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H.B. 101
135th General Assembly

Bill Analysis

[Click here for H.B. 101's Fiscal Note](#)

Version: As Reported by Senate Local Government

Primary Sponsors: Reps. Bird and Schmidt

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CORRECTED VERSION*

SUMMARY

- Allows the question of dissolution to be placed on the ballot only at a general election held in an even-numbered year.
- Modifies the process for winding up the affairs of a dissolved village by doing the following:
 - Requires a Transition Supervisory Board to be established and requires the Board to supervise the various aspects of the transition.
 - Requires the appointment of a receiver-trustee to perform certain duties including the collection of taxes, resolution of debts, distribution of property, continuity of utility services, handling of public records requests, and other matters.
 - Requires former village officials to assist the Board.
- Requires the Geauga County prosecuting attorney to prosecute all violations of state law arising within the unincorporated areas of Geauga County.
- Increases the village competitive bidding threshold amount to \$75,000.
- Modifies the eligibility requirements for the issuance of an F-9 permit as follows:
 - Expands the eligible applicants to include a nonprofit that provides or manages entertainment programming at a municipal park pursuant to an agreement with the municipal corporation that owns the park;

* For the F-9 liquor permit provisions, changes a reference from Hamilton County to Franklin County and makes another corrective change.

- Eliminates a requirement that park property that is the subject of an F-9 permit be located in Franklin County and be the subject of an agreement between various entities for the hosting of art or music performances.
- Allows a person to possess an opened container of beer or intoxicating liquor that has been lawfully purchased for on-premises consumption from an F-9 permit holder.
- Continues to allow a person to possess on an F-9 permit premises a container of beer or intoxicating liquor that was not purchased from an F-9 permit holder with the permission of the permit holder, but eliminates qualifications that only allow a person to do so if certain conditions apply, including attending a free art or music performance.
- Reduces the maximum rate of a special lodging tax Ashtabula County is authorized to levy from 3.5% to 2%.
- Requires the county to use all of the revenue from that special lodging tax to fund the operations and maintenance of detention facilities instead of a convention center.
- Requires boards of elections and the Secretary of State to transmit election results, including those of county court judge and municipal court judge, to the Administrative Director of the Supreme Court by email or other telecommunication device.
- Requires election results on the Governor, members of Congress, and others to be emailed to the Senate President, rather than mailed.

TABLE OF CONTENTS

Village dissolution	3
Surrender by electors	3
Dissolution in question	4
Dissolution is effective	4
Transition period	5
Transition Supervisory Board	5
Taxes	6
Debt	8
Property	8
Utilities	8
Public records	9
Community improvement corporations	9
Special Improvement Districts	9
Tax Increment Financing	10
LGF payments	10
Fund transfers	10
Transition over	11

Geauga County prosecuting attorney.....	11
Village competitive bidding	11
F-9 liquor permits.....	11
Lodging tax rate and revenue use.....	12
Reporting election results.....	13

DETAILED ANALYSIS

Village dissolution

There are three pathways to a village dissolution: surrender of corporate powers by the electors, dissolution of a village in fiscal emergency, and dissolution of a village that meets population, size, and other factors.¹ The bill modifies one aspect of the first pathway (surrender by the electors), and overhauls the process for winding up the affairs of a dissolved village. For more information about the pathways, please read LSC’s Members Brief on [Village Dissolution \(PDF\)](#), available at lsc.ohio.gov. The Members Brief also provides an overview of the existing process utilized to wind up the affairs of a dissolved village; this analysis will note only the major differences between the existing process and the new process under the bill. Under the bill, no matter how a dissolution is initiated, all will utilize the same process to wind up the village’s affairs.²

Surrender by electors

The bill modifies when a question of dissolution may appear on the ballot. Currently, the residents of a village may submit a petition to the village’s legislative authority to put the question of dissolution on the ballot; the legislative authority must hold a special election. If the legislative authority fails to do so, the petitioners may file the petition with the board of elections, which must place the question on the ballot at a special or general election. The bill changes this by requiring the question to appear only at an election held in November of an even-numbered year.

The bill specifies that a petition, which is filed with the board of elections for the dissolution of a village, is only valid if it is filed during an even-numbered year on or after July 1, and at least 90 days before the next general election. This provides approximately one month to file a petition. Additionally, this provision limits to approximately four months the amount of time that a village would have to operate under the restrictions described below under **“Dissolution in question.”**³

¹ R.C. 703.33 (formerly R.C. 703.20), 118.31, and 703.34 (formerly R.C. 703.201).

² R.C. 703.32. Currently, all proceed under the same process (former R.C. 703.21, repealed by the bill), but a receiver-trustee is appointed to assist when the dissolution is initiated due to a fiscal emergency. R.C. 118.31.

³ R.C. 703.33.

Dissolution in question

While a dissolution is in question but not yet decided,⁴ the bill prohibits the village from creating any new debts, obligations, or liabilities unless necessary to continue providing utilities. Once it is decided a dissolution will not occur, the village may resume its normal activities.⁵

Because a village will cease to exist quickly upon a decision being made (by the electors or by the court), the bill also requires a village – while the dissolution is in question – to select an official or employee of the village to act as a representative during a dissolution should one occur. The representative must be knowledgeable on village matters and, if a dissolution occurs, the representative will assist in winding up the village’s affairs.⁶ If the village did not select a representative before being dissolved, one will be selected after the dissolution.⁷

Dissolution is effective

Once it is decided a dissolution will occur (the bill refers to this date as the “date the dissolution is effective”),⁸ the following take effect:⁹

- The village ceases to exist and its officials cease to hold office.
- All laws of the village are extinguished; no new laws can take effect (except some tax laws; see “**Taxes**,” below).
- All leases terminate as specified in the respective lease agreements.¹⁰
- A “Transition Supervisory Board” is created (see “**Transition Supervisory Board**,” below).
- The territory of the village becomes part of the township or townships in which the village was located, along existing township boundaries.¹¹

⁴ Beginning when the electors file a petition to place the question of dissolution on the ballot and ending when the election result is certified. Alternatively, beginning when the Attorney General initiates a legal action and ending when the court makes its decision. R.C. 703.31.

⁵ R.C. 703.35(A).

⁶ R.C. 703.35(B).

⁷ R.C. 703.361(F).

⁸ The date an election result in favor of dissolution is certified or a court’s order of dissolution is filed. R.C. 703.31.

⁹ R.C. 703.36. Unrelated to the bill, a dissolution taking effect also terminates the existence of a financial planning and supervision commission that exists with respect to the dissolved village. See R.C. 118.27. See also R.C. 703.23, requiring courts to take judicial notice of a dissolution.

¹⁰ The Transition Supervisory Board resolves any disputes regarding lease terminations.

¹¹ The Transition Supervisory Board resolves any ambiguities regarding territory.

- All resolutions of the township apply in the territory as applicable, including zoning resolutions (or county zoning may apply).

Transition period

The “transition period” is when the work is done to wind up the affairs of the village. The period begins on the date the dissolution is effective and ends when the Transition Supervisory Board determines all outstanding debts, obligations, and liabilities of the dissolved village have been resolved, all real and personal property of the dissolved village has been transferred or otherwise disposed of, and all utility property and utility services have been transferred.¹²

Transition Supervisory Board

The Transition Supervisory Board is responsible for managing the transition of the dissolved village. The Board has three voting members: the county auditor, the county recorder, and one county commissioner. The Board also has, as a nonvoting member, a township representative from each township affected by the dissolution; it must be a township trustee or the township fiscal officer. The county auditor is the chairperson.¹³ If the general election that determined the date the dissolution is effective also included an election for an office in which the office holder is designated as a Board member, the individual declared as elected to the office must serve on the Board. Further, the bill prohibits an individual who is a resident of the dissolved village from serving on the Board. Such an individual who is designated as a Board member must designate a suitable replacement to serve on the Board.¹⁴

The “village representative” (discussed above) and the individuals serving as fiscal officer and primary legal counsel before the village dissolved are required to provide consultation to the Board.¹⁵

The Board appoints and supervises a receiver-trustee (from a list of options provided by the Auditor of State) to assist the Board with winding up the dissolved village’s affairs.¹⁶

The receiver-trustee has the following duties under the bill:¹⁷

- Resolve the outstanding debts, obligations, and liabilities of the dissolved village;
- Approve necessary operations and budgetary functions of the dissolved village;

¹² R.C. 703.31 and 703.37.

¹³ R.C. 703.361(A) and (B). If a village is located in more than one county, the county members from the county wherein a majority of the village was located serve on the Board.

¹⁴ R.C. 703.361(A)(3) and (4).

¹⁵ R.C. 703.361(F).

¹⁶ R.C. 703.361(E). If necessary, the Board may replace the receiver-trustee with the Auditor of State’s approval.

¹⁷ R.C. 703.362.

- Settle or resolve any legal claims against the dissolved village (claimants have 90 days to bring a claim);¹⁸
- Administer and collect taxes and special assessments levied by the dissolved village;
- Wind down the dissolved village's involvement in community improvement corporations, special improvement districts, and tax increment financing arrangements;
- Dispose of the dissolved village's real and personal property;
- Manage the dissolved village's utility services, then transfer them;
- Respond to requests for the dissolved village's public records and transfer custody of the records to the proper entity;
- Conduct all other necessary business to conclude the village's affairs.

The bill specifies the Board is subject to the Open Meetings Law¹⁹ and that the Board is not liable for acting in accordance with the bill's requirements except for liability imposed as a result of a finding for recovery or other citation in the Auditor of State's final audit of the dissolved village.²⁰ The Board exists until the Auditor of State completes the final audit of the dissolved village.²¹

Taxes

If the receiver-trustee determines that the revenue from an existing municipal property or income tax or special assessment is needed to pay any outstanding debts, obligations, or liabilities of a dissolved village, those taxes or assessments can continue to be levied and collected after the dissolution is effective solely to pay those obligations. During the transition period, the receiver-trustee administers and receives payments and settlements of the taxes. After the transition period, the payments are administered by the fiscal officer of the township that assumed most of the village's territory. Once those obligations are paid in full, the taxes may no longer be levied in subsequent tax years or taxable years. Within 30 days after the date on which the obligations are paid in full, the receiver-trustee or township fiscal officer administering the tax must notify county auditor and other members of the appropriate county budget commission, in the case of property taxes, or the Tax Commissioner, in the case of income taxes, of which taxes will no longer be levied and the date on which the outstanding obligations were paid in full.²²

¹⁸ 90 days from the date the receiver-trustee is appointed. Any claim brought after that date is void. R.C. 703.39.

¹⁹ R.C. 121.22, not in the bill.

²⁰ R.C. 703.361(C) and (D).

²¹ R.C. 703.361(G).

²² R.C. 703.371(A), (C), and (E).

If the revenue from an existing tax or special assessment is not needed to pay the dissolved village's outstanding obligations, it can no longer be levied after the tax year or taxable year which includes the date on which the dissolution is effective. Within 30 days after that date, the receiver-trustee or township fiscal officer administering the tax must notify the county auditor and other members of the appropriate county budget commission, in the case of property taxes, or the Tax Commissioner, in the case of income taxes, of which taxes will no longer be levied and the dissolution's effective date.²³

Property taxes levied by the township(s) into which a village is dissolved on all property within the township begin to apply to property within the former boundaries of the village in the tax year after which the village's property taxes are no longer levied. Property taxes which are levied on a portion of a township's property must be amended to include property in the village's former territory.²⁴ Taxes levied by subdivisions other than such townships continue unimpeded by the dissolution of the village.²⁵

Under the bill, refunds of illegal, erroneous, or excessive payments made by taxpayers to the dissolved village pursuant to a municipal income tax are considered outstanding debts of the dissolved village. During the transitional period, the receiver-trustee must estimate the amount of refunds likely to be requested and approved from the date the dissolution is effective to the first day of the fourth year following the last year those taxes are levied. (Municipal income tax refunds must generally be requested within four years after an overpayment is made.) 110% of that estimate must be deposited into a separate fund, administered by the absorbing township's fiscal officer, to pay such refunds. After four years, the fund is extinguished and distributed among the townships into which the village dissolved in proportion to the amount of territory each township absorbed. The revenue must be used to benefit the territory of the dissolved village. No refund claims may be brought for the dissolved village's taxes after the fund is extinguished.²⁶

The bill requires any revenue collected from municipal taxes and assessments that is not or cannot be used to pay off the dissolved village's outstanding obligations to be paid to the township or townships into which the village is dissolved, in proportion to the amount of former village territory in each. Revenue received by a township must be deposited into the township general fund, and must be used to directly or indirectly benefit the territory of the dissolved village.²⁷

²³ R.C. 703.371(B) and (D).

²⁴ R.C. 703.371(H).

²⁵ R.C. 703.371(I).

²⁶ R.C. 703.371(F).

²⁷ R.C. 703.371(G).

Debt

In general, the township(s) into which the territory of a village is dissolved do not assume the voted debts, obligations, or liabilities of the village. There are exceptions for obligations imposed by Special Improvement Districts and Tax Increment Financing arrangements which such a township may be required to take on as discussed in those respective sections below.

Unvoted debt serviced by property taxes levied by the village within the ten-mill limitation, however, must be assumed by the township(s) into which the village is dissolved, apportioned based on the total assessed valuation of territory that each township absorbs in the tax year in which the dissolution is effective.²⁸

Property

The receiver-trustee must transfer the dissolved village's utility property to the entity that takes over the utility services. And, the receiver-trustee must sell the dissolved village's liquidable assets and use the proceeds to pay the outstanding debts, obligations, and liabilities as necessary. The remaining property is transferred to the township into which the village dissolved.

If multiple townships are involved, the receiver-trustee directs the townships to agree on a distribution of the remaining property;²⁹ the receiver-trustee helps the townships evaluate the remaining property as necessary. If the townships cannot reach an agreement within 60 days of the date the dissolution is effective, the receiver-trustee decides how the property should be distributed. Current law specifies that if an agreement cannot be reached, the property vests by operation of law in proportion to the amount of territory each township has within the dissolved village, which leads to ambiguity.³⁰

The receiver-trustee provides all relevant documentation to the county recorder in the applicable county or counties where transferred property is located. The county recorder must make appropriate notations in the county records to reflect the transfer(s) and must include a reference to the dissolution.³¹

Utilities

The bill requires the dissolved village's utilities to continue uninterrupted. The receiver-trustee is responsible for providing that continued service until the receiver-trustee is able to transfer each utility to an appropriate entity. Any relevant real or personal property is also transferred to the entity taking over the utility.³²

²⁸ R.C. 703.372.

²⁹ Current law requires the dissolving village to be involved in the agreement. R.C. 703.21, repealed.

³⁰ R.C. 703.21, repealed.

³¹ R.C. 703.373.

³² R.C. 703.374.

Public records

The receiver-trustee must review the dissolved village's records to determine which should be disposed of, transferred to an entity taking over a utility service, or transferred to the township or townships into which the village dissolved. The receiver-trustee has 90 days to complete its review and is assisted by the county records commission of the county where most of the village was located.

Before records are transferred, requests for the dissolved village's public records are submitted to the receiver-trustee and the receiver-trustee is responsible for responding to those requests. Continuing law requires each village to have a records retention schedule depicting how long each classification of records is retained by the village before disposal.³³ The bill requires the receiver-trustee to evaluate the dissolved village's records retention schedule to determine if it is viable for future responses to public records requests. If viable, the receiver-trustee follows the schedule. But if not viable, the receiver-trustee and the county records commission must create a schedule. If a request is submitted for a record the Board already transferred to another entity, the receiver-trustee must tell the requestor that the record may be available from the entity to which it was transferred. The entities take over all responsibilities related to public records when the transition period is over.³⁴

Community improvement corporations

If a dissolved village designated a community improvement corporation (CIC) as its economic development agency, and the village is the only subdivision to have so designated the CIC, the bill dissolves the CIC upon the village's dissolution. If other subdivisions also designated the CIC, then the CIC either dissolves and apportions its remaining assets to all of those subdivisions or it liquidates the dissolved village's share of its assets only and amends its articles of incorporation to reflect that it is no longer the agency of the village. The assets apportioned to the dissolved village are disposed of by the receiver-trustee.³⁵

Special Improvement Districts

If a dissolving village is a participating subdivision in a Special Improvement District (SID), the bill prohibits the SID from creating new debts, obligations, or liabilities during the dissolution period, except where necessary to continue the provision of utilities. During the transition period, the receiver-trustee must call a meeting to consider winding down or transitioning the affairs of the SID to the township(s) that will assume the SID territory. There, the Transition Supervisory Board, affected legislative authorities, and member of the SID who collectively own more than half the real property in the SID, may vote to amend the SID plan to replace the dissolving village with the township(s) that will assume the SID territory and all rights and responsibilities of the dissolved village. Alternatively, the SID will be dissolved and

³³ R.C. 149.39.

³⁴ R.C. 703.375.

³⁵ R.C. 703.376 and 1724.07.

any special assessments imposed will continue until all bonds, notes, and other SID obligations are paid. Any assets or rights, after such obligations are paid, are to be distributed to each subdivision based on the value of real property located in the subdivision compared to the SID as a whole. Assets or rights apportioned to the dissolved village are to be disposed of by the receiver-trustee or dispersed to the townships that assumed the SID territory.³⁶

Tax Increment Financing

If a dissolved village is receiving service payments in lieu of taxes for a property tax exemption granted pursuant to a Tax Increment Financing arrangement (TIF), the township(s) into which the subject property is dissolved under the bill must assume all rights and responsibilities of the village related to the TIF.³⁷

LGF payments

Under continuing law, Local Government Funds (LGF) are distributed by the State to local subdivisions directly pursuant to law or according to an apportionment plan adopted by the county budget commission.³⁸ The budget commission of a county in which a dissolved village was fully or partially located must continue to make those LGF payments until the end of such an apportionment plan. During the transition period, the payments are distributed to the receiver-trustee. After the transition period, the payments are distributed to the fiscal officer of the township that assumed most of the village's territory. After first putting those funds towards any outstanding debts, obligations, or liabilities of the village, that fiscal officer then apportions the amount to all of the townships into which the village was dissolved, in proportion to the amount of former village territory in each.

The budget commission cannot amend the apportionment plan to reallocate the village's portion until after the transition period has begun. Once the transition period has begun, if the commission does adopt a new apportionment plan, it must then exclude the dissolving village.³⁹

Fund transfers

After a village is dissolved, any money remaining in a village account may be transferred by the receiver-trustee to a special account solely for the purpose of paying the village's outstanding obligation or to the general fund of a township to benefit the village's former territory. This transfer may be made without the approval of the Tax Commissioner, as would otherwise appear to be required under current law.⁴⁰

³⁶ R.C. 703.377.

³⁷ R.C. 703.378.

³⁸ R.C. 5747.50, 5747.503, 5747.51, and 5747.53, not in the bill.

³⁹ R.C. 703.379.

⁴⁰ R.C. 5705.14.

Transition over

The transition period ends when the Transition Supervisory Board determines all outstanding debts, obligations, and liabilities of the dissolved village have been resolved, all real and personal property of the dissolved village has been transferred or otherwise disposed of, and all utility property and utility services have been transferred.⁴¹ The Board must notify the Auditor of State and all entities affected by or participating in the dissolution that the transition period is over. Within 30 days after the transition period ends, the Auditor begins the final audit of the dissolved village; when completed, the Auditor provides the audit to the Board.⁴² The Board ceases to exist when the Board receives the final audit.⁴³

Finally, the bill specifies that after a dissolution, the lot number previously assigned to a tract, parcel, or lot of land may continue in use.⁴⁴

Geauga County prosecuting attorney

The bill expressly authorizes the Geauga County prosecuting attorney to prosecute violations of state law arising within the unincorporated areas of Geauga County. Under current law, the chief legal officer of a municipal corporation in which a municipal court is located is responsible for the prosecution of criminal cases arising in the unincorporated areas within the territory of the municipal court.⁴⁵ It appears that Chardon Municipal Court currently includes unincorporated areas of the county, and a legal officer of the city of Chardon has been prosecuting such cases.

Village competitive bidding

The bill increases the threshold for village purchases that are subject to a competitive bidding procedure. Under current law, when any expenditure, other than the compensation of persons employed in the village, exceeds \$50,000, the contract must be in writing and made with the lowest and best bidder after following certain advertising requirements. The bill increases this threshold from \$50,000 to \$75,000 through calendar year 2024. For calendar year 2025 and each year thereafter, the amount will increase by 3% each year.⁴⁶

F-9 liquor permits

The bill modifies the F-9 liquor permit as follows:

⁴¹ R.C. 703.31.

⁴² R.C. 703.38.

⁴³ R.C. 703.361(G).

⁴⁴ R.C. 317.115 and 317.18.

⁴⁵ R.C. 1901.34(A) and (B).

⁴⁶ R.C. 731.14; and R.C. 9.17, not in the bill.

- Expands the entities that are eligible to apply for an F-9 permit to include a nonprofit that provides or manages entertainment programming at a municipal park pursuant to an agreement with the municipal corporation that owns the park; and
- Eliminates the requirements that park property that is the subject of an F-9 permit comply with either of the following:
 - The park property is located in a county that has a population of between 1.1 million and 1.2 million on March 22, 2012 (Franklin County);
 - The park property is the subject of an agreement between a municipal corporation, a national nonprofit organization that is a foundation, and an Ohio-based nonprofit organization for the hosting of outdoor performing arts events or orchestral performances.⁴⁷

Additionally, the bill does both of the following regarding the Opened Container Law and the F-9 permit:

- Allows a person to possess an opened container of beer or intoxicating liquor that has been lawfully purchased for on-premises consumption from an F-9 permit holder; and
- As in current law, allows a person to possess on an F-9 permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from an F-9 permit holder with the permission of the permit holder. However, the bill eliminates two current qualifications that only allow a person to do so if:
 - The person is attending an orchestral performance and the F-9 permit holder grants permission for the possession and consumption of the beer or intoxicating liquor; or
 - The person is attending an outdoor performing arts event or orchestral performance that is free and the F-9 permit holder annually hosts at least 25 other events or performances that are free on the permit premises.⁴⁸

Lodging tax rate and revenue use

Under continuing law, local governments such as counties, municipalities, and townships are permitted to levy a tax on lodging furnished to transient guests by hotels and motels within the local jurisdiction. Generally, counties may levy a lodging tax of up to 3%, however, Ohio law permits several special lodging tax levies to fund designated purposes or projects, such as a convention center operated by a convention facilities authority. Ashtabula County is one such county currently authorized to levy an additional special lodging tax at a rate of up to 3.5% to finance the Ashtabula County Convention Facilities Authority, which

⁴⁷ R.C. 4303.209(A)(1).

⁴⁸ R.C. 4301.62(C)(1) and (5).

administers the Lodge & Conference Center at Geneva-on-the-Lake. The rate of the special tax is currently 2%, meaning the total lodging tax levied by the county is 5%.⁴⁹

The bill reduces the maximum rate of the special tax Ashtabula County is authorized to levy from 3.5% to 2%. The bill also requires the county to use all of the revenue from that special lodging tax to fund the operations and maintenance of detention facilities, e.g., jails, instead of a convention facilities authority.⁵⁰

Reporting election results

The bill requires boards of elections to transmit unofficial election results to the Administrative Director of the Supreme Court by email, or other telecommunication device, as determined by the Supreme Court, when the results of ballots have been ascertained. Continuing law requires boards of elections, when the results of ballots have been ascertained, to compile and prepare an unofficial count and transmit those results to the Secretary of State or to the board of the most populous county in the district, no later than noon on the day following the election.⁵¹

The bill also requires additional election results to be reported after the votes have been canvassed – those for the judge of a county court, and for the judge of a municipal court. Under continuing law, after the canvass of election results has been completed – i.e., the official election results – those results are reported on 6 forms, numbers 1 through 6, which have different election results.

Form No. 4 has the offices of state board of education, court of appeals, common pleas judge, judge of the probate court, and all the county-wide elected offices. The bill adds “judge of the county court” to the list for Form No. 4. A judge of a county court is a type of judge distinct from a common pleas court judge, with jurisdiction in a county area not including municipal court jurisdictions.⁵²

Form No. 6 has the election results for municipal offices, township offices, and local boards of education. The bill adds “judge of a municipal court” to this list.

The bill also requires boards of elections to email a copy of Form No. 2 to the Senate President, rather than mail a copy.⁵³

⁴⁹ Ashtabula County Lodging Excise Tax Code of Regulations, [Resolution Number 2022-112 \(PDF\)](#), available on the county’s Lodging Tax webpage: www.ashtabulacounty.us/233/Lodging-Tax.

⁵⁰ R.C. 5739.09(D).

⁵¹ R.C. 3505.30.

⁵² See Chapter 1907 of the Revised Code, not in the bill.

⁵³ R.C. 3505.33. Form No. 2 contains all the statewide offices, the Ohio Supreme Court, and members of Congress.

Finally, the bill requires the Secretary of State to digitize Form Nos. 4 and 6 upon receipt (continuing law only required Form Nos. 1, 2, and 3) and then email or otherwise electronically transmit a copy of those two forms to the Administrative Director of the Supreme Court.⁵⁴

HISTORY

Action	Date
Introduced	03-09-23
Reported, H. State & Local Gov't	05-22-23
Passed House (86-9)	06-14-23
Reported, S. Local Gov't	11-14-23

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⁵⁴ R.C. 3505.33 and 3505.35.