



Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 63*

131st General Assembly

(As Reported by S. Government Oversight and Reform)

Sens. LaRose, Hite, Jones, Gardner, Lehner, Hottinger, Skindell, Tavares, Brown

BILL SUMMARY

Online voter registration

- Requires the Secretary of State to establish a secure online process for voter registration and registration updates and specifies information that an applicant must provide to use the online system.
- Requires the Secretary of State to obtain an electronic copy of the applicant's signature that is on file with the Bureau of Motor Vehicles, to be used as the applicant's signature on voter registration records.
- Requires the online voter registration system, during the period beginning 29 days before the day of an election and ending on the day of the election to display a notice indicating that the applicant will not be registered to vote for the purposes of that election.
- Requires the Secretary of State to employ whatever security measures the Secretary considers necessary to ensure the integrity and accuracy of the system.
- Specifies that errors in processing voter registration applications in the online system must not prevent an applicant from becoming registered or from voting.
- Requires the online voter registration process to be in operation and available for use not later than the first day of July occurring not fewer than 120 days after the bill's effective date.

* This analysis was prepared before the report of the Senate Government Oversight and Reform Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Specifies that if any provision of the Revised Code concerning online voter registration is held invalid, then all of the provisions concerning online voter registration cease to operate.

Political party affiliation

- Allows an elector to declare the elector's affiliation with a recognized political party at any time by filing a voter registration or registration update form, filing a declaration of political party affiliation, or voting in the party's primary election.
- Specifies that if an elector is registered before the bill takes effect, the elector's registration form must be deemed to indicate an affiliation with the political party whose ballot the elector voted at the most recent primary election within the year of the bill's effective date and the immediately preceding two calendar years.
- Requires an elector's political party affiliation to be included in the elector's notice of registration and in the elector's entry on the Statewide Voter Registration Database website.
- Requires a board of education to notify students who are participating in an in-class voter registration program that registering as affiliated with a particular political party or registering to vote and remaining unaffiliated will not affect the students' grades, activities, benefits, or privileges.
- Adds references to political party affiliation to certain continuing sections of law that define criminal offenses related to voter registration, including bribery and tampering with registration records.
- Eliminates the ability to challenge an elector on the day of a primary election on the basis of political party affiliation.
- Requires primary elections to be conducted using a single pollbook for the precinct, and requires the pollbook to include the political party affiliation, if any, of each elector in the precinct.
- Specifies that an elector must not be registered as affiliated with a different political party in order to sign or circulate the petition portion of a declaration of candidacy for a candidate who seeks to appear on that party's ballot in a primary election.
- Specifies that an elector must not be registered as affiliated with a different political party in order to sign the nominating petition of a candidate for the nomination of a newly formed political party.



- Requires a person to be registered as affiliated with a political party in order to be a candidate for nomination or election at the party's primary election.
- Specifies that a person must not be registered as affiliated with a political party in order to be an independent candidate.
- Requires a person who currently holds an elective office for which candidates are nominated at a party primary, and who wishes to run in the primary election of a party with which the person is not affiliated, to register as affiliated with the person's new party.
- Maintains the requirement that such a person also file a declaration of intent, which the person may not file more than once in a period of ten years.
- Modifies the requirement that a candidate forfeit the candidate's nomination if the candidate is nominated at one party's primary election but votes in the primary as a member of a different party to refer to the fact that the candidate would be required to register as affiliated with a different party before voting in that party's primary.

Statewide Voter Registration Database

- Requires that certain state agencies that, under continuing law, transfer data to the Secretary of State for the purpose of maintaining the Statewide Voter Registration Database, transfer that data not later than the last day of each month.
- Adds language requiring the Secretary of State to transmit information to the boards of elections for the purpose of maintaining the Statewide Voter Registration Database in accordance with federal law and continuing state law.
- Requires the Secretary of State to conduct an annual review of the Statewide Voter Registration Database to determine whether any individuals who are not U.S. citizens are registered to vote.

TABLE OF CONTENTS

Online voter registration	4
Application	4
Processing applications.....	5
Administration	5
Unity clause	6
Political party affiliation.....	6
Registration form and change of political party affiliation form	7
Voter registration agencies.....	7
Voter registration offenses	8
Eligibility to vote at a primary election.....	8



Eligibility to sign party candidate petitions	9
Eligibility to be a political party candidate	10
Statewide Voter Registration Database.....	10
Data sharing with state agencies.....	10
Database maintenance	11
Annual citizenship review	11

CONTENT AND OPERATION

Online voter registration

Application

The bill requires the Secretary of State to establish a secure online process for voter registration. The system must allow an applicant to register to vote or to update the applicant's name, address, or both.

The applicant must provide all of the following information:

- The applicant's name;
- The applicant's address;
- The applicant's date of birth;
- The last four digits of the applicant's Social Security number;
- The applicant's Ohio driver's license or state ID card number.

The bill also permits the Secretary of State to include a feature that allows an applicant to register as affiliated with a recognized political party by selecting the name of the party (see "**Political party affiliation**," below).

Under the bill, the applicant must be qualified to register to vote and must attest to the truth and accuracy of the information submitted in the application under penalty of election falsification. The online application must include the following language, along with a box that the applicant must mark in order to submit the application:

By clicking the box below, I affirm all of the following under penalty of election falsification, which is a felony of the fifth degree:

(1) I am the person whose name and identifying information is provided on this form, and I desire to register to vote, or update my voter registration, in the State of Ohio.



(2) All of the information I have provided on this form is true and correct as of the date I am submitting this form.

(3) I am a United States citizen.

(4) I will have lived in Ohio for thirty days immediately preceding the next election.

(5) I will be at least eighteen years of age on or before the day of the next general election.

(6) I authorize the Bureau of Motor Vehicles to transmit to the Ohio Secretary of State my signature that is on file with the Bureau of Motor Vehicles, and I understand and agree that the signature transmitted by the Bureau of Motor Vehicles will be used by the Secretary of State to validate this electronic voter registration application as if I had signed this form personally.

The bill specifies that during the period beginning 29 days before the day of an election and ending on the day of the election, the online voter registration system must display a notice indicating that the applicant will not be registered to vote for the purposes of that election. Under continuing law, a person must be registered to vote not later than 30 days before the day of an election in order to vote in that election.¹

Processing applications

Under the bill, when an individual uses the online system to register to vote or to update the individual's registration, the information provided on the application must not be inconsistent with the information on file with the Bureau of Motor Vehicles (BMV). The Secretary of State must obtain an electronic copy of the individual's signature that is on file with the BMV to be used as the individual's signature on voter registration records, for all election and signature-matching purposes. The bill specifies that an application submitted through the online registration system need not contain a signature in order to be valid.²

Administration

The bill requires the Secretary of State to employ whatever security measures the Secretary considers necessary to ensure the integrity and accuracy of voter registration

¹ R.C. 3503.01, not in the bill, and 3503.20(A), (D), and (E).

² R.C. 3503.14 and 3503.20(A)(2)(b) and (B).



information submitted electronically through the online system. The bill also specifies that errors in processing voter registration applications in the online system must not prevent an applicant from becoming registered or from voting.

The online voter registration process must be in operation and available for use not later than the first day of July occurring not fewer than 120 days after the bill's effective date.³

Unity clause

The bill specifies that if any of the bill's provisions pertaining to online voter registration are held invalid, or if the application of any of those provisions to any person or circumstance is held invalid, then all of the bill's provisions pertaining to online voter registration cease to operate. By contrast, the general rules of construction that apply to the Revised Code state that the invalidity of one provision of the Revised Code does not affect other related provisions, if those other provisions can be given effect without the invalid provisions.⁴

Political party affiliation

The bill changes the method by which an elector's political party affiliation must be determined.

Under the bill, an elector may declare the elector's affiliation with a recognized political party at any time. An elector's political party affiliation is determined based on the most recent of the following:

- The party the elector indicated on the elector's voter registration form;
- The elector's most recent declaration of political party affiliation filed with the board of elections on a form prescribed by the Secretary of State;
- The elector's action in casting the ballot of a political party at a primary election.

Existing law specifies that an elector is considered to be affiliated with the political party whose ballot the elector voted in the most recent primary election within the current year and the immediately preceding two calendar years. Under current law,

³ R.C. 3503.20(C) and (E).

⁴ R.C. 1.50, not in the bill, and 3503.20(G).



electors are not able to change their recorded political party affiliation between primary elections.⁵

Registration form and change of political party affiliation form

When a person registers to vote, the bill allows the person to write the name of a recognized political party, if the person wishes to be affiliated with that party. If the person is not currently registered as affiliated with a recognized political party and the person does not write the name of a single recognized political party, the person must be considered not to be affiliated with any party.⁶

The bill specifies that if an elector is registered before the bill takes effect, the elector's registration form must be deemed to indicate an affiliation with the political party whose ballot the elector voted at the most recent primary election within the year of the bill's effective date and the immediately preceding two calendar years.⁷

When a board of elections receives a valid application to register to vote or to update the applicant's registration, the bill requires the board to include the applicant's registered political party affiliation, if any, in the notice of registration that the board, under continuing law, must send to the applicant. An elector's political party affiliation, if any, also must appear in the elector's entry on the Statewide Voter Registration Database website.⁸

Voter registration agencies

The bill amends the statement that, under continuing law, a board of education must distribute to students if a public high school or vocational school conducts an in-class voter registration program. Under the bill, that statement must be as follows (new text is shown in italics):⁹

Applying to register or declining to register to vote, or registering as affiliated with a particular political party or registering to vote and remaining unaffiliated, will not affect or be a condition of your receiving a particular grade in or credit for a school course or class, participating in a

⁵ R.C. 3503.22, 3503.23, and 3513.05.

⁶ R.C. 3503.14.

⁷ R.C. 3503.22.

⁸ R.C. 3503.15 and 3503.19.

⁹ R.C. 3503.10(G).



curricular or extracurricular activity, receiving a benefit or privilege, or participating in a program or activity otherwise available to pupils enrolled in this school district's schools.

Voter registration offenses

The bill adds references to political party affiliation to certain continuing sections of law that define criminal offenses related to voter registration. Specifically, under the bill, a person who solicits, requests, demands, receives, or contracts for any money, gift, loan, property, influence, position, employment, or other thing of value for that person or for another person for registering, or refraining from registering, as affiliated with a political party is guilty of bribery, which is a fourth degree felony. Under continuing law, a fourth degree felony is punishable by imprisonment for a term of 6 to 18 months and a fine of not more than \$5,000. A person convicted of bribery under this statute must be disenfranchised and excluded from holding public office for five years immediately following the person's conviction.¹⁰

The bill also prohibits an election official, a person assisting in the registration of electors, or a police officer from knowingly altering an elector's political party affiliation or lack of political party affiliation on the elector's registration card or form. A person who violates this statute is guilty of a first degree misdemeanor, which, under continuing law, is punishable by imprisonment for a term of not more than 180 days and a fine of not more than \$1,000.¹¹

Eligibility to vote at a primary election

The bill allows an elector who is not registered as affiliated with a political party to vote that party's ballot in a primary election by requesting that party's ballot. The elector becomes affiliated with that party by casting that political party's ballot. Continuing law also allows an elector to request to vote only for the questions and issues appearing on the ballot in a special election held on the day of a primary (an "issues only" ballot), regardless of the elector's party affiliation or lack of affiliation.

Additionally, the bill requires primary elections to be conducted using a single pollbook for each precinct, instead of separate pollbooks for each political party participating in the primary. The pollbook must include the political party affiliation, if any, of each elector in the precinct.¹²

¹⁰ R.C. 2929.14, not in the bill, 2929.18, not in the bill, and 3599.02.

¹¹ R.C. 2929.24, not in the bill, 2929.28, not in the bill, and 3599.18.

¹² R.C. 3505.181, 3513.18, and 3513.19 and repeal of R.C. 3513.20.



Under existing law, an elector is considered to be affiliated with the political party whose ballot the elector voted in the most recent primary election within the current year and the immediately preceding two calendar years. If an elector seeks to vote a different political party's ballot at a primary election, an election official may challenge the elector on the basis that the elector is not affiliated with or is not a member of that political party.¹³ However, any qualified elector may vote a new party's primary ballot at the first primary election in which the party is permitted to participate, regardless of the elector's prior party affiliation.

If an elector wishes to vote the primary ballot of a party other than the one with which the elector is affiliated, current law allows the elector to sign a statement, under penalty of election falsification, that the elector desires to be affiliated with and supports the principles of the party whose ballot the elector wishes to vote. The statement also must include the elector's name, age, address, and length of residence in the precinct, county, and state. An elector who signs such a statement may cast a regular ballot in the primary election. If the elector refuses to sign the statement, the elector may cast a provisional ballot.¹⁴

Eligibility to sign party candidate petitions

Under the bill, an elector may not sign or circulate the petition portion of a declaration of candidacy for a candidate who seeks to appear on a party's ballot in a primary election if the elector is affiliated with a different political party.

Existing law allows an elector to sign or circulate such a declaration of candidacy if the elector voted in the candidate's party's primary election within the preceding two calendar years, or if the elector did not vote in any other party's primary election within the preceding two calendar years.¹⁵

Similarly, the bill prevents an elector who is affiliated with a different political party from signing a nominating petition circulated by a candidate who seeks the

¹³ The Secretary of State currently instructs precinct election officials to challenge an elector's political party affiliation only if the official has personal knowledge that the elector is not affiliated with or a member of that party. The official must not rely solely on the notation of party affiliation that appears in the poll book. Ohio Secretary of State, *Precinct Election Official Training Supplement for May 6, 2014 Primary Election* at 2. Available at sos.state.oh.us/SOS/Upload/elections/EOresources/peoTraining/PEOTrainingSupplement_5_14.pdf, accessed March 20, 2014.

¹⁴ R.C. 3513.19 and repeal of R.C. 3513.20 and 3517.016.

¹⁵ R.C. 3513.05.

nomination of a newly formed political party that did not participate in a primary election.¹⁶

Eligibility to be a political party candidate

Under the bill, in order to be a candidate for nomination or election at a party's primary election, a person must be registered as affiliated with that party as of the date of filing the person's declaration of candidacy. And, in order to be an independent candidate, a person must not be registered as affiliated with any party. Existing law generally allows any person who claims to be a member of a party to be a candidate at the party's primary, regardless of which party's primary ballot the person has recently voted. An independent candidate currently must claim not to be affiliated with a political party.¹⁷

Further restrictions apply to a person who currently holds an elective office for which candidates are nominated at a party primary, if the person wishes to run in the primary election of a party with which the person is not affiliated. (That is, the person holds a partisan office and was affiliated with Party A, but the person now wishes to seek Party B's nomination for an office in the upcoming primary election). The bill requires such a person to register as a member of the person's new political party.

Under continuing law, the person also must file a declaration of intent to seek the nomination of the person's new party, unless the person's new party is a newly recognized party conducting its first primary election. The declaration of intent must be made on a form prescribed by the Secretary of State, and must be filed not later than 4 p.m. of the 30th day before the person's declaration of candidacy and petition must be filed, with the same official with whom the person must file the declaration of candidacy and petition. After a person files a declaration of intent, the person may not file another for a period of ten years.¹⁸

Statewide Voter Registration Database

Data sharing with state agencies

Under the bill, certain state agencies that continuing law requires to provide information and data to the Secretary of State to maintain the Statewide Voter Registration Database must provide that information and data according to a specified schedule. Specifically, the Department of Health, the Bureau of Motor Vehicles, the

¹⁶ R.C. 3517.012.

¹⁷ R.C. 3501.01(I) and (K), 3513.19, and 3513.191.

¹⁸ R.C. 3513.19, 3513.191, and 3517.013 and repeal of R.C. 3517.014.

Department of Job and Family Services, the Department of Medicaid, and the Department of Rehabilitation and Corrections must do so not later than the last day of each month. (While the bill adds the Department of Medicaid to the list of state agencies that are explicitly required to participate in data sharing with the Secretary of State, current law requires the Department to do so.)

Currently, only the Department of Health must share data with the Secretary of State according to a specific schedule. The bill changes that schedule to require the Department to file reports with the Secretary of State not later than the last day of each month, instead of at least once each month.¹⁹

Database maintenance

The bill requires the Secretary of State to regularly transmit data received from state agencies and from other states to the boards of elections, to the extent permitted by state and federal law, in order to ensure that the accuracy of the Statewide Voter Registration Database is maintained on a regular basis in accordance with applicable state and federal law. The Secretary of State must transmit data that is necessary to do the following:

- Require the boards of elections to maintain the Database in a manner that ensures that the name of each registered elector appears in the Database, that only individuals who are not registered or eligible to vote are removed from the Database, and that duplicate registrations are eliminated from the Database;
- Require the boards of elections to make a reasonable effort to remove individuals who are not eligible to vote from the Database;
- Establish safeguards to ensure that eligible electors are not removed in error from the Database.

Federal law and continuing state law require the Secretary of State and the boards of elections to share data and to maintain the Database in this manner.²⁰

Annual citizenship review

Under the bill, the Secretary of State must conduct an annual review of the Statewide Voter Registration Database to determine whether any individuals who are not U.S. citizens are registered to vote. The review must not occur during the 90 days

¹⁹ R.C. 3503.15 and 3503.18.

²⁰ R.C. 3501.05, not in the bill, and 3503.15. See also 52 U.S.C. 21083.



immediately preceding a primary or general election for federal office. In conducting the review, the Secretary of State must compare the information in the Database with the information the Secretary of State obtains from the Bureau of Motor Vehicles (BMV) under continuing law to identify any person who does all of the following, in the following order:

- Submits documentation to the BMV that indicates that the person is not a U.S. citizen;
- Registers to vote, updates the person's name or address in the person's voter registration, or votes;
- Submits documentation to the BMV that indicates that the person is not a U.S. citizen.

The Secretary of State must send a written notice to each such person, instructing the person either to confirm that the person is a U.S. citizen or to submit a completed voter registration cancellation form to the Secretary of State. The notice must include a blank cancellation form. If the person fails to respond to the notice not later than 30 days after the notice was sent, the Secretary of State promptly must send the person a second notice and form.

If the person responds to the notice not later than 60 days after the first notice was sent and confirms that the person is a U.S. citizen, the Secretary of State must take no action concerning the person's registration. If the person responds during that time period by sending a completed cancellation form to the Secretary of State, the Secretary of State must instruct the board of elections to cancel the person's registration.

If the person fails to respond to a second notice not later than 30 days after it was sent, the Secretary of State must refer the matter to the Attorney General for further investigation and possible prosecution under the laws that prohibit ineligible persons from registering to vote or voting, or under any other applicable provision of the Revised Code. If, after the 30th day after the second notice was sent, the person sends the Secretary of State a completed cancellation form, the Secretary of State must instruct the board to cancel the person's registration and must notify the Attorney General of the cancellation.²¹

²¹ R.C. 3503.15(H).

HISTORY

ACTION

DATE

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