

INTRODUCTION

As the following legislative summary illustrates, Secretary Brunner has kept her promise to implement the cost-effective, bipartisan blueprint for elections enhancements developed over the last nine months.

After the 2008 election, Secretary Brunner convened two elections conferences. These events brought together hundreds of elections officials, voting rights advocates, academic and election law professors, and Ohio voters. Larry Norden of the Brennan Center for Justice provided leadership for these events, compiling the diverse recommendations offered and highlighting the broad areas of agreement.

Secretary Brunner issued a report, *Elections Enhancements for Ohio*, after reviewing the broad consensus reached on a number of cost-effective, bipartisan enhancements. The report offered recommendations in three broad areas: voting technology and administration; in-person early voting, vote-by-mail and absentee voting; and Election Day voting and post-election procedures.

Secretary Brunner is very thankful for the leadership of Representative Dan Stewart and the support of the OAEO, academics and voting rights advocates in introducing this legislation.

HIGHLIGHTS FROM THE ELECTIONS ENHANCEMENTS BILL

- *Cost saving measures for boards of elections.* Move special elections to primary or general election days, saving taxpayers an estimated \$2.7-5.4 million per year. Allow the use of vote-by-mail for vacancy in office special elections. Decrease the administrative burden on boards of elections by creating an annual vote-by-mail ballot request form. Limit state issue ballot language length, create buying pools for elections materials, and implement a voting centers pilot project.
- *Enhancements for the Statewide Voter Registration Database.* Finalize a new voter registration matching process with the Ohio BMV and the SSA. Provide counties with access to relevant nonmatches, with statewide rules for processing relevant nonmatches. Specify that a nonmatch could not, on its own, be the basis for disenfranchising a voter.
- *Streamline Ohio's voter ID laws.* Bring Ohio into line with other states by focusing voter ID on verification of identity, not address.
- *Expand the number of in-person early voting locations and align Ohio's in-person early voting period with other states.* Decrease the period for in-person early voting to 20 days before a general election, while increasing the number of locations allowed from one to four. End early voting at 5:00 p.m. the Saturday before Election Day.
- *Reform provisional balloting.* Limit the reasons voters are required to vote a provisional ballot and increase the instances where that ballot is counted. Modify the wrong precinct rule by allowing any ballot cast anywhere in a county to be remade and counted if cast by an eligible voter.

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VOTING TECHNOLOGY AND ADMINISTRATION

ALTERNATE FUNDING SOURCES AND COST SAVINGS FOR ELECTIONS

Buying pools

County boards of elections have the option of joining a buying pool, administered by the Department of Administrative Services, to save money on the costs of elections materials that all counties need.

R.C. 125.042

Special election consolidation

Because special election turnout is typically low and costs are very high, this bill requires that special elections be consolidated with other primary or general elections which will lower costs. Due to constitutional issues, this will not apply to special elections created by a municipal or county charter, or for vacancy in office for a congressional representative.

R.C. 3501.01

Charge-backs for special elections

This bill helps boards of elections more fully recoup the cost of special elections by allowing items such as overtime compensation to be charged back to political subdivisions, in addition to the items currently allowed under the Revised Code.

R.C. 3501.17

Vote centers pilot project

The bill permits the establishment of a pilot program to use vote centers instead of traditional precinct polling places in pilot counties.

Sec. 3

Ballot design

The requirements for ballot preparation are changed to accommodate good design, making the voting experience easier for the voter and the poll worker.

Ballot instructions are simplified, with ballot issue language no more than 300 words per issue.

Boards will be permitted to waive the bidding and bond requirement for printing contracts involving costs of \$25,000 or less.

R.C. 3505.06, 3505.062, 3505.03, 3505.10, 3505.12, 3506.11, 3505.13, 3505.04

Precinct polling place changes

As Ohioans shift to early voting, the need for Election Day resources may change. To ensure uniformity and to avoid costly litigation, changes to polling locations will follow clear statewide standards. The timeline for notifying the Secretary of State of changes to polling places would be changed to five days after a board's action.

R.C. 3501.18, 3501.21

Voting machine allocation

To assist boards in properly allocating voting machines and to avoid costly litigation, certain factors will be considered when allocating voting machines in excess of the minimum number established per polling place. Such factors include the following:

- Historic voter turnout in a precinct
- Changes in registration numbers in a precinct since the last election
- Whether voters experienced longer-than-average wait times in a precinct in past elections
- Historic levels of absent voting
- The length of the ballot

Machine allocation plans will have to be posted for public comment for five days before the board votes to approve the plan.

R.C. 3506.12

STATEWIDE VOTER REGISTRATION DATABASE

Matching agreement

A new provision requires the Secretary of State to enter into an agreement with the Ohio BMV to match voter registrations with Ohio BMV databases.

The bill clearly defines, per federal law, which fields on a voter registration record must be matched with BMV or SSA databases.

The bill directs the Secretary of State to promulgate rules for notifying boards of elections when a relevant nonmatch occurs.

The bill directs the Secretary of State to promulgate rules for uniform statewide standards to guide boards of elections as they process relevant nonmatches.

R.C. 3503.15

NATIONAL VOTER REGISTRATION ACT AND VOTER REGISTRATION

Qualifications for voter registration clarified

Registration qualifications are clarified to reflect that a voter must have been registered and residing in his/her jurisdiction no less than 30 days by the day of an election, in keeping with the Ohio Supreme Court's ruling in 2008.

R.C. 3503.01

Cancellation events for registrations

Monthly notifications must be sent to boards by probate and common pleas courts to cancel the registrations of incarcerated felons. Monthly notifications must also be sent by the state department of health so that counties may cancel the registrations of the deceased.

R.C. 3503.21

Notice and correction of registration errors

To help boards maintain better registration records and to enfranchise eligible Ohioans, boards of elections will notify registration applicants, by any contact information provided by applicants, of deficiencies in their voter registration applications. Applicants will be permitted to provide corrected information via mail, in-person, telephone or electronic means. The Secretary of State must prescribe uniform standards for processing such corrections.

R.C. 3503.19

Institutionalized voters

Detained individuals will be permitted to register from either their home county and address or the county and address of the institution at which they currently reside, provided they are not institutionalized for temporary treatment.

R.C. 3503.04

NVRA enforcement

Given the litigation currently facing Ohio, the bill provides additional clarification of the Secretary of State's duties, under federal law, as the state's chief election officer responsible for ensuring the state's compliance with the NVRA.

The bill creates a memorandum of understanding between the Secretary of State and each designated agency at the state level, clearly laying out the NVRA requirements for that agency. The provisions permit the secretary, state and county designated agencies, and individuals to

initiate a mandamus action in the Supreme Court if any of these are not in compliance with such memoranda.

Shift designated agencies reporting of NVRA activities to a quarterly timeframe.

R.C. 3503.10

VOTER ID

ID required of typical voter

The identification requirement for voting will be changed to make the requirement easier for voters to meaningfully identify themselves and easier for poll workers to understand what is permissible.

Identification will be defined as **EITHER** a current and valid photo ID **OR** two items that contain the name of the voter, were issued by a nonprofit, an institution, a business, or a government entity, and are current and valid.

Address would not be required for voters other than a small subset of first-time mail-in registrants. Boards of elections already use mailings and other confirmation notices to keep their voter registration addresses updated.

To avoid confusion created by the two numbers that appear on Ohio driver's licenses, the bill changes the Ohio driver's license and ID card code sections by limiting the ID or serial numbers on the front of the card to a single series, rather than two or more series of numbers.

R.C. 3501.01, 4507.13, 4507.52

ID required of first-time mail-in registrant

The federal Help America Vote Act requires certain ID to be shown during federal elections by voters who have registered by mail, have never voted in a particular state in a federal election, and have not provided one of the following with their mailed registration application: a driver's license number, at least the last four digits of a Social Security number, or the ID required by HAVA. Such voters are called "first-time mail-in registrants" and the ID they will be required to show is called "first-time mail-in registrant identification".

A first-time mail-in registrant must present select forms of ID that show both the person's name and address.

Boards will have to notate in poll books which voters will have to present first-time mail-in registrant identification when they appear to vote.

R.C. 3501.01, 3503.141

BALLOT ACCESS FOR MINOR POLITICAL PARTIES

The definition of minor political parties has been changed to make the qualification requirements clearer and to establish a process for ballot access that is constitutional.

R.C. 3501.01

IN-PERSON EARLY VOTING, VOTE-BY-MAIL AND ABSENTEE VOTING

VOTE-BY-MAIL SPECIAL ELECTIONS

This bill permits boards to choose to hold certain special elections, such as to fill a vacancy in the U.S. House of Representatives or a municipal or charter special election, entirely by mail. In such elections, absent voter's ballots will be mailed to all voters eligible to vote in that election.

R.C. 3501.03, 3507.01, 3507.02, 3507.03, 3521.03

ELECTRONIC BALLOT TRANSMISSION

The Secretary of State may establish a pilot program for secure electronic transmission of un-voted absent voter's ballots and un-voted armed services absent voter's ballots.

Sec. 4

LOCATIONS FOR IN-PERSON EARLY VOTING

Boards of elections may, at their discretion, choose to employ up to four early voting locations for an election.

To assure uniformity and avoid costly litigation, plans for the geographical locations of such early voting centers will be submitted to the Secretary of State's office. The Secretary of State will promulgate rules governing equitable distribution of locations.

R.C. 3501.10

ABSENTEE VOTING

Changes in the bill will simplify and improve all stages of the absentee voting process for voters and clarify processes for election officials.

Ballot application

Voters may apply for an absent voter's ballot in person, by mail, by fax, by email, or by other electronic means via the internet.

Voters may make an annual request for absent voter's ballots for all elections in a calendar year. This will reduce the number of applications that boards must process. Boards will mail out renewal forms every December to those voters who completed an annual request that year.

R.C. 3509.03, 3509.031, 3511.02, 3511.04

Delivery of ballot to voter

Improvements to uniform statewide absent voter's ballot materials will make the voting process easier for voters to understand.

Boards will be permitted to notify voters of errors and voters will be allowed to correct such errors via common sense methods without sacrificing ballot security. Voters will be permitted to correct deficiencies via mail, email, phone, fax, internet, or in person. If a signature is missing, voter will be permitted to send in a signed statement and that signature may serve as the original signature that should have been on the absent voter's ballot application.

The bill removes confusing and obsolete language on the absentee ballot envelope.

To better process ballots, boards of elections must place the ballot stub number on the identification envelope, and record the stub number and the name and address of ballot applicants who are sent absent voter's ballots. This record will allow boards to match up ballots received with the person who requested the ballot.

R.C. 3509.04, 3511.05

Ballot return

Bipartisan teams of board employees, rather than the director and the deputy director, must process absentee ballots when they come in. References to delivering absentee ballots to precincts for counting will be removed from the code. The practice of processing, but not counting, absentee ballots during the ten days prior to Election Day will be explicitly permitted.

To count an absent voter's ballot, the board must determine if the voter's signature has been provided and if that voter is both registered and eligible to vote. Boards will be permitted to

contact a voter whose absent voter's ballot envelope has not been properly signed, using any contact information available to the board. Voters will be permitted to provide corrected information over the telephone and, if a signature is needed, to send in a signed statement that may serve as the original signature on the absent voter's ballot envelope.

R.C. 3509.06, 3511.11

Ballot availability

Ballot preparation deadlines are spelled out in the bill for mail absentee voters, in-person absentee voters, and armed services and overseas voters.

R.C. 3509.01

Simplified instructions

Confusing instructions to absent voters, such as overly complex directions on how to fold the ballot, are simplified. Other overly specific details are removed from the code. These provisions will result in cost-savings to boards of elections.

R.C. 3509.05, 3511.06, 3511.09

Name change

The bill clarifies that voters who change their name in addition to moving within counties may cast absentee ballots.

R.C. 3509.02

OBSERVERS

The bill clarifies that observers may be present during the casting of ballots and defines that as any time that a voter receives, completes and returns a ballot (i.e., both on Election Day and during in-person early voting).

Activities of observers are limited to observing and documenting their observations, and notifying elections officials of observed problems in elections administration. Observers must not interact with voters beyond incidental communications.

R.C. 3505.21

ELECTION DAY VOTING AND POST-ELECTION PROCEDURES

PROVISIONAL VOTING

Who votes provisionally

This bill greatly simplifies the laws governing provisional voting. In particular, the list of who must or may cast a provisional ballot will only include the following:

- Individuals who say they are registered but are not in the poll book or supplemental poll lists.
- Individuals who do not have or who decline to show ID.
- Individuals marked in the poll book as having requested an absent voter's ballot.
- Individuals not eligible for any reason to cast a regular ballot.

Section 3505.181 now will lay out the procedure for casting a provisional ballot, while references to what is required to process and count the ballot will be removed (these topics are covered in other code sections).

The Secretary of State must prescribe a uniform statewide affirmation form that counties must use in their elections.

R.C. 3505.181

Provisional ballot affirmation form

Changes in the bill simplify the provisional ballot form making it simpler for voters and poll workers to understand and use. Form design by the Elections Division may further simplify the form and implement good user interface design principles in the creation of the form.

Information added to the form will allow it to serve as a voter registration application for the next election going forward if the individual was not registered for the current election.

R.C. 3505.182

Modification of the “wrong precinct” rule

While poll workers must still direct a voter to his/her proper precinct, otherwise valid ballots cast in the voter’s county, but in the wrong precinct, must be remade and counted.

3505.183

Modernization of change of name or address laws

Voters who have moved within a county and voters who have moved within a county and changed their name will be permitted to vote a regular ballot instead of a provisional ballot in the election, after affirming their eligibility under penalty of elections falsification. Voters who move from county to county must vote provisionally.

R.C. 3503.16

Counting provisional ballots

The bill set uniform statewide standards for counting provisional ballots. A provisional ballot must be counted if the person affirms the provisional statement via signature or legal mark, and the person is determined by the board of elections to be registered and eligible to vote in that election.

Board officials will be permitted to contact voters via any means available to them if a provisional ballot is not signed by the voter or additional information is needed. The voter will be permitted to provide additional information via common sense methods.

R.C. 3505.183

CHALLENGES

The bill simplifies the challenge statutes so they are easier to understand and the questions that may be asked of a voter are clearly specified.

Challenges by individuals prior to election

Challenges by individuals prior to 20 days before an election must be made on knowledge or reasonable belief of the voter's ineligibility based on residence, age, citizenship, or qualification for the upcoming election.

Boards must hold hearings, if necessary, for challenged voters within 10 days of the challenge and the hearing must be conducted prior to the election.

Challenges to absent voters must be made at the application stage, when eligibility to receive a ballot is determined. This mirrors the challenge process for regular ballots (i.e., the challenge is to the right to receive a ballot, not the ballot itself). Boards retain the authority to determine the validity of a particular ballot.

R.C. 3503.24, 3509.07, 3511.041

Challenges on Election Day

The process laid out in 3503.24 is mirrored in these sections, retaining the current requirement that only election officials may challenge the eligibility of individuals appearing in person to vote.

R.C. 3505.20, 3513.19

Unlawful challenges

An unlawful challenge by an individual or election official becomes a misdemeanor offense.

R.C. 3599.121, 3599.191

DOUBLE-BUBBLE BALLOTS

Election officials will be required to remake ballots if a voter selects a candidate on the ballot and also writes in the same candidate or choice on the write-in line.

R.C. 3506.21

ADDITIONAL UPDATES TO THE REVISED CODE

BOARD APPOINTMENTS

In light of litigation in 2008, the bill clarifies the process for making board appointments. In particular, the bill creates an end point after which additional mandamus actions may not be filed.

R.C. 3501.07

PETITIONS AND BALLOT ISSUES

The bill will clarify code provisions governing circulator statements and who may circulate petitions. In addition, a new timeline for petition- filing for ballot issues will be implemented.

R.C. 3501.38, 3503.06, 3501.02

VOTING PROCEDURE

The bill clarifies the regular in-person voting procedure. Voters who are first-time mail-in registrants will be required to show special HAVA-required ID. The 5-minute limit on length of time voters are permitted to cast their ballot would be eliminated.

R.C. 3505.18, 3505.23