

As Reported by the House Government Oversight Committee

134th General Assembly

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H. B. No. 149

Representatives Swearingen, Stewart

**Cosponsors: Representatives Bird, Carruthers, Cross, Ghanbari, Hall, John, Kick,
LaRe, Lipps, Plummer, Schmidt, Young, T.**

A BILL

To amend sections 3501.01, 3505.03, 3505.04, and 1
3513.257 of the Revised Code to require certain 2
judicial candidates to appear on the ballot with 3
a party designation. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3501.01, 3505.03, 3505.04, and 5
3513.257 of the Revised Code be amended to read as follows: 6

Sec. 3501.01. As used in the sections of the Revised Code 7
relating to elections and political communications: 8

(A) "General election" means the election held on the 9
first Tuesday after the first Monday in each November. 10

(B) "Regular municipal election" means the election held 11
on the first Tuesday after the first Monday in November in each 12
odd-numbered year. 13

(C) "Regular state election" means the election held on 14
the first Tuesday after the first Monday in November in each 15
even-numbered year. 16

(D) "Special election" means any election other than those
elections defined in other divisions of this section. A special
election may be held only on the first Tuesday after the first
Monday in May, August, or November, or on the day authorized by
a particular municipal or county charter for the holding of a
primary election, except that in any year in which a
presidential primary election is held, no special election shall
be held in May, except as authorized by a municipal or county
charter, but may be held on the third Tuesday after the first
Monday in March.

(E) (1) "Primary" or "primary election" means an election
held for the purpose of nominating persons as candidates of
political parties for election to offices, and for the purpose
of electing persons as members of the controlling committees of
political parties and as delegates and alternates to the
conventions of political parties. Primary elections shall be
held on the first Tuesday after the first Monday in May of each
year except in years in which a presidential primary election is
held.

(2) "Presidential primary election" means a primary
election as defined by division (E) (1) of this section at which
an election is held for the purpose of choosing delegates and
alternates to the national conventions of the major political
parties pursuant to section 3513.12 of the Revised Code. Unless
otherwise specified, presidential primary elections are included
in references to primary elections. In years in which a
presidential primary election is held, all primary elections
shall be held on the third Tuesday after the first Monday in
March except as otherwise authorized by a municipal or county
charter.

(F) "Political party" means any group of voters meeting 47
the requirements set forth in section 3517.01 of the Revised 48
Code for the formation and existence of a political party. 49

(1) "Major political party" means any political party 50
organized under the laws of this state whose candidate for 51
governor or nominees for presidential electors received not less 52
than twenty per cent of the total vote cast for such office at 53
the most recent regular state election. 54

(2) "Minor political party" means any political party 55
organized under the laws of this state that meets either of the 56
following requirements: 57

(a) Except as otherwise provided in this division, the 58
political party's candidate for governor or nominees for 59
presidential electors received less than twenty per cent but not 60
less than three per cent of the total vote cast for such office 61
at the most recent regular state election. A political party 62
that meets the requirements of this division remains a political 63
party for a period of four years after meeting those 64
requirements. 65

(b) The political party has filed with the secretary of 66
state, subsequent to its failure to meet the requirements of 67
division (F) (2) (a) of this section, a petition that meets the 68
requirements of section 3517.01 of the Revised Code. 69

A newly formed political party shall be known as a minor 70
political party until the time of the first election for 71
governor or president which occurs not less than twelve months 72
subsequent to the formation of such party, after which election 73
the status of such party shall be determined by the vote for the 74
office of governor or president. 75

(G) "Dominant party in a precinct" or "dominant political party in a precinct" means that political party whose candidate for election to the office of governor at the most recent regular state election at which a governor was elected received more votes than any other person received for election to that office in such precinct at such election.

(H) "Candidate" means any qualified person certified in accordance with the provisions of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, or any qualified person who claims to be a write-in candidate, or who knowingly assents to being represented as a write-in candidate by another at either a primary, general, or special election to be held in this state.

(I) "Independent candidate" means any candidate who claims not to be affiliated with a political party, and whose name has been certified on the office-type ballot at a general or special election through the filing of a statement of candidacy and nominating petition, as prescribed in section 3513.257 of the Revised Code.

(J) "Nonpartisan candidate" means any candidate whose name is required, pursuant to section 3505.04 of the Revised Code, to be listed on the nonpartisan ballot, including all candidates ~~for judicial office~~ judge of a municipal court, county court, or court of common pleas, for member of any board of education, for municipal or township offices in which primary elections are not held for nominating candidates by political parties, and for offices of municipal corporations having charters that provide for separate ballots for elections for these offices.

(K) "Party candidate" means any candidate who claims to be a member of a political party and who has been certified to

appear on the office-type ballot at a general or special 106
election as the nominee of a political party because the 107
candidate has won the primary election of the candidate's party 108
for the public office the candidate seeks, has been nominated 109
under section 3517.012, or is selected by party committee in 110
accordance with section 3513.31 of the Revised Code. 111

(L) "Officer of a political party" includes, but is not 112
limited to, any member, elected or appointed, of a controlling 113
committee, whether representing the territory of the state, a 114
district therein, a county, township, a city, a ward, a 115
precinct, or other territory, of a major or minor political 116
party. 117

(M) "Question or issue" means any question or issue 118
certified in accordance with the Revised Code for placement on 119
an official ballot at a general or special election to be held 120
in this state. 121

(N) "Elector" or "qualified elector" means a person having 122
the qualifications provided by law to be entitled to vote. 123

(O) "Voter" means an elector who votes at an election. 124

(P) "Voting residence" means that place of residence of an 125
elector which shall determine the precinct in which the elector 126
may vote. 127

(Q) "Precinct" means a district within a county 128
established by the board of elections of such county within 129
which all qualified electors having a voting residence therein 130
may vote at the same polling place. 131

(R) "Polling place" means that place provided for each 132
precinct at which the electors having a voting residence in such 133
precinct may vote. 134

(S) "Board" or "board of elections" means the board of elections appointed in a county pursuant to section 3501.06 of the Revised Code.	135 136 137
(T) "Political subdivision" means a county, township, city, village, or school district.	138 139
(U) "Election officer" or "election official" means any of the following:	140 141
(1) Secretary of state;	142
(2) Employees of the secretary of state serving the division of elections in the capacity of attorney, administrative officer, administrative assistant, elections administrator, office manager, or clerical supervisor;	143 144 145 146
(3) Director of a board of elections;	147
(4) Deputy director of a board of elections;	148
(5) Member of a board of elections;	149
(6) Employees of a board of elections;	150
(7) Precinct election officials;	151
(8) Employees appointed by the boards of elections on a temporary or part-time basis.	152 153
(V) "Acknowledgment notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, informing a voter registration applicant or an applicant who wishes to change the applicant's residence or name of the status of the application; the information necessary to complete or update the application, if any; and if the application is complete, the precinct in which the applicant is to vote.	154 155 156 157 158 159 160
(W) "Confirmation notice" means a notice sent by a board	161

of elections, on a form prescribed by the secretary of state, to 162
a registered elector to confirm the registered elector's current 163
address. 164

(X) "Designated agency" means an office or agency in the 165
state that provides public assistance or that provides state- 166
funded programs primarily engaged in providing services to 167
persons with disabilities and that is required by the National 168
Voter Registration Act of 1993 to implement a program designed 169
and administered by the secretary of state for registering 170
voters, or any other public or government office or agency that 171
implements a program designed and administered by the secretary 172
of state for registering voters, including the department of job 173
and family services, the program administered under section 174
3701.132 of the Revised Code by the department of health, the 175
department of mental health and addiction services, the 176
department of developmental disabilities, the opportunities for 177
Ohioans with disabilities agency, and any other agency the 178
secretary of state designates. "Designated agency" does not 179
include public high schools and vocational schools, public 180
libraries, or the office of a county treasurer. 181

(Y) "National Voter Registration Act of 1993" means the 182
"National Voter Registration Act of 1993," 107 Stat. 77, 42 183
U.S.C.A. 1973gg. 184

(Z) "Voting Rights Act of 1965" means the "Voting Rights 185
Act of 1965," 79 Stat. 437, 42 U.S.C.A. 1973, as amended. 186

(AA) "Photo identification" means a document that meets 187
each of the following requirements: 188

(1) It shows the name of the individual to whom it was 189
issued, which shall conform to the name in the poll list or 190

signature pollbook. 191

(2) It shows the current address of the individual to whom 192
it was issued, which shall conform to the address in the poll 193
list or signature pollbook, except for a driver's license or a 194
state identification card issued under section 4507.50 of the 195
Revised Code, which may show either the current or former 196
address of the individual to whom it was issued, regardless of 197
whether that address conforms to the address in the poll list or 198
signature pollbook. 199

(3) It shows a photograph of the individual to whom it was 200
issued. 201

(4) It includes an expiration date that has not passed. 202

(5) It was issued by the government of the United States 203
or this state. 204

Sec. 3505.03. (A) On the office type ballot shall be 205
printed the names of all candidates for election to offices, 206
~~except judicial offices~~ the office of judge of a municipal 207
court, county court, or court of common pleas, who were 208
nominated at the most recent primary election as candidates of a 209
political party or who were nominated in accordance with section 210
3513.02 of the Revised Code, and the names of all candidates for 211
election to offices who were nominated by nominating petitions, 212
~~except candidates for judicial offices~~ the office of judge of a 213
municipal court, county court, or court of common pleas, for 214
member of the state board of education, for member of a board of 215
education, for municipal offices, and for township offices. 216

(B) The face of the ballot below the stub shall be 217
substantially in the following form: 218

"OFFICIAL OFFICE TYPE BALLOT 219

~~(A)~~ (1) To vote for a candidate record your vote in the 220
manner provided next to the name of such candidate. 221

~~(B)~~ (2) If you tear, soil, deface, or erroneously mark 222
this ballot, return it to the precinct election officers or, if 223
you cannot return it, notify the precinct election officers, and 224
obtain another ballot." 225

(C) The order in which the offices shall be listed on the 226
ballot shall be prescribed by, and certified to each board of 227
elections by, the secretary of state; provided that for state, 228
district, and county offices the order from top to bottom shall 229
be as follows: governor and lieutenant governor, attorney 230
general, auditor of state, secretary of state, treasurer of 231
state, chief justice of the supreme court, justice of the 232
supreme court, United States senator, representative to 233
congress, state senator, state representative, judge of a court 234
of appeals, county commissioner, county auditor, prosecuting 235
attorney, clerk of the court of common pleas, sheriff, county 236
recorder, county treasurer, county engineer, and coroner. The 237
offices of governor and lieutenant governor shall be printed on 238
the ballot in a manner that requires a voter to cast one vote 239
jointly for the candidates who have been nominated by the same 240
political party or petition. 241

(D) Within the rectangular space within which the title of 242
each judicial office listed in division (C) of this section is 243
printed on the ballot and immediately below the title shall be 244
printed the date of the commencement of the term of the office, 245
if it is a full term, as follows: "Full term commencing 246
_____ (Date) _____," or the date of the end of the term of the 247
office, if it is an unexpired term, as follows: "Unexpired term 248
ending _____ (Date) _____" 249

(E)(1) The names of all candidates for an office shall be 250
arranged in a group under the title of that office, and, except 251
for absentee ballots or when the number of candidates for a 252
particular office is the same as the number of candidates to be 253
elected for that office, shall be rotated from one precinct to 254
another. On absentee ballots, the names of all candidates for an 255
office shall be arranged in a group under the title of that 256
office and shall be so alternated that each name shall appear, 257
insofar as may be reasonably possible, substantially an equal 258
number of times at the beginning, at the end, and in each 259
intermediate place, if any, of the group in which such name 260
belongs, unless the number of candidates for a particular office 261
is the same as the number of candidates to be elected for that 262
office. 263

(2) The method of printing the ballots to meet the 264
rotation requirement of this section shall be as follows: the 265
least common multiple of the number of names in each of the 266
several groups of candidates shall be used, and the number of 267
changes made in the printer's forms in printing the ballots 268
shall correspond with that multiple. The board of elections 269
shall number all precincts in regular serial sequence. In the 270
first precinct, the names of the candidates in each group shall 271
be listed in alphabetical order. In each succeeding precinct, 272
the name in each group that is listed first in the preceding 273
precinct shall be listed last, and the name of each candidate 274
shall be moved up one place. In each precinct using paper 275
ballots, the printed ballots shall then be assembled in tablets. 276

(F) Under the name of each candidate nominated at a 277
primary election, nominated by petition under section 3517.012 278
of the Revised Code, or certified by a party committee to fill a 279
vacancy under section 3513.31 of the Revised Code shall be 280

printed, in less prominent type face than that in which the 281
candidate's name is printed, the name of the political party by 282
which the candidate was nominated or certified. Under the name 283
of each candidate appearing on the ballot who filed a nominating 284
petition and requested a ballot designation as a nonparty 285
candidate under section 3513.257 of the Revised Code shall be 286
printed, in less prominent type face than that in which the 287
candidate's name is printed, the designation of "nonparty 288
candidate." Under the name of each candidate appearing on the 289
ballot who filed a nominating petition and requested a ballot 290
designation as an other-party candidate under section 3513.257 291
of the Revised Code shall be printed, in less prominent type 292
face than that in which the candidate's name is printed, the 293
designation of "other-party candidate." No designation shall 294
appear under the name of a candidate appearing on the ballot who 295
filed a nominating petition and requested that no ballot 296
designation appear under the candidate's name under section 297
3513.257 of the Revised Code, or who filed a nominating petition 298
and failed to request a ballot designation either as a nonparty 299
candidate or as an other-party candidate under that section. 300

(G) Except as provided in this section, no words, 301
designations, or emblems descriptive of a candidate or the 302
candidate's political affiliation, or indicative of the method 303
by which the candidate was nominated or certified, shall be 304
printed under or after a candidate's name that is printed on the 305
ballot. 306

Sec. 3505.04. On the nonpartisan ballot shall be printed 307
the names of all nonpartisan candidates for election to ~~judicial~~ 308
the office of judge of a municipal court, county court, or court 309
of common pleas, the office of member of the state board of 310
education, the office of member of a board of education, 311

municipal or township offices for municipal corporations and 312
townships in which primary elections are not held for nomination 313
of candidates by political parties, and municipal offices of 314
municipal corporations having charters which provide for 315
separate ballots for elections for such municipal offices. 316

Such ballots shall have printed across the top, and below 317
the stubs, "Official Nonpartisan Ballot." 318

The order in which the offices are listed on the ballot 319
shall be prescribed by, and certified to each board of elections 320
by, the secretary of state; provided that the office of member 321
of the state board of education shall be listed first on the 322
ballot, then ~~state, district, and county judicial offices shall~~ 323
~~be listed on the ballot in such order~~, followed by municipal and 324
township offices, and by offices of member of a board of 325
education, in the order stated. 326

Within the rectangular space within which the title of 327
each judicial office is printed on the ballot and immediately 328
below such title shall be printed the date of the commencement 329
of the term of the office, if a full term, as follows: "Full 330
term commencing _____ (Date) _____," or the date of the end of 331
the term of the office, if an unexpired term, as follows: 332
"Unexpired term ending _____ (Date) _____" 333

The secretary of state shall prescribe the information and 334
directions to the voter to be printed on the ballot within the 335
rectangular space in which the title of office of member of the 336
state board of education appears. 337

Within the rectangular space within which the title of 338
each office for member of a board of education is printed on the 339
ballot shall be printed "For Member of Board of Education," and 340

the number to be elected, directions to the voter as to voting 341
for one, two, or more, and, if the office to be voted for is 342
member of a board of education of a city school district, words 343
shall be printed in said space on the ballot to indicate whether 344
candidates are to be elected from subdistricts or at large. 345

The names of all nonpartisan candidates for an office 346
shall be arranged in a group under the title of that office, and 347
shall be rotated and printed on the ballot as provided in 348
section 3505.03 of the Revised Code. 349

No name or designation of any political party nor any 350
words, designations, or emblems descriptive of a candidate or 351
~~his~~the candidate's political affiliation, or indicative of the 352
method by which such candidate was nominated or certified, shall 353
be printed under or after any nonpartisan candidate's name which 354
is printed on the ballot. 355

Sec. 3513.257. Each person desiring to become an 356
independent candidate for an office for which candidates may be 357
nominated at a primary election, except persons desiring to 358
become independent joint candidates for the offices of governor 359
and lieutenant governor and for the offices of president and 360
vice-president of the United States, shall file no later than 361
four p.m. of the day before the day of the primary election 362
immediately preceding the general election at which such 363
candidacy is to be voted for by the voters, a statement of 364
candidacy and nominating petition as provided in section 365
3513.261 of the Revised Code. Persons desiring to become 366
independent joint candidates for the offices of governor and 367
lieutenant governor shall file, not later than four p.m. of the 368
day before the day of the primary election, one statement of 369
candidacy and one nominating petition for the two of them. 370

Persons desiring to become independent joint candidates for the 371
offices of president and vice-president of the United States 372
shall file, not later than four p.m. of the ninetieth day before 373
the day of the general election at which the president and vice- 374
president are to be elected, one statement of candidacy and one 375
nominating petition for the two of them. The prospective 376
independent joint candidates' statement of candidacy shall be 377
filed with the nominating petition as one instrument. 378

The statement of candidacy and separate petition papers of 379
each candidate or pair of joint candidates shall be filed at the 380
same time as one instrument. 381

The nominating petition shall contain signatures of 382
qualified electors of the district, political subdivision, or 383
portion of a political subdivision in which the candidacy is to 384
be voted on in an amount to be determined as follows: 385

(A) If the candidacy is to be voted on by electors 386
throughout the entire state, the nominating petition, including 387
the nominating petition of independent joint candidates for the 388
offices of governor and lieutenant governor, shall be signed by 389
no less than five thousand qualified electors, provided that no 390
petition shall be accepted for filing if it purports to contain 391
more than fifteen thousand signatures. 392

(B) If the candidacy is to be voted on by electors in any 393
district, political subdivision, or part thereof in which less 394
than five thousand electors voted for the office of governor at 395
the most recent election for that office, the nominating 396
petition shall contain signatures of not less than twenty-five 397
qualified electors of the district, political subdivision, or 398
part thereof, or a number of qualified signatures equal to at 399
least five per cent of that vote, if this number is less than 400

twenty-five. 401

(C) If the candidacy is to be voted on by electors in any 402
district, political subdivision, or part thereof in which five 403
thousand or more electors voted for the office of governor at 404
the most recent election for that office, the nominating 405
petition shall contain a number of signatures equal to at least 406
one per cent of those electors. 407

All nominating petitions of candidates for offices to be 408
voted on by electors throughout the entire state shall be filed 409
in the office of the secretary of state. No nominating petition 410
for the offices of president and vice-president of the United 411
States shall be accepted for filing unless there is submitted to 412
the secretary of state, at the time of filing the petition, a 413
slate of presidential electors sufficient in number to satisfy 414
the requirement of the United States Constitution. The secretary 415
of state shall not accept for filing the statement of candidacy 416
of a person who desires to be an independent candidate for the 417
office of governor unless it also shows the joint candidacy of a 418
person who desires to be an independent candidate for the office 419
of lieutenant governor, shall not accept for filing the 420
statement of candidacy of a person who desires to be an 421
independent candidate for the office of lieutenant governor 422
unless it also shows the joint candidacy of a person who desires 423
to be an independent candidate for the office of governor, and 424
shall not accept for filing the statement of candidacy of a 425
person who desires to be an independent candidate to the office 426
of governor or lieutenant governor who, for the same election, 427
has already filed a declaration of candidacy, a declaration of 428
intent to be a write-in candidate, or a statement of candidacy, 429
or has become a candidate by the filling of a vacancy under 430
section 3513.30 of the Revised Code for any other state office 431

or any federal or county office. 432

Nominating petitions of candidates for offices to be voted 433
on by electors within a district or political subdivision 434
comprised of more than one county but less than all counties of 435
the state shall be filed with the boards of elections of that 436
county or part of a county within the district or political 437
subdivision which had a population greater than that of any 438
other county or part of a county within the district or 439
political subdivision according to the last federal decennial 440
census. 441

Nominating petitions for offices to be voted on by 442
electors within a county or district smaller than a county shall 443
be filed with the board of elections for such county. 444

No petition other than the petition of a candidate whose 445
candidacy is to be considered by electors throughout the entire 446
state shall be accepted for filing if it appears on its face to 447
contain more than three times the minimum required number of 448
signatures. A board of elections shall not accept for filing a 449
nominating petition of a person seeking to become a candidate if 450
that person, for the same election, has already filed a 451
declaration of candidacy, a declaration of intent to be a write- 452
in candidate, or a nominating petition, or has become a 453
candidate by the filling of a vacancy under section 3513.30 of 454
the Revised Code for any federal, state, or county office, if 455
the nominating petition is for a state or county office, or for 456
any municipal or township office, for member of a city, local, 457
or exempted village board of education, or for member of a 458
governing board of an educational service center, if the 459
nominating petition is for a municipal or township office, or 460
for member of a city, local, or exempted village board of 461

education, or for member of a governing board of an educational 462
service center. When a petition of a candidate has been accepted 463
for filing by a board of elections, the petition shall not be 464
deemed invalid if, upon verification of signatures contained in 465
the petition, the board of elections finds the number of 466
signatures accepted exceeds three times the minimum number of 467
signatures required. A board of elections may discontinue 468
verifying signatures when the number of verified signatures on a 469
petition equals the minimum required number of qualified 470
signatures. 471

Any ~~nonjudicial~~ candidate, other than a candidate for 472
judge of a municipal court, county court, or court of common 473
pleas, who files a nominating petition may request, at the time 474
of filing, that the candidate be designated on the ballot as a 475
nonparty candidate or as an other-party candidate, or may 476
request that the candidate's name be placed on the ballot 477
without any designation. Any such candidate who fails to request 478
a designation either as a nonparty candidate or as an other- 479
party candidate shall have the candidate's name placed on the 480
ballot without any designation. 481

The purpose of establishing a filing deadline for 482
independent candidates prior to the primary election immediately 483
preceding the general election at which the candidacy is to be 484
voted on by the voters is to recognize that the state has a 485
substantial and compelling interest in protecting its electoral 486
process by encouraging political stability, ensuring that the 487
winner of the election will represent a majority of the 488
community, providing the electorate with an understandable 489
ballot, and enhancing voter education, thus fostering informed 490
and educated expressions of the popular will in a general 491
election. The filing deadline for independent candidates 492

required in this section prevents splintered parties and 493
unrestrained factionalism, avoids political fragmentation, and 494
maintains the integrity of the ballot. The deadline, one day 495
prior to the primary election, is the least drastic or 496
restrictive means of protecting these state interests. The 497
general assembly finds that the filing deadline for independent 498
candidates in primary elections required in this section is 499
reasonably related to the state's purpose of ensuring fair and 500
honest elections while leaving unimpaired the political, voting, 501
and associational rights secured by the first and fourteenth 502
amendments to the United States Constitution. 503

Section 2. That existing sections 3501.01, 3505.03, 504
3505.04, and 3513.257 of the Revised Code are hereby repealed. 505