



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Emily E. Wendel

H.B. 402

131st General Assembly
(As Introduced)

Reps. Clyde, Ramos, Reece, Boyd, Antonio, Strahorn, Celebrezze, Sheehy, Ashford, K. Smith, Rogers, Fedor, Sykes, Lepore-Hagan, Leland, Phillips, Boyce, M. O'Brien

BILL SUMMARY

- Prohibits the Secretary of State or a board of elections from canceling an elector's voter registration based on the fact that the elector has moved to another county within Ohio, unless the elector registers to vote in the new county.
 - Requires the Secretary to use only information obtained from the National Change of Address Service in determining whether an elector has moved outside Ohio.
 - Specifies that if an elector's registration is canceled in error on the ground that the elector has registered in another county or has moved out of Ohio, the elector's registration must be restored, effective on the cancellation date.
 - Prohibits the Secretary of State or a board of elections from sending a confirmation notice to an elector, which may result in the elector's registration being canceled, in the absence of reliable evidence that the elector has moved outside Ohio.
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CONTENT AND OPERATION

Electors who have moved

The bill prohibits the Secretary of State or a board of elections from canceling an elector's voter registration based on the fact that the elector has moved to another county within Ohio, unless the elector registers to vote in the new county.

Under continuing law, the Secretary of State must prescribe a uniform, nondiscriminatory process to cancel an elector's voter registration if the elector has moved outside Ohio. The process must comply with the federal Voting Rights Act of 1965 and the National Voter Registration Act of 1993. But, the bill requires the Secretary

to use only reliable evidence obtained from the National Change of Address Service, which is provided by the U.S. Postal Service, in determining whether an elector has moved outside Ohio. Current law allows the Secretary to use other sources of information in addition to the National Change of Address Service to determine whether an elector has moved out of the county or Ohio.

Before the Secretary of State or a board of elections cancels the registration of an elector who has moved, continuing law requires the Secretary or the board to send the elector a confirmation notice. If the elector fails to respond to the confirmation notice or otherwise update the elector's registration and fails to vote in any election during the period of two federal elections after the notice is mailed, then the elector's registration must be canceled not later than 120 days after the date of the second general federal election in which the elector fails to vote or not later than 120 days after the expiration of the four-year period in which the elector fails to vote or respond to the notice, whichever is later.

The bill also specifies that if an elector's registration is canceled in error on the ground that the elector has registered in another county or has moved out of Ohio, the elector's registration must be restored, effective on the cancellation date. If the elector casts a ballot while the registration is canceled, the elector must be considered to have been registered at the time of casting the ballot.¹

Other electors

The bill also prohibits the Secretary of State or a board of elections from sending a confirmation notice to an elector, which may result in the elector's registration being canceled, in the absence of reliable evidence from the National Change of Address Service that the elector has moved outside Ohio.

The current statute appears to allow the Secretary of State to send a confirmation notice to any elector. If the elector fails to (1) respond to the notice and vote at least once during a period of four consecutive years that includes two general federal elections, or (2) update the elector's registration and vote at least once during a period of four consecutive years that includes two general federal elections, then the elector's registration must be canceled not later than 120 days after the date of the second general federal election in which the elector fails to vote or not later than 120 days after the expiration of the four-year period in which the elector fails to vote or respond to the notice, whichever is later (see **COMMENT**).²

¹ R.C. 3501.05 and 3503.21.

² R.C. 3503.21(A)(7) and (E).



COMMENT

In addition to using the National Change of Address Service to identify and send confirmation notices to electors who appear to have moved, until recently, the Secretary of State also required the boards of elections to send electors confirmation notices under a procedure called the Supplemental Process. Under that process, the boards were required to send a confirmation notice to each elector who had not voted or submitted a registration update during the past two years. If the elector did not respond to the notice and vote, or update the elector's registration and vote, during the next four years, the elector's registration was canceled, as described above.

In September 2016, a federal appeals court ruled that the Supplemental Process violates provisions of federal law that prohibit the state from canceling an elector's registration by reason of the elector's failure to vote. Under the ruling, the Secretary of State and boards of elections may continue to send confirmation notices to electors who appear to have moved based on the National Change of Address Service, but they may not send those notices based solely on an elector's inactivity.³

HISTORY

ACTION	DATE
Introduced	12-01-15

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³ *A. Philip Randolph Institute v. Husted*, 838 F.3d 699 (6th Cir. 2016).

