

AN ACT

To amend sections 3501.05, 3501.22, 3503.01, 3505.31, 3506.05, 3509.05, 3511.06, and 3511.11 and to enact section 3501.053 of the Revised Code to revise the Election Law.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3501.05, 3501.22, 3503.01, 3505.31, 3506.05, 3509.05, 3511.06, and 3511.11 be amended and section 3501.053 of the Revised Code be enacted to read as follows:

Sec. 3501.05. The secretary of state shall do all of the following:

(A) Appoint all members of boards of elections;

(B) Issue instructions by directives and advisories in accordance with section 3501.053 of the Revised Code to members of the boards as to the proper methods of conducting elections. ~~In addition to any other publication of those directives and advisories, the secretary of state shall publish those directives and advisories on a web site of the office of the secretary of state as soon as is practicable after they are issued, but not later than the close of business on the same day as a directive or advisory is issued. The secretary of state shall not remove from the web site any directives and advisories so posted. The secretary of state shall provide on that web site access to all directives and advisories currently in effect and maintain an archive of all directives and advisories previously published on that web site.~~

(C) Prepare rules and instructions for the conduct of elections;

(D) Publish and furnish to the boards from time to time a sufficient number of indexed copies of all election laws then in force;

(E) Edit and issue all pamphlets concerning proposed laws or amendments required by law to be submitted to the voters;

(F) Prescribe the form of registration cards, blanks, and records;

(G) Determine and prescribe the forms of ballots and the forms of all blanks, cards of instructions, pollbooks, tally sheets, certificates of election, and forms and blanks required by law for use by candidates, committees, and boards;

(H) Prepare the ballot title or statement to be placed on the ballot for

any proposed law or amendment to the constitution to be submitted to the voters of the state;

(I) Except as otherwise provided in section 3519.08 of the Revised Code, certify to the several boards the forms of ballots and names of candidates for state offices, and the form and wording of state referendum questions and issues, as they shall appear on the ballot;

(J) Except as otherwise provided in division (I)(2)(b) of section 3501.38 of the Revised Code, give final approval to ballot language for any local question or issue approved and transmitted by boards of elections under section 3501.11 of the Revised Code;

(K) Receive all initiative and referendum petitions on state questions and issues and determine and certify to the sufficiency of those petitions;

(L) Require such reports from the several boards as are provided by law, or as the secretary of state considers necessary;

(M) Compel the observance by election officers in the several counties of the requirements of the election laws;

(N)(1) Except as otherwise provided in division (N)(2) of this section, investigate the administration of election laws, frauds, and irregularities in elections in any county, and report violations of election laws to the attorney general or prosecuting attorney, or both, for prosecution;

(2) On and after August 24, 1995, report a failure to comply with or a violation of a provision in sections 3517.08 to 3517.13, 3517.17, 3517.18, 3517.20 to 3517.22, 3599.03, or 3599.031 of the Revised Code, whenever the secretary of state has or should have knowledge of a failure to comply with or a violation of a provision in one of those sections, by filing a complaint with the Ohio elections commission under section 3517.153 of the Revised Code;

(O) Make an annual report to the governor containing the results of elections, the cost of elections in the various counties, a tabulation of the votes in the several political subdivisions, and other information and recommendations relative to elections the secretary of state considers desirable;

(P) Prescribe and distribute to boards of elections a list of instructions indicating all legal steps necessary to petition successfully for local option elections under sections 4301.32 to 4301.41, 4303.29, 4305.14, and 4305.15 of the Revised Code;

(Q) Adopt rules pursuant to Chapter 119. of the Revised Code for the removal by boards of elections of ineligible voters from the statewide voter registration database and, if applicable, from the poll list or signature pollbook used in each precinct, which rules shall provide for all of the

following:

(1) A process for the removal of voters who have changed residence, which shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 and the National Voter Registration Act of 1993, including a program that uses the national change of address service provided by the United States postal system through its licensees;

(2) A process for the removal of ineligible voters under section 3503.21 of the Revised Code;

(3) A uniform system for marking or removing the name of a voter who is ineligible to vote from the statewide voter registration database and, if applicable, from the poll list or signature pollbook used in each precinct and noting the reason for that mark or removal.

(R) Prescribe a general program for registering voters or updating voter registration information, such as name and residence changes, by boards of elections, designated agencies, offices of deputy registrars of motor vehicles, public high schools and vocational schools, public libraries, and offices of county treasurers consistent with the requirements of section 3503.09 of the Revised Code;

(S) Prescribe a program of distribution of voter registration forms through boards of elections, designated agencies, offices of the registrar and deputy registrars of motor vehicles, public high schools and vocational schools, public libraries, and offices of county treasurers;

(T) To the extent feasible, provide copies, at no cost and upon request, of the voter registration form in post offices in this state;

(U) Adopt rules pursuant to section 111.15 of the Revised Code for the purpose of implementing the program for registering voters through boards of elections, designated agencies, and the offices of the registrar and deputy registrars of motor vehicles consistent with this chapter;

(V) Establish the full-time position of Americans with Disabilities Act coordinator within the office of the secretary of state to do all of the following:

(1) Assist the secretary of state with ensuring that there is equal access to polling places for persons with disabilities;

(2) Assist the secretary of state with ensuring that each voter may cast the voter's ballot in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters;

(3) Advise the secretary of state in the development of standards for the certification of voting machines, marking devices, and automatic tabulating equipment.

(W) Establish and maintain a computerized statewide database of all

legally registered voters under section 3503.15 of the Revised Code that complies with the requirements of the "Help America Vote Act of 2002," Pub. L. No. 107-252, 116 Stat. 1666, and provide training in the operation of that system;

(X) Ensure that all directives, advisories, other instructions, or decisions issued or made during or as a result of any conference or teleconference call with a board of elections to discuss the proper methods and procedures for conducting elections, to answer questions regarding elections, or to discuss the interpretation of directives, advisories, or other instructions issued by the secretary of state are posted on a web site of the office of the secretary of state as soon as is practicable after the completion of the conference or teleconference call, but not later than the close of business on the same day as the conference or teleconference call takes place.

(Y) Publish a report on a web site of the office of the secretary of state not later than one month after the completion of the canvass of the election returns for each primary and general election, identifying, by county, the number of absent voter's ballots cast and the number of those ballots that were counted, and the number of provisional ballots cast and the number of those ballots that were counted, for that election. The secretary of state shall maintain the information on the web site in an archive format for each subsequent election.

(Z) Conduct voter education outlining voter identification, absent voters ballot, provisional ballot, and other voting requirements;

(AA) Establish a procedure by which a registered elector may make available to a board of elections a more recent signature to be used in the poll list or signature pollbook produced by the board of elections of the county in which the elector resides;

(BB) Disseminate information, which may include all or part of the official explanations and arguments, by means of direct mail or other written publication, broadcast, or other means or combination of means, as directed by the Ohio ballot board under division (F) of section 3505.062 of the Revised Code, in order to inform the voters as fully as possible concerning each proposed constitutional amendment, proposed law, or referendum;

(CC) Perform other duties required by law.

Whenever a primary election is held under section 3513.32 of the Revised Code or a special election is held under section 3521.03 of the Revised Code to fill a vacancy in the office of representative to congress, the secretary of state shall establish a deadline, notwithstanding any other deadline required under the Revised Code, by which any or all of the following shall occur: the filing of a declaration of candidacy and petitions

or a statement of candidacy and nominating petition together with the applicable filing fee; the filing of protests against the candidacy of any person filing a declaration of candidacy or nominating petition; the filing of a declaration of intent to be a write-in candidate; the filing of campaign finance reports; the preparation of, and the making of corrections or challenges to, precinct voter registration lists; the receipt of applications for absent voter's ballots or armed service absent voter's ballots; the supplying of election materials to precincts by boards of elections; the holding of hearings by boards of elections to consider challenges to the right of a person to appear on a voter registration list; and the scheduling of programs to instruct or reinstruct election officers.

In the performance of the secretary of state's duties as the chief election officer, the secretary of state may administer oaths, issue subpoenas, summon witnesses, compel the production of books, papers, records, and other evidence, and fix the time and place for hearing any matters relating to the administration and enforcement of the election laws.

In any controversy involving or arising out of the adoption of registration or the appropriation of funds for registration, the secretary of state may, through the attorney general, bring an action in the name of the state in the court of common pleas of the county where the cause of action arose or in an adjoining county, to adjudicate the question.

In any action involving the laws in Title XXXV of the Revised Code wherein the interpretation of those laws is in issue in such a manner that the result of the action will affect the lawful duties of the secretary of state or of any board of elections, the secretary of state may, on the secretary of state's motion, be made a party.

The secretary of state may apply to any court that is hearing a case in which the secretary of state is a party, for a change of venue as a substantive right, and the change of venue shall be allowed, and the case removed to the court of common pleas of an adjoining county named in the application or, if there are cases pending in more than one jurisdiction that involve the same or similar issues, the court of common pleas of Franklin county.

Public high schools and vocational schools, public libraries, and the office of a county treasurer shall implement voter registration programs as directed by the secretary of state pursuant to this section.

Sec. 3501.053. (A) The secretary of state may issue instructions as to the proper method of conducting elections to members of the boards of elections by permanent or temporary directives.

(1) The secretary of state shall establish a process to allow public review and public comment of proposed directives. Prior to issuing any permanent

directive, the secretary of state shall provide reasonable notice of the issuance of the directive and allow a reasonable amount of time for public review and public comment of the proposed directive under this division.

No permanent directive shall be issued during the period beginning ninety days prior to the day of an election and ending on the fortieth day following the day of that election.

(2) Temporary directives shall only be issued, and shall only have effect, during the period beginning ninety days prior to the day of an election and ending on the fortieth day following the day of that election. Temporary directives shall not be subject to public review and public comment under division (A)(1) of this section.

A temporary directive shall not become a permanent directive unless the temporary directive is proposed as a permanent directive and subject to public review and public comment under division (A)(1) of this section.

If the situation prompting the establishment of a temporary directive appears likely to recur, the secretary of state shall establish a permanent directive addressing the situation.

(B) In addition to any other publication of directives and advisories issued by the secretary of state, the secretary of state shall publish those directives and advisories on a web site of the office of the secretary of state as soon as is practicable after they are issued, but not later than the close of business on the same day as a directive or advisory is issued. The secretary of state shall not remove from the web site any directives and advisories so posted. The secretary of state shall provide on that web site access to all directives and advisories currently in effect and maintain an archive of all directives and advisories previously published on that web site.

Sec. 3501.22. (A) On or before the fifteenth day of September in each year, the board of elections by a majority vote shall, after careful examination and investigation as to their qualifications, appoint for each election precinct four residents of the county in which the precinct is located, as judges. Except as otherwise provided in division (C) of this section, all judges of election shall be qualified electors. The judges shall constitute the election officers of the precinct. Not more than one-half of the total number of judges shall be members of the same political party. The term of such precinct officers shall be for one year. The board may, at any time, designate any number of election officers, not more than one-half of whom shall be members of the same political party, to perform their duties at any precinct in any election. The board may appoint additional officials, equally divided between the two major political parties, when necessary to expedite voting.

Vacancies for unexpired terms shall be filled by the board. When new precincts have been created, the board shall appoint judges for those precincts for the unexpired term. Any judge may be summarily removed from office at any time by the board for neglect of duty, malfeasance, or misconduct in office or for any other good and sufficient reason.

Precinct election officials shall perform all of the duties provided by law for receiving the ballots and supplies, opening and closing the polls, and overseeing the casting of ballots during the time the polls are open, and any other duties required by section 3501.26 of the Revised Code.

A board of elections may designate two precinct election officials as counting officials to count and tally the votes cast and certify the results of the election at each precinct, and perform other duties as provided by law. To expedite the counting of votes at each precinct, the board may appoint additional officials, not more than one-half of whom shall be members of the same political party.

The board shall designate one of the precinct election officials who is a member of the dominant political party to serve as a presiding judge, whose duty it is to deliver the returns of the election and all supplies to the office of the board. For these services, the presiding judge shall receive additional compensation in an amount, consistent with section 3501.28 of the Revised Code, determined by the board of elections.

The board shall issue to each precinct election official a certificate of appointment, which the official shall present to the presiding judge at the time the polls are opened.

(B) If the board of elections determines that not enough qualified electors in a precinct are available to serve as precinct officers, it may appoint persons to serve as precinct officers at a primary, special, or general election who are at least seventeen years of age and are registered to vote in accordance with section 3503.07 of the Revised Code.

(C)(1) A board of elections, in conjunction with the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, or the chief administrator of a nonpublic school may establish a program permitting certain high school students to apply and, if appointed by the board of elections, to serve as precinct officers at a primary, special, or general election.

In addition to the requirements established by division (C)(2) of this section, a board of education, governing authority, or chief administrator that establishes a program under this division in conjunction with a board of elections may establish additional criteria that students shall meet to be

eligible to participate in that program.

(2)(a) To be eligible to participate in a program established under division (C)(1) of this section, a student shall be a United States citizen, a resident of the county, at least seventeen years of age, and enrolled in the senior year of high school.

(b) Any student applying to participate in a program established under division (C)(1) of this section, as part of the student's application process, shall declare the student's political party affiliation with the board of elections.

(3) No student appointed as a precinct officer pursuant to a program established under division (C)(1) of this section shall be designated as a presiding judge.

(4) Any student participating in a program established under division (C)(1) of this section shall be excused for that student's absence from school on the day of an election at which the student is serving as a precinct officer.

(D) In any precinct with six or more precinct officers, up to two students participating in a program established under division (C)(1) of this section who are under eighteen years of age may serve as precinct officers. Not more than one precinct officer in any given precinct with fewer than six precinct officers shall be under eighteen years of age.

Sec. 3503.01. (A) Every citizen of the United States who is of the age of eighteen years or over and who has been a resident of the state thirty days immediately preceding the election at which the citizen offers to vote, is a resident of the county and precinct in which the citizen offers to vote, and has been registered to vote for thirty days, has the qualifications of an elector and may vote at all elections in the precinct in which the citizen resides.

(B) When only a portion of a precinct is included within the boundaries of ~~a school~~ an election district, the board of elections may assign the electors residing in such portion of a precinct to the nearest precinct or portion of a precinct within the boundaries of such ~~school~~ election district for the purpose of voting at any special ~~school~~ election held in such ~~school~~ district. In any election in which only a part of the electors in a precinct is qualified to vote, the board may assign voters in such part to an adjoining precinct. Such assignment may be made to an adjoining precinct in another county with the consent and approval of the board of elections of such other county if the number of voters assigned to vote in a precinct in another county is two hundred or less.

The board shall notify all such electors so assigned, at least ten days prior to the holding of any such election, of the location of the polling place

where they are entitled to vote at such election.

As used in division (B) of this section, "election district" means a school district, municipal corporation, township, or other political subdivision that includes territory in more than one precinct or any other district or authority that includes territory in more than one precinct and that is authorized by law to place an issue on the ballot at a special election.

Sec. 3505.31. When the results of the voting in a polling place on the day of an election have been determined and entered upon the proper forms and the certifications of those results have been signed by the precinct officials, those officials, before leaving the polling place, shall place all ballots that they have counted in containers provided for that purpose by the board of elections, and shall seal each container in a manner that it cannot be opened without breaking the seal or the material of which the container is made. They shall also seal the pollbook, poll list or signature pollbook, and tally sheet in a manner that the data contained in these items cannot be seen without breaking the seals. On the outside of these items shall be a plain indication that they are to be filed with the board. The presiding judge and an employee or appointee of the board of elections who has taken an oath to uphold the laws and constitution of this state, including an oath that the person will promptly and securely perform the duties required under this section and who is a member of a different political party than the presiding judge, shall then deliver to the board the containers of ballots and the sealed pollbook, poll list, and tally sheet, together with all other election reports, materials, and supplies required to be delivered to the board.

The board shall carefully preserve all ballots prepared and provided by it for use in an election, whether used or unused, for sixty days after the day of the election, except that, if an election includes the nomination or election of candidates for any of the offices of president, vice-president, presidential elector, member of the senate of the congress of the United States, or member of the house of representatives of the congress of the United States, the board shall carefully preserve all ballots prepared and provided by it for use in that election, whether used or unused, for twenty-two months after the day of the election. If an election is held within that sixty-day period, the board shall have authority to transfer those ballots to other containers to preserve them until the sixty-day period has expired. After that sixty-day period, the ballots shall be disposed of by the board in a manner that the board orders, or where voting machines have been used the counters may be turned back to zero; provided that the secretary of state, within that sixty-day period, may order the board to preserve the ballots or any part of the ballots for a longer period of time, in which event the board shall

preserve those ballots for that longer period of time.

In counties where voting machines are used, if an election is to be held within the sixty days immediately following a primary, general, or special election or within any period of time within which the ballots have been ordered preserved by the secretary of state or a court of competent jurisdiction, the board, after giving notice to all interested parties and affording them an opportunity to have a representative present, shall open the compartments of the machines and, without unlocking the machines, shall recanvass the vote cast in them as if a recount were being held. The results shall be certified by the board, and this certification shall be filed in the board's office and retained for the remainder of the period for which ballots must be kept. After preparation of the certificate, the counters may be turned back to zero, and the machines may be used for the election.

The board shall carefully preserve the pollbook, poll list or signature pollbook, and tally sheet delivered to it from each polling place until it has completed the official canvass of the election returns from all precincts in which electors were entitled to vote at an election, and has prepared and certified the abstracts of election returns, as required by law. The board shall not break, or permit anyone to break, the seals upon the pollbook, poll list or signature pollbook, and tally sheet, or make, or permit any one to make, any changes or notations in these items, while they are in its custody, except as provided by section 3505.32 of the Revised Code.

Pollbooks and poll lists or signature pollbooks of a party primary election delivered to the board from polling places shall be carefully preserved by it for two years after the day of election in which they were used, and shall then be disposed of by the board in a manner that the board orders.

Pollbooks, poll lists or signature pollbooks, tally sheets, summary statements, and other records and returns of an election delivered to it from polling places shall be carefully preserved by the board for two years after the day of the election in which they were used, and shall then be disposed of by the board in a manner that the board orders.

Sec. 3506.05. (A) As used in this section, except when used as part of the phrase "tabulating equipment" or "automatic tabulating equipment":

(1) "Equipment" means a voting machine, marking device, automatic tabulating equipment, or software.

(2) "Vendor" means the person that owns, manufactures, distributes, or has the legal right to control the use of equipment, or the person's agent.

(B) No voting machine, marking device, automatic tabulating equipment, or software for the purpose of casting or tabulating votes or for

communications among systems involved in the tabulation, storage, or casting of votes shall be purchased, leased, put in use, or continued to be used, except for experimental use as provided in division (B) of section 3506.04 of the Revised Code, unless it, a manual of procedures governing its use, and training materials, service, and other support arrangements have been certified by the secretary of state and unless the board of elections of each county where the equipment will be used has assured that a demonstration of the use of the equipment has been made available to all interested electors. The secretary of state shall appoint a board of voting machine examiners to examine and approve equipment and its related manuals and support arrangements. The board shall consist of ~~one competent and experienced election officer and two persons who are knowledgeable about the operation of such equipment, who~~ four members, who shall be appointed as follows:

(1) Two members appointed by the secretary of state.

(2) One member appointed by either the speaker of the house of representatives or the minority leader of the house of representatives, whichever is a member of the opposite political party from the one to which the secretary of state belongs.

(3) One member appointed by either the president of the senate or the minority leader of the senate, whichever is a member of the opposite political party from the one to which the secretary of state belongs.

In all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the board shall submit the matter in controversy to the secretary of state, who shall summarily decide the question, and the secretary of state's decision shall be final. Each member of the board shall be a competent and experienced election officer or a person who is knowledgeable about the operation of voting equipment and shall serve during the secretary of state's term. Any vacancy on the board shall be filled in the same manner as the original appointment. The secretary of state shall provide staffing assistance to the board, at the board's request.

For the member's service, each member of the board shall receive three hundred dollars per day for each combination of marking device, tabulating equipment, and voting machine examined and reported, but in no event shall a member receive more than six hundred dollars to examine and report on any one marking device, item of tabulating equipment, or voting machine. Each member of the board shall be reimbursed for expenses the member incurs during an examination or during the performance of any related duties that may be required by the secretary of state. Reimbursement of these expenses shall be made in accordance with, and shall not exceed, the

rates provided for under section 126.31 of the Revised Code.

Neither the secretary of state nor the board, nor any public officer who participates in the authorization, examination, testing, or purchase of equipment, shall have any pecuniary interest in the equipment or any affiliation with the vendor.

(C)(1) A vendor who desires to have the secretary of state certify equipment shall first submit the equipment, all current related procedural manuals, and a current description of all related support arrangements to the board of voting machine examiners for examination, testing, and approval. The submission shall be accompanied by a fee of eighteen hundred dollars and a detailed explanation of the construction and method of operation of the equipment, a full statement of its advantages, and a list of the patents and copyrights used in operations essential to the processes of vote recording and tabulating, vote storage, system security, and other crucial operations of the equipment as may be determined by the board. An additional fee, in an amount to be set by rules promulgated by the board, may be imposed to pay for the costs of alternative testing or testing by persons other than board members, record-keeping, and other extraordinary costs incurred in the examination process. Moneys not used shall be returned to the person or entity submitting the equipment for examination.

(2) Fees collected by the secretary of state under this section shall be deposited into the state treasury to the credit of the board of voting machine examiners fund, which is hereby created. All moneys credited to this fund shall be used solely for the purpose of paying for the services and expenses of each member of the board or for other expenses incurred relating to the examination, testing, reporting, or certification of voting machine devices, the performance of any related duties as required by the secretary of state, or the reimbursement of any person submitting an examination fee as provided in this chapter.

(D) Within sixty days after the submission of the equipment and payment of the fee, or as soon thereafter as is reasonably practicable, but in any event within not more than ninety days after the submission and payment, the board of voting machine examiners shall examine the equipment and file with the secretary of state a written report on the equipment with its recommendations and its determination or condition of approval regarding whether the equipment, manual, and other related materials or arrangements meet the criteria set forth in sections 3506.07 and 3506.10 of the Revised Code and can be safely used by the voters at elections under the conditions prescribed in Title XXXV of the Revised Code, or a written statement of reasons for which testing requires a longer

period. The board may grant temporary approval for the purpose of allowing experimental use of equipment. If the board finds that the equipment meets the criteria set forth in sections 3506.06, 3506.07, and 3506.10 of the Revised Code, can be used safely and can be depended upon to record and count accurately and continuously the votes of electors, and has the capacity to be warranted, maintained, and serviced, it shall approve the equipment and recommend that the secretary of state certify the equipment. The secretary of state shall notify all boards of elections of any such certification. Equipment of the same model and make, if it provides for recording of voter intent, system security, voter privacy, retention of vote, and communication of voting records in an identical manner, may then be adopted for use at elections.

(E) The vendor shall notify the secretary of state, who shall then notify the board of voting machine examiners, of any enhancement and any significant adjustment to the hardware or software that could result in a patent or copyright change or that significantly alters the methods of recording voter intent, system security, voter privacy, retention of the vote, communication of voting records, and connections between the system and other systems. The vendor shall provide the secretary of state with an updated operations manual for the equipment, and the secretary of state shall forward the manual to the board. Upon receiving such a notification and manual, the board may require the vendor to submit the equipment to an examination and test in order for the equipment to remain certified. The board or the secretary of state shall periodically examine, test, and inspect certified equipment to determine continued compliance with the requirements of this chapter and the initial certification. Any examination, test, or inspection conducted for the purpose of continuing certification of any equipment in which a significant problem has been uncovered or in which a record of continuing problems exists shall be performed pursuant to divisions (C) and (D) of this section, in the same manner as the examination, test, or inspection is performed for initial approval and certification.

(F) If, at any time after the certification of equipment, the board of voting machine examiners or the secretary of state is notified by a board of elections of any significant problem with the equipment or determines that the equipment fails to meet the requirements necessary for approval or continued compliance with the requirements of this chapter, or if the board of voting machine examiners determines that there are significant enhancements or adjustments to the hardware or software, or if notice of such enhancements or adjustments has not been given as required by division (E) of this section, the secretary of state shall notify the users and

vendors of that equipment that certification of the equipment may be withdrawn.

(G)(1) The notice given by the secretary of state under division (F) of this section shall be in writing and shall specify both of the following:

(a) The reasons why the certification may be withdrawn;

(b) The date on which certification will be withdrawn unless the vendor takes satisfactory corrective measures or explains why there are no problems with the equipment or why the enhancements or adjustments to the equipment are not significant.

(2) A vendor who receives a notice under division (F) of this section shall, within thirty days after receiving it, submit to the board of voting machine examiners in writing a description of the corrective measures taken and the date on which they were taken, or the explanation required under division (G)(1)(b) of this section.

(3) Not later than fifteen days after receiving a written description or explanation under division (G)(2) of this section from a vendor, the board shall determine whether the corrective measures taken or the explanation is satisfactory to allow continued certification of the equipment, and the secretary of state shall send the vendor a written notice of the board's determination, specifying the reasons for it. If the board has determined that the measures taken or the explanation given is unsatisfactory, the notice shall include the effective date of withdrawal of the certification. This date may be different from the date originally specified in division (G)(1)(b) of this section.

(4) A vendor who receives a notice under division (G)(3) of this section indicating a decision to withdraw certification may, within thirty days after receiving it, request in writing that the board hold a hearing to reconsider its decision. Any interested party shall be given the opportunity to submit testimony or documentation in support of or in opposition to the board's recommendation to withdraw certification. Failure of the vendor to take appropriate steps as described in division (G)(1)(b) or to comply with division (G)(2) of this section results in a waiver of the vendor's rights under division (G)(4) of this section.

(H)(1) The secretary of state, in consultation with the board of voting machine examiners, shall establish, by rule, guidelines for the approval, certification, and continued certification of the voting machines, marking devices, and tabulating equipment to be used under Title XXXV of the Revised Code. The guidelines shall establish procedures requiring vendors or computer software developers to place in escrow with an independent escrow agent approved by the secretary of state a copy of all source code

and related documentation, together with periodic updates as they become known or available. The secretary of state shall require that the documentation include a system configuration and that the source code include all relevant program statements in low- or high-level languages. As used in this division, "source code" does not include variable codes created for specific elections.

(2) Nothing in any rule adopted under division (H) of this section shall be construed to limit the ability of the secretary of state to follow or adopt, or to preclude the secretary of state from following or adopting, any guidelines proposed by the federal election commission, any entity authorized by the federal election commission to propose guidelines, the election assistance commission, or any entity authorized by the election assistance commission to propose guidelines.

(3)(a) 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 shall establish, by rule, standards for the certification of those machines. Those standards shall include, but are not limited to, all of the following:

(i) A definition of a voter verified paper audit trail as a paper record of the voter's choices that is verified by the voter prior to the casting of the voter's ballot and that is securely retained by the board of elections;

(ii) Requirements that the voter verified paper audit trail shall not be retained by any voter and shall not contain individual voter information;

(iii) A prohibition against the production by any direct recording electronic voting machine of anything that legally could be removed by the voter from the polling place, such as a receipt or voter confirmation;

(iv) A requirement that paper used in producing a voter verified paper audit trail be sturdy, clean, and resistant to degradation;

(v) A requirement that the voter verified paper audit trail shall be capable of being optically scanned for the purpose of conducting a recount or other audit of the voting machine and shall be readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic codes;

(vi) A requirement, for office-type ballots, that the voter verified paper audit trail include the name of each candidate selected by the voter;

(vii) A requirement, for questions and issues ballots, that the voter verified paper audit trail include the title of the question or issue, the name of the entity that placed the question or issue on the ballot, and the voter's ballot selection on that question or issue, but not the entire text of the question or issue.

(b) The secretary of state, by rule adopted under Chapter 119. of the Revised Code, may waive the requirement under division (H)(3)(a)(v) of this section, if the secretary of state determines that the requirement is cost prohibitive.

(4)(a) Except as otherwise provided in division (H)(4)(c) of this section, any voting machine, marking device, or automatic tabulating equipment initially certified or acquired on or after December 1, 2008, shall have the most recent federal certification number issued by the election assistance commission.

(b) Any voting machine, marking device, or automatic tabulating equipment certified for use in this state on the effective date of this amendment shall meet, as a condition of continued certification and use, the voting system standards adopted by the federal election commission in 2002.

(c) A county that acquires additional voting machines, marking devices, or automatic tabulating equipment on or after December 1, 2008, shall not be considered to have acquired those machines, devices, or equipment on or after December 1, 2008, for the purpose of division (H)(4)(a) of this section if all of the following apply:

(i) The voting machines, marking devices, or automatic tabulating equipment acquired are the same as the machines, devices, or equipment currently used in that county.

(ii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment does not replace or change the primary voting system used in that county.

(iii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment is for the purpose of replacing inoperable machines, devices, or equipment or for the purpose providing additional machines, devices, or equipment required to meet the allocation requirements established pursuant to division (I) of section 3501.11 of the Revised Code.

Sec. 3509.05. (A) When an elector receives an absent voter's ballot pursuant to the elector's application or request, the elector shall, before placing any marks on the ballot, note whether there are any voting marks on it. If there are any voting marks, the ballot shall be returned immediately to the board of elections; otherwise, the elector shall cause the ballot to be marked, folded in a manner that the stub on it and the indorsements and facsimile signatures of the members of the board of elections on the back of it are visible, and placed and sealed within the identification envelope received from the director of elections for that purpose. Then, the elector

shall cause the statement of voter on the outside of the identification envelope to be completed and signed, under penalty of election falsification.

If the elector does not provide the elector's driver's license number or the last four digits of the elector's social security number on the statement of voter on the identification envelope, the elector also shall include in the return envelope with the identification envelope a copy of the elector's current valid photo identification, a copy of a military identification that shows the elector's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the name and address of the elector.

The elector shall mail the identification envelope to the director from whom it was received in the return envelope, postage prepaid, or the elector may personally deliver it to the director, or the spouse of the elector, the father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother, or sister of the whole or half blood, or the son, daughter, adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece of the elector may deliver it to the director. The return envelope shall be transmitted to the director in no other manner, except as provided in section 3509.08 of the Revised Code.

Each elector who will be outside the United States on the day of the election shall check the box on the return envelope indicating this fact.

When absent voter's ballots are delivered to an elector at the office of the board, the elector may retire to a voting compartment provided by the board and there mark the ballots. Thereupon, the elector shall fold them, place them in the identification envelope provided, seal the envelope, fill in and sign the statement on the envelope under penalty of election falsification, and deliver the envelope to the director of the board.

Except as otherwise provided in divisions (B) and (C) of this section, all other envelopes containing marked absent voter's ballots shall be delivered to the director not later than the close of the polls on the day of an election. Absent voter's ballots delivered to the director later than the times specified shall not be counted, but shall be kept by the board in the sealed identification envelopes in which they are delivered to the director, until the time provided by section 3505.31 of the Revised Code for the destruction of all other ballots used at the election for which ballots were provided, at which time they shall be destroyed.

(B)(1) Except as otherwise provided in division ~~(C)~~(B)(2) of this

section, any return envelope that indicates that the voter will be outside the United States on the day of the election shall be delivered to the director prior to the eleventh day after the election. Ballots delivered in such envelopes that are received after the close of the polls on election day through the tenth day thereafter shall be counted on the eleventh day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are signed or postmarked after the close of the polls on the day of the election or that are received by the director later than the tenth day following the election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

~~(C)(2)~~ In any year in which a presidential primary election is held, any return envelope that indicates that the voter will be outside the United States on the day of the presidential primary election shall be delivered to the director prior to the twenty-first day after that election. Ballots delivered in such envelopes that are received after the close of the polls on election day through the twentieth day thereafter shall be counted on the twenty-first day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are signed or postmarked after the close of the polls on the day of that election or that are received by the director later than the twentieth day following that election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

(C)(1) Except as otherwise provided in division (C)(2) of this section, any return envelope that is postmarked within the United States prior to the day of the election shall be delivered to the director prior to the eleventh day after the election. Ballots delivered in envelopes postmarked prior to the day of the election that are received after the close of the polls on election day through the tenth day thereafter shall be counted on the eleventh day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are received by the director later than the tenth day following the election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

(2) Division (C)(1) of this section shall not apply to any mail that is postmarked using a postage evidencing system, including a postage meter, as defined in 39 C.F.R. 501.1.

~~Sec. 3511.06. The identification envelope provided for in section 3511.05 of the Revised Code shall be a No. 10, 24-lb. white official envelope, four and one-eighth inches by nine and one-half inches in size.~~

The return envelope provided for in ~~such~~ section 3511.05 of the Revised Code shall be a ~~No. 11, 24 lb. white official envelope, four and one half inches by ten and three eighths inches in size~~ of such size that the identification envelope can be conveniently placed within it for returning the identification envelope to the director. The envelope in which the two envelopes and the armed service absent voter's ballots are mailed to the elector shall be a ~~No. 12, 24 lb. white official envelope, four and three quarter inches by eleven inches in size, and it shall have two parallel lines, each one quarter of an inch in width, printed across its face, paralleling the top, with an intervening space of one-quarter of an inch between such lines. The top line shall be one and one-quarter inches from the top of the envelope. Between the parallel lines shall be printed: "official armed service absent voter's balloting material--via air mail." The appropriate return address of the director of the board of elections shall be printed in the upper left corner on the face of such envelope. Several blank lines shall be printed on the face of such envelope in the lower right portion, below the bottom parallel line, for writing in the name and address of the elector to whom such envelope is mailed. All printing on such envelope shall be in red ink.~~

Sec. 3511.11. (A) Upon receipt of any return envelope bearing the designation "Official Election Armed Service Absent Voter's Ballot" prior to the twenty-first day after the day of a presidential primary election or prior to the eleventh day after the day of any other election, the director of the board of elections shall open it but shall not open the identification envelope contained in it. If, upon so opening the return envelope, the director finds ballots in it that are not enclosed in and properly sealed in the identification envelope, the director shall not look at the markings upon the ballots and shall promptly place them in the identification envelope and promptly seal it. If, upon so opening the return envelope, the director finds that ballots are enclosed in the identification envelope but that it is not properly sealed, the director shall not look at the markings upon the ballots and shall promptly seal the identification envelope.

(B) Armed service absent voter's ballots delivered to the director not later than the close of the polls on election day shall be counted in the manner provided in section 3509.06 of the Revised Code.

(C) A return envelope that indicates that the voter will be outside of the United States on the day of an election is not required to be postmarked in order for an armed service absent voter's ballot contained in it to be valid. Except as otherwise provided in this division, whether or not the return envelope containing the ballot is postmarked or contains an illegible

postmark, an armed service absent voter's ballot that is received after the close of the polls on election day through the tenth day after the election day or, if the election was a presidential primary election, through the twentieth day after the election day, and that is delivered in a return envelope that indicates that the voter will be outside the United States on the day of the election shall be counted on the eleventh day after the election day or, if the election was a presidential primary election, on the twenty-first day after the election day, at the office of the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. However, if a return envelope containing an armed service absent voter's ballot is so received and so indicates, but it is postmarked, or the identification envelope in it is signed, after the close of the polls on election day, the armed service absent voter's ballot shall not be counted.

(D) ~~Armed~~ (1) Except as otherwise provided in division (D)(2) of this section, any return envelope containing an armed service absent voter's ballot that is postmarked within the United States prior to the day of the election shall be delivered to the director prior to the eleventh day after the election. Armed service absent voter's ballots delivered in envelopes postmarked prior to the day of the election that are received after the close of the polls on election day through the tenth day thereafter shall be counted on the eleventh day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are received by the director later than the tenth day following the election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

(2) Division (D)(1) of this section shall not apply to any mail that is postmarked using a postage evidencing system, including a postage meter, as defined in 39 C.F.R. 501.1.

(E) The following types of armed service absent voter's ballots shall not be counted:

(1) Armed service absent voter's ballots contained in return envelopes that bear the designation "Official Election Armed Service Absent Voter's Ballots," that are received by the director after the close of the polls on the day of the election, ~~and that do not indicate they are from voters who will be outside the United States on the day of the election, armed service absent voter's ballots contained in return envelopes that bear that designation, that indicate that the voter will be outside the United States on the day of the election,~~ and that either are postmarked, or contain an identification envelope that is signed, on or after the close of the polls on the day of election, ~~and armed~~ day;

(2) Armed service absent voter's ballots contained in return envelopes that bear that designation, that ~~so~~ do not indicate they are from voters who will be outside the United States on the day of the election, and that are received after the tenth day following the election or, if the election was a presidential primary election, after the twentieth day following the election; shall not be counted, but;

(3) Armed service absent voter's ballots contained in return envelopes that bear that designation, that are received by the director within ten days after the day of the election, and that were postmarked before the day of the election using a postage evidencing system, including a postage meter, as defined in 39 C.F.R. 501.1.

The uncounted ballots shall be preserved in their identification envelopes unopened until the time provided by section 3505.31 of the Revised Code for the destruction of all other ballots used at the election for which ballots were provided, at which time they shall be destroyed.

SECTION 2. That existing sections 3501.05, 3501.22, 3503.01, 3505.31, 3506.05, 3509.05, 3511.06, and 3511.11 of the Revised Code are hereby repealed.

Am. Sub. H. B. No. 350

127th G.A.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 350

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____