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H.B. 188
134th General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsors: Reps. Lampton and Cross

Emily E. Wendel, Attorney

SUMMARY

Insurance for living organ donors

- Prohibits life, disability, and long-term care insurers from unfairly discriminating against a living organ donor in the offering, issuance, premium, or conditions of such a policy.

2022 primary election (enacted in S.B. 11)

- Changes certain procedures for uniformed services and overseas absent voting, only for purposes of the 2022 primary election and any special election held on the day of the primary.
- Requires uniformed services and overseas absent voter's ballots to be printed and ready for use not later than the day after the close of voter registration before the election.
- Extends the deadline, from ten days to 20 days after Election Day, for voted uniformed services and overseas absent voter's ballots to arrive by mail at the board of elections, but retains the continuing law deadline of the close of the polls on Election Day to mark the ballots.
- Allows the Secretary of State to adjust the statutory deadlines for the boards of elections to conduct the canvass of the election returns as necessary to accommodate the later ballot return deadline for those ballots.
- Requires the Secretary to take the steps the Secretary determines necessary to expedite the delivery of uniformed services and overseas absent voter's ballots to voters and the return of those ballots to the boards of elections.

Emergency clause

- Declares an emergency, and specifies that the bill's provisions concerning the 2022 primary election take effect immediately.

DETAILED ANALYSIS

Insurance for living organ donors

The bill prohibits an insurer from unfairly discriminating against a living organ donor in the offering, issuance, premium, or conditions of a life, disability, or long-term care insurance policy based solely, and without any additional actuarial risks, on that person's status as a living organ donor. A "living organ donor" is a living person who donates an organ to another living person.¹

A violation of this prohibition is an unfair and deceptive practice in the business of insurance, permitting the Superintendent of Insurance to impose a variety of sanctions on the violator. Possible sanctions include suspending or revoking the insurer's license, ordering the insurer to make restitution, and imposing a civil penalty.

The bill authorizes the Superintendent to adopt rules as necessary to carry out the bill's requirements.²

2022 primary election (enacted in S.B. 11)

For purposes of the 2022 primary election and any special election held on the day of the primary, the bill changes certain procedures for uniformed services and overseas absent voting. The same provisions, plus an appropriation, recently were enacted as part of S.B. 11 of the 134th General Assembly.

Background

Under procedures outlined in the Ohio Constitution, in the fall of 2021, the Ohio Redistricting Commission and the General Assembly approved new General Assembly and congressional district plans. The Ohio Supreme Court ruled both district plans unconstitutional and ordered the respective authorities to adopt new plans. New plans have since been adopted and submitted to the Court, but as of this writing, the cases have not reached a final resolution, and uncertainty remains regarding the final General Assembly and congressional district plans to be used in the May 3, 2022, primary election.³ The extended redistricting timeline poses practical issues in conducting the election according to the statutory deadlines. To address those issues, in H.B. 93 of the 134th General Assembly, the legislature modified certain deadlines and candidate petition requirements for the 2022 primary election.⁴ H.B. 188 makes

¹ R.C. 3901.80(A) and (B).

² R.C. 3901.80(C) and (D); R.C. 3901.21 and 3901.22, not in the bill.

³ *League of Women Voters of Ohio v. Ohio Redistricting Commission*, Slip Opinion No. 2022-Ohio-65 and Slip Opinion No. 2022-Ohio-342 (Ohio 2022) and *Adams v. DeWine*, Slip Opinion No. 2022-Ohio-89 (Ohio 2022). See also Ohio Redistricting Commission, [Commission Meetings](#), posted on the Commission's website, redistricting.ohio.gov, under "Meetings."

⁴ See LSC's [final analysis of H.B. 93 of the 134th General Assembly \(PDF\)](#), beginning at page 4, for an explanation of the changes that act made concerning the 2022 primary election.

further changes related to uniformed services and overseas absent voting for that election. (As is mentioned above, these further changes were also enacted in S.B. 11.)

Availability of ballots

First, the bill requires uniformed services and overseas absent voter's ballots to be printed and ready for use not later than the first day after the close of voter registration before the election, the same as for other absent voter's ballots. For the May 3, 2022, primary election, that deadline falls on April 5.⁵

Under continuing Ohio law for other elections, uniformed services and overseas absent voter's ballots must be ready for mailing by the 46th day before Election Day.⁶ Moreover, federal law requires those ballots to be ready for mailing at least 45 days before the election, unless the Department of Defense (DOD) grants a waiver of that requirement due to an undue hardship, such as a lawsuit-related delay. In order to be approved, a waiver request must include a comprehensive plan to ensure that uniformed services and overseas absent voters are afforded sufficient time to vote in the election, despite the delayed ballot availability.⁷

H.B. 93 authorized the Secretary of State to seek a waiver from DOD that would allow Ohio to delay the availability of uniformed services and overseas absent voter's ballots for the 2022 primary election.⁸ But, on March 4, DOD denied the Secretary's application for a waiver. DOD determined that while Ohio had shown an undue hardship that would qualify the state for a waiver, Ohio's stated comprehensive plan would not provide uniformed services and overseas absent voters sufficient time to vote. The plan was to send the ballots as soon as possible after they became available and to reach out to affected voters to inform them of the delay and encourage them to ask to receive their ballots by email.⁹ (The Revised Code allows uniformed services and overseas absent voters to receive unmarked ballots electronically from the board of elections, but they still must print and mail their ballots back to the board.)¹⁰

The additional temporary changes the bill makes to the law regarding uniformed services and overseas absent voting, discussed below, would allow the Secretary of State to reapply to DOD for a waiver on the basis of a new comprehensive plan that gives those voters additional time to receive and return their ballots.

Ballot return deadline and canvass of election returns

The bill extends the deadline, from ten days to 20 days after Election Day, for voted uniformed services and overseas absent voter's ballots to arrive by mail at the board of

⁵ Section 2(A) of the bill.

⁶ R.C. 3509.01(B)(1), not in the bill.

⁷ 52 United States Code (U.S.C.) 20302(a)(8) and (g).

⁸ Section 4(G)(3) of H.B. 93 of the 134th General Assembly.

⁹ [Letter from Under Secretary of Defense Cisneros to Secretary of State LaRose \(PDF\)](#) (March 4, 2022).

¹⁰ R.C. 3511.021, not in the bill.

elections. However, as with any other election, the ballot envelope must be signed by the close of the polls on Election Day. That is, the bill allows additional time for the ballots to travel to the board, but does not give uniformed services and overseas absent voters extended time to vote.¹¹

Correspondingly, the bill allows the Secretary of State to adjust the statutory deadlines for the boards of elections to conduct the canvass of the election returns (the final, official count of the ballots) as necessary to accommodate the later ballot return deadline for uniformed services and overseas absent voters. The Revised Code requires the boards to count all valid, late-arriving absent voter's ballots and all valid provisional ballots on the 11th day after Election Day, and to complete the canvass by the 21st day after Election Day.¹²

Expedited delivery of ballots

The bill also requires the Secretary of State to take the steps the Secretary determines necessary to expedite the delivery of uniformed services and overseas absent voter's ballots to voters and the return of those ballots to the boards of elections. For example, this provision of the bill allows the Secretary to require the boards of elections to pay for expedited postage on ballots, including return postage.¹³

Continuing law for other elections prohibits the boards of elections from prepaying the return postage on absent voter's ballots and from mailing ballots to voters by certified mail.¹⁴ However, federal law requires the U.S. Postal Service (USPS) to deliver election materials to and from uniformed services and overseas absent voters for free, including through military and diplomatic mail. (The program does not apply to delivery by foreign postal systems or private couriers.) The Federal Voting Assistance Program provides printable envelope templates for election officials and voters to take advantage of the free delivery program.¹⁵

With First-Class Mail delivery already available for free, the bill allows the Secretary of State to arrange for ballots to be sent and returned using faster USPS services, such as Priority Mail.¹⁶

Emergency clause

The bill declares an emergency, and specifies that the bill's provisions concerning the 2022 primary election, but not the insurance-related provisions, take effect immediately.¹⁷

¹¹ Section 2(B) of the bill. See also R.C. 3511.11, not in the bill.

¹² Section 2(D) of the bill. See also R.C. 3513.22, not in the bill.

¹³ Section 2(C) of the bill.

¹⁴ R.C. 3511.04, not in the bill.

¹⁵ 39 U.S.C. 3406 and Federal Voting Assistance Program, [Preparing Election Materials to be Mailed](#).

¹⁶ U.S. Postal Service, [International Mail & Shipping Services](#).

¹⁷ Section 3 of the bill.

HISTORY

Action	Date
Introduced	03-09-21
Reported, H. Insurance	06-23-21
Passed House (91-0)	06-25-21
Reported, S. Insurance	11-16-21
Passed Senate (30-0)	03-08-22
House refused to concur in Senate amendments	03-09-22
