



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 148 of the 129th G.A. (LSC 129 0876-3) **Date:** May 18, 2011
Status: In Senate State & Local Government & Veterans Affairs **Sponsor:** Sen. Wagoner, Jr.

Local Impact Statement Procedure Required: No

Contents: Makes various changes to the Election Law

State Fiscal Highlights

- **Statewide voter registration database.** The bill allows for online voter registration and allows voters to update registration information electronically. Currently, such changes must be submitted by paper to either the county boards of elections or the Secretary of State (SOS). There will be some costs associated with the creation and administration of this new voter registration system. The Secretary of State's voter registration database is currently supported by GRF appropriation item 050321, Operating Expenses.
- **Electronic pollbooks.** The bill requires the Board of Voting Machine Examiners to examine, test, and certify electronic pollbooks. When a vendor submits a pollbook for testing under the bill, the vendor is required to pay a fee of \$1,600 to defray the testing and certification expenses of the Board. This fee is deposited into the Board of Voting Machine Examiners Fund (Fund 4S80). There are seven such vendors in the United States.
- **Special primary elections.** The bill eliminates the ability to conduct a special primary election if a congressional candidate withdraws, dies, or is disqualified before the primary or general election. Although these types of special elections occur infrequently, this provision could result in significant cost savings for the state. Under current law, the SOS reimburses county boards of elections for such congressional special elections through its BOE Reimbursement and Education Fund (Fund 5FG0). This fund itself is supported by GRF transfers approved by the Controlling Board.
- **Bulk purchase of elections supplies.** The bill permits the SOS to enter into agreements for the bulk purchase of election supplies in order to reduce the costs for those purchases by boards of elections. This will primarily involve ballot and other printing-related supplies. Although the SOS will oversee this bulk purchasing

program, under the bill boards of elections are required to pay the applicable vendor for the goods they acquire under the program.

- **Voter registration training.** The bill removes the requirement that the SOS provide voter registration training for all individuals that are compensated for registering voters. The bill also eliminates the requirement that any such individuals register with the SOS. This provision will result in some small GRF cost savings for the SOS.

Local Fiscal Highlights

- **Provisional and absent voter ballot process.** The bill makes numerous changes to both the provisional ballot process and absent voter's ballot process. In total, these changes could result in some cost savings for county boards of elections.
- **Elections contracts and bulk purchasing of supplies.** The bill permits a board of elections to contract with another board of elections in this state or with a county automatic data processing board for the provision of election services in the county. The bill also creates a bulk purchasing program to be operated by the SOS which county boards of elections may use to buy elections supplies.
- **Electronic pollbooks.** The bill permits counties to use any type of certified electronic pollbook in future elections. There will be up-front costs associated with purchasing these pollbooks, although the cost will depend on the system used. Hamilton County used electronic pollbooks at three polling locations during the May 3, 2011 primary as part of a pilot program to evaluate the effectiveness of these machines.
- **February and August special elections.** The bill removes the authority for a political subdivision to conduct any special elections in February or August. Such special elections are generally related to tax or school levies. Currently, the applicable political subdivisions pay the entire cost of these elections, except for any overtime for regular county board of elections employees. Under the bill, these ballot issues would appear on the ballot for a general or primary election. In such cases, the political subdivision would only pay the costs associated with placing that additional measure on the ballot, which are primarily ballot advertising and printing costs.

Detailed Fiscal Analysis

Overview

The bill makes many revisions to the election laws affecting the Secretary of State (SOS) and county boards of elections. The provisions of the bill that LSC believes have some fiscal effect on the state and political subdivisions are organized under eight separate categories in this analysis. Overall, many of the provisions in the bill will yield cost savings for county boards of elections, although there could be some new costs for counties that opt to use electronic pollbooks authorized under the bill. The Secretary of State is likely to incur some new costs for enabling online voter registration as well as making updates to the voter registration database required under the bill.

Provisional ballots

Changes in provisional ballot categories

The bill makes several changes to the provisional ballot processes in current law. First, the bill consolidates several categories of voters who are required to cast a provisional ballot because of lack of identification into a single category, thereby reducing the number of reasons that a voter is required to vote provisionally. The bill also revises the list of persons required to cast provisional ballots under other categories. Finally, the bill establishes a new category of provisional ballot for individuals casting a ballot after the time for the closing of the polls pursuant to a court order extending the time the polls are open. Altogether, these provisions could reduce the number of provisional ballots cast in an election, potentially reducing verification costs for county boards of elections. According to the SOS, during the 2010 General Election, there were approximately 105,000 provisional ballots cast, of which approximately 90% were counted. Of the 10% that were not counted, over half were not counted because the individual was not registered to vote.

Provisional voters without identification

Under current law, provisional voters that lack any forms of permissible voter identification may execute an affirmation that they do not have identification. Under the bill, the voter must provide his or her name, address, Social Security number, or Ohio driver's license number or state identification card number, signature, and date of birth. If the voter does not have identification and declines to execute this affirmation of identification, the provisional ballot will not be counted. Finally, the bill eliminates the option for a voter who does not provide identification or who does not provide documentation to resolve a polling place challenge to provide that information to the board of elections within ten days after the election. Taken together, these provisions will reduce the number of provisional ballots that require verification, thereby reducing ballot verification costs for boards of elections.

Voter challenges

The bill eliminates the detailed questions that a precinct official currently must ask a voter who is challenged based on citizenship and eliminates a requirement that a naturalized citizen show his or her naturalization certificate. The bill also eliminates the authority for a presiding judge to ask questions not specified in law as the judge considers necessary to determine an elector's qualifications to vote. These provisions could also potentially reduce the number of provisional ballots cast during an election.

Absent voting

In-person and mail-in absent voting

The bill revises the times at which absent voter's ballots must be printed and ready for use, depending on the type of voter. For all voters other than absent uniformed services voters who are applying to vote absentee other than in-person, the ballots must be ready by the 16th day before the day of the election. In-person absent voter's ballots must be printed and ready for use on the tenth day before the day of the election and must continue to be available for use through 6 p.m. on the last Friday before the day of the election. This provision shortens the amount of time for in-person absentee voting, which could reduce some costs for county boards of elections, including operating costs for operating any early voting centers, or additional staffing used to handle early voting at the county board of elections' office.

Absent voters' ballot applications

The bill prohibits a board of elections from mailing any unsolicited applications for absent voters' ballots, and instead specifies that a board only mail an absent voter's ballot application to a voter who has requested one. Additionally, the bill prohibits a board of elections that mails an absent voter's ballot application from prepaying the return postage for that application or for the absent voter's ballot. Instead, under the bill the voter is responsible for paying the postage costs. The bill also allows these absent voters ballot applications to be used as a change of address form. This change will result in some reduction in mailing expenses for boards of elections that currently prepay postage. The Franklin County Board of Elections does pay these costs, and typically sends unsolicited absent voters' applications with prepaid postage to individuals that have historically opted to vote by absent voter's ballot. During the 2010 General Election, the county spent approximately \$115,000 for mailing approximately 160,000 absent voter's ballots for the 2010 General Election.

The bill also specifies that any absent voter's ballot that is returned to the county board of elections without the signature of the voter is not to be counted. However, any individual that did not sign the absent voter's ballot envelope is permitted to cast a regular ballot on Election Day. If a board of elections receives any such absent voter's ballots five days or more before the election, the board is required to notify that voter that the voter is permitted to cast a regular ballot. As a result, there may be some minimal additional costs if the county board of elections sends out these notifications

through the mail. However, it is unlikely that there would be a large number of such instances.

Voter registration

Online registration and voter registration database updates

The bill requires the SOS, by rule, to establish a secure online voter registration process. As part of this process, an applicant must be registered to vote if all of the following apply: (1) the application contains all of the required information, including the applicant's social security number, (2) the applicant is qualified to register to vote, and (3) the applicant attests to the truth and accuracy of the information in the online application under penalty of election falsification. Attesting to the accuracy of the application is accomplished by supplying the applicant's Ohio driver's license number or Ohio identification card number. Additionally, the SOS is required to obtain a copy of the individual's signature that is on file with the Bureau of Motor Vehicles (BMV) to be considered the applicant's signature for matching purposes. The bill also requires the SOS to establish a secure online process to allow registered voters who have changed their place of residence to update their voter registration information through the Internet. The bill also requires the SOS to include a voter's voting history in the database. This information would need to be provided by county boards of elections.

The SOS will incur some new costs as a result of these requirements. Since these changes will in all likelihood reduce the volume of applications that county boards of elections will be required to process, their expenses will be reduced. It could also be that allowing voters to both register and change information online will reduce the number of address inconsistencies at the polls on the day of an election. This could in turn reduce the number of provisional ballots cast and cut some of the costs that boards of elections incur for processing provisional ballots. As an example, the State of Arizona's VRAZ-I online voter registration system cost less than \$500,000 to create and implement. The State of Oregon created and implemented its online voter registration system for approximately \$200,000.

Statewide voter registration database administration

Under the bill, the SOS must administer the statewide voter registration database and make it continuously available to each board of elections and other authorized agencies. Currently, county boards of elections can modify their county registered voter database and upload data to the statewide database. The bill further requires the SOS to notify any voters of an incomplete voter registration application, and permit those individuals to submit updated information.

Instead of relying on the uploaded information, under the bill the SOS will be responsible for editing this data and could incur some new costs as a result. However, the SOS does not anticipate needing any additional employees to handle these duties. Voter registration database expenses are currently paid from the SOS's GRF

appropriation item 050321, Operating Expenses, which covers many of the Elections Division's expenses.

The bill also shifts the responsibility of cross-checking voter registration information with the National Change of Address Service from the SOS to county boards of elections. Under current law, the SOS is required to send its voter registration information to the National Change of Address Service in the first quarter of each odd-numbered year. The service then sends the SOS information on any registered voter that has moved in the last three years. Subsequently, the SOS transmits this information to the appropriate county boards of elections. The bill instead requires county boards of elections to individually send this information, and then receive the information directly from the service. Assuming this information is sent in electronic format, the cost of shifting this responsibility to county boards of elections is likely minimal. Overall, this provision would appear to make this cross-checking process more efficient.

Data sharing with other entities

The bill requires state agencies, including the Department of Health (DOH), the Bureau of Motor Vehicles, the Department of Job and Family Services, and the Department of Rehabilitation and Correction to provide any information and data to the SOS that is necessary in order to maintain the database, such as names, addresses, and Social Security numbers. Although these agencies could incur some new expenses for providing this information to the SOS, the extent of these additional costs is not clear as of this writing. Additionally, the bill requires that in the event of a mismatch between data contained in the Statewide Voter Registration Database and other state agency data, a county board of elections must contact the voter at the address on file at the board of elections to verify the accuracy of the information. As a result of this provision, there could be some additional costs to county boards of elections to verify any information that may need to be updated due to any mismatches.

Department of Job and Family Services

The bill permits voter registration applications and voter change of information forms to be returned by mail to the state Department of Job and Family Services (JFS) or any county department of job and family services. As a result, these agencies might incur some small cost for forwarding these applications to either the SOS or applicable county board of elections.

Purging records from the statewide voter registration database

The bill eliminates the provision that requires county boards of elections to purge a voter's name and voter registration from the database when necessary. Instead, the bill requires the chief health officer of each political subdivision and the Director of Health to file with the SOS and each board of elections, on a monthly basis, information regarding all persons over the age of 18 that have died in the last month. The bill also requires the SOS and Director of Health to jointly establish a secure electronic system through which the two entities will exchange required information regarding the death

of a registered voter. The bill also requires the SOS to promptly cancel the registration of a voter who is named in the death report filed under the bill. Currently, county boards of health send all death certificates to DOH's Office of Vital Statistics. The frequency with which counties send this information to DOH varies. Some send this information weekly, while others do so monthly. Under the bill, DOH will send any applicable copies to the SOS either upon receipt or at a pre-established time interval. The Office of Vital Statistics is funded through fees deposited into the General Operating Fund (Fund 4700), which funds a variety of programs within DOH. Although it is difficult to quantify the fiscal effects of these provisions, one likely outcome of the changes is that the process of purging voter records will become more efficient.

Persons compensated for registering voters

The bill eliminates provisions in election law that require persons that are compensated for registering voters to register with the SOS and complete a training program regarding voter registration procedures. The bill also eliminates the requirement that the SOS establish a training program for persons that are compensated for registering voters. To date, this training has been conducted through an Internet-based program accessible through the SOS web site. This will result in some very minimal cost savings for the SOS. Additionally, the bill eliminates current law provisions that require the circulator of an initiative referendum petition to be a resident of Ohio, and eliminates provisions that require circulators of all other election petitions to be a resident and registered to vote for 30 days before the next election. There is no apparent fiscal effect to these provisions.

Electronic pollbooks

Certification by Board of Voting Machine Examiners

The bill establishes a process for the approval and use of electronic pollbooks in place of the paper books used now. These devices consist of an electronic list of registered voters for a particular precinct or polling location that may be transported to a polling location. Under the bill, the Board of Voting Machine Examiners is authorized to test, approve, and certify these electronic pollbook devices in the same manner as the board tests and approves voting machines. As with voting machines, a pollbook vendor is required to pay a fee of \$1,600 (proposed to be increased to \$2,400 in H.B. 153, the main operating budget) when a pollbook is submitted for testing. This fee is deposited into the Board of Voting Machine Examiners Fund (Fund 4S80). As far as LSC is aware, there are seven vendors in the United States that manufacture electronic pollbooks.

Overall, counties that opt to use electronic pollbooks will incur up-front costs for purchasing these devices. The cost will ultimately depend on the vendor and contract specifications, but as an example, the state of Virginia entered into a contract with a vendor in which the hardware bundle for the pollbook was approximately \$2,500 per

unit. Such units generally contain all voter registration data for a particular county, which can be sorted down to the precinct level. In counties that opt to deploy electronic pollbooks, a voter will submit his or her name to the pollworker. The device then locates the voter registration for that individual. If there is no such match found in the electronic pollbook, the pollworker could expand the search to the entire county to find out if that individual is registered, and the precinct in which that individual must vote. Hamilton County used electronic pollbooks at three polling locations during the May 3, 2011 Primary Election as part of a pilot program to evaluate the effectiveness of these machines. The devices were supplied free of charge by Hart InterCivic.

Ballot printing and counting

The bill specifies a process for determining the minimum number of ballots to be prepared in a county that uses ballots on demand for a primary election. This provision could result in a county preparing fewer ballots on demand, and thereby reducing ballot printing costs by some minimal amount.

The bill also specifies that a ballot is marked contrary to law and does not contain a technical error if the voter marks more selections for a particular office, question, or issue and therefore will not be counted with respect to the particular race, issue, or question in which the error occurred. This provision could presumably reduce the time associated with determining voter intent for particular over-votes, and thereby reduce ballot counting costs for boards of elections.

Special primary and presidential elections

Special elections

The bill eliminates the ability to hold February and August special elections. These elections are typically held for the purposes of tax and school levies. Currently, the applicable political subdivisions pay the entire cost of these elections, except for any overtime for regular county board of elections employees. Under the bill, these ballot issues would appear on the ballot for a general or primary election. In such cases, the political subdivision would then only pay the costs associated with placing that additional measure on the ballot, which are primarily ballot advertising costs, and ballot printing costs. This provision could also result in costs savings to county boards of elections in the form of reduced overtime costs. In 2010, there were 16 special election issues in 12 counties during the February special election, and 35 issues in 34 counties in the August special election.

The bill also eliminates the ability to conduct a special primary election if a congressional candidate withdraws, dies, or is disqualified before the primary or general election. Although this situation occurs infrequently, eliminating the special election in these circumstances could significantly reduce costs. Current law requires the SOS to reimburse county boards of elections for holding special congressional elections with the approval of the Controlling Board. Under this process, funding is transferred from the GRF, under line item 911401, Emergency Purposes/Contingencies,

to the BOE Reimbursement and Education Fund (Fund 5FG0) used by the SOS to make these reimbursements. As a recent example, the SOS reimbursed Clinton, Highland, Montgomery, and Warren counties a total of \$272,236 for the costs of conducting a July 13, 2010 special primary election for a candidate vacancy in the 3rd Congressional District.

Primary elections

The bill permits a board of elections to select two precinct officials who are not members of the same political party, instead of the usual four, to serve as precinct officials for a precinct at a special election, if the board determines that four officials are not required. The latest estimated cost for conducting a special election, as determined by the SOS, is \$1,026 per precinct, based upon the composite average of special election costs for special elections held from 2006 through 2008. Part of this cost is for compensation of pollworkers, which generally are paid a minimum of \$101.50 for working an election. Reducing the mandatory number of precinct officials will lower these costs.

The bill also eliminates the ability to conduct a special primary election if a congressional candidate withdraws, dies, or is disqualified before the primary or general election. Although this situation occurs infrequently, eliminating the special election in these circumstances could significantly reduce costs. Current law requires the SOS to reimburse county boards of elections for holding special congressional elections with the approval of the Controlling Board. Under this process, funding is transferred from the GRF, under line item 911401, Emergency Purposes/Contingencies, to the BOE Reimbursement and Education Fund (Fund 5FG0) used by the SOS to make these reimbursements. As a recent example, the SOS reimbursed Clinton, Highland, Montgomery, and Warren counties a total of \$272,236 for the costs of conducting a July 13, 2010 special primary election for a candidate vacancy in the 3rd Congressional District.

Presidential elections

The bill allows a registered voter to vote a presidential ballot in a presidential general election in person or by mail if that voter moved out of the state less than 30 days before the presidential election, and does not meet the residency requirements of the new state of residence in order to be a registered voter in that state. Although there could be some additional costs to county boards of elections to verify that any such voter would meet these requirements, there are likely to be very few such ballots cast.

Pollworkers in multiple precinct polling locations

The bill reduces the number of pollworkers required to work in a multiple precinct polling location. Generally, precincts are staffed with either four or six pollworkers. Under the bill, in a multiple precinct polling location, there must be four pollworkers for the first precinct, plus an additional two for every additional precinct in that polling location. This provision would reduce the number of pollworkers in such

locations. As an example, if there was a polling location with five precincts, there would be at least 20 pollworkers staffing that location under current law. Under the bill, there could be as few as 12 in that location. This would reduce pollworker staffing costs to county boards of elections. Counties are permitted to employ four to six poll workers per polling location. The Revised Code establishes a minimum rate of compensation for poll workers, which the Secretary of State may adjust by directive. The last such directive was issued in FY 2008 and set the minimum poll worker compensation amount at \$101.50.

Election contracts and bulk purchasing of supplies

The bill permits a board of elections to contract with another board of elections in this state or with a county automatic data processing board for the provision of election services in the county. Automatic data processing boards are the county authorities statutorily required to oversee centralized IT services in county government. Presumably, such services would include voting machine storage and transportation, as well as the possible sharing of voting machines. As an illustration, Franklin County Board of Elections currently has a contract with a vendor for transporting all voting machines to the applicable polling places for each election, and for storage of all of the county's voting machines. The contracted amount for these services is currently \$92,000 per year. Given the new authority under the bill, county boards of elections could potentially enter into a joint contract for such services at a lower cost than if done so individually.

The bill also permits the SOS to enter into agreements for the bulk purchase of election supplies in order to reduce the costs for those purchases by boards of elections. Under this arrangement, a county board of elections must agree to be bound by the terms and conditions that the SOS prescribes, and must make payments directly to the vendors. Although it is difficult to estimate the potential savings to be gleaned from this bulk purchasing authority, presumably the SOS could negotiate bulk purchasing prices that are lower than what each county could negotiate individually, thereby reducing supply costs to county boards of elections.

Competitive bidding thresholds for ballot printing contracts

The bill also increases the bid threshold for the printing of ballots from \$10,000 to \$25,000. Competitive bidding procedures require that any such requests for bids be published in a newspaper of general circulation within the applicable county. Additionally, the bill allows for a county board of elections to select an out of state ballot printing vendor if that vendor's bid is 10% less than the lowest in-state vendor. These provisions could reduce the expenses that county boards of elections incur for soliciting bids for ballot printing, as well as the overall ballot printing costs.

New political parties

The bill reduces the percentage of total votes for Governor needed on a petition to create a new political party from 1% to 0.5%. The bill also reduces the number of days before a primary election that a petition to establish a new political party must be filed from 120 to 100. Additionally, the bill permits a petition to establish a new political party to be filed 80 days before the general election if the party states that it will certify candidates only for the offices of president and vice-president at that general election. Overall, these provisions would be used infrequently and therefore have minimal fiscal impact.

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