

IN THE SUPREME COURT OF OHIO

THE STATE OF OHIO ex rel.
RHONDA L. COLVIN, et al.,

Relators,

vs.

JENNIFER BRUNNER,
SECRETARY OF STATE OF OHIO,

Respondent.

CASE NO. 08-1813

Original Action in Mandamus

Expedited Election Matter
Under S.Ct. Prac.R.X. § 9

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STATEMENT OF THE CASE

This action was brought because Respondent Secretary of State Jennifer Brunner ("Secretary") has directed Ohio's boards of elections to treat newly registered voters as fully "qualified electors" for purposes of permitting them to immediately obtain and vote absentee ballots in person during the week immediately preceding the voter registration deadline (i.e., September 30, 2008 through October 6, 2008). Under Ohio's statutes and Constitution, in order to be a "qualified elector" one must first be registered for 30 days. Thus, Relators submit that the Secretary's instructions to the boards of elections that they must treat unqualified electors as "qualified electors" is contrary to law.

After the Secretary issued Directive 2008-63, at least three county prosecuting attorneys issued legal opinions to their boards of elections that the portions of Directive 2008-63 that instructed the boards to treat unqualified electors as qualified ones were unlawful and should be disregarded. (See Relators Submission of Evidence at RE 034, RE 036-037, and RE 039-041). Since R.C. 309.09 designates prosecuting attorneys as the statutory legal advisors to their county boards of elections, such legal opinions ordinarily might have been a way to settle the issue regarding the duties of the boards of elections under Directive 2008-63. However, on September 11, 2008 – the day before this action was filed – the Secretary issued Directives 2008-91 and 2008-92, which reaffirmed Directive 2008-63 and contradicted these legal opinions.

Directive 2008-91 addresses the issue of in-person absentee voters who register and vote during the five-day "overlap" period before the deadline for voter registration on October 6, 2008, and reaffirmed the Secretary's instruction that all boards of elections must immediately issue such unlawful absentee ballots to newly registered voters and treat them as lawful, unless each and every one of them is challenged for another cause. (Directive 2008-91; A-5). Directive

2008-92 directs the boards of elections to follow all previous directives, including Directive 2008-63, “unless subsequently and specifically superseded, revoked or replaced by a subsequent directive” of the Secretary. (Directive 2008-92;A-7). Notwithstanding the prosecuting attorneys’ legal opinions that Directive 2008-63 was unlawful, Directive 2008-92 instructs Ohio’s boards of elections that various directives, including Directive 2008-63 “continue to be of full effect and carry the weight of law.” (A-7; see A-16, RE 002, RE 010 & RE 019).

Even Ohio’s current application for an absent voter’s ballot, “Form No. 11-A Prescribed by the Secretary of State (08-08),” which form all county boards of elections are required to use and was updated in August of 2008, directly contradicts Directives 2008-63 and 2008-91. The Secretary’s Form No. 11-A requires that a person requesting an absent voter’s ballot attest, under penalty of election falsification, on the written application that he is a “qualified elector.” (RE 002 ¶¶11-12; see RE 024). Yet, by requiring boards of elections to approve same day voter registrations and applications for absent voter’s ballots, Secretary Brunner is inviting, even encouraging, Ohio’s citizens to falsely attest to their “qualified elector” status. She is misleading these voters into believing they are “qualified electors,” and is requiring boards of elections to treat them as and to give them the rights of qualified electors.

Relators submit that the Secretary’s directives to the boards of elections to issue absentee ballots to persons who cannot meet the statutory definition of a qualified elector – a resident who “has been registered to vote for thirty days” – and to permit same day registration and absentee ballot voting is erroneous and contrary to Ohio law. If such instructions are carried out by some, but not all of the boards of elections per the conflicting instructions of the Secretary and certain county prosecuting attorneys, then countless votes will be illegally cast in Ohio in the upcoming

election, and there will be a lack of uniformity of treatment of unqualified voters seeking to cast absentee ballots.

The Secretary's discretion as Ohio's chief election official is not unbridled. She is obliged to follow the Ohio Constitution and the legal enactments of the Ohio General Assembly. Same day registration and absentee voting is directly contrary to Ohio law. An Ohio resident must have been registered to vote for at least thirty days in order to be a qualified elector eligible to vote in any election. A writ of mandamus is necessary to ensure that there is statewide uniformity in permitting only qualified electors to cast ballots and to prevent the disparity of permitting unqualified voters to cast ballots in some counties while prohibiting them from doing so in other counties.

Consequently, Relators are entitled to a writ of mandamus:

- (i) compelling the Secretary to issue a directive to the county boards of elections reiterating that thirty days must elapse, consistent with Ohio constitutional and statutory law, before an application for absent voter's ballot may be accepted by the election official following the registration of an elector; and
- (ii) compelling the Secretary to issue a directive instructing boards of elections that they must void any applications for absent voters' ballots that were accepted by the election official following the registration of voters and prior to the lapsing of the thirty-day registration period, as required by Ohio law.

STATEMENT OF THE FACTS

1. The Parties

Relator Rhonda L. Colvin is a resident of the State of Ohio, County of Madison, and is a qualified elector in the State of Ohio. See Relators' Submission of Evidence (hereinafter "RE") 032, ¶1. Relator C. Douglas Moody is a resident of the State of Ohio, County of Franklin, and is also a qualified elector in the State of Ohio. (RE 001, ¶1). As qualified electors, Relators have

an interest in preventing the effect of their lawful votes from being diluted by unlawful or fraudulent votes.

2. **Directive 2008-63**

On or about August 13, 2008, Ohio Secretary of State Jennifer Brunner issued Directive 2008-63 and sent it and a memorandum regarding the Directive to Ohio's boards of elections (collectively, "Directive 2008-63") (A-1; RE 001, ¶2; RE 004 ff). Directive 2008-63 states that it was issued, in part, because the Secretary anticipates that a significant number of new and changed registrations will be generated by voter registration drives conducted prior to the voter registration deadline of October 6, 2008. (Id.) Directive 2008-63 advised boards of elections that "there are several days before the 2008 general election during which a person may appear at the board of elections office and *simultaneously submit* for that election applications to register to vote or to update an existing registration and to request an absentee ballot," and boards of elections should expect to receive large numbers of absentee ballot applications along with registration to vote applications for part of that week. (A-2; RE 005, emphasis added).

Directive 2008-63 orders all Ohio county boards of elections to "expedite the processing of voter registrations received during the week immediately preceding the voter registration deadline" in light of the "significant number of new and changed registrations . . . generated by voter registration drives conducted up to the registration deadline." (A-1; RE 004). The Directive also instructs the county boards of elections that they are "required to develop procedures to *immediately register the applicant* and *issue an absentee ballot* to the newly registered elector of the county *at the time of registration . . .*" (A-2; RE 005, emphasis added).

3. Concerns About Massive Voter Fraud

The concern about voter fraud and about having lawful votes diluted by unlawful votes by unqualified electors is a very real one, given the apparent intention of some to take advantage of the same day registration and voting procedure mandated by the Secretary. (RE 003, ¶¶13-14). On September 10, 2008, the Associated Press published an article that quoted Ohio Democratic Party Chairman Chris Redfern as asserting that in Ohio “there are an additional 490,000 college students who can register and vote on the same day.” (RE 003, ¶14; RE 025, emphasis added). Similarly, on September 13, 2008, The *Wall Street Journal* reported that “[t]he Northeast Ohio Coalition for the Homeless, a Cleveland-based umbrella group for service providers, housing activists and others, is making plans to drive about 2,000 shelter residents to polling places during the overlap period.” (RE 003, ¶15; RE 027). These comments reflect an apparent intent for various political interest groups to use the “same day” registration provisions set forth in Directive 2008-63 to register nearly a half million people to vote on November 4, 2008 without regard to their actual residence or their qualified elector status, i.e. being registered to vote for at least 30 days prior to participating in the ballot process.

4. Ohio’s Application For An Absent Voter Ballot Prescribed By Respondent

In order to request an absent voter’s ballot, a citizen must, in a written application, attest that he is, at present, a “qualified elector.” R.C. 3509.03(G). Further underscoring the fact that only registered voters may request such a ballot, a citizen must additionally provide an “address at which the elector is registered to vote” at the time of application. R.C. 3509.03(C).

Incorporating the mandatory provisions of R.C. 3509.03(G), Ohio’s current application for an absentee ballot is “Form No. 11-A Prescribed by the Secretary of State (08-08)” (hereinafter “Form No. 11-A) (See RE 002, ¶¶11-12; RE 024). As the application’s title

indicates, it is a form application that is prescribed by the Secretary and is available to the general public on the Secretary's website. Form No. 11-A requires a citizen to attest that he is a qualified voter at the time he requests an absent voter's ballot as well as to date his signature on the Form's declaration. (RE 024). The declaration reads: "I hereby declare, under penalty of election falsification, I am a qualified voter and the statements above are true to the best of my knowledge and belief. I understand that if I do not provide the requested information, my application cannot be processed." (Id.) There is no basis for distinguishing between the terms "qualified elector" and "qualified voter" under Ohio election law. See R.C. 3501.01(N)-(O).

Form No. 11-A also states that a person who ". . . commits election falsification is guilty of a felony of the fifth degree." (RE 024). Thus, citizens who are not qualified electors or voters, but nevertheless request an absentee ballot by attesting to being a qualified voter, are potentially guilty of a felony. (Id.). Similarly, election officials who comply with Directive 2008-63 and direct a citizen to attest to being a qualified elector or voter on their Form No. 11-A application, with knowledge that the citizen is not a qualified voter, are also potentially guilty of a felony. See R.C. 3599.11.

5. The Prosecuting Attorneys' Opinions

R.C. 309.09(A) provides that each county's "prosecuting attorney shall be the legal advisor of the . . . board of elections . . . and any of them may require written opinions or instructions from the prosecuting attorney in matters connected with their official duties." (A-22). At least three (3) county prosecuting attorneys, after Directive 2008-63 was issued, and prior to September 11, 2008, advised their boards of elections that the Secretary's Directive 2008-63 was unlawful and should be disregarded. (RE 033 through RE 041).

On August 25, 2008, Steve Knowling, Holmes County Prosecuting Attorney, issued an opinion to the Holmes County Board of Elections that Directive 2008-63 “to the extent that it orders a local board of election to permit ‘same day’ registration and voting is contrary to existing Ohio law.” (RE 033 – RE 034). The Holmes County Opinion Letter advised the County Board of Election that there was no basis in Ohio law to support the position taken by Respondent in her Directive because Ohio Revised Code “clearly mandates that for one to be a ‘qualified elector’ they must have been registered for at least 30 days prior to participating in the ballot process, whether in person or by absentee ballot.” (RE 034). The Prosecuting Attorney in the Holmes County Opinion Letter directed the County Board of Election that “[t]o the extent that the Secretary of State Directive 2008-63 orders a board of elections to act contrary to the above stated existing Ohio law, I find *it is without legal foundation and should be disregarded.*” (RE 034, emphasis added).

On September 4, 2008, Gary A. Nasal, Prosecuting Attorney, Miami County, Ohio issued an opinion to the Miami County Board of Elections, addressed to the Director of the Miami County Board of Elections, Steve Quillen, that Directive 2008-63 to the extent that it mandates that county board of elections “. . . develop procedures to immediately register an applicant and issue an absentee ballot to the newly registered elector of the county at the time of registration” is impermissible, despite the deference that should be afforded to Ohio’s chief election official. (RE 035 – RE 037). Specifically, the Miami County Opinion Letter advises the Miami County Board of Elections Director that “the suggestion that your office engage in same day registration and voting in a manner which is contrary to Ohio law as described above is *illegal, inappropriate, and impermissible.*” (RE 037, emphasis added).

On September 5, 2008, Stephen J. Pronai, Madison County, Ohio Prosecuting Attorney, issued an opinion to the Madison County Board of Elections that it needed to follow the law as stated in the Ohio Revised Code with regard to processing voter registration applications, in particular with regard to newly registered voters applying for an absentee ballot at the time of registration, and not Directive 2008-63. (RE 038 – RE 041). The Madison County Opinion Letter provides that “[a]ccording to Ohio law, an absentee ballot cannot be issued to a person who is not a qualified elector. One of the requirements to be a qualified elector is to be a registered voter for 30 days. Therefore, according to the law you cannot issue an absentee ballot until the voter has been registered for 30 days.” (RE 041). The Madison County Opinion Letter also advises the Madison County Board of Election that the County Prosecutor is “unclear of the Secretary of State’s reasoning” and he “urge[s] the Board of Elections to follow the law as statute [sic] in the Ohio Revised Code.” (RE 041).

The Holmes County, Miami County and Madison County Opinion Letters all advised their local boards of elections that same day registration and absentee voting were contrary to existing Ohio law, and that under Ohio law boards of elections could not issue an absentee ballot until the voter had been registered for 30 days, and, instead, the boards of elections were required to follow the 30 day registration requirement of the Ohio Revised Code and Ohio Constitution. (RE 033 – RE 041).

6. Directives 2008-91 & 2008-92

On or about September 11, 2008, the Secretary issued and sent Directive 2008-91 regarding in person absentee voters who register and vote during the five-day “overlap” period to Ohio’s boards of elections. (RE 002, ¶¶ 6-7; RE 008). In Directive 2008-91, the Secretary noted that under R.C. 2509.01, absentee ballots must be ready for distribution 35 days before the

general election, while the deadline for voter registration is not until five days later (30 days before the general election under R.C. 3505.19(A)). (RE 008). As a result, the Secretary instructed the boards of elections that “at least a five-day ‘overlap’ period exists during which a voter may register to vote and receive an absentee ballot when registration and the ballot request are made in person at the board of elections. . . .” (RE 008).

That same day, September 11, 2008, the Secretary issued and sent Directive 2008-92 regarding the effect of Am. Sub. H.B. 350 on the issuance of directives to Ohio’s boards of elections by the Secretary. (RE 002, ¶ 8; RE 010). Directive 2008-92 instructed boards of elections “to follow this and all previous directives identified by this office to be in full effect on the effective dates of H.B. 350 (September 12, 2008)” (RE 002, ¶ 9; RE 010). Notwithstanding the prosecuting attorneys’ legal opinions that Ohio’s statutes superseded Directive 2008-63, on September 11, 2008, the Secretary used Directive 2008-92 to instruct the boards of elections that various directives, including Directive 2008-63 “continue to be of full effect and carry the weight of law.” (See A-7 & A-16; RE 010 & RE 019).

On September 12, 2008, the day after Directives 2008-91 and 2008-92 were issued, Relators filed this mandamus action to require the Secretary to issue a directive to the boards of elections (i) that they must void any applications for absentee ballots that were accepted after registration of voters and prior to the lapsing of the thirty (30) day required period required for a qualified elector under Ohio law, and (ii) that clarifies that thirty (30) days must elapse, consistent with Ohio law, before an absentee ballot application may be accepted by an election official following the registration of a voter. (RE 002 ¶ 10; Verified Petition’s Prayer for Relief).

ARGUMENT

Respondent Jennifer Brunner is the duly elected Ohio Secretary of State. Pursuant to R.C. 3501.01(U)(I), the Secretary is the chief election officer of the state. As such, she must, herself, observe the requirements of Ohio's election laws, and ensure the conduct of elections as are prescribed by Ohio law. By virtue of the instructions issued in Directive 2008-63 and reaffirmed in Directives 2008-91 and 2008-92, the Secretary has violated her duties as chief election officer and created a situation where the November 4, 2008 general election and many of the absentee ballots cast for the election will not be conducted as prescribed by Ohio law. A mandamus should be issued to ensure the validity of Ohio's election results.

Proposition of Law No. I

Ohio Constitution, Section 1, Article V And Ohio R.C. 3509.04(B) Require That A Person Must Be Registered To Vote For Thirty Days In Order To Be A Qualified Elector Eligible To Vote, In Person Or By Absentee Ballot.

Proposition of Law No. II

A Directive Issued By The Secretary (Directive 2008-63), Which Directs Ohio's Boards Of Elections To Treat Newly Registered Voters As Fully Qualified Electors For Purposes Of Permitting Them To Immediately Obtain And Vote Absentee Ballots In Person During The Week Immediately Preceding The Voter Registration Deadline Is Contrary To Ohio Law.

A. Writ Of Mandamus Is Proper Because The Secretary Has
Misdirected Members Of Boards Of Elections As To Their
Duties In Violation Of Her Legal Responsibilities

Pursuant to R.C. 3501.05, Respondent is charged with the duty and responsibility of issuing "instructions by directives and advisories to members of the boards as to the proper methods of conducting elections," preparing "rules and instructions for the conduct of elections," prescribing "the form of registration cards, blanks and records," and compelling "the observance of election officers in the several counties of the requirements of the election laws" R.C.

3501.05(B)(C)(F) & (M); see also R.C. 3501.053(A) effective September 12, 2008 (“The secretary of state may issue instructions as to the proper method of conducting elections to members of the boards of elections by permanent or temporary directives.”) This Court has held that “[t]hese duties are ministerial and clearly required by law.” *State ex rel. Melvin v. Sweeney* (1950), 154 Ohio St. 223, 225, 94 N.E.2d 785. This Court has also recognized the propriety of the remedy of mandamus where the Secretary of State “has, under the law, misdirected the members of boards of elections as to their duties,” in violation of her legal responsibilities. *Id.* at 226.

Here, Relators allege that the Secretary has, under the law, issued a directive to Ohio’s boards of elections that misdirects the members of the boards as to their duties with regard to persons who seek to simultaneously register to vote and apply to vote by absentee ballot. Essentially, the Secretary has used Directive 2008-63 to order that boards of elections permit “same day” registration and voting. In doing so, the Secretary has ignored the constitutional and statutory requirement that a resident must be registered to vote for thirty days, i.e. be a qualified elector, before a board of elections can issue an absentee ballot to the person. There is no overlap period under Ohio law where a person may register to vote and lawfully apply for an absentee ballot on the same day, and the Secretary’s attempt to create such a period is improper.

The instructions contained in Directive 2008-63 and reaffirmed in Directives 2008-91 and 2008-92 result in an interpretation of Ohio’s election laws (i.e. R.C. 3503.01, 3509.02, 3509.03 and 3509.04) that is not supported by and is directly contradicted by the Ohio Constitution, section 1, Article V and Ohio R.C. 3509.04(B). As a result, a mandamus is the proper remedy to compel Respondent to act in accordance with Ohio law and to ensure that there

is statewide uniformity in permitting only qualified electors to cast ballots, both absentee and in person. *State ex rel. Melvin*, 154 Ohio St. 223, *supra*.

B. Ohio Law Requires That A Person Be Registered To Vote For Thirty Days To Be A Qualified Elector Eligible To Vote, In Person Or By Absentee Ballot, And Only A Qualified Elector May Apply For An Absentee Ballot

R.C. Chapter 3509 sets forth the laws governing absent voter's ballots. Pursuant to R.C. 3509.01, the "board of elections of each county shall provide absent voter's ballots for use at every primary and general election, or special election" R.C. 3509.02(A) provides that "[a]ny **qualified elector** may vote by absent voter's ballots at an election." (emphasis added). Pursuant to R.C. 3509.03, except in the case of circumstances not relevant here, "any **qualified elector** desiring to vote absent voter's ballots at an election shall make written application for those ballots to the director of elections of the county in which the elector's voting residence is located." (emphasis added).

Article V, § 1 of the Ohio Constitution, defines a qualified elector as follows:

Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, *and has been registered to vote for thirty days, has the qualifications of an elector*, and is entitled to vote at all elections. Any elector who fails to vote in at least one election during any period of four consecutive years shall cease to be an elector unless he again registers to vote. (Emphasis added).

The qualifications to be entitled to vote in the State of Ohio, and thus be a qualified voter, are also clearly set forth in R.C. 3503.01. This section, which incorporates the constitutional requirements of Article V, section 1, provides: "[e]very citizen of the United States who is of the age of eighteen years or over and who has been a resident of the state thirty days immediately preceding the election at which the citizen offers to vote, is a resident of the county and precinct

in which the citizen offers to vote, and *has been registered to vote for thirty days, has the qualifications of an elector* and may vote at all elections in the precinct in which the citizen resides.” (emphasis added).

Section 3503.01 of the Ohio Revised Code also sets forth the qualifications of Ohio electors. Section 3501.01(N) defines “elector” or “qualified elector” as a “person having the qualifications provided by law to be entitled to vote.” The Code further defines “voter” as “an elector who votes at an election.” R.C. 3501.01(O). Thus, there is no basis for distinguishing between the terms “qualified elector” and “qualified voter” under Ohio election law. See R.C. 3501.01(N)-(O). The qualifications and requirements for a qualified elector and a qualified voter are one in the same, i.e. they must have been registered to vote for at least thirty days prior to voting in person or by absentee ballot. More importantly, the limitation of the right to vote by absent voter’s ballot to a qualified elector means that only a citizen who has been registered to vote for thirty days at the time a person applies for an absent voter’s ballot – not a newly registered voter – may, in fact, vote by absentee ballot. No other interpretation is possible in light of the requirements of R.C. 3503.01, R.C. 3509.02(A), R.C. 3509.03 and Article V, section 1 of the Ohio Constitution.

C. If A Person Applies For An Absentee Ballot And Is Not A Qualified Elector Eligible To Vote, The Election Officer Must Reject The Application And Cannot Issue An Absentee Ballot

Pursuant to R.C. 3509.04(B), an election officer may not deliver an absent voter’s ballot to a person who has not provided the information required by R.C. 3509.03, including a statement that he or she is a “qualified elector,” meaning that such person has been registered to vote for thirty days. The prescribed thirty day registration period allows state election officials to verify the registration information and legal status of newly registered voters. Section 3503.15

of the Revised Code additionally requires that election officials establish and maintain a statewide voter registration database that shall be continuously available to each board of elections and to other agencies as authorized by law. The database shall include, inter alia, a search program capable of verifying registered voters and their registration information by name, driver's license number, birth date, social security number, or current address. R.C. 3503.15(A) and (C)(4). The thirty day registration period thus furthers the state's "strong interest" in the "smooth and effective administration of [voting laws]." *Summit County Democratic Cent. and Executive Comm. v. Blackwell* (6th Cir. 2004), 388 F.3d 547, 551 (issued a stay of a TRO affecting election day requirements). Consequently, if an elections official finds that "the applicant is not a qualified elector," Ohio law requires the elections official to reject the application for the absent voter's ballot and/or the absent voter's ballot itself. R.C. 3509.07.

Here, the Secretary has completely disregarded the requirement that an absentee ballot application must be rejected where the applicant is not a qualified elector. Directive 2008-63, instead, requires that Ohio's boards of elections act inapposite to R.C. 3509.07 and treat newly registered voters as fully qualified electors for purposes of permitting them to immediately obtain and vote absentee ballots during the week immediately preceding the voter registration deadline. As noted in Directive 2008-91, the Secretary is forcing boards of elections to accept invalid absentee ballot applications.

Moreover, relators' concerns about voter fraud and about having lawful votes diluted by unlawful votes by unqualified electors are well founded. On September 10, 2008, the Associated Press published an article that quoted Ohio Democratic Party Chairman Chris Redfern as asserting that in Ohio "there are an additional 490,000 college students who can register and vote on the same day." (Complaint ¶ 23, Exh. E) (emphasis added). Similarly, the September 13,

2008, the Wall Street Journal reported that “The Northeast Ohio Coalition for the Homeless, a Cleveland-based umbrella group for service providers, housing activists and others, is making plans to drive about 2,000 shelter residents to polling places during the overlap period.” (RE 003, ¶15; RE 027). These comments reflect an apparent intent for groups and political parties to use the “same day” registration provisions set forth in Directive 2008-63 to register nearly a half million college students and others, and to have them vote that very same day, without regard to their actual residence and whether or not they are a qualified electors registered for at least 30 days prior to participating in the ballot process. If a mandamus is not issued clarifying that only qualified electors may vote whether in person or by absentee ballot, then it is likely that hundreds of thousands of Ohioans will cast unlawful votes at the encouragement and direction of the Secretary and various political parties, throwing the results of the general election into chaos in the State of Ohio.

Proposition of Law No. III

A Writ Of Mandamus Must Be Issued Where The Secretary Has Misdirected Members Of Boards Of Elections As To Their Duties, And The Secretary Has Created A Situation Where (i) Some Boards Of Elections Will Disregard Portions Of Directive 2008-63 And Will Follow The Advice Of Their County Prosecuting Attorneys, And (ii) A “Large Volume” Of Citizens And Members Of Boards Of Elections May Commit Felonies Simply By Complying With The Mandates Of Directive 2008-63.

A. **Writ Of Mandamus Is Proper Because The Secretary Has Misdirected Members Of Boards Of Elections As To Their Duties In Violation Of Her Legal Responsibilities**

Pursuant to R.C. 3501.05, Respondent is charged with the duty and responsibility of issuing “instructions by directives and advisories to members of the boards as to the proper methods of conducting elections,” preparing “rules and instructions for the conduct of elections,” prescribing “the form of registration cards, blanks and records,” and compelling “the observance

of election officers in the several counties of the requirements of the election laws . . .” R.C. 3501.05(B)(C)(F) & (M); see also R.C. 3501.053(A) effective September 12, 2008 (“The secretary of state may issue instructions as to the proper method of conducting elections to members of the boards of elections by permanent or temporary directives.”) This Court has held that “[t]hese duties are ministerial and clearly required by law.” *State ex rel Melvin v. Sweeney* (1950), 154 Ohio St. 223, 225, 94 N.E.2d 785. This Court has also recognized the propriety of the remedy of mandamus where the Secretary of State “has, under the law, misdirected the members of boards of elections as to their duties,” in violation of her legal responsibilities. *Id.* at 226.

Here, Relators allege that the Secretary has, under the law, issued a directive to Ohio’s boards of elections that misdirects the members of the boards as to their duties with regard to persons who seek to simultaneously register to vote and apply to vote by absentee ballot. Essentially, the Secretary has used Directive 2008-63 to order that boards of elections permit “same day” registration and voting. In doing so, the Secretary has ignored the constitutional and statutory requirement that a resident must be registered to vote for thirty days, i.e. be a qualified elector, before a board of elections can issue an absentee ballot to the person. There is no overlap period under Ohio law where a person may register to vote and lawfully apply for an absentee ballot on the same day, and the Secretary’s attempt to create such a period is improper.

The instructions contained in Directive 2008-63 and reaffirmed in Directives 2008-91 and 2008-92 result in an interpretation of Ohio’s election laws (i.e. R.C. 3503.01, 3509.02, 3509.03 and 3509.04) that is not supported by and is directly contradicted by the Ohio Constitution, section 1, Article V and Ohio R.C. 3509.04(B). As a result, a mandamus is the proper remedy to compel Respondent to act in accordance with Ohio law and to ensure that there

is statewide uniformity in permitting only qualified electors to cast ballots, both absentee and in person. *State ex rel Melvin*, 154 Ohio St. 223, *supra*.

B. Under Ohio Law, A Person Must Be A Qualified Voter At The Time Of The Application For An Absent Voter's Ballot, Not The Day Of An Election

The absent voter's ballot application approved by and prescribed by the Secretary requires the person to attest that he/she is, at present (i.e. at the time the application is requested and submitted), a qualified elector. See Form 11-A, Complaint Exh. F. This is consistent with Ohio law, which requires that the application contain, inter alia, "(G) A statement that the person requesting the ballot is a qualified elector. . . ." R.C. 3509.03(G). The Form No. 11-A declaration is also accompanied by a section wherein the citizen indicates the date he signed the declaration requesting an absent voter's ballot, and that any person who ". . . commits election falsification is guilty of a felony of the fifth degree." (Compl., Exh. F). Further underscoring the fact that only registered voters may request such a ballot, a person must additionally provide an "address at which the elector is registered to vote" at the time of application. R.C. 3509.03(C). Thus, both R.C. 3509.03(G) and the Form No.11-A application prescribed by the Secretary indicate that a citizen must be a qualified elector or voter at the time at which he/she requests an absent voter's ballot.

Despite clear constitutional and statutory requirements that an individual be registered to vote for at least thirty days before requesting an absentee ballot or voting in person and despite the Secretary's own Form No. 11-A, Directive 2008-63 contemplates that persons "may appear at the board of elections office and simultaneously submit for that election applications to register to vote or to update an existing registration and to request an absentee ballot." (Compl., Exh. A). Any simultaneous application to register to vote and to request an absent voter's ballot

will require that the person swear or attest to being a qualified elector or voter as required to request an absent voter's ballot. Such an affirmation would be false and in obvious contravention of established Ohio law because a person cannot be a qualified elector or voter unless such person has been registered to vote for thirty days.

Citizens who are not qualified electors or voters, but nevertheless request an absent voter's ballot by attesting to being a qualified voter, are potentially guilty of a felony. Similarly, elections officials who comply with Directive 2008-63, and thus direct a citizen to attest to being a qualified elector or voter, with knowledge that the citizen is not a qualified voter, are also potentially guilty of a felony. Given the Secretary's directive that boards of elections "may receive a large volume of in person new or changed registrants who thereafter request to vote absentee ballots in person at the board's office or a satellite location during the six days before and on the voter registration deadline of October 6, 2008," (A-5; RE 008), the numbers of individuals – both citizens and elections officials – who may commit felonies at the Secretary's direction is alarming and could result in an upheaval of the entire elections process in Ohio.

C. Directive 2008-63 Orders County Boards Of Elections To Act In A Manner That Contravenes Established Ohio Law

Directive 2008-63 also requires local elections officials to immediately issue an absent voter's ballot to a person who simultaneously submits an application to register to vote and request for an absentee ballot with full knowledge of the falsity of the registrant's declaration that he is a qualified elector or voter. In so doing, the Directive orders local election officials to act in a manner that contravenes established Ohio law.

The Secretary's Directive, in effect, prescribes violations of Ohio election law in three respects. First, the Directive encourages a person to appear at the board of elections and simultaneously submit an application to register to vote and a request for an absent voter's ballot,

even though such person is not a qualified elector or voter. Second, in order to request an absent voter's ballot, the Directive encourages a citizen to falsely attest that he is a qualified elector or voter. Third, contrary to Ohio election law, the Directive requires election officials to issue an absent voter's ballot to applicants that officials know are not qualified electors. As noted above, if such instructions are carried out by election officials countless votes will be illegally cast in the forthcoming election. Simply stationing individuals full-time at all eighty-eight county boards of elections to challenge the applications of individuals who register to vote and ask for an absentee ballot is not sufficient to remedy the situation, particularly where at least three county prosecuting attorneys have already advised their boards of elections to disregard the same day registration and voting provisions of Directive 2008-63, and others have not.

Since R.C. 309.09 designates prosecuting attorneys as the statutory legal advisors to their county boards of elections, the Holmes, Madison and Miami Legal Opinions might have been a way to settle the issue regarding the duties of the boards of elections under Directive 2008-63. However, by issuing Directives 2008-91 and 2008-92 the day before this action was filed, which reaffirmed Directive 2008-63 and contradicted these legal opinions, the Secretary has created a situation where some boards of elections may follow the instructions of the Secretary and other boards of elections will follow the advice of their county prosecuting attorneys that it would be illegal to follow Directive 2008-63. Wholly apart from the fact that Directive 2008-63 is contrary to Ohio's statutes, the Secretary has failed to initiate any legal action to ensure statewide uniformity in how absentee ballots are counted, which has compounded the confusion and likelihood that some boards of elections will not follow the Secretary's Directive.

D. A Mandamus Is The Proper Remedy When The Secretary Of State Has Issued A Directive On The Eve Of A General Election That Is Contrary To Established Ohio Law, And Has Caused Or Will Continue To Cause Irreparable Harm For Which There Exists No Adequate Remedy At Law

In *Bush v. Gore* (2000), 531 U.S. 98, the U.S. Supreme Court found that permitting different methods of determining voter intent that varied from county to county failed to satisfy “the rudimentary requirements of equal treatment and fundamental fairness” and thus violated the equal protection clause of the U.S. Constitution. “Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust by our government. Voters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised.” *Boustani v. Blackwell* (N.D. Ohio 2006), 460 F. Supp. 2d 822, 826, citing *Purcell v. Gonzalez* (2006), 549 U.S. 1 at *4. As a result, “[a] State indisputably has a compelling interest in preserving the integrity of its election process.” *Boustani*, 460 F. Supp. 2d at 826, relying upon *Eu v. San Francisco Cty. Democratic Central Comm.* (1989), 389 U.S. 214, 231. Additionally, this Court as early as 1917 firmly established that the provisions of section 1, Article V of the Constitution, “which prescribe the qualifications of electors, control in all elections held to fill offices which the Constitution itself has provided for, and in all elections upon questions submitted to a vote pursuant to provisions of the Constitution; and such qualifications can be altered only by amendment to the Constitution.” *State ex rel. Taylor* (1917), 96 Ohio St. 172, 117 N.E. 173 (emphasis added).

In this case, the Secretary has created a situation where different methods of determining a person’s eligibility to apply for an absent voter’s ballot will be employed by Ohio’s boards of elections. Some will follow Directive 2008-63 and will presume that they are qualified electors

even though they have just been registered to vote and others will follow the advice of their county prosecuting attorneys and refuse to accept the absent voter's ballot application of a person who just registered to vote or has not been registered to vote for at least thirty days. This situation and variance from county to county fails to satisfy the rudimentary requirements of equal treatment and fundamental fairness established by the United States Supreme Court in *Bush v. Gore*, supra. It will result in a violation of the Equal Protection Clause that will cause irreparable harm to all qualified electors in Ohio for which there exists no adequate remedy at law. There must be uniformity in Ohio's election process that is consistent with the mandates of Ohio law before September 30, 2008 and before individuals are permitted to engage in same day registration and voting.

If the Secretary and Ohio's political leaders decide that Ohio should have same day registration and voting during the five-day "overlap" period during which absentee ballots are ready for distribution and the deadline for voter registration, then such a process must be established by amendment to the Ohio Constitution – not a directive of the Secretary. Without such a constitutional amendment, the Secretary lacks the authority to allow individuals to vote by absentee ballot who are not qualified electors registered to vote at least thirty days in advance of applying for an absent voter's ballot.

Relators have the right not to have their votes diluted by unlawful votes. "The right to vote is protected in more than the initial allocation of the franchise. . . . It must be remembered that 'the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.'" *Bush v. Gore* (2000), 531 U.S. 98, 104-105, quoting *Reynolds v. Sims* (1964), 377 U.S. 533, 555. "It has been repeatedly recognized that all qualified voters have a constitutionally protected right to vote

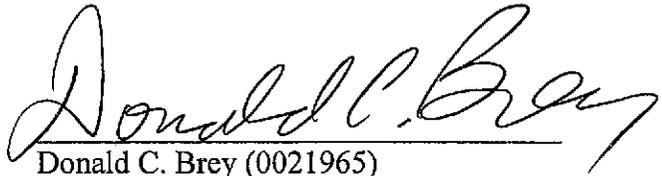
. . . . The right to vote can neither be denied outright . . . nor diluted by ballot-box stuffing.”
Reynolds v. Sims (1964), 377 U.S. 533, 554-555, citations omitted.

CONCLUSION

WHEREFORE, for the foregoing reasons, Relators Rhonda L. Colvin and C. Douglass Moody respectfully request this Court to (i) issue a writ of mandamus directing Respondent Secretary of State Jennifer Brunner to issue a Directive to the County Boards of Election that they must void any applications for absent voters’ ballots that were accepted by the election official following the registration of voters and prior to the lapsing of the thirty (30) day required period under Ohio law and (ii) issue a writ of mandamus directing Respondent Secretary of State Jennifer Brunner to issue a clarifying Directive to the County Board of Elections reiterating that thirty (30) days must elapse, consistent with the Ohio Revised Code, before an application for absent voter’s ballot may be accepted by the election official following the registration of a voter, and clarifying that Directive 2008-63 should be construed consistent with Ohio law and does not change or modify the requirement under Ohio law that thirty (30) days must elapse

before an application for an absent voter's ballot may be accepted by the election official following the registration of a voter.

Respectfully submitted,



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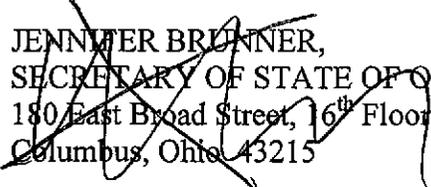
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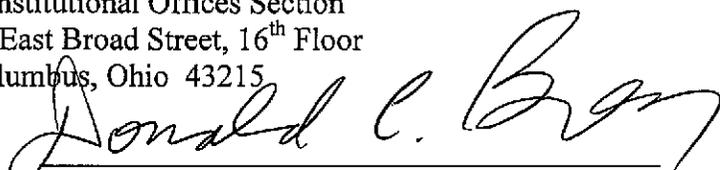
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Merit Brief of Relators Rhonda L. Colvin and C. Douglass Moody* was served via hand delivery and e-mail on this 22nd day of September, 2008 upon the following:



JENNIFER BRUNNER,
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180 East Broad Street, 16th Floor
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RICHARD COGLIANESE
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Constitutional Offices Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215



Donald C. Brey
Attorney at Law

APPENDIX

APPENDIX

Directive 2008-63 and Memorandum of Secretary of State, August 13, 2008..... A-1

Directive 2008-91 of Secretary of State, September 11, 2008..... A-5

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DIRECTIVE 2008-63

August 13, 2008

TO: ALL COUNTY BOARDS OF ELECTIONS

RE: Processing Voter Registration Applications Received the Week Immediately Preceding a Voter Registration Deadline

Two fundamental purposes of the county boards of elections are:

- To facilitate the voter registration of eligible persons; and
- To facilitate the ability of each qualified elector to vote in elections conducted in the elector's precinct.

It is anticipated that the November 4, 2008, election will be the first election for which many Ohioans will register to vote, and other Ohioans will have recently changed their addresses in boards of elections records. A significant number of those new and changed registrations will be generated by voter registration drives conducted up to the registration deadline on October 6, 2008.

R.C. 3599.11(B)(2)(a) provides that:

- no one who helps another person to register to vote outside an official voter registration place shall knowingly fail to return any registration form entrusted to that person to a board of elections or the secretary of state's office within 10 days after that registration form is completed, or
- no later than the voter registration deadline for an election, whichever day is earlier,
- unless the registration form is received by the person within 24 hours of the thirtieth day before the election, in which case the person must return the registration form to any board of elections or the secretary of state's office within 10 days of its receipt.

Consequently, boards of elections can expect to receive large numbers of new and changed voter registrations, in the week immediately preceding the voter registration deadline for the 2008 general election, October 6, 2008. (For the purposes of R.C. 3599.11(B)(2)(a), "within 24 hours of the thirtieth day" means within 24 hours of the last day of registration.) Because part of that week coincides with the beginning of the absentee voting period for that election, the boards also should expect to receive large numbers of absentee ballot applications along with the registration applications. **A board of elections must register a person as an elector before issuing an absentee ballot to that person.**

Therefore, to promote the ability of all eligible electors for the general election to vote by absentee ballot if they so choose, boards of elections are directed to expedite the processing of voter registrations received during the week immediately preceding the voter registration deadline for the 2008 general election and during the 10-day period after the deadline if the registrant will be eligible to vote in the November 4, 2008, election, notwithstanding the

provisions of R.C. 3503.19(C)(1)¹. In light of the increasing numbers of absentee voters by mail, this directive is essential to permit new and changed registrations to be processed in time to enable the board to mail an absentee ballot to such a voter and for the voter to timely return the voted ballot.

A board that is satisfied as to the truth of the statements made on the voter registration application shall register the applicant not later than the second Friday after the voter registration deadline, i.e., not later than October 17, 2008, and shall immediately send to the applicant an acknowledgement notice. The acknowledgement notice must contain notification of the applicant's registration, the precinct in which the applicant is to vote and the notice required by R.C. 3503.19(C)(1)(c) regarding acceptable proof of voter identity.

If a newly registered elector submitted an absentee ballot application with his or her voter registration application, the board shall issue the appropriate absentee ballot to that elector as soon as practicable, but not more than five business days after mailing the acknowledgement notice to that elector.

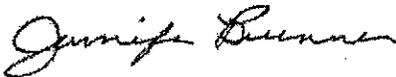
Additionally, there are several days before the 2008 general election during which a person may appear at the board of elections office and simultaneously submit for that election applications to register to vote or to update an existing registration and to request an absentee ballot. As discussed above, a board of elections must first obtain from the person who presents himself or herself to vote during this period a completed voter registration or change of address form.

Boards of elections are required to develop procedures to immediately register the applicant and issue an absentee ballot to the newly registered elector of the county at the time of registration, reserving the right to delay registration and immediate absentee voting if a board is not satisfied as to validity of the application and the applicant's qualifications. Boards of elections utilizing satellite locations for early in-person absentee voting should develop sufficient procedures to enable them to comply with this directive as they would if in-person absentee voting were taking place at the board's office.

It is critical that all Ohio elections officials work to ensure that persons eligible to vote in the general election by absentee ballot be afforded a timely opportunity to do so. Boards of elections may wish to consider hiring temporary employees to assist in this process to meet the deadlines set forth in this directive and in order to timely process the large number of voter registration applications and absentee ballot applications that are expected in connection with the 2008 general election.

If you have any questions about this directive, please contact your assigned elections counsel by email or at telephone number (614) 466-2585.

Sincerely,



Jennifer Brunner

¹ R.C. 3503.19(C)(1) provides in pertinent part:

"A board of elections that receives a voter registration application and is satisfied as to the truth of the statements made in the registration form shall register the applicant not later than twenty business days after receiving the application, unless that application is received during the thirty days immediately preceding the day of an election.

The notification shall be by nonforwardable mail. If the mail is returned to the board, it shall investigate and cause the notification to be delivered to the correct address."



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MEMORANDUM

To: All Counties; BOE Contacts
Cc: Field Staff; Elections
From: Secretary of State, Jennifer Brunner
Date: 08/13/2008
Re: Processing Voter Registration Applications Received the Week Immediately Preceding a Voter Registration Deadline

Directive 2008-63, among other subjects, clarifies issues surrounding the overlap between the end of voter registration and the beginning of absentee voting in Ohio. This is the first election in which issues have been raised regarding the overlap.

In instituting no-fault absentee voting, the General Assembly also created a 5-day overlap between the end of voter registration and the beginning of absentee voting. This overlap has existed since the 2006 primary election.

Sub. H. B. No. 234 was passed by the General Assembly on 10-19-05 and became effective on 01-27-06. According to the Legislative Service Commission, this bill changed Ohio absentee voting laws as follows:

- Permits any qualified elector to vote by absent voter's ballots at an election (R.C. 3509.02(A)).
- Eliminates the qualifications that electors were required to meet under former law in order to vote by absent voter's ballots (R.C. 3509.02(A) and (C), 3509.03, and 3509.04(B)).

According to R.C. 3509.02, "Those ballots shall be designated as "Absent Voter's Ballots" and shall be printed and ready for use on the thirty-fifth day before the day of the election, except that those ballots shall be printed and ready for use on the twenty-fifth day before the day of a presidential primary election." This law became effective on 08-28-2001.

R.C. 3503.19 stipulates the voter registration deadlines for Ohio elections. This law became effective on 08-22-1995 and was amended on 05-02-2006, after the legislature created no-fault absentee voting.



To address these questions, the Secretary of State has provided the following guidance, in keeping with long-standing Ohio law:

- Notes that a board of elections must register a person as an elector before issuing an absentee ballot to that person.
- Requires boards to complete voter registration processing no later than 10-17-08, to assure every qualified elector is able to vote via absentee or on Election Day.
- Requires boards to develop procedures to immediately register an applicant and issue an absentee ballot to the newly registered elector of the county at the time of registration. During the overlap period.
- Allows boards to delay registration and immediate absentee voting if the board is not satisfied as to validity of the application and the applicant's qualifications.



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DIRECTIVE 2008-91

September 11, 2008

**TO: ALL COUNTY BOARDS OF ELECTIONS
MEMBERS, DIRECTORS, AND DEPUTY DIRECTORS**

RE: In-Person Absentee Voters Who Register and Vote During the Five-Day "Overlap" Period

Under R.C. 3509.01, absentee ballots must be ready for distribution 35 days before the general election, while the deadline for voter registration is not until five days later (30 days before the general election) (R.C. 3503.19(A)). As a result, at least a five-day "overlap" period exists during which a voter may register to vote and receive an absentee ballot when registration and the ballot request are made in person at the board of elections or at its satellite office established for in person absentee voting. While the overlap period has existed for years, this is the first election in which issues have been raised concerning the effects of this overlap period, presumably because it is the first presidential election in which no reason need be given to vote an absentee ballot.

Beginning September 30, 2008, boards of elections may receive a large volume of in person new or changed registrants who thereafter request to vote absentee ballots in person at the board's office or satellite location during the six days before and on the voter registration deadline of October 6, 2008, or during any such similar "overlap" period before an election. R.C. 3509.07 provides that, "The vote of any absent voter may be challenged for cause in the same manner as other votes are challenged, and the election officials shall determine the legality of that ballot." Under R.C. 3509.07, 3501.05 and 3501.11, and Directive 2008-79, challenges to voters of absentee ballots made under the state's two challenge statutes, R.C. 3503.24 and 3505.19², must be heard and adjudicated by boards of elections before Election Day, so that challenged persons are afforded due process and the board's cancellation of the voter's registration (and thereby its disqualification of the absentee ballot) complies with the National Voter Registration Act and the United States Constitution.

Accordingly, any challenge that may be filed to a voter who votes an absentee ballot must be adjudicated in compliance with state and federal law, including case law and federal constitutional law. To protect the secrecy of such a challenged absentee voter's ballot, boards of elections are required to provide optical scan paper absentee ballots with identification envelopes to voters who both register and vote on the same day at the board of elections office or

¹ When the voter registration deadline falls on a weekend or holiday and when a public office in which an act is to be performed is closed for the day, the deadline extends to the first business day the public office is open. R.C. 1.14. In 2008, the voter registration deadline is Sunday, October 5, 2008, extending the deadline to Monday, October 6, 2008. In other years the Columbus Day holiday may add an additional day to the voter registration deadline.

² However, a challenge made under R.C. 3505.19 is unlikely, because the challenged voter has just registered to vote, unless the voter was previously registered, moved, and did not change his or her address.

at its satellite location during the "overlap" period.

Boards of elections in counties that use DRE voting systems as their primary voting systems may, for the overlap period, use ballots from each precinct's allotment of backup paper ballots required to be produced for each election precinct as required by Directive 2008-59 for Election Day voting (minimum 25% of the last presidential election's voter turnout).

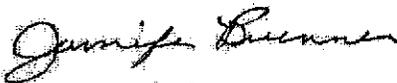
Having these "overlap" voters (who register and vote during the "overlap" period) vote a paper absentee ballot with an identification envelope preserves the secrecy of their ballots. If those particular voters are challenged pursuant to R.C. 3509.07, and more specifically pursuant to R.C. 3505.19 or 3503.24, and if any of the challenges is successful, such voters' ballots will be able to be identified and disqualified without jeopardizing the secrecy of their votes, because their voted ballots will remain in the identification envelopes.

R.C. 3503.16 prevents boards of elections from requiring persons who register and vote during the "overlap" period to vote by provisional absentee ballot, since that statute which authorizes provisional absentee voting does not permit this type of voting to occur until twenty-eight days or less before the election. (See, R.C. 3503.16(B)(2)). Regardless, provisional absentee voting would not be necessary for these "overlap" voters, since any deficiency in registration that could be resolved by requiring provisional voting would be resolved by the new or updated voter registration which occurs before the voter registration deadline.

Boards of elections may find it advisable to continue to use optical scan paper absentee ballots for in person absentee voting until the deadline for filing challenges (twenty (20) days before the general election, or October 15, 2008, this year). Boards using DRE voting systems may only use their stock of backup paper ballots for the "overlap" voting period. If they wish to use optical scan paper ballots for the 10-day period through the close of the challenge deadline, they should order more paper absentee ballots accordingly.

If you have any questions, please feel free to contact your assigned elections counsel by email or at (614) 466-2585.

Sincerely,



Jennifer Brunner



JENNIFER BRUNNER
OHIO SECRETARY OF STATE

180 EAST BROAD STREET, 16TH FLOOR
COLUMBUS, OHIO 43215 USA
TEL: 1-877-767-6446 FAX: 1-614-644-0649
WWW.SOS.STATE.OH.US

DIRECTIVE 2008-92
September 11, 2008

TO: ALL COUNTY BOARDS OF ELECTIONS
MEMBERS, DIRECTORS, AND DEPUTY DIRECTORS

RE: Effect of Am. Sub. H.B. 350 on Issuance of Directives

The General Assembly recently enacted Am. Sub. H.B. 350 ("H.B. 350") which added a new section to the Revised Code governing the issuance of directives by the Secretary of State. New R.C. 3501.053 classifies directives as either "permanent directives" or "temporary directives" and imposes public notice, public comment and timing requirements for the issuance of permanent directives.

H.B. 350 does not diminish the authority of the Secretary of State to issue directives, but only establishes procedural requirements prior to issuance. The effective date of H.B. 350 is September 12, 2008.

All advisories and memoranda issued by this office are not subject to "temporary" or "permanent" status and remain, as do previously issued directives, unaffected by the enactment of H.B. 350.

This office will continue after September 12, 2008, to post directives, both permanent and temporary, on the Secretary of State website, www.sos.state.oh.us. In addition, effective September 12, 2008, proposed permanent directives will be posted before being issued to boards of elections to allow reasonable notice and a reasonable amount of time for public review and public comment concerning proposed permanent directives.

Pursuant to the general legal principle that new laws are applied prospectively only and do not have retroactive effect, H.B. 350 does not affect the validity of directives issued by the Secretary of State prior to September 12, 2008, the effective date of H.B. 350.

I therefore direct the boards of elections to follow this and all previous directives identified by this office to be in full effect on the effective date of H.B. 350 (September 12, 2008) and thereafter, unless subsequently and specifically superseded, revoked or replaced by a subsequent directive of the Secretary of State, whether temporary or permanent.

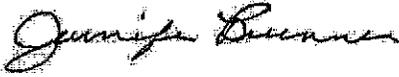
A list of directives, advisories, memos, and letters in effect on September 11, 2008, that continue to be of full effect and carry the weight of law pursuant to R.C. 3501.05 and R.C. 3501.11, is available at: www.sos.state.oh.us/SOS/elections/Directives.aspx.

For your convenience a list of directives that predate the effective date of H.B. 350, and remain in effect thereafter, is attached to this directive (copy attached).

Directive 2008-02 Processing Voter Registrations Received the Week before the Deadline Page 2 of 2

If you have any questions about this directive, please contact your assigned elections attorney by email or at telephone number (614) 466-2585.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Brunner".

Jennifer Brunner

Quick Reference Guide Of Directives Currently "In Effect"

Code	Applicable Directive Number	Key Word	Description
Directive	<u>Directive 2002-08</u>	Write-In	Write-in Candidates: O.R.C. 3513.041 & 3513.23
Directive	<u>Directive 2004-42</u>	Provisional Ballots	Provisional Voting: Home Precinct Balloting Only.
Directive	<u>Directive 2004-42</u>	Voters	Provisional Voting: Home Precinct Balloting Only.
Directive	<u>Directive 2005-22</u>	Procedures	Procedure for the changing and handling of paper canisters for TSX units.
Directive	<u>Directive 2005-22</u>	Voting Machines	Procedure for the changing and handling of paper canisters for TSX units.
Directive	<u>Directive 2006-59</u>	Retention	Guidance in the retention and disposal of ballots and poll books as public records.
Directive	<u>Directive 2006-72</u>	Challengers	The eligibility of voters may only be questioned by an election judge; proof of citizenship cannot be requested.
Directive	<u>Directive 2006-82</u>	Procedures	Regarding the lifting of opaque protective covers on VVPAT printer for Diebold TSX voting unit.
Directive	<u>Directive 2006-82</u>	Voting Machines	Regarding the lifting of opaque protective covers on VVPAT printer for Diebold TSX voting unit.
Directive	<u>Directive 2007-01</u>	Board of Elections	Minimum qualifications for Directors and Deputy Directors of Board of Elections.
Directive	<u>Directive 2007-06</u>	Absent Voters	Acceptable forms of voter I.D., absentee voting requirements.
Directive	<u>Directive 2007-06</u>	ADA	Voter identification requirements (including provisional/absentee) and compliance with American's with Disabilities Act (ADA).
Directive	<u>Directive 2007-06</u>	Identification	Voter identification requirements (including provisional/absentee) and compliance with American's with Disabilities Act (ADA).
Directive	<u>Directive 2007-06</u>	Provisional Ballots/Voters	Voter I.D. requirements, absentee voting requirements, provisional voting requirements, handicapped parking at polling places.
Directive	<u>Directive 2007-06</u>	Voters	Voter I.D. requirements, absentee voting requirements, provisional voting requirements, handicapped parking at polling places.
Directive	<u>Directive 2007-11</u>	Procedures	2007 general voter records maintenance program, grounds for registration cancellation.
Directive	<u>Directive 2007-11</u>	Registration	2007 general voter records maintenance program, grounds for registration cancellation.
Directive	<u>Directive 2007-32</u>	Identification	Voter I.D. requirements, absentee voting requirements, provisional voting requirements, handicapped parking at polling places.

Quick Reference Guide Of Directives Currently "In Effect"

Directive	<u>Directive 2007-32</u>	Procedures	Retention, security and definition of personal information.
Directive	<u>Directive 2007-32</u>	Retention	Retention, security and definition of personal information.
Directive	<u>Directive 2007-32</u>	UOCAVA	Retention, security and definition of personal information.
Directive	<u>Directive 2007-35</u>	Board of Elections	Adoption of the Secretary of State's ethics policy by all Boards of Elections and S.O.S. Employees.
Directive	<u>Directive 2007-35</u>	Precinct Officials	Adoption of the Secretary of State's ethics policy by all Boards of Elections and S.O.S. Employees.
Directive	<u>Directive 2008-02</u>	Board of Elections	Survey of Boards of Elections regarding elections systems required by O.R.C 3501.05(L).
Directive	<u>Directive 2008-02</u>	Questions	Survey of Boards of Elections regarding elections systems required by O.R.C 3501.05(L).
Directive	<u>Directive 2008-02</u>	Surveys	Survey of Boards of Elections regarding elections systems required by O.R.C 3501.05(L).
Directive	<u>Directive 2008-02</u>	Voting Machines	Survey of Boards of Elections regarding elections systems required by O.R.C 3501.05(L).
Directive	<u>Directive 2008-03</u>	Nominating Petitions	Petition of Evelyn L Stratton for Justice of the Supreme Court of Ohio, Republican.
Directive	<u>Directive 2008-04</u>	Nominating Petitions	Petition of Maureen O'Connor for Justice of the Supreme Court of Ohio, Republican.
Directive	<u>Directive 2008-05</u>	Nominating Petitions	Petition for John Edwards, 2008 Democratic Primary.
Directive	<u>Directive 2008-06</u>	Nominating Petitions	Petition for Barack Obama, 2008 Democratic Primary.
Directive	<u>Directive 2008-07</u>	Nominating Petitions	Petition of Peter M. Sikora for Justice of the Supreme Court of Ohio, Democrat.
Directive	<u>Directive 2008-08</u>	Nominating Petitions	Petition of Joseph D. Russo for Justice of the Supreme Court of Ohio, Democrat.
Directive	<u>Directive 2008-09</u>	Nominating Petitions	Petition for Hillary Clinton, 2008 Democratic Primary.
Directive	<u>Directive 2008-10</u>	Nominating Petitions	Petition for Dennis Kucinich, 2008 Democratic Primary.
Directive	<u>Directive 2008-11</u>	Nominating Petitions	Petition for Bill Richardson, 2008 Democratic Primary.
Directive	<u>Directive 2008-12</u>	Nominating Petitions	Petition for Fred Thompson, 2008 Republican Primary.

Quick Reference Guide Of Directives Currently "In Effect"

Directive	<u>Directive 2008-13</u>	Nominating Petitions	Petition for Rudy Giuliani, 2008 Republican Primary.
Directive	<u>Directive 2008-14</u>	Nominating Petitions	Petition for Ron Paul, 2008 Republican Primary.
Directive	<u>Directive 2008-15</u>	Nominating Petitions	Petition for Mitt Romney, 2008 Republican Primary.
Directive	<u>Directive 2008-16</u>	Nominating Petitions	Petition for Mike Huckabee, 2008 Republican Primary.
Directive	<u>Directive 2008-17</u>	Board of Elections	New submission deadline for Elections Board survey in Directive 2008-02.
Directive	<u>Directive 2008-17</u>	Questions	New submission deadline for Elections Board survey in Directive 2008-02.
Directive	<u>Directive 2008-17</u>	Surveys	New submission deadline for Elections Board survey in Directive 2008-02.
Directive	<u>Directive 2008-18</u>	Ballots	Ballot template forms for 2008 primary election and ballot making key points.
Directive	<u>Directive 2008-18</u>	State and County Central Committee	Ballot template forms for 2008 primary election and ballot making key points.
Directive	<u>Directive 2008-19</u>	Candidates	Most populous county in district must report list of candidates to the S.O.S. office no later than January 31, 2008.
Directive	<u>Directive 2008-19</u>	Primary Election	Enclosed are forms necessary for the reporting of primary candidates to be completed by most populous county for a district.
Directive	<u>Directive 2008-20</u>	Nominating Petitions	Candidates who have withdrawn from 2008 primary and resulting instructions for polling locations.
Directive	<u>Directive 2008-21</u>	Ballots	Optical scan ballot instructions to be issued to voters.
Directive	<u>Directive 2008-22</u>	Voters	Addresses the voting eligibility of 17-year old electors, and the ballot that 17-year old electors are to use, in the Tuesday, March 4, 2008 primary election.
Directive	<u>Directive 2008-23</u>	Ohio Election Commission (OEC)	Instructions and attached forms for annual county election board reports.
Directive	<u>Directive 2008-24</u>	Surveys	equipment to presiding judges and the transportation of ballots or memory cards from the polling place on election night.
Directive	<u>Directive 2008-25</u>	Ballots	Polling/ballot security and proper chain of custody procedure.
Directive	<u>Directive 2008-25</u>	Polling Places	Ensure the security of all voting equipment, supplies and/or ballots used in the March 4, 2008 primary election.
Directive	<u>Directive 2008-25</u>	Voting Machines	Ensure the security of all voting equipment, supplies and/or ballots used in the March 4, 2008 primary election.

Quick Reference Guide Of Directives Currently "In Effect"

Directive	<u>Directive 2008-29</u>	Observers	Rights of and limitations on Election Observers.
Directive	<u>Directive 2008-30</u>	Ballots	Proper procedure in case of ballot shortage or voting/tabulating machine failure.
Directive	<u>Directive 2008-30</u>	Voting Machines	Proper procedure in case of ballot shortage or voting/tabulating machine failure.
Directive	<u>Directive 2008-31</u>	Board of Elections	March, 2008 Board of Elections reorganization procedure pursuant to O.R.C. 3501.09.
Directive	<u>Directive 2008-31</u>	Procedures	March, 2008 Board of Elections reorganization procedure pursuant to O.R.C. 3501.09.
Directive	<u>Directive 2008-32</u>	Election Returns	Procedure for conducting unofficial canvas and accompanying forms.
Directive	<u>Directive 2008-32</u>	Primary Election	Procedure for conducting unofficial canvas and accompanying forms.
Directive	<u>Directive 2008-32</u>	Procedures	Procedure for conducting unofficial canvas and accompanying forms.
Directive	<u>Directive 2008-32</u>	State and County Central Committee	Procedure for conducting unofficial canvas and accompanying forms.
Directive	<u>Directive 2008-34</u>	Ballots	Protocol for manual hand count of votes in case of tabulation failure or recount.
Directive	<u>Directive 2008-34</u>	Procedures	Protocol for manual hand count of votes in case of tabulation failure or recount.
Directive	<u>Directive 2008-34</u>	Voting Machines	Protocol for manual hand count of votes in case of tabulation failure or recount.
Directive	<u>Directive 2008-35</u>	Instructions to Boards of Elections	Polls remaining open until 9 p.m. in Sandusky county, as a result, no other county may report results until 9 p.m.
Directive	<u>Directive 2008-35</u>	Polling Places	Polls remaining open until 9 p.m. in Sandusky county, as a result, no other county may report results until 9 p.m.
Directive	<u>Directive 2008-35</u>	Procedures	Polls remaining open until 9 p.m. in Sandusky county, as a result, no other county may report results until 9 p.m.
Directive	<u>Directive 2008-35</u>	Uniform Poll Closing	Polls remaining open until 9 p.m. in Sandusky county, as a result, no other county may report results until 9 p.m.
Directive	<u>Directive 2008-36</u>	Instructions to Boards of Elections	Polls open until 9 p.m. in Sandusky, other counties may begin count at 7:30 p.m., but cannot report until 9 p.m.
Directive	<u>Directive 2008-36</u>	Polling Places	Polls open until 9 p.m. in Sandusky, other counties may begin count at 7:30 p.m., but cannot report until 9 p.m.
Directive	<u>Directive 2008-36</u>	Procedures	Polls open until 9 p.m. in Sandusky, other counties may begin count at 7:30 p.m., but cannot report until 9 p.m.

Quick Reference Guide Of Directives Currently "In Effect"

Directive	<u>Directive 2008-36</u>	Uniform Poll Closing	Polls open until 9 p.m. in Sandusky, other counties may begin count at 7:30 p.m., but cannot report until 9 p.m.
Directive	<u>Directive 2008-37</u>	Instructions to Boards of Elections	Certain precincts are to remain open until 9 p.m., those precincts must use provisional ballots after 7:30 p.m.
Directive	<u>Directive 2008-37</u>	Polling Places	Certain precincts are to remain open until 9 p.m., those precincts must use provisional ballots after 7:30 p.m.
Directive	<u>Directive 2008-37</u>	Procedures	Certain precincts are to remain open until 9 p.m., those precincts must use provisional ballots after 7:30 p.m.
Directive	<u>Directive 2008-37</u>	Uniform Poll Closing	Certain precincts are to remain open until 9 p.m., those precincts must use provisional ballots after 7:30 p.m.
Directive	<u>Directive 2008-38</u>	Election Returns	Procedure for conducting official canvas and accompanying forms.
Directive	<u>Directive 2008-38</u>	Procedures	Procedure for conducting official canvas and accompanying forms.
Directive	<u>Directive 2008-38</u>	State and County Central Committee	Procedure for conducting official canvas and accompanying forms.
Directive	<u>Directive 2008-39</u>	Audit	Proper audit procedures for the March 4, 2008 primary election.
Directive	<u>Directive 2008-39</u>	Primary Election	Proper post-audit procedures for the March 4, 2008 primary election.
Directive	<u>Directive 2008-39</u>	Procedures	Proper audit procedures for the March 4, 2008 primary election.
Directive	<u>Directive 2008-40</u>	Procedures	Circumstances and procedure for recounts following the official certification of the results of an election.
Directive	<u>Directive 2008-40</u>	Recount	Circumstances and procedure for recounts following the official certification of the results of an election.
Directive	<u>Directive 2008-41</u>	State and County Central Committee	Forms and procedure for recording names and addresses of officers and members of party Central and Executive Committees.
Directive	<u>Directive 2008-42</u>	Precinct Officials	Procedures if Poll workers failed to document a voter's party affiliation March 4, 2008
Directive	<u>Directive 2008-42</u>	Procedures	Procedures if Poll workers failed to document a voter's party affiliation March 4, 2008
Directive	<u>Directive 2008-42</u>	Voters	Procedures concerning voters who were not challenged if they switched political parties or if the poll worker failed to record the voter's political party in the Poll list.
Directive	<u>Directive 2008-43</u>	Audit	Post audit survey for the March 4, 2008 primary election - 11 counties
Directive	<u>Directive 2008-43</u>	Surveys	Survey of Board of Elections regarding the Post-Audit of the March 4, 2008 Primary Election

Quick Reference Guide Of Directives Currently "In Effect"

Directive	<u>Directive 2008-44</u>	Polling Places	Verification of Handicapped Accessible Polling Locations
Directive	<u>Directive 2008-44</u>	ADA	Verification of Handicapped Accessible Polling Locations
Directive	<u>Directive 2008-44</u>	Procedures	Verification of Handicapped Accessible Polling Locations
Directive	<u>Directive 2008-44</u>	Surveys	Verification of Handicapped Accessible Polling Locations
Directive	<u>Directive 2008-45</u>	Procedures	Initial Filing of petition on proposed referendum on Sub. H.B. 545
Directive	<u>Directive 2008-45</u>	Referendum Petitions	Initial Filing of petition on proposed referendum on Sub. H.B. 545
Directive	<u>Directive 2008-46</u>	Nominating Petitions	Nominating Petition of Robert M. Owens - Unexpired Term for Ohio Attorney General
Directive	<u>Directive 2008-47</u>	Absent Voter Ballots	Prohibiting the Outsourcing of Mailing of Absentee Ballots
Directive	<u>Directive 2008-47</u>	Boards of Elections	Prohibiting the Outsourcing of Mailing of Absentee Ballots
Directive	<u>Directive 2008-47</u>	Procedures	Prohibiting the Outsourcing of Mailing of Absentee Ballots
Directive	<u>Directive 2008-48</u>	Referendum Petitions	New filing of petition on proposed referendum on Sub. H.B. 545
Directive	<u>Directive 2008-49</u>	Procedures	Initial filing of petition on proposed referendum on Section 3 of Sub.HB 545
Directive	<u>Directive 2008-49</u>	Referendum Petitions	Initial filing of petition on proposed referendum on Section 3 of Sub.HB 545
Directive	<u>Directive 2008-50</u>	Boards of Elections	Standards for establishing an alternate polling location for in-person absentee voting
Directive	<u>Directive 2008-50</u>	Absent Voters	Standards for establishing an alternate polling location for in-person absentee voting
Directive	<u>Directive 2008-50</u>	ADA	Standards for establishing an alternate polling location for in-person absentee voting
Directive	<u>Directive 2008-50</u>	Polling Places	Standards for establishing an alternate polling location for in-person absentee voting
Directive	<u>Directive 2008-50</u>	Procedures	Standards for establishing an alternate polling location for in-person absentee voting
Directive	<u>Directive 2008-50</u>	Voters	Standards for establishing an alternate polling location for in-person absentee voting

Quick Reference Guide Of Directives Currently "In Effect"

Directive	<u>Directive 2008-51</u>	Precinct Officials	Poll worker Compensation Increased under State and Federal Law
Directive	<u>Directive 2008-52</u>	Procedures	Complying with Secretary of State's Procedures for Processing Duplicate Voter Registrations
Directive	<u>Directive 2008-52</u>	Registration	Complying with Secretary of State's Procedures for Processing Duplicate Voter Registrations
Directive	<u>Directive 2008-52</u>	Voters	Complying with Secretary of State's Procedures for Processing Duplicate Voter Registrations
Directive	<u>Directive 2008-53</u>	Primary Election	Procedures to List Previously-Affiliated Voters Where No Party Affiliation was Recorded at March 4, 2008 Primary Election
Directive	<u>Directive 2008-53</u>	Procedures	Procedures to List Previously-Affiliated Voters Where No Party Affiliation was Recorded at March 4, 2008 Primary Election
Directive	<u>Directive 2008-53</u>	Voters	Procedures to List Previously-Affiliated Voters Where No Party Affiliation was Recorded at March 4, 2008 Primary Election
Directive	<u>Directive 2008-54</u>	Voting Machines	Direct Recording Electronic (DRE) Voting Machine Key Card Management
Directive	<u>Directive 2008-55</u>	Absent Voters	R.C. 3501.19 Notices of Election -- Implementation of Appropriation for Absentee Ballot Applications in Am.Sub.H.B. 562
Directive	<u>Directive 2008-55</u>	Procedures	R.C. 3501.19 Notices of Election -- Implementation of Appropriation for Absentee Ballot Applications in Am.Sub.H.B. 562
Directive	<u>Directive 2008-55</u>	Identification	R.C. 3501.19 Notices of Election -- Implementation of Appropriation for Absentee Ballot Applications in Am.Sub.H.B. 562
Directive	<u>Directive 2008-55</u>	Legislation	R.C. 3501.19 Notices of Election -- Implementation of Appropriation for Absentee Ballot Applications in Am.Sub.H.B. 562
Directive	<u>Directive 2008-56</u>	Boards of Elections	Security of BOEs Offices as well as the Minimum Storage, Security, Access and Inventory Control Requirements for Voting Systems Equipment at the BOEs Office.
Directive	<u>Directive 2008-56</u>	Procedures	Security of BOEs Offices as well as the Minimum Storage, Security, Access and Inventory Control Requirements for Voting Systems Equipment at the BOEs Office.
Directive	<u>Directive 2008-56</u>	Voting Machines	Security of BOEs Offices as well as the Minimum Storage, Security, Access and Inventory Control Requirements for Voting Systems Equipment at the BOEs Office.
Directive	<u>Directive 2008-56</u>	Security	Security of BOEs Offices as well as the Minimum Storage, Security, Access and Inventory Control Requirements for Voting Systems Equipment at the BOEs Office.
Directive	<u>Directive 2008-57</u>	Ballots	Minimum Security, Access, Inventory Control, Storage and Preservation Requirements for Ballots and Election Data Media
Directive	<u>Directive 2008-57</u>	Boards of Elections	Minimum Security, Access, Inventory Control, Storage and Preservation Requirements for Ballots and Election Data Media
Directive	<u>Directive 2008-57</u>	Procedures	Minimum Security, Access, Inventory Control, Storage and Preservation Requirements for Ballots and Election Data Media

Quick Reference Guide Of Directives Currently "In Effect"

Directive	<u>Directive 2008-57</u>	Security	Minimum Security, Access, Inventory Control, Storage and Preservation Requirements for Ballots and Election Data Media
Directive	<u>Directive 2008-58</u>	Nominating Petitions	Nominating Petition of James N. Clymer and Chuck Baldwin for President and Vice President, Respectively
Directive	<u>Directive 2008-59</u>	Ballots	Optical Scan Ballots for Voters in Counties Using DRE Voting Machines
Directive	<u>Directive 2008-59</u>	Procedures	Optical Scan Ballots for Voters in Counties Using DRE Voting Machines
Directive	<u>Directive 2008-60</u>	Pollworkers	Procedures for Court Orders
Directive	<u>Directive 2008-60</u>	Procedures	Procedures for Court Orders
Directive	<u>Directive 2008-60</u>	Provisional Ballots	Procedures for Court Orders
Directive	<u>Directive 2008-60</u>	Voters	Procedures for Court Orders
Directive	<u>Directive 2008-61</u>	Circulators	State Issue Petition - Proposing a Constitutional Amendment - Casino Petition
Directive	<u>Directive 2008-61</u>	Constitution	State Issue Petition - Proposing a Constitutional Amendment - Casino Petition
Directive	<u>Directive 2008-61</u>	Procedures	State Issue Petition - Proposing a Constitutional Amendment - Casino Petition
Directive	<u>Directive 2008-62</u>	Circulators	State Issue Petition - Supplemental Initiative Petition - Proposing a Statute - Paid Sick Leave for Ohio Employees (Healthy Families Act)
Directive	<u>Directive 2008-62</u>	Initiative Petition	State Issue Petition - Supplemental Initiative Petition - Proposing a Statute - Paid Sick Leave for Ohio Employees (Healthy Families Act)
Directive	<u>Directive 2008-62</u>	Procedures	State Issue Petition - Supplemental Initiative Petition - Proposing a Statute - Paid Sick Leave for Ohio Employees (Healthy Families Act)
Directive	<u>Directive 2008-63</u>	Procedures	Voter Registration Deadline
Directive	<u>Directive 2008-63</u>	Registration	Voter Registration Deadline
Directive	<u>Directive 2008-63</u>	Voters	Voter Registration Deadline
Directive	<u>Directive 2008-64</u>	Procedures	Guidelines for Voting Machine Acquisition and Allocation
Directive	<u>Directive 2008-64</u>	Voting Machines	Guidelines for Voting Machine Acquisition and Allocation

Quick Reference Guide Of Directives Currently "In Effect"

Directive	<u>Directive 2008-65</u>	Polling Places	Precinct Polling Location Arrangement and Diagram for Counties Using DREs
Directive	<u>Directive 2008-65</u>	Procedures	Precinct Polling Location Arrangement and Diagram for Counties Using DREs
Directive	<u>Directive 2008-66</u>	Absent Voters ballots	Instructions to Voters for Absent Voter Ballots
Directive	<u>Directive 2008-66</u>	Assistance to voters	Instructions to Voters for Absent Voter Ballots
Directive	<u>Directive 2008-67</u>	Absent Voters ballots	Procedures for Processing Absent Voter's Ballots Prior to Election Day
Directive	<u>Directive 2008-67</u>	Procedures	Procedures for Processing Absent Voter's Ballots Prior to Election Day
Directive	<u>Directive 2008-68</u>	Procedures	Voting Machine Delivery Requirements
Directive	<u>Directive 2008-68</u>	Security	Voting Machine Delivery Requirements
Directive	<u>Directive 2008-68</u>	Voting Machines	Voting Machine Delivery Requirements
Directive	<u>Directive 2008-69</u>	Ballots	Remake of Optical Scan Ballot
Directive	<u>Directive 2008-69</u>	Procedures	Remake of Optical Scan Ballot
Directive	<u>Directive 2008-70</u>	Circulators	Nominating Petition of Ralph Nader and Matt Gonzalez for President and Vice President, Respectively
Directive	<u>Directive 2008-70</u>	Independent Candidates	Nominating Petition of Ralph Nader and Matt Gonzalez for President and Vice President, Respectively
Directive	<u>Directive 2008-70</u>	Nominating Petitions	Nominating Petition of Ralph Nader and Matt Gonzalez for President and Vice President, Respectively
Directive	<u>Directive 2008-70</u>	Procedures	Nominating Petition of Ralph Nader and Matt Gonzalez for President and Vice President, Respectively
Directive	<u>Directive 2008-71</u>	Circulators	Nominating Petition of Richard A. Duncan and Robert C. Culbertson for President and Vice President, Respectively
Directive	<u>Directive 2008-71</u>	Independent Candidates	Nominating Petition of Richard A. Duncan and Robert C. Culbertson for President and Vice President, Respectively
Directive	<u>Directive 2008-71</u>	Nominating Petitions	Nominating Petition of Richard A. Duncan and Robert C. Culbertson for President and Vice President, Respectively
Directive	<u>Directive 2008-71</u>	Procedures	Nominating Petition of Richard A. Duncan and Robert C. Culbertson for President and Vice President, Respectively

Quick Reference Guide Of Directives Currently "In Effect"

Directive	<u>Directive 2008-72</u>	Procedures	Internet Access, Networking, Installing or Downloading Software, and Modem Access on Voting Equipment
Directive	<u>Directive 2008-72</u>	Security	Internet Access, Networking, Installing or Downloading Software, and Modem Access on Voting Equipment
Directive	<u>Directive 2008-72</u>	Voting Machines	Internet Access, Networking, Installing or Downloading Software, and Modem Access on Voting Equipment
Directive	<u>Directive 2008-73</u>	Procedures	Minimum Security Requirements of Vote Tabulation Servers
Directive	<u>Directive 2008-73</u>	Security	Minimum Security Requirements of Vote Tabulation Servers
Directive	<u>Directive 2008-74</u>	Procedures	County Board of Elections Security and Risk Mitigation Plan
Directive	<u>Directive 2008-74</u>	Security	County Board of Elections Security and Risk Mitigation Plan
Directive	<u>Directive 2008-75</u>	Special Election	Special Congressional Election to fill vacancy in Ohio's 11th Congressional District due to death of U.S. Representative Stephanie Tubbs Jones
Directive	<u>Directive 2008-75</u>	Vacancies	Special Congressional Election to fill vacancy in Ohio's 11th Congressional District due to death of U.S. Representative Stephanie Tubbs Jones
Directive	<u>Directive 2008-76</u>	Circulators	State Issue Petition - Proposing a Partial Referendum of Sub. H.B. 545
Directive	<u>Directive 2008-76</u>	Initiative Petition	State Issue Petition - Proposing a Partial Referendum of Sub. H.B. 545
Directive	<u>Directive 2008-76</u>	Procedures	State Issue Petition - Proposing a Partial Referendum of Sub. H.B. 545
Directive	<u>Directive 2008-77</u>	Precinct Officials	Minimum requirements and best practices for poll worker training
Directive	<u>Directive 2008-77</u>	Procedures	Minimum requirements and best practices for poll worker training
Directive	<u>Directive 2008-78</u>	Absent Voters ballot	Eligibility of Former Ohio Residents to Vote in Presidential General Election in Ohio
Directive	<u>Directive 2008-79</u>	Boards of Elections	Required Procedures in Administering Voter Challenge Statutes, R.C. 3503.24 and 3505.19
Directive	<u>Directive 2008-79</u>	Challengers	Required Procedures in Administering Voter Challenge Statutes, R.C. 3503.24 and 3505.19
Directive	<u>Directive 2008-79</u>	Procedures	Required Procedures in Administering Voter Challenge Statutes, R.C. 3503.24 and 3505.19
Directive	<u>Directive 2008-80</u>	Identification	Voter Identification Requirements

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Directive	<u>Directive 2008-80</u>	Instructions to Boards of Elections	Voter Identification Requirements
Directive	<u>Directive 2008-80</u>	Precinct Officials	Voter Identification Requirements
Directive	<u>Directive 2008-81</u>	Instructions to Boards of Elections	Guidelines for Provisional Voting
Directive	<u>Directive 2008-81</u>	Precinct Officials	Guidelines for Provisional Voting
Directive	<u>Directive 2008-81</u>	Provisional Ballots/Voters	Guidelines for Provisional Voting
Directive	<u>Directive 2008-82</u>	Absent Voters	Guidelines for Absentee Voting
Directive	<u>Directive 2008-82</u>	Procedures	Guidelines for Absentee Voting
Directive	<u>Directive 2008-82</u>	Voters	Guidelines for Absentee Voting
Directive	<u>Directive 2008-83</u>	Ballots	2008 General Election Ballots
Directive	<u>Directive 2008-83</u>	Instructions to Boards of Elections	2008 General Election Ballots
Directive	<u>Directive 2008-83</u>	Procedures	2008 General Election Ballots
Directive	<u>Directive 2008-84</u>	Candidates	Candidates for State Board of Education, County Court Judge and Write-Ins
Directive	<u>Directive 2008-84</u>	Write-In	Candidates for State Board of Education, County Court Judge and Write-Ins
Directive	<u>Directive 2008-85</u>	Ballots	Instructions for Closing the Polls and Reconciliation of Paper Ballots for Tabulation
Directive	<u>Directive 2008-85</u>	Polling Places	Instructions for Closing the Polls and Reconciliation of Paper Ballots for Tabulation
Directive	<u>Directive 2008-85</u>	Precinct Officials	Instructions for Closing the Polls and Reconciliation of Paper Ballots for Tabulation
Directive	<u>Directive 2008-85</u>	Procedures	Instructions for Closing the Polls and Reconciliation of Paper Ballots for Tabulation
Directive	<u>Directive 2008-86</u>	Ballots	Procedures for Handling Optical Scan Ballots When a Ballot Box is at or Near Capacity Prior to the Close of the Polls
Directive	<u>Directive 2008-86</u>	Polling Places	Procedures for Handling Optical Scan Ballots When a Ballot Box is at or Near Capacity Prior to the Close of the Polls

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Directive	<u>Directive 2008-86</u>	Procedures	Procedures for Handling Optical Scan Ballots When a Ballot Box is at or Near Capacity Prior to the Close of the Polls
Directive	<u>Directive 2008-86</u>	Precinct Officials	Procedures for Handling Optical Scan Ballots When a Ballot Box is at or Near Capacity Prior to the Close of the Polls
Directive	<u>Directive 2008-87</u>	Polling Places	Posting Summary Statements of Precinct Elections Results at Polling Locations
Directive	<u>Directive 2008-87</u>	Precinct Officials	Posting Summary Statements of Precinct Elections Results at Polling Locations
Directive	<u>Directive 2008-87</u>	Procedures	Posting Summary Statements of Precinct Elections Results at Polling Locations
Directive	<u>Directive 2008-87</u>	Voting Machines	Posting Summary Statements of Precinct Elections Results at Polling Locations
Directive	<u>Directive 2008-88</u>	Polling Places	Polling Location Checklist for Polling Place Supplies
Directive	<u>Directive 2008-89</u>	Voting Machines	L&A Testing for Voting Machines and Public Test
Directive	<u>Directive 2008-90</u>	Voting Machines	Guidelines for testing Vote Tabulation Systems
Directive	<u>Directive 2008-91</u>	Paper Ballots	In Person Absentee Voters Who Register and Vote During the 5-day "Overlap" Period
Directive	<u>Directive 2008-92</u>	Directives	Issuance of Directives under Am. Sub. H.B. 350

OHIO CONSTITUTION ARTICLE V, SECTION 1

Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections. Any elector who fails to vote in at least one election during any period of four consecutive years shall cease to be an elector unless he again registers to vote.

(Amended, November, 1977.)

309.09 Legal adviser - additional legal counsel.

(A) The prosecuting attorney shall be the legal adviser of the board of county commissioners, board of elections, and all other county officers and boards, including all tax-supported public libraries, and any of them may require written opinions or instructions from the prosecuting attorney in matters connected with their official duties. The prosecuting attorney shall prosecute and defend all suits and actions which any such officer or board directs or to which it is a party, and no county officer may employ any other counsel or attorney at the expense of the county, except as provided in section 305.14 of the Revised Code.

(B)(1) The prosecuting attorney shall be the legal adviser for all township officers, boards, and commissions, unless, subject to division (B)(2) of this section, the township has adopted a limited home rule government pursuant to Chapter 504. of the Revised Code and has not entered into a contract to have the prosecuting attorney serve as the township law director, in which case, subject to division (B)(2) of this section, the township law director, whether serving full-time or part-time, shall be the legal adviser for all township officers, boards, and commissions. When the board of township trustees finds it advisable or necessary to have additional legal counsel, it may employ an attorney other than the township law director or the prosecuting attorney of the county, either for a particular matter or on an annual basis, to represent the township and its officers, boards, and commissions in their official capacities and to advise them on legal matters. No such legal counsel may be employed, except on the order of the board of township trustees, duly entered upon its journal, in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the township fund.

Nothing in this division confers any of the powers or duties of a prosecuting attorney under section 309.08 of the Revised Code upon a township law director.

(2)(a) If any township in the county served by the prosecuting attorney has adopted any resolution regarding the operation of adult entertainment establishments pursuant to the authority that is granted under section 503.52 of the Revised Code or if a resolution of that nature has been adopted under section 503.53 of the Revised Code in a township in the county served by the prosecuting attorney, all of the following apply:

(l) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(c) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township in the trial and argument in any court or tribunal of any challenge to the validity of the resolution. If the challenge to the validity of the resolution is before a federal court, the prosecuting attorney may request the attorney general to assist the prosecuting attorney in prosecuting and defending the challenge and, upon the prosecuting attorney's making of such a request, the attorney general shall assist the prosecuting attorney in performing that service if the resolution was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of section 503.52 of the Revised Code. The attorney general shall provide this assistance without charge to the township for which the service is performed. If a township adopts a resolution without the legal guidance of the attorney general, the attorney general is not required to provide assistance as described in this division to a prosecuting attorney.

(ii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(a) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action to enjoin the violation of the resolution in question.

(iii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(b) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action under Chapter 3767. of the Revised Code to abate as a nuisance the place in the unincorporated area of the township at which the resolution is being or has been violated. Proceeds from the sale of personal property or contents seized pursuant to the action shall be applied and deposited in accordance with division (E)(1)(b) of section 503.52 of the Revised Code.

(b) The provisions of division (B)(2)(a) of this section apply regarding all townships, including townships that have adopted a limited home rule government pursuant to Chapter 504. of the Revised Code, and regardless of whether a township that has so adopted a limited home rule government has entered into a contract with the prosecuting attorney as described in division (B) of section 504.15 of the Revised Code or has appointed a law director as described in division (A) of that section.

The prosecuting attorney shall prosecute and defend in the actions and proceedings described in division (B)(2)(a) of this section without charge to the township for which the services are performed.

(C) Whenever the board of county commissioners employs an attorney other than the prosecuting attorney of the county, without the authorization of the court of common pleas as provided in section 305.14 of the Revised Code, either for a particular matter or on an annual basis, to represent the board in its official capacity and to advise it on legal matters, the board shall enter upon its journal an order of the board in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the county general fund. The total compensation paid, in any year, by the board for legal services under this division shall not exceed the total annual compensation of the prosecuting attorney for that county.

(D) The prosecuting attorney and the board of county commissioners jointly may contract with a board of park commissioners under section 1545.07 of the Revised Code for the prosecuting attorney to provide legal services to the park district the board of park commissioners operates.

(E) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint fire district created under section 505.371 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioner approves, to authorize the prosecuting attorney to provide legal services to the district.

(F) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint ambulance district created under section 505.71 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(G) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint emergency medical services district created under section 307.052 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(H) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a fire and ambulance district created under section 505.375 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(I) All money received pursuant to a contract entered into under division (D), (E), (F), (G), or (H) of this section shall be deposited into the prosecuting attorney's legal services fund, which shall be established in the county treasury of each county in which such a contract exists. Moneys in that fund may be appropriated only to the prosecuting attorney for the purpose of providing legal services to a park district, joint fire district, joint ambulance district, joint emergency medical services district, or a fire and ambulance district, as applicable, under a contract entered into under the applicable division.

Effective Date: 09-20-1999; 06-10-2004; 12-20-2005; 08-17-2006

3501.01 Election procedure - election officials definitions.

As used in the sections of the Revised Code relating to elections and political communications:

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

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

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

(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 February, 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 February or May, except as authorized by a municipal or county charter, but may be held on the first 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 first 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 the requirements set forth in section 3517.01 of the Revised Code for the formation and existence of a political party.

(1) "Major political party" means any political party organized under the laws of this state whose candidate for governor or nominees for presidential electors received no less than twenty per cent of the total vote cast for such office at the most recent regular state election.

(2) "Intermediate political party" means any political party organized under the laws of this state whose candidate for governor or nominees for presidential electors received less than twenty per cent but not less than ten per cent of the total vote cast for such office at the most recent regular state election.

(3) "Minor political party" means any political party organized under the laws of this state whose

candidate for governor or nominees for presidential electors received less than ten per cent but not less than five per cent of the total vote cast for such office at the most recent regular state election or which has filed with the secretary of state, subsequent to any election in which it received less than five per cent of such vote, a petition signed by qualified electors equal in number to at least one per cent of the total vote cast for such office in the last preceding regular state election, except that a newly formed political party shall be known as a minor political party until the time of the first election for governor or president which occurs not less than twelve months subsequent to the formation of such party, after which election the status of such party shall be determined by the vote for the office of governor or president.

(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, 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, whose name has been certified on the office-type ballot at a general or special election through the filing of a declaration of candidacy and petition of candidate, and who has won the primary election of the candidate's party for the public office the candidate seeks or is selected by party committee in accordance with section 3513.31 of the Revised Code.

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

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

(N) "Elector" or "qualified elector" means a person having the qualifications provided by law to be

entitled to vote.

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

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

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

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

(S) "Board" or "board of elections" means the board of elections appointed in a county pursuant to section 3501.06 of the Revised Code.

(T) "Political subdivision" means a county, township, city, village, or school district.

(U) "Election officer" or "election official" means any of the following:

(1) Secretary of state;

(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;

(3) Director of a board of elections;

(4) Deputy director of a board of elections;

(5) Member of a board of elections;

(6) Employees of a board of elections;

(7) Precinct polling place judges;

(8) Employees appointed by the boards of elections on a temporary or part-time basis.

(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.

(W) "Confirmation notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, to a registered elector to confirm the registered elector's current address.

(X) "Designated agency" means 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 National Voter Registration Act of 1993 to implement a program designed and administered by the secretary of state for registering voters, or any other public or government office or agency that implements a program designed and administered by the secretary of state for registering voters, including the department of job and family services, the program administered under section 3701.132 of the Revised Code by the department of health, the department of mental health, the department of mental retardation and developmental disabilities, the rehabilitation services commission, and any other agency the secretary of state designates. "Designated agency" does not include public high schools and vocational schools, public libraries, or the office of a county treasurer.

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

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

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

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

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

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

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

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

Effective Date: 2002 HB 445 12-23-2002; 05-02-2006; 2007 HB119 09-29-2007

3501.05 Election duties of secretary of state.

The secretary of state shall do all of the following:

- (A) Appoint all members of boards of elections;
- (B) Issue instructions by directives and advisories in accordance with section 3501.053 of the Revised Code to members of the boards as to the proper methods of conducting elections.
- (C) Prepare rules and instructions for the conduct of elections;
- (D) Publish and furnish to the boards from time to time a sufficient number of indexed copies of all election laws then in force;
- (E) Edit and issue all pamphlets concerning proposed laws or amendments required by law to be submitted to the voters;
- (F) Prescribe the form of registration cards, blanks, and records;
- (G) Determine and prescribe the forms of ballots and the forms of all blanks, cards of instructions, pollbooks, tally sheets, certificates of election, and forms and blanks required by law for use by candidates, committees, and boards;
- (H) Prepare the ballot title or statement to be placed on the ballot for any proposed law or amendment to the constitution to be submitted to the voters of the state;
- (I) Except as otherwise provided in section 3519.08 of the Revised Code, certify to the several boards the forms of ballots and names of candidates for state offices, and the form and wording of state referendum questions and issues, as they shall appear on the ballot;
- (J) Except as otherwise provided in division (I)(2)(b) of section 3501.38 of the Revised Code, give final approval to ballot language for any local question or issue approved and transmitted by boards of elections under section 3501.11 of the Revised Code;
- (K) Receive all initiative and referendum petitions on state questions and issues and determine and certify to the sufficiency of those petitions;
- (L) Require such reports from the several boards as are provided by law, or as the secretary of state considers necessary;
- (M) Compel the observance by election officers in the several counties of the requirements of the election laws;
- (N)(1) Except as otherwise provided in division (N)(2) of this section, investigate the administration of election laws, frauds, and irregularities in elections in any county, and report violations of election laws to the attorney general or prosecuting attorney, or both, for prosecution;

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Assist the secretary of state with ensuring that there is equal access to polling places for persons with disabilities;
- (2) Assist the secretary of state with ensuring that each voter may cast the voter's ballot in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters;
- (3) Advise the secretary of state in the development of standards for the certification of voting machines, marking devices, and automatic tabulating equipment.
- (W) Establish and maintain a computerized statewide database of all legally registered voters under section 3503.15 of the Revised Code that complies with the requirements of the "Help America Vote Act of 2002," Pub. L. No. 107-252, 116 Stat. 1666, and provide training in the operation of that system;
- (X) Ensure that all directives, advisories, other instructions, or decisions issued or made during or as a result of any conference or teleconference call with a board of elections to discuss the proper methods and procedures for conducting elections, to answer questions regarding elections, or to discuss the interpretation of directives, advisories, or other instructions issued by the secretary of state are posted on a web site of the office of the secretary of state as soon as is practicable after the completion of the conference or teleconference call, but not later than the close of business on the same day as the conference or teleconference call takes place.
- (Y) Publish a report on a web site of the office of the secretary of state not later than one month after the completion of the canvass of the election returns for each primary and general election, identifying, by county, the number of absent voter's ballots cast and the number of those ballots that were counted, and the number of provisional ballots cast and the number of those ballots that were counted, for that election. The secretary of state shall maintain the information on the web site in an archive format for each subsequent election.
- (Z) Conduct voter education outlining voter identification, absent voters ballot, provisional ballot, and other voting requirements;
- (AA) Establish a procedure by which a registered elector may make available to a board of elections a more recent signature to be used in the poll list or signature pollbook produced by the board of elections of the county in which the elector resides;
- (BB) Disseminate information, which may include all or part of the official explanations and arguments, by means of direct mail or other written publication, broadcast, or other means or combination of means, as directed by the Ohio ballot board under division (F) of section 3505.062 of the Revised Code, in order to inform the voters as fully as possible concerning each proposed constitutional amendment, proposed law, or referendum;
- (CC) Perform other duties required by law.

Whenever a primary election is held under section 3513.32 of the Revised Code or a special election is held under section 3521.03 of the Revised Code to fill a vacancy in the office of representative to

congress, the secretary of state shall establish a deadline, notwithstanding any other deadline required under the Revised Code, by which any or all of the following shall occur: the filing of a declaration of candidacy and petitions or a statement of candidacy and nominating petition together with the applicable filing fee; the filing of protests against the candidacy of any person filing a declaration of candidacy or nominating petition; the filing of a declaration of intent to be a write-in candidate; the filing of campaign finance reports; the preparation of, and the making of corrections or challenges to, precinct voter registration lists; the receipt of applications for absent voter's ballots or armed service absent voter's ballots; the supplying of election materials to precincts by boards of elections; the holding of hearings by boards of elections to consider challenges to the right of a person to appear on a voter registration list; and the scheduling of programs to instruct or reinstruct election officers.

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

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

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

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

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

Effective Date: 08-28-2001; 05-07-2004; 05-02-2006; 08-22-2006; 2007 HB119 09-29-2007; 2008 HB350 09-12-2008

3501.053 Instructions regarding conduct of elections - web publication.

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

(1) The secretary of state shall establish a process to allow public review and public comment of proposed directives. Prior to issuing any permanent directive, the secretary of state shall provide reasonable notice of the issuance of the directive and allow a reasonable amount of time for public review and public comment of the proposed directive under this division.

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

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

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

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

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

Effective Date: 2008 HB350 09-12-2008

3503.01 Qualifications of electors - precinct assignment for school elections.

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

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

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

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

Effective Date: 08-22-1995; 2008 HB350 09-12-2008

3503.15 Statewide voter registration database.

(A) The secretary of state shall establish and maintain a statewide voter registration database that shall be continuously available to each board of elections and to other agencies as authorized by law.

(B) The statewide voter registration database established under this section shall be the official list of registered voters for all elections conducted in this state.

(C) The statewide voter registration database established under this section shall, at a minimum, include all of the following:

(1) An electronic network that connects all board of elections offices with the office of the secretary of state and with the offices of all other boards of elections;

(2) A computer program that harmonizes the records contained in the database with records maintained by each board of elections;

(3) An interactive computer program that allows access to the records contained in the database by each board of elections and by any persons authorized by the secretary of state to add, delete, modify, or print database records, and to conduct updates of the database;

(4) A search program capable of verifying registered voters and their registration information by name, driver's license number, birth date, social security number, or current address;

(5) Safeguards and components to ensure that the integrity, security, and confidentiality of the voter registration information is maintained.

(D) The secretary of state shall adopt rules pursuant to Chapter 119. of the Revised Code doing all of the following:

(1) Specifying the manner in which existing voter registration records maintained by boards of elections shall be converted to electronic files for inclusion in the statewide voter registration database;

(2) Establishing a uniform method for entering voter registration records into the statewide voter registration database on an expedited basis, but not less than once per day, if new registration information is received;

(3) Establishing a uniform method for purging canceled voter registration records from the statewide voter registration database in accordance with section 3503.21 of the Revised Code;

(4) Specifying the persons authorized to add, delete, modify, or print records contained in the statewide voter registration database and to make updates of that database;

(5) Establishing a process for annually auditing the information contained in the statewide voter registration database.

(E) A board of elections promptly shall purge a voter's name and voter registration information from

the statewide voter registration database in accordance with the rules adopted by the secretary of state under division (D)(3) of this section after the cancellation of a voter's registration under section 3503.21 of the Revised Code.

(F) The secretary of state shall provide training in the operation of the statewide voter registration database to each board of elections and to any persons authorized by the secretary of state to add, delete, modify, or print database records, and to conduct updates of the database.

(G)(1) The statewide voter registration database established under this section shall be made available on a web site of the office of the secretary of state as follows:

(a) Except as otherwise provided in division (G)(1)(b) of this section, only the following information from the statewide voter registration database regarding a registered voter shall be made available on the web site:

(i) The voter's name;

(ii) The voter's address;

(iii) The voter's precinct number;

(iv) The voter's voting history.

(b) During the thirty days before the day of a primary or general election, the web site interface of the statewide voter registration database shall permit a voter to search for the polling location at which that voter may cast a ballot.

(2) The secretary of state shall establish, by rule adopted under Chapter 119. of the Revised Code, a process for boards of elections to notify the secretary of state of changes in the locations of precinct polling places for the purpose of updating the information made available on the secretary of state's web site under division (G)(1)(b) of this section. Those rules shall require a board of elections, during the thirty days before the day of a primary or general election, to notify the secretary of state within one business day of any change to the location of a precinct polling place within the county.

(3) During the thirty days before the day of a primary or general election, not later than one business day after receiving a notification from a county pursuant to division (G)(2) of this section that the location of a precinct polling place has changed, the secretary of state shall update that information on the secretary of state's web site for the purpose of division (G)(1)(b) of this section.

Effective Date: 05-02-2006

3503.19 Methods of registration or change of registration.

(A) Persons qualified to register or to change their registration because of a change of address or change of name may register or change their registration in person at any state or local office of a designated agency, at the office of the registrar or any deputy registrar of motor vehicles, at a public high school or vocational school, at a public library, at the office of a county treasurer, or at a branch office established by the board of elections, or in person, through another person, or by mail at the office of the secretary of state or at the office of a board of elections. A registered elector may also change the elector's registration on election day at any polling place where the elector is eligible to vote, in the manner provided under section 3503.16 of the Revised Code.

Any state or local office of a designated agency, the office of the registrar or any deputy registrar of motor vehicles, a public high school or vocational school, a public library, or the office of a county treasurer shall transmit any voter registration application or change of registration form that it receives to the board of elections of the county in which the state or local office is located, within five days after receiving the voter registration application or change of registration form.

An otherwise valid voter registration application that is returned to the appropriate office other than by mail must be received by a state or local office of a designated agency, the office of the registrar or any deputy registrar of motor vehicles, a public high school or vocational school, a public library, the office of a county treasurer, the office of the secretary of state, or the office of a board of elections no later than the thirtieth day preceding a primary, special, or general election for the person to qualify as an elector eligible to vote at that election. An otherwise valid registration application received after that day entitles the elector to vote at all subsequent elections.

Any state or local office of a designated agency, the office of the registrar or any deputy registrar of motor vehicles, a public high school or vocational school, a public library, or the office of a county treasurer shall date stamp a registration application or change of name or change of address form it receives using a date stamp that does not disclose the identity of the state or local office that receives the registration.

Voter registration applications, if otherwise valid, that are returned by mail to the office of the secretary of state or to the office of a board of elections must be postmarked no later than the thirtieth day preceding a primary, special, or general election in order for the person to qualify as an elector eligible to vote at that election. If an otherwise valid voter registration application that is returned by mail does not bear a postmark or a legible postmark, the registration shall be valid for that election if received by the office of the secretary of state or the office of a board of elections no later than twenty-five days preceding any special, primary, or general election.

(B)(1) Any person may apply in person, by telephone, by mail, or through another person for voter registration forms to the office of the secretary of state or the office of a board of elections.

(2)(a) An applicant may return the applicant's completed registration form in person or by mail to any state or local office of a designated agency, to a public high school or vocational school, to a public library, to the office of a county treasurer, to the office of the secretary of state, or to the office of a

board of elections.

(b) Subject to division (B)(2)(c) of this section, an applicant may return the applicant's completed registration form through another person to any board of elections or the office of the secretary of state.

(c) A person who receives compensation for registering a voter shall return any registration form entrusted to that person by an applicant to any board of elections or to the office of the secretary of state.

(d) If a board of elections or the office of the secretary of state receives a registration form under division (B)(2)(b) or (c) of this section before the thirtieth day before an election, the board or the office of the secretary of state, as applicable, shall forward the registration to the board of elections of the county in which the applicant is seeking to register to vote within ten days after receiving the application. If a board of elections or the office of the secretary of state receives a registration form under division (B)(2)(b) or (c) of this section on or after the thirtieth day before an election, the board or the office of the secretary of state, as applicable, shall forward the registration to the board of elections of the county in which the applicant is seeking to register to vote within thirty days after that election.

(C)(1) A board of elections that receives a voter registration application and is satisfied as to the truth of the statements made in the registration form shall register the applicant not later than twenty business days after receiving the application, unless that application is received during the thirty days immediately preceding the day of an election. The board shall promptly notify the applicant in writing of each of the following:

- (a) The applicant's registration;
- (b) The precinct in which the applicant is to vote;
- (c) In bold type as follows:

"Voters must bring identification to the polls in order to verify identity. Identification may include a current and valid photo identification, a military identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than this notification or a notification of an election mailed by a board of elections, that shows the voter's name and current address. Voters who do not provide one of these documents will still be able to vote by providing the last four digits of the voter's social security number and by casting a provisional ballot. Voters who do not have any of the above forms of identification, including a social security number, will still be able to vote by signing an affirmation swearing to the voter's identity under penalty of election falsification and by casting a provisional ballot."

The notification shall be by nonforwardable mail. If the mail is returned to the board, it shall investigate and cause the notification to be delivered to the correct address.

(2) If, after investigating as required under division (C)(1) of this section, the board is unable to verify the voter's correct address, it shall cause the voter's name in the official registration list and in the poll

list or signature pollbook to be marked to indicate that the voter's notification was returned to the board.

At the first election at which a voter whose name has been so marked appears to vote, the voter shall be required to provide identification to the election officials and to vote by provisional ballot under section 3505.181 of the Revised Code. If the provisional ballot is counted pursuant to division (B)(3) of section 3505.183 of the Revised Code, the board shall correct that voter's registration, if needed, and shall remove the indication that the voter's notification was returned from that voter's name on the official registration list and on the poll list or signature pollbook. If the provisional ballot is not counted pursuant to division (B)(4)(a)(i), (v), or (vi) of section 3505.183 of the Revised Code, the voter's registration shall be canceled. The board shall notify the voter by United States mail of the cancellation.

(3) If a notice of the disposition of an otherwise valid registration application is sent by nonforwardable mail and is returned undelivered, the person shall be registered as provided in division (C)(2) of this section and sent a confirmation notice by forwardable mail. If the person fails to respond to the confirmation notice, update the person's registration, or vote by provisional ballot as provided in division (C)(2) of this section in any election during the period of two federal elections subsequent to the mailing of the confirmation notice, the person's registration shall be canceled.

Effective Date: 08-22-1995; 05-02-2006; 2008 HB562 09-22-2008

3505.19 Challenge of elector.

Any person registered as an elector may be challenged by any qualified elector as to the registered elector's right to vote prior to the nineteenth day before the day of an election. Such qualified elector may, either by appearing in person at the office of the board of elections, or by letter addressed to the board, challenge the right of such registered elector to vote. Any such challenge must state the ground upon which the challenge is made, and must be signed by the challenger giving the challenger's address and voting precinct. If the board is satisfied, in accordance with division (B) of section 3503.24 of the Revised Code, that the challenge is well taken, the director shall so indicate on the registration cards and shall so notify in writing the judges of the precinct. If such challenged person offers to vote at such election, the challenged person shall be examined as in the case of an original challenge. If such person establishes, to the satisfaction of the judges, that the person's disabilities have been removed and that the person has a right to vote, the person shall be permitted to vote.

Effective Date: 03-23-1981; 05-02-2006

3505.20 Challenge of elector at polling place.

Any person offering to vote may be challenged at the polling place by any judge of elections. If the board of elections has ruled on the question presented by a challenge prior to election day, its finding and decision shall be final, and the presiding judge shall be notified in writing. If the board has not ruled, the question shall be determined as set forth in this section. If any person is so challenged as unqualified to vote, the presiding judge shall tender the person the following oath: "You do swear or affirm under penalty of election falsification that you will fully and truly answer all of the following questions put to you concerning your qualifications as an elector at this election."

(A) If the person is challenged as unqualified on the ground that the person is not a citizen, the judges shall put the following questions:

(1) Are you a citizen of the United States?

(2) Are you a native or naturalized citizen?

(3) Where were you born?

(4) What official documentation do you possess to prove your citizenship? Please provide that documentation.

If the person offering to vote claims to be a naturalized citizen of the United States, the person shall, before the vote is received, produce for inspection of the judges a certificate of naturalization and declare under oath that the person is the identical person named in the certificate. If the person states under oath that, by reason of the naturalization of the person's parents or one of them, the person has become a citizen of the United States, and when or where the person's parents were naturalized, the certificate of naturalization need not be produced. If the person is unable to provide a certificate of naturalization on the day of the election, the judges shall provide to the person, and the person may vote, a provisional ballot under section 3505.181 of the Revised Code. The provisional ballot shall not be counted unless it is properly completed and the board of elections determines that the voter is properly registered and eligible to vote in the election.

(B) If the person is challenged as unqualified on the ground that the person has not resided in this state for thirty days immediately preceding the election, the judges shall put the following questions:

(1) Have you resided in this state for thirty days immediately preceding this election? If so, where have you resided?

(2) Did you properly register to vote?

(3) Can you provide some form of identification containing your current mailing address in this precinct? Please provide that identification.

(4) Have you voted or attempted to vote at any other location in this or in any other state at this election?

(5) Have you applied for an absent voter's ballot in any state for this election?

If the judges are unable to verify the person's eligibility to cast a ballot in the election, the judges shall provide to the person, and the person may vote, a provisional ballot under section 3505.181 of the Revised Code. The provisional ballot shall not be counted unless it is properly completed and the board of elections determines that the voter is properly registered and eligible to vote in the election.

(C) If the person is challenged as unqualified on the ground that the person is not a resident of the precinct where the person offers to vote, the judges shall put the following questions:

(1) Do you reside in this precinct?

(2) When did you move into this precinct?

(3) When you came into this precinct, did you come for a temporary purpose merely or for the purpose of making it your home?

(4) What is your current mailing address?

(5) Do you have some official identification containing your current address in this precinct? Please provide that identification.

(6) Have you voted or attempted to vote at any other location in this or in any other state at this election?

(7) Have you applied for any absent voter's ballot in any state for this election?

The judges shall direct an individual who is not in the appropriate polling place to the appropriate polling place. If the individual refuses to go to the appropriate polling place, or if the judges are unable to verify the person's eligibility to cast a ballot in the election, the judges shall provide to the person, and the person may vote, a provisional ballot under section 3505.181 of the Revised Code. The provisional ballot shall not be counted unless it is properly completed and the board of elections determines that the voter is properly registered and eligible to vote in the election.

(D) If the person is challenged as unqualified on the ground that the person is not of legal voting age, the judges shall put the following questions:

(1) Are you eighteen years of age or more ?

(2) What is your date of birth?

(3) Do you have some official identification verifying your age? Please provide that identification.

If the judges are unable to verify the person's age and eligibility to cast a ballot in the election, the judges shall provide to the person, and the person may vote, a provisional ballot under section 3505.181 of the Revised Code. The provisional ballot shall not be counted unless it is properly completed and the board of elections determines that the voter is properly registered and eligible to

vote in the election.

The presiding judge shall put such other questions to the person challenged as are necessary to determine the person's qualifications as an elector at the election. If a person challenged refuses to answer fully any question put to the person, is unable to answer the questions as they were answered on the registration form by the person under whose name the person offers to vote, or refuses to sign the person's name or make the person's mark, or if for any other reason a majority of the judges believes the person is not entitled to vote, the judges shall provide to the person, and the person may vote, a provisional ballot under section 3505.181 of the Revised Code. The provisional ballot shall not be counted unless it is properly completed and the board of elections determines that the voter is properly registered and eligible to vote in the election.

A qualified citizen who has certified the citizen's intention to vote for president and vice-president as provided by Chapter 3504. of the Revised Code shall be eligible to receive only the ballot containing presidential and vice-presidential candidates.

However, prior to the nineteenth day before the day of an election and in accordance with section 3503.24 of the Revised Code, any person qualified to vote may challenge the right of any other person to be registered as a voter, or the right to cast an absent voter's ballot, or to make application for such ballot. Such challenge shall be made in accordance with section 3503.24 of the Revised Code, and the board of elections of the county in which the voting residence of the challenged voter is situated shall make a final determination relative to the legality of such registration or application.

Effective Date: 08-22-1995; 05-02-2006

3509.01 Absent voter's ballot procedures.

The board of elections of each county shall provide absent voter's ballots for use at every primary and general election, or special election to be held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, designated by the general assembly for the purpose of submitting constitutional amendments proposed by the general assembly to the voters of the state. Those ballots shall be the same size, shall be printed on the same kind of paper, and shall be in the same form as has been approved for use at the election for which those ballots are to be voted; except that, in counties using marking devices, ballot cards may be used for absent voter's ballots, and those absent voters shall be instructed to record the vote in the manner provided on the ballot cards. In counties where punch card ballots are used, those absent voters shall be instructed to examine their marked ballot cards and to remove any chads that remain partially attached to them before returning them to election officials.

The rotation of names of candidates and questions and issues shall be substantially complied with on absent voter's ballots, within the limitation of time allotted. Those ballots shall be designated as "Absent Voter's Ballots" and shall be printed and ready for use on the thirty-fifth day before the day of the election, except that those ballots shall be printed and ready for use on the twenty-fifth day before the day of a presidential primary election.

Absent voter's ballots provided for use at a general or primary election, or special election to be held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, designated by the general assembly for the purpose of submitting constitutional amendments proposed by the general assembly to the voters of the state, shall include only those questions, issues, and candidacies that have been lawfully ordered submitted to the electors voting at that election.

Absent voter's ballots for special elections held on days other than the day on which general or primary elections are held shall be ready for use as many days before the day of the election as reasonably possible under the laws governing the holding of that special election.

A copy of the absent voter's ballots shall be forwarded by the director of the board in each county to the secretary of state at least twenty-five days before the election.

As used in this section, "chad" and "punch card ballot" have the same meanings as in section 3506.16 of the Revised Code.

Effective Date: 08-28-2001

3509.02 Qualifications for voting by absent voter's ballot.

(A) Any qualified elector may vote by absent voter's ballots at an election.

(B) Any qualified elector who is unable to appear at the office of the board of elections or, if pursuant to division (C) of section 3501.10 of the Revised Code the board has designated another location in the county at which registered electors may vote, at that other location on account of personal illness, physical disability, or infirmity, and who moves from one precinct to another within a county, changes the elector's name and moves from one precinct to another within a county, or moves from one county to another county within the state, on or prior to the day of a general, primary, or special election and has not filed a notice of change of residence or change of name may vote by absent voter's ballots in that election as specified in division (G) of section 3503.16 of the Revised Code.

Effective Date: 08-22-1995; 01-27-2006; 05-02-2006

3509.03 Application for absent voter's ballot.

Except as provided in section 3509.031 or division (B) of section 3509.08 of the Revised Code, any qualified elector desiring to vote absent voter's ballots at an election shall make written application for those ballots to the director of elections of the county in which the elector's voting residence is located. The application need not be in any particular form but shall contain all of the following:

- (A) The elector's name;
- (B) The elector's signature;
- (C) The address at which the elector is registered to vote;
- (D) The elector's date of birth;
- (E) One of the following:
 - (1) The elector's driver's license number;
 - (2) The last four digits of the elector's social security number;
 - (3) A copy of the elector's current and valid photo identification, a copy of a military identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the name and address of the elector.
- (F) A statement identifying the election for which absent voter's ballots are requested;
- (G) A statement that the person requesting the ballots is a qualified elector;
- (H) If the request is for primary election ballots, the elector's party affiliation;
- (I) If the elector desires ballots to be mailed to the elector, the address to which those ballots shall be mailed.

A voter who will be outside the United States on the day of any election during a calendar year may use a single federal post card application to apply for absent voter's ballots. Those ballots shall be sent to the voter for use at the primary and general elections in that year and any special election to be held on the day in that year specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, designated by the general assembly for the purpose of submitting constitutional amendments proposed by the general assembly to the voters of the state unless the voter reports a change in the voter's voting status to the board of elections or the voter's intent to vote in any such election in the precinct in this state where the voter is registered to vote. A single federal postcard application shall be processed by the board of elections pursuant to section 3509.04 of the Revised Code the same as if the voter had applied separately for absent voter's ballots for each election. When mailing absent voter's ballots to a voter who applied for them by single federal post

card application, the board shall enclose notification to the voter that the voter must report to the board subsequent changes in the voter's voting status or the voter's subsequent intent to vote in any such election in the precinct in this state where the voter is registered to vote. Such notification shall be in a form prescribed by the secretary of state. As used in this section, "voting status" means the voter's name at the time the voter applied for absent voter's ballots by single federal post card application and the voter's address outside the United States to which the voter requested that those ballots be sent.

Each application for absent voter's ballots shall be delivered to the director not earlier than the first day of January of the year of the elections for which the absent voter's ballots are requested or not earlier than ninety days before the day of the election at which the ballots are to be voted, whichever is earlier, and not later than twelve noon of the third day before the day of the election at which the ballots are to be voted, or not later than the close of regular business hours on the day before the day of the election at which the ballots are to be voted if the application is delivered in person to the office of the board.

Effective Date: 08-22-1995; 01-27-2006; 2006 HB3 05-02-2006; 2008 HB562 09-22-2008

3509.04 Delivery of absent voter's ballot.

(A) If a director of a board of elections receives an application for absent voter's ballots that does not contain all of the required information, the director promptly shall notify the applicant of the additional information required to be provided by the applicant to complete that application.

(B) Upon receipt by the director of elections of an application for absent voter's ballots that contain all of the required information, as provided by sections 3509.03 and 3509.031 and division (G) of section 3503.16 of the Revised Code, the director, if the director finds that the applicant is a qualified elector, shall deliver to the applicant in person or mail directly to the applicant by special delivery mail, air mail, or regular mail, postage prepaid, proper absent voter's ballots. The director shall deliver or mail with the ballots an unsealed identification envelope upon the face of which shall be printed a form substantially as follows:

"Identification Envelope Statement of Voter

I,(Name of voter), declare under penalty of election falsification that the within ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in that envelope.

My voting residence in Ohio is

.....

(Street and Number, if any, or Rural Route and Number)

of (City, Village, or Township) Ohio, which is in Ward Precinct in that city, village, or township.

The primary election ballots, if any, within this envelope are primary election ballots of the Party.

Ballots contained within this envelope are to be voted at the (general, special, or primary) election to be held on the day of,

My date of birth is (Month and Day), (Year).

(Voter must provide one of the following:)

My driver's license number is (Driver's license number).

The last four digits of my Social Security Number are (Last four digits of Social Security Number).

..... In lieu of providing a driver's license number or the last four digits of my Social Security Number, I am enclosing a copy of one of the following in the return envelope in which this identification envelope will be mailed: a current and valid photo identification, a military identification, or a current

utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections, that shows my name and address.

I hereby declare, under penalty of election falsification, that the statements above are true, as I verily believe.

.....

(Signature of Voter)

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

The director shall mail with the ballots and the unsealed identification envelope an unsealed return envelope upon the face of which shall be printed the official title and post-office address of the director. In the upper left corner on the face of the return envelope, several blank lines shall be printed upon which the voter may write the voter's name and return address, and beneath these lines there shall be printed a box beside the words "check if out-of-country." The voter shall check this box if the voter will be outside the United States on the day of the election. The return envelope shall be of such size that the identification envelope can be conveniently placed within it for returning the identification envelope to the director.

Effective Date: 08-28-2001; 01-27-2006; 05-02-2006; 2008 HB562 09-22-2008

3509.07 Rejection and challenge of absent voter ballots.

If election officials find that the statement accompanying an absent voter's ballot or absent voter's presidential ballot is insufficient, that the signatures do not correspond with the person's registration signature, that the applicant is not a qualified elector in the precinct, that the ballot envelope contains more than one ballot of any one kind, or any voted ballot that the elector is not entitled to vote, that Stub A is detached from the absent voter's ballot or absent voter's presidential ballot, or that the elector has not included with the elector's ballot any identification required under section 3509.05 or 3511.09 of the Revised Code, the vote shall not be accepted or counted. The vote of any absent voter may be challenged for cause in the same manner as other votes are challenged, and the election officials shall determine the legality of that ballot. Every ballot not counted shall be endorsed on its back "Not Counted" with the reasons the ballot was not counted, and shall be enclosed and returned to or retained by the board of elections along with the contested ballots.

Effective Date: 08-28-2001; 05-07-2004; 01-27-2006

3599.11 False voter registration - registration forms.

(A) No person shall knowingly register or make application or attempt to register in a precinct in which the person is not a qualified voter; or knowingly aid or abet any person to so register; or attempt to register or knowingly induce or attempt to induce any person to so register; or knowingly impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register; or by false statement or other unlawful means procure, aid, or attempt to procure the erasure or striking out on the register or duplicate list of the name of a qualified elector therein; or knowingly induce or attempt to induce a registrar or other election authority to refuse registration in a precinct to an elector thereof; or knowingly swear or affirm falsely upon a lawful examination by or before any registering officer; or make, print, or issue any false or counterfeit certificate of registration or knowingly alter any certificate of registration.

No person shall knowingly register under more than one name or knowingly induce any person to so register.

No person shall knowingly make any false statement on any form for registration or change of registration or upon any application or return envelope for an absent voter's ballot.

Whoever violates this division is guilty of a felony of the fifth degree.

(B)(1) No person who helps another person register outside an official voter registration place shall knowingly destroy, or knowingly help another person to destroy, any completed registration form.

Whoever violates this division is guilty of election falsification, a felony of the fifth degree.

(2)(a) No person who helps another person register outside an official voter registration place shall knowingly fail to return any registration form entrusted to that person to any board of elections or the office of the secretary of state within ten days after that registration form is completed, or on or before the thirtieth day before the election, whichever day is earlier, unless the registration form is received by the person within twenty-four hours of the thirtieth day before the election, in which case the person shall return the registration form to any board of elections or the office of the secretary of state within ten days of its receipt.

Whoever violates this division is guilty of election falsification, a felony of the fifth degree, unless the person has not previously been convicted of a violation of division (B)(2)(a), (B)(2)(b), (C)(1), or (C)(2) of this section, the violation of this division does not cause any person to miss any voter registration deadline with regard to any election, and the number of voter registration forms that the violator has failed to properly return does not exceed forty-nine, in which case the violator is guilty of a misdemeanor of the first degree.

(b) Subject to division (C)(2) of this section, no person who helps another person register outside an official registration place shall knowingly return any registration form entrusted to that person to any location other than any board of elections or the office of the secretary of state.

Whoever violates this division is guilty of election falsification, a felony of the fifth degree, unless the person has not previously been convicted of a violation of division (B)(2)(a), (B)(2)(b), (C)(1), or (C)

(2) of this section, the violation of this division does not cause any person to miss any voter registration deadline with regard to any election, and the number of voter registration forms that the violator has failed to properly return does not exceed forty-nine, in which case the violator is guilty of a misdemeanor of the first degree.

(C)(1) No person who receives compensation for registering a voter shall knowingly fail to return any registration form entrusted to that person to any board of elections or the office of the secretary of state within ten days after that voter registration form is completed, or on or before the thirtieth day before the election, whichever is earlier, unless the registration form is received by the person within twenty-four hours of the thirtieth day before the election, in which case the person shall return the registration form to any board of elections or the office of the secretary of state within ten days of its receipt.

Whoever violates this division is guilty of election falsification, a felony of the fifth degree, unless the person has not previously been convicted of a violation of division (B)(2)(a), (B)(2)(b), (C)(1), or (C)(2) of this section, the violation of this division does not cause any person to miss any voter registration deadline with regard to any election, and the number of voter registration forms that the violator has failed to properly return does not exceed forty-nine, in which case the violator is guilty of a misdemeanor of the first degree.

(2) No person who receives compensation for registering a voter shall knowingly return any registration form entrusted to that person to any location other than any board of elections or the office of the secretary of state.

Whoever violates this division is guilty of election falsification, a felony of the fifth degree, unless the person has not previously been convicted of a violation of division (B)(2)(a), (B)(2)(b), (C)(1), or (C)(2) of this section, the violation of this division does not cause any person to miss any voter registration deadline with regard to any election, and the number of voter registration forms that the violator has failed to properly return does not exceed forty-nine, in which case the violator is guilty of a misdemeanor of the first degree.

(D) As used in division (C) of this section, "registering a voter" includes any effort, for compensation, to provide voter registration forms or to assist persons in completing or returning those forms.

Effective Date: 12-09-1997; 05-02-2006