



Final Analysis

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ACT SUMMARY

Overview

The act makes numerous modifications and additions to the statutes contained in the Election Law (Revised Code Title XXXV) and changes to certain other election-related statutes dealing with the following topics: voter registration; the statewide voter registration database; mailed notification of general elections;

publication of notice of elections; voting at locations other than a board of elections or a precinct polling place; the use of an attorney in fact by a disabled voter; voter identification and the meaning of "photo identification" for purposes of the Election Law; the use of precinct voting location guides; challenges of registered voters; the use of observers; provisional ballots; absent voter's ballots and armed service absent voter's ballots; recounts; election calendars; the nomination and election of municipal court candidates (judges and certain clerks); Secretary of State election instructions and publications; prohibitions against the Secretary of State and the Attorney General serving in certain capacities; voting machines, marking devices, and automatic tabulating equipment; duplicate candidacy prohibitions; offenses concerning declarations of candidacy and petitions, declarations of intent to be a write-in candidate, nominating petitions, and other petitions; interference with elections; campaigning near the line of waiting voters; a private cause of action for "harassment in violation of the Election Law"; the Attorney General's authority to commence criminal actions for election fraud; initiative and referendum petitions; prohibitions applicable to convicted felons; the notice of intent to retire for candidates; federal election contests; completion of the canvass; and Campaign Finance Law matters. It also makes miscellaneous modifications or additions in the Election Law related to voting information posting at polling places, the posting of certain information on the Ohio Elections Commission's web site, inappropriate references to the declaration of intent to be a write-in candidate, the names of certain offenses, the updating of voters' signatures used in poll lists or signature pollbooks, expenses incurred by a board of elections, and other matters. Each of the topics mentioned above is summarized in this final analysis in a detailed "dot point" and tabular fashion along with citations to the relevant codified or uncoded statutes.

Voter registration

Voter registration forms

- Requires voter registration applications as well as change of residence and change of name forms prescribed by the Secretary of State to meet the requirements of federal law and to include spaces for certain information, including *identifying* information. The applications and forms must include spaces for the current date; the voter's name, address, date of birth, and signature; and one or more types of identifying information as follows: the voter's driver's license number, the last four digits of the voter's social security number, or a form of voter identification discussed under "**Voter identification and the meaning of 'photo identification'**," below. (R.C. 3503.11 and 3503.14(A).)

- Except for voter registration applications and change of residence and change of name forms used by the Registrar of Motor Vehicles and deputy registrars, requires the Secretary of State to permit boards of elections to produce forms that have subdivided spaces for each individual alphanumeric character of the voter's information so as to accommodate the electronic reading and conversion of the information to data and the subsequent electronic transfer of that data to the statewide voter registration database (see below) (R.C. 3503.14(A)).

Return and processing of voter registration applications

- Permits a voter registration *applicant* to return the applicant's completed registration application *in person* or *by mail* to the Secretary of State's office, to the office of *a board of elections*, or to specified other locations, and also permits the applicant to return the completed registration application *through another person* to *any* board of elections or the Secretary of State's office (R.C. 3503.19(B)(2)(a) and (b)).
- Requires a person who receives compensation for registering a voter to return any registration application entrusted to that person by an applicant to *any* board of elections or the Secretary of State's office (R.C. 3503.19(B)(2)(c)).
- Generally prohibits (1) any person who helps another person register outside an official voter registration place and (2) any person who receives compensation for registering a voter from knowingly failing to return any registration application entrusted to that person to any board of elections or the Secretary of State's office within ten days after the application is completed, or on or before the 30th day before the election, whichever is earlier. However, if the person receives the application within 24 hours of the 30th day before the election, the person must return it to any board of elections or the Secretary of State's office within ten days of its receipt. The act specifies that a violation of any of these prohibitions generally constitutes *election falsification*, a felony of the fifth degree. However, if the person has not previously violated any of the prohibitions listed in this or the next dot point of this final analysis, if the violation does not cause any person to miss any voter registration deadline with regard to any election, and if the number of voter registration forms that the person has failed to properly return does not exceed 49, the violation is a misdemeanor of the first degree. (R.C. 3599.11(B)(2)(a) and (C)(1).)

- Prohibits (1) any person who helps another person register outside an official registration place and (2) any person who receives compensation for registering a voter from knowingly returning any registration form entrusted to that person to any location other than any board of elections or the Secretary of State's office. The act specifies that a violation of these prohibitions generally constitutes *election falsification*, a felony of the fifth degree. However, if the person has not previously violated any of the prohibitions listed in this or the previous dot point of this final analysis, if the violation does not cause any person to miss any voter registration deadline with regard to any election, and if the number of voter registration forms that the person has failed to properly return does not exceed 49, the violation is a misdemeanor of the first degree. (R.C. 3599.11(B)(2)(b) and (C)(2).)
- Requires a board of elections and the Secretary of State's office, if it receives a voter registration application as described above before the 30th day before an election, to forward the registration to the board of elections of the county in which the applicant is seeking to register to vote within ten days after receiving the application. If a board of elections or the Secretary of State's office receives an application on or after the 30th day before an election, it must forward the registration to the board of elections of the county in which the applicant is seeking to register to vote within 30 days after that election. (R.C. 3503.19(B)(2)(d).)
- Requires a board of elections that receives a valid voter registration application to register that applicant within 20 business days, unless the application is received during the 30 days immediately preceding the day of an election (R.C. 3503.19(C)(1)).
- Requires a board of elections to include in the registration notification mailed to a voter a notice, written in bold type, that states the following (R.C. 3503.19(C)(1)--emphasis added):¹

Voters must bring identification *to the polls* in order to verify identity. Identification may include a current and valid photo identification, a military

¹ *It does not appear that the standard military (United States Uniformed Services) identification card includes the current address of a member of the United States Armed Forces.*

identification that shows the voter's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than this notification or a notification of an election mailed by a board of elections, that shows the voter's name and current address. Voters who do not provide one of these documents will still be able to vote by providing the last four digits of the voter's Social Security number and by casting a provisional ballot. Voters who do not have any of the above forms of identification, including a Social Security number, will still be able to vote by signing an affirmation swearing to the voter's identity under penalty of election falsification and by casting a provisional ballot. [See "**Voter identification and the meaning of 'photo identification'**", below.]

- Requires a board of elections, if it is unable to verify a registered voter's correct address after investigating a returned registration notification, to mark the voter's name in the official registration list and the pollbook, and requires a voter whose name has been so marked to provide identification and vote by provisional ballot at the first election at which the voter appears to vote (R.C. 3503.19(C)(2)).

Official registration lists

- Requires the official registration list for each precinct to be prepared in either paper or electronic form from the statewide voter registration database (see below) 14 days before the day of each election, and requires the names in that list to be in alphabetical order (R.C. 3503.23(A)).
- Establishes additional requirements for the availability and public posting of the official registration list for a precinct, and permits any person to enter the polling place for the sole purpose of reviewing that list, provided that the person does not engage in conduct that would constitute "harassment in violation of the election law" (see "**Private cause of action for 'harassment in violation of the Election Law'**", below) (R.C. 3503.23(B)(1) and (C)).

Cancellation of voter registration

- Specifies the circumstances under which the registration of a registered elector can be cancelled (R.C. 3501.05(Q), 3503.15(D)(3) and (E), 3503.19(C)(2), 3503.21, and 3503.24(C)).
- Provides that if a provisional ballot is not counted for a voter whose name is marked in the official registration list and in the pollbook due to the voter's registration notice having been returned as undeliverable, if the reason for the noncounting is that (1) the voter is not qualified or is not properly registered to vote, (2) the voter did not provide any additional required information within ten days after the day of the election, or (3) a hearing was conducted after the election that did not result in the voter's inclusion in the official registration list, and if the voter's registration is canceled as a result, the relevant board of elections must notify the voter by United States mail of the cancellation (R.C. 3503.19(C)(2) and 3505.183(B)(4)(a)(i), (v), and (vi)).
- Establishes a deadline for boards of elections to cancel the registration of an elector who fails to respond to a confirmation notice and fails to vote in the two subsequent federal general elections (R.C. 3503.21(E)).
- Requires the Secretary of State to adopt administrative rules requiring each board of elections to remove ineligible voters from the statewide voter registration database and, if already prepared for a particular election, from precinct poll lists or signature pollbooks (R.C. 3501.05(Q)).

Miscellaneous

- Requires the Secretary of State to develop an *informational brochure* on voter registration that, among other things, must include a notice, written in bold type, stating the following (R.C. 3503.28(A)--emphasis added):²

Voters must bring identification *to the polls* in order to verify identity. Identification may include a current and valid photo identification, a military identification that shows the voter's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or other

² See Footnote 1.

government document, other than a notice of an election or a voter registration notification sent by a board of elections, that shows the voter's name and current address. Voters who do not provide one of these documents will still be able to vote by providing the last four digits of the voter's Social Security number and by casting a provisional ballot. Voters who do not have any of the above forms of identification, including a Social Security number, will still be able to vote by signing an affirmation swearing to the voter's identity under penalty of election falsification and by casting a provisional ballot. [See "Voter identification and the meaning of 'photo identification'"," below.]

- Generally requires boards of elections and other entities to distribute the informational brochure to any person who requests more than two voter registration forms at one time, and requires the same information to be made available to anyone who prints a registration form from the Secretary of State's web site or from a board of elections' web site if one is maintained and if registration forms are made available on it (R.C. 3503.28(B), (C), and (D)).
- Generally, requires a person who is *compensated for registering voters* to annually complete an Internet-based training program developed by the Secretary of State; to register, annually and in advance, with the Secretary of State; to specify, at the time of registration, the name of each county in which the person will register voters; and to submit documentation (denoted as "an affirmation") that the person has completed the training and is so registered with each registration form that the person returns (R.C. 3503.29).
- Specifies that, if a person does not have a fixed place of habitation, but has a *shelter or other location* at which the person has been a consistent or regular inhabitant and to which the person has the intention of returning, the shelter or other location is deemed to be the person's residence for the purpose of registering to vote (R.C. 3503.02(I)).

Statewide voter registration database

- Requires the Secretary of State to establish a statewide voter registration database that meets the requirements of federal law, and specifies certain

additional requirements with which that database must comply (R.C. 3501.05(V), 3503.13(A), and 3503.15(A), (C), and (D)).

- Requires the Secretary of State to provide training in the operation of the statewide voter registration database to each board of elections and to individuals authorized to update or modify the database (R.C. 3501.05(V) and 3503.15(F)).
- Requires the statewide voter registration database to be the official list of registered voters for all elections conducted in Ohio (R.C. 3503.15(B)).
- Requires the Secretary of State to adopt rules regarding the process for (1) updating, and identifying the persons authorized to update the statewide voter registration database and (2) annually auditing the information in the database (R.C. 3503.15(D)).
- Beginning June 1, 2006, requires the Secretary of State to make the statewide voter registration database available on the Secretary of State's web site (R.C. 3503.15(G)(1) and Section 8 of the act).
- Beginning June 1, 2006, requires the Secretary of State, as part of the statewide voter registration database, to make available online *during the 30 days prior to an election* a web site interface that allows a voter to search for the polling location at which the voter may cast a ballot, and requires boards of elections to provide to the Secretary of State, during that time and for that purpose, updated locations of precinct polling places within one business day (R.C. 3503.15(G)(1)(b), (2), and (3)).
- Correspondingly outright repeals an existing statute that requires the Secretary of State to maintain "a master file of all registered voters" in Ohio and to prescribe, by directive, a schedule for boards of elections to submit current lists of registered voters in their counties to the Secretary of State for purposes of the master file (R.C. 3501.11(V) and 3503.21(D), and R.C. 3503.27 (repealed)).

Mailed notification of general elections

- Generally requires a board of elections to send a mailing to each registered elector 60 days before (1) any August 2006 special election, (2) the 2006 general election, (3) the 2008 primary election, and (4) the 2008 general election, notifying the elector of the day of the election and of the *location of the elector's polling place* this requirement is repealed

January 1, 2009 (R.C. 3501.19(A) and (B) and Section 10 of the act). This notice, which must be sent by nonforwardable mail, must include a reminder, in bold type, stating the following (R.C. 3501.19(B)(3)--emphasis added):³

Voters must bring identification to the polls in order to verify identity. Identification may include a current and valid photo identification, a military identification that shows the voter's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than this reminder or a voter registration notification, that shows the voter's name and current address. Voters who do not provide one of these documents will still be able to vote by providing the last four digits of the voter's Social Security number and by casting a provisional ballot. Voters who do not have any of the above forms of identification, including a Social Security number, will still be able to vote by signing an affirmation swearing to the voter's identity under penalty of election falsification and by casting a provisional ballot. [See "**Voter identification and the meaning of 'photo identification'**," below.]

- Specifies an exception to the requirement: when the elector registered to vote within 30 days prior to that notice mailing date (R.C. 3501.19(D)).
- Requires a board of elections, if such a notice is returned, to mark the voter's name in the official registration list and in the pollbook, and requires a voter whose name has been so marked to provide identification at the first election at which the voter appears to vote (R.C. 3501.19(C)).
- Allows a voter whose name has been so marked to cast *a regular ballot* at the aforementioned first election at which he or she appears to vote if the voter provides a current and valid photo identification, a military identification that shows the voter's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or

³ See Footnote 1.

other government document, other than a notice of an election or a notice of voter registration mailed by a board of elections (R.C. 3501.19(C)).⁴

- Allows a voter whose name has been so marked to cast *a provisional ballot* at the aforementioned first election at which he or she appears to vote if the voter (1) provides a photo identification that does not contain the voter's current address, (2) provides the last four digits of the voter's Social Security number (SSN), (3) is unable to provide any of the required forms of identification, (4) refuses to provide any of the required forms of identification, or (5) executes an affirmation that indicates that the voter does not have any of the specified forms of identification and cannot provide the last four digits of an SSN because he or she does not have an SSN (R.C. 3501.19(C) and 3505.18(A)(4)).

Publication of notice of elections

- Reduces (from four or three) the number of times a notice of *specified elections* must be published in one or more newspapers of general circulation in the area in which an election will be conducted generally to "once a week for two consecutive weeks prior to the election," and, beginning June 1, 2006, requires a board of elections to post the notices of the specified elections for 30 days prior to an election on its web site, if the board operates and maintains its own web site (R.C. 131.23(G), 306.70, 307.791, 322.021, 324.021, 503.162(B), 504.02(B), 504.03(A)(2), 511.28, 511.34(B), 513.14, 745.07, 747.11, 3311.21(A), 3311.50(C), 3311.73(B), 3349.29, 3354.12(A), 3355.09, 4504.021, 5705.191, 5705.194, 5705.196, 5705.21(B), 5705.218(C), 5705.25(A), 5705.251(A), 5705.261, 5705.71(D), 5739.022(A), 5748.02(C), 5748.04, 5748.08(C), and 6119.18 and Section 3 of the act).

Voting at locations other than a board of elections or a precinct polling place

- Provides that, beginning June 1, 2006, if a board of elections acquires, designates, or maintains any site other than the office of the board or a precinct polling place (including any temporary or permanent branch office) *at which the board permits electors to vote*, then electors will not be permitted to vote at *any other* branch office or any other office of the board. (R.C. 3501.10(C), 3503.16(B)(2)(a)(ii), (b), (c), and (d), (C), (D), and (G), and 3509.02(B) and Section 7 of the act.)

⁴ See Footnote 1.

Use of an attorney in fact by disabled voters

- Specifies that each of the act's provisions concerning the use of an attorney in fact by a disabled voter that is discussed below does not take effect until June 1, 2006 (Section 4 of the act).
- Allows a registered voter who, by reason of disability, is *unable to physically sign* (see next dot point) the voter's name as a candidate, signer, or circulator on a declaration of candidacy and petition, nominating petition, other petition, or other document under the Election Law to authorize a legally competent Ohio resident who is 18 years of age or older as an attorney in fact, pursuant to the *alternative processes* outlined below, to sign the voter's name to the petition or other election document on the voter's behalf, *at the voter's direction and in the voter's presence* (R.C. 303.12(H), 519.12(H), 3375.03, 3501.38(D), (E)(1), (F), and (H), 3501.382(A), (C), and (D), 3503.14(C), 3505.18(B), 3513.07, 3513.09, 3513.261, and 3519.05).
- Specifies that a voter is "unable to physically sign" election documents if the person with a disability cannot comply with certain signature or legal marks statutory rules: generally (subject to two exceptions), "signing" means by "that person's written, *cursive-style* legal mark written in that person's *own* hand" (R.C. 3501.011--not in the act). The act further provides, however, that a voter is not "unable to physically sign" election documents if the voter is able to comply with the aforementioned signature or legal mark rules through *reasonable accommodation*, including the use of assistive technology or augmentative devices (R.C. 3501.382(F)).
- Exempts the attorney in fact from continuing law's prohibitions against a person signing a name other than the person's own on a petition or other election document (R.C. 3599.13(A)(3) and 3599.14(A)(6)).
- First of the alternative authorization processes: allows a disabled voter to authorize an attorney in fact by filing with the board of elections of the voter's county of residence a *notarized form* that includes or has attached (1) the voter's name, (2) an attestation of the voter that the voter, by reason of disability, is unable to physically sign petitions or other election documents and that the voter desires the attorney in fact to sign them on the voter's behalf, at the voter's direction and in the voter's presence, (3) the attorney in fact's name, residence address, date of birth, and, if

applicable, Ohio Supreme Court registration number and a photocopy of the attorney in fact's driver's license or state identification card, and (4) the form of the signature that the attorney in fact will use in signing the petitions or other election documents (R.C. 3501.382(A)(1)(a)).

- Requires the notary public involved in that process to acknowledge that the disabled voter orally affirmed in the presence of the notary public items (1), (2), and (3) of the power of attorney form, and prohibits a notary public from performing any notarial acts with respect to such a power of attorney form unless the voter first gives that oral affirmation (R.C. 3501.382(A)(2)).
- Provides that only a notary public satisfying the qualifications for commission as a notary public in Ohio and actually commissioned in Ohio may perform notarial acts with respect to such a power of attorney form (R.C. 3501.382(A)(2)).
- Second of the alternative authorization processes: allows a disabled voter to authorize an attorney in fact by filing with the board of elections of the voter's county of residence a *form* that includes or has attached the same information listed in this portion of this final analysis for the first of the authorization processes, but that need *not be notarized*, must include a specified *physician's attestation*, and must be *acknowledged before an elections official* (R.C. 3501.382(A)(1)(b)).
- Requires the Secretary of State to prescribe the form and content of (1) the power of attorney form and (2) a distinct form to revoke such a power of attorney (R.C. 3501.382(E)).
- Requires a board of elections that receives a power of attorney form to (1) use the attorney in fact's signature for the purpose of verifying the voter's signature on petitions and other election documents and (2) cause the poll list or signature pollbook for the relevant precinct to identify the voter as having so authorized an attorney in fact (R.C. 3501.382(B)).

Voter identification and the meaning of "photo identification"

- Specifies that each of the act's provisions concerning voter identification that is discussed below does not take effect until June 1, 2006 (Section 6 of the act).

- Requires all voters to provide to election officials at the polling place on the day of an election proof of the voter's identity in the form of a current and valid "photo identification" (see below), a military identification that shows the voter's name and current address, *or* a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a previously mentioned notice of an election or a notice of voter registration mailed by a board of elections, that shows the voter's name and current address. If the voter provides a driver's license or a state identification card that does not contain the voter's *current residence address*, the voter must provide the last four digits of the voter's driver's license number or state identification card number; the precinct election official must then mark the poll list or signature pollbook to indicate that the voter has provided a driver's license or state identification card with a former address and record the last four digits of the voter's driver's license number or state identification card number. (R.C. 3503.16(B)(1)(a) and 3505.18(A)(1).)⁵
- Defines "photo identification," for all contexts in the Election Law in which that term is used (e.g., voting at polling places, voting by absent voter's ballots, applying for those ballots, and registering to vote), as a document that (1) shows the individual's name, which must conform to the name in the poll list or signature pollbook, (2) shows the individual's current address, which generally must conform to the address in the poll list or signature pollbook (the exception being a driver's license or a state identification card, which may show either the current or former address of the individual to whom it was issued, regardless of whether that address conforms to the address in the poll list or signature pollbook), (3) shows the individual's photograph, (4) includes an expiration date that has not passed, and (5) was issued by the United States government or the State of Ohio (R.C. 3501.01(AA)).
- Permits a voter who has *but declines* to provide to the precinct election officials any of the forms of identification mentioned in the second dot point in this portion of this final analysis, or who has an SSN *but declines* to provide to the precinct election officials the last four digits of the voter's SSN, to cast a provisional ballot (R.C. 3505.18(A)(6) and 3505.181(A)(13)).

⁵ See Footnote 1.

- Permits a voter who has *but is unable* to provide to precinct election officials any of the forms of identification mentioned in the second dot point in this portion of this final analysis *but has* an SSN, to provide the last four digits of the voter's SSN, and then to cast a provisional ballot, with the SSN information being required to be included on the envelope of the ballot (R.C. 3505.18(A)(2) and 3505.181(A)(2)).
- Permits a voter who has *but is unable* to provide to precinct election officials any of the forms of identification mentioned in the second dot point in this portion of this final analysis and has an SSN *but is unable* to provide the last four digits of the voter's SSN, to cast a provisional ballot (R.C. 3505.18(A)(3) and 3505.181(A)(3)).
- Permits a voter who *does not have* any of the forms of identification mentioned in the second dot point in this portion of this final analysis and who cannot provide the last four digits of the voter's SSN because the voter *does not have* an SSN, to execute an affirmation under penalty of election falsification that the voter cannot provide the identification or the last four digits of the voter's SSN for those reasons, and then to cast a provisional ballot (R.C. 3505.18(A)(4) and 3505.181(A)(4)).
- Requires the Secretary of State to prescribe the form of the affirmation mentioned above, which must include spaces for the voter's name, the voter's address, the current date, the voter's date of birth, and the voter's signature (R.C. 3505.18(A)(4)).
- Permits a voter who does not have any of the forms of identification mentioned in the second dot point in this portion of this final analysis, who cannot provide the last four digits of the voter's SSN because the voter does not have an SSN, and who *declines to execute the affirmation* mentioned above, to cast a provisional ballot (R.C. 3505.18(A)(5) and 3505.181(A)(12)).
- Requires the Secretary of State to conduct voter education outlining voter identification requirements (R.C. 3501.05(Y)).

Precinct voting location guide

- Provides (1) if an individual appears at a polling place and declares that he or she is eligible to vote in a jurisdiction other than the one in which the individual desires to vote or (2) if, upon review of the "precinct voting location guide" (see below) using the residential street address

provided by the individual, an election official at the polling place determines that the individual is not eligible to vote in that jurisdiction, the election official must (a) direct the individual to the polling place for the jurisdiction in which the individual appears to be eligible to vote, (b) explain that the individual may cast a provisional ballot at the current location but that the ballot will not be counted if it is cast in the wrong precinct, and (c) provide the telephone number of the board of elections in case the individual has additional questions (R.C. 3505.181(C)(1)).

- Defines "precinct voting location guide" as either (1) an electronic or paper record that lists the correct jurisdiction and polling place for either each specific residential street address in the county or the range of residential street addresses located in each neighborhood block in the county or (2) any other method that a board of elections creates that allows a precinct election official or any elector who is at a polling place in that county to determine the correct jurisdiction and polling place of any qualified elector who resides in the county (R.C. 3505.181(E)(2)).

Challenges of registered voters

- Changes from 11 days prior to an election to 20 days prior to an election the deadline after which persons may not challenge the right to vote of a registered elector (R.C. 3503.24(A), 3505.19, and 3505.20).
- Permits pre-election challenges to be decided from the records of the board of elections without a hearing under certain circumstances (R.C. 3503.24(B) and 3505.19).
- Generally requires pre-election challenge hearings, when required, to be conducted, and the challenge to be decided, within ten days after the board of elections receives the challenge, but permits, in certain circumstances, those challenges to be resolved after the day of the election (R.C. 3503.24(B) and (D)).
- Eliminates the ability of any person, other than an election official, to challenge an elector's right to vote on the day of an election (R.C. 3505.20, 3505.21, 3505.22, 3505.25, and 3513.19(A)).

Use of observers

- Specifies that each of the act's provisions concerning the use of observers that is discussed below does not take effect until June 1, 2006 (Section 5 of the act).
- Replaces election "challengers" and "witnesses" with election "observers"; permits those observers to perform the duties formerly performed by election challengers and witnesses, except that observers are not permitted to challenge an elector's right to vote on election day; and confers new authority on observers with respect to provisional ballots (R.C. 3501.26, 3501.30(A)(4), 3501.33, 3501.35(B), 3501.90, 3505.16, 3505.183, 3505.21, 3505.22, 3505.25, 3505.26, 3505.27(A), 3505.32(B), 3506.12(B), 3506.13, 3509.06(E) and (F), 3513.22(B), 3515.03, 3515.04, 3515.13, 3523.05, and 3599.38(A)).
- Changes the deadline by which a committee that *advocates or opposes a measure* and that wishes to appoint observers ("witnesses" under former law) to the count at the election must file a petition with the board of elections of any county asking that they be recognized as the committee entitled to appoint observers, from not later than 11 days prior to the election to not later than 4:00 p.m. of the 20th day prior to the election (R.C. 3505.21).

Provisional ballots

Requirements applicable prior to June 1, 2006

- Mandates, for the May 2, 2006, primary election and for any special election conducted on that day, that provisional ballots meeting the requirements of federal law be made available to all voters for state and local elections (offices, questions, and issues) as if the ballots for those elections were ballots for an election for federal office (Section 9(B) of the act).
- Mandates, that for the May 2, 2006, primary election, that provisional ballots meeting the requirements of federal law be made available to all voters for an election for federal office (Section 9(C) of the act).

Requirements applicable on and after June 1, 2006

- Specifies that each of the act's provisions concerning provisional ballots that is discussed below does not take effect until June 1, 2006 (Section 9(A) of the act).
- Establishes provisional ballots for the purposes of all elections conducted in this state, and specifies the voters eligible to cast a provisional ballot (R.C. 3501.05(X), 3501.19(C), 3503.16(B) and (C), 3503.19(C)(2) and (3), 3503.24(D)(3), 3505.18(A), 3505.181(A) and (C), 3505.20(A), (B), (C), and (D), 3505.22, 3509.09(B) and (C), 3511.13(B) and (C), and 3513.20).
- The following are the 14 categories for provisional voting under the act:

INDIVIDUAL WHO MAY VOTE A PROVISIONAL BALLOT	STATUTORY CITATION
An individual who declares that the individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote.	R.C. 3505.181(A)(1).
An individual who appears at the polling place to vote and who has but is <i>unable</i> to provide to precinct election officials any of specified forms of identification, but does provide those officials with the last four digits of his or her SSN.	R.C. 3505.18(A)(2) and 3505.181(A)(2).
An individual who appears at the polling place to vote, who has but is <i>unable</i> to provide to precinct election officials any of specified forms of identification, and who has a SSN but is <i>unable</i> to provide the last four digits of his or her SSN. This individual is one who has some form of the identification or an SSN, but, for example, the individual does not have the identification with him or her at the polling place or does not remember his or her SSN at the polling place.	R.C. 3505.18(A)(3) and 3505.181(A)(3).

INDIVIDUAL WHO MAY VOTE A PROVISIONAL BALLOT	STATUTORY CITATION
An individual who appears at the polling place to vote and who <i>does not have</i> any of specified forms of identification to provide to the precinct election officials, who cannot provide the last four digits of an SSN because he or she <i>does not have</i> an SSN, and who executes an affirmation that so indicates.	R.C. 3505.18(A)(4) and 3505.181(A)(4).
An individual who appears at the polling place to vote and who does not have any of specified forms of identification to provide to the precinct election officials, who cannot provide the last four digits of an SSN because he or she does not have an SSN, and who <i>declines to execute an affirmation</i> that so indicates.	R.C. 3505.18(A)(5) and 3505.181(A)(12).
An individual who appears at the polling place to vote and who has but <i>declines to provide</i> any of specified forms of identification or who has a SSN but <i>declines to provide</i> the last four digits of that SSN.	R.C. 3505.18(A)(6) and 3505.181(A)(13).
An individual who appears at the polling place to vote and whose name in the poll list or signature pollbook has been marked under the Absent Voter's Ballots Law or Armed Service Absent Voter's Ballots Law because the individual has requested either of those types of ballots. In this category, the director of the board of elections may or may not have received a sealed identification envelope purporting to contain the individual's voted absent voter's ballots or armed service absent voter's ballots.	R.C. 3505.181(A)(5), 3509.09(B), and 3511.13(B).
An individual whose <i>notification of registration</i> has been returned undelivered to the board of elections and whose name in the official registration list as well as in the poll list or signature pollbook has been marked.	R.C. 3503.19(C)(2) and 3505.181(A)(6).

INDIVIDUAL WHO MAY VOTE A PROVISIONAL BALLOT	STATUTORY CITATION
<p>An individual who appears at the polling place to vote and is <i>challenged</i> by election officials -- when the election officials determine that the individual is <i>ineligible to vote</i> or when they are <i>unable to determine</i> the individual's eligibility to vote. These challenges may relate to citizenship, whether the individual has resided in Ohio for 30 days immediately preceding the election, whether the individual is a resident of the precinct where the individual offers to vote, whether the individual is of legal voting age, or another matter necessary to determine the individual's qualifications as an elector at the election in question.</p>	<p>R.C. 3505.181(A)(7) and 3505.20.</p>
<p>An individual whose <i>application or challenge hearing</i> has been postponed by the board of elections under specified circumstances until after the day of an election. The context is that an application has been submitted at least 20 days before an election for the correction of a precinct registration list <u>or</u> a challenge of the right to vote of a registered elector has been made by a qualified elector of the county at least 20 days before an election.</p>	<p>R.C. 3503.24(D)(1) and 3505.181(A)(8).</p>
<p>An individual who appears at the polling place to vote, whose <i>notice of an election</i> was returned undelivered to the board of elections, whose name in the official registration list as well as in the poll list or signature pollbook consequently has been marked, and who either (1) provides a photo identification that does not contain the individual's current address, (2) provides the last four digits of the individual's SSN, (3) is unable to provide any of the required forms of identification, (4) refuses to provide any of the required forms of identification, <u>or</u> (5) executes an affirmation that indicates that the individual does not have any of the</p>	<p>R.C. 3501.19(C).</p>

INDIVIDUAL WHO MAY VOTE A PROVISIONAL BALLOT	STATUTORY CITATION
specified forms of identification and cannot provide the last four digits of an SSN because he or she does not have an SSN.	
An individual who changes the individual's name and remains in the precinct, moves from one precinct to another within a county, moves from one precinct to another and changes the individual's name, or moves from one county to another within Ohio, and who signs the requisite forms and statements. Some of these individuals may vote a provisional ballot at the polling place on the day of election or, if they so choose, <i>before the day of an election</i> and within specified time periods, at the office of the board of elections or another location in the county designated by the board of elections instead of at the board's office.	R.C. 3503.16(B)(1)(b) and (2) and (C), and 3505.181(A)(9).
An individual who appears to vote at the polling place and whose signature, in the opinion of precinct officers, is not that of the person who signed that name in the registration forms. The context is that a precinct officer has reason to believe that a person is impersonating an elector, questions the person as to his or her right to vote, and requires the person to sign his or her name on a card, and the majority of the precinct officers then make the above-mentioned decision.	R.C. 3505.181(A)(10) and 3505.22.
An individual who is challenged, who refuses to make the required statement under penalty of election falsification, and who a majority of the precinct officials finds lacks any of the qualifications to be a qualified elector or finds is not affiliated with or a member of the political party whose ballot the individual desires to vote <i>at a primary election</i> .	R.C. 3505.181(A)(11) and 3513.20.

- Establishes a process for casting provisional ballots, which includes requiring the provisional voter to execute a written affirmation, and a process for that voter to determine, after the election, whether the provisional ballot was counted (R.C. 3505.181(B)).
- Specifies the form of the affirmation that a provisional voter is required to execute, and allows a provisional voter to provide on that form additional information that will be used to determine the validity of the ballot (R.C. 3505.182).
- Specifies the process a board of elections must follow to determine whether a provisional ballot is eligible to be counted, and specifies the record-keeping requirements for both eligible and ineligible provisional ballots (R.C. 3505.183).
- Defines "jurisdiction" for purposes of the provisional ballots provisions as the precinct in which a person is a legally qualified elector (R.C. 3505.181(E)(1)).

Absent voter's ballots and armed service absent voter's ballots

- Specifies that each of the act's provisions concerning voter identification in relation to absent voter's ballots and armed service absent voter's ballots that is discussed below does not take effect until June 1, 2006 (Section 6 of the act).
- Adds to the mandatory *alternative* forms of identification that voters requesting and voting by an absent voter's ballot or armed service absent voter's ballot must provide the following: a copy of a military identification that shows the voter's name and current address; and prohibits the use for those identification purposes of a notice of an election or a notice of voter registration mailed by a board of elections as "[an]other government document" (R.C. 3509.03(E)(3), 3509.031(A)(5)(c) and (B)(5)(c), 3509.04(B), 3509.05(A), 3511.02(A)(5)(c) and (C)(6)(c), and 3511.09).⁶
- Defines "photo identification" for purposes, among others, of the Absent Voter's Ballot Law and the Armed Service Absent Voter's Ballot Law

⁶ See Footnote 1.

(R.C. 3501.01(AA)). See definition under "*Voter identification and the meaning of 'photo identification'*," above.

- Permits a registered elector who has requested or returned absent voter's ballots or armed service absent voter's ballots to vote by *provisional ballot* on the day of an election, and, if both ballots are voted, specifies which ballot will be counted (R.C. 3509.09 and 3511.13).
- Prohibits, as a felony of the fourth degree, a person from knowingly failing to forward to the appropriate election official an absent voter's ballot application entrusted to that person *within ten days after the application is completed* or within such a time period that the failure to so forward the application disenfranchises the voter with respect to that election, whichever is earlier (R.C. 3599.21(A)(8) and (C)).
- Consistently specifies that, when a board of elections may or must designate two board employees to deliver an absent voter's ballot to certain applicants (those who are unable to travel from their home to the voting booth on account of personal illness, physical disability, or infirmity, on account of confinement in jail awaiting trial on a felony or misdemeanor, on account of confinement in jail under sentence for a misdemeanor, or as a result of an accident or unforeseeable medical emergency before the election), the board must designate two employees belonging to the two major political parties (R.C. 3509.08(A) and (B)(1)).
- Requires a board of elections, if it determines that the signature on an absent voter's or armed service absent voter's ballot identification envelope does not match the signature on the voter's registration form, to set that ballot aside and to determine, prior to the official canvass, whether the voter also cast a provisional ballot in the precinct on the day of the election (R.C. 3509.09(C)(1) and 3511.13(C)(1)).
- Requires a board of elections to count as valid an otherwise valid provisional ballot cast in the precinct on election day if the board does not receive that voter's absent voter's or armed service absent voter's ballot by the applicable deadline (R.C. 3509.09(C)(3) and 3511.13(C)(3)).

Recounts

- Increases from \$10 to \$50 (a) the maximum per precinct charge that may be imposed for conducting a non-automatic recount and (b) the amount per precinct involved that must be deposited with a board of elections at the time of the recount application, and provides for the periodic indexing of the amounts for inflation (R.C. 3515.03, 3515.07, and 3515.072).
- Requires any recount of votes for the election of presidential electors to be completed not later than six days before the time fixed under federal law for the meeting of those presidential electors (R.C. 3515.041).

Election calendars

- Makes changes to the times at which certain election-related activities are required to take place, such as the filing of a declaration of intent to be a write-in candidate (62nd day preceding an election instead of the 50th day preceding the election), the filing of certain protests, the removal from ballots of withdrawn candidate names, or the certification of the sufficiency of the signatures on and the validity of a local option (liquor) election petition (68th day before the election instead of the 66th day before the election) (R.C. 3501.39(C), 3513.041, 3513.052, 3513.30(C) and (E), 4301.33(B)(1), 4301.331(E), 4301.332(B)(1), 4301.333(D), 4301.334(C), and 4305.14(B)(1)).

Nomination and election of municipal court candidates

- Requires, as a general rule, the declaration of candidacy and petition or the nominating petition for a candidate for municipal court judge or for an elected municipal court clerk to contain the signatures of 50 qualified electors of the territory of the court (R.C. 1901.07(B) and (C), 1901.10(A)(1)(c) and (d), and 1901.31(A)(1)(a), (d), (e), (f), and (g)).

Secretary of State election instructions and publications

- Requires directives and advisories issued by the Secretary of State regarding the proper methods of conducting elections to be published on the Secretary of State's web site as soon as is practicable after they are issued, but not later than the close of business on the same day as they are issued; and requires those directives and advisories to be maintained on that web site while they are in effect and in an archive format thereafter (R.C. 3501.05(B)).

- Requires the Secretary of State to ensure that all directives, advisories, other instructions, or decisions issued or made during or as a result of any conference call or teleconference call with a board of elections (1) to discuss the proper methods and procedures for conducting elections, (2) to answer questions regarding elections, or (3) to discuss the interpretation of directives, advisories, or other instructions issued by the Secretary of State are posted on the Secretary of State's web site as soon as is practicable after the completion of the conference call or teleconference call, but not later than the close of business on the same day as the call takes place (R.C. 3501.05(W)).
- Requires the Secretary of State to publish a report on the Secretary of State's web site 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 and provisional ballots that were cast and the number of each of those types of ballots that were counted (R.C. 3501.05(X)).

Prohibitions against the Secretary of State and the Attorney General serving in certain capacities

- Prohibits the Secretary of State from serving as a campaign treasurer or in any other official capacity for (1) any campaign committee for any state or local office other than an office to which the Secretary of State is seeking election, (2) any principal campaign committee or other authorized committee for any federal office other than an office to which the Secretary of State is seeking election, or (3) any committee named in an initiative petition, any committee named in a referendum petition, any person making disbursements for the direct costs of producing or airing electioneering communications, or any other committee regulated under the Campaign Finance Law (R.C. 3501.052(A), (B), and (C) and Section 12).
- Prohibits the Attorney General from serving as a campaign treasurer or in any other official capacity for any committee named in an initiative petition or in a referendum petition (R.C. 3501.052(D)).

Voting machines, marking devices, and automatic tabulating equipment

- Defines "optical scan ballots" and specifies the types of marks on those ballots that constitute valid votes (R.C. 3506.21).

- Defines "ballots on demand voting system" and prohibits a board of elections from using such a system in an election unless each ballot the system prints includes a tracking number (R.C. 3506.20).
- Expands the definition of "automatic tabulating equipment" to include, in addition to machines and interconnected or interrelated machines, *electronic devices and interconnected or interrelated electronic devices* that automatically examine and count votes recorded on ballots (R.C. 3506.01(C)).
- Requires each board of elections to conduct a full vote of the board during a public session of the board on the allocation and distribution of voting machines, marking devices, and automatic tabulating equipment for each precinct in the county (R.C. 3501.11(I)).
- Requires the Secretary of State's standards, adopted by rule, for the certification of direct recording electronic (DRE) voting machines with a voter verified paper audit trail (VVPAT) to include specified requirements regarding the "content" information of a VVPAT--the information varying on whether office-type ballots (the name of each candidate selected by the voter) or questions and issues ballots (among other information, the voter's ballot selection on a question or issue) are involved (R.C. 3506.05(H)(3)(a)(vi) and (vii)).
- Requires the Secretary of State, beginning in 2013 and every eight years thereafter, to establish a minimum number of machines that a county must have if it selects DRE voting machines as its primary voting system, and establishes a formula that the Secretary of State must use in establishing this number (R.C. 3506.22(A) and (B)).⁷
- Specifies that a VVPAT must be treated as are other ballots for purposes of the Public Records Law, and requires it to be retained in accordance with the county records retention schedule established under the County

⁷ Section 514.03 of Am. Sub. H.B. 66 of the 126th General Assembly created a formula that the Secretary of State must use in establishing the minimum number of machines that a county must acquire if it selects DRE voting machines as its primary voting system and purchases those machines using funds provided under the Help America Vote Act of 2002. The act provides that, if a county selects DRE voting machines as the primary voting system to be used in the county after the act's effective date but before 2013, it must purchase the minimum number of machines as established by the Secretary of State pursuant to that original formula (R.C. 3506.22(C)).

Records Commission Law after the relevant time period prescribed for its preservation under the Election Law (similar to paper ballots) or as ordered by the Secretary of State or a court of competent jurisdiction (R.C. 3506.18(C)).

- Provides that, if a VVPAT is made available to the public, any information on it that identifies the particular DRE voting machine that produced it must be redacted (R.C. 3506.18(D)).
- Prohibits any voting machine from being connected to the Internet (R.C. 3506.23).

Duplicate candidacy prohibitions

- Prohibits a person from being a candidate for federal office and a state or county office at the same election (R.C. 3513.04, 3513.041, 3513.05, 3513.052, 3513.257, 3513.259, and 3513.261).⁸
- Specifies that a person who seeks nomination or election to a federal office and a state or county office at the same election must be disqualified as a candidate for each office that is not a federal office (R.C. 3513.052(C), (D), and (E)).⁹

Offenses concerning declarations of candidacy and petitions, declarations of intent to be a write-in candidate, nominating petitions, and other petitions

- Increases from a misdemeanor of the first degree to a felony of the fifth degree the penalty for persons knowingly, directly or indirectly, engaging in certain offenses concerning any declaration of candidacy and petition, declaration of intent to be a write-in candidate, nominating petition, or other petition for the purpose of being a candidate for elective office, for the purpose of submitting a question or issue to the electors, or for the purpose of forming a political party, such as misrepresentation of the contents, purpose, or effect of a petition or declaration for certain

⁸ *The prohibitions against duplicate candidacy were enacted in Am. Sub. H.B. 66 of the 126th General Assembly and took effect on September 29, 2005. Thus, the prohibitions were the law before the act's effective date. The act strikes through these provisions of law and then reenacts them.*

⁹ *See Footnote 8.*

purposes and paying a person anything of value for signing or refraining from signing a petition or declaration (R.C. 3599.14(A) and (B)).

Interference with elections

- Increases from a minor misdemeanor to a misdemeanor of the first degree the penalty for loitering in or about a registration or polling place during registration or the casting and counting of ballots so as to hinder, delay, or interfere with the conduct of the registration or election (R.C. 3599.24(A)(5) and (B)).
- Increases from a minor misdemeanor to a misdemeanor of the first degree the penalty for removing pencils, cards of instruction, supplies, or other conveniences furnished to enable a voter to mark the voter's ballot (R.C. 3599.24(A)(6) and (B)).

Campaigning near the line of waiting voters

- Prohibits a person from loitering, congregating, or engaging in election campaigning, or giving, tendering, or exhibiting any ballot or ticket to any person, within ten feet of any elector waiting to vote, if the line of waiting electors extends past the small United States flags placed 100 feet from the polling place. The prohibitions also apply to similar conduct within the area between the polling place and those small flags placed on the thoroughfares and walkways leading to the polling place. (R.C. 3501.35(A)(1) and (3).)

Private cause of action for "harassment in violation of the Election Law"

- Establishes a private cause of action permitting an elector who has experienced defined "harassment in violation of the Election Law" to commence a civil action against individuals or other persons that engaged in the specified conduct in or about a place of registration or election or violated specified provisions of the Election Law (see R.C. 3501.33 and 3501.35), and allows the plaintiff elector, whether the civil action is commenced by the elector alone or as a party to a class action, to seek a declaratory judgment, an injunction, or other appropriate *equitable relief* (R.C. 3501.90(A), (B), and (E)).
- If the "harassment in violation of the Election Law" involved intentional or reckless threatening or causing of *bodily harm* to the elector while attempting to register to vote, to obtain an absent voter's ballot, or to vote,

permits the plaintiff elector in a civil action based on that private cause of action to also seek relief in the form of *monetary damages*--three times the elector's actual damages or \$1,000, whichever amount is greater--and an award of reasonable attorney's fees and court costs (R.C. 3501.90(C)(1) and (2)).

- Authorizes a plaintiff elector in a civil action based on that private cause of action to seek a court order granting one or more special forms of relief against organizations that have previously been determined in an Ohio court to have engaged in "harassment in violation of the Election Law," such as divestiture of the organization's interest in any enterprise or in any real property, or the dissolution or reorganization of the organization (R.C. 3501.90(C)(1) and (3)).

Attorney General's authority to commence criminal actions for election fraud

- Confers upon the Attorney General permissive authority to initiate criminal proceedings for election fraud that results from a violation of any provision of the Election Law, other than the Campaign Finance Reporting Law and the Campaign Finance Law (R.C. Chapter 3517.), involving voting, an initiative or referendum petition process, or the conducting of an election, by presenting evidence of the violations to the prosecuting attorney of any county in which the violations may be prosecuted. If the prosecuting attorney does not prosecute the violations within a reasonable time or requests the Attorney General to do so, the Attorney General may proceed with the prosecution of the violations. (R.C. 109.95.)¹⁰
- Specifies that, when the Attorney General is allowed to proceed with the prosecution of election fraud violations, the Attorney General may do so with all the rights, privileges, and powers conferred by law on a prosecuting attorney (R.C. 109.95).

¹⁰ R.C. 3599.42 (not in, but cross-referenced in, the act) states that a violation of any provision of the Election Law "constitutes a prima-facie case of fraud within the purview" of the Election Law. The authority conferred by the act upon the Attorney General, then, is for certain types of election fraud and not for every potential type of election fraud.

Initiative and referendum petitions¹¹

Initiative petitions must contain only one proposal

- Provides that an initiative petition must contain only one proposal of law or constitutional amendment so as to enable the voters to vote on that proposal separately (R.C. 3519.01(A)).

Certification and approval process: initiative petition and its summary

- Requires the Attorney General, within ten days after receipt of an initiative petition and the summary of it, to conduct an examination of the summary to determine whether it is a fair and truthful statement of the proposed law or constitutional amendment. If the Attorney General determines that it is a fair and truthful statement, the Attorney General must certify it as so and then forward the submitted petition to the Ohio Ballot Board for its approval. (R.C. 3519.01(A).)
- Requires the Ohio Ballot Board, within ten days after it receives an initiative petition from the Attorney General, to examine it and determine whether it contains only one proposed law or constitutional amendment so as to enable the voters to vote on each proposal separately. If the Board so determines, it must certify its approval to the Attorney General. But, if the Board determines that the initiative petition contains more than one proposed law or constitutional amendment, it must divide the petition into individual petitions containing only one proposed law or constitutional amendment so as to enable the voters to vote on each proposal separately, and certify its approval to the Attorney General. (R.C. 3505.062(A) and 3519.01(A).)
- If the Ohio Ballot Board so divides an initiative petition and so certifies its approval to the Attorney General, requires the petitioners to resubmit to the Attorney General appropriate summaries for each of the individual petitions arising from the Board's division of the initiative petition; the resubmissions cannot contain new explanations or arguments. The Attorney General must review each resubmitted summary, within ten days after its receipt, to determine if it is a fair and truthful statement of a

¹¹ Section 13 of the act indicates that many of the initiative or referendum petition provisions discussed below do not affect any such petition already filed with the Attorney General's office on the act's effective date.

proposed law or constitutional amendment and, if so, certify it. (R.C. 3505.062(A) and 3519.01(A).)

Challenges to the Attorney General's certification decisions re: an initiative or referendum petition summary

- Provides that any person who is aggrieved by the Attorney General's decision to certify or not certify an initiative or referendum petition summary may challenge the decision in the Ohio Supreme Court, and grants the Court exclusive, original jurisdiction in all challenges to those certification decisions (R.C. 3519.01(C)).

Estimate of annual expenditure of public funds proposed, and estimate of annual yield of proposed taxes

- Revises the point in time at which the Secretary of State must request the Office of Budget and Management's "estimate of annual expenditure of public funds proposed" or the Tax Commissioner's "estimate of the annual yield of proposed taxes" for any initiative-proposed state law or constitutional amendment calling for the levying of a tax or involving a matter necessitating the expenditure of public funds: instead of *upon the receipt* from the Attorney General of a verified copy of the proposed state law or constitutional amendment as under current law, changes it to *within two days after the receipt* from the Attorney General of the verified copy (R.C. 3519.04).
- Requires the Secretary of State, upon receipt of an estimate of the annual expenditure of public funds proposed, an estimate of the annual yield of proposed taxes, or a joint estimate to post it on the Secretary of State's web site for 30 days before the election at which the proposed state law or constitutional amendment will be voted upon (R.C. 3519.04).

Form of petition

- Changes the form for statewide initiative and referendum petitions to comply with existing requirements (R.C. 3519.05).
- Requires an initiative petition proposing a state law or constitutional amendment to include the text of any existing statute or constitutional provision that would be amended or repealed if the proposed law or constitutional amendment is adopted (R.C. 3519.01(A)).

Signature, and circulator and signer residency, requirements

- Requires persons seeking to propose a state law or constitutional amendment by an *initiative petition* or to refer to the voters any law, section, or item of law by a *referendum petition*, to obtain the signatures of 1,000 qualified electors (in contrast to current law's 100 qualified electors) before submitting the proposed law or constitutional amendment, or the measure to be referred, together with its summary, to the Attorney General or both the Secretary of State and the Attorney General (R.C. 3519.01(A) and (B)(1)).
- Requires a voter's signature on an initiative or referendum petition to be an original signature in ink (R.C. 3519.051).
- Provides that only initiative and referendum petitions containing voters' original signatures in ink can be filed with the office of the Secretary of State or a board of elections (R.C. 3519.051).
- Prohibits a person from *circulating* any initiative or referendum petition unless the person is a resident of Ohio; prohibits a person from *signing* any initiative or referendum petition unless the person is a registered elector who will have resided in the county and precinct where the person is registered for at least 30 days at the time of the next election; and establishes standards to govern election officials in determining the residence of a person for the petition circulator provisions (R.C. 3503.06(B) and (C)).¹²
- Requires a person circulating any initiative or referendum petition (as well as any declaration of candidacy and petition or nominating petition) to record on the petition form the address of the person's permanent residence in Ohio (R.C. 303.12(H), 519.12(H), 3375.03, 3501.38(E), 3513.07, 3513.261, and 3519.05).

¹² Section 14 of the act states that the amendments made by the act to R.C. 3503.06 are intended to clarify that Ohio law requires the circulators of initiative and referendum petitions to be residents of the state and that the amendments must not be construed to mean that Ohio law did not require, prior to the act's effective date, circulators to be residents of the state.

Deadlines for submission of arguments or explanations

- Requires arguments in support of or in opposition to a resolution of the General Assembly proposing a constitutional amendment that are prepared by a group of members of the General Assembly or that are prepared by the Ohio Ballot Board itself or persons appointed by the Board under certain circumstances, to be filed with the Secretary of State not later than 80 days (as contrasted with 75 days under former law) before the election at which the measure is to be voted upon (R.C. 3505.063(A) and (B)(1)).
- Requires arguments in support of or in opposition to a resolution of the General Assembly proposing a constitutional amendment prepared by the Ohio Ballot Board or a group designated by the Board due to the failure of a group of members of the General Assembly or other group of designated persons to prepare and file arguments in support of or in opposition to the proposed amendment by the 80th day before the election as described above, to be filed with the Secretary of State not later than 75 days (as contrasted with 70 days under former law) before the election at which the measure is to be voted upon (R.C. 3505.063(B)(1)).
- Requires arguments or explanations in support of or in opposition to an initiative or referendum petition that are prepared by the committee named in the petition or persons named by the General Assembly or the Governor, to be filed with the Secretary of State not later than 80 days (as contrasted with 75 days under former law) before the election at which the measure is to be voted upon (R.C. 3519.03(A) and (B)(1)).
- Requires arguments or explanations in support of or in opposition to an initiative or referendum petition prepared by the Ohio Ballot Board or a group designated by the Board due to the failure of the committee named in the petition or persons named by the General Assembly or the Governor to prepare and file relevant arguments or explanations by the 80th day before the election as described above, to be filed with the Secretary of State not later than 75 days (as contrasted with 70 days under former law) before the election at which the measure is to be voted upon (R.C. 3519.03(B)(1)).

Deadline for certification of ballot language

- Requires the Ohio Ballot Board to certify the ballot language and explanation, if any, of a constitutional amendment proposed by the General Assembly to the Secretary of State no later than 75 days (as contrasted with 80 days under former law) before the election at which the proposed measure is to be voted upon (R.C. 3505.062(D)).

Posting of information on the Secretary of State's web site

- Requires the Secretary of State to post on the office's web site (1) the full text of each state law or constitutional amendment proposed by initiative petition that has been approved for the ballot, (2) the certified summary of the proposed state law or constitutional amendment, (3) the ballot language of the proposed state law or constitutional amendment, and (4) the arguments or explanations in favor of or against the proposed state law or constitutional amendment (R.C. 3519.07(A)).
- Provides that, when the Secretary of State publishes or posts on the office's web site arguments or explanations in favor of or against any state law or constitutional amendment proposed by initiative petition that has been approved for the ballot, the Secretary of State must include the names of the persons who prepared the argument or explanation. The names are not to be considered part of the argument or explanation for purposes of the prohibition against arguments and explanations exceeding 300 words. (R.C. 3519.07(B).)

Prohibitions applicable to convicted felons

- Provides that a person convicted of a felony under Ohio law or the law of any other state or the United States is incompetent to circulate or serve as a witness for the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition (R.C. 2961.01(B) and 2967.17(B)).

Notice of intent to retire for candidates

- Specifies that a candidate who intends to retire and receive PERS retirement benefits while continuing to hold an elected office must file the required written declaration of intent to retire with the director of the board of elections (as opposed to the board of elections under current law) (R.C. 145.38(C)(3)(a)).

- Requires the director of a board of elections who receives a written declaration of intent to retire to provide a copy of that document to each member of the board of elections (R.C. 3501.13(D)).

Federal election contests

- Eliminates the ability to file under state law contests of elections for the nomination or election of a person to federal office, and requires contests of elections for the nomination or election of persons to federal office to be resolved under federal law (R.C. 3515.08(A) and (B)).

Completion of the canvass

- Generally requires the canvass of election returns to be completed by the 21st day after the day of an election, and specifies that no amendments generally may be made to the canvass after the 81st day after the day of an election (R.C. 3501.05(U), 3505.32(A), and 3513.22(A)).

Campaign Finance Law matters

Definition changes

- Makes changes to the definitions of "campaign committee" for the purposes of the Campaign Finance Law (a "campaign committee" becomes a candidate or a combination of two or more persons authorized by a candidate to receive contributions and make expenditures) and to the definition of "candidate" for the purposes of the law governing electioneering communications (it acquires the same meaning as under the current Campaign Finance Law) (R.C. 3517.01(B)(1) and (3) and 3517.1011(A)(3)).
- Exempts from the definition of "political action committee" for the purposes of the Campaign Finance Law *a political club* (1) that is formed primarily for social purposes, (2) consists of 100 members or less, (3) has officers and periodic meetings, (4) has less than \$2,500 in its treasury at all times, and (5) makes an aggregate total contribution of \$1,000 or less per calendar year (R.C. 3517.01(B)(8)(b)).

Multi-beneficiary campaign committees

- Allows two or more candidates to be the beneficiaries of a single campaign committee if (1) each candidate is seeking nomination or election to the same office at the same election, (2) the office for which

each candidate is seeking nomination or election is the office of member of a board, commission, or other similar body of elected officials to which multiple members are nominated or elected at the same election, (3) the number of candidates who will be the beneficiaries of the campaign committee does not exceed the number of open positions, (4) the candidates jointly designate one of the candidates or one member of the campaign committee as the treasurer of that campaign committee, and (5) the candidates jointly file the written statements required under continuing law. The act also enacts provisions governing the operation of and impact of continuing law upon these multi-beneficiary campaign committees. (R.C. 3517.081(B) and 3517.10(D)(1).)

Filing requirements

- Changes the exception under which certain entities are not required to file mid-year campaign finance statements, and specifies that the only campaign committees generally required to file those statements are (1) the campaign committees of candidates for statewide or county office and (2) the campaign committee of a candidate for any other nonjudicial office if that campaign committee receives, during that period, contributions exceeding \$10,000 (R.C. 3517.10(A) and (F)(3)).
- Provides that a campaign committee, political action committee, legislative campaign fund, political party, and political contributing entity is not required to file a mid-year campaign finance statement for any year in which it is required to file a postprimary election statement, but states that a mid-year campaign finance statement may still be filed at its option (R.C. 3517.10(A)).
- Provides that a campaign committee of a candidate for the office of Chief Justice or Justice of the Supreme Court and a campaign committee of a candidate for the office of judge of any court in this state is not required to file a mid-year campaign finance statement (R.C. 3517.10(A)).
- Changes the type of document that must be filed by a candidate to indicate that the candidate's campaign committee intends to file its required campaign finance statements on paper instead of electronically from an "affidavit" to a "notice" (R.C. 3517.106(L)(1)(d) and (f)).

Campaign finance statements for initiative and referendum petitions

- Requires the circulator or committee in charge of an initiative or referendum petition to appoint a treasurer and file a designation of that appointment with the Secretary of State before receiving a contribution or making an expenditure (R.C. 3517.12(A)).
- Requires the circulator or committee in charge of an initiative or referendum petition to include, on the campaign finance statement required to be filed within 30 days after the petition is filed, specified information regarding contributions received in relation to that petition (R.C. 3517.12(B)).
- Requires the treasurer appointed for an initiative or referendum petition to file campaign finance statements at the times and in the manner required under continuing law for other political entities, regarding contributions made or received and expenditures made by the treasurer or the circulator or committee in charge of the petition (R.C. 3517.12(C)).
- Prohibits any person from failing to file any of the campaign finance statements required for an initiative or referendum petition (R.C. 3517.13(U)). Whoever violates this prohibition must be fined not more than \$250 (R.C. 3517.992(Q))--not in the act).

Contribution prohibitions and requirements

- Prohibits *employees* of state elected officers' offices, and employees of a candidate for a state elective office if the candidate is a state elected officer or a political subdivision elected officer, from knowingly *soliciting* a contribution to the officer, the candidate, or the officer's or candidate's campaign committee from specified state employees; correspondingly, prohibits the officers, the candidates, and their campaign committees from *accepting* any such contributions (R.C. 3517.092(B)).
- Expands the prohibitions against knowingly *soliciting* contributions on behalf of *county* elected officers, candidates for county elected offices, or their campaign committees from specified county employees (which under former law applied to those officers, candidates, and campaign committees) by instead prohibiting any *political subdivision* elected officer, candidate for a political subdivision elective office, campaign committee of such an officer or candidate, employee of a political

subdivision officer's office, employee of such a candidate's office if the candidate is a state elected officer or political subdivision elected officer, or another person or entity from knowingly soliciting a contribution from specified political subdivision employees to a political subdivision elected officer, a candidate for a political subdivision elective office, or the officer's or candidate's campaign committee (R.C. 3517.092(C)).

- Applies the whistleblower statute to an improper solicitation for a contribution from an employee of the state or of any political subdivision (R.C. 4133.52).
- Specifies that, in reporting a contribution from a partner in a partnership or from an owner or a member of another unincorporated business which is made from funds of that entity, the recipient of the contribution is entitled to conclusively rely upon the information provided by that entity, if the information includes *one* of the following (R.C. 3517.10(I)(2)):
 - (1) The name of each partner, owner, or member as of the date of the contribution or contributions, and a statement that the total contributions are to be allocated equally among all of the partners, owners, or members;
 - (2) The name of each partner, owner, or member as of the date of the contribution or contributions who is participating in the contribution or contributions, and a statement that the contribution or contributions are to be allocated to those individuals in accordance with the information provided by the entity to the recipient.

Miscellaneous changes

- Requires appropriate local election officials to cause defined "voting information" to be publicly posted at each polling place on the day of an election (R.C. 3505.181(D) and (E)(3)).
- Requires the Ohio Elections Commission to establish a web site on which it must post, at a minimum, all of the Commission's decisions and advisory opinions and copies of each election law as it is amended by the General Assembly. The Commission must update the web site regularly to reflect any new decisions and advisory opinions or changes to posted decisions and advisory opinions. (R.C. 3517.153(E).)

- Renames offenses applicable to the receipt of improper compensation by petition circulators and by persons who register applicants to vote (R.C. 3599.111(B), (C), and (E)(1) and (2)).
- Names the offense committed by compensating those who collect petition signatures or who register voters on a basis other than time worked--"paying improper compensation for circulating a petition or registering a voter" (R.C. 3599.111(D) and (E)(3)).
- Eliminates the declaration of intent to be a write-in candidate from the law governing election petitions (R.C. 3501.38(E)(1) and (L) and 3599.111(B)).
- Creates an exception to the general prohibition against entering a polling place unless one is an election official, employee, observer, or police officer or one enters to vote: entering a polling place to assist a blind, disabled, or illiterate voter to vote (R.C. 3501.35(B)).
- Requires the Secretary of State to establish a procedure by which a registered elector may update the elector's signature used in the poll list or signature pollbook (R.C. 3501.05(Z)).
- Eliminates, in the law governing expenses that may be incurred by a board of elections, a former cross-reference to the Tax Law's provision that required the certification of sufficient appropriated, unencumbered funds by the appropriate fiscal officer (in this case, the county auditor) before a contract could be made or money could be ordered to be expended, but retains the prohibition against a board of elections incurring an obligation involving an expenditure of money unless there are sufficient moneys in the funds appropriated for the obligation to meet it (R.C. 3501.17(A)).

Severability provision

- Contains severability provisions generally similar to those in R.C. 1.50--not in the act (Section 15).

HISTORY

ACTION	DATE
Introduced	01-24-05
Reported, H. Elections & Ethics	05-12-05
Passed House (70-29)	05-17-05
Reported, S. Rules	12-08-05
Passed Senate (21-11)	12-13-05
House refused to concur in Senate amendments (0-93)	12-14-05
Senate insisted on its amendments and requested conference committee	12-14-05
House acceded to request for conference committee	01-17-06
Senate agreed to conference committee report (21-12)	01-31-06
House agreed to conference committee report (57-40)	01-31-06

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