



# Ohio Legislative Service Commission

## Bill Analysis

Lynda J. Jacobsen

### **Am. Sub. S.B. 8** 128th General Assembly (As Passed by the Senate)

**Sens.** Seitz, Carey, Faber, Gibbs, Goodman, Niehaus, Patton, Wagoner, Harris, Jones, Husted

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## **BILL SUMMARY**

### **Election administration**

- Permits a board of elections that uses multiple precinct polling locations to appoint a reduced number of judges (four for the first precinct, and two for each additional precinct), and requires only one presiding judge for the multiple precinct polling location, instead of a presiding judge for each individual precinct (R.C. 3501.22).

### **Voter registration**

- Requires the Secretary of State and the Registrar of Motor Vehicles to match information in their databases for the purpose of verifying the accuracy of the information in the statewide voter registration database and the information provided on voter registration applications (R.C. 3503.15).
- Requires the Secretary of State to notify the applicable board of elections of mismatches between voter registration information and motor vehicle records that the Secretary of State receives through the matching agreement regarding persons registered to vote in the applicable county (R.C. 3503.15).
- Upon notification of mismatches by the Secretary of State, requires a board of elections to notify each affected voter of the mismatch regarding the voter's information, and requires the board to provide the voter with the opportunity to verify and correct the mismatched information (R.C. 3503.15).
- Requires the Secretary of State to establish, by rule, procedures for boards of elections to notify affected voters of mismatches and to provide those voters with the opportunity to verify and correct the mismatched information (R.C. 3503.15).

- Requires the Secretary of State's rules to conform to the Voluntary Guidelines for Implementing Statewide Voter Registration Lists adopted by the United States Election Assistance Commission (R.C. 3503.15).
- Specifies that a mismatch must not be the sole reason for the removal of a voter from the statewide voter registration database (R.C. 3503.15).
- Defines a "mismatch" as any of the following data fields that are not identical to one another with respect to a particular individual when information in the statewide voter registration database is compared to motor vehicle records: driver's license number, Social Security number, or date of birth (R.C. 3503.15).
- Specifies that, except for a voter's date of birth, Social Security number, or driver's license number, all information in the statewide voter registration database is a public record, including information identifying whether a mismatch exists between a person's voter registration record and motor vehicle records (R.C. 3503.15(G)(1)(c)).
- Requires voter registration applications to include a space on which an applicant may identify the political party, if any, with which the applicant desires to be affiliated (R.C. 3503.14).
- Requires the voter registration application to state that designating a political party on the application is "optional" (R.C. 3503.14).
- Requires a board of elections to register a new applicant as a member of the applicable political party, if the applicant identified a recognized political party with which the applicant desires to be affiliated on the applicant's voter registration application (R.C. 3503.19).
- Specifies that a person who is registering to vote is only eligible to select a political party on (1) the person's initial registration within a county or (2) the person's reregistration following the cancellation of the person's prior registration, and specifies that a person who updates the person's current registration is not eligible to declare a political party preference on the change of residence or change of name form (R.C. 3503.19).
- Revises the standards for determining a person's political party affiliation to specify that a person is considered to be a member of a political party if (1) the elector identified, on the elector's voter registration application, that the elector desires to be affiliated with that party, and the elector has not subsequently voted in any other party's primary election, (2) the elector voted in that party's primary election within the preceding two years, or (3) the elector did not vote in any other party's primary

election within the preceding two years (R.C. 3513.05(C), 3513.19, 3513.191, and 3513.20).

- Requires the qualifications for a person to be eligible to vote to be printed on the voter registration application (R.C. 3503.14).
- Requires a board of elections to notify a voter registration applicant if the applicant failed to provide all of the required information on the applicant's voter registration form and to provide the applicant with an opportunity to correct the form by mail, electronic mail, telephone, or facsimile transmission, through the Internet, or in person at the office of the board of elections (R.C. 3503.19).
- Specifies that, if an application is missing a signature, the applicant may provide a signed statement that the applicant submitted the application, and requires such a signed statement to be considered the applicant's signature on the voter registration application for the purpose of processing that application (R.C. 3503.19).
- Specifies that, if an applicant provides the missing information on the applicant's voter registration form not less than 15 days before the day of an election, the applicant must be considered registered as of the date the application was submitted, and the applicant must be permitted to vote a regular ballot at that election. (R.C. 3503.19.)
- Specifies that, if an applicant with an incomplete application casts a provisional ballot and provides the required information, the applicant must be considered registered on the day the application was submitted, and requires the board to count the provisional ballot, if it is otherwise valid. (R.C. 3503.19.)

## **Voting process**

- Prohibits a qualified elector who has been convicted of a sexually oriented offense or a child-victim oriented offense from voting in the elector's precinct polling place, if that precinct polling place is a school, and instead requires such an elector to vote either an absent voter's ballot before the election or a regular ballot at the office of the board of elections on election day (R.C. 3505.184).
- Increases from five minutes to ten minutes the time limit for voters to occupy a voting machine when all machines are in use and voters are waiting to occupy them (R.C. 3503.23).

## Absent voter's ballots

- Revises the time at which absent voter's ballots must be printed and ready for use, depending on the type of voter seeking the absent voter's ballot and the location at which that ballot will be voted (R.C. 3509.01):

For overseas voters and absent uniformed services voters eligible to vote under the Uniformed and Overseas Citizens Absentee Voting Act, 100 Stat. 924, 42 U.S.C. 1973ff *et seq.*, ballots must be printed and ready for use 45 days before the day of any election;

For all voters, other than overseas voters and absent uniformed services voters, who are applying to vote absent voter's ballots other than in person, ballots must be printed and ready for use on the 28th day before the day of any election;

For all voters who are applying to vote absent voter's ballots in person, ballots must be printed and ready for use beginning on the 20th day before the day of the election and must continue to be available for use through 5 p.m. on the last Saturday before the day of the election.

- Requires absent voter's ballots for special elections to be ready for use as many days before the day of the election as reasonably possible, if the laws governing the holding of a special election on a day other than the day on which a primary or general election is held make it impossible for absent voter's ballots to be printed and ready for use by the previously described deadlines (R.C. 3509.01).
- Increases from one to three the possible number of locations at which a board of elections may permit absent voter's ballots to be cast in person before the day of the election for a general election or for a primary election held in an even-numbered year (R.C. 3501.10).
- Requires a majority vote of the members of the board to establish more than one location at which voters may cast absent voter's ballots in person at a general election or a primary election held in an even-numbered year, and requires such locations to be geographically diverse (R.C. 3501.10).
- Specifies that, if at least three members of the board do not agree to establish additional locations or do not agree on the geographic locations within the county, the board may only permit absent voter's ballots to be voted in person at the office of the board of elections for that election (R.C. 3501.10).
- Requires the Statement of Voter appearing on the envelope to match the statement as it appears in the Revised Code, instead of requiring the form of the statement to

be *substantially* the same as the form presented in the Revised Code (R.C. 3509.04, 3509.05, and 3511.05).

- Requires a board of elections to notify an elector if the elector failed to provide all of the required information on the elector's absent voter's ballot application and to provide the elector with an opportunity to correct the form by mail, electronic mail, telephone, or facsimile transmission, through the Internet, or in person at the office of the board of elections (R.C. 3509.04 and 3511.04).
- Requires a board of elections to use an internal tracking system for all delivered absent voter's ballots, which system must allow the board to locate a voter's registration information based on a returned absent voter's ballot identification envelope (R.C. 3509.04).
- If an absent voter did not sign the statement of voter or if election officials were required to use their internal tracking system to determine who voted and returned the ballot, requires the board of elections to notify the voter, by whatever means of contact the voter has provided on the identification envelope or using any available contact information in the voter's registration record, of the defect and request the voter to verify the voter's identity for the purpose of processing that absent voter's ballot (R.C. 3506 and 3511.11).
- Permits the voter to verify that the voter was the person who returned the absent voter's ballot in any of the following ways (R.C. 3509.06 and 3511.11):

By confirming by mail, electronic mail, telephone, or facsimile transmission, or through the Internet the voter's date of birth and residence address in a manner that substantially conforms with the records of the board of elections;

By providing a statement by mail, electronic mail, or facsimile transmission, or through the Internet that the voter submitted the ballot and by attaching the voter's signature to that statement. Requires a signature attached to such a statement to be considered the voter's signature on the identification envelope for the purposes of verifying the validity of that ballot.

By appearing in person at the office of the board of elections and signing the identification envelope.

- Requires the Secretary of State to prescribe uniform standards for processing additional information by mail, electronic mail, telephone, facsimile transmission, through the Internet, or in person at the office of the board of elections (R.C. 3509.06 and 3511.11).

- Specifies that, if the voter provides the required information within ten days after the day of the election, the election officials must complete the processing of the absent voter's ballot in the same manner as if that information had been included on the statement of voter at the time the ballot was returned (R.C. 3509.06 and 3511.11).
- Prohibits absent voter's ballots from being counted if the Statement of Voter on an absent voter's ballot envelope is insufficient or incomplete (R.C. 3509.05 and 3511.11).
- Requires the Secretary of State to determine, by rule, whether the boards of elections must include return postage, prepay the postage, or omit any form of postage, for any absent voter's ballot return envelope sent to an elector, and requires all electors to be treated uniformly and consistently regarding the provision of return postage (R.C. 3509.04 and 3511.05).
- Specifies that the Secretary of State may only require a board of elections to include return postage or prepay the postage if the General Assembly has appropriated money to pay the postage costs (R.C. 3509.04 and 3511.05).

### **Implementation of federal absent voting law**

- Requires absent voter's ballots for individuals who are eligible to vote as uniformed services or overseas voters to be ready and available for use on the 45th day before the day of the election (R.C. 3509.01).
- Generally changes filing deadlines for candidates, questions, and issues from the 75th day to the 90th day before the day of the election and increases by ten days other associated election deadlines (R.C. 3501.02). Eliminates separate filing deadlines that apply only to presidential primary elections.
- Includes all election provisions in other areas of the law that establish deadlines for certifying issues to the ballot.
- Permits an individual who is eligible to vote as a uniformed services or overseas voter under federal law to request election documents electronically from the office of the Secretary of State and to receive those documents through electronic means (R.C. 3503.191 and 3511.021).
- Requires the Secretary of State to establish a free access system to allow such a person to determine the status of the person's absent voter's ballot request, the person's completed absent voter's ballot, and whether the person's absent voter's ballot was counted (R.C. 3511.021).

- Requires a board of elections to accept and process Federal Write-In Absentee Ballots as required under federal law (R.C. 3511.14).
- Prohibits the Secretary of State or a board of elections from refusing to accept and process a voter registration application, absent voter's ballot application, returned absent voter's ballot, or Federal Write-in Absentee Ballot from an individual who is eligible to vote as a uniformed services or overseas voter under federal law due to any requirements regarding notarization, paper type, paper weight and size, envelope type, or envelope weight and size (R.C. 3501.012).
- Renames "armed service absent voter's ballots" to "uniformed services or overseas absent voter's ballots," and requires overseas voters who wish to vote absent voter's ballots to vote under that law (Chapter 3511.).
- Increases from 40 days before an election to 56 days before an election the time in which an election must be held to fill a vacancy that occurs in an elected office, and requires candidates to fill vacancies to be named not later than the 50th day before the day of the election (R.C. 3.02, 1901.10, and 3513.31).

## **Election observers**

- Expands the times and locations for which observers may be appointed by permitting a political party or group of five or more candidates also to appoint an observer for any time during which a board of elections permits an elector to vote an absent voter's ballot in person at the office of the board or at another site designated by the board (R.C. 3505.21).
- Requires the political party or group of candidates to notify the board of elections of observers appointed to serve during the time absent voter's ballots may be cast in person not less than 11 days before those ballots are required to be printed and available for use, and requires the notification to be made on forms prescribed by the Secretary of State (R.C. 3505.21).
- Permits the notification to be amended by filing an amendment with the board of elections at any time until 4 p.m. of the day before the observer is appointed to serve (R.C. 3505.21).
- Permits observers to file certificates of their appointment with the director of the board of elections the day before or on the day that the observers are scheduled to observe the casting of absent voter's ballots (R.C. 3505.21).
- Specifies that observers who serve during the casting of the ballots are only permitted to do the following (R.C. 3505.21):

Watch and listen to the activities conducted by the precinct election officials and the interactions between precinct election officials and voters, as long as the precinct election officials are not delayed in performing the officials' prescribed duties and voters are not delayed in casting their ballots;

Make notes on the observer's observations other than by means of a photographic, video, or audio recording.

- Prohibits an observer who serves during the casting of the ballots from interacting with any precinct election official or with any voter while the observer is inside the polling place, within the area between the polling place and the small United States flags placed on the thoroughfares and walkways leading to the polling place, or within ten feet of any elector in line waiting to vote, if the line of electors waiting to vote extends beyond those small flags (R.C. 3505.21).
- Specifies that an observer who violates this prohibition is subject to the default penalty applicable to a violation of the Election Law, a misdemeanor of the first degree, and permits the observer to be sued in a civil action for harassment in violation of the Election Law (R.C. 3501.90).
- Specifies that no violation of the prohibition occurs as a result of an incidental interaction between an observer and a voter or a precinct election official, such as an exchange of greetings (R.C. 3505.21).

### **Counting ballots**

- Specifies that, if automatic tabulating equipment detects that more marks were made on an optical scan ballot for a particular office, question, or issue than the number of selections that the voter is permitted to make for that office, question, or issue, the election officials must not attempt to determine the voter's intent with regard to that office, question, or issue, and the voter's ballot must be invalidated for that office, question, or issue (R.C. 3506.21).

### **Filling vacancies**

- Prohibits a person who seeks party nomination for an office or position at a primary election from becoming a candidate by the filling of a ballot vacancy at the following general election for any office other than the office of member of the State Board of Education, member of a local board of education, member of a governing board of an educational service center, or township trustee (R.C. 3513.04).



## **Appointment of boards of elections members**

- Revises the process by which members of boards of elections are appointed by requiring the Secretary of State to appoint recommended electors, unless the Secretary of State proves by clear and convincing evidence (1) that they have been adjudicated incompetent, (2) that they have been convicted of a first degree misdemeanor for a violation of the Ethics Laws, or (3) that they have been convicted of or pleaded guilty to a felony (R.C. 3501.07).
- Requires, if the Secretary of State refuses to appoint the elector, the Secretary of State to state the reasons for the refusal in writing to the chairperson of the county executive committee (R.C. 3501.07).
- Permits the county executive committee, with respect to each refusal of the Secretary of State, to either recommend another elector or apply for a writ of mandamus (R.C. 3501.07).
- Specifies that, in such mandamus actions, the Secretary of State must prove, by clear and convincing evidence, the lack of competence of the person recommended (R.C. 3501.07).
- Specifies that, upon dismissal of the mandamus action, the county executive committee has 30 days to make and file another recommendation with the Secretary of State (R.C. 3501.07).
- Requires the Secretary of State to make the appointment if no such recommendation is made within 30 days after either the Secretary of State refuses the appointment or the dismissal of the mandamus action (R.C. 3501.07).
- Requires the process to be repeated, as needed, after each refusal of the Secretary of State, until the appointment is made (R.C. 3501.07).

## **Campaigning outside a polling place**

- Eliminates the current law prohibition against loitering, congregating, or campaigning within the area marked by the small flags outside a polling place and instead prohibits persons from loitering, congregating, or campaigning within fifty feet of the entrance of a polling place (R.C. 3501.35).
- Specifies that a person who violates this prohibition is guilty of a minor misdemeanor, except that, if the person refuses to comply with the judges of elections or law enforcement officers who are enforcing it, or if the person repeats the violation, the person is guilty of a misdemeanor of the first degree (R.C. 3501.35).

- Prohibits the line of waiting voters and persons loitering, congregating, or campaigning near that line from impeding the normal flow of traffic or access to the entrance or exit of any business or organization in the vicinity (R.C. 3501.35).

### **Purchasing election supplies**

- Requires the Department of Administrative Services (DAS) to establish a purchasing program for ballots and other election and registration supplies, and permits boards of elections to provide for the acquisition of those supplies through the DAS program (R.C. 125.042 and 3501.11).
- Increases from \$10,000 to \$25,000 the cost of a ballot printing contract that a board of elections may enter into without publishing notice or taking bids and without requiring a bond (R.C. 3505.13).
- Increases from \$10,000 to \$25,000 the cost of a contract for election supplies that a board of elections may enter into without publishing notice or taking bids and without requiring a bond (R.C. 3501.301).

### **Miscellaneous**

- Establishes a minimum bond of \$10,000 that must be posted for an election contest, and permits the parties to a contest to request an adjustment to the bond if it becomes apparent that the bond is insufficient to pay the costs of the election contest (R.C. 3515.09).

## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	02-10-09
Reported by S. State & Local Government	12-09-09
Passed Senate (22-10)	12-09-09

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