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S.B. 11
134th General Assembly

Final Analysis

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Primary Sponsor: Sen. Brenner

Effective date: June 10, 2022; certain provisions effective March 11, 2022

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SUMMARY

2022 primary election

- Changes certain procedures for uniformed services and overseas absent voting, only for 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.
- Appropriates \$200,000 to the Boards of Elections Reimbursement and Education Fund, which the Secretary of State must use to implement the provisions described above.

Congenital Heart Defect Awareness Week

- Designates the week of February 7 to 14 as "Congenital Heart Defect Awareness Week."

Juneteenth as a paid legal holiday

- Requires school districts to grant paid leave for Juneteenth Day to all regular nonteaching school employees who are employed on an eleven- or twelve-month basis, instead of those employed on a nine- or ten-month basis as required under prior law.

Frontline Health Care Worker Pilot Program

- Limits to FY 2022 the operation of the Frontline Health Care Worker Education, Training, and Certification Pilot Program, and allocates the FY 2023 funding to NewBridge Cleveland Center for Arts and Technology, for the same purposes as the pilot program.

DETAILED ANALYSIS

2022 primary election

For the 2022 primary election and any special election held on the day of the primary, the act changes certain procedures for uniformed services and overseas absent voting and makes an appropriation to cover increased costs to the boards of elections related to those changes.

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.¹ 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.² S.B. 11 makes further changes related to uniformed services and overseas absent voting for that election.

Availability of ballots

First, the act 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 5.³

¹ *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."

² See LSC's [Final Analysis of H.B. 93 \(PDF\)](#), beginning at page 4, for an explanation of the changes that act made concerning the 2022 primary election. The Final Analysis is available on the General Assembly's website, legislature.ohio.gov.

³ Section 5(A) of the act.

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.⁴ 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.⁵

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.⁶ 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.⁷ (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.)⁸

The additional temporary changes S.B. 11 makes to the law regarding uniformed services and overseas absent voting, discussed below, 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. It appears that DOD has not yet issued a final decision in the matter.

Ballot return deadline and canvass of election returns

The act 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. However, as with any other election, the ballot envelope must be signed by the close of the polls on Election Day. That is, the act 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.⁹

Correspondingly, the act 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

⁴ R.C. 3509.01(B)(1), not in the act.

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

⁶ Section 4(G)(3) of H.B. 93 of the 134th General Assembly.

⁷ [Letter from Under Secretary of Defense Cisneros to Secretary of State LaRose \(PDF\)](#) (March 4, 2022).

⁸ R.C. 3511.021, not in the act.

⁹ Section 5(B) of the act. See also R.C. 3511.11, not in the act.

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.¹⁰

Expedited delivery of ballots

The act 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 act allows the Secretary to require the boards of elections to pay for expedited postage on ballots, including return postage.¹¹

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.¹² 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.¹³

With First-Class Mail delivery already available for free, the act allows the Secretary of State to arrange for ballots to be sent and returned using faster USPS services, such as Priority Mail.¹⁴

Appropriation

Finally, the act appropriates \$200,000 to the Boards of Elections Reimbursement and Education Fund, which the Secretary of State must use to implement the act's requirements pertaining to uniformed services and overseas absent voter's ballots.¹⁵

Congenital Heart Defect Awareness Week

The act designates the week of February 7 to 14 of each year as Congenital Heart Defect Awareness Week.¹⁶

¹⁰ Section 5(D) of the act. See also R.C. 3513.22, not in the act.

¹¹ Section 5(C) of the act.

¹² R.C. 3511.04, not in the act.

¹³ 39 U.S.C. 3406 and Federal Voting Assistance Program, [Preparing Election Materials to be Mailed](#), which is available on the Program's website, fvap.gov.

¹⁴ U.S. Postal Service, [International Mail & Shipping Services](#), which is available at usps.com.

¹⁵ Sections 6, 7, and 8 of the act. For more information about the appropriation, see LSC's [Final Fiscal Note \(PDF\)](#), which is available on the General Assembly's website, legislature.ohio.gov.

¹⁶ R.C. 5.2530.

Juneteenth as paid legal holiday

The act addresses a drafting error from 2021 by requiring school districts to grant paid leave for Juneteenth Day to all regular nonteaching school employees who are employed on an *eleven- or twelve-month* basis, instead of those employed on a nine- or ten-month basis. That is, the act moves the paid holiday mandate from the nine- and ten-month employees to the eleven- and twelve-month employees.¹⁷ H.B. 110 of the 134th General Assembly, the FY 2022-FY 2023 main budget act, established June 19, known as Juneteenth, as a legal holiday for which certain government employees must receive paid leave and for which school districts may dismiss school. H.B. 110 granted nine- and ten-month school district employees paid leave for that date instead of eleven- and twelve-month employees, which appears to have been a drafting error.

Frontline Health Care Worker Pilot Program

The act limits the operation of the Frontline Health Care Worker Pilot Program to FY 2022 only. The main budget act established the program to operate in FY 2022 and FY 2023 to reimburse adult education institutions for education and wraparound services provided to health care training program students.¹⁸ Instead of operating the program in FY 2023 and reimbursing adult education institutions, the act specifies that the \$125,000 appropriated for FY 2023 is to be provided to NewBridge Cleveland Center for Arts and Technology for the same purposes as the pilot program. The act reappropriates for FY 2023 any unexpended, unencumbered funds for the program from FY 2022.¹⁹

HISTORY

Action	Date
Introduced	01-21-21
Reported, S. Health	02-10-21
Passed Senate (32-0)	02-10-21
Reported, H. Health	02-09-22
Passed House (61-32)	03-09-22
Senate concurred in House amendments (26-2)	03-10-22

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¹⁷ R.C. 3319.087.

¹⁸ Section 291.60 of H.B. 110 of the 134th General Assembly. A detailed description of the pilot program is available on page 259 of LSC's [Final Analysis of H.B. 110 \(PDF\)](#), which is available on the General Assembly's website, legislature.ohio.gov.

¹⁹ Funds for each year are appropriated in GRF appropriation item 440485, Health Program Support.