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## Bill Analysis

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### SUMMARY

#### Voter identification

- Requires generally that an elector have an Ohio driver's license or state ID card (Ohio DL/ID) in order to register to vote or cast absent voter's ballots by mail, in addition to the continuing law that requires a photo ID to vote in person.
- Requires election officials to compare an elector's photo ID with the elector's appearance or with a photo on file and, if they do not match, to challenge the elector's right to vote.
- Clarifies that when an elector submits a copy of a photo ID, the copy must be legible.
- Expands the uses of the affidavit of religious objection to being photographed to include voter registration and voting by mail.
- Adds to the information that must be included on the affidavit and the process for the board of elections to verify it.
- Requires the Secretary of State to compile and send weekly reports to the boards of elections concerning persons who have submitted affidavits and to make those reports available to the public.
- Specifies that when an elector registers to vote, applies for or returns absent voter's ballots, or casts a provisional ballot, the elector must provide the elector's full name as it appears on the elector's ID, instead of just providing the elector's name.
- Requires the boards of elections, in the course of the voter registration, voter roll maintenance, and provisional ballot processes, to use certain databases to attempt to verify whether a person is a U.S. citizen.
- Requires the person, if the board is unable to make that verification, to provide specified proof of U.S. citizenship in order to remain registered or to vote.

## Voting procedures

### In-person voting

- Imposes several new requirements regarding the contents of pollbooks and procedures for preparing and using them.
- Specifies that, when an elector votes in person, the election officials must compare the elector's appearance with the elector's photo ID and, if they do not match, require the elector to cast a provisional ballot.
- Relocates and consolidates other provisions regarding challenges of electors by precinct election officials.

### Absent voting by mail

- Requires an elector, when applying to vote by mail, to provide an Ohio DL/ID number or an affidavit of religious objection to being photographed that includes the last four digits of the applicant's Social Security number (SSN-4).
- Requires an applicant to provide the applicant's full name as it appears on the applicant's Ohio DL/ID or Social Security card, as applicable.
- Requires the applicant's signature to be signed using ink on the paper form, unless the applicant is a military or overseas voter.
- Requires explicitly that the board of elections, upon receiving a completed application for absent voter's ballots, compare the signature on the application with the signature in the applicant's registration record.
- Requires a voter, when returning absent voter's ballots to the board, to provide a copy of a photo ID or an affidavit of religious objection to being photographed with SSN-4, and to write the voter's Ohio DL/ID number on the form if the voter has one.
- Requires the voter to provide the applicant's full name as it appears on the applicant's Ohio DL/ID or Social Security card, as applicable.
- Prohibits a ballot from being counted if the voter does not properly seal the voter's ballot inside the ID envelope, unless the voter appears at the office of the board by the fourth day after Election Day to seal the ballot in the envelope.
- Requires the election officials to compare the photo on the copy of the elector's photo ID provided with the ballots (if any) with the photo of the elector in the elector's registration record (if any), and requires the ballot to be rejected if the election officials determine that the photographs do not match.
- Eliminates a provision of current law that allows the election officials to count a ballot if the ID envelope includes an incorrect birthdate.
- Prohibits a board of elections from opening ballot ID envelopes and scanning the enclosed ballots before the close of the polls on Election Day.

- Specifies that if the board receives a provisional ballot cast by an elector who also apparently returned an absent voter's ballot, and the provisional ballot is valid and eligible to be counted, the board generally must count the provisional ballot and reject the absent voter's ballot.

### **Provisional voting**

- Requires a provisional voter to provide the voter's full name as it appears on the voter's Ohio DL/ID or, if the voter instead submits an affidavit of religious objection to being photographed, the voter's full name as shown on the voter's Social Security card.
- Eliminates a provision of current law that allows a board of elections to count a provisional ballot that includes an incorrect birthdate.
- Requires the board, for every provisional ballot, to confirm that the voter is a U.S. citizen using BMV records, a government database, or a commercial service.
- Specifies that if the board is unable to confirm the voter's citizenship, the ballot is eligible to be counted only if the voter appears at the office of the board by the fourth day after Election Day and provides proof of citizenship.
- Changes the timeline for the board to process provisional ballots that must be cured.
- Makes a technical correction to the provisional ballot affirmation form.

### **Voter registration**

- Amends sections of law that describe the qualifications of an elector in order to match the language that appears in the Ohio Constitution, as amended in 2022, and to add references to certain circumstances under continuing law in which a person who lacks one or more of those qualifications may vote.
- Requires an applicant to provide the applicant's Ohio DL/ID number, or an affidavit of religious objection to being photographed with SSN-4, in order to register to vote.
- Prescribes new language to be used on Ohio's voter registration forms.
- Creates an information sheet that must be provided along with a voter registration form.
- Defines a "voter registration agency" as all of the agencies that are currently required to provide voter registration and update forms, including designated agencies and other entities.
- Modifies the procedures that voter registration agencies must use when they offer voter registration and update forms to customers.
- Applies several requirements that currently only apply to a designated agency to every type of voter registration agency.

- Requires that, if information on file at a voter registration agency identifies a person as not qualified to vote, the agency must advise the applicant that the applicant is not qualified to register.
- Requires a voter registration agency to review each completed voter registration form to validate that the information entered on the form corresponds to information on file at the agency, if applicable, and advise the applicant to correct any invalid information.
- Eliminates a provision specifying that a registration form must not be rejected solely on the basis that a compensated voter registration worker failed to sign the form and provide the worker's address and employer.

### **Processing voter registrations and updates**

- Requires each board of elections to have a computerized voter registration system that meets a number of technical requirements.
- Requires a county's voter registration system to automatically validate voter data when an elector is registered and during the voter roll maintenance processes by comparing the information in the system against information the Secretary of State obtains from federal, state, and local agencies, the U.S. Postal Service, colleges and universities, and commercial sources.
- Prescribes detailed procedures for the boards to use in processing and verifying voter registration applications and update forms.
- Replaces references to change of address and change of name forms with references to voter registration update forms.
- Clarifies that if a person who is already registered anywhere in Ohio submits a registration application, the form operates as an update form and must be processed using the same procedures as for a new registration.
- Specifies that when an elector moves into Ohio from another state, the elector's registration form operates as an authorization to cancel the elector's out-of-state registration, instead of requiring the elector to sign a separate cancellation form.
- Adds a new requirement that a person's registration record include a photo of the person if the board is able to obtain one from Bureau of Motor Vehicles (BMV) records.
- Requires the board to verify that the applicant is a U.S. citizen.
- Changes the procedures that apply when an elector's acknowledgment notice is returned to the board as undeliverable.
- Requires the Statewide Voter Registration Database (SWVRD) and county registration records to include an elector's voting history for the current calendar year and at least the previous 19 years.
- Changes the format of the voter registration record ID numbers to be used statewide.

## **Voter roll maintenance**

- Requires the boards to carry out a new set of voter roll maintenance procedures on a weekly basis.
- Adds a universal requirement that a board of elections send a written notice to an elector at the elector's registration address when the board cancels the elector's registration.
- Requires that canceled voter registration records in the SWVRD and county registration systems be stored in a physically separate database from current voter registration records.

## **Access to voter registration systems**

- Requires that the servers and other equipment associated with voter registration systems be physically located in facilities in Ohio under the control of election officials.
- Requires any election official who has the authority to administer a voter registration system or to create, modify, or cancel any record in the system be a U.S. citizen and a resident of Ohio, and have no criminal record involving dishonesty, moral turpitude, or any violation of election or immigration laws.

## **Voter registration database audits**

- Requires the Secretary of State to engage a commercial service to perform monthly evaluations of the accuracy of the information in the SWVRD, the weekly reports generated for database maintenance purposes, and county voter registration systems.
- Requires the Auditor of State annually to audit the SWVRD and three counties' registration systems.
- Requires the Auditor to conduct an additional audit of a county's voter registration system for the entire county or for a particular precinct or precincts, upon the request of the Secretary or of the county's board of elections.

## **Public voter registration records**

- Adds to the information and functionality that must be available to the public through the version of the SWVRD on the Secretary of State's website.

## **Pre-election registration challenges and corrections**

- Clarifies that any qualified elector of Ohio, not just an elector of that particular county, may challenge an elector's right to vote.
- Allows an elector who files a challenge to challenge multiple electors' right to vote by filing a single document that identifies each elector whose right to vote is challenged.

## **Voting system standards**

### **Hand counted paper ballots**

- Provides procedures for a county to adopt the use of hand counted paper ballots instead of voting machines, marking devices, or automatic tabulating equipment.

### **Board of Voting Systems Examiners**

- Renames the Board of Voting Machine Examiners as the Board of Voting Systems Examiners.
- Requires the Board to examine and recommend voter registration systems in addition to other equipment.
- Retains the current structure of the Board but changes the qualifications members must have.
- Modifies the law that prohibits a voting system from being certified if officials have a conflict of interest regarding the vendor.

### **Process for certifying a voting system**

- Adds a number of criteria the Board must consider when determining whether to recommend that the Secretary of State certify a voting system.
- Eliminates the Board's ability to give a county permission to use a voting system on an experimental basis in a limited number of precincts in the county.
- Allows the Board to prescribe the fee a voting system vendor must pay when seeking certification, instead of the current statutory fee of \$2,400.
- Eliminates provisions that require a vendor or computer software developer to place source code in escrow.
- Modifies the process that applies when a vendor makes changes to a certified voting system and when a system may be decertified.

### **Criteria for voting system approval and certification**

- Requires the Secretary of State's rules for the certification of voting systems to be adopted under the Administrative Procedure Act.
- Requires a voting system to meet or exceed the most recently adopted Election Assistance Commission voluntary voting system guideline certification standards.
- Eliminates a provision of law that states that the Secretary may follow or adopt guidelines proposed by the Federal Election Commission.
- Requires the vendor to demonstrate a number of factors related to cybersecurity and to comply with an enhanced risk assessment framework.
- Requires the Board to engage one or more qualified cybersecurity reviewers to conduct a cybersecurity review of the system.

- Requires every certified computerized voting system in Ohio to undergo periodic cybersecurity testing, including penetration testing, by one or more cybersecurity reviewers.
- Requires election officials to make certain documentation available to the public online.

### **Particular types of voting systems**

- Requires a voter registration system to be capable of meeting several technical requirements.
- Requires the Secretary of State to create, maintain, and publish guides for voting system vendors that describe all of the applicable requirements for voter registration systems.
- Adds to the certification criteria for electronic pollbooks.
- Prohibits an electronic pollbook from being connected to the internet or a telecommunications network while the polls are open on Election Day and until the electronic pollbook is returned to the board of elections.
- Prohibits a voting machine from being connected to a telecommunications network, in addition to the current prohibition against a voting machine being connected to the internet.
- Makes it mandatory for a voter verified paper audit trail to (1) be capable of being optically scanned for purposes of a recount or audit and (2) be readable by the voter without the use of computer or electronic codes.

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## DETAILED ANALYSIS

### Voter identification

The bill changes the types of identification (ID) that are acceptable for purposes of voter registration and voting. Under the bill, an elector generally must have an Ohio driver's license or state ID card (Ohio DL/ID) in order to register to vote or cast absent voter's ballots by mail. Currently, an elector must have a photo ID to vote in person, but an elector can register to vote and vote by mail using only the last four digits of the elector's Social Security number (SSN-4). The following table summarizes these changes, which are discussed below in more detail under the relevant headings.

Acceptable forms of ID (Provide one)	Register to vote		Vote in person		Provisional ballot		Apply to vote by mail		Return mail ballot	
	Now	H.B. 472	Now	H.B. 472	Now	H.B. 472	Now	H.B. 472	Now	H.B. 472
Ohio DL/ID with current or former address	✗	✗	✓	✓	✓	✓	✓	✗	✓	✓
U.S. passport or passport card	✗	✗	✓	✓	✓	✓	✓	✗	✓	✓
Military ID	✗	✗	✓	✓	✓	✓	✓	✗	✓	✓
Affidavit of religious objection to being photographed with SSN-4	✗	✓	✗	✗	✓	✓	✗	✓	✗	✓
Ohio DL/ID number	✓	✓	✗	✗	✗	✗	✓	✓	✓	✗
SSN-4	✓	✗	✗	✗	✗	✗	✓	✗	✓	✗

## Photo ID definitions

Under continuing law, “photo ID” for voting purposes means an Ohio DL/ID, a U.S. passport or passport card, or a military ID. A military ID is a U.S. military ID card, an Ohio National Guard ID card, or a U.S. Department of Veterans Affairs ID card.

A copy of a photo ID submitted for voting purposes must show the front and back of the ID, except that a copy of a passport must show the ID page. The bill clarifies that the copy must be legible.<sup>1</sup>

## Affidavit of religious objection to being photographed

Because the bill expands the circumstances under which a photo ID is required for voting purposes, the bill also expands the uses of the affidavit of religious objection to being photographed. Currently, an elector who wishes to vote in person and has no photo ID because the elector has a sincere religious objection to being photographed may cast a provisional ballot. The elector must sign an affidavit under penalty of election falsification and include the elector’s first and last name and SSN-4. In order for the ballot to be counted, the Secretary of State must verify with the Bureau of Motor Vehicles (BMV) that the elector does not have a current Ohio DL/ID.

Under the bill, an elector who has no photo ID also may use the affidavit when registering to vote or when voting by mail. The bill changes the form of the affidavit by doing all of the following:

- Requiring the elector to provide the elector’s full name, exactly as it appears on the elector’s Social Security card, instead of simply the elector’s first and last name (see “**Name match requirements**,” below);
- Requiring the elector to provide the elector’s birthdate;
- Requiring the elector to declare under penalty of election falsification that the elector does not have photo ID *in Ohio or any other state*.

Upon receiving a completed affidavit, the bill requires the board of elections to transmit it to the Secretary to verify whether the elector’s name, birthdate, and SSN-4 match U.S. Social Security Administration records, in addition to checking BMV records as under current law. If the information does not match Social Security records, and the board asks the elector to provide additional information, the elector must provide certified information to correct the affidavit. The elector must do so by the fourth day after Election Day in order for the elector’s ballot to be counted.

Additionally, the bill requires the Secretary to compile and send weekly reports to the boards of elections that identify persons who have submitted an affidavit and whose affidavit (1) has not yet been validated, (2) has been determined to be valid, or (3) has been determined

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<sup>1</sup> R.C. 3501.01(AA).

to be invalid, along with the reason. The reports must be available to the public on the Secretary's official website.<sup>2</sup>

### **Name match requirements**

The bill specifies that when an elector registers to vote, applies for or returns absent voter's ballots, or casts a provisional ballot, the elector must provide the elector's full name as it appears on the elector's ID, instead of just providing the elector's name. An elector generally must provide the name on the elector's Ohio DL/ID, except that if the elector submits an affidavit of religious objection to being photographed, the name must match the elector's Social Security card. These requirements are discussed below in more detail under the relevant headings.<sup>3</sup>

Some situations might pose practical difficulties. For instance, if an elector has a legal name change because of marriage or other circumstances, depending on the timing, it might not be possible to obtain an updated Social Security card in time to register or to vote. A person must attend an in-person appointment with the U.S. Social Security Administration and then typically must wait two weeks after the appointment to receive an updated card in the mail.<sup>4</sup>

Moreover, these provisions might face scrutiny with respect to the federal Civil Rights Act of 1964, which prohibits the government from "deny[ing] the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election." A reviewing court might examine whether an elector's failure to provide the elector's name in a particular format, such as "Maggie Smith" instead of "Margaret N. Smith," is not material because the board of elections can use the other information provided to confirm the elector's identity and eligibility to vote.<sup>5</sup>

### **Photo match requirements**

The bill also specifies that, when an elector provides a photo ID to vote in person, the election officials must compare the photo to the elector's appearance and require the elector to cast a provisional ballot if they do not match. Similarly, when an elector submits a copy of a photo ID with the elector's absent voter's ballots, the bill requires the election officials to compare that copy with any BMV photo on record with the board and to reject the ballot if they do not match. These requirements are discussed further below under the relevant headings.<sup>6</sup>

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<sup>2</sup> R.C. 3503.153(A)(14) and (15) and 3505.19.

<sup>3</sup> R.C. 3503.14, 3505.182, 3505.183, 3505.19, 3509.03, 3509.04, 3509.05, 3509.06, 3509.07, 3511.02, and 3511.05.

<sup>4</sup> U.S. Social Security Administration, [Replace Social Security Card](https://www.ssa.gov/replace-social-security-card), available at [ssa.gov](https://www.ssa.gov).

<sup>5</sup> 52 United States Code (U.S.C.) 10101(a)(2)(B).

<sup>6</sup> R.C. 3505.18, 3505.183, 3505.20, 3509.05, 3509.06, and 3509.07.

If the election officials determine that two photos of an elector do not match because the elector's appearance has changed drastically, such as from a medical condition, it is not clear under the bill how the elector may go about having the elector's ballot counted.

## Citizenship requirements

As is discussed below in more detail, the bill requires the boards of elections, in the course of the voter registration, voter roll maintenance, and provisional ballot processes, to use certain databases to attempt to verify whether a person is a U.S. citizen. When a board is unable to make that verification, the bill requires the person to provide proof of U.S. citizenship in order to remain registered or to vote. To prove the person's citizenship, a person must provide one of the following:<sup>7</sup>

- A valid and unexpired U.S. passport;
- A certified copy of a U.S. birth certificate, certification of report of birth, or consular report of birth abroad;
- A certified copy of a certificate of citizenship or certificate of naturalization.

The bill also adds language to Ohio's voter registration forms, requiring an applicant to attest that the applicant is a U.S. citizen "as evidenced by" one of those documents.<sup>8</sup>

Laws in other states that required electors to produce documentary proof of U.S. citizenship in order to register or to vote have been ruled unconstitutional. An Ohio law that allows election officials to require a challenged voter to provide a certificate of citizenship or naturalization also was overturned. In those cases, the courts held that the laws excessively burdened electors' voting rights under the 14<sup>th</sup> Amendment to the U.S. Constitution, the National Voter Registration Act of 1993 (NVRA), or both, or that they imposed an unconstitutional poll tax by requiring citizens to pay a fee to obtain a copy of a required document.<sup>9</sup>

## Voting procedures

### In-person voting

#### Pollbooks

The bill imposes several new requirements regarding pollbooks and organizes most of the requirements for pollbooks in one section of law. These requirements apply to both paper and electronic pollbooks. (See "**Voting system standards**" below for information about

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<sup>7</sup> R.C. 3503.153(A)(4)(b), 3503.201(A)(4), and 3505.183(A)(3)(h) and (4)(a)(xii).

<sup>8</sup> R.C. 3503.14, 3503.10(E)(2), 3503.20, and 3505.182.

<sup>9</sup> *Boustani v. Blackwell*, 460 F.Supp.2d 822 (N.D. Ohio 2006); *Fish v. Schwab*, 957 F.3d 1105 (10<sup>th</sup> Cir. 2020), cert. denied by *Schwab v. Fish*, 41 S.Ct. 965 (2020); *Arcia v. Secretary of State of Florida*, 772 F.3d 1335 (11<sup>th</sup> Cir. 2014); and *Mi Familia Vota v. Fontes*, 2023 U.S. Dist. LEXIS 211241, Case No. 22-CV-509 (D. Ariz. September 13, 2023).

the bill's provisions regarding electronic pollbooks.) Current law generally requires the pollbook for each precinct to contain certain information, but the law is not specific about the format.

Before preparing the pollbooks for an election, and before conducting the canvass of the results of an election, the bill requires the board of elections to compare the information in its voter registration database against the blockchain ledger of all database changes maintained by its voter registration system to confirm the accuracy of the registration records used in the election. (See "**Voter registration systems**," below.)

Under the bill, any pollbook must include, at a minimum, all of the following concerning each elector in the precinct or precincts for which the pollbook is to be used. Except as otherwise noted, this information is currently required to be included in the pollbook:

- The elector's full name;
- The elector's birthdate;
- The elector's current residence address;
- The elector's precinct number and polling place;
- The elector's Ohio DL/ID number, if available (added by the bill);
- The elector's SSN-4, if available (added by the bill);
- The elector's voter registration record ID number (added by the bill);
- An image of the elector's signature;
- If the pollbook is for a primary election, the elector's political party affiliation;
- If the elector has requested or cast absent voter's ballots in the election, a notation to that effect;
- If applicable, a notation that the elector is required to cast a provisional ballot (see "**Electors who appear not to be U.S. citizens**" below regarding new circumstances in which an elector must cast a provisional ballot).

The bill adds a requirement that, on Election Day, the precinct election officials certify that each pollbook contains the same number of registered electors at the closing of the polls as at the opening of the polls. Under continuing law, the precinct election officials also must certify in writing that to the best of their knowledge and belief, the pollbooks correctly show the names of all electors who voted in the polling place at the election.<sup>10</sup>

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<sup>10</sup> R.C. 3503.231, 3506.01(H), and 3506.053; conforming changes in R.C. 111.44, 3501.01(FF), 3501.05(AA), 3501.22, 3501.30, 3503.13(B), 3505.18, 3505.181, 3509.09, and 3513.18; repeal of R.C. 3506.021 and 3511.13.

## Challenges by precinct election officials

When an elector appears to vote in person, provides photo ID, and signs the pollbook, the bill specifies that the election officials must compare the elector's appearance with the elector's photo ID, in addition to comparing the elector's signature with the one on file with the board. If a majority of the precinct election officials determine that the signatures are not by the same person or that the photo on the photo ID is not of the person offering to vote, the voter must cast a provisional ballot. Existing law requires a voter to cast a provisional ballot in the case of a signature mismatch or other challenge, but does not explicitly mention comparing the elector's photo ID to the voter's appearance. (See "**Photo match requirements**," above.)

The bill relocates and consolidates language allowing a precinct election official to challenge a prospective voter on the ground that the person is impersonating an elector, that the person is not qualified to vote, or that the person has received or has been promised some valuable reward or consideration for the person's vote. A voter currently may be challenged on any of those grounds. The bill also replaces references to a person's mailing address with references to the person's residence address, which is the basis for determining eligibility to vote.<sup>11</sup>

## Absent voting by mail

### Application for absent voter's ballots

Under the bill, an elector who applies to vote by mail must provide an Ohio DL/ID number. If the applicant does not have one because the applicant has a sincere religious objection to being photographed, the applicant instead may submit a completed affidavit of religious objection to being photographed that includes the applicant's SSN-4. Under existing law, an applicant may provide an Ohio DL/ID number, an SSN-4, or a copy of a photo ID.

The bill also changes the name field on the absentee ballot application form to require the applicant to provide the applicant's full name as it appears on the applicant's Ohio DL/ID or, if the applicant submits an affidavit of religious objection to being photographed, the applicant's full name as it appears on the applicant's Social Security card. If the board preprints an elector's name on an application, it must be printed in this format. If the applicant does not provide a full name in this format, it appears that the board must reject the application and notify the applicant, as with any other application that "does not contain all of the required information." (See "**Name match requirements**," above.)

Under the bill, the applicant's signature must be signed using ink on the paper form. An electronic, mechanical, or photocopied signature on an application is not valid. This requirement does not apply to a uniformed services or overseas absent voter because under continuing law, such a voter may fax or email a ballot application to the board of elections.<sup>12</sup>

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<sup>11</sup> R.C. 3505.18, 3505.20, and 3513.19; repeal of R.C. 3505.22 and 3513.20.

<sup>12</sup> R.C. 3509.03, 3509.04, and 3511.02. See also R.C. 3511.021, not in the bill.

## Processing applications for absent voter's ballots

The bill explicitly requires the board of elections, upon receiving a completed application for absent voter's ballots, to compare the signature on the application with the signature in the applicant's registration record. If, in the opinion of the board, the signatures are not by the same person, or if the board otherwise determines that the applicant is not a qualified elector, the board must reject the application. The bill does not state whether the board must notify the applicant of a rejection on the basis of a signature mismatch. If the board does not do so, it might prompt questions under the Due Process Clause of the 14<sup>th</sup> Amendment to the U.S. Constitution.<sup>13</sup>

Current law requires the board to determine whether an application contains all of the required information, but does not mention the signature matching step. Under continuing law, if an application does not contain all of the required information, the board must notify the applicant.<sup>14</sup>

## Returning absent voter's ballots – ballot ID envelope form

The bill changes the ID that an absent voter must provide on the ballot ID envelope when returning ballots to the board. This is the envelope that contains the voted ballots and is then placed inside the return envelope. Under the bill, the ID requirements are as follows:

- Photo ID – the voter must provide one of the following:
  - A copy of a photo ID. The bill requires the ballot ID envelope to include a list of acceptable forms of photo ID.
  - An affidavit of religious objection to being photographed that includes the voter's SSN-4. If the voter submits an affidavit, the voter also must write the voter's SSN-4 on the ballot ID envelope.
- If the voter has an Ohio DL/ID, the voter also must write the voter's Ohio DL/ID number on the ballot ID envelope.

Existing law requires the voter to provide an Ohio DL/ID number, an SSN-4, or a copy of a photo ID.

Additionally, the bill requires the voter to write the voter's full name as it appears on the voter's Ohio DL/ID or, if the voter submits an affidavit of religious objection, the voter's full name as it appears on the voter's Social Security card. If the ballot does not include the correct full name, the ID envelope statement is considered incomplete. Current law states only that the voter must write the voter's name. (See "**Name match requirements**," above.)<sup>15</sup>

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<sup>13</sup> See, for example, *Bell v. Marinko*, 234 F.Supp.2d 772, 777 (S.D. Ohio 2002), citing *Raetzl v. Parks/Bellefont Absentee Election Board*, 762 F. Supp. 1354 (D. Ariz. 1990).

<sup>14</sup> R.C. 3509.04 and 3511.04.

<sup>15</sup> R.C. 3509.04, 3509.05, 3509.06, 3511.05, and 3511.09.



## Counting standards for absent voter's ballots

Under the bill, if an absent voter does not enclose the voter's marked ballot in the ID envelope and seal it before returning the ballot to the board, the election officials must set aside the ballot and ID envelope in a separate envelope and mail a written notice to the voter. The ballot is eligible to be counted only if the voter appears at the office of the board by the fourth day after Election Day and seals the ballot in the ID envelope in the presence of the election officials.

Current law does not specify what happens when a returned absentee ballot is not properly sealed in the ID envelope. The Secretary of State instructs election officials to seal the ballot in the ID envelope while avoiding looking at the markings on the ballot and to continue processing the ballot.<sup>16</sup>

When the election officials go on to process an ID envelope, the bill requires them to compare the photo on the copy of the elector's photo ID provided with the ballots (if any) with the photo of the elector in the elector's registration record (if any). If the photos are not of the same person, the ballot must not be counted. This step is in addition to the signature matching that the election officials must perform under continuing law. (See "**Photo match requirements**," above.)

Under the bill, an ID envelope also is considered incomplete if it does not include the voter's full name as it appears on the voter's Ohio DL/ID or, if the voter submitted an affidavit of religious objection to being photographed, the voter's full name as it appears on the voter's Social Security card. Current law requires only that the ID envelope include the voter's name. (See "**Name match requirements**," above.)

Additionally, the bill eliminates a provision of current law that allows the election officials to count a ballot if the ID envelope includes an incorrect birthdate. Currently, the election officials may do so if one of the following applies:

- The voter's birthdate is listed in the Statewide Voter Registration Database (SWVRD) as January 1, 1800. Ohio law has not always required an elector to provide a birthdate when registering to vote. As of 2014, when this provision was added to the law, some boards of elections listed an elector's birthdate in their databases as January 1, 1800, when they did not have the elector's actual birthdate.
- The board of elections finds, by a vote of at least three of its members, that the voter has met all other requirements to have the ballot counted.

Continuing law requires that if an ID envelope is incomplete or incorrect, the election officials must mail the voter a notice. In order for the ballot to be counted, the voter must

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<sup>16</sup> R.C. 3509.05 and 3509.06. See also Ohio Secretary of State, [Election Official Manual](#) (PDF) ch. 7, p. 230, available at [ohiosos.gov](http://ohiosos.gov) under "Elections & Voting," "Elections Officials," "Directives, Advisories, Memos & Tie Votes."

provide the necessary information to the board by the fourth day after Election Day, in person or by mail, in writing on a form prescribed by the Secretary of State.<sup>17</sup>

### **Processing absent voter's ballots – electors who also vote provisionally**

The bill prohibits a board of elections from opening ballot ID envelopes and scanning the enclosed ballots before the close of the polls on Election Day. This is because under the bill, if an elector appears to have cast both an absent voter's ballot and a provisional ballot, the provisional ballot takes priority. The board must wait to scan the ballots until it can determine whether any of the electors who returned absent voter's ballots are indicated in the pollbook as having cast a provisional ballot. Currently, the boards must open absent voter's ballot ID envelopes and scan the ballots before the polls close, but they cannot release the vote totals until after the polls close.

Under the bill, if the board receives a provisional ballot cast by an elector who also apparently returned an absent voter's ballot, and the provisional ballot is valid and eligible to be counted, the board generally must count the provisional ballot and reject the absent voter's ballot. Existing law gives the absent voter's ballot priority in that situation unless the signature on the absent voter's ballot does not match the signature in the board's records.

The bill also clarifies that if an elector submits an incomplete or insufficient absent voter's ballot and needs to cure the ballot, the elector cannot bypass that process by voting provisionally at a polling place. If the absent voter's ballot is successfully challenged, then neither the absent voter's ballot nor the provisional ballot will be counted. Current law is not explicit on this point. But, if the absent voter's ballot is challenged on the basis of a photo or signature mismatch, suggesting it was cast by an impostor, the bill allows the provisional ballot to be counted.<sup>18</sup>

### **Federal absent voting forms for military and overseas voters**

in addition to the state absent voter's application process previously described, the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) also requires each state to accept two federal forms from military and overseas voters: (1) the federal post card application, which serves as both a voter registration form and a request for absent voter's ballots, and (2) the federal write-in absentee ballot, which serves as both a voter registration form and an absent voter's ballot in cases where a voter does not receive official ballots in time to return them.

The UOCAVA forms instruct an Ohio applicant to provide the applicant's Ohio DL/ID number or SSN-4. States may ask the Director of the Federal Voting Assistance Program, who answers to the Secretary of Defense, to update their form instructions. But, the Director is not required to comply. Therefore, regardless of the bill's requirements, the identification that must be accepted on those forms may vary from that required under state law.

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<sup>17</sup> R.C. 3509.06 and 3509.07.

<sup>18</sup> R.C. 3509.06, 3509.09, and 3511.11; repeal of R.C. 3511.12 and 3511.13.

Additionally, it appears that under the bill, an overseas voter who is eligible to vote under continuing law, but who cannot obtain an Ohio DL/ID because of a lack of residence in Ohio, would be required to register and vote using the UOCAVA forms. The UOCAVA forms, along with the federal NVRA form discussed above, are the only remaining avenues for a person to register and vote using solely an SSN-4.<sup>19</sup>

## **Provisional voting**

### **Name**

The bill requires a provisional voter to provide the voter's full name on the provisional ballot ID envelope, as it appears on the voter's Ohio DL/ID. If the voter instead submits an affidavit of religious objection to being photographed, the name must match the voter's full name as shown on the voter's Social Security card. The bill does not explicitly require the board of elections to reject a provisional ballot that does not include the voter's name in the required format, but it appears that a board of elections could reject a ballot on that basis. (See "**Name match requirements**," above.)

It is unclear under the bill what the name format must be for a provisional voter who does not have an Ohio DL/ID and also does not have a religious objection to being photographed. Such a voter might have registered to vote using an SSN-4, as the current law allows any elector to do, and might now provide a U.S. passport or passport card or a military ID to cast a provisional ballot, as permitted under continuing law.<sup>20</sup>

### **Birthdate**

The bill eliminates a provision of current law that allows a board of elections to count a provisional ballot that includes an incorrect birthdate. Currently, as with an absent voter's ballot, the board may ignore an incorrect birthdate on the form if (1) the voter's birthdate is listed in the SWVRD as January 1, 1800, or (2) the board has found, by a vote of at least three of its members, that that voter has met all other requirements to have the ballot counted.

Instead, under the bill, the birthdate on a provisional ballot affirmation must be the same as the voter's birthdate in the SWVRD in order for the ballot to be counted.<sup>21</sup>

### **Citizenship**

The bill requires the board of elections, for every provisional ballot, to confirm that the voter is a U.S. citizen using BMV records, a government database, or a commercial service. If the board is unable to confirm the voter's citizenship, the board must notify the voter, and the ballot is eligible to be counted only if the voter appears at the office of the board by the fourth

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<sup>19</sup> 52 U.S.C. 20301, 20302, and 20303. See also Federal Voting Assistance Program, [Standard Form 76, Federal Post Card Application](#) (PDF), [Standard Form 186, Federal Write-in Absentee Ballot](#) (PDF), and [Voting Assistance Guide, ch. 2, Ohio](#), available at [fvap.gov](http://fvap.gov).

<sup>20</sup> R.C. 3505.182 and 3505.183. See also current R.C. 3503.14.

<sup>21</sup> R.C. 3505.181 and 3505.183.

day after Election Day and provides proof of citizenship in the form of one of the following (see “**Citizenship requirements**,” above):<sup>22</sup>

- A valid and unexpired U.S. passport;
- A certified copy of a U.S. birth certificate, certification of report of birth, or consular report of birth abroad;
- A certified copy of a certificate of citizenship or certificate of naturalization.

### **Processing provisional ballots**

The bill makes a technical correction to the area of the provisional ballot affirmation form that specifies how long an elector has after the election to provide any required additional information to the board of elections in order to resolve a challenge. The statute prescribing the form currently says that the elector must do so on or before the seventh day after the election, but several other provisions of the Revised Code set that deadline at the fourth day after the election.

The bill specifies that a board of elections must not determine the validity of a provisional ballot cast by a voter who is required to provide additional information to the board until the voter provides the information or until the fifth day after Election Day, whichever is earlier. Current law prohibits a board of elections from making that determination before the eighth day after Election Day, although the deadline to provide additional information to the board is the fourth day after Election Day.<sup>23</sup>

## **Voter registration**

### **Elector qualifications**

The bill amends sections of the Revised Code that describe the qualifications of an elector in order to match the language that appears in the Ohio Constitution, as amended in 2022. Instead of providing that “every” or “each” person who meets the listed qualifications has the qualifications of an elector and may vote in Ohio, the bill says that “only” such a person is an elector and may vote.

The bill also adds references to certain circumstances under continuing law in which Ohio allows a person to vote, even though the person lacks one or more of those qualifications:<sup>24</sup>

- A person who is 17, but will be 18 by the day of the general election, may vote in a primary election;

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<sup>22</sup> R.C. 3505.181 and 3505.183.

<sup>23</sup> R.C. 3505.182(E) and 3505.183(G). See also R.C. 3505.181(C)(8) and 3505.183(B)(2), (B)(3)(g), and (B)(4)(a)(v).

<sup>24</sup> R.C. 3503.01 and 3503.07; R.C. 3503.011, Chapter 3504, and 3511.01, not in the bill; Ohio Constitution, Article V, Section 1.

- A person who has moved from Ohio to another state and has not yet lived in the person's new state long enough to vote there may vote a presidential ballot in Ohio;
- A person who has moved from Ohio to another country, and in some cases that person's child, is considered a resident of Ohio for voting purposes and may vote as an overseas voter. (See "**Federal absent voting forms for military and overseas voters**," above.)

### **ID required to register**

The bill changes the ID requirements to register to vote or to update a voter registration using a paper form. Under the bill, an applicant must provide the applicant's Ohio DL/ID number. If the applicant does not have an Ohio DL/ID because the applicant has a sincere religious objection to being photographed, the applicant instead may submit a completed affidavit of religious objection to being photographed, along with the applicant's SSN-4.

Current law allows a person who applies on a paper form to submit either an Ohio DL/ID number or an SSN-4. Continuing law requires those who apply online to provide both forms of ID.<sup>25</sup>

### **Contents of registration form**

The bill prescribes new language to be used on Ohio's voter registration forms. Currently, the Secretary of State prescribes the form based on the required information fields listed in the Revised Code. Other than ID requirements described above, the bill does not generally change the information that a registrant is required to provide, but it requires the form to include certain language, including new, specific declarations that the registrant must make to be registered to vote. Under the bill, the paper registration form must be as follows:

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#### VOTER REGISTRATION APPLICATION

(1) Provide your full name as it appears on your Ohio driver's license or state identification card. If you do not have one, provide your full name as it appears on the affidavit of religious objection to being photographed that you submit.

\_\_\_\_\_

(2) Provide your current residence address: \_\_\_\_\_

(3) Provide the current date: \_\_\_\_\_

(4) Provide your date of birth: \_\_\_\_\_

(5) Provide your Ohio driver's license or state identification card number or, if you do not have an Ohio driver's license or state identification card, and you submit a valid

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<sup>25</sup> R.C. 3503.14, 3503.20, and 3505.19; conforming changes in R.C. 3505.181 and 3505.183.

affidavit of religious objection to being photographed, the last four digits of your Social Security number: \_\_\_\_\_

(6) Provide your signature: \_\_\_\_\_

(7) I declare under penalty of election falsification that:

(a) I am a citizen of the United States, as evidenced by:

(i) A valid and unexpired U.S. passport; or

(ii) A certified copy of: U.S. birth certificate, Certification of Report of Birth, Consular Report of Birth Abroad, Certificate of Citizenship, or Certificate of Naturalization.

(b) I will have lived in this state for thirty days immediately preceding the next election;

(c) I will be at least eighteen years of age at the time of the general election;

(d) I am not incarcerated for a felony conviction;

(e) I have not been declared incompetent for voting purposes by a court; and

(f) I have not been permanently disenfranchised for violations of election laws.

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

(8) In order to register to vote in Ohio, you must meet all of the following qualifications:

(a) You must be a citizen of the United States, as evidenced by (1) a valid and unexpired United States passport, or (2) a certified copy of: U.S. birth certificate, Certification of Report of Birth, Consular Report of Birth Abroad, Certificate of Citizenship, or Certificate of Naturalization.

(b) You must be at least eighteen years old on or before the day of the next general election.

(c) You must be a resident of Ohio for at least thirty days immediately before the election in which you want to vote.

(d) You must not be incarcerated for a felony conviction.

(e) You must not have been declared incompetent for voting purposes by a court.

(f) You must not be permanently disenfranchised for violations of election laws.

(9) Instructions:

(a) Your name must be the same as it appears on your Ohio driver's license or state identification card or, if you do not have an Ohio driver's license or state identification card, as it appears on the affidavit of religious objection to being photographed that you submit.

(b) Your voting residence is the location that you consider to be your permanent residence, not a temporary residence. Your voting residence is the place in which your habitation is fixed and to which, whenever you are absent, you intend to return. You are not considered to have lost your residency if you leave your home and go into another state or county for temporary purposes only, with the intention of returning. You are not considered to have gained a residence in any county into which you come for temporary purposes only, without the intention of making that county your permanent place of abode. If you are married, the place where your family resides is considered to be your place of residence. If you do not have a fixed place of habitation, but you are a consistent or regular inhabitant of a shelter or other location to which you intend to return, you may use that shelter or other location as your residence for purposes of registering to vote. You may refer to section 3503.02 of the Ohio Revised Code for more information about your voting residence. If you have questions about your specific residency circumstances, you may contact your local board of elections for further information.

(c) Your identification is your Ohio driver's license or state identification card number. Only if you do not have an Ohio driver's license or state identification card and you submit a valid affidavit of religious objection to being photographed, is your identification the last four digits of your Social Security number.

(d) If you have a religious objection to being photographed, submit a valid affidavit of religious objection to being photographed.

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The bill does not prescribe the exact language for Ohio's online voter registration form, but it requires the online form to include all of the same information. (See "**Name match requirements**" and "**Citizenship requirements**," above.)<sup>26</sup>

### **Federal voter registration forms**

The NVRA requires Ohio to accept and use the voter registration form prescribed by the U.S. Election Assistance Commission (EAC) for purposes of voting in federal elections, in addition to Ohio's own form. Currently, the federal form instructs Ohio applicants to provide an Ohio DL/ID number or an SSN-4. States may request the EAC to amend their state-specific instructions, but the EAC does not always grant those requests. Therefore, regardless of the

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<sup>26</sup> R.C. 3503.14 and 3503.20 and Ohio Secretary of State, [Form SEC 4010 \(PDF\)](#), available at [ohiosos.gov](http://ohiosos.gov) under "Elections & Voting," "Elections Officials," and "Forms & Petitions."

bill's requirements, the identification that must be accepted on those forms may vary from that required under state law.<sup>27</sup>

### **Information sheet**

The bill creates an information sheet that must be provided in all places where blank voter registration forms are present. The sheet must be placed immediately to the left of paper forms. In Ohio's online voter registration system, the applicant must be provided a copy of the information sheet before being permitted to submit an online application.

The information sheet must be in printed or electronic format with the following language in a minimum 12-point font, with bold print as indicated (see "**Citizenship requirements**," above):<sup>28</sup>

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#### **QUALIFICATIONS TO REGISTER AND VOTE**

**Are you a citizen of the United States and qualified to register to vote?** You are a citizen of the United States if you possess one of the following: (1) a valid and unexpired United States passport, or (2) a certified: U.S. birth certificate, Certification of Report of Birth, Consular Report of Birth Abroad, Certificate of Citizenship, or Certificate of Naturalization.

**Do you have the qualifications of an Ohio resident to register to vote?** You qualify as an Ohio resident if your voting residence address is:

(a) The place in which your habitation is fixed and to which, whenever you are absent, you intend to return.

(b) You shall not be considered to have lost your residence if you leave your home and go into another state or county of this state, for temporary purposes only, with the intention of returning.

(c) You shall not be considered to have gained a residence in any county of this state into which you come for temporary purposes only, without the intention of making such county the permanent place of abode.

(d) If you are married, the place where your family resides shall be considered to be your place of residence.

(e) If you do not have a fixed place of habitation, but you are a consistent or regular inhabitant of a shelter or other location to which you intend to return, you may use that shelter or other location as your residence for purposes of registering to vote.

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<sup>27</sup> 52 U.S.C. 20505 and U.S. Election Assistance Commission, [National Mail Voter Registration Form](#) (PDF), available at [eac.gov](http://eac.gov).

<sup>28</sup> R.C. 3501.05(T), 3501.10(E)(2), 3503.19, 3503.20, and 3503.28.



(f) You may refer to Ohio Revised Code section 3503.02 for more information about your voting residence, or contact your local board of elections for further information.

**Are you qualified to register and vote in Ohio?**

**Per the Ohio Constitution Article V, Section 1:**

- (a) Only a citizen of the United States,
- (b) of the age of eighteen years,
- (c) who has been a resident of the state, county, township, or ward, such time as may be provided by law, and
- (d) has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections. No person who lacks those qualifications shall be permitted to vote at any state or local election held in this state.

**Per Ohio Revised Code section 3503.14, Qualifications to register to vote:** (a) You must be a citizen of the United States, as evidenced by (i) a valid and unexpired United States passport, or (ii) a certified copy of: U.S. birth certificate, Certification of Report of Birth, Consular Report of Birth Abroad, Certificate of Citizenship, or Certificate of Naturalization.

(b) You must be at least eighteen years of age on or before the day of the next general election.

(c) You must be a resident of Ohio for at least thirty days immediately before the election in which you want to vote.

(d) You must not be incarcerated for a felony conviction.

(e) You must not have been declared incompetent for voting purposes by a court.

(f) You must not be permanently disenfranchised for violations of election laws.

**DO NOT FILL OUT THE VOTER REGISTRATION APPLICATION FORM**

**IF YOU DO NOT QUALIFY TO REGISTER TO VOTE**

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**Voter registration agencies**

The bill modifies the procedures that voter registration agencies must use when they offer voter registration and update forms to customers.

**Definition**

The bill defines a “voter registration agency” as all of the following agencies, which are required under continuing law to provide voter registration and update forms. The bill replaces

references in several sections of law to the list of agencies with the blanket term “voter registration agencies.”<sup>29</sup>

- The Secretary of State or a board of elections;
- The Registrar of Motor Vehicles or a BMV deputy registrar;
- A designated agency, which means both of the following:
  - An office or agency in the state that provides public assistance or that provides state-funded programs primarily engaged in providing services to persons with disabilities and that is required by the NVRA to implement a voter registration program;
  - Any other public or government office or agency that implements a voter registration program designed and administered by the Secretary of State for registering voters, including the Department of Job and Family Services, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) administered by the Department of Health, the Department of Mental Health and Addiction Services, the Department of Developmental Disabilities, the Opportunities for Ohioans with Disabilities Agency, and any other agency the Secretary designates.
- A public high school or vocational school;
- A public library;
- The office of a county treasurer;
- A probate court or court of common pleas (existing law only requires those courts to provide registration update forms to persons who marry or change their names).

### **Duties**

The bill applies several requirements that currently only apply to a designated agency to every type of voter registration agency, including requirements that the agency:

- Designate a person within the agency to serve as coordinator for the agency’s voter registration program, other than at the Secretary of State’s office or a board of elections;
- Require the coordinator to undergo a Secretary of State training program and be responsible for administering all aspects of the agency’s voter registration program. The bill adds a requirement that the training program include instruction on explaining all of the qualifications of an elector to applicants.
- Display a notice that identifies the coordinator and how to access the coordinator;

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<sup>29</sup> R.C. 3501.01(EE); conforming changes in R.C. 3501.05(R), (S), and (U), 3501.11(Y), 3503.09, 3503.10, 3503.14(B), 3503.15(C)(9)(a)(i), 3503.19, and 3503.28.

- Provide the coordinator with no additional compensation for performing those duties;
- Have employees trained to provide each applicant who wishes to register to vote and who accepts assistance with the same degree of assistance with voter registration as the agency provides regarding the completion of its own forms;
- Comply with written instructions provided by the Secretary of State regarding the implementation of the agency's voter registration program.

The bill prohibits a voter registration agency from distributing a voter registration application form until the applicant has first been provided a copy of the information sheet described above in printed or electronic format.

Under the bill, if information on file at a voter registration agency identifies a person as not qualified to vote, including a person who is not a U.S. citizen, the agency must advise the applicant that the applicant is not qualified to register. The agency must review each completed voter registration form to validate that the information entered on the form corresponds to information on file at the agency, if applicable, and advise the applicant to correct any invalid information.<sup>30</sup>

### **Compensated voter registration workers**

The bill modifies a provision of law related to the Revised Code's restrictions on compensated voter registration workers. The continuing statute requires that, when a person who is paid to assist others in registering to vote (other than an election official or an employee of a voter registration agency) provides a registration form or assists a person in completing or returning a form, the worker must sign the worker's name, provide the worker's address, and name the worker's employer. The bill eliminates a provision specifying that a registration form must not be rejected solely on the basis that a compensated voter registration worker failed to meet those requirements.

These provisions, along with other requirements regarding compensated voter registration workers, have not been enforced since a federal court ruled in 2006 that they violate the First Amendment.<sup>31</sup>

## **Processing voter registrations and updates**

### **Overview**

The bill requires each board of elections to have a computerized voter registration system that meets a number of technical requirements, as described in this section of the analysis and also under "**Voting system standards**," below. The bill prescribes detailed

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<sup>30</sup> R.C. 3503.10 and 3503.11.

<sup>31</sup> R.C. 3503.14, 3503.19, 3503.28, and 3503.29. See also R.C. 3599.11, not in the bill, and *Project Vote v. Blackwell*, 455 F.Supp.2d 694 (N.D. Ohio 2006), partial summary judgment granted in *Project Vote v. Blackwell*, 2008 U.S. Dist. LEXIS 9878, Case No. 1:06-CV-1628 (N.D. Ohio February 11, 2008).

procedures for the boards to use in processing voter registration applications and update forms, aided by their voter registration systems. And, the bill requires the boards to carry out weekly voter roll maintenance procedures using their voter registration systems in conjunction with information provided by the Secretary of State.

A county's voter registration system must automatically validate voter data when an elector is registered and during the weekly voter roll maintenance processes by comparing the information in the system against information the Secretary of State obtains from federal, state, and local agencies, the U.S. Postal Service, colleges and universities, and commercial sources. The bill specifies that this reference information is a public record, with the exception of electors' full or partial Social Security numbers, Ohio DL/ID numbers, telephone numbers, email addresses, signatures, and photographs. Current law requires the Secretary to obtain information from some of those sources for voter roll maintenance purposes, but less frequently.

The bill also replaces references to change of address and change of name forms with references to voter registration update forms. And, the bill clarifies that if a person who is already registered anywhere in Ohio submits a registration application, the form operates as an update form and must be processed using the same procedures as for a new registration. Any existing registration record must be transferred to the elector's new county.

When an elector moves into Ohio from another state, the bill specifies that the elector's registration form operates as an authorization to cancel the elector's out-of-state registration, instead of requiring the elector to sign a separate cancellation form. The election officials must send a copy of the new registration form to the election officials in the elector's previous state.<sup>32</sup>

### **Verifying elector information**

Upon receiving a voter registration or update form, the bill requires the staff of the board of elections to use the board's voter registration system to verify that the form includes all of the required information, and to verify the person's full legal name, birthdate, U.S. citizenship, and residence address; that the person is living; and that completing the registration or update will not create a duplicate registration record anywhere in Ohio. The specific requirements for each field are described below. If the staff are able to verify all of those elements, the staff must proceed to complete the registration or update.

If the staff are unable to verify one or more of those elements, the staff must refer the form to the board of elections for further evaluation. If the board determines that the form includes all of the required information and is satisfied as to the truth of the statements made in the form, the staff must proceed to complete the registration or update. The form cannot be

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<sup>32</sup> R.C. 111.44, 3503.09(A), 3503.10, 3503.11, 3503.14, 3503.15, 3503.16, 3503.19, 3503.201, 3503.33, 3505.182, 3509.02, 3509.08, and 3599.12; conforming changes in R.C. 3501.05(R) and 3503.09(B); repeal of R.C. 3503.111.

processed without the board's authorization. Existing law specifies only that the board must process a voter registration application if the board is satisfied as to the truth of the information provided.<sup>33</sup>

### **Name**

The bill requires the SWVRD and county registration records to include an elector's full name as it appears on the elector's Ohio DL/ID or, if the elector submits an affidavit of religious objection to being photographed, the elector's full name as it appears on the elector's Social Security card. Upon receiving a voter registration or update form, the board must verify the person's name using records obtained from a government database, from a commercial identity verification service, or from the Secretary of State. The Secretary must provide the board with a list of the full legal names of all known residents of Ohio who are 17 or older. If the board registers a person whose name does not appear on the list, the Secretary must add it to the list.<sup>34</sup>

### **Birthdate**

Under the bill, the board's voter registration system must verify the person's birthdate using records obtained from a government database or from a commercial identity verification service. The system also must verify that the person will be 18 or older on the date of the next general election.<sup>35</sup>

### **U.S. citizenship**

The board's voter registration system must verify that the person is a U.S. citizen by comparing the person's information against the information in all of the following databases:

- The BMV database, as provided to the board by the Secretary of State (the BMV collects citizenship or immigration status information from its customers);
- The Systematic Alien Verification for Entitlements (SAVE) service, or its successor service, operated by the U.S. Department of Homeland Security or its successor department;
- A government database or commercial service that contains information derived from individuals' valid and unexpired U.S. passports or certified copies of U.S. birth certificates, consular reports of birth abroad, certificates of citizenship, or certificates of naturalization.

Under continuing law, a person is not required to provide proof of U.S. citizenship when registering, only to declare under penalty of election falsification that the person is a U.S. citizen. However, if the board is unable to verify the person's citizenship using one of these

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<sup>33</sup> R.C. 3503.19 and 3503.201.

<sup>34</sup> R.C. 3503.14, 3503.15(C)(1), 3503.152(A)(1), 3503.20, and 3503.201(A)(2).

<sup>35</sup> R.C. 3503.201(A)(3).

databases, it appears that under the bill, the board could require the person to submit proof of citizenship in order to complete the registration or update. Alternatively, the board might determine that the person's affirmation of citizenship on the form is sufficient.<sup>36</sup>

However, if the board registers the person, the system is likely to raise the issue again during the board's voter roll maintenance process. In that case, the person must provide proof of citizenship in order to remain registered. (See "**Electors who appear not to be U.S. citizens**," below and "**Citizenship requirements**," above.)

### ***About SAVE***

SAVE is a federal database designed to let government benefits agencies, such as the Department of Job and Family Services, verify that an applicant who is not a U.S. citizen has the appropriate immigration status to be eligible to receive public benefits. If a person appears in SAVE, the person likely is not a U.S. citizen.

The U.S. Department of Homeland Security might not grant a board of elections or the Secretary of State access to SAVE because they do not administer public benefits. Moreover, in order to verify an immigrant's benefits eligibility, SAVE requires the person's name and birthdate, plus a numeric identifier like a number issued as part of the person's visa or the number on the person's current foreign passport. Because Ohio's voter registration form assumes that the applicant is a U.S. citizen and does not request that type of numeric identifier, which only a noncitizen would possess, it might not be possible for a board of elections to use SAVE to verify a person's U.S. citizenship in this context.<sup>37</sup>

### **Residence address**

The bill requires the board to verify that the person's residence address is a valid residence address for purposes of voter registration by using a government database or commercial address verification service and information provided by the Secretary of State. The board also must ensure that the address is entered into the system in a standardized format that is recognized by the U.S. Postal Service and complies with Secretary of State directives.

To assist this verification, the Secretary must provide the board with the following lists of addresses:

- A list of known residence addresses in the county, in the appropriate format, updated every three months. If the board registers an elector whose address is not included in the list, the Secretary must add it.
- A list of known addresses in the county that are not suitable for use as a residence address, including commercial mailbox facilities, U.S. Postal Service facilities, other nonresidential premises, and vacant lots, updated annually;

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<sup>36</sup> R.C. 3503.201(A)(4).

<sup>37</sup> U.S. Citizenship and Immigration Services, [About SAVE](#), [SAVE Verification Process](#), and [Register for SAVE](#), available at [uscis.gov/save](https://uscis.gov/save).

- A list of known residence addresses in the county that correspond to short-term housing facilities, including student housing, hotels, and shelters, updated annually.

Continuing law allows a person who does not have a fixed place of habitation to register to vote at “a shelter or other location at which the person has been a consistent or regular inhabitant and to which the person has the intention of returning.”<sup>38</sup>

### **Living persons**

Under the bill, the board must verify that the person is living, using death records obtained from the Department of Health via the Secretary of State and using any other available database. The Secretary must provide the board with a list of residents of Ohio who have died and whose birthdates are within the past 130 years, updated monthly. (That is, deceased residents who, based on their birthdates, could still be alive.)<sup>39</sup>

### **Signature**

Under continuing law, each elector’s registration record includes a digital image of the elector’s signature derived from a paper registration form or, in the case of an online registration, the elector’s BMV record. Under the bill, the board’s system must create that image or obtain it from the BMV and attach it to the person’s record. The bill prohibits the SWVRD from including electors’ signatures, but requires county registration records to continue to include those signatures. The bill specifies that an image of an elector’s signature is not a public record.<sup>40</sup>

### **Photograph**

The bill adds a new requirement that a person’s registration record include a photograph of the person if the board is able to obtain one from BMV records. Under the bill, the SWVRD must not include any photograph of an elector, and such a photograph is not a public record.<sup>41</sup>

### **Registration date**

Under the bill, a county’s voter registration system must record the elector’s registration date according to existing law standards and must prevent any person from changing a registration date.<sup>42</sup>

### **Voting history**

The bill requires the SWVRD and county registration records to include an elector’s voting history for the current calendar year and at least the previous 19 years. Existing law

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<sup>38</sup> R.C. 3503.152 and 3503.201(A)(5), and R.C. 3503.02(I), not in the bill.

<sup>39</sup> R.C. 3503.152(A)(6) and 3503.201(A)(6).

<sup>40</sup> R.C. 3503.13(B), 3503.15(C), 3503.152(A)(5), 3503.20, and 3503.201(C)(3).

<sup>41</sup> R.C. 3503.13(B), 3503.15(C), 3503.152(A)(5), 3503.20(B), 3503.201(C)(4), and 4507.53.

<sup>42</sup> R.C. 3503.15(C)(9) and 3503.201(C)(2).

requires registration records to include an elector's voting history but does not specify a required length of time.<sup>43</sup>

### **Voter registration record ID number**

The bill requires each registration record to include a unique voter registration record ID number that consists of a prefix that corresponds to the county in which the elector is first registered and a sequentially issued serial number. The Secretary of State must provide the boards of elections with instructions for replacing previously assigned voter registration record ID numbers with numbers that meet the bill's requirements.<sup>44</sup>

### **Updating registration in previous county**

Under the bill, if the person has changed residence from one county to another within Ohio, the board's voter registration system must assist the board in updating the person's record in the SWVRD and notifying the board of elections of the person's previous county of the update. Currently, an address update from one county to another usually occurs via an electronic notice from the Secretary of State to the person's previous county or via a paper notice from the new county, and is not necessarily immediate.<sup>45</sup>

### **Acknowledgment notice**

The bill changes the procedures that apply when an elector's acknowledgment notice is returned to the board as undeliverable. Under continuing law, after registering an elector or updating the elector's registration, the board must send the elector an acknowledgment notice by nonforwardable mail that informs the elector of the elector's registration or update, the elector's precinct, and voter ID information.

If the acknowledgment notice is returned to the board as undeliverable and the board is unable to verify the elector's correct address, the bill requires the board to send the elector a second acknowledgment notice with a response requested return notice by forwardable mail. If the elector responds to the return notice and indicates that the elector wishes to be registered at a new deliverable address as indicated, the board must update the elector's address. If the second notice is also returned to the board as undeliverable, the board must cancel the registration and notify the elector by U.S. mail.

If the second notice is not returned to the board as undeliverable, and the board does not receive a return notice response from the elector within 15 days after mailing the second notice, the board promptly must send the elector a third notice. The third notice must include a message that the elector's registration will be canceled if the elector does not respond within 15 days. If the board does not receive a return notice response from the elector within 15 days after the board mails the third notice, the board must cancel the elector's registration and

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<sup>43</sup> R.C. 3503.15(C)(10).

<sup>44</sup> R.C. 3503.15(C)(12).

<sup>45</sup> R.C. 3503.201(C)(5).



notify the elector by U.S. mail. (See “**Federal voter roll maintenance requirements,**” below.)

If, during the notice period, the elector appears to vote, the elector must cast a provisional ballot. If the ballot is counted, the board must correct the elector’s registration, as needed. If the ballot is not counted, the board must cancel the person’s registration and notify the person by U.S. mail.

Existing law requires that when an elector’s original acknowledgment notice is returned to the board as undeliverable, the board must send the elector a confirmation notice and require the elector to vote provisionally the first time the elector votes. If the elector’s provisional ballot is not counted, the board must cancel the registration. Under the confirmation notice process, if the elector does not respond to the notice, update the elector’s registration, or vote during a four-year period that includes two federal general elections, the election officials must cancel the elector’s registration.<sup>46</sup>

## **Voter roll maintenance**

The bill expands the sources of information that the Secretary of State and the boards must use to identify registrations that should be updated, merged, or canceled. And, in some cases, the bill increases the frequency with which the boards of elections must perform certain voter roll maintenance checks.

To facilitate this process, the bill requires the Secretary of State to compile and transmit reports to the boards of elections, as described below. The boards must take action concerning issues raised in a report within two weeks after receiving the report. The reports are subject to disclosure as public records, with the exception of electors’ full or partial Social Security numbers, Ohio DL/ID numbers, telephone numbers, email addresses, signatures, and photographs.

The bill also adds a universal requirement that a board of elections send a written notice to an elector at the elector’s registration address when the board cancels the elector’s registration. Currently, that requirement applies only to cancellations pursuant to a report of the elector’s death.<sup>47</sup>

### **Deceased electors**

The Secretary of State must send each board of elections a weekly report that identifies any registered elector of the county who has died. The report must include information from all of the following sources based on a matching first name, last name, and birthdate:

- The Director of Health;

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<sup>46</sup> R.C. 3503.19(C)(3), 3503.201(D) and (E), and 3503.21.

<sup>47</sup> R.C. 3503.13, 3503.153(A) and (B) and 3503.21(C).

- The State and Territorial Exchange of Vital Events System (STEVE) operated by the National Association for Public Health Statistics and Information Systems;
- Any available information from the U.S. Social Security Administration and from any other government database.

Continuing law, relocated by the bill, requires the Director of Health to send monthly reports to the Secretary concerning electors who have died. The reports must include the names, Social Security numbers, birthdates, death dates, and residence addresses of all persons over 18 who have died in Ohio or another state since the last report.

The Secretary also currently receives information from STEVE on a monthly basis and transmits it to the boards of elections, but that process is established by directive. STEVE includes death records from jurisdictions throughout the United States, except for Guam, American Samoa, and the U.S. Virgin Islands.

The bill also allows any person to file a certified copy of an elector's death certificate with the board in order to have the elector's registration canceled. Existing law specifies that the board must cancel an elector's registration if a certified copy of the elector's death certificate is filed by the elector's spouse, parent, or child, by the administrator of the elector's estate, or by the executor of the elector's will.<sup>48</sup>

### **Electors adjudicated incompetent**

The bill requires the Secretary of State to provide the board with a weekly report identifying any registered elector of the county who has been adjudicated incompetent for the purpose of voting. The board promptly must cancel the elector's registration. Under existing law, this process occurs on a monthly basis instead of weekly. The bill relocates, but does not otherwise change, the law that requires each probate judge in the state to send monthly reports to the Secretary about any electors they have adjudicated incompetent.<sup>49</sup>

### **Electors convicted of disenfranchising offenses**

Under the bill, the Secretary of State also must send the board a weekly report that identifies any elector of the county who has been convicted of a crime that disenfranchises the person (makes the person ineligible to vote), based on lists submitted to the Secretary by the clerk of each court of common pleas and any report submitted to the Secretary by a federal prosecutor. In general, a person who is currently incarcerated for a felony offense is ineligible to vote but becomes eligible again after being released. Certain elections-related offenses also make a person temporarily or permanently ineligible to vote.

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<sup>48</sup> R.C. 3503.151(B)(3), 3503.153(A)(1), 3503.21, and repeal of R.C. 3503.18. See also Ohio Secretary of State, [Election Official Manual](#) (PDF), ch. 4, section 4.12, available at [ohiosos.gov](http://ohiosos.gov) under "Elections & Voting," "Elections Officials," "Directives, Advisories, Memos & Tie Votes."

<sup>49</sup> R.C. 3503.151(B)(4), 3503.153(A)(2), and 3503.21; repeal of R.C. 3503.18. See also R.C. 5122.301, not in the bill.

Currently, court clerks must send monthly reports of convictions to the applicable board of elections. Upon receiving the report, the board promptly must cancel the electors' registrations.<sup>50</sup>

## **Electors who appear not to be U.S. citizens**

### **Weekly report**

The bill requires the Secretary of State to send each board of elections a weekly report that identifies any person who is registered to vote in the county who appears not to be a U.S. citizen on the basis of any of the following:

- Information the person provided to the BMV or to the Department of Job and Family Services;
- Information in U.S. Social Security Administration records;
- Information obtained from SAVE;
- Information obtained from a government database or a commercial service that contains information derived from sources including, but not limited to, the following: (1) a valid and unexpired U.S. passport or (2) a certified copy of a birth certificate, consular report of birth abroad, certificate of citizenship, or certificate of naturalization.

Current law requires the Secretary to perform an annual review of the SWVRD for apparent noncitizens, based on BMV records. In order to be flagged, an elector must have submitted documentation to the BMV indicating a lack of U.S. citizenship both before and after registering or voting. This procedure is designed to exclude a person from being flagged if the person becomes a U.S. citizen *after* applying for an Ohio DL/ID, but before registering to vote or voting.<sup>51</sup>

### **Proof of U.S. citizenship**

When a person is identified in a report generated under the bill as not being a U.S. citizen, the bill requires the person to provide proof of U.S. citizenship in order to remain registered and to vote. (See "**Citizenship requirements**," above.) To prove the elector's citizenship, an elector must provide one of the following:<sup>52</sup>

- A valid and unexpired U.S. passport;
- A certified copy of a U.S. birth certificate, certification of report of birth, or consular report of birth abroad;
- A certified copy of a certificate of citizenship or certificate of naturalization.

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<sup>50</sup> R.C. 3503.151(B)(5) and (6), 3503.153(A)(3) and (12), and 3503.21; repeal of R.C. 3503.18. See also R.C. 2961.01, 3599.02, and 3599.39, not in the bill.

<sup>51</sup> R.C. 3503.153(A)(4)(a); repeal of current R.C. 3503.152.

<sup>52</sup> R.C. 3503.153(A)(4)(b).

### **Provisional ballot requirement**

When a person is identified in a report as not being a U.S. citizen, the bill requires the board promptly to add a notation in the elector's registration record that the next time the elector votes, the elector must cast a provisional ballot. In order for the provisional ballot to be counted, the elector must provide proof of citizenship to the board within four days after Election Day, unless the elector provides proof of citizenship before voting, as described below.<sup>53</sup>

### **Notice to apparent noncitizen**

When a person is identified in a report as not being a U.S. citizen, the bill also requires the board promptly to send the person a confirmation notice with return notice and cancellation notice requesting that the person, within 15 days, either provide proof of citizenship to the board or cancel the person's voter registration. If the person does not respond within 15 days, the board must send a second notice of the same kind.

If the person provides the board with proof of U.S. citizenship within 30 days after the first notice is sent, the board must remove the notation from the person's record that the person is required to vote by provisional ballot.

If the person does not provide proof of U.S. citizenship to the board within 30 days after the first notice is sent, the board must cancel the person's registration, send the person a cancellation notice, and forward the matter to the county prosecutor for investigation. (See "**Federal voter roll maintenance requirements**," below.)

If the person cancels the person's registration, the board still must forward the matter to the county prosecutor for investigation.

Under the existing annual review process, a person who is flagged as an apparent noncitizen has a total of 90 days to respond to two notices before being referred to the Attorney General for investigation and potential prosecution. If the person cancels the person's registration, the person is not referred for investigation or prosecution.<sup>54</sup>

### **Electors who may have moved – sending confirmation notices**

The bill changes the process by which the boards of elections must identify electors who appear to have moved or changed their names for purposes of sending them confirmation notices. Under the bill, these notices are to be sent on a weekly basis instead of annually (see "**Federal voter roll maintenance requirements**," below).

Under continuing Ohio law and as outlined by the NVRA, when it appears that an elector has moved or had a change of name without updating the elector's registration, election officials must send the elector a confirmation notice. The notice must be sent by forwardable mail and must include a preaddressed, postage prepaid return form for the elector to use to

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<sup>53</sup> R.C. 3503.153(A)(4)(b) and 3505.181.

<sup>54</sup> R.C. 3503.153(A)(4)(b); repeal of current R.C. 3503.152.

respond to the notice. The bill adds language allowing a confirmation notice to be used to confirm an elector's name or other registration information, in addition to the elector's current address.

Currently, if the elector does not respond to the notice, update the elector's registration, or vote during a four year period that includes two federal general elections, the election officials then must cancel the registration within 120 days after the end of the waiting period. The bill reorganizes and consolidates those program requirements, and also requires that at the end of the waiting period, the election officials must cancel the elector's registration within 30 days after the end of the waiting period or within 30 days after the results of the most recent election are certified, whichever is later.

Under the bill, the Secretary of State must send each board of elections a weekly report that identifies electors who may have moved or changed their names and have not yet been sent a confirmation notice, based on any of the following:

- Information obtained from government databases, including:
  - Changes of address or name submitted to state agencies;
  - Information about BMV customers who have applied for a driver's license or state ID card in another state, provided by the Secretary at least monthly;
  - Information about electors who have registered to vote or voted in another state;
- Information obtained from the National Change of Address service (NCOA) provided by the U.S. Postal Service and updated at least monthly. Current law requires the Secretary to obtain NCOA information annually.
- The fact that the elector is registered at an address to which any of the following apply:
  - The U.S. Postal Service is unable to deliver mail to the address;
  - The premises at the address are unsuitable for habitation;
  - More electors are registered at the address than reasonably could reside on the premises, and the elector's date of registration at the address suggests that the elector has moved. (For example, if three electors register at the same studio apartment over the course of a few years, the older registrations might belong to previous tenants.)
  - The premises at the address are a short-term housing facility and the elector's date of registration at the address suggests that the elector has moved.

- The fact that the elector, during a period of two years or more, has not voted in an election or updated the elector's registration. (Currently, these electors are sent confirmation notices on an annual basis according to Secretary of State directives.)<sup>55</sup>

Upon receiving the weekly report, the board promptly must send each listed elector a confirmation notice.<sup>56</sup>

### **Duplicate registrations**

The Secretary of State must send each board of elections a weekly report that identifies any apparent duplicate registration records within the county's records, between two or more counties' records, or between Ohio and another state. The report must include any apparent duplicates identified using either of the following criteria:

- Records with the same first name, last name, middle initial, and birthdate;
- Records with the same first name, birthdate, and residence address.

Upon receiving the report, the board promptly must investigate the matter and cancel any duplicate registrations.<sup>57</sup>

### **Electors who appear to have moved to another state**

Under certain circumstances, the bill requires a board of elections to immediately cancel the registration of an elector who appears to have moved to another state, instead of using the confirmation notice process to contact the elector (see "**Federal voter roll maintenance requirements**," below).

If an elector appears on a duplicate report as being registered both in Ohio and another state and the elector is also on the NCOA reference list as having moved to the same address registered in the other state, the board must cancel the elector's Ohio registration and send the elector a cancellation notice.

Further, if an elector appears on a report indicating that the elector has applied for a driver's license in another state and is also on the NCOA reference list as having moved to the same address associated with the driver's license, the board must cancel the elector's Ohio registration and send the elector a cancellation notice.<sup>58</sup>

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<sup>55</sup> Ohio Secretary of State, *Election Official Manual*, ch. 4, "Uniform and Nondiscriminatory Voter Records Maintenance," available at [ohiosos.gov](http://ohiosos.gov) under "Elections & Voting," "Elections Officials," "Directives, Advisories, Memos & Tie Votes."

<sup>56</sup> R.C. 3501.01(W), 3501.05(Q), 3503.153(A)(5), and 3503.21.

<sup>57</sup> R.C. 3503.153(A)(8).

<sup>58</sup> R.C. 3503.153(A)(8) and (9).

## **Electors who have completed the confirmation notice process**

Under the bill, the Secretary of State must send each board of elections a weekly report that identifies any elector who has been sent a confirmation notice and whose registration is due to be canceled because the elector has not responded to the notice, updated the elector's registration, or voted during a four-year period that includes two federal general elections. The election officials must cancel the elector's registration promptly and within 30 days after the end of the waiting period or within 30 days after the results of the most recent election are certified, whichever is later. (See "**Federal voter roll maintenance requirements**," below.)

The Secretary also must send each board a weekly report that identifies any elector who has been sent a confirmation notice and who has responded to the notice, updated the elector's registration, or voted, but whose registration has not yet been updated to reflect that the elector's registration is no longer subject to cancellation under the confirmation notice process. Upon receiving the report, the board promptly must update the elector's registration to reflect that fact.<sup>59</sup>

## **Electors who appear to have voted more than once in an election**

The Secretary must send each board of elections a weekly report that identifies any registered elector who appears to have voted more than once in an election, based on information obtained from other states and from the report of duplicate registrations. Upon receiving the report, the board promptly must refer the matter to the county prosecutor for investigation.<sup>60</sup>

## **Precinct and voting district errors**

The Secretary must send each board of elections a weekly report that identifies any electors who have the same residence address but are assigned to different precincts or voting districts. Upon receiving the report, the board promptly must investigate the matter and correct any errors.<sup>61</sup>

## **Other errors**

Finally, the Secretary must send each board of elections a weekly report that identifies any other registration record in the county that appears not to comply with the requirements of the Revised Code or of the rules or directives of the Secretary of State. Upon receiving the report, the board promptly must investigate the matter.<sup>62</sup>

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<sup>59</sup> R.C. 3503.153(A)(6) and (7) and 3503.21(A)(5).

<sup>60</sup> R.C. 3503.153(A)(10).

<sup>61</sup> R.C. 3503.153(A)(11).

<sup>62</sup> R.C. 3503.153(A)(13).

## **Storage of canceled registration information**

The bill requires that canceled voter registration records in the SWVRD and county registration systems be stored in a physically separate database from current voter registration records. Under continuing law, the boards must retain those records for at least five years after their cancellation and record the reason for their cancellation.<sup>63</sup>

## **Federal voter roll maintenance requirements**

The NVRA requires each state to follow a number of procedures when conducting routine voter roll maintenance. The law prohibits a state from canceling an elector's registration on the ground that the elector has changed residence unless (1) the elector confirms in writing that the elector has changed residence, or (2) the state sends the elector a confirmation notice and the elector then fails to respond, update the elector's registration, or vote during a period of four years that includes two federal general elections. A federal appeals court in another jurisdiction ruled that a state must follow this procedure even if a database appears to indicate that the elector has registered to vote in another state.

Further, the NVRA prohibits a state, during the 90 days before a federal election, from conducting any program to systematically remove the names of ineligible voters from the rolls. During that 90-day period, a state may cancel an elector's registration only because of death, a criminal conviction, an adjudication of incompetence, at the elector's own request, or to correct errors in registration records.<sup>64</sup> The bill eliminates current provisions of law that prohibit the boards of elections from engaging in these activities during the 90-day period and instead requires the boards to complete voter roll maintenance processes on a weekly basis.<sup>65</sup>

## **Access to voter registration systems**

The bill requires that the servers and other equipment associated with the SWVRD and each county's voter registration system be physically located in a facility in Ohio. The facility for the SWVRD must be under the sole control of the Secretary of State, while the facility for a county's voter registration system must be under the control of the board of elections.

Under the bill, any election official who has the authority to administer a voter registration system or to create, modify, or cancel any record in the system must be a U.S. citizen and a resident of Ohio, and must have no criminal record involving dishonesty, moral turpitude, or any violation of election or immigration laws.

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<sup>63</sup> R.C. 3503.15(B)(6).

<sup>64</sup> 52 U.S.C. 20507(c)(2) and (d)(1). See also *Common Cause Indiana v. Lawson*, 937 F.3d 944 (7<sup>th</sup> Cir. 2019) and *Arcia v. Secretary of State of Florida*, 772 F.3d 1335, 1344 (11<sup>th</sup> Cir. 2014).

<sup>65</sup> R.C. 3503.153 and current R.C. 3503.21(B).



Continuing law requires the Secretary to prescribe by rule safeguards and components to ensure that the integrity, security, and confidentiality of voter registration information is maintained, but does not include the specifications described above.<sup>66</sup>

## **Voter registration database audits**

The bill eliminates a requirement that the Secretary of State establish by rule a process for annually auditing the information in the SWVRD and instead prescribes two new procedures for auditing both the SWVRD and county registration databases more frequently.<sup>67</sup>

### **Monthly commercial evaluations**

The bill requires the Secretary of State to engage a commercial service to perform monthly evaluations of the accuracy of the information in the SWVRD, the weekly reports generated for database maintenance purposes, and county voter registration systems. Within two weeks after an evaluation is completed, the Secretary must publish the results, along with a written plan to take any needed corrective action, on the Secretary's official website. The Secretary and the boards of elections immediately must begin taking the necessary corrective action and must complete the corrections before the day of the next election.<sup>68</sup>

### **Audits by the Auditor of State**

Under the bill, the Auditor of State annually must audit the SWVRD and three counties' registration systems. For purposes of selecting which counties to audit in a given year, the bill requires the counties to be ranked in order beginning with the county with the largest number of registered electors and ending with the county with the smallest number of registered electors. Then, one county must be randomly selected from each of three groups:

1. The counties representing the top third of all registered electors;
2. The counties representing the middle third of all registered electors;
3. The counties representing the lowest third of all registered electors.

Once a county is audited under the annual process, it must not be audited under that process again until every other county in its category has been audited the same number of times.

The audit must include evaluations of whether all of the following are true:

- Electors' names and addresses are entered in a format that conforms with Revised Code and Secretary of State requirements;
- Electors' names, addresses, and dates of birth are consistent with the corresponding voter registration applications and update forms and with BMV records;

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<sup>66</sup> R.C. 3503.15(B)(5) and 3503.26.

<sup>67</sup> R.C. 3503.15(E)(5).

<sup>68</sup> R.C. 3503.13 and 3503.153(C).

- Electors are not registered at residence addresses that are not suitable for use as residence addresses;
- Electors' registration dates are accurate;
- Electors' dates of birth indicate that they are eligible to vote, are logically consistent with the electors' voter registration dates and voting history dates, and are not older than the oldest known U.S. citizen;
- Electors' registrations are consistent as shown in the SWVRD and the applicable county's voter registration system, and the same electors show in the SWVRD and in the applicable county's voter registration system;
- Duplicate records are not present in the database being audited;
- Electors who are registered at the same address are not assigned to different precincts or voting districts;
- The database maintenance procedures described above are being followed.

In addition to the annual audits, the Auditor must conduct an additional audit of a county's voter registration system for the entire county or for a particular precinct or precincts, upon the request of the Secretary or of the county's board of elections. Records of all audits are subject to disclosure as public records and must be posted on the Secretary's website.<sup>69</sup>

## **Public voter registration records**

The bill adds to the information and functionality that must be available to the public through the version of the SWVRD on the Secretary of State's website. Under continuing law, the website must allow the public to access an elector's name, birthdate, current residence address, precinct number, voter registration date, voting history, and last activity date. During the 30 days before an election, the website also must include the elector's polling location. However, if an elector is a participant in the Address Confidentiality Program for victims of certain crimes, the elector must not appear in the public version of the SWVRD. And, if an elector is a designated public service worker and has requested a redaction, the elector's address must not appear in the public version of the database.

The bill requires the SWVRD website also to include a field for each elector's registration that indicates whether the elector's registration is subject to cancellation on or after a certain date because the elector has been sent a confirmation notice and has not yet responded to it, updated the elector's registration, or voted. The website must show the date on which the elector's registration may be canceled if the elector does not take one of those actions. And, the website must provide access to canceled voter registration records, which are stored in a physically separate database.

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<sup>69</sup> R.C. 3503.13 and 3503.154.

The bill specifies that the website must allow a user to access information concerning a particular person and to generate, view, sort, filter, and download the following types of reports:<sup>70</sup>

- A report of registration information for all registered electors in a county;
- A report of registration information for all individuals whose registrations have been canceled in a county;
- A report of all electors in a county who have been sent confirmation notices and who have not yet responded to the notices, updated their voter registrations, or voted;
- A report of all potential duplicate registrations in Ohio, based on either of the following criteria:
  - The electors have the same first name, last name, middle initial, and date of birth;
  - The electors have the same first name, residence address, and date of birth.

The current SWVRD website allows a user to look up an individual elector's record by entering the elector's first name, last name, and county, which leads to a profile page that shows the elector's name, address, polling location, precinct, and voting districts, but not the elector's birthdate, voter registration date, voting history, or last activity date. Alternatively, a separate area of the website allows a user to download a file in a plain-text format that includes all electors in the state or in a county, General Assembly district, or congressional district. These files can be imported into a spreadsheet and include all the information concerning each elector that is required by law to be available online. Existing law also requires each board of elections to maintain publicly available records of electors who have been sent confirmation notices, but that information is not currently available through the Secretary of State.<sup>71</sup>

## **Pre-election registration challenges and corrections**

The bill modifies the current process by which an elector may, before an election, file a challenge of another elector's right to vote or ask the board of elections to correct the elector's own registration record. (This process is distinct from the law that allows an election official to challenge an elector's right to vote when the elector appears to vote in person. Only an election official may challenge an elector at the polls.)

The bill clarifies that any qualified elector of Ohio, not just an elector of that particular county, may challenge an elector's right to vote. Under the bill, an elector who files a challenge may challenge multiple electors' right to vote by filing a single document that identifies each elector whose right to vote is challenged. Finally, the bill adds a reference to the continuing

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<sup>70</sup> R.C. 3503.155.

<sup>71</sup> Ohio Secretary of State, [Voter Search](#), available at [voterlookup.ohiosos.gov](http://voterlookup.ohiosos.gov), and [Voter Files Download Page](#), available at [ohiosos.gov](http://ohiosos.gov) under "Elections & Voting," "Ohio Candidates," "County Voter File Download." See also R.C. 3503.26(B).

requirement that if the board determines that a person is entitled to be registered to vote, the board must give a written notice to the voting location manager of the person's polling place.<sup>72</sup>

## **Voting system standards**

### **Hand counted paper ballots**

The bill allows any county to adopt the use of hand counted paper ballots instead of voting machines, marking devices, or automatic tabulating equipment. The board of elections may make that change, or the board of county commissioners may make the change on the recommendation of the board of elections.

Alternatively, the electors of a county may submit an initiative petition signed by a number of electors equal to 2% of the total votes cast in the county for the office of Governor at the most recent gubernatorial election. When the electors file a valid petition, the board of elections must place the issue on the ballot at the next general election occurring at least 90 days after the petition is filed. The ballot question must be, "Shall hand counting of paper ballots be used instead of electronic voting machines in the county of \_\_\_\_\_ for tabulation of votes?"

If the board of elections determines that it would need additional supplies or equipment to change the county to a hand counted paper ballot system, and the board of county commissioners decides that it should issue bonds to cover those costs, the board of county commissioners may place a separate issue on the same ballot seeking authorization to issue those bonds.

The bill's process for changing to hand counted paper ballots mirrors the continuing law process for a county to decide to use voting machines, marking devices, and automatic tabulating equipment.<sup>73</sup>

## **Board of Voting Systems Examiners**

### **Duties**

The bill renames the Board of Voting Machine Examiners as the Board of Voting Systems Examiners and requires the Board to examine and recommend voter registration systems in addition to other equipment. Under the bill, "voting system" includes all of the following:<sup>74</sup>

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<sup>72</sup> R.C. 3503.24 and conforming changes in R.C. 3505.20. Until 2016, the law specified that any qualified elector "of the county" could file a challenge. H.B. 359 of the 131<sup>st</sup> General Assembly removed the words "of the county," but did not explicitly provide that any qualified elector *of the state* could file a challenge.

<sup>73</sup> R.C. 3506.022 and 3506.03. See also R.C. 3506.02, not in the bill, and Ohio Secretary of State, [Governor's Race Percentage Chart](#) (PDF), available at [ohiosos.gov](http://ohiosos.gov) under "Legislation & Ballot Issues," "Putting an Issue on the Ballot."

<sup>74</sup> R.C. 3506.01 and 3506.05 and conforming changes in R.C. 111.26, 3501.17, 3506.06, 3506.07, 3506.08, 3506.09, 3506.10, and 3506.15.

- A voter registration system. The bill defines a voter registration system as software and any related equipment used by a board of elections or the Secretary of State to process, store, organize, maintain, or retrieve voter registration records.
- An electronic pollbook. The bill defines an electronic pollbook as a software derived electronic list of registered electors for a particular precinct or polling location that is transported to a polling location. The current definition does not include the term “software derived.”
- A voting machine. Under continuing law, a voting machine is mechanical or electronic equipment for the direct recording and tabulation of votes. For example, a direct recording electronic voting machine (DRE) allows a voter to make selections on a touchscreen and electronically records and stores the votes, while printing a voter verified paper audit trail for the voter to confirm that the votes were recorded properly.
- A marking device. Continuing law defines a marking device as an apparatus operated by a voter to record the voter’s choices through the marking of ballots, enabling them to be examined and counted by automatic tabulating equipment. Many counties currently use electronic marking devices instead of voting machines; these machines allow a voter to make selections on a touch screen, then print a paper ballot that shows the votes.
- Automatic tabulating equipment. Under continuing law, automatic tabulating equipment is a machine or electronic device, or interconnected or interrelated machines or electronic devices, that will automatically examine and count votes recorded on ballots. Typically, these machines allow a voter or an election official to feed a paper ballot into the machine, and the machine optically scans the ballot and adds the votes to a running total. All counties currently use automatic tabulating equipment to count absent voter’s ballots, and many counties also use them at each precinct to count hand marked or electronically marked paper ballots.
- Any other equipment or software that is used for the purpose of registering electors, maintaining voter registration records, casting or tabulating votes, communicating among systems involved in the tabulation, storage, or casting of votes, or reporting or auditing the results of an election.

## **Membership**

The bill retains the current structure of the Board of Voting Systems Examiners but changes the qualifications members must have. Under continuing law, the Board consists of four members, appointed as follows, who serve during the Secretary of State’s term. In the case of a tie vote, the Secretary breaks the tie.

- Two members appointed by the Secretary of State;
- One member appointed by either the Speaker of the House of Representatives or the House Minority Leader, whoever is a member of the opposite political party from the Secretary;

- One member appointed by either the President of the Senate or the Senate Minority Leader, whoever is a member of the opposite political party from the Secretary.

The bill specifies that no more than two members of the Board may be members of the same political party. Under the bill, all members of the Board must be U.S. citizens and Ohio residents, must have no criminal record, and must have no influence or control of entities outside the United States.

Currently, all four Board members must be competent and experienced election officials or persons who are knowledgeable about the operation of voting systems. The bill requires two Board members to meet that description, and the other two instead to be cybersecurity experts to whom both of the following apply:<sup>75</sup>

- The person has at least five years of experience as an information security analyst or in managing information security;
- The person has obtained an information security certification that requires the person to have passed an examination that covers at least three of the following topics:
  - Information technology risk management, identification, mitigation, and compliance;
  - Information security incident management;
  - Information security program development and management;
  - Risk and control monitoring and reporting;
  - Access control systems and methodology;
  - Business continuity planning and disaster recovery planning;
  - Physical security of computing systems;
  - Networking security;
  - Security architecture application and systems development.

### **Conflicts of interest**

Under the bill, a voting system vendor is a person that manufactures, distributes, programs, or maintains a voting system that is marketed or used in Ohio, or the person's agent. Current law defines a vendor as the person that owns, manufactures, distributes, or has the legal right to control the use of a piece of voting equipment, or the person's agent.

The bill prohibits a voting system from being used in Ohio if any of the following persons have any pecuniary interest in, or affiliation with, the vendor:

- The Secretary of State or any election official in the Secretary's office;

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<sup>75</sup> R.C. 3506.05.

- Any member of the Board of Voting Systems Examiners;
- Any person who conducts a cybersecurity assessment of the voting system under the bill;
- Any relative of those persons, meaning a person's spouse, parent, stepparent, parent-in-law, grandparent, sibling of the whole or half blood, child, stepchild, uncle, aunt, nephew, or niece.

Current law prohibits a piece of voting equipment from being used in Ohio if the Secretary, a member of the Board, or any public officer who participates in the authorization, examination, testing, or purchase of the equipment has a pecuniary interest in the equipment or any affiliation with the vendor. The law does not extend that scrutiny to those persons' relatives.

Additionally, the bill eliminates a provision of law that prohibits any voting equipment, other than a voter registration system, from being used in Ohio if an elected official or the official's spouse is a partner, owner, or member of the manufacturer or the vendor. A person is not considered an owner of a publicly traded manufacturer or vendor if the official's and the spouse's combined ownership interest is less than 10%. Under the bill, this restriction would apply only if the public official was an official listed above who might be involved in approving the equipment.<sup>76</sup>

### **Process for certifying a voting system**

Under continuing law, no voting system may be purchased or used in Ohio unless the system, along with its manual, training materials, service, and other support arrangements, have been examined and recommended by the Board of Voting Systems Examiners and certified by the Secretary of State. (Current law refers to "approval" rather than "recommendation" by the Board.) A board of elections that wishes to use a voting system also must make a demonstration of the system available to all interested electors of the county.

The bill extends these requirements to voter registration systems. The bill also eliminates the Board's ability to give a county permission to use a voting system on an experimental basis in a limited number of precincts in the county. Any voting system used in the state must be fully approved and certified.

Continuing law requires a voting system vendor who seeks certification of a voting system to submit all of the following to the Board of Voting Systems Examiners:

- The voting system;
- All current related procedural manuals;
- A current description of all related support arrangements;

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<sup>76</sup> R.C. 3506.01(P) and 3506.05 and repeal of R.C. 3506.24.

- A full statement of the system’s advantages;
- A list of the patents and copyrights used in the crucial operations of the system as determined by the Board;
- A fee. The bill changes this fee from \$2,400 to an amount established by the Board to cover the expense of examining the system and performing a security assessment review. Under continuing law, the Board may impose an additional fee in an amount set by rule to pay for the costs of alternative testing or testing by persons other than Board members, recordkeeping, and other extraordinary costs incurred in the examination process. Any unused money is returned to the vendor.

The bill eliminates a requirement that the vendor submit a detailed explanation of the system’s construction and method of operation. And, the bill eliminates provisions that require a vendor or computer software developer to place all of the following in escrow with an independent escrow agent approved by the Secretary:

- A copy of all source code and related documentation, including all relevant program statements in low- or high-level languages. “Source code” does not include variable codes created for specific elections.
- Periodic updates;
- A system configuration.

Under continuing law, not later than 90 days after the system is submitted, the Board must examine the system and file a written report with the Secretary with its recommendations concerning whether the system meets all of the applicable criteria. As is discussed below in detail, the bill adds a number of criteria that must be considered. The Board’s report must include summary findings of the third-party qualified cybersecurity review described below, including identified security vulnerabilities and a written statement by the vendor on qualified actions taken to remediate known security vulnerabilities. The Board must consider the results of the cybersecurity review in making its decision.

If the Board finds that the system meets the applicable criteria and can be used securely (current law uses the term “safely”), the Board must recommend that the Secretary certify the system. If the Secretary certifies the system, the Secretary must notify the boards of elections. The boards of elections and the Secretary’s office then may adopt a system of the same model and make, as long as it operates in an identical manner.<sup>77</sup>

### **Voting system updates and corrections**

Under continuing law, after a voting system is certified, the Board of Voting Systems Examiners or the Secretary of State must periodically examine, test, and inspect the system to determine continued compliance. Any examination, test, or inspection for purposes of

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<sup>77</sup> R.C. 3506.04, 3506.05, 3506.051(D), and 3506.10.



continued certification must be conducted in the same manner as for initial recommendation and certification if a security vulnerability has been uncovered in an assessment by a third-party security reviewer, as described below (currently, if a significant problem has been uncovered), or in which a record of continuing problems exists.

Additionally, continuing law requires the vendor to notify the Secretary of certain changes and to provide an updated operations manual for the system. The Secretary then must notify the Board. Under the bill, this notice requirement applies to any security vulnerabilities and corrective actions to change the hardware or software that alter the methods of recording voter intent, system security, voter privacy, retention of the vote, communication of records, or connections between the system and other systems. Existing law requires the vendor to notify the Secretary 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 items listed above. The bill requires, instead of allowing, the Board to reexamine and retest the voting system upon receiving notice of a change from the vendor.<sup>78</sup>

### **Decertification of voting system**

Continuing law requires the Secretary of State to notify the users and vendors of a voting system that certification may be withdrawn if any of the following apply:

- The Board of Voting Systems Examiners or the Secretary is notified of any third-party assessment review security vulnerability with the voting system (currently, any “significant problem” with the system);
- The Board or the Secretary determines that the system fails to meet the requirements of the law;
- The Secretary was not notified of changes as described above.

The notice must be in writing and must specify the reasons for the potential withdrawal and the date on which certification will be withdrawn unless the vendor remedies the situation.

Under continuing law, the vendor has 30 days to act. The bill requires the vendor to (1) take corrective measures, obtain third-party assessment security review recommendation before the system is used, and submit a description of the measures taken and when or (2) notify the Secretary of the relevant changes as required. The bill eliminates an option for the vendor to explain why there are no problems with the system or why it was not required to report any changes.

Continuing law requires the Board, within 15 days after receiving the vendor’s response, to determine whether to allow continued certification of the system. The Secretary must send the vendor a written notice of the Board’s decision and the reasons for it. If the Board withdraws the certification, the notice must include the effective date of the withdrawal.

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<sup>78</sup> R.C. 3506.05.

The vendor then has 30 days to request the Board to hold a hearing to reconsider its decision to withdraw certification. The Board must allow any interested party to submit testimony or documentation in support of or in opposition to the Board's recommendation.<sup>79</sup>

## **Criteria for voting system approval and certification**

### **General standards**

Continuing law requires the Secretary of State to adopt administrative rules, in consultation with the Board of Voting Systems Examiners, prescribing guidelines for the approval, certification, and continued certification of voting systems. Under the bill, those rules must be adopted under the Administrative Procedure Act.

The bill requires a voting system to meet all of the following requirements:

- It must meet or exceed the most recently adopted Election Assistance Commission (EAC) voluntary voting system guideline certification standards. Currently, a voting system may meet either the latest EAC standards or the standards adopted by the Federal Election Commission (FEC) in 2002, if the FEC certified that type of system. Under continuing law, relocated by the bill, a county that acquired its voting system before December 1, 2008, may continue replacing and repairing equipment with items that do not meet newer standards until the county changes its voting system.
- The vendor must demonstrate all of the following with respect to the system, including components provided by affiliates or third-party suppliers:
  - That the system has been developed and maintained throughout its life cycle using the standards and practices described in the most current version of the National Institute of Standards in Technology (NIST)'s secure software development framework;
  - That the system's software is well secured and that all components of the software are protected from tampering and unauthorized access;
  - That the vendor rapidly addresses and reports corrective measures regarding security vulnerabilities in the system as they are discovered;
  - That the voting system vendor is in compliance with all applicable requirements of the law governing voting systems.
- The vendor and its agents, in providing and maintaining the system, must comply with the same security and confidentiality requirements that apply to election officials;
- All contracts, service agreements, business proposals, payment invoices, and grants between the Secretary and the boards of elections with vendors and registered nongovernmental organizations must be subject to disclosure as public records, and

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<sup>79</sup> R.C. 3506.05(F) and (G).

vendors must be considered to be involved in a core government function with the exception of exclusions specifically outlined in the Public Records Law;

- The Secretary and each board of elections must maintain a public website identifying and providing access to all existing contracts, service agreements, proposals, payment invoices, and grants related to election services and support activities.

Continuing law explicitly allows the Secretary to follow or adopt any guidelines proposed by the EAC. The bill eliminates a similar provision that states that the Secretary may follow or adopt guidelines proposed by the FEC.<sup>80</sup>

### **Enhanced risk assessment framework**

The bill requires that, before certification of a computerized voting system and at all times while the system is in use in Ohio, the vendor must comply with an enhanced risk assessment framework that requires the vendor and its agents who are responsible for software development to do all of the following:<sup>81</sup>

- Disclose open source components in operating systems, development frameworks, and data utilization;
- Permit third-party assessment security reviews;
- Periodically self-attest to adopting practices that adhere to NIST's most recent secure software development framework as described in Special Publication 800-218;
- Verify hashes and signatures for all vendor-supplied software, installation, and updates upon request and make those hashes and signatures open to public inspection;
- Extend foundational capability recommendations to subsidiary suppliers designated within outside-in analyses or software bills of materials.
  - The bill defines a "software bill of materials" as a formal, machine readable inventory of software components and dependencies that includes version and license information and other details concerning every third-party component of the software, version control for any custom code deployed through code management tools, and supply chain relationships of the components used in building the software and their hierarchical relationships.
- Include flow-down requirements to subsidiary suppliers in agreements that pertain to the secure development, delivery, operational support, and maintenance of software;
- Use suppliers who provide a software security label or data sheet that includes information on the background qualifications, skills, and citizenship of key personnel involved in building the software for all provided products;

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<sup>80</sup> R.C. 3506.05(H) and 3506.051.

<sup>81</sup> R.C. 3506.01 and 3506.05(E).

- Periodically submit and, upon third-party request, attest to conformance to applicable secure software development framework requirements and enhanced secure software development lifecycle capabilities, such as automated build deployments, pre-production testing, automatic rollbacks, and staggered production deployments, including low level artifacts.
  - The bill defines a “software development lifecycle” as a formal or informal methodology for designing, creating, and maintaining software, including code built into hardware;
  - The bill defines an “artifact” as a byproduct of software development that is created in order to develop software, including data models, diagrams, source code, setup scripts, and documents that describe the characteristics or attributes of the software with respect to its architecture, technical aspects, or end user processes.

### **Cybersecurity review**

Before recommending a computerized voting system, the bill requires the Board of Voting Systems Examiners to engage one or more qualified cybersecurity reviewers to conduct a cybersecurity review of the system. The Board may engage reviewers through the Ohio Cyber Reserve or by other means.

A cybersecurity reviewer must meet all of the following requirements:

- The person must be a U.S. citizen, must have no criminal record, and must have no influence or control of entities outside the United States;
- The person must have a minimum of five years’ management experience in information security or a minimum of five years’ experience as an information security analyst;
- The person must have obtained an information security certification by passing an examination that covers at least three of the following topics:
  - Information technology risk management, identification, mitigation, and compliance;
  - Information security incident management;
  - Information security program development and management;
  - Risk and control monitoring and reporting;
  - Access control systems and methodology;
  - Business continuity planning and disaster recovery planning;
  - Physical security of computer systems;
  - Networking security;
  - Security architecture application and systems development.
- The person or the person’s employer or business must not receive any form of compensation from, or have any affiliation with, the voting system vendor;

- The person or the person's employer or business must not have any other contract with a state agency.

The voting system vendor and its agents must adhere to the federal Enduring Security Framework Guidelines produced by the Critical Infrastructure Partnership Advisory Council. The vendor must provide the cybersecurity reviewer with the voting system hardware and software and all software source byproducts, including all of the following:

- A high-level secure development lifecycle process document;
- A product readiness checklist;
- A product support and response plan;
- Architecture and design documents;
- Developer training certificates, training completion statistics, and related data;
- A threat model results document;
- A high-level software security test plan and results;
- Automatic and manual dynamic and static security and vulnerability reports;
- Security scanning results reports;
- An open source review process document and allowed list;
- A build log;
- A secure development build configurations listing;
- A third-party software tool chains list;
- A software bill of materials that meets all of the following requirements:
  - It conforms to the National Telecommunications and Information Administration's minimum elements for a software bill of materials.
  - It includes a description of all third party build components and practices and a catalog of the integration of open source software components.
  - It conforms to industry standard formats to enable the automated ingestion and monitoring of versions, such as SPDX, CycloneDX, and SWID.
  - It includes software bills of materials for all classes of software, including purchased software, open-source software, and in-house software.

The vendor must do all of the following with respect to the software bill of materials:

- Make it available through a readily accessible and digitally signed repository that is shared with users directly or publish it on a public website;

- Contextualize it with additional data elements that inform the risk posture of the designated entity, including plug-ins, hardware components, organizational controls, and other community provided components;
- Integrate vulnerability detection with software bill of materials repositories to enable automated alerting for applicable cybersecurity risks throughout the supply chain;
- Ensure that it details the suppliers' integration of commercial software components;
- Maintain vendor vulnerability disclosure reports at the software bill of materials component level;
- Develop risk management and measurement capabilities to dynamically monitor the impact of vulnerability disclosures on users;
- Perform binary decomposition of software installation packages to generate software bills of materials when no vendor-supplied software bill of materials is available, when technically feasible and legal.

The bill requires the cybersecurity reviewer to examine and evaluate the voting system hardware and software and all accompanying materials. At a minimum, the cybersecurity reviewer must evaluate both of the following:

- Whether the vendor adheres to the artifact production and security development practices disclosure in the most recent federal Enduring Security Framework published by the Cybersecurity and Infrastructure Security Agency;
- Whether the voting system vendor adheres to the practices and tasks detailed in NIST's most recent secure software development framework as described in Special Publication 800-218.

Under the bill, the cybersecurity reviewer must submit a report of the results of the review to the Board, the Secretary of State, and the vendor. The report must identify any vulnerabilities discovered and must assess the degree to which the system meets the bill's standards. Within 30 days after the report is submitted, the Secretary must make the report and all the materials listed above available to the public on the Secretary's official website.<sup>82</sup>

### **Periodic cybersecurity testing**

As a condition of continued certification, the bill also requires every computerized voting system in Ohio to undergo periodic cybersecurity testing, including penetration testing, by one or more cybersecurity reviewers. The testing may include remote inspection of a system and inspections at the office of a board of elections, a vendor's place of business, or any other relevant location. The Secretary of State must adopt rules under the Administrative Procedure Act to implement the periodic testing requirements.

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<sup>82</sup> R.C. 3506.052.

Every year, the Secretary must order testing of three counties' registration systems. For purposes of selecting which counties to test in a given year, the bill requires the counties to be ranked in order beginning with the county with the largest number of registered electors and ending with the county with the smallest number of registered electors. Then, one county must be randomly selected from each of three groups:

1. The counties in the 66<sup>th</sup> percentile and higher;
2. The counties in the 34<sup>th</sup> to 65<sup>th</sup> percentile range;
3. The counties in the 33<sup>rd</sup> percentile and lower.

Once a county is tested under the annual process, it must not be tested under that process again until every other county in its category has been audited the same number of times.

In addition to the annual testing, the Secretary and the Board of Voting Systems Examiners may order cybersecurity testing of a voting system at any time. The Secretary *must* order cybersecurity testing of a system when any of the following occur:

- The vendor notifies the Board of a significant change to the system, as described above under **“Voting system updates and corrections.”**
- The Secretary or the Board becomes aware that the voting system has experienced a significant cybersecurity failure in Ohio or another jurisdiction or has been decertified for use in another jurisdiction.
- A board of elections requests the testing.
- A county commissioner requests the testing.

A voting system passes the testing if the testing detects no significant problems in the system. Or if the testing does detect significant problems, the system passes the testing if the vendor and the board of elections or the Secretary of State, as applicable, remediate the problems to the satisfaction of the Secretary and the Board before the system is put back into use and within a time period set by the Secretary and the Board.

A voting system fails the testing if (1) the testing detects significant problems in the system and they are not remediated, (2) the reviewer is unable to determine whether significant problems exist or whether any identified significant problems have been remediated, or (3) the vendor or the board of elections fails to adequately cooperate with the testing, as determined by the Secretary and the Board.

If a voting system fails the cybersecurity testing, the Board immediately must withdraw the system's certification.<sup>83</sup>

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<sup>83</sup> R.C. 3506.141.

## Particular types of voting systems

### Voter registration systems

#### *Criteria for certification*

In order to be certified, the bill requires a voter registration system to be capable of meeting all of the requirements described above under “**Processing voter registrations and updates**” and “**Voter roll maintenance**.” These functions include:

- Validating and verifying registration information as election officials enter it into the system;
- Performing weekly checks for voter roll maintenance purposes;
- In the case of a county’s system, retrieving updated information from the SWVRD at least every 24 hours and incorporating it within 24 hours of retrieval;
- Storing registration information that is not public record in an encrypted format;
- Prohibiting any image of an elector’s signature and any photo of an elector from being transmitted to the SWVRD from county records;
- Storing canceled voter registration records in a physically separate database from current registration records;
- Prohibiting any modification to the database except by an authorized election official.

The Secretary of State also may prescribe additional requirements for voter registration systems by rules adopted under the Administrative Procedure Act.<sup>84</sup>

#### *Blockchain ledger*

Under the bill, a certified voter registration system must use a digital blockchain ledger to log all modifications to the database. The ledger must meet all of the following requirements:

- It must be an immutable, cryptographically protected, append-only audit log of all transactions that add, change, or delete records in the database, along with the date and time of each transaction and the identity of the user who conducted the transaction. The bill defines an immutable record as having a software feature that ensures that the record is created and that the record is extremely difficult to alter or delete.
- It must be capable of reconstructing the voter registration database from a specific point in time up to a desired date by replaying the stored transactions.

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<sup>84</sup> R.C. 3506.053.



- Canceled voter registration records must have an immutable history in the ledger, beginning with the transaction that created the record and ending with the transaction that canceled the record.

Before preparing the pollbooks for an election, and before conducting the canvass of the results of an election, the board of elections must compare the information in its voter registration database against the blockchain ledger to confirm the accuracy of the registration records used in the election. The ledger is a public record under the bill.<sup>85</sup>

### ***Guide for vendors***

Under the bill, the Secretary of State must create, maintain, and publish guides for voting system vendors that describe all of the applicable requirements for voter registration systems.<sup>86</sup>

### **Electronic pollbooks**

The bill adds to the certification criteria for electronic pollbooks. Currently, the Secretary of State prescribes all of the standards by rule. The bill allows the Secretary to continue to prescribe those standards, but they must be adopted under the Administrative Procedure Act.

Under the bill, an electronic pollbook must be capable of operating as describe above under “**Pollbooks.**” It must store any registration information that is not a public record in an encrypted format.

The bill prohibits an electronic pollbook from being connected to the internet or a telecommunications network while the polls are open on Election Day and until the electronic pollbook is returned to the board of elections. Currently, electronic pollbooks may be networked so that, for example, when an elector votes, all of the county’s pollbooks are updated to show that the elector has already voted.

The bill also requires that, while the polls are open on Election Day, an electronic pollbook must prohibit the creation or cancellation of any voter registration record, or the modification of a voter registration record, except to add to an elector’s voting history.<sup>87</sup>

### **Voting machines**

Continuing law prohibits a voting machine from being connected to the internet. The bill modifies this provision to also prohibit a voting machine from being connected to a telecommunications network.<sup>88</sup>

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<sup>85</sup> R.C. 3503.13, 3503.231(C)(1), 3506.01(H), and 3506.053.

<sup>86</sup> R.C. 3506.05(E)(3).

<sup>87</sup> R.C. 3506.054 and 3506.23; repeal of R.C. 3506.021.

<sup>88</sup> R.C. 3506.23.

## Voter verified paper audit trails

The bill relocates the law that lists certain standards for the certification of DREs with voter verified paper audit trails. The only substantive change the bill makes to those provisions is to eliminate the authority of the Secretary of State to waive one of the requirements if the Secretary determines that it is cost prohibitive. The bill makes it mandatory for a voter verified paper audit trail to (1) be capable of being optically scanned for purposes of a recount or audit and (2) be readable by the voter without the use of computer or electronic codes.<sup>89</sup>

## HISTORY

Action	Date
Introduced	04-08-24

ANHB0472IN-135/ar

<sup>89</sup> R.C. 3506.05(H) and 3506.101.