



# Ohio Legislative Service Commission

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## Bill Analysis

Emily E. Wendel

### S.B. 337

130th General Assembly  
(As Introduced)

**Sens.** Turner, Schiavoni, Tavares, Seitz

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### BILL SUMMARY

- Expands the subpoena and summons power of the Secretary of State and the Ohio Elections Commission (OEC) to apply to persons located outside Ohio.
  - Specifies that any person who fails to obey a subpoena or summons issued by the Secretary of State or the OEC may be prosecuted under the continuing provision of the Election Law that makes it a criminal offense to fail to cooperate with such an order.
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### CONTENT AND OPERATION

#### Extraterritorial subpoena power

Under the bill, the Secretary of State, in the performance of the Secretary's duties as the chief election officer, may issue subpoenas to any person within or without the state and may summon witnesses within or without the state. Similarly, the bill allows the Ohio Elections Commission (OEC) to issue subpoenas to any person within or without the state, compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports.

Existing law allows the OEC to issue subpoenas only to persons within Ohio. The current statute does not specify whether the Secretary of State may subpoena or summon an out-of-state person, but a federal district court has ruled that the law does not permit the Secretary of State to do so.<sup>1</sup>

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<sup>1</sup> R.C. 3501.05 and 3517.153(B) and *Cummings v. Husted*, 794 F. Supp. 2d 677, 689 (S.D. Ohio 2011).

## **Penalty for failure to comply with a subpoena or summons**

The bill also states that any person who fails to obey a subpoena or summons issued by the Secretary of State or the OEC may be prosecuted under the continuing provision of the Election Law that requires individuals to cooperate with such orders.<sup>2</sup>

That section of law requires a person who has been subpoenaed or ordered to appear before a grand jury, court, board, or officer in a proceeding or prosecution under an election law to appear or produce the required documents, as applicable. A person who violates that requirement is guilty of a first degree misdemeanor, which is punishable by imprisonment for not more than six months, a fine of \$1,000, or both.<sup>3</sup> A federal district court found that it is unclear whether this law currently applies to a person who receives a subpoena or summons from the Secretary of State.<sup>4</sup>

Under continuing law, if a person refuses to obey a subpoena from the OEC, the OEC may apply to the Franklin County Court of Common Pleas to institute proceedings to hold the person in contempt of court.<sup>5</sup>

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## **HISTORY**

ACTION	DATE
Introduced	05-12-14

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<sup>2</sup> R.C. 3501.05 and 3517.153(B).

<sup>3</sup> R.C. 2929.24, 2929.28, and 3599.37 (not in the bill).

<sup>4</sup> *Cummings v. Husted* at 690.

<sup>5</sup> R.C. 3517.153(B).

