

**As Introduced**

**125th General Assembly  
Regular Session  
2003-2004**

**H. B. No. 262**

**Representatives Carmichael, Peterson, Seitz, Niehaus, Bocchieri, Aslanides,  
Reinhard, Koziura**

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**A B I L L**

To amend sections 3501.10, 3501.28, 3509.07, 3513.30, 1  
and 4301.355 of the Revised Code to revise the 2  
Election Law by increasing the maximum poll worker 3  
pay, permitting employees of the state and of 4  
political subdivisions to work as judges of 5  
elections and receive poll worker pay in addition 6  
to their regular employment compensation, 7  
eliminating the required ballot language 8  
describing certain past local option elections 9  
when a local option election is held on sales of 10  
alcoholic beverages at a specific location, and 11  
making other changes. 12

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3501.10, 3501.28, 3509.07, 3513.30, 13  
and 4301.355 of the Revised Code be amended to read as follows: 14

**Sec. 3501.10.** (A) The board of elections shall, as an expense 15  
of the board, provide suitable rooms for its offices and records 16  
and the necessary and proper furniture and supplies for ~~such~~ those 17  
rooms. The board may lease such offices and rooms, necessary to 18  
its operation, for ~~such~~ the length of time and upon ~~such~~ the terms 19

as the board deems in the best interests of the public, provided 20  
that the term of any such lease shall not exceed fifteen years. 21

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Thirty days prior to entering into such a lease, the board 23  
shall notify the board of county commissioners in writing of its 24  
intent to enter into the lease. The notice shall specify the terms 25  
and conditions of the lease. Prior to the thirtieth day after 26  
receiving that notice and before any lease is entered into, the 27  
board of county commissioners may reject the proposed lease by a 28  
majority vote. After receiving written notification of the 29  
rejection by the board of county commissioners, the board of 30  
elections shall not enter into the lease that was rejected, but 31  
may immediately enter into additional lease negotiations, subject 32  
to the requirements of this section. 33

The board of elections in any county may, by resolution, 34  
request that the board of county commissioners submit to the 35  
electors of the county, in accordance with section 133.18 of the 36  
Revised Code, the question of issuing bonds for the acquisition of 37  
real estate and the construction on it of a suitable building with 38  
necessary furniture and equipment for the proper administration of 39  
the duties of the board of elections. The resolution declaring the 40  
necessity for issuing such bonds shall relate only to the 41  
acquisition of real estate and to the construction, furnishing, 42  
and equipping of a building as provided in this division. 43

(B) The board of elections in each county shall keep its 44  
offices, or one or more of its branch registration offices, open 45  
for the performance of its duties ~~an additional seven hours each~~ 46  
~~week for three weeks before the close~~ until nine p.m. on the last 47  
day of registration before a general or primary election. At all 48  
other times during each week, the board shall keep its offices and 49  
rooms open for a period of time that ~~such~~ the board considers 50

necessary for the performance of its duties. 51

(C) The board of elections may maintain permanent or 52  
temporary branch offices at any place within the county. 53

**Sec. 3501.28.** (A) As used in this section: 54

(1) "Fair Labor Standards Act" or "Act" means the "Fair Labor 55  
Standards Act of 1938," 52 Stat. 1062, 29 U.S.C.A. 201, as 56  
amended. 57

(2) "Full election day" means the period of time between the 58  
opening of the polls and the completion of the procedures 59  
contained in section 3501.26 of the Revised Code. 60

(3) "Services" means services at each general, primary, or 61  
special election. 62

~~(B) For any election held in 1997 on or after the effective 63  
date of this amendment, each judge of an election in a county 64  
shall be paid for the judge's services at the same hourly rate, 65  
which shall be the minimum hourly rate established by the Fair 66  
Labor Standards Act. 67~~

~~(C) Beginning with calendar year 1998, each judge of an 68  
election in a county shall be paid for the judge's services at the 69  
same hourly rate, which shall be not less than the minimum hourly 70  
rate established by the Fair Labor Standards Act and not more than 71  
eighty-five dollars per diem. 72~~

(C) Beginning with calendar year 2004, each judge of an 73  
election in a county shall be paid for the judge's services at the 74  
same hourly rate, which shall be not less than the minimum hourly 75  
rate established by the Fair Labor Standards Act and not more than 76  
ninety-five dollars per diem. 77

~~(D) Beginning with calendar year 1998, the The secretary of 78  
state shall establish, by rule adopted under section 111.15 of the 79  
Revised Code, the maximum amount of per diem compensation that may 80~~

be paid to judges of an election under this section each time the 81  
Fair Labor Standards Act is amended to increase the minimum hourly 82  
rate established by the act. Upon learning of such an increase, 83  
the secretary of state shall determine by what percentage the 84  
minimum hourly rate has been increased under the act and establish 85  
a new maximum amount of per diem compensation that judges of an 86  
election may be paid under this section that is increased by the 87  
same percentage that the minimum hourly rate has been increased 88  
under the act. 89

(E)(1) ~~Beginning with calendar year 1990, no~~ No board of 90  
elections shall increase the pay of a judge of an election under 91  
this section during a calendar year unless the board has given 92  
written notice of the proposed increase to the board of county 93  
commissioners not later than the first day of October of the 94  
preceding calendar year. ~~Beginning with calendar year 1998, except~~ 95  
Except as otherwise provided in division (E)(2) of this section, 96  
no board of elections shall increase the pay of a judge of an 97  
election during a calendar year by more than nine per cent over 98  
the compensation paid to a judge of an election in the county 99  
where the board is located during the previous calendar year. 100

(2) The board of county commissioners may review and comment 101  
upon a proposed increase and may enter into a written agreement 102  
with a board of elections to permit an increase in the 103  
compensation paid to judges of an election for their services 104  
during a calendar year that is greater than the nine per cent 105  
limitation described in division (E)(1) of this section. 106

(F) No judge of an election who works less than the full 107  
election day shall be paid the maximum amount allowed under this 108  
section or the maximum amount as set by the board of elections, 109  
whichever is less. 110

(G) Notwithstanding any provision of the Revised Code to the 111  
contrary, any employee of the state or of any political 112

subdivision of the state may serve as a judge of elections on the 113  
day of an election without loss of the employee's regular 114  
compensation for that day and without the employee being 115  
considered to have been absent from work on that day. No such 116  
employee shall be required to charge the time that the employee 117  
otherwise would have been working for the employee's regular 118  
employer to vacation or any other type of paid leave. In addition 119  
to the employee's regular compensation, the employee shall receive 120  
the compensation paid to the judge of an election under division 121  
(B), (C), or (D) of this section. 122

(H) The board of elections may withhold the compensation of 123  
any precinct official for failure to obey the instructions of the 124  
board or to comply with the law relating to the duties of such 125  
precinct judge. Any payment a judge of an election is entitled to 126  
receive under section 3501.36 of the Revised Code is in addition 127  
to the compensation the judge is entitled to receive under this 128  
section. 129

**Sec. 3509.07.** If election officials find that the statement 130  
accompanying an absent voter's ballot or absent voter's 131  
presidential ballot is insufficient, that the signatures do not 132  
correspond with the person's registration signature, that the 133  
applicant is not a qualified elector in the precinct, that the 134  
ballot envelope contains more than one ballot of any one kind, or 135  
any voted ballot that the elector is not entitled to vote,<sup>7</sup> or 136  
that Stub A is detached from the absent voter's ballot or absent 137  
voter's presidential ballot, the vote shall not be accepted or 138  
counted. ~~Whenever it appears to the election officials by~~ 139  
~~sufficient proof that any elector who has marked and forwarded the~~ 140  
~~elector's ballot as provided in section 3509.05 of the Revised~~ 141  
~~Code has died, the ballot of the deceased voter shall not be~~ 142  
~~counted.~~ The vote of any absent voter may be challenged for cause 143  
in the same manner as other votes are challenged, and the election 144

officials shall determine the legality of that ballot. Every 145  
ballot not counted shall be indorsed on its back "Not Counted" 146  
with the reasons the ballot was not counted, and shall be enclosed 147  
and returned to or retained by the board of elections along with 148  
the contested ballots. 149

**Sec. 3513.30.** (A)(1) ~~where~~ If only one valid declaration of 150  
candidacy is filed for nomination as a candidate of a political 151  
party for an office and ~~such~~ that candidate dies prior to the 152  
tenth day before the primary election, both of the following may 153  
occur: 154

(a) The political party whose candidate died may fill the 155  
vacancy so created as provided in division (A)(2) of this section. 156

(b) Any major political party other than the one whose 157  
candidate died may select a candidate as provided in division 158  
(A)(2) of this section under either of the following 159  
circumstances: 160

(i) No person has filed a valid declaration of candidacy for 161  
nomination as that party's candidate at the primary election. 162

(ii) Only one person has filed a valid declaration of 163  
candidacy for nomination as that party's candidate at the primary 164  
election, that person has withdrawn, died, or been disqualified 165  
under section 3513.052 of the Revised Code, and the vacancy so 166  
created has not been filled. 167

(2) A vacancy may be filled under division (A)(1)(a) and a 168  
selection may be made under division (A)(1)(b) of this section by 169  
the appropriate committee of the political party in the same 170  
manner as provided in divisions (A) to (E) of section 3513.31 of 171  
the Revised Code for the filling of similar vacancies created by 172  
withdrawals or disqualifications under section 3513.052 of the 173  
Revised Code after the primary election, except that the 174

certification required under that section may not be filed with 175  
the secretary of state, or with a board of the most populous 176  
county of a district, or with the board of a county in which the 177  
major portion of the population of a subdivision is located, later 178  
than four p.m. of the tenth day before the day of such primary 179  
election, or with any other board later than four p.m. of the 180  
fifth day before the day of such primary election. 181

(3) If only one valid declaration of candidacy is filed for 182  
nomination as a candidate of a political party for an office and 183  
that candidate dies on or after the tenth day before the day of 184  
the primary election, that candidate is considered to have 185  
received the nomination of that candidate's political party at 186  
that primary election, and, for purposes of filling the vacancy so 187  
created, that candidate's death shall be treated as if that 188  
candidate died on the day after the day of the primary election. 189

(B) Any person filing a declaration of candidacy may withdraw 190  
as such candidate at any time prior to the fortieth day before the 191  
primary election, or, if the primary election is a presidential 192  
primary election, at any time prior to the fiftieth day before the 193  
presidential primary election. The withdrawal shall be effected 194  
and the statement of withdrawal shall be filed in accordance with 195  
the procedures prescribed in division (D) of this section for the 196  
withdrawal of persons nominated in a primary election or by 197  
nominating petition. 198

(C) A person who is the first choice for president of the 199  
United States by a candidate for delegate or alternate to a 200  
national convention of a political party may withdraw consent for 201  
the selection of the person as such first choice no later than 202  
four p.m. of the thirtieth day before the day of the presidential 203  
primary election. Withdrawal of consent shall be for the entire 204  
slate of candidates for delegates and alternates who named such 205  
person as their presidential first choice and shall constitute 206

withdrawal from the primary election by such delegates and 207  
alternates. The withdrawal shall be made in writing and delivered 208  
to the secretary of state. The boards of elections shall remove 209  
both the name of the withdrawn first choice and the names of such 210  
withdrawn candidates from the ballots to the extent practicable in 211  
the time remaining before the election and according to the 212  
directions of the secretary of state. If such names are not 213  
removed from all ballots before the day of the election, the votes 214  
for the withdrawn first choice or candidates are void and shall 215  
not be counted. 216

(D) Any person nominated in a primary election or by 217  
nominating petition as a candidate for election at the next 218  
general election may withdraw as such candidate at any time prior 219  
to the fortieth day before the general election. Such withdrawal 220  
may be effected by the filing of a written statement by such 221  
candidate announcing the candidate's withdrawal and requesting 222  
that the candidate's name not be printed on the ballots. If such 223  
candidate's declaration of candidacy or nominating petition was 224  
filed with the secretary of state, the candidate's statement of 225  
withdrawal shall be addressed to and filed with the secretary of 226  
state. If such candidate's declaration of candidacy or nominating 227  
petition was filed with a board of elections, the candidate's 228  
statement of withdrawal shall be addressed to, and filed with ~~such~~ 229  
that board. 230

(E) When a person withdraws under division (B) or (D) of this 231  
section, the board of elections shall remove the name of the 232  
withdrawn candidate from the ballots to the extent practicable in 233  
the time remaining before the election and according to the 234  
directions of the secretary of state. If the name is not removed 235  
from all ballots before the day of the election, the votes for the 236  
withdrawn candidate are void and shall not be counted. 237



Sec. 4301.355. (A) If a petition is filed under section 238  
4301.333 of the Revised Code for the submission of the question or 239  
questions set forth in this section, it shall be held in the 240  
precinct as ordered by the board of elections under that section. 241  
The expense of holding the election shall be charged to the 242  
municipal corporation or township of which the precinct is a part. 243

(B) At the election, one or more of the following questions, 244  
as designated in a valid petition, shall be submitted to the 245  
electors of the precinct: 246

(1) "Shall the sale of ..... (insert beer, wine and 247  
mixed beverages, or intoxicating liquor) be permitted by 248  
..... (insert name of applicant, liquor permit holder, or 249  
liquor agency store, including trade or fictitious name under 250  
which applicant for, or holder of, liquor permit or liquor agency 251  
store either intends to do, or does, business at the particular 252  
location), an ..... (insert "applicant for" or "holder of" or 253  
"operator of") a ..... (insert class name of liquor permit or 254  
permits followed by the words "liquor permit(s)" or, if 255  
appropriate, the words "liquor agency store for the State of 256  
Ohio"), who is engaged in the business of ..... (insert 257  
general nature of the business in which applicant or liquor permit 258  
holder is engaged or will be engaged in at the particular 259  
location, as described in the petition) at ..... (insert 260  
address of the particular location within the precinct as set 261  
forth in the petition) in this precinct?" 262

(2) "Shall the sale of ..... (insert beer, wine and 263  
mixed beverages, or intoxicating liquor) be permitted for sale on 264  
Sunday between the hours of ..... (insert "ten a.m. and 265  
midnight" or "one p.m. and midnight") by ..... (insert name 266  
of applicant, liquor permit holder, or liquor agency store, 267  
including trade or fictitious name under which applicant for, or 268

holder of, liquor permit or liquor agency store either intends to 269  
do, or does, business at the particular location), an ..... 270  
(insert "applicant for a D-6 liquor permit," "holder of a D-6 271  
liquor permit," "applicant for or holder of an A-1-A, A-2, C-1, 272  
C-2x, D-1, D-2x, D-3, D-3x, D-4, D-5, D-5b, D-5c, D-5e, D-5f, 273  
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 liquor permit," if only the 274  
approval of beer sales is sought, or "liquor agency store") who is 275  
engaged in the business of ..... (insert general nature of 276  
the business in which applicant or liquor permit holder is engaged 277  
or will be engaged in at the particular location, as described in 278  
the petition) at ..... (insert address of the particular 279  
location within the precinct) in this precinct?" 280

~~(C) If the sale of beer, wine and mixed beverages, or 281  
intoxicating liquor has been approved at a particular location 282  
within the precinct at a previous election held under this 283  
section, the ballot also shall include the following statement:~~ 284

~~"At a previous election held under section 4301.355 of the 285  
Revised Code, the electors approved the sale of ..... (insert 286  
beer, wine and mixed beverages, or intoxicating liquor, as 287  
appropriate) at ..... (insert business name and address of 288  
the particular location or locations within the precinct where 289  
that sale has been approved at a previous election under section 290  
4301.355 of the Revised Code)."~~ 291

~~(D)~~ The board of elections shall furnish printed ballots at 292  
the election as provided under section 3505.06 of the Revised 293  
Code, except that a separate ballot shall be used for the election 294  
under this section. The question ~~and, if applicable, the statement~~ 295  
set forth in this section shall be printed on each ballot, and the 296  
board shall insert in the question ~~and statement~~ appropriate words 297  
to complete ~~each~~ it. Votes shall be cast as provided under section 298  
3505.06 of the Revised Code. 299

**Section 2.** That existing sections 3501.10, 3501.28, 3509.07, 300

3513.30, and 4301.355 of the Revised Code are hereby repealed.

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