



## *Synopsis of Senate Committee Amendments\**

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### **Sub. H.B. 262**

125th General Assembly

(S. State and Local Government and Veterans Affairs)

#### **Compensation for judges of elections**

Added provisions to the House-passed bill doing both of the following:

- Permitting a board of elections to increase the pay of a judge of an election up to, but not exceeding, 9% over the compensation paid in that county during the previous year, if the compensation paid during the previous year was \$85 or less per diem (sec. 3501.28(E)(1)(b)).
- Permitting a board of elections to increase the pay of a judge of an election up to, but not exceeding, 4.5% over the compensation paid in that county during the previous year, if the compensation paid during the previous year was more than \$85 but less than \$95 per diem (sec. 3501.28(E)(1)(c)).

#### **Government employees serving as election judges**

Added provisions to the House-passed bill doing all of the following:

- Requiring any terms and conditions public employers set forth for public employees to receive leave with pay for serving as judges of an election to include a standard procedure for deciding which employees are permitted to receive leave with pay if multiple employees apply to serve as a judge of elections and requiring that procedure to be applied uniformly to all similarly situated employees (sec. 3501.28(G)(2)).
- Specifying that, if terms and conditions for leave with pay for serving as a judge of an election are not set forth, an employee may use personal leave, vacation leave, or compensatory time, or take unpaid leave, to so serve (sec. 3501.28(G)(6) and related sec. 124.57(B)(1)).

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\* This synopsis does not address amendments that may have been adopted on the Senate floor.

### **Voting machines, marking devices, and automatic tabulating equipment**

(A) Added provisions to the House-passed bill defining the terms "direct recording electronic voting machine," "Help America Vote Act of 2002," and "voter verified paper audit trail" for the purposes of the Voting Machines Law (sec. 3506.01(F), (G), and (H)).

(B) Added provisions to the House-passed bill doing all of the following with respect to standards for voting machines and marking devices:

- Specifying that, on and after the first federal election that occurs after January 1, 2006, unless required sooner by the Help America Vote Act of 2002, if a voting machine is a direct recording electronic voting machine, it must include voter verified paper audit trail (sec. 3506.10(P)).
- Requiring a voter verified paper audit trail to be securely retained at the polling place until the close of the polls on the day of the election, and requiring the Secretary of State to adopt rules specifying the manner of storing it at the polling place (sec. 3506.01(H)).
- Requiring, before the initial certification of any direct recording electronic voting machine with a voter verified paper audit trail, and as a condition for the continued certification and use of those machines, the Secretary of State to establish, by rule, certification standards for those machines (sec. 3506.05(H)(3)).
- Requiring those standards to include all of the following: a definition of a voter verified paper audit trail, requirements that it not be retained by any voter or contain individual voter information, a prohibition against the production by the machine of anything that could be legally removed from the polling place, a requirement that the paper be sturdy, clean, and resistant to degradation, a requirement that it be readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic codes, and a requirement that the paper trail be capable of being optically scanned for the purpose of a recount or other audit of the voting machine (sec. 3506.05(H)(3)(a)).
- Permitting the Secretary of State to waive the requirement that the voter verified paper audit trail be capable of being optically scanned if the Secretary of State determines that the requirement is cost prohibitive (sec. 3506.05(H)(3)(b)).
- Specifying that no marking device or voting machine may provide to a voter any type of receipt or voter confirmation that the voter legally may retain after leaving the polling place (secs. 3506.06(G) and 3506.10(O)).

(C) Added provisions to the House-passed bill doing both of the following with respect to voter verified paper audit trails:

- Specifying that, for any recount of an election in which ballots are cast using a direct recording electronic voting machine with a voter verified paper audit trail, the voter verified paper audit trail must serve as the official ballot to be recounted (sec. 3506.18(A)).
- Requiring voter verified paper audit trails to be preserved in the same manner and for the same time period as paper ballots are preserved (sec. 3506.18(B)).

**Implementation of the Help America Vote Act of 2002 (HAVA)**

(A) Added provisions to the House-passed bill doing all of the following with respect to the acquisition of voting systems before the certification of voter verified paper audit trails:

- Permitting counties that were originally scheduled to acquire new voting systems during the 2004 calendar year under the Ohio state plan with HAVA funds to vote to affirm any prior decision to so acquire the voting systems within 30 days after the bill's effective date (Section 3(B)(1)(a)).
- Specifying that, if a county reaffirms its prior decision to acquire a new voting system for use during the 2004 calendar year with HAVA funds, the county must proceed with the acquisition according to the current version of the Ohio state plan, with the Secretary of State acting as a purchase agent on behalf of the board of county commissioners (Section 3(B)(1)(c)).
- Specifying that, if a county does not vote to reaffirm its decision within the 30-day period, the county must not proceed with the acquisition of the new voting system for use during the 2004 calendar year with HAVA funds, and specifying that the Secretary of State cannot compel the board of elections of the county to vote to reaffirm its decision (Section 3(B)(1)(b)).
- Permitting counties to acquire new voting systems during 2005 prior to the certification of direct recording electronic voting machines with a voter verified paper audit trail if the county has not already acquired a new voting system and if the county selected a voting system other than a direct recording electronic voting system as the primary voting system to be used in the county (Section 3(B)(2)).

(B) Added a provision to the House-passed bill specifying the intent of the General Assembly that the state pay, with HAVA funds or an appropriation of state capital funds, for any additional costs a county incurs after the initial purchase of direct recording electronic voting machines, to upgrade or retrofit those machines with a voter verified paper audit trail (Section 3(C)).

(C) Added provisions to the House-passed bill doing all of the following with respect to the acquisition of voting systems after the certification of voter verified paper audit trails:

- Changing the process for counties other than those previously mentioned to acquire new voting systems with HAVA funds, with respect to any direct recording electronic voting machine a county selects for acquisition (Section 3(D)).
- Requiring the Secretary of State to adopt a schedule by which the Secretary of State must certify direct recording electronic voting machines with a voter verified paper audit trail for use in this state and that provides for the certification, acquisition, and implementation of those machines not later than the first federal election that occurs after January 1, 2006, unless required sooner by HAVA (Section 3(E)(1)(a)).
- Requiring the Secretary of State, before certifying those machines, to establish standards for their certification that comply with HAVA, the Voting Machine Law, the bill, and any other applicable laws and standards (Section 3(E)(1)(b)).
- Permitting any vendor of a direct recording electronic voting machine with a voter verified paper audit trail to seek certification of that machine, and providing that no currently approved vendor, type, or model of a direct recording electronic voting machine may remain on the approved list for acquisition with HAVA funds unless it is subject to the new certification standards (Section 3(E)(1)(c) and (d)).
- Requiring the Secretary of State to commence price negotiations with currently approved vendors and perform specified calculations based on the outcome of those price negotiations to determine the percentage cost associated with the acquisition of direct recording electronic voting machines with a voter verified paper audit trail (Section 3(E)(2), (3), and (4)).
- Specifying that, if the percentage cost is 120% or less, the Secretary of State, if approved by the Controlling Board, may permit counties to acquire the vendor's machines and to upgrade or retrofit any machines previously purchased from the vendor with a voter verified paper audit trail from the vendor (Section 3(E)(5)).
- Specifying that, if the percentage cost is more than 120%, the Secretary of State must not accept the cost and any contract negotiated with the vendor must be deemed null and void with respect to any direct recording electronic voting machines not yet purchased (Section 3(E)(6)).
- Permitting any vendor of a direct recording electronic voting machine with a voter verified paper audit trail that is certified in this state to submit a bid to provide voting machines, marking devices, or automatic tabulating equipment for those counties whose original direct recording electronic voting machine selection is no longer available under this process (Section 3(F)(1)).

- Requiring the Secretary of State to develop a process by which vendors may submit bids, by which the Secretary of State must approve for acquisition, and by which counties whose voting machine selection is no longer available may purchase, voting machines marking devices, or automatic tabulating equipment with HAVA funds (Section 3(F)(2)).
- Requiring voting systems purchased through the process the Secretary of State develops to meet the requirements of HAVA, the Voting Machine Law, the bill, and any other applicable laws and standards (Section 3(F)(2)).
- Requiring the acquisition of voting machines, marking devices, or automatic tabulating equipment with HAVA funds to be completed before the first federal election that occurs after January 1, 2006, unless required sooner by HAVA (Section 3(G)).

(D) Added a provision to the House-passed bill specifying the intent of the General Assembly to pay, with HAVA funds or an appropriation of state capital funds, for the full cost of acquiring voting machines, marking devices, or automatic tabulating equipment as required by the bill (Section 3(H)).

(E) Added a provision to the House-passed bill creating the County Electronic Voting Machine Maintenance Fund, into which all moneys received under HAVA that are not approved for release by the Controlling Board as of the first federal election that occurs after January 1, 2006, must be deposited (sec. 3506.17).

(F) Added a provision to the House-passed bill requiring the Secretary of State to amend the Ohio state plan that must be filed under HAVA as required to conform with the bill's provisions (Section 4).

### **Disabled accessibility**

Added provisions to the House-passed bill doing all of the following:

- Requiring the Secretary of State to establish the position of Americans with Disabilities Act Coordinator within that office to assist the Secretary of State in ensuring equal access to polling places for persons with disabilities, to assist the Secretary of State with ensuring that each voter may cast the voter's ballot with privacy and independence and more generally in a manner that provides the same opportunity for access and participation as for other voters, and to assist the Secretary of State in developing voting machine, marking device, and automatic tabulating equipment certification standards (sec. 3501.05(V)).
- Requiring, on and after the first federal election that occurs after January 1, 2006, unless required sooner by HAVA, any system that produces a voter verified paper audit trail to be accessible to disabled voters, including visually impaired voters, in

the same manner as the direct recording electronic voting system that produces it (sec. 3506.01(H)).

- Requiring, on and after the first federal election that occurs after January 1, 2006, unless required sooner by HAVA, each polling location to have available for use at all elections at least one direct recording electronic voting machine with a voter verified paper audit trail that is accessible for individuals with disabilities (sec. 3506.19).

### **Disposal of excess funds and excess aggregate contributions**

Added provisions to the House-passed bill doing all of the following:

- Specifying that candidates for state office must dispose of *excess funds*, and candidates for state office who accepted contributions prior to deciding upon or announcing an office or accepted contributions for the purpose of nominating or electing the candidate to an office not subject to the Campaign Finance Law's contribution limits must dispose of both *excess funds* and *excess aggregate contributions* (sec. 3517.109(A)(15) and (B)).
- Generally prohibiting a candidate for state office from appearing on the ballot unless the candidate or the candidate's campaign committee has disposed of excess funds, excess aggregate contributions, or both, as required (sec. 3517.109(D)(1)).
- Specifying that a candidate must not be prohibited from appearing on the ballot if the candidate or the candidate's campaign committee accepted a total of excess aggregate contributions of less than \$5,000 from all contributors (sec. 3517.109(D)(2)).
- Requiring the campaign committees of candidates required to dispose of excess aggregate contributions to include in the report regarding that disposal the source and amount of each excess aggregate contribution disposed of and a description of the manner in which it was disposed (sec. 3517.109(E)(2)).

### **Withdrawal of a candidate**

Eliminated a provision of the House-passed bill requiring a person who wishes to withdraw as a candidate to withdraw prior to the 40th day before the day of a primary election (other than a presidential primary election) or a general election, as applicable.

### **Elimination of vacant office exception to duplicate candidate prohibition**

Added a provision to the House-passed bill eliminating the exception to the general prohibition against persons seeking nomination or election to more than one office at the same election that applies to persons being a candidate to fill a vacant office while seeking nomination or election to another office (sec. 3513.052(G)).



**Appropriations**

Added provisions to the House-passed bill making appropriations.

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