



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

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Sub. H.B. 41

132nd General Assembly
(As Passed by the General Assembly)

Reps. Pelanda, Becker, Hambley, Seitz, Sprague, Blessing, Brenner, Green, Kick, Landis, LaTourette, Perales, Retherford, Rezabek, Riedel, Ryan, Scherer, Stein

Sens. Coley, Uecker, Bacon, Eklund, Hoagland, Huffman, Obhof, Oelslager, Peterson, Terhar, Wilson

Effective date: March 20, 2019

ACT SUMMARY

Challenges to voter registrations

- Requires an elector to file an application to correct a precinct registration list or to challenge an elector's right to vote with the board of elections not later than the 30th day before the day of an election.
- Eliminates the procedure to postpone a hearing on such an application or challenge until after the election if the challenge is filed after the 30th day before the election.

Absent voting

- Requires the boards of elections to have uniformed services and overseas absent voter's ballots printed and ready for mailing on the 46th day, instead of the 45th day, before the day of an election.
- Creates a new procedure for casting absent voter's ballots in person that is similar to the procedure for Election Day voting.

* This version updates the effective date.

- Allows an in-person absent voter to provide either (1) the same identification (ID) as on Election Day or (2) the voter's driver's license or state ID card number or the last four digits of the voter's Social Security number.
- Permits a board of elections to process absent voter's ballots before the polls close on Election Day, provided the board does not tabulate or count the votes on those ballots before that time, and allows observers to be present for that processing.

Voting machine reimbursements

- Allows a county that acquired or leased voting or tabulation equipment between January 1, 2014, and July 30, 2018, to use the General Revenue Fund money allocated to the county under S.B. 135 to acquire additional equipment using the money.

CONTENT AND OPERATION

Challenges to voter registrations

The act shortens the period before an election during which an elector may apply to correct a precinct registration list (typically, in order to rectify a mistake in the elector's own registration) or challenge another elector's right to vote. Under the act, the application or challenge must be filed with the board of elections not later than the 30th day before an election. Prior law generally required such an application or challenge to be filed not later than the 20th day before the day of the election, although a separate section of law allowed a challenge to be filed not later than the 19th day before the election.

As a result, the act eliminates the previous procedure that allowed a board of elections to postpone a hearing on an application or challenge until after the election if the challenge was filed after the 30th day before the election. Under that procedure, the board was required to mark the challenged elector's name in the official registration list and in the pollbook, and the elector had to cast a provisional ballot. The board then held the hearing within ten days after the election and decided at that time whether the provisional ballot should be counted.¹

Absent voting

Availability of uniformed services and overseas absent voter's ballots

The act requires the boards of elections to have uniformed services and overseas absent voter's ballots printed and ready for use by mail on the 46th day, instead of the

¹ R.C. 3503.24 and 3505.20; conforming changes in R.C. 3505.181 and 3505.183.



45th day, before the day of an election. Under continuing law, for all voters who wish to cast absent voter's ballots in person, ballots must be ready on the first day after the close of voter registration before the election (generally, 29 days before the election).

Federal law requires each state to transmit a validly requested absentee ballot to a uniformed services or overseas absent voter not later than 45 days before an election if the request is received by that day. Because Election Day is always a Tuesday, the 45th day before the election is always a Saturday. Under the act, uniformed services and overseas absent voter's ballots must be ready for mailing beginning on a Friday.²

Procedure for casting absent voter's ballots in person

The act creates a new procedure for casting absent voter's ballots in person at the office of the board of elections that is similar to the procedure for Election Day voting. First, under the act, a person who casts absent voter's ballots in person may show identification (ID) in the same manner as an Election Day voter instead of completing a written application for an absent voter's ballot. (Under continuing law, acceptable ID on Election Day includes a current and valid photo ID, a military ID, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of voter registration, that shows the person's name and current address.) Alternatively, the person may provide the person's driver's license or state ID card number or the last four digits of the person's Social Security number, as continuing law allows for all absent voter's ballots.

After providing ID, the act requires an in-person absent voter to sign a pollbook and then proceed to vote. The act clarifies that an election official may challenge the right to vote of an in-person absent voter, but that no other person may challenge in-person absent voters. And, under the act, an absent voter may not receive a replacement ballot after the original ballot has been scanned or entered into automatic tabulating equipment. These procedures are the same as the continuing procedures for Election Day voting.

Prior law included the same procedures for casting absent voter's ballots in person and by mail. An in-person absent voter was required to submit a written application for absent voter's ballots, fill out the ballots, place them in an identification envelope, complete the statement on the envelope, and return it to the board of elections. The statute did not contemplate challenges of in-person absent voters, and it did not specify whether or when an absent voter could request a replacement ballot.³

² R.C. 3509.01 and 3511.04. See also 52 U.S.C. 20302(a)(8).

³ R.C. 3509.051.



Processing absent voter's ballots

The act allows a board of elections to process absent voter's ballots before the polls close on Election Day, provided that the board does not tabulate or count the votes on those ballots before that time. Previous law prohibited counting absent voter's ballots before the polls closed, but did not specify whether the board could perform other administrative tasks with respect to the ballots before then. The act defines processing an absent voter's ballot as any of the following:

- Examining the identification envelope statement of voter to verify that the ballot is eligible to be counted;
- Opening the identification envelope if the ballot is eligible to be counted;
- Determining the validity of the ballot;
- Preparing and sorting the ballot for scanning by automatic tabulating equipment;
- Scanning the ballot by automatic tabulating equipment if the equipment permits a ballot to be scanned without tabulating or counting the votes on the ballot.

Under the act, the board must determine whether to process absent voter's ballots in each precinct, at the office of the board, or at some other location, just as the board must do under continuing law for the counting of absent voter's ballots.⁴ Additionally, it allows observers to be present for the processing of absent voter's ballots in the same manner as continuing law allows them to observe in-person absent voting, Election Day voting, and the counting of all types of ballots.⁵

Voting machine reimbursements

Finally, the act amends uncodified provisions of S.B. 135 of the 132nd General Assembly to allow a county that acquired or leased voting or tabulation equipment between January 1, 2014, and July 30, 2018, to use the General Revenue Fund money allocated to the county under S.B. 135's funding formula to acquire additional equipment using those moneys. A county that does so must follow S.B. 135's procedures to acquire the equipment through the Secretary of State in the same manner as any other county that acquires equipment.

⁴ R.C. 3509.06; conforming change in R.C. 3511.11.

⁵ R.C. 3505.21. See also R.C. 3505.183 and 3509.06 and R.C. 3505.26 and 3505.27, not in the act.



Under S.B. 135, a county that acquired or leased voting or tabulation equipment between January 1, 2014, and July 30, 2018 (S.B. 135's effective date), was entitled to reimbursement for that equipment but was not entitled to acquire additional equipment using the remainder of the funds allocated to it. For example, a county that purchased replacements for half of its voting equipment during that period could be reimbursed for that purchase, but if the reimbursement did not use up the county's entire allocation, the county could not use the remainder to replace the rest of its equipment.⁶

HISTORY

ACTION	DATE
Introduced	02-07-17
Reported, H. Gov't Accountability & Oversight	04-26-17
Passed House (64-30)	06-21-17
Reported, S. Gov't Oversight & Reform	12-13-18
Passed Senate (31-0)	12-13-18
House concurred in Senate amendments (61-24)	12-13-18

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⁶ Sections 3 and 4 of the act.

