

# AN ACT

To amend sections 3501.17, 3501.28, 3501.32, 3505.18, 3505.181, and 3505.183 and to enact sections 2505.40, 3501.321, and 3501.40 of the Revised Code to specify requirements for lawsuits concerning election procedures, to specify the conditions under which a court may order that a polling place be kept open for extended hours on the day of an election, and to require a person who votes during those extended hours to cast a provisional ballot.

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

SECTION 1. That sections 3501.17, 3501.28, 3501.32, 3505.18, 3505.181, and 3505.183 be amended and sections 2505.40, 3501.321, and 3501.40 of the Revised Code be enacted to read as follows:

Sec. 2505.40. For each day on which an election is held in the territory over which a court of appeals has jurisdiction, the court shall establish a special election day panel. The panel shall be available upon instant notice to hear and determine on that day any appeal filed with it under division (C)(1) of section 3501.321 of the Revised Code.

Sec. 3501.17. (A) The expenses of the board of elections shall be paid from the county treasury, in pursuance of appropriations by the board of county commissioners, in the same manner as other county expenses are paid. If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board of elections pertaining to the conduct of elections, the board of elections may apply to the court of common pleas within the county, which shall fix the amount necessary to be appropriated and the amount shall be appropriated. Payments shall be made upon vouchers of the board of elections certified to by its chairperson or acting chairperson and the director or deputy director, upon warrants of the county auditor.

The board of elections shall not incur any obligation involving the expenditure of money unless there are moneys sufficient in the funds appropriated therefor to meet the obligation. If the board of elections requests a transfer of funds from one of its appropriation items to another, the board of county commissioners shall adopt a resolution providing for the transfer except as otherwise provided in section 5705.40 of the Revised Code. The expenses of the board of elections shall be apportioned among the county and the various subdivisions as provided in this section, and the amount chargeable to each subdivision shall be paid as provided in division (J) of this section or withheld by the county auditor from the moneys payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year, the board of elections shall submit to the taxing authority of each subdivision, upon the request of the subdivision, an estimate of the amount to be paid or withheld from the subdivision during the current or next fiscal year.

A board of township trustees may, by resolution, request that the county auditor withhold expenses charged to the township from a specified township fund that is to be credited with revenue at a tax settlement. The resolution shall specify the tax levy ballot issue, the date of the election on the levy issue, and the township fund from which the expenses the board of elections incurs related to that ballot issue shall be withheld.

(B) Except as otherwise provided in division (F) of this section, the compensation of the members of the board of elections and of the director, deputy director, and regular employees in the board's offices, other than compensation for overtime worked; the expenditures for the rental, furnishing, and equipping of the office of the board and for the necessary office supplies for the use of the board; the expenditures for the acquisition, repair, care, and custody of the polling places, booths, guardrails, and other equipment for polling places; the cost of tally sheets, maps, flags, ballot boxes, and all other permanent records and equipment; the cost of all elections held in and for the state and county; and all other expenses of the board which are not chargeable to a political subdivision in accordance with this section shall be paid in the same manner as other county expenses are paid.

(C) The compensation of precinct election officials and intermittent employees in the board's offices; the cost of renting, moving, heating, and lighting polling places and of placing and removing ballot boxes and other fixtures and equipment thereof, including voting machines, marking devices, and automatic tabulating equipment; the cost of printing and delivering ballots, cards of instructions, registration lists required under section 3503.23 of the Revised Code, and other election supplies, including the supplies required to comply with division (H) of section 3506.01 of the Revised Code; the cost of contractors engaged by the board to prepare, program, test, and operate voting machines, marking devices, and automatic tabulating equipment; and all other expenses of conducting primaries and elections in the odd-numbered years shall be charged to the subdivisions in and for which such primaries or elections are held. The charge for each primary or general election in odd-numbered years for each subdivision shall be determined in the following manner: first, the total cost of all chargeable items used in conducting such elections shall be ascertained; second, the total charge shall be divided by the number of precincts participating in such election, in order to fix the cost per precinct; third, the cost per precinct shall be prorated by the board of elections to the subdivisions conducting elections for the nomination or election of offices in such precinct; fourth, the total cost for each subdivision shall be determined by adding the charges prorated to it in each precinct within the subdivision.

(D) The entire cost of special elections held on a day other than the day of a primary or general election, both in odd-numbered or in even-numbered years, shall be charged to the subdivision. Where a special election is held on the same day as a primary or general election in an even-numbered year, the subdivision submitting the special election shall be charged only for the cost of ballots and advertising. Where a special election is held on the same day as a primary or general election in an odd-numbered year, the subdivision submitting the special election shall be charged for the cost of ballots and advertising for such special election, in addition to the charges prorated to such subdivision for the election or nomination of candidates in each precinct within the subdivision, as set forth in the preceding paragraph.

(E) Where a special election is held on the day specified by division (E) of section 3501.01 of

the Revised Code for the holding of a primary election, for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, and a subdivision conducts a special election on the same day, the entire cost of the special election shall be divided proportionally between the state and the subdivision based upon a ratio determined by the number of issues placed on the ballot by each, except as otherwise provided in division (G) of this section. Such proportional division of cost shall be made only to the extent funds are available for such purpose from amounts appropriated by the general assembly to the secretary of state. If a primary election is also being conducted in the subdivision, the costs shall be apportioned as otherwise provided in this section.

(F) When a precinct is open during a general, primary, or special election solely for the purpose of submitting to the voters a statewide ballot issue, the state shall bear the entire cost of the election in that precinct and shall reimburse the county for all expenses incurred in opening the precinct.

(G)(1) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law. Appropriations made to the controlling board shall be used to reimburse the secretary of state for all expenses the secretary of state incurs for such advertising under division (G) of section 3505.062 of the Revised Code.

(2) There is hereby created in the state treasury the statewide ballot advertising fund. The fund shall receive transfers approved by the controlling board, and shall be used by the secretary of state to pay the costs of advertising state ballot issues as required under division (G)(1) of this section. Any such transfers may be requested from and approved by the controlling board prior to placing the advertising, in order to facilitate timely provision of the required advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) At the request of a majority of the members of the board of elections, the board of county commissioners may, by resolution, establish an elections revenue fund. Except as otherwise provided in this division, the purpose of the fund shall be to accumulate revenue withheld by or paid to the county under this section for the payment of any expense related to the duties of the board of elections specified in section 3501.11 of the Revised Code, upon approval of a majority of the members of the board of elections. The fund shall not accumulate any revenue withheld by or paid to the county under this section for the compensation of the members of the board of elections or of the director, deputy director, or other regular employees in the board's offices, other than compensation for overtime worked.

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the Revised Code, the board of county commissioners may, by resolution, transfer money to the elections revenue fund from any other fund of the political subdivision from which such payments lawfully may be made. Following an affirmative vote of a majority of the members of the board of elections, the board of county commissioners may, by resolution, rescind an elections revenue fund established under this division. If an elections revenue fund is rescinded, money that has accumulated in the fund shall be transferred to the county general fund.

(J)(1) Not less than fifteen business days before the deadline for submitting a question or issue for placement on the ballot at a special election, the board of elections shall prepare and file with the board of county commissioners and the office of the secretary of state the estimated cost, based on the factors enumerated in this section, for preparing for and conducting an election on one question or issue, one nomination for office, or one election to office in each precinct in the county at that special election and shall divide that cost by the number of registered voters in the county.

(2) The board of elections shall provide to a political subdivision seeking to submit a question or issue, a nomination for office, or an election to office for placement on the ballot at a special election with the estimated cost for preparing for and conducting that election, which shall be calculated either by multiplying the number of registered voters in the political subdivision with the cost calculated under division (J)(1) of this section or by multiplying the cost per precinct with the number of precincts in the political subdivision. A political subdivision submitting a question or issue, a nomination for office, or an election to office for placement on the ballot at that special election shall pay to the county elections revenue fund sixty-five per cent of the estimated cost of the election not less than ten business days after the deadline for submitting a question or issue for placement on the ballot for that special election.

(3) Not later than sixty days after the date of a special election, the board of elections shall provide to each political subdivision the true and accurate cost for the question or issue, nomination for office, or election to office that the subdivision submitted to the voters on the special election ballots. If the board of elections determines that a subdivision paid less for the cost of preparing and conducting a special election under division (J)(2) of this section than the actual cost calculated under this division, the subdivision shall remit to the county elections revenue fund the difference between the payment made under division (J)(2) of this section and the final cost calculated under this division within thirty days after being notified of the final cost. If the board of elections determines that a subdivision paid more for the cost of preparing and conducting a special election under division (J)(2) of this section than the actual cost calculated under this division, the board of elections promptly shall notify the board of county commissioners of that difference. The board of county commissioners shall remit from the county elections revenue fund to the political subdivision the difference between the payment made under division (J)(2) of this section and the final cost calculated under this division within thirty days after receiving that notification.

(K)(1) Prior to the day of an election, the board of elections shall prepare and file with the office of the secretary of state an estimate of the hourly cost of keeping a polling place in the county open after the time for the closing of the polls pursuant to a court order issued under section 3501.321 of the Revised Code. The estimate shall include the cost of compensating the precinct election officials who are assigned to a polling place at the rate specified in division (H) of section 3501.28 of the Revised Code. The secretary of state shall make the estimate available on the secretary of state's official web site not later than the time for the opening of the polls on the day of the election.

(2) Upon receiving a payment under division (D)(3) of section 3501.321 of the Revised Code to pay the cost of complying with a court order issued under that section, the board of elections shall calculate the portion paid by the state, the county, and each political subdivision, as applicable, of the total cost incurred as a result of keeping the relevant polling places open under the terms of the order.

The board then shall refund to the state, the county, and each political subdivision the amount it paid toward the total cost. If the payment received under division (D)(3) of section 3501.321 of the Revised Code is less than the total cost, the board shall divide the amount of the payment by the total cost, multiply the quotient by the amount the state, the county, and each political subdivision paid toward the total cost, and pay the resulting amount to the state, the county, and each political subdivision, as applicable.

(L) As used in this section:

(1) "Political subdivision" and "subdivision" mean any board of county commissioners, board of township trustees, legislative authority of a municipal corporation, board of education, or any other board, commission, district, or authority that is empowered to levy taxes or permitted to receive the proceeds of a tax levy, regardless of whether the entity receives tax settlement moneys as described in division (A) of this section;

(2) "Statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

Sec. 3501.28. (A) As used in this section:

(1) "Fair Labor Standards Act" or "Act" means the "Fair Labor Standards Act of 1938," 52 Stat. 1062, 29 U.S.C.A. 201, as amended.

(2) "Full election day" means the period of time between the opening of the polls and the completion of the procedures contained in section 3501.26 of the Revised Code.

(3) "Services" means services at each general, primary, or special election.

(B) ~~Beginning~~ Except as otherwise provided in division (H) of this section, beginning with calendar year 2004, each precinct election official in a county shall be paid for the official's services at the same hourly rate, which shall be not less than the minimum hourly rate established by the Fair Labor Standards Act and not more than ninety-five dollars per diem.

(C) The secretary of state shall establish, by rule adopted under section 111.15 of the Revised Code, the maximum amount of per diem compensation that may be paid to precinct election officials under this section each time the Fair Labor Standards Act is amended to increase the minimum hourly rate established by the act. Upon learning of such an increase, the secretary of state shall determine by what percentage the minimum hourly rate has been increased under the act and establish a new maximum amount of per diem compensation that precinct election officials may be paid under this section that is increased by the same percentage that the minimum hourly rate has been increased under the act.

(D)(1)(a) No board of elections shall increase the pay of a precinct election official under this section during a calendar year unless the board has given written notice of the proposed increase to the board of county commissioners not later than the first day of October of the preceding calendar year.

(b) Except as otherwise provided in division (D)(2) of this section, a board of elections may increase the pay of a precinct election official during a calendar year by up to, but not exceeding, nine per cent over the compensation paid to a precinct election official in the county where the board is located during the previous calendar year, if the compensation so paid during the previous calendar year was eighty-five dollars or less per diem.

(c) Except as otherwise provided in division (D)(2) of this section, a board of elections may

increase the pay of a precinct election official during a calendar year by up to, but not exceeding, four and one-half per cent over the compensation paid to a precinct election official in the county where the board is located during the previous calendar year, if the compensation so paid during the previous calendar year was more than eighty-five but less than ninety-five dollars per diem.

(2) The board of county commissioners may review and comment upon a proposed increase and may enter into a written agreement with a board of elections to permit an increase in the compensation paid to precinct election officials for their services during a calendar year that is greater than the applicable percentage limitation described in division (E)(1)(b) or (c) of this section.

(E) ~~No~~ Except as otherwise provided in division (H) of this section, no precinct election official who works less than the full election day shall be paid the maximum amount allowed under this section or the maximum amount as set by the board of elections, whichever is less.

(F)(1) Except as otherwise provided in divisions (F)(4) to (6) of this section, any employee of the state or of any political subdivision of the state may serve as a precinct election official on the day of an election without loss of the employee's regular compensation for that day as follows:

(a) For employees of a county office, department, commission, board, or other entity, or of a court of common pleas, county court, or county-operated municipal court, as defined in section 1901.03 of the Revised Code, the employee's appointing authority may permit leave with pay for this service in accordance with a resolution setting forth the terms and conditions for that leave passed by the board of county commissioners.

(b) For all other employees of a political subdivision of the state, leave with pay for this service shall be subject to the terms and conditions set forth in an ordinance or a resolution passed by the legislative authority of the applicable political subdivision.

(c) For state employees, leave with pay for this service shall be subject to the terms and conditions set forth by the head of the state agency, as defined in section 1.60 of the Revised Code, by which the person is employed.

(2) Any terms and conditions set forth by a board of county commissioners, legislative authority of a political subdivision, or head of a state agency under division (G)(1) of this section shall include a standard procedure for deciding which employees are permitted to receive leave with pay if multiple employees of an entity or court described in division (G)(1)(a) of this section, of an entity of a political subdivision described in division (G)(1)(b) of this section, or of a state agency as defined in section 1.60 of the Revised Code apply to serve as a precinct election official on the day of an election. This procedure shall be applied uniformly to all similarly situated employees.

(3) Any employee who is eligible for leave with pay under division (G)(1) of this section shall receive, in addition to the employee's regular compensation, the compensation paid to the precinct election official under division (B) or (C) of this section.

(4) Division (F)(1) of this section does not apply to either of the following:

- (a) Election officials;
- (b) Public school teachers.

(5) Nothing in division (F)(1) of this section supersedes or negates any provision of a collective bargaining agreement in effect under Chapter 4117. of the Revised Code.

(6) If a board of county commissioners, legislative authority of a political subdivision, or head of a state agency fails to set forth any terms and conditions under division (F)(1) of this section,

an employee of an entity or court described in division (F)(1)(a) of this section, of an entity of a political subdivision described in division (F)(1)(b) of this section, or of a state agency as defined in section 1.60 of the Revised Code may use personal leave, vacation leave, or compensatory time, or take unpaid leave, to serve as a precinct election official on the day of an election.

(G) The board of elections may withhold the compensation of any precinct election official for failure to obey the instructions of the board or to comply with the law relating to the duties of a precinct election official. Any payment a precinct election official is entitled to receive under section 3501.36 of the Revised Code is in addition to the compensation the official is entitled to receive under this section.

(H)(1) A precinct election official who works in a polling place after the time for the closing of the polls, as specified in section 3501.32 of the Revised Code, as a result of a court order to keep the polling place open after that time shall be compensated at a rate of twenty-two dollars and fifty cents per hour for the period worked as a result of the court order.

(2) Beginning with the year 2017, in January of each year, the secretary of state shall adjust the compensation rate specified in division (H)(1) of this section according to the percentage change in the Consumer Price Index over the previous calendar year and shall publish that rate on the secretary of state's official web site. As used in this division, "Consumer Price Index" means the Consumer Price Index for All Urban Consumers or its successive equivalent, as determined by the United States department of labor, bureau of labor statistics, or its successor in responsibility, for all items, Series A.

Sec. 3501.32. (A) Except as otherwise provided in division (B) of this section and in section 3501.321 of the Revised Code, on the day of the election the polls shall be opened by proclamation by the voting location manager, or in the manager's absence by a voting location manager chosen by the precinct election officials, at six-thirty a.m. and shall be closed by proclamation at seven-thirty p.m. unless there are voters waiting in line to cast their ballots, in which case the polls shall be kept open until such waiting voters have voted.

(B) On the day of the election, any polling place located on an island not connected to the mainland by a highway or a bridge may close earlier than seven-thirty p.m. if all registered voters in the precinct have voted. When a polling place closes under division (B) of this section the voting location manager shall immediately notify the board of elections of the closing.

Sec. 3501.321. (A) A person who seeks an order that one or more polling places in a county remain open past the time for the closing of the polls, as specified in section 3501.32 of the Revised Code, may file a petition in the court of common pleas of that county. Upon filing the petition, the petitioner shall serve notice of the petition upon the secretary of state and the attorney general.

(B)(1) Upon the filing of a petition under division (A) of this section, the court may issue the order only if all of the following are true:

(a) The petitioner has served notice of the petition upon the secretary of state and the attorney general.

(b) The court has afforded the secretary of state or the secretary of state's designee and the attorney general or the attorney general's designee an opportunity to be heard in the case.

(c) The petitioner has proved by clear and convincing evidence that no prospect of a fair election exists in the absence of the order.

(d) The court's decision is based solely on testimonial evidence submitted under oath or affirmation and on physical evidence, if physical evidence has been submitted to the court. The court shall not consider evidence gathered from a media report that is not submitted under oath or affirmation and shall not consider hearsay, as defined under the Rules of Evidence.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a court order issued under division (B)(1) of this section shall not become effective until the petitioner has posted with the clerk of the court a bond in an amount determined by the court in accordance with Civil Rule 65. In determining that amount, the court shall consider the cost of keeping the relevant polling places open for the requested period of time, as estimated by the board of elections in accordance with division (K)(1) of section 3501.17 of the Revised Code. Except as provided in division (B)(2)(b) of this section, in no case shall the court waive the requirement of posting a bond.

(b) If the court determines that the petitioner is indigent, the court shall waive the bond described in division (B)(2)(a) of this section. If the court waives the bond under this division, the order shall permit the petitioner or petitioners personally to vote in the election after the time for the closing of the polls but shall not permit any person who is not a petitioner in the case to vote in the election after the time for the closing of the polls.

(C)(1) If a court of common pleas issues an order granting a petition filed under division (A) of this section, that order is subject to immediate appeal to the special election day panel of the court of appeals of the district in which the court of common pleas is located. If such an appeal is filed, the order shall be stayed pending the decision of the panel. The panel shall decide the appeal immediately, without briefing, based on oral arguments and on the evidence submitted to the court of common pleas. The decision of the panel shall be subject to appeal in the same manner as any other decision of the court.

(2) If a court of common pleas issues an order denying a petition filed under division (A) of this section, that order is not subject to immediate appeal to the special election day panel of the court of appeals, but is subject to appeal in the same manner as any other decision of the court.

(D)(1) If an order to keep one or more polling places open past the time for the closing of the polls, as specified in section 3501.32 of the Revised Code, is not enforced because it is reversed on appeal under division (C)(1) of this section, the court of common pleas shall order the clerk to return any bond posted under division (B)(2) of this section to the petitioner.

(2) If one or more polling places remain open past the time for the closing of the polls, as specified in section 3501.32 of the Revised Code, as a result of a court order and a court of competent jurisdiction does not subsequently enter an unappealed final order that the ballots cast during that time are not eligible to be counted, the court of common pleas shall order the clerk to return any bond posted under division (B)(2) of this section to the petitioner.

(3)(a) If one or more polling places remain open past the time for the closing of the polls, as specified in section 3501.32 of the Revised Code, as a result of a court order, a court of competent jurisdiction subsequently enters an unappealed final order that the ballots cast during that time are not eligible to be counted, and a bond was posted under division (B)(2) of this section, the court of common pleas may order that the bond be forfeited to the board of elections, up to the amount of the total cost the board incurred as a result of keeping the relevant polling places open under the terms of the order.



(b) If one or more polling places remain open past the time for the closing of the polls, as specified in section 3501.32 of the Revised Code, as a result of a court order, a court of competent jurisdiction subsequently enters an unappealed final order that the ballots cast during that time are not eligible to be counted, and the bond posted under division (B)(2) of this section is less than the total cost the board incurred as a result of keeping the relevant polling places open under the terms of the order, the court may order the petitioner to pay the board of elections the amount necessary to cover that total cost.

Sec. 3501.40. During the period beginning on the fiftieth day before the day of an election and ending on the day before the day of that election, a person who files an action described in division (B)(1) of Section 2 or division (B)(1) of Section 3 of Article IV, Ohio Constitution, seeking an order to modify the laws or procedures that the secretary of state or a board of elections will follow in administering that election, shall file that action in the supreme court of Ohio or in the appropriate court of appeals.

Sec. 3505.18. (A)(1) When an elector appears in a polling place to vote, the elector shall announce to the precinct election officials the elector's full name and current address and provide proof of the elector's identity in the form of a current and valid photo identification, a military identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the name and current address of the elector.

(2) If an elector does not have or is unable to provide to the precinct election officials any of the forms of identification required under division (A)(1) of this section, the elector may cast a provisional ballot under section 3505.181 of the Revised Code and do either of the following:

(a) Write the elector's driver's license or state identification card number or the last four digits of the elector's social security number on the provisional ballot envelope; or

(b) Appear at the office of the board of elections not later than the seventh day after the day of the election and provide the identification required under division (A)(1) of this section, the elector's driver's license or state identification card number, or the last four digits of the elector's social security number.

(B) After the elector has announced the elector's full name and current address and provided any of the forms of identification required under division (A)(1) of this section, the elector shall write the elector's name and address at the proper place in the poll list or signature pollbook provided for the purpose, except that if, for any reason, an elector is unable to write the elector's name and current address in the poll list or signature pollbook, the elector may make the elector's mark at the place intended for the elector's name, and a precinct election official shall write the name of the elector at the proper place on the poll list or signature pollbook following the elector's mark. The making of such a mark shall be attested by the precinct election official, who shall evidence the same by signing the precinct election official's name on the poll list or signature pollbook as a witness to the mark. Alternatively, if applicable, an attorney in fact acting pursuant to section 3501.382 of the Revised Code may sign the elector's signature in the poll list or signature pollbook in accordance with that section.

The elector's signature in the poll list or signature pollbook then shall be compared with the elector's signature on the elector's registration form or a digitized signature list as provided for in

section 3503.13 of the Revised Code, and if, in the opinion of a majority of the precinct election officials, the signatures are the signatures of the same person, the election officials shall enter the date of the election on the registration form or shall record the date by other means prescribed by the secretary of state. The validity of an attorney in fact's signature on behalf of an elector shall be determined in accordance with section 3501.382 of the Revised Code.

~~If Except as otherwise provided in division (C) of this section,~~ if the right of the elector to vote is not then challenged, or, if being challenged, the elector establishes the elector's right to vote, the elector shall be allowed to proceed to use the voting machine. If voting machines are not being used in that precinct, the precinct election official in charge of ballots shall then detach the next ballots to be issued to the elector from Stub B attached to each ballot, leaving Stub A attached to each ballot, hand the ballots to the elector, and call the elector's name and the stub number on each of the ballots. The precinct election official shall enter the stub numbers opposite the signature of the elector in the pollbook. The elector shall then retire to one of the voting compartments to mark the elector's ballots. No mark shall be made on any ballot which would in any way enable any person to identify the person who voted the ballot.

(C) An elector who appears in a polling place to vote after the time for the closing of the polls pursuant to a court order shall cast a provisional ballot under section 3505.181 of the Revised Code.

Sec. 3505.181. (A) All of the following individuals shall be permitted to cast a provisional ballot at an election:

(1) An individual who declares that the individual is a registered voter in the precinct in which the individual desires to vote and that the individual is eligible to vote in an election, but the name of the individual does not appear on the official list of eligible voters for the precinct or an election official asserts that the individual is not eligible to vote;

(2) An individual who does not have or is unable to provide to the election officials any of the forms of identification required under division (A)(1) of section 3505.18 of the Revised Code;

(3) An individual whose name in the poll list or signature pollbook has been marked under section 3509.09 or 3511.13 of the Revised Code as having requested an absent voter's ballot or a uniformed services or overseas absent voter's ballot for that election and who appears to vote at the polling place;

(4) An individual whose notification of registration has been returned undelivered to the board of elections and whose name in the official registration list and in the poll list or signature pollbook has been marked under division (C)(2) of section 3503.19 of the Revised Code;

(5) An individual who has been successfully challenged under section 3505.20 or 3513.20 of the Revised Code or whose application or challenge hearing has been postponed until after the day of the election under division (D)(1) of section 3503.24 of the Revised Code;

(6) An individual who changes the individual's name and remains within the precinct without providing proof of that name change under division (B)(1)(b) of section 3503.16 of the Revised Code, moves from one precinct to another within a county, moves from one precinct to another and changes the individual's name, or moves from one county to another within the state, and completes and signs the required forms and statements under division (B) or (C) of section 3503.16 of the Revised Code;

(7) An individual whose signature, in the opinion of the precinct officers under section

3505.22 of the Revised Code, is not that of the person who signed that name in the registration forms;

(8) An individual who appears in a polling place to vote after the time for the closing of the polls pursuant to a court order.

(B) An individual who is eligible to cast a provisional ballot under division (A) of this section shall be permitted to cast a provisional ballot as follows:

(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.

(2) Except as otherwise provided in division (F) of this section, the individual shall complete and execute a written affirmation before an election official at the polling place stating that the individual is both of the following:

(a) A registered voter in the precinct in which the individual desires to vote;

(b) Eligible to vote in that election.

(3) An election official at the polling place shall transmit the ballot cast by the individual and the voter information contained in the written affirmation executed by the individual under division (B)(2) of this section to an appropriate local election official for verification under division (B)(4) of this section.

(4) If the appropriate local election official to whom the ballot or voter or address information is transmitted under division (B)(3) of this section determines that the individual is eligible to vote, the individual's provisional ballot shall be counted as a vote in that election.

(5)(a) At the time that an individual casts a provisional ballot, the appropriate local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under division (B)(5)(b) of this section whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted.

(b) The appropriate state or local election official shall establish a free access system, in the form of a toll-free telephone number, that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. The free access system established under this division also shall provide to an individual whose provisional ballot was not counted information explaining how that individual may contact the board of elections to register to vote or to resolve problems with the individual's voter registration.

The appropriate state or local election official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under this division. The system shall permit an individual only to gain access to information about the individual's own provisional ballot.

(6) If, at the time that an individual casts a provisional ballot, the individual provides identification in the form of a current and valid photo identification, a military identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the individual's name and current address, or provides the

individual's driver's license or state identification card number or the last four digits of the individual's social security number, the individual shall record the type of identification provided or the driver's license, state identification card, or social security number information and include that information on the provisional ballot affirmation under division (B)(3) of this section.

(7) During the seven days after the day of an election, an individual who casts a provisional ballot because the individual does not have or is unable to provide to the election officials any of the required forms of identification or because the individual has been successfully challenged under section 3505.20 of the Revised Code shall appear at the office of the board of elections and provide to the board any additional information necessary to determine the eligibility of the individual who cast the provisional ballot.

(a) For a provisional ballot cast by an individual who does not have or is unable to provide to the election officials any of the required forms of identification to be eligible to be counted, the individual who cast that ballot, within seven days after the day of the election, shall do either of the following:

(i) Provide to the board of elections proof of the individual's identity in the form of a current and valid photo identification, a military identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the individual's name and current address; or

(ii) Provide to the board of elections the individual's driver's license or state identification card number or the last four digits of the individual's social security number.

(b) For a provisional ballot cast by an individual who has been successfully challenged under section 3505.20 of the Revised Code to be eligible to be counted, the individual who cast that ballot, within seven days after the day of that election, shall provide to the board of elections any identification or other documentation required to be provided by the applicable challenge questions asked of that individual under section 3505.20 of the Revised Code.

(C)(1) If an individual declares that the individual is eligible to vote in a precinct other than the precinct in which the individual desires to vote, or if, upon review of the precinct voting location guide using the residential street address provided by the individual, an election official at the precinct at which the individual desires to vote determines that the individual is not eligible to vote in that precinct, the election official shall direct the individual to the precinct and polling place in which the individual appears to be eligible to vote, explain that the individual may cast a provisional ballot at the current location but the ballot or a portion of the ballot will not be counted if it is cast in the wrong precinct, and provide the telephone number of the board of elections in case the individual has additional questions.

(2) If the individual refuses to travel to the correct precinct or to the office of the board of elections to cast a ballot, the individual shall be permitted to vote a provisional ballot at that precinct in accordance with division (B) of this section. If the individual is in the correct polling location for the precinct in which the individual is registered and eligible to vote, the election official shall complete and sign, under penalty of election falsification, a form that includes all of the following, and attach the form to the individual's provisional ballot affirmation:

(a) The name or number of the individual's correct precinct;

(b) A statement that the election official instructed the individual to travel to the correct precinct to vote;

(c) A statement that the election official informed the individual that casting a provisional ballot in the wrong precinct would result in all or a portion of the votes on the ballot being rejected;

(d) The name or number of the precinct in which the individual is casting a provisional ballot;  
and

(e) The name of the polling location in which the individual is casting a provisional ballot.

(D) The appropriate local election official shall cause voting information to be publicly posted at each polling place on the day of each election.

(E) As used in this section and sections 3505.182 and 3505.183 of the Revised Code:

(1) "Precinct voting location guide" means either of the following:

(a) An electronic or paper record that lists the correct precinct and polling place for either each specific residential street address in the county or the range of residential street addresses located in each neighborhood block in the county;

(b) Any other method that a board of elections creates that allows a precinct election official or any elector who is at a polling place in that county to determine the correct precinct and polling place of any qualified elector who resides in the county.

(2) "Voting information" means all of the following:

(a) A sample version of the ballot that will be used for that election;

(b) Information regarding the date of the election and the hours during which polling places will be open;

(c) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;

(d) Instructions for mail-in registrants and first-time voters under applicable federal and state laws;

(e) General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated;

(f) General information on federal and state laws regarding prohibitions against acts of fraud and misrepresentation.

(F) Nothing in this section or section 3505.183 of the Revised Code is in derogation of section 3505.24 of the Revised Code, which permits a blind, disabled, or illiterate elector to receive assistance in the marking of the elector's ballot by two precinct election officials of different political parties. A blind, disabled, or illiterate elector may receive assistance in marking that elector's provisional ballot and in completing the required affirmation in the same manner as an elector may receive assistance on the day of an election under that section.

Sec. 3505.183. (A) When the ballot boxes are delivered to the board of elections from the precincts, the board shall separate the provisional ballot envelopes from the rest of the ballots. Teams of employees of the board consisting of one member of each major political party shall place the sealed provisional ballot envelopes in a secure location within the office of the board. The sealed provisional ballot envelopes shall remain in that secure location until the validity of those ballots is determined under division (B) of this section. While the provisional ballot is stored in that secure

location, and prior to the counting of the provisional ballots, if the board receives information regarding the validity of a specific provisional ballot under division (B) of this section, the board may note, on the sealed provisional ballot envelope for that ballot, whether the ballot is valid and entitled to be counted.

(B)(1) To determine whether a provisional ballot is valid and entitled to be counted, the board shall examine its records and determine whether the individual who cast the provisional ballot is registered and eligible to vote in the applicable election. The board shall examine the information contained in the written affirmation executed by the individual who cast the provisional ballot under division (B)(2) of section 3505.181 of the Revised Code. The following information shall be included in the written affirmation in order for the provisional ballot to be eligible to be counted:

- (a) The individual's printed name, signature, date of birth, and current address;
- (b) A statement that the individual is a registered voter in the precinct in which the provisional ballot is being voted;
- (c) A statement that the individual is eligible to vote in the election in which the provisional ballot is being voted.

(2) In addition to the information required to be included in an affirmation under division (B)(1) of this section, in determining whether a provisional ballot is valid and entitled to be counted, the board also shall examine any additional information for determining ballot validity provided by the provisional voter on the affirmation, provided by the provisional voter to an election official under section 3505.182 of the Revised Code, ~~or~~ provided to the board of elections during the seven days after the day of the election under division (B)(7) of section 3505.181 of the Revised Code, or provided to the board of elections by a court concerning any order to keep the polls open past the time for the closing of the polls, to assist the board in determining the individual's eligibility to vote.

(3) If, in examining a provisional ballot affirmation and additional information under divisions (B)(1) and (2) of this section and comparing the information required under division (B)(1) of this section with the elector's information in the statewide voter registration database, the board determines that all of the following apply, the provisional ballot envelope shall be opened, and the ballot shall be placed in a ballot box to be counted:

- (a) The individual named on the affirmation is properly registered to vote.
- (b) The individual named on the affirmation is eligible to cast a ballot in the precinct and for the election in which the individual cast the provisional ballot.
- (c) The individual provided all of the information required under division (B)(1) of this section in the affirmation that the individual executed at the time the individual cast the provisional ballot.
- (d) The last four digits of the elector's social security number or the elector's driver's license number or state identification card number are not different from the last four digits of the elector's social security number or the elector's driver's license number or state identification card number contained in the statewide voter registration database.

(e) Except as otherwise provided in this division, the month and day of the elector's date of birth are not different from the day and month of the elector's date of birth contained in the statewide voter registration database.

This division does not apply to an elector's provisional ballot if either of the following is true:

(i) The elector's date of birth contained in the statewide voter registration database is January 1, 1800.

(ii) The board of elections has found, by a vote of at least three of its members, that the elector has met all other requirements of division (B)(3) of this section.

(f) The elector's current address is not different from the elector's address contained in the statewide voter registration database, unless the elector indicated that the elector is casting a provisional ballot because the elector has moved and has not submitted a notice of change of address, as described in division (A)(6) of section 3505.181 of the Revised Code.

(g) If applicable, the individual provided any additional information required under division (B)(7) of section 3505.181 of the Revised Code within seven days after the day of the election.

(h) If applicable, the hearing conducted under division (B) of section 3503.24 of the Revised Code after the day of the election resulted in the individual's inclusion in the official registration list.

(i) If the individual cast the provisional ballot after the time for the closing of the polls pursuant to a court order, a court of competent jurisdiction has not subsequently entered an unappealed final order that the ballots cast during that time are not eligible to be counted.

(4)(a) Except as otherwise provided in division (D) of this section, if, in examining a provisional ballot affirmation and additional information under divisions (B)(1) and (2) of this section and comparing the information required under division (B)(1) of this section with the elector's information in the statewide voter registration database, the board determines that any of the following applies, the provisional ballot envelope shall not be opened, and the ballot shall not be counted:

(i) The individual named on the affirmation is not qualified or is not properly registered to vote.

(ii) The individual named on the affirmation is not eligible to cast a ballot in the precinct or for the election in which the individual cast the provisional ballot.

(iii) The individual did not provide all of the information required under division (B)(1) of this section in the affirmation that the individual executed at the time the individual cast the provisional ballot.

(iv) The individual has already cast a ballot for the election in which the individual cast the provisional ballot.

(v) If applicable, the individual did not provide any additional information required under division (B)(7) of section 3505.181 of the Revised Code within seven days after the day of the election.

(vi) If applicable, the hearing conducted under division (B) of section 3503.24 of the Revised Code after the day of the election did not result in the individual's inclusion in the official registration list.

(vii) The individual failed to provide a current and valid photo identification, a military identification, a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, with the voter's name and current address, the individual's driver's license or state identification card number, or the last four digits of the individual's social security number or to execute an affirmation under division (B) of section 3505.181 of the Revised

Code.

(viii) The last four digits of the elector's social security number or the elector's driver's license number or state identification card number are different from the last four digits of the elector's social security number or the elector's driver's license number or state identification card number contained in the statewide voter registration database.

(ix) Except as otherwise provided in this division, the month and day of the elector's date of birth are different from the day and month of the elector's date of birth contained in the statewide voter registration database.

This division does not apply to an elector's provisional ballot if either of the following is true:

(I) The elector's date of birth contained in the statewide voter registration database is January 1, 1800.

(II) The board of elections has found, by a vote of at least three of its members, that the elector has met all of the requirements of division (B)(3) of this section, other than the requirements of division (B)(3)(e) of this section.

(x) The elector's current address is different from the elector's address contained in the statewide voter registration database, unless the elector indicated that the elector is casting a provisional ballot because the elector has moved and has not submitted a notice of change of address, as described in division (A)(6) of section 3505.181 of the Revised Code.

(xi) If the individual cast the provisional ballot after the time for the closing of the polls pursuant to a court order, a court of competent jurisdiction has subsequently entered an unappealed final order that the ballots cast during that time are not eligible to be counted.

(b) If, in examining a provisional ballot affirmation and additional information under divisions (B)(1) and (2) of this section and comparing the information required under division (B)(1) of this section with the elector's information in the statewide voter registration database, the board is unable to determine either of the following, the provisional ballot envelope shall not be opened, and the ballot shall not be counted:

(i) Whether the individual named on the affirmation is qualified or properly registered to vote;

(ii) Whether the individual named on the affirmation is eligible to cast a ballot in the precinct or for the election in which the individual cast the provisional ballot.

(C) For each provisional ballot rejected under division (B)(4) of this section, the board shall record the name of the provisional voter who cast the ballot, the identification number of the provisional ballot envelope, the names of the election officials who determined the validity of that ballot, the date and time that the determination was made, and the reason that the ballot was not counted, unless the board has already recorded that information in another database.

(D)(1) If an individual cast a provisional ballot in a precinct in which the individual is not registered and eligible to vote, but in the correct polling location for the precinct in which the individual is registered and eligible to vote, and the election official failed to direct the individual to the correct precinct, the individual's ballot shall be remade under division (D)(2) of this section. The election official shall be deemed to have directed the individual to the correct precinct if the election official correctly completed the form described in division (C)(2) of section 3505.181 of the Revised Code.



(2) A board of elections that remakes a provisional ballot under division (D)(1) of this section shall remake the provisional ballot on a ballot for the appropriate precinct to reflect the offices, questions, and issues for which the individual was eligible to cast a ballot and for which the individual attempted to cast a provisional ballot. The remade ballot shall be counted for each office, question, and issue for which the individual was eligible to vote.

(3) If an individual cast a provisional ballot in a precinct in which the individual is not registered and eligible to vote and in the incorrect polling location for the precinct in which the individual is registered and eligible to vote, the provisional ballot envelope shall not be opened, and the ballot shall not be counted.

(E) Provisional ballots that are rejected under division (B)(4) of this section shall not be counted but shall be preserved in their provisional ballot 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.

(F) Provisional ballots that the board determines are eligible to be counted under division (B)(3) or (D) of this section shall be counted in the same manner as provided for other ballots under section 3505.27 of the Revised Code. No provisional ballots shall be counted in a particular county until the board determines the eligibility to be counted of all provisional ballots cast in that county under division (B) of this section for that election. Observers, as provided in section 3505.21 of the Revised Code, may be present at all times that the board is determining the eligibility of provisional ballots to be counted and counting those provisional ballots determined to be eligible. No person shall recklessly disclose the count or any portion of the count of provisional ballots in such a manner as to jeopardize the secrecy of any individual ballot.

(G)(1) Except as otherwise provided in ~~division~~ divisions (G)(2) and (3) of this section, nothing in this section shall prevent a board of elections from examining provisional ballot affirmations and additional information under divisions (B)(1) and (2) of this section to determine the eligibility of provisional ballots to be counted during the ten days after the day of an election.

(2) A board of elections shall not examine the provisional ballot affirmation and additional information under divisions (B)(1) and (2) of this section of any provisional ballot cast by an individual who must provide additional information to the board of elections under division (B)(7) of section 3505.181 of the Revised Code for the board to determine the individual's eligibility until the individual provides that information, until any hearing required to be conducted under section 3503.24 of the Revised Code with regard to the provisional voter is held, or until the eleventh day after the day of the election, whichever is earlier.

(3) A board of elections shall not examine the provisional ballot affirmation and additional information under divisions (B)(1) and (2) of this section of any provisional ballot cast by an individual after the time for the closing of the polls pursuant to a court order until the eleventh day after the day of the election.

SECTION 2. That existing sections 3501.17, 3501.28, 3501.32, 3505.18, 3505.181, and 3505.183 of the Revised Code are hereby repealed.

SECTION 3. Section 3505.18 of the Revised Code is presented in this act as a composite of the section as amended by Sub. S.B. 47, Am. Sub. S.B. 109, and Sub. S.B. 216, all of the 130th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 296

131st G.A.

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_