

**As Reported by the Senate State and Local Government and
Veterans Affairs Committee**

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Sub. H. B. No. 350

Representative Wolpert

**Cosponsors: Representatives Batchelder, Huffman, Evans, Peterson, Fende,
Flowers, Williams, S., Webster, Bubp, Combs, Brown, Adams, Bacon, Barrett,
Beatty, Bolon, Book, Boyd, Brady, Celeste, Chandler, Daniels, DeBose,
DeGeeter, Dolan, Domenick, Driehaus, Dyer, Foley, Garrison, Gerberry,
Gibbs, Goodwin, Goyal, Hagan, J., Hagan, R., Harwood, Heard, Hite, Hughes,
Jones, Letson, Luckie, Lundy, Mallory, McGregor, J., McGregor, R.,
Newcomb, Okey, Otterman, J., Patton, Reinhard, Sayre, Schindel, Schlichter,
Schneider, Sears, Setzer, Stewart, D., Stewart, J., Strahorn, Sykes, Szollosi,
Uecker, Ujvagi, Wachtmann, White, Williams, B., Yates, Yuko, Zehringer
Senators Cates, Grendell, Schuler, Fedor, Roberts, Wagoner**

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A B I L L

To amend sections 3501.05, 3501.22, 3503.01, 3505.31, 1
3506.05, 3509.05, 3511.06, and 3511.11 and to 2
enact section 3501.053 of the Revised Code to 3
revise the Election Law. 4

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

Section 1. That sections 3501.05, 3501.22, 3503.01, 3505.31, 5
3506.05, 3509.05, 3511.06, and 3511.11 be amended and section 6
3501.053 of the Revised Code be enacted to read as follows: 7

Sec. 3501.05. The secretary of state shall do all of the 8

- following: 9
- (A) Appoint all members of boards of elections; 10
- (B) Issue instructions by directives and advisories in 11
accordance with section 3501.053 of the Revised Code to members of 12
the boards as to the proper methods of conducting elections. ~~In~~ 13
~~addition to any other publication of those directives and~~ 14
~~advisories, the secretary of state shall publish those directives~~ 15
~~and advisories on a web site of the office of the secretary of~~ 16
~~state as soon as is practicable after they are issued, but not~~ 17
~~later than the close of business on the same day as a directive or~~ 18
~~advisory is issued. The secretary of state shall not remove from~~ 19
~~the web site any directives and advisories so posted. The~~ 20
~~secretary of state shall provide on that web site access to all~~ 21
~~directives and advisories currently in effect and maintain an~~ 22
~~archive of all directives and advisories previously published on~~ 23
~~that web site.~~ 24
- (C) Prepare rules and instructions for the conduct of 25
elections; 26
- (D) Publish and furnish to the boards from time to time a 27
sufficient number of indexed copies of all election laws then in 28
force; 29
- (E) Edit and issue all pamphlets concerning proposed laws or 30
amendments required by law to be submitted to the voters; 31
- (F) Prescribe the form of registration cards, blanks, and 32
records; 33
- (G) Determine and prescribe the forms of ballots and the 34
forms of all blanks, cards of instructions, pollbooks, tally 35
sheets, certificates of election, and forms and blanks required by 36
law for use by candidates, committees, and boards; 37
- (H) Prepare the ballot title or statement to be placed on the 38

ballot for any proposed law or amendment to the constitution to be 39
submitted to the voters of the state; 40

(I) Except as otherwise provided in section 3519.08 of the 41
Revised Code, certify to the several boards the forms of ballots 42
and names of candidates for state offices, and the form and 43
wording of state referendum questions and issues, as they shall 44
appear on the ballot; 45

(J) Except as otherwise provided in division (I)(2)(b) of 46
section 3501.38 of the Revised Code, give final approval to ballot 47
language for any local question or issue approved and transmitted 48
by boards of elections under section 3501.11 of the Revised Code; 49

(K) Receive all initiative and referendum petitions on state 50
questions and issues and determine and certify to the sufficiency 51
of those petitions; 52

(L) Require such reports from the several boards as are 53
provided by law, or as the secretary of state considers necessary; 54

(M) Compel the observance by election officers in the several 55
counties of the requirements of the election laws; 56

(N)(1) Except as otherwise provided in division (N)(2) of 57
this section, investigate the administration of election laws, 58
frauds, and irregularities in elections in any county, and report 59
violations of election laws to the attorney general or prosecuting 60
attorney, or both, for prosecution; 61

(2) On and after August 24, 1995, report a failure to comply 62
with or a violation of a provision in sections 3517.08 to 3517.13, 63
3517.17, 3517.18, 3517.20 to 3517.22, 3599.03, or 3599.031 of the 64
Revised Code, whenever the secretary of state has or should have 65
knowledge of a failure to comply with or a violation of a 66
provision in one of those sections, by filing a complaint with the 67
Ohio elections commission under section 3517.153 of the Revised 68
Code; 69

(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) Adopt rules pursuant to Chapter 119. of the Revised Code for the removal by boards of elections of ineligible voters from the statewide voter registration database and, if applicable, from the poll list or signature pollbook used in each precinct, which rules shall provide for all of the following:

(1) A process for the removal of voters who have changed 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;

(2) A process for the removal of ineligible voters under section 3503.21 of the Revised Code;

(3) A uniform system for marking or removing the name of a voter who is ineligible to vote from the statewide voter registration database and, if applicable, from the poll list or signature pollbook used in each precinct and noting the reason for that mark or removal.

(R) Prescribe a general program for registering voters or updating voter registration information, such as name and residence changes, by boards of elections, designated agencies, offices of deputy registrars of motor vehicles, public high

schools and vocational schools, public libraries, and offices of 101
county treasurers consistent with the requirements of section 102
3503.09 of the Revised Code; 103

(S) Prescribe a program of distribution of voter registration 104
forms through boards of elections, designated agencies, offices of 105
the registrar and deputy registrars of motor vehicles, public high 106
schools and vocational schools, public libraries, and offices of 107
county treasurers; 108

(T) To the extent feasible, provide copies, at no cost and 109
upon request, of the voter registration form in post offices in 110
this state; 111

(U) Adopt rules pursuant to section 111.15 of the Revised 112
Code for the purpose of implementing the program for registering 113
voters through boards of elections, designated agencies, and the 114
offices of the registrar and deputy registrars of motor vehicles 115
consistent with this chapter; 116

(V) Establish the full-time position of Americans with 117
Disabilities Act coordinator within the office of the secretary of 118
state to do all of the following: 119

(1) Assist the secretary of state with ensuring that there is 120
equal access to polling places for persons with disabilities; 121

(2) Assist the secretary of state with ensuring that each 122
voter may cast the voter's ballot in a manner that provides the 123
same opportunity for access and participation, including privacy 124
and independence, as for other voters; 125

(3) Advise the secretary of state in the development of 126
standards for the certification of voting machines, marking 127
devices, and automatic tabulating equipment. 128

(W) Establish and maintain a computerized statewide database 129
of all legally registered voters under section 3503.15 of the 130

Revised Code that complies with the requirements of the "Help
America Vote Act of 2002," Pub. L. No. 107-252, 116 Stat. 1666,
and provide training in the operation of that system;

(X) Ensure that all directives, advisories, other
instructions, or decisions issued or made during or as a result of
any conference or teleconference call with a board of elections to
discuss the proper methods and procedures for conducting
elections, to answer questions regarding elections, or to discuss
the interpretation of directives, advisories, or other
instructions issued by the secretary of state are posted on a web
site of the office of the secretary of state as soon as is
practicable after the completion of the conference or
teleconference call, but not later than the close of business on
the same day as the conference or teleconference call takes place.

(Y) Publish a report on a web site of the office of the
secretary of state not later than one month after the completion
of the canvass of the election returns for each primary and
general election, identifying, by county, the number of absent
voter's ballots cast and the number of those ballots that were
counted, and the number of provisional ballots cast and the number
of those ballots that were counted, for that election. The
secretary of state shall maintain the information on the web site
in an archive format for each subsequent election.

(Z) Conduct voter education outlining voter identification,
absent voters ballot, provisional ballot, and other voting
requirements;

(AA) Establish a procedure by which a registered elector may
make available to a board of elections a more recent signature to
be used in the poll list or signature pollbook produced by the
board of elections of the county in which the elector resides;

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(BB) Disseminate information, which may include all or part 162
of the official explanations and arguments, by means of direct 163
mail or other written publication, broadcast, or other means or 164
combination of means, as directed by the Ohio ballot board under 165
division (F) of section 3505.062 of the Revised Code, in order to 166
inform the voters as fully as possible concerning each proposed 167
constitutional amendment, proposed law, or referendum; 168

(CC) Perform other duties required by law. 169

Whenever a primary election is held under section 3513.32 of 170
the Revised Code or a special election is held under section 171
3521.03 of the Revised Code to fill a vacancy in the office of 172
representative to congress, the secretary of state shall establish 173
a deadline, notwithstanding any other deadline required under the 174
Revised Code, by which any or all of the following shall occur: 175
the filing of a declaration of candidacy and petitions or a 176
statement of candidacy and nominating petition together with the 177
applicable filing fee; the filing of protests against the 178
candidacy of any person filing a declaration of candidacy or 179
nominating petition; the filing of a declaration of intent to be a 180
write-in candidate; the filing of campaign finance reports; the 181
preparation of, and the making of corrections or challenges to, 182
precinct voter registration lists; the receipt of applications for 183
absent voter's ballots or armed service absent voter's ballots; 184
the supplying of election materials to precincts by boards of 185
elections; the holding of hearings by boards of elections to 186
consider challenges to the right of a person to appear on a voter 187
registration list; and the scheduling of programs to instruct or 188
reinstruct election officers. 189

In the performance of the secretary of state's duties as the 190
chief election officer, the secretary of state may administer 191
oaths, issue subpoenas, summon witnesses, compel the production of 192
books, papers, records, and other evidence, and fix the time and 193

place for hearing any matters relating to the administration and 194
enforcement of the election laws. 195

In any controversy involving or arising out of the adoption 196
of registration or the appropriation of funds for registration, 197
the secretary of state may, through the attorney general, bring an 198
action in the name of the state in the court of common pleas of 199
the county where the cause of action arose or in an adjoining 200
county, to adjudicate the question. 201

In any action involving the laws in Title XXXV of the Revised 202
Code wherein the interpretation of those laws is in issue in such 203
a manner that the result of the action will affect the lawful 204
duties of the secretary of state or of any board of elections, the 205
secretary of state may, on the secretary of state's motion, be 206
made a party. 207

The secretary of state may apply to any court that is hearing 208
a case in which the secretary of state is a party, for a change of 209
venue as a substantive right, and the change of venue shall be 210
allowed, and the case removed to the court of common pleas of an 211
adjoining county named in the application or, if there are cases 212
pending in more than one jurisdiction that involve the same or 213
similar issues, the court of common pleas of Franklin county. 214

Public high schools and vocational schools, public libraries, 215
and the office of a county treasurer shall implement voter 216
registration programs as directed by the secretary of state 217
pursuant to this section. 218

Sec. 3501.053. (A) The secretary of state may issue 219
instructions as to the proper method of conducting elections to 220
members of the boards of elections by permanent or temporary 221
directives. 222

(1) The secretary of state shall establish a process to allow 223

public review and public comment of proposed directives. Prior to 224
issuing any permanent directive, the secretary of state shall 225
provide reasonable notice of the issuance of the directive and 226
allow a reasonable amount of time for public review and public 227
comment of the proposed directive under this division. 228

No permanent directive shall be issued during the period 229
beginning ninety days prior to the day of an election and ending 230
on the fortieth day following the day of that election. 231

(2) Temporary directives shall only be issued, and shall only 232
have effect, during the period beginning ninety days prior to the 233
day of an election and ending on the fortieth day following the 234
day of that election. Temporary directives shall not be subject to 235
public review and public comment under division (A)(1) of this 236
section. 237

A temporary directive shall not become a permanent directive 238
unless the temporary directive is proposed as a permanent 239
directive and subject to public review and public comment under 240
division (A)(1) of this section. 241

If the situation prompting the establishment of a temporary 242
directive appears likely to recur, the secretary of state shall 243
establish a permanent directive addressing the situation. 244

(B) In addition to any other publication of directives and 245
advisories issued by the secretary of state, the secretary of 246
state shall publish those directives and advisories on a web site 247
of the office of the secretary of state as soon as is practicable 248
after they are issued, but not later than the close of business on 249
the same day as a directive or advisory is issued. The secretary 250
of state shall not remove from the web site any directives and 251
advisories so posted. The secretary of state shall provide on that 252
web site access to all directives and advisories currently in 253
effect and maintain an archive of all directives and advisories 254

previously published on that web site. 255

Sec. 3501.22. (A) On or before the fifteenth day of September 256
in each year, the board of elections by a majority vote shall, 257
after careful examination and investigation as to their 258
qualifications, appoint for each election precinct four residents 259
of the county in which the precinct is located, as judges. Except 260
as otherwise provided in division (C) of this section, all judges 261
of election shall be qualified electors. The judges shall 262
constitute the election officers of the precinct. Not more than 263
one-half of the total number of judges shall be members of the 264
same political party. The term of such precinct officers shall be 265
for one year. The board may, at any time, designate any number of 266
election officers, not more than one-half of whom shall be members 267
of the same political party, to perform their duties at any 268
precinct in any election. The board may appoint additional 269
officials, equally divided between the two major political 270
parties, when necessary to expedite voting. 271

Vacancies for unexpired terms shall be filled by the board. 272
When new precincts have been created, the board shall appoint 273
judges for those precincts for the unexpired term. Any judge may 274
be summarily removed from office at any time by the board for 275
neglect of duty, malfeasance, or misconduct in office or for any 276
other good and sufficient reason. 277

Precinct election officials shall perform all of the duties 278
provided by law for receiving the ballots and supplies, opening 279
and closing the polls, and overseeing the casting of ballots 280
during the time the polls are open, and any other duties required 281
by section 3501.26 of the Revised Code. 282

A board of elections may designate two precinct election 283
officials as counting officials to count and tally the votes cast 284
and certify the results of the election at each precinct, and 285

perform other duties as provided by law. To expedite the counting 286
of votes at each precinct, the board may appoint additional 287
officials, not more than one-half of whom shall be members of the 288
same political party. 289

The board shall designate one of the precinct election 290
officials who is a member of the dominant political party to serve 291
as a presiding judge, whose duty it is to deliver the returns of 292
the election and all supplies to the office of the board. For 293
these services, the presiding judge shall receive additional 294
compensation in an amount, consistent with section 3501.28 of the 295
Revised Code, determined by the board of elections. 296

The board shall issue to each precinct election official a 297
certificate of appointment, which the official shall present to 298
the presiding judge at the time the polls are opened. 299

(B) If the board of elections determines that not enough 300
qualified electors in a precinct are available to serve as 301
precinct officers, it may appoint persons to serve as precinct 302
officers at a primary, special, or general election who are at 303
least seventeen years of age and are registered to vote in 304
accordance with section 3503.07 of the Revised Code. 305

(C)(1) A board of elections, in conjunction with the board of 306
education of a city, local, or exempted village school district, 307
the governing authority of a community school established under 308
Chapter 3314. of the Revised Code, or the chief administrator of a 309
nonpublic school may establish a program permitting certain high 310
school students to apply and, if appointed by the board of 311
elections, to serve as precinct officers at a primary, special, or 312
general election. 313

In addition to the requirements established by division 314
(C)(2) of this section, a board of education, governing authority, 315
or chief administrator that establishes a program under this 316

division in conjunction with a board of elections may establish 317
additional criteria that students shall meet to be eligible to 318
participate in that program. 319

(2)(a) To be eligible to participate in a program established 320
under division (C)(1) of this section, a student shall be a United 321
States citizen, a resident of the county, at least seventeen years 322
of age, and enrolled in the senior year of high school. 323
324

(b) Any student applying to participate in a program 325
established under division (C)(1) of this section, as part of the 326
student's application process, shall declare the student's 327
political party affiliation with the board of elections. 328

(3) No student appointed as a precinct officer pursuant to a 329
program established under division (C)(1) of this section shall be 330
designated as a presiding judge. 331

(4) Any student participating in a program established under 332
division (C)(1) of this section shall be excused for that 333
student's absence from school on the day of an election at which 334
the student is serving as a precinct officer. 335

(D) In any precinct with six or more precinct officers, up to 336
two students participating in a program established under division 337
(C)(1) of this section who are under eighteen years of age may 338
serve as precinct officers. Not more than one precinct officer in 339
any given precinct with fewer than six precinct officers shall be 340
under eighteen years of age. 341

Sec. 3503.01. (A) Every citizen of the United States who is 342
of the age of eighteen years or over and who has been a resident 343
of the state thirty days immediately preceding the election at 344
which the citizen offers to vote, is a resident of the county and 345
precinct in which the citizen offers to vote, and has been 346

registered to vote for thirty days, has the qualifications of an 347
elector and may vote at all elections in the precinct in which the 348
citizen resides. 349

(B) When only a portion of a precinct is included within the 350
boundaries of ~~a school~~ an election district, the board of 351
elections may assign the electors residing in such portion of a 352
precinct to the nearest precinct or portion of a precinct within 353
the boundaries of such ~~school~~ election district for the purpose of 354
voting at any special ~~school~~ election held in such ~~school~~ 355
district. In any election in which only a part of the electors in 356
a precinct is qualified to vote, the board may assign voters in 357
such part to an adjoining precinct. Such assignment may be made to 358
an adjoining precinct in another county with the consent and 359
approval of the board of elections of such other county if the 360
number of voters assigned to vote in a precinct in another county 361
is two hundred or less. 362

The board shall notify all such electors so assigned, at 363
least ten days prior to the holding of any such election, of the 364
location of the polling place where they are entitled to vote at 365
such election. 366

As used in division (B) of this section, "election district" 367
means a school district, municipal corporation, township, or other 368
political subdivision that includes territory in more than one 369
precinct or any other district or authority that includes 370
territory in more than one precinct and that is authorized by law 371
to place an issue on the ballot at a special election. 372

Sec. 3505.31. When the results of the voting in a polling 373
place on the day of an election have been determined and entered 374
upon the proper forms and the certifications of those results have 375
been signed by the precinct officials, those officials, before 376
leaving the polling place, shall place all ballots that they have 377

counted in containers provided for that purpose by the board of 378
elections, and shall seal each container in a manner that it 379
cannot be opened without breaking the seal or the material of 380
which the container is made. They shall also seal the pollbook, 381
poll list or signature pollbook, and tally sheet in a manner that 382
the data contained in these items cannot be seen without breaking 383
the seals. On the outside of these items shall be a plain 384
indication that they are to be filed with the board. The presiding 385
judge and an employee or appointee of the board of elections who 386
has taken an oath to uphold the laws and constitution of this 387
state, including an oath that the person will promptly and 388
securely perform the duties required under this section and who is 389
a member of a different political party than the presiding judge, 390
shall then deliver to the board the containers of ballots and the 391
sealed pollbook, poll list, and tally sheet, together with all 392
other election reports, materials, and supplies required to be 393
delivered to the board. 394

The board shall carefully preserve all ballots prepared and 395
provided by it for use in an election, whether used or unused, for 396
sixty days after the day of the election, except that, if an 397
election includes the nomination or election of candidates for any 398
of the offices of president, vice-president, presidential elector, 399
member of the senate of the congress of the United States, or 400
member of the house of representatives of the congress of the 401
United States, the board shall carefully preserve all ballots 402
prepared and provided by it for use in that election, whether used 403
or unused, for twenty-two months after the day of the election. If 404
an election is held within that sixty-day period, the board shall 405
have authority to transfer those ballots to other containers to 406
preserve them until the sixty-day period has expired. After that 407
sixty-day period, the ballots shall be disposed of by the board in 408
a manner that the board orders, or where voting machines have been 409
used the counters may be turned back to zero; provided that the 410

secretary of state, within that sixty-day period, may order the 411
board to preserve the ballots or any part of the ballots for a 412
longer period of time, in which event the board shall preserve 413
those ballots for that longer period of time. 414

In counties where voting machines are used, if an election is 415
to be held within the sixty days immediately following a primary, 416
general, or special election or within any period of time within 417
which the ballots have been ordered preserved by the secretary of 418
state or a court of competent jurisdiction, the board, after 419
giving notice to all interested parties and affording them an 420
opportunity to have a representative present, shall open the 421
compartments of the machines and, without unlocking the machines, 422
shall recanvass the vote cast in them as if a recount were being 423
held. The results shall be certified by the board, and this 424
certification shall be filed in the board's office and retained 425
for the remainder of the period for which ballots must be kept. 426
After preparation of the certificate, the counters may be turned 427
back to zero, and the machines may be used for the election. 428

The board shall carefully preserve the pollbook, poll list or 429
signature pollbook, and tally sheet delivered to it from each 430
polling place until it has completed the official canvass of the 431
election returns from all precincts in which electors were 432
entitled to vote at an election, and has prepared and certified 433
the abstracts of election returns, as required by law. The board 434
shall not break, or permit anyone to break, the seals upon the 435
pollbook, poll list or signature pollbook, and tally sheet, or 436
make, or permit any one to make, any changes or notations in these 437
items, while they are in its custody, except as provided by 438
section 3505.32 of the Revised Code. 439

Pollbooks and poll lists or signature pollbooks of a party 440
primary election delivered to the board from polling places shall 441
be carefully preserved by it for two years after the day of 442

election in which they were used, and shall then be disposed of by 443
the board in a manner that the board orders. 444

Pollbooks, poll lists or signature pollbooks, tally sheets, 445
summary statements, and other records and returns of an election 446
delivered to it from polling places shall be carefully preserved 447
by the board for two years after the day of the election in which 448
they were used, and shall then be disposed of by the board in a 449
manner that the board orders. 450

Sec. 3506.05. (A) As used in this section, except when used 451
as part of the phrase "tabulating equipment" or "automatic 452
tabulating equipment": 453

(1) "Equipment" means a voting machine, marking device, 454
automatic tabulating equipment, or software. 455

(2) "Vendor" means the person that owns, manufactures, 456
distributes, or has the legal right to control the use of 457
equipment, or the person's agent. 458

(B) No voting machine, marking device, automatic tabulating 459
equipment, or software for the purpose of casting or tabulating 460
votes or for communications among systems involved in the 461
tabulation, storage, or casting of votes shall be purchased, 462
leased, put in use, or continued to be used, except for 463
experimental use as provided in division (B) of section 3506.04 of 464
the Revised Code, unless it, a manual of procedures governing its 465
use, and training materials, service, and other support 466
arrangements have been certified by the secretary of state and 467
unless the board of elections of each county where the equipment 468
will be used has assured that a demonstration of the use of the 469
equipment has been made available to all interested electors. The 470
secretary of state shall appoint a board of voting machine 471
examiners to examine and approve equipment and its related manuals 472
and support arrangements. The board shall consist of ~~one~~ ~~competent~~ 473

~~and experienced election officer and two persons who are~~ 474
~~knowledgeable about the operation of such equipment, who four~~ 475
~~members, who shall be appointed as follows:~~ 476

(1) Two members appointed by the secretary of state. 477

(2) One member appointed by either the speaker of the house 478
of representatives or the minority leader of the house of 479
representatives, whichever is a member of the opposite political 480
party from the one to which the secretary of state belongs. 481

(3) One member appointed by either the president of the 482
senate or the minority leader of the senate, whichever is a member 483
of the opposite political party from the one to which the 484
secretary of state belongs. 485

Members of the board shall serve during the secretary of 486
state's term. Any vacancy on the board shall be filled in the same 487
manner as the original appointment. The secretary of state shall 488
provide staffing assistance to the board, at the board's request. 489

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For the member's service, each member of the board shall 491
receive three hundred dollars per day for each combination of 492
marking device, tabulating equipment, and voting machine examined 493
and reported, but in no event shall a member receive more than six 494
hundred dollars to examine and report on any one marking device, 495
item of tabulating equipment, or voting machine. Each member of 496
the board shall be reimbursed for expenses the member incurs 497
during an examination or during the performance of any related 498
duties that may be required by the secretary of state. 499
Reimbursement of these expenses shall be made in accordance with, 500
and shall not exceed, the rates provided for under section 126.31 501
of the Revised Code. 502

Neither the secretary of state nor the board, nor any public 503
officer who participates in the authorization, examination, 504

testing, or purchase of equipment, shall have any pecuniary 505
interest in the equipment or any affiliation with the vendor. 506

(C)(1) A vendor who desires to have the secretary of state 507
certify equipment shall first submit the equipment, all current 508
related procedural manuals, and a current description of all 509
related support arrangements to the board of voting machine 510
examiners for examination, testing, and approval. The submission 511
shall be accompanied by a fee of eighteen hundred dollars and a 512
detailed explanation of the construction and method of operation 513
of the equipment, a full statement of its advantages, and a list 514
of the patents and copyrights used in operations essential to the 515
processes of vote recording and tabulating, vote storage, system 516
security, and other crucial operations of the equipment as may be 517
determined by the board. An additional fee, in an amount to be set 518
by rules promulgated by the board, may be imposed to pay for the 519
costs of alternative testing or testing by persons other than 520
board members, record-keeping, and other extraordinary costs 521
incurred in the examination process. Moneys not used shall be 522
returned to the person or entity submitting the equipment for 523
examination. 524

(2) Fees collected by the secretary of state under this 525
section shall be deposited into the state treasury to the credit 526
of the board of voting machine examiners fund, which is hereby 527
created. All moneys credited to this fund shall be used solely for 528
the purpose of paying for the services and expenses of each member 529
of the board or for other expenses incurred relating to the 530
examination, testing, reporting, or certification of voting 531
machine devices, the performance of any related duties as required 532
by the secretary of state, or the reimbursement of any person 533
submitting an examination fee as provided in this chapter. 534

(D) Within sixty days after the submission of the equipment 535
and payment of the fee, or as soon thereafter as is reasonably 536

practicable, but in any event within not more than ninety days 537
after the submission and payment, the board of voting machine 538
examiners shall examine the equipment and file with the secretary 539
of state a written report on the equipment with its 540
recommendations and its determination or condition of approval 541
regarding whether the equipment, manual, and other related 542
materials or arrangements meet the criteria set forth in sections 543
3506.07 and 3506.10 of the Revised Code and can be safely used by 544
the voters at elections under the conditions prescribed in Title 545
XXXV of the Revised Code, or a written statement of reasons for 546
which testing requires a longer period. The board may grant 547
temporary approval for the purpose of allowing experimental use of 548
equipment. If the board finds that the equipment meets the 549
criteria set forth in sections 3506.06, 3506.07, and 3506.10 of 550
the Revised Code, can be used safely and can be depended upon to 551
record and count accurately and continuously the votes of 552
electors, and has the capacity to be warranted, maintained, and 553
serviced, it shall approve the equipment and recommend that the 554
secretary of state certify the equipment. The secretary of state 555
shall notify all boards of elections of any such certification. 556
Equipment of the same model and make, if it provides for recording 557
of voter intent, system security, voter privacy, retention of 558
vote, and communication of voting records in an identical manner, 559
may then be adopted for use at elections. 560

(E) The vendor shall notify the secretary of state, who shall 561
then notify the board of voting machine examiners, of any 562
enhancement and any significant adjustment to the hardware or 563
software that could result in a patent or copyright change or that 564
significantly alters the methods of recording voter intent, system 565
security, voter privacy, retention of the vote, communication of 566
voting records, and connections between the system and other 567
systems. The vendor shall provide the secretary of state with an 568
updated operations manual for the equipment, and the secretary of 569

state shall forward the manual to the board. Upon receiving such a 570
notification and manual, the board may require the vendor to 571
submit the equipment to an examination and test in order for the 572
equipment to remain certified. The board or the secretary of state 573
shall periodically examine, test, and inspect certified equipment 574
to determine continued compliance with the requirements of this 575
chapter and the initial certification. Any examination, test, or 576
inspection conducted for the purpose of continuing certification 577
of any equipment in which a significant problem has been uncovered 578
or in which a record of continuing problems exists shall be 579
performed pursuant to divisions (C) and (D) of this section, in 580
the same manner as the examination, test, or inspection is 581
performed for initial approval and certification. 582

(F) If, at any time after the certification of equipment, the 583
board of voting machine examiners or the secretary of state is 584
notified by a board of elections of any significant problem with 585
the equipment or determines that the equipment fails to meet the 586
requirements necessary for approval or continued compliance with 587
the requirements of this chapter, or if the board of voting 588
machine examiners determines that there are significant 589
enhancements or adjustments to the hardware or software, or if 590
notice of such enhancements or adjustments has not been given as 591
required by division (E) of this section, the secretary of state 592
shall notify the users and vendors of that equipment that 593
certification of the equipment may be withdrawn. 594

(G)(1) The notice given by the secretary of state under 595
division (F) of this section shall be in writing and shall specify 596
both of the following: 597

(a) The reasons why the certification may be withdrawn; 598

(b) The date on which certification will be withdrawn unless 599
the vendor takes satisfactory corrective measures or explains why 600
there are no problems with the equipment or why the enhancements 601

or adjustments to the equipment are not significant. 602

(2) A vendor who receives a notice under division (F) of this 603
section shall, within thirty days after receiving it, submit to 604
the board of voting machine examiners in writing a description of 605
the corrective measures taken and the date on which they were 606
taken, or the explanation required under division (G)(1)(b) of 607
this section. 608

(3) Not later than fifteen days after receiving a written 609
description or explanation under division (G)(2) of this section 610
from a vendor, the board shall determine whether the corrective 611
measures taken or the explanation is satisfactory to allow 612
continued certification of the equipment, and the secretary of 613
state shall send the vendor a written notice of the board's 614
determination, specifying the reasons for it. If the board has 615
determined that the measures taken or the explanation given is 616
unsatisfactory, the notice shall include the effective date of 617
withdrawal of the certification. This date may be different from 618
the date originally specified in division (G)(1)(b) of this 619
section. 620

(4) A vendor who receives a notice under division (G)(3) of 621
this section indicating a decision to withdraw certification may, 622
within thirty days after receiving it, request in writing that the 623
board hold a hearing to reconsider its decision. Any interested 624
party shall be given the opportunity to submit testimony or 625
documentation in support of or in opposition to the board's 626
recommendation to withdraw certification. Failure of the vendor to 627
take appropriate steps as described in division (G)(1)(b) or to 628
comply with division (G)(2) of this section results in a waiver of 629
the vendor's rights under division (G)(4) of this section. 630

(H)(1) The secretary of state, in consultation with the board 631
of voting machine examiners, shall establish, by rule, guidelines 632
for the approval, certification, and continued certification of 633

the voting machines, marking devices, and tabulating equipment to 634
be used under Title XXXV of the Revised Code. The guidelines shall 635
establish procedures requiring vendors or computer software 636
developers to place in escrow with an independent escrow agent 637
approved by the secretary of state a copy of all source code and 638
related documentation, together with periodic updates as they 639
become known or available. The secretary of state shall require 640
that the documentation include a system configuration and that the 641
source code include all relevant program statements in low- or 642
high-level languages. As used in this division, "source code" does 643
not include variable codes created for specific elections. 644

(2) Nothing in any rule adopted under division (H) of this 645
section shall be construed to limit the ability of the secretary 646
of state to follow or adopt, or to preclude the secretary of state 647
from following or adopting, any guidelines proposed by the federal 648
election commission, any entity authorized by the federal election 649
commission to propose guidelines, the election assistance 650
commission, or any entity authorized by the election assistance 651
commission to propose guidelines. 652

(3)(a) Before the initial certification of any direct 653
recording electronic voting machine with a voter verified paper 654
audit trail, and as a condition for the continued certification 655
and use of those machines, the secretary of state shall establish, 656
by rule, standards for the certification of those machines. Those 657
standards shall include, but are not limited to, all of the 658
following: 659

(i) A definition of a voter verified paper audit trail as a 660
paper record of the voter's choices that is verified by the voter 661
prior to the casting of the voter's ballot and that is securely 662
retained by the board of elections; 663

(ii) Requirements that the voter verified paper audit trail 664
shall not be retained by any voter and shall not contain 665

individual voter information; 666

(iii) A prohibition against the production by any direct 667
recording electronic voting machine of anything that legally could 668
be removed by the voter from the polling place, such as a receipt 669
or voter confirmation; 670

(iv) A requirement that paper used in producing a voter 671
verified paper audit trail be sturdy, clean, and resistant to 672
degradation; 673

(v) A requirement that the voter verified paper audit trail 674
shall be capable of being optically scanned for the purpose of 675
conducting a recount or other audit of the voting machine and 676
shall be readable in a manner that makes the voter's ballot 677
choices obvious to the voter without the use of computer or 678
electronic codes; 679

(vi) A requirement, for office-type ballots, that the voter 680
verified paper audit trail include the name of each candidate 681
selected by the voter; 682

(vii) A requirement, for questions and issues ballots, that 683
the voter verified paper audit trail include the title of the 684
question or issue, the name of the entity that placed the question 685
or issue on the ballot, and the voter's ballot selection on that 686
question or issue, but not the entire text of the question or 687
issue. 688

(b) The secretary of state, by rule adopted under Chapter 689
119. of the Revised Code, may waive the requirement under division 690
(H)(3)(a)(v) of this section, if the secretary of state determines 691
that the requirement is cost prohibitive. 692

(4)(a) Except as otherwise provided in division (H)(4)(c) of 693
this section, any voting machine, marking device, or automatic 694
tabulating equipment initially certified or acquired on or after 695
December 1, 2008, shall be required to meet, at a minimum, the 696

most current voting system standards adopted by the election 697
assistance commission. 698

(b) Any voting machine, marking device, or automatic 699
tabulating equipment certified for use in this state on the 700
effective date of this amendment shall meet, as a condition of 701
continued certification and use, the voting system standards 702
adopted by the federal election commission in 2002. 703

(c) A county that acquires additional voting machines, 704
marking devices, or automatic tabulating equipment on or after 705
December 1, 2008, shall not be considered to have acquired those 706
machines, devices, or equipment on or after December 1, 2008, for 707
the purpose of division (H)(4)(a) of this section if all of the 708
following apply: 709

(i) The voting machines, marking devices, or automatic 710
tabulating equipment acquired are the same as the machines, 711
devices, or equipment currently used in that county. 712

(ii) The acquisition of the voting machines, marking devices, 713
or automatic tabulating equipment does not replace or change the 714
primary voting system used in that county. 715

(iii) The acquisition of the voting machines, marking 716
devices, or automatic tabulating equipment is for the purpose of 717
replacing inoperable machines, devices, or equipment or for the 718
purpose providing additional machines, devices, or equipment 719
required to meet the allocation requirements established pursuant 720
to division (I) of section 3501.11 of the Revised Code. 721

Sec. 3509.05. (A) When an elector receives an absent voter's 722
ballot pursuant to the elector's application or request, the 723
elector shall, before placing any marks on the ballot, note 724
whether there are any voting marks on it. If there are any voting 725
marks, the ballot shall be returned immediately to the board of 726

elections; otherwise, the elector shall cause the ballot to be 727
marked, folded in a manner that the stub on it and the 728
indorsements and facsimile signatures of the members of the board 729
of elections on the back of it are visible, and placed and sealed 730
within the identification envelope received from the director of 731
elections for that purpose. Then, the elector shall cause the 732
statement of voter on the outside of the identification envelope 733
to be completed and signed, under penalty of election 734
falsification. 735

If the elector does not provide the elector's driver's 736
license number or the last four digits of the elector's social 737
security number on the statement of voter on the identification 738
envelope, the elector also shall include in the return envelope 739
with the identification envelope a copy of the elector's current 740
valid photo identification, a copy of a military identification 741
that shows the elector's name and current address, or a copy of a 742
current utility bill, bank statement, government check, paycheck, 743
or other government document, other than a notice of an election 744
mailed by a board of elections under section 3501.19 of the 745
Revised Code or a notice of voter registration mailed by a board 746
of elections under section 3503.19 of the Revised Code, that shows 747
the name and address of the elector. 748

The elector shall mail the identification envelope to the 749
director from whom it was received in the return envelope, postage 750
prepaid, or the elector may personally deliver it to the director, 751
or the spouse of the elector, the father, mother, father-in-law, 752
mother-in-law, grandfather, grandmother, brother, or sister of the 753
whole or half blood, or the son, daughter, adopting parent, 754
adopted child, stepparent, stepchild, uncle, aunt, nephew, or 755
niece of the elector may deliver it to the director. The return 756
envelope shall be transmitted to the director in no other manner, 757
except as provided in section 3509.08 of the Revised Code. 758

Each elector who will be outside the United States on the day 759
of the election shall check the box on the return envelope 760
indicating this fact. 761

When absent voter's ballots are delivered to an elector at 762
the office of the board, the elector may retire to a voting 763
compartment provided by the board and there mark the ballots. 764
Thereupon, the elector shall fold them, place them in the 765
identification envelope provided, seal the envelope, fill in and 766
sign the statement on the envelope under penalty of election 767
falsification, and deliver the envelope to the director of the 768
board. 769

Except as otherwise provided in divisions (B) and (C) of this 770
section, all other envelopes containing marked absent voter's 771
ballots shall be delivered to the director not later than the 772
close of the polls on the day of an election. Absent voter's 773
ballots delivered to the director later than the times specified 774
shall not be counted, but shall be kept by the board in the sealed 775
identification envelopes in which they are delivered to the 776
director, until the time provided by section 3505.31 of the 777
Revised Code for the destruction of all other ballots used at the 778
election for which ballots were provided, at which time they shall 779
be destroyed. 780

(B)(1) Except as otherwise provided in division ~~(C)~~(B)(2) of 781
this section, any return envelope that indicates that the voter 782
will be outside the United States on the day of the election shall 783
be delivered to the director prior to the eleventh day after the 784
election. Ballots delivered in such envelopes that are received 785
after the close of the polls on election day through the tenth day 786
thereafter shall be counted on the eleventh day at the board of 787
elections in the manner provided in divisions (C) and (D) of 788
section 3509.06 of the Revised Code. Any such ballots that are 789
signed or postmarked after the close of the polls on the day of 790

the election or that are received by the director later than the 791
tenth day following the election shall not be counted, but shall 792
be kept by the board in the sealed identification envelopes as 793
provided in division (A) of this section. 794

~~(C)(2)~~ In any year in which a presidential primary election 795
is held, any return envelope that indicates that the voter will be 796
outside the United States on the day of the presidential primary 797
election shall be delivered to the director prior to the 798
twenty-first day after that election. Ballots delivered in such 799
envelopes that are received after the close of the polls on 800
election day through the twentieth day thereafter shall be counted 801
on the twenty-first day at the board of elections in the manner 802
provided in divisions (C) and (D) of section 3509.06 of the 803
Revised Code. Any such ballots that are signed or postmarked after 804
the close of the polls on the day of that election or that are 805
received by the director later than the twentieth day following 806
that election shall not be counted, but shall be kept by the board 807
in the sealed identification envelopes as provided in division (A) 808
of this section. 809

(C)(1) Except as otherwise provided in division (C)(2) of 810
this section, any return envelope that is postmarked within the 811
United States prior to the day of the election shall be delivered 812
to the director prior to the eleventh day after the election. 813
Ballots delivered in envelopes postmarked prior to the day of the 814
election that are received after the close of the polls on 815
election day through the tenth day thereafter shall be counted on 816
the eleventh day at the board of elections in the manner provided 817
in divisions (C) and (D) of section 3509.06 of the Revised Code. 818
Any such ballots that are received by the director later than the 819
tenth day following the election shall not be counted, but shall 820
be kept by the board in the sealed identification envelopes as 821
provided in division (A) of this section. 822

(2) Division (C)(1) of this section shall not apply to any 823
mail that is postmarked using a postage evidencing system, 824
including a postage meter, as defined in 39 C.F.R. 501.1. 825

~~Sec. 3511.06. The identification envelope provided for in~~ 826
~~section 3511.05 of the Revised Code shall be a No. 10, 24 lb.~~ 827
~~white official envelope, four and one eighth inches by nine and~~ 828
~~one half inches in size. The return envelope provided for in such~~ 829
~~section 3511.05 of the Revised Code shall be a No. 11, 24 lb.~~ 830
~~white official envelope, four and one half inches by ten and~~ 831
~~three eighths inches in size of such size that the identification~~ 832
~~envelope can be conveniently placed within it for returning the~~ 833
~~identification envelope to the director. The envelope in which the~~ 834
~~two envelopes and the armed service absent voter's ballots are~~ 835
~~mailed to the elector shall be a No. 12, 24 lb. white official~~ 836
~~envelope, four and three quarter inches by eleven inches in size,~~ 837
~~and it shall have two parallel lines, each one quarter of an inch~~ 838
~~in width, printed across its face, paralleling the top, with an~~ 839
~~intervening space of one-quarter of an inch between such lines.~~ 840
~~The top line shall be one and one-quarter inches from the top of~~ 841
~~the envelope. Between the parallel lines shall be printed:~~ 842
~~"official armed service absent voter's balloting material--via air~~ 843
~~mail." The appropriate return address of the director of the board~~ 844
~~of elections shall be printed in the upper left corner on the face~~ 845
~~of such envelope. Several blank lines shall be printed on the face~~ 846
~~of such envelope in the lower right portion, below the bottom~~ 847
~~parallel line, for writing in the name and address of the elector~~ 848
~~to whom such envelope is mailed. All printing on such envelope~~ 849
~~shall be in red ink.~~ 850

Sec. 3511.11. (A) Upon receipt of any return envelope bearing 851
the designation "Official Election Armed Service Absent Voter's 852
Ballot" prior to the twenty-first day after the day of a 853

presidential primary election or prior to the eleventh day after 854
the day of any other election, the director of the board of 855
elections shall open it but shall not open the identification 856
envelope contained in it. If, upon so opening the return envelope, 857
the director finds ballots in it that are not enclosed in and 858
properly sealed in the identification envelope, the director shall 859
not look at the markings upon the ballots and shall promptly place 860
them in the identification envelope and promptly seal it. If, upon 861
so opening the return envelope, the director finds that ballots 862
are enclosed in the identification envelope but that it is not 863
properly sealed, the director shall not look at the markings upon 864
the ballots and shall promptly seal the identification envelope. 865

(B) Armed service absent voter's ballots delivered to the 866
director not later than the close of the polls on election day 867
shall be counted in the manner provided in section 3509.06 of the 868
Revised Code. 869

(C) A return envelope that indicates that the voter will be 870
outside of the United States on the day of an election is not 871
required to be postmarked in order for an armed service absent 872
voter's ballot contained in it to be valid. Except as otherwise 873
provided in this division, whether or not the return envelope 874
containing the ballot is postmarked or contains an illegible 875
postmark, an armed service absent voter's ballot that is received 876
after the close of the polls on election day through the tenth day 877
after the election day or, if the election was a presidential 878
primary election, through the twentieth day after the election 879
day, and that is delivered in a return envelope that indicates 880
that the voter will be outside the United States on the day of the 881
election shall be counted on the eleventh day after the election 882
day or, if the election was a presidential primary election, on 883
the twenty-first day after the election day, at the office of the 884
board of elections in the manner provided in divisions (C) and (D) 885

of section 3509.06 of the Revised Code. However, if a return 886
envelope containing an armed service absent voter's ballot is so 887
received and so indicates, but it is postmarked, or the 888
identification envelope in it is signed, after the close of the 889
polls on election day, the armed service absent voter's ballot 890
shall not be counted. 891

(D) ~~Armed~~ (1) Except as otherwise provided in division (D)(2) 892
of this section, any return envelope containing an armed service 893
absent voter's ballot that is postmarked within the United States 894
prior to the day of the election shall be delivered to the 895
director prior to the eleventh day after the election. Armed 896
service absent voter's ballots delivered in envelopes postmarked 897
prior to the day of the election that are received after the close 898
of the polls on election day through the tenth day thereafter 899
shall be counted on the eleventh day at the board of elections in 900
the manner provided in divisions (C) and (D) of section 3509.06 of 901
the Revised Code. Any such ballots that are received by the 902
director later than the tenth day following the election shall not 903
be counted, but shall be kept by the board in the sealed 904
identification envelopes as provided in division (A) of this 905
section. 906

(2) Division (D)(1) of this section shall not apply to any 907
mail that is postmarked using a postage evidencing system, 908
including a postage meter, as defined in 39 C.F.R. 501.1. 909

(E) The following types of armed service absent voter's 910
ballots shall not be counted: 911

(1) Armed service absent voter's ballots contained in return 912
envelopes that bear the designation "Official Election Armed 913
Service Absent Voter's Ballots," that are received by the director 914
after the close of the polls on the day of the election, ~~and that~~ 915
~~do not indicate they are from voters who will be outside the~~ 916
~~United States on the day of the election, armed service absent~~ 917

~~voter's ballots contained in return envelopes that bear that 918
designation, that indicate that the voter will be outside the 919
United States on the day of the election, and that either are 920
postmarked, or contain an identification envelope that is signed, 921
on or after the close of the polls on the day of election, and 922
armed day; 923~~

(2) Armed service absent voter's ballots contained in return 924
envelopes that bear that designation, that ~~se~~ do not indicate they 925
are from voters who will be outside the United States on the day 926
of the election, and that are received after the tenth day 927
following the election or, if the election was a presidential 928
primary election, after the twentieth day following the election, 929
shall not be counted, but; 930

(3) Armed service absent voter's ballots contained in return 931
envelopes that bear that designation, that are received by the 932
director within ten days after the day of the election, and that 933
were postmarked before the day of the election using a postage 934
evidencing system, including a postage meter, as defined in 39 935
C.F.R. 501.1. 936

The uncounted ballots shall be preserved in their 937
identification envelopes unopened until the time provided by 938
section 3505.31 of the Revised Code for the destruction of all 939
other ballots used at the election for which ballots were 940
provided, at which time they shall be destroyed. 941

Section 2. That existing sections 3501.05, 3501.22, 3503.01, 942
3505.31, 3506.05, 3509.05, 3511.06, and 3511.11 of the Revised 943
Code are hereby repealed. 944