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S.B. 71*
135th General Assembly

Bill Analysis

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Version: As Reported by House Government Oversight

Primary Sponsor: Sen. Gavarone

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SUMMARY

- Allows any elector who is eligible to vote for an office at the general election to file a protest against a primary candidate for that office on certain grounds.
- Requires declarations of candidacy and nominating petitions to have a space after the candidate's name instructing the candidate to provide any former names used in the last five years, other than names changed as the result of marriage.
- Permits party central committees to fill vacancies using a secret ballot process.

DETAILED ANALYSIS

Primary candidate protests

The bill allows any elector who is eligible to vote for an office at the general election to file a protest against a primary candidate for that office on certain grounds. Currently, only (1) an elector who is affiliated with the same political party as a primary candidate and is eligible to vote for the candidate or (2) the party's controlling committee may challenge a primary candidate for any reason.

Under the bill, any elector who is eligible to vote for an office at the general election, regardless of party affiliation, may challenge a primary candidate for that office on the ground that, if elected to the office, the candidate would be ineligible to hold the office because the candidate:

* This analysis was prepared before the report of the House Government Oversight Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- Is not a U.S. citizen;
- Would not have attained the minimum age to hold the office;
- Would exceed an applicable term limit or age limit;
- Would be ineligible to hold the office by reason of a criminal conviction;
- Is already a candidate for another public office; or
- Was required to include a former name on the candidate's filing and did not do so.

Under continuing law, only a member of a primary candidate's political party who is eligible to vote for the candidate or the party's controlling committee may challenge the candidate on any other ground, such as that the candidate:

- Did not correctly fill out the candidate's filings, collect enough valid signatures, or meet the filing deadline;
- Is not a resident of Ohio or of the relevant political subdivision;
- Lacks a professional qualification to hold the office, such as for a judicial office; or
- Is in violation of the law that limits candidates' ability to switch political parties.

Continuing law requires any protest to be filed in writing with the election officials by 4:00 pm on the 74th day before the primary election (the 67th day for a write-in candidate). The election officials must hold a hearing to determine the validity or invalidity of the person's candidacy and required filings. If the election officials find that the candidate is not qualified to hold the office or has not fully complied with the applicable filing requirements, they must reject the candidate's filing.¹

Under continuing law, an independent or nonpartisan candidate or a candidate of a newly formed political party may be challenged by any elector who is eligible to vote for the office, on any available ground.²

Former names on candidacy petitions

The bill also changes the format of declarations of candidacy and nominating petitions, requiring them to have a space after a candidate's name, followed by parenthetical instructions to provide any names used in the last five years, other than names changed as the result of marriage. Continuing law requires candidates to write down these former names after their current name on their declaration of candidacy or petition, but these forms typically do not have

¹ R.C. 3513.053 and conforming changes in R.C. 3513.041 and 3513.05. See also R.C. 3513.271, and see R.C. 3513.052, and 3513.191, not in the bill, and Ohio Constitution, Article II, Sections 2 to 5 and Article XV, Section 4.

² R.C. 3513.262 and 3517.012, not in the bill.

a space for, or instructions regarding, former names. Under continuing law, this requirement does not apply to names changed as the result of marriage, or for elected officials who have previously complied with the law – i.e., listed a former name on a previous declaration of candidacy or nominating petition (with caveats about which previous offices “cover” the office the candidate is running for³).

Under continuing law, a person desiring to become a candidate for public office in a party primary must submit a declaration of candidacy, along with a petition containing a certain number of signatures. Continuing law requires both forms to list former names, and the bill requires both to have spaces for, and instructions regarding, these names. The same is true for nominating petitions, which generally are used by persons desiring to become an independent candidate for office.

Under continuing law, a person who fails to include an applicable former name, and who is subsequently elected, is “immediately suspended from the office” and the office is declared vacated. The person is also liable to the state for any salary the person received while holding office.⁴

County central committees – filling vacancies

The bill permits a county central committee, if there is a vacancy in the office of county commissioner, prosecuting attorney, county auditor, county treasurer, clerk of the court of common pleas, sheriff, county recorder, county engineer, or coroner, if the official was elected as a partisan candidate, to fill the vacancy using a secret ballot process (requiring a majority vote as under continuing law).⁵

HISTORY

Action	Date
Introduced	02-22-23
Reported, S. General Gov’t	05-17-23
Passed Senate (24-7)	05-17-23
Reported, H. Gov’t Oversight	---

ANSB0071RH-135/sb

³ See R.C. 3513.06.

⁴ R.C. 3513.06, 3513.07, 3513.261, and 3513.271.

⁵ R.C. 305.02.