Supreme Court of Ohio Clerk of Court - Filed December 28, 2015 - Case No. 2015-2061

Case No. 15-2061

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL. LES CARRIER, ET AL.,

Relators,

v.

HILLIARD CITY COUNCIL,

Respondent.

Original Action in Mandamus

Expedited Election Matter Under S.Ct.Prac.R. 12.08

MERIT BRIEF OF RELATOR

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I. STATEMENT OF FACTS AND CASE

This is an action in mandamus due to the Hilliard City Council's refusal to fulfill its clear legal obligation under Ohio Constitution Article XVIII, § 9 in response to a petition filed by City of Hilliard electors to amend the Charter of the City of Hilliard concerning the use of emergency rezonings and tax-increment-financing districts for residential uses. [Compl., ¶ 1.] As provided in Ohio Constitution Article XVIII, § 9, a sufficient number of the electors of the City of Hilliard have petitioned that the Hilliard City Council submit the proposed charter amendment to the electors of the City of Hilliard. Despite the unequivocal provisions of Ohio Constitution Article XVIII, § 9 requiring the Hilliard City Council to submit the charter amendment question to the electors, the Hilliard City Council refuses to so act in accordance with the Ohio Constitution. [Compl., ¶ 2.] Accordingly, Relators seek an order and/or judgment from this Court that Respondent Hilliard City Council submit the proposed charter amendment for the approval or rejection of the electors of the City of Hilliard. Relators alternatively seek an order from this Court submitting the proposed charter amendment for the approval or rejection of the electors of the City of Hilliard at the March 15, 2016 election. [Compl., ¶ 3.]

Relators Les Carrier, Andrew Teater, Paul Lambert, Tracy Kovalchik, and Larry Earman are electors and taxpayers in the City of Hilliard. They are the five individuals designated on the face of the charter amendment petition to represent the petitioners in all matters relating to the petition or its circulation. [Compl., ¶ 6.] Respondent Hilliard City Council, is the legislative authority of the City of Hilliard. [Compl., ¶ 7.]

On November 2, 2015, a petition seeking the submission of proposed amendments to the charter of the City of Hilliard (the "Charter Amendment Petition") was filed with the Clerk of the Hilliard City Council. [Relators' Evidence at B] On November 13, 2015, the Charter Amendment Petition was transmitted to the Franklin County Board of Elections. [Relators' Evidence at C.] On November 18, 2015, the Franklin County Board of Elections returned the petition to the City together with a certification attesting that it contained 946 valid signatures of electors of the municipality, well over the 251 valid signatures needed to submit the Charter Amendment Petition to the electors for their approval or rejection. [Relators' Evidence at C.] On December 14, 2015, Respondent Hilliard City Council voted 5-2 against an ordinance that would have placed the proposed charter amendment on the March 15, 2016 ballot. [Relator's Evidence at A, Page 23; Relators' Evidence at D.]

At its December 14, 2015, meeting, Respondent Hilliard City Council cited three alleged defects in the Charter Amendment Petition that formed the basis for its failure to pass the ordinance that would have placed the proposed charter amendment on the March 15, 2016, to wit: (1) the Charter Amendment Petition fails to include a title for the proposed measure even though R.C. 731.31 expressly requires one; (2) there is no indication on the Charter Amendment Petition that the text specified would be entirely new provisions to the City Charter; and, (3) the petitioners altered the prescribed petition form to add a reference to a "Keep Hilliard Beautiful Committee" where no committee name is permitted on the form. [Relator's Evidence A, at Pages 20-21.]

When presented with a charter amendment petition containing the signatures of ten percent of the electors of the municipality who voted at the last preceding municipal general election, the legislative authority of the municipality shall submit the proposed amendment to the electors of the municipality. Ohio Const. Art. XVIII, § 9. Respondent has been presented with a valid and sufficient Charter Amendment Petition. Accordingly, Respondent Hilliard City Council has a clear legal duty to submit the charter amendment question to the Franklin County Board of Elections for placement on the ballot. Relators have a clear legal right to have Respondent Hilliard City Council pass

an ordinance submitting the charter amendment question to the electors of the City of Hilliard. Relators lack any other relief than an order or judgment from this Court ordering that Respondent Hilliard City Council pass an ordinance submitting the charter amendment question to the electors of the City of Hilliard.

Additionally, on December 20, 2015, Relators Counsel transmitted an e-mail to Tracy Bradford, Law Director for the City of Hilliard requesting that she immediately institute the mandamus action herein pursuant to Ohio Rev. Code §§ 733.58, 733.581, on or before 4:00 p.m. on December 21, 2015. On December 21, 2015, Ms. Bradford responded requesting additional time to review the request. Also on December, 21, 2015, Relators agreed to wait until 4:00 p.m. on December 22, 2015. After receiving no additional response, Relators commenced the instant action herein after 4:00 p.m. on December 22, 2015. [Relator's Evidence at E.]

II. LAW AND ARGUMENT

A. Legal Standards for the Submission for a Charter Amendment Petition

Section 7, Article XVIII of the Ohio Constitution authorizes municipal corporations to adopt and amend a home rule charter, and Sections 8 and 9, Article XVIII prescribe the procedures for adopting and amending a charter.

[*State ex rel. Commt. for Charter Amendment Petition v. Avon* (1998), 81 Ohio St.3d 590, 592, 693 N.E.2d 205, 207.] Section 9 of Article XVIII, requires the legislative authority of any city, e.g., city council, upon petition of ten percent of the electors, to "forthwith" authorize by ordinance an election on a proposed charter amendment. [*Id.*]

Pursuant to Ohio Constitution Article XVIII, § 9, the resident electors of an Ohio municipality may submit to the municipal legislative authority a petition proposing an amendment to the charter. Ohio Constitution Article XVIII, § 9, provides:

> Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted by such legislative authority. The submission of proposed amendments to the electors shall be governed by the requirements of section 8 as to the submission of the question of choosing a charter commission; and copies of proposed amendments may be mailed to the electors as hereinbefore provided for copies of a proposed charter, or pursuant to laws passed by the general assembly, notice of proposed amendments may be given by newspaper advertising. If any such amendment is approved by a majority of the electors voting thereon, it shall become a part of the charter of the municipality. A copy of said charter or any amendment thereto shall be certified to the secretary of state, within thirty days after adoption by a referendum vote.

Accordingly, pursuant to the Ohio Constitution, if the requisite number of electors present a petition to the municipal legislative authority, and the Board of Elections issues a certificate verifying that the electors' petition includes the sufficient number of signatures, the legislative authority of the municipality *shall* submit the proposal to the electors of the municipal corporation.

B. The Charter Amendment Petition is Valid and Must Be Submitted to the Electors of the Municipality

1. The Charter Amendment Petition Contains Sufficient Signatures

Ohio Constitution, Article XVIII, Section 9 provides that proposed amendments to a municipal charter may be submitted to the voters "upon petitions signed by ten per centum of the electors of the municipality." Article XVIII, Section 14 then adds the following explanation: "[t]he percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding general municipal election."

The total number of voters/electors who participated in the 2013 general municipal election in the City of Hilliard was 2,509. [Relators' Evidence at C.] Accordingly, the number of electors that represent ten percent of the total electors is 251.

On November 13, 2015, the Clerk of Council submitted the Charter Amendment Petition to the Franklin County Board of Elections to have the

signatures validated. [Relators' Evidence at C.] The Franklin County Board of Elections determined that the Charter Amendment Petition contained 1,102 total signatures, of which 946 were determined to be valid signatures. [Relators' Evidence at C.] Accordingly, the Charter Amendment Petition contains well over the 251 valid signatures to support submission of charter amendment question to the electors of the municipality.

2. The Charter Amendment Petition Includes a Title for The Proposed Measure

Respondent claims three defects with the Charter Amendment Petition as the basis for its failure to submit the charter amendment question to the electors as required by the Ohio Constitution. The first claimed defect was that "the petition fails to identify a title for the proposed measure." [Relators' Evidence at A, Page 12, at 16-17.] This Court has found that petitions are invalid "where the proposed petition specifies no title for the proposed charter amendment adding a section, even though the existing [city] charter sections have titles." [*See*, *State ex rel. Becker v. Eastlake* (2001), 93 Ohio St.3d 502, 507.]

The Charter Amendment Petition herein plainly includes titles. The Charter Amendment Petition sets forth the numerical section of each proposal, along with a title set forth in bold and all capital letters prior to the text of the proposal, to wit:

"ARTICLE XII, SECTION 12.09 – REFERENDUM AND EFFECTIVE DATE ON ZONING ORDINANCES," and,

"ARTICLE XII, SECTION 12.10 – PROHIBITION OF CREATION OF TAX INCREMENT FINANCING INCENTIVE DISTRICTS FOR DWELLING UNIT IMPROVEMENTS AND PROHIBITION OF DECLARATION OF DWELLING UNIT IMPROVEMENTS AND PROHIBITION OF DECLARATION OF DWELLING UNIT IMPROVEMENTS TO BE A PUBLIC PURPOSE."

At the December 14, 2015, meeting Respondents' Counsel asserted that these "headings" "cannot satisfy Ohio's title requirement because the title should cover the [ ] entire measure. [Relators' Evidence at A, Page 14, 12-14.] However, there is no basis for this distinction contained in Ohio law. Title requirements, where they exist, exist to "fairly and substantially present the issue" and to prevent the electors from being misled. [*See, State ex rel. Becker v. Eastlake* (2001), 93 Ohio St.3d 502, 507.] The boldface, capitalized type set forth prior to the proposed text does precisely that – it makes clear the content and purpose of each section that is being proposed. In fact, a single title to cover the entire measure would be less informative than the section titles. Based upon even a cursory review of the Charter Amendment petition, any assertion that the proposals do not contain titles is simply nonsensical and thus provides no basis for Respondent Hilliard City Council's failure to comport with its constitutional obligation to present the charter amendment question to the electors.

The Charter Amendment Petition contains sufficient signatures and by including the text and titles of the proposed amendments to the Charter,

satisfies the legal requirements for proposing an amendment to the city charter and thus constitutes a legally sufficient petition.

3. The Charter Amendment Petition Correctly Proposes an Amendment to the City Charter

The second alleged defect upon which Respondents based their decision not to follow their constitutional mandate to present the charter amendment question to the electors was the Charter Amendment Petition's purported failure to specify whether the proposal is revising or modifying existing law. [Relators' Evidence at A, Page 15, 3-5.] Respondents' Counsel offered no legal support for this assertion. Indeed, there is none, as there is no such requirement at law. Ohio Constitution Article XVIII, § 9, sets forth the petition requirements, providing, in part:

> Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality *setting forth any such proposed amendment*, shall be submitted by such legislative authority.

[Emphasis supplied.] There is no requirement that any additional information about the amendment be provided. Nor is there any requirement that the petitioners must attach a copy of the existing charter to each of the part-petitions.

The Charter Amendment Petition contains sufficient signatures and satisfies the legal requirements for proposing an amendment to the city charter and thus constitutes a legally sufficient petition.

4. The Charter Amendment Petition is in the Correct Form to Propose an Amendment to the City Charter

The third alleged defect upon which Respondents based their decision not to follow their constitutional mandate to present the charter amendment question to the electors is the allegation that the "petitioners intentionally modify [*sic.*] the prescribed petition from the Secretary of State in a way that is not permitted by the form or contemplated by the law. [Relators' Evidence at A, Page 15, 19-22.]

The so-called "alteration" is the insertion of the text "Keep Hilliard Beautiful Committee" above the box on the petition containing the names and residence addresses of the individuals designated to represent the petitioners in all matters relating to the petition. This is the name of that the committee has given itself. [Relators' Exhibit G.]

Respondent's Counsel advised that the insertion of the name "Keep Hilliard Beautiful" in the area above the name and residence address information for the petitioners' committee invalidates the Charter Amendment petition because "a key tenant in Ohio Election Law and a big reason why these requirements exist under the Ohio Revised Code is that the

electorate not be misled" [Relators' Evidence at A, Page 16, 21-24], and that "it may well go to whether the petitions themselves are misleading ... or fails to inform the voters on the actual substance on which they are voting." [Relators' Evidence at A. 17, 3-7.]

What is misleading is Respondent's attempt to apply this standard to the statement of the name of the petitioners' committee. Respondent can point to no case where this Court has invalidated a petition as misleading based on the petitioners' committee information. This Court's precedent regarding insertion of information that could mislead voters has generally been in the context of summaries required to be written and included on township zoning referenda. Indeed, when determining whether a petition is "misleading" this Court has held that "inclusion of the full text of an amendment or ordinance on a petition satisfies all constitutional and statutory requirements * * * because the full text of a proposed charter amendment usually fairly and substantially represents the issue to petition signers." [*State ex rel. Hackworth v. Hughes*, 97 Ohio St.3d 110, 2002-Ohio-5334, ¶ 33.]

Again, Ohio Constitution Article XVIII, § 9, provides:

> Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted by such legislative authority.

Nothing in the Constitution or by statute prohibits adding above the name of the committee members, the name of their committee. There is no bona fide argument that the inclusion of the name of the committee would mislead any signer as to the contents of the proposed amendment. Further, the committee name appears on the second page of the petition where the names of the committee members are listed, whereas the full text and titles of the amendments are on the front page of the petition.

C. Mandamus

To be entitled to a writ of mandamus, relators must establish that (1) they have a clear legal right to have the proposed charter amendment presented to the voters, (2) respondents have a corresponding legal duty to present the proposed charter amendment to the electors of the City of Hilliard, and (3) relators possess no adequate remedy in the ordinary course of law. [*State ex rel. Ebersole v. Powell*, 141 Ohio St.3d 9, 2014-Ohio-4078; *citing*; *Morris v. Macedonia City Council* (1994), 71 Ohio St.3d 52, 54.] Because of the proximity of the March 15, 2016 election, Relators lack a remedy in the ordinary course of law given the timeframe under Ohio Constitution Art. XVIII, §§ 8 and 9 for submission of the question to the voters. [*State ex rel. Liberty Council v. Brunner*, 125 Ohio St.3d 315, 2010-Ohio-1845, ¶ 27.] Additionally, when, as here, a municipal legislative authority erroneously fails to submit a charter amendment when it is presented with a legally sufficient petition, extraordinary relief in mandamus

is available to order placement on the next special election ballot. [See, e.g., *State ex rel. Huebner v. W. Jefferson Village Council* (1995), 75 Ohio St.3d 381, 385, 662 N.E.2d 339, 343.]

E. Respondent's Laches Defense

Relators in election cases must exercise the utmost diligence. [*See, e.g., State ex rel. Fishman v. Lucas Cty. Bd. of Elections*, 116 Ohio St.3d 19, 2007 Ohio 5583, 876 N.E.2d 517, ¶ 6.] The elements of laches which must be articulated by Respondent are (1) unreasonable delay or lapse of time in asserting a right, (2) absence of an excuse for the delay, (3) knowledge, actual or constructive, of the injury or wrong, and (4) prejudice to the other party. [*State ex rel. Polo v. Cuyahoga Cty. Bd. of Elections*, 74 Ohio St.3d 143, 145, 1995 Ohio 269, 656 N.E.2d 1277.]

Relators herein filed the instant action only eight days after Respondent's meeting rejecting the ordinance which would have placed the charter amendment question on the March 15, 2016 election ballot. Two of these eight days were spent waiting for a response from the Law Director. Respondent cannot show that it has been prejudiced by the timing of the filing of this action.

Under the Ohio Revised Code, the next regularly date for a special election on questions and issues is March 15, 2016. Ohio Rev. Code §

3501.01(D). This date falls squarely within the 60-120 day window under Art. XVIII, § 8 of the Ohio Constitution.

D. CONCLUSION

For all of reasons set forth above, Relators respectfully pray the Court to grant the following relief:

A. Issue a peremptory Writ of Mandamus ordering Respondent Hilliard City Council to submit the charter amendment question to the Franklin County Board of Elections for placement on the ballot within the time prescribed under Art. XVIII, § 8 of the Ohio Constitution, which includes the March 15, 2016 special election.

B. Issue a Writ of Mandamus ordering Respondent Hilliard City Council to submit the charter amendment question to the Franklin County Board of Elections for placement on the ballot within the time prescribed under Art. XVIII, § 8 of the Ohio Constitution, which includes the March 15, 2016 special election.

C. Issue an alternative writ or other Order submitting the charter amendment question to the Franklin County Board of Elections for placement on the ballot within the time prescribed under Art. XVIII, § 8 of the Ohio Constitution, which includes the March 15, 2016 special election.

D. Assess the costs of this action against Respondent;

E. Award Relators their attorneys' fees and expenses; and

F. Award such other relief as may be appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was sent via e-mail communication pursuant to S.Ct. Prac. R 12.08(C) to the following on this the 27th day of DECEMBER

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Expedited Election Matter Under S.CT.PRAC.R. 12.08

Cited Statutory Sections

CONSTITUTION OF THE STATE OF OHIO
Article XVIII MUNICIPAL CORPORATIONS

Oh. Const. Art. XVIII, § 9 (2014)

§ 9 Amendments to charter; submission; approval.

Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted by such legislative authority. The submission of proposed amendments to the electors shall be governed by the requirements of section 8 as to the submission of the question of choosing a charter commission; and copies of proposed amendments may be mailed to the electors as hereinbefore provided for copies of a proposed charter, or pursuant to laws passed by the general assembly, notice of proposed amendments may be given by newspaper advertising. If any such amendment is approved by a majority of the electors voting thereon, it shall become a part of the charter of the municipality. A copy of said charter or any amendment thereto shall be certified to the secretary of state, within thirty days after adoption by a referendum vote.

History:
Amended January 1, 1971.

CONSTITUTION OF THE STATE OF OHIO
Article XVIII MUNICIPAL CORPORATIONS

Oh. Const. Art. XVIII, § 14 (2014)

§ 14 Elections.

All elections and submissions of questions provided for in this article shall be conducted by the election authorities prescribed by general law. The percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding general municipal election.

History:
Adopted September 3, 1912.

Title 35: Elections
Chapter 3501: Election Procedure; Election Officials

ORC Ann. 3501.01 (2015)

§ 3501.01 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 May, August, or November, or on the day authorized by a particular municipal or county charter for the holding of a primary election, except that in any year in which a presidential primary election is held, no special election shall be held in May, except as authorized by a municipal or county charter, but may be held on the 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 not less than twenty per cent of the total vote cast for such office at the most recent regular state election.

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

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

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

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 and who has been certified to appear on the office-type ballot at a general or special election as the nominee of a political party because the candidate has won the primary election of the candidate's party for the public office the candidate seeks, has been nominated under section 3517.012, 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 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 election officials;

(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 and addiction services, the department of developmental disabilities, the opportunities for Ohioans with disabilities agency, 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.

History:
GC § 4785-3; 113 v 307, § 3; 114 v 679; 122 v 325; 123 v 380; Bureau of Code Revision, 10-1-53; 133 v S 35 (Eff 10-30-69); 134 v S 460 (Eff 3-23-72); 135 v H 662 (Eff 9-27-74); 138 v H 1062 (Eff 3-23-81); 139 v H 235 (Eff 1-1-82); 140 v S 213 (Eff 10-13-83); 141 v S 185 (Eff 3-23-87); 142 v H 231 (Eff 10-5-87); 145 v S 150 (Eff 12-29-93); 145 v H 8 (Eff 6-8-94); 145 v S 300 (Eff 1-1-95); 146 v H 99 (Eff 8-22-95); 148 v H 157 (Eff 9-20-99); 148 v H 471 (Eff 7-1-2000); 149 v H 445. Eff 12-23-2002; 151 v H 3, § 1, eff. 5-2-06; 152 v H 119, § 101.01, eff. 9-29-07; 153 v S 79, § 1, eff. 10-6-09; 2013 HB 59, § 101.01, eff. Sept. 29, 2013; 2013 SB 193, § 1, eff. Feb. 5, 2014; 2013 SB 109, § 1, eff. Feb. 25, 2014; 2015 HB 64, § 101.01, effective Sep 29, 2015.