prior to the certification of direct recording electronic voting machines with a voter verified paper audit trail in accordance with division (E)(1) of this section if both of the following apply:

(i) The county did not acquire voting machines, marking devices, or automatic tabulating equipment under division (B)(1) of this section for use during the 2004 calendar year.

(ii) The county has selected, through the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, voting machines, marking devices, or automatic tabulating equipment other than direct recording electronic voting machines as the primary voting system to be used in the county. This division does not preclude the acquisition of direct recording electronic voting machines to the extent that the county is scheduled to acquire only one direct recording electronic voting machine for each polling place as required by the Help America Vote Act of 2002.

(b) If a county chooses to acquire voting machines, marking devices, or automatic tabulating equipment under division (B)(2)(a) of this section, the Secretary of State shall purchase the selected voting machines, marking devices, or automatic tabulating equipment for the county by acting as an agent on behalf of the board of county commissioners of that county.

(C) It is the intent of the General Assembly that the state of Ohio pay,

with funds made available pursuant to the Help America Vote Act of 2002 or through an appropriation of state capital funds, for any additional costs a county incurs after the initial purchase of direct recording electronic voting machines, to upgrade, retrofit, or otherwise equip those voting machines with a voter verified paper audit trail if the county acquires the voting machines in any of the following manners:

(1) The county purchases the direct recording electronic voting machines before the effective date of this section using county funds and is entitled to reimbursement for that purchase under the Help America Vote Act of 2002.

(2) The county acquires the direct recording electronic voting machines for use during the 2004 calendar year under division (B)(1) of this section.

(3) The county acquires voting machines, marking devices, or automatic tabulating equipment, including direct recording electronic voting machines, under division (B)(2) of this section.

(4) The county acquired direct recording electronic voting machines before January 1, 2000, and is not scheduled to acquire new voting machines, marking devices, or automatic tabulating equipment with funds made available under the Help America Vote Act of 2002 under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004.

(D)(1) If a county does not acquire voting machines, marking devices, or automatic tabulating equipment under division (B)(1) or (2) of this section or does not acquire voting machines, marking devices, or automatic tabulating equipment through the process described in division (C)(1) or (4) of this section, the process for counties to acquire voting machines, marking devices, or automatic tabulating equipment with funds made available pursuant to the Help America Vote Act of 2002 that is outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, shall be subject to divisions (E) and (F) of this section with respect to any direct recording electronic voting machine a county selects for acquisition.

(2) Nothing in division (E) or (F) of this section shall affect the acquisition of voting machines, marking devices, or automatic tabulating equipment, other than direct recording electronic voting machines, under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004.

(E)(1)(a) The Secretary of State shall adopt a schedule pursuant to which the Secretary of State shall certify for use in this state direct recording electronic voting machines with a voter verified paper audit trail. That

schedule shall provide for the certification, acquisition, and implementation of direct recording electronic voting machines with a voter verified paper audit trail not later than the first federal election that occurs after January 1, 2006, unless required sooner by the Help America Vote Act of 2002.

(b) Before certifying any direct recording electronic voting machines with a voter verified paper audit trail, the Secretary of State shall establish standards for the certification of those machines as required by division (H)(3) of section 3506.05 of the Revised Code. In addition to the requirements of that section, the standards for certification shall require a direct recording electronic voting machine with a voter verified paper audit trail to meet the requirements of the Help America Vote Act of 2002, Chapter 3506. of the Revised Code, this act, and any other applicable laws and standards.

(c) Any vendor of a direct recording electronic voting machine with a voter verified paper audit trail may seek certification of that machine for use in this state under the certification standards the Secretary of State is required to adopt under division (H)(3) of section 3506.05 of the Revised Code and division (E)(1)(b) of this section according to the certification schedule the Secretary of State is required to adopt under division (E)(1)(a) of this section.

(d) No vendor, type, or model of direct recording electronic voting machine that was approved in this state according to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, shall remain on the approved list of vendors, types, or models for acquisition with funds made available pursuant to the Help America Vote Act of 2002 unless it is subject to the certification standards for direct recording electronic voting machines with a voter verified paper audit trail the Secretary of State is required to adopt under division (H)(3) of section 3506.05 of the Revised Code and division (E)(1)(b) of this section.

(2) After the Secretary of State certifies direct recording electronic voting machines with a voter verified paper audit trail under division (E)(1) of this section, the Secretary of State shall commence price negotiations with any willing vendor that meets both of the following requirements:

(a) The vendor's direct recording electronic voting machine was approved for acquisition and use in this state under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004.

(b) The vendor's direct recording electronic voting machine with a voter verified paper audit trail is certified in accordance with division (E)(1) of this section.

(3) With each willing vendor that meets the requirements of division (E)(2) of this section, the Secretary of State shall negotiate for a final unified price. The final unified price shall include both of the following:

(a) The cost of upgrading, retrofitting, or otherwise equipping all direct recording electronic voting machines produced by that vendor and acquired under division (B)(1) or (2) of this section or through the process described in division (C)(1) or (4) of this section with a voter verified paper audit trail;

(b) The purchase price for that vendor for all direct recording electronic voting machines that were previously selected by a county for acquisition during the 2005 calendar year under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, and that have not already been acquired under division (B)(2) of this section. The purchase price under this division shall include the price for equipping each direct recording electronic voting machine with a voter verified paper audit trail.

(4) After the Secretary of State negotiates a final unified price with each eligible vendor under division (E)(3) of this section, the Secretary of State shall perform the following calculation with respect to each vendor:

(a) For each vendor, the final unified price shall be added to the total cost of all direct recording electronic voting machines acquired from that vendor under division (B)(1) or (2) of this section or through the process described in division (C)(1) or (4) of this section.

(b) To determine the percentage change between acquiring direct recording electronic voting machines under the contract negotiated under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, and acquiring direct recording electronic voting machines with a voter verified paper audit trail, the sum under division (E)(4)(a) of this section shall be divided by the total cost of acquiring direct recording electronic voting machines from that vendor if all counties that previously selected those machines from that vendor under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, had acquired the machines under that contract.

(5) If the calculation performed under division (E)(4) of this section results in a percentage cost of one hundred twenty per cent or less, the Secretary of State may accept this cost, subject to Controlling Board approval. If approved by the Controlling Board, the Secretary of State may permit both of the following:

(a) Counties that have not yet purchased direct recording electronic voting machines with funds made available under the Help America Vote

Act of 2002 and that previously selected that vendor's direct recording electronic voting machines to purchase direct recording electronic voting machines with a voter verified paper audit trail from that vendor according to the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004;

(b) Counties that previously purchased direct recording electronic voting machines from that vendor under division (B)(1) or (2) of this section or through the process described in division (C)(1) or (4) of this section to upgrade, retrofit, or otherwise equip those direct recording electronic voting machines with a voter verified paper audit trail from that vendor.

(6) If the calculation performed under division (E)(4) of this section results in a percentage cost of more than one hundred twenty per cent, the Secretary of State shall not accept the cost, and any contract negotiated with that vendor shall be deemed null and void with respect to any direct recording electronic voting machines not yet purchased.

(F)(1) If a vendor of a direct recording electronic voting machine that was approved for acquisition and use in this state under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, chooses not to seek or fails to gain certification for a direct recording electronic voting machine with a voter verified paper audit trail, or if the vendor's contract is declared null and void under division (E)(6) of this section, any vendor of a direct recording electronic voting machine with a voter verified paper audit trail that is certified for use in this state may submit a bid to provide voting machines, marking devices, or automatic tabulating equipment for those counties whose original direct recording electronic voting machine selection is no longer available under this section.

(2) The Secretary of State shall develop a process by which vendors of a certified direct recording electronic voting machine with a voter verified paper audit trail may submit bids under division (F)(1) of this section, by which the Secretary of State shall approve for acquisition, and by which counties identified in division (F)(1) of this section may purchase voting machines, marking devices, or automatic tabulating equipment using funds made available pursuant to the Help America Vote Act of 2002. Any voting machines, marking devices, or automatic tabulating equipment so purchased shall meet the requirements of the Help America Vote Act of 2002, Chapter 3506. of the Revised Code, this act, and any other applicable laws and standards. Any process the Secretary of State develops under this division shall be described in the Ohio state plan. The process shall permit the Secretary of State to purchase voting machines, marking devices, or

automatic tabulating equipment on behalf of a board of county commissioners with the Secretary of State acting as an agent of the board.

The process shall not authorize the Secretary of State to do either of the following:

(a) Purchase voting machines, marking devices, or automatic tabulating equipment except when acting as an agent on behalf of the board of county commissioners of a county;

(b) Require a county board of elections to select or use any direct recording electronic voting machine except as otherwise required by federal law.

(G) The acquisition of voting machines, marking devices, or automatic tabulating equipment under this section with funds made available pursuant to the Help America Vote Act of 2002 shall be completed before the first federal election that occurs after January 1, 2006, unless required sooner by that Act.

(H) It is the intent of the General Assembly that the state of Ohio pay, with funds made available pursuant to the Help America Vote Act of 2002 or through an appropriation of state capital funds, the full cost of acquiring all voting machines, marking devices, or automatic tabulating equipment under this section.

SECTION 4. The Secretary of State shall amend the state plan prepared by the Secretary of State and the state plan committee pursuant to the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666, as required to conform with the provisions of this act.

SECTION 5. That Section 99 of Am. Sub. H.B. 95 of the 125th General Assembly be amended to read as follows:

Sec. 99. SOS SECRETARY OF STATE

General Revenue Fund

GRF 050-321	Operating Expenses	\$	2,750,000	\$	2,750,000
GRF 050-403	Election Statistics	\$	110,570	\$	110,570
GRF 050-407	Pollworkers Training	\$	295,742	\$	295,742
GRF 050-409	Litigation Expenditures	\$	4,949	\$	4,949
TOTAL GRF	General Revenue Fund	\$	3,161,261	\$	3,161,261

General Services Fund Group

4S8 050-610	Board of Voting Machine Examiners	\$	7,200	\$	7,200
412 050-609	Notary Commission	\$	178,124	\$	185,249
413 050-601	Information Systems	\$	163,418	\$	169,955
414 050-602	Citizen Education Fund	\$	72,800	\$	75,712
TOTAL	General Services Fund Group	\$	421,542	\$	438,116

Federal Special Revenue Fund Group

<u>3AT 050-614</u>	<u>Voter/Poll Worker Education</u>	\$	0	\$	<u>5,000,000</u>
<u>3AR 050-615</u>	<u>2004 HAVA Voting Machines</u>	\$	0	\$	<u>27,250,000</u>
<u>3AS 050-616</u>	<u>2005 HAVA Voting Machines</u>	\$	0	\$	<u>79,250,000</u>
3X4 050-612	Ohio Cntr/Law Related Educ Grant	\$	41,000	\$	41,000
TOTAL FED Federal Special Revenue Fund Group		\$	41,000	\$	<u>41,000</u>
					<u>109,541,000</u>

State Special Revenue Fund Group

5N9 050-607	Technology Improvements	\$	124,582	\$	129,565
599 050-603	Business Services Operating Expenses	\$	13,889,462	\$	14,241,966
TOTAL SSR State Special Revenue Fund Group		\$	14,014,044	\$	14,371,531

Holding Account Redistribution Fund Group

R01 050-605	Uniform Commercial Code Refunds	\$	65,000	\$	65,000
R02 050-606	Corporate/Business Filing Refunds	\$	100,000	\$	100,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	165,000	\$	165,000
TOTAL ALL BUDGET FUND GROUPS		\$	17,802,847	\$	<u>18,176,908</u>
					<u>127,676,908</u>

BOARD OF VOTING MACHINE EXAMINERS

The foregoing appropriation item 050-610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine Examiners Fund, which is created in section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting the equipment for examination. If it is determined that additional appropriations are necessary, such amounts are appropriated.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 050-605 and 050-606, Holding Account Redistribution Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are appropriated.

VOTER/POLL WORKER EDUCATION FUND

If, as of the effective date of this amendment, the Controlling Board has not taken action to allow for a statewide voter education and poll worker training program in the state, the Director of Budget and Management shall transfer \$5,000,000 from the Election Reform Fund (Fund 3AA) to the Voter Education/Poll Worker Education Fund (Fund 3AT). Of the foregoing appropriation item 050-614, Voter/Poll Worker Education, \$2,500,000 shall

be allocated to the counties, subject to Controlling Board approval. Of this amount, the Secretary of State shall distribute \$440,000 to the counties such that each county shall receive \$5,000. The remaining \$2,060,000 allocated shall be distributed to the counties based upon per capita population as determined by the most recent federal decennial census data. \$2,500,000 shall be used to conduct a statewide voter education and poll worker-training program, subject to Controlling Board approval.

Of the \$2,500,000 appropriated to counties, no county shall receive its allotted funding until it has submitted a voter education plan to, and had that plan approved by, the Secretary of State. Of the \$2,500,000 appropriated to the Secretary of State for the purpose of conducting a voter education and poll worker training program, the Secretary of State may use up to \$1,000,000 for the development, implementation, and certification for standards of Voter Verified Paper Audit Trail (VVPAT) systems.

After January 1, 2005, the Secretary of State may seek approval from the Controlling Board for the release of an additional \$2,500,000 from the Election Reform Fund (Fund 3AA), if the Secretary of State can demonstrate it is necessary for the implementation of additional voter education and poll worker training. Of this \$2,500,000, the Secretary of State must distribute \$1,250,000 to the counties on a per capita basis based upon population as determined by the most recent federal decennial census data. However, the \$1,250,000 shall not be released to the individual counties until those counties have submitted a voter education plan to, and had that plan approved by, the Secretary of State.

Upon the effective date of this amendment, the Secretary of State may request that the Director of Budget and Management transfer an amount from the Election Reform Fund (Fund 3AA) to a GRF appropriation item within the Secretary of State's Budget for the compensation of the ADA coordinator under section 3501.05 of the Revised Code.

2004 HAVA VOTING MACHINES FUND

If, as of the effective date of this amendment, the Controlling Board has not taken action to approve the funds for deployment of HAVA certified voting systems in 2004, the Director of Budget and Management shall transfer an amount not to exceed \$27,250,000 from the Election Reform Fund (Fund 3AA) to the 2004 HAVA Voting Machines Fund (Fund 3AR).

2005 HAVA VOTING MACHINES FUND

As of the effective date of this amendment, the Director of Budget and Management shall transfer an amount not to exceed \$79,250,000 from the Election Reform Fund (Fund 3AA) to the 2005 HAVA Voting Machines Fund (Fund 3AS). The amount is hereby appropriated. The Secretary of

State shall certify to the Director of Budget and Management any amount from the 2004 Voting Machines Fund (Fund 3AR) that was not required for voting machine replacement or upgrades. The Director of Budget and Management shall transfer this amount to the 2005 HAVA Voting Machines Fund (Fund 3AS) and abolish the 2004 HAVA Voting Machines Fund (Fund 3AR).

SECTION 6. That existing Section 99 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.

SECTION 7. The Director of the Legislative Service Commission may use up to \$350,000 from the Election Reform Fund (Fund 3AA), created by the Controlling Board in 2003, to conduct a security review study of electronic voting machines. The amount is hereby appropriated.

SECTION 8. The codified and uncodified sections of law amended or enacted by this act, and the items of law of which the sections as amended or enacted by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the sections of law amended or enacted by this act, and the items of law of which the sections as amended or enacted by this act are composed, go into immediate effect when this act becomes law.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____