



Ohio Legislative Service Commission

Bill Analysis

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H.B. 76

129th General Assembly
(As Introduced)

Reps. Reece, Foley, Murray, Goyal, Fedor, Antonio, Stinziano, Clyde, Heard, Ashford, Garland, Williams, O'Brien, Driehaus, Phillips

BILL SUMMARY

- Replaces the portion of the provisional ballot affirmation form that is required to be completed by election officials with a shorter, simplified "Poll Worker Checklist" that is primarily in question-and-answer form.
- Requires the election official assisting a provisional voter to accurately complete the Poll Worker Checklist portion of the provisional ballot affirmation in the voter's presence, including identifying the individual's correct precinct if the individual is not voting in the correct precinct.
- Requires the election officials to remake a provisional voter's ballot if the voter casts a ballot in a precinct in which the voter is not registered and eligible to vote and the election officials failed to direct the provisional voter to the correct precinct.
- Specifies that the election official who signed the Poll Worker Checklist for a provisional voter must be deemed to have failed to direct the provisional voter to the correct precinct if the election official did not complete that checklist or did not correctly complete that checklist.
- Requires a board of elections that remakes a provisional ballot to remake the provisional ballot on a ballot for the appropriate precinct to reflect the offices, questions, and issues for which the provisional voter was eligible to cast a ballot and for which the provisional voter attempted to cast a provisional ballot, and requires the remade ballot to be counted for each office, question, and issue for which the provisional voter was eligible to vote.

CONTENT AND OPERATION

Poll Worker Checklist on provisional ballot envelope

The bill replaces the portion of the provisional ballot affirmation form that is required to be completed by election officials with a shorter, simplified "Poll Worker Checklist," which must be substantially as follows:

Poll Worker Checklist

The Provisional Ballot Affirmation of (Print voter's name) was subscribed and affirmed before me on (Month) / (Day) / (Year).

1. Reason for voting provisionally – Why is this voter casting a provisional ballot?

. Voter's name does not appear on the official precinct list

. Voter requested an absent voter's ballot but did not receive one

. Voter is otherwise not eligible to cast a regular ballot

2. ID – Did the voter present identification?

. Yes

. No

3. Additional information required? – Is the provisional voter required to provide additional information to the Board of Elections?

. Yes

. No

4. Voter information – Did you have the voter complete the voter's portion of this envelope?

. Yes

. No



5. Correct precinct – Is the voter voting in his or her correct precinct?

..... Yes

..... No

5a. If no, what is the voter's correct precinct?

.....

5b. Notice of correct precinct – Have you directed the voter to go to the voter's correct precinct?

..... Yes

..... No

6. Name of this precinct (where voter has appeared to vote)

.....

X.....

Signature of Election Official"

Under current law, the portion of the provisional ballot affirmation that is required to be completed by the election officials includes specific information regarding the type of identification that the provisional voter provided, if any, and is not in a question-and-answer format.¹

In addition to revising the form, the bill also eliminates the requirement that the election officials identify the specific type of identification provided by a provisional voter; instead, the election officials must identify, on the checklist, whether the provisional voter provided one of the acceptable forms of identification.²

Election officials required to verify a provisional voter's correct precinct

When an individual is casting a provisional ballot, the bill requires the election official assisting that individual to accurately complete the Poll Worker Checklist portion of the provisional ballot affirmation in the voter's presence, including identifying the individual's correct precinct if the individual is not voting in the correct

¹ R.C. 3505.182.

² R.C. 3505.181(B)(7) and 3505.182.



precinct.³ The election official must not only identify the correct precinct but also must note that the election official directed the individual to that correct precinct.⁴

Continuing law requires an election official to direct a voter to the polling place for the voter's correct precinct, if the voter declares that the voter is eligible to vote in a different jurisdiction or if the election official determines, based on the precinct voting location guide, that the voter is not eligible to vote in the precinct polling place in which the voter has appeared to vote. The election official also must explain that the voter may cast a provisional ballot in the current precinct, but that provisional ballot *will* not be counted if it is cast in the wrong precinct. The bill revises the explanation by requiring the election official to state that the ballot *may* not be counted if it is cast in the incorrect precinct.⁵

Remaking and counting provisional ballots cast in incorrect precinct

If a provisional voter casts a ballot in a precinct in which the provisional voter is not registered and eligible to vote and the election officials failed to direct the provisional voter to the correct precinct, the bill requires the election officials to remake that provisional voter's ballot. The election official who signed the Poll Worker Checklist for that provisional voter must be deemed to have failed to direct the provisional voter to the correct precinct if the election official did not complete that checklist or did not correctly complete that checklist.

A board of elections that remakes a provisional ballot must remake the provisional ballot on a ballot for the appropriate precinct to reflect the offices, questions, and issues for which the provisional voter was eligible to cast a ballot and for which the provisional voter attempted to cast a provisional ballot. The remade ballot must be counted for each office, question, and issue for which the provisional voter was eligible to vote.

Under current law, a provisional ballot that is cast by an individual in an incorrect precinct will not be counted.⁶

³ R.C. 3505.181(B)(3).

⁴ R.C. 3505.181(C)(1).

⁵ R.C. 3505.181(C)(1).

⁶ R.C. 3505.183(B) and (C).

Miscellaneous

Elimination of obsolete cross-reference in Voter Identification Law

The bill eliminates an obsolete cross-reference to an election document that is no longer produced. Current law generally permits an elector to use any government document that contains the elector's name and address for voter identification purposes. However, a voter is prohibited from using a card that was sent to verify the voter's registration as voter identification. Current law also prohibits a voter from using a "notice of an election" for voter identification purposes. However, the section of law that required election notices to be sent has since been repealed. Thus, current law includes language prohibiting voters from using a document that no longer exists for voter identification purposes. The bill removes the prohibition against using the obsolete document for voter identification purposes from the sections of law appearing in the bill.⁷

Cross-reference correction

Under continuing law, if a newly registered voter's registration confirmation is returned to the board of elections as undeliverable, and the board is unable to verify the voter's correct address, the board must mark the voter's name in the official registration list and in the poll list. At the first election at which that voter appears to vote, the voter must vote a provisional ballot. If the ballot is counted, the notation in the poll list and voter registration records must be removed. If the ballot is not counted, the person's registration must be cancelled. The provision establishing this process appears in the bill to correct a cross-reference to the provisional ballot law that is changed by the bill.⁸

HISTORY

ACTION	DATE
Introduced	02-01-11

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⁷ R.C. 3503.19, 3505.181, 3505.182, and 3505.183.

⁸ R.C. 3503.19.

