

# Ohio Association of Election Officials

## Legislative Committee Meeting

### February 20, 2014

The legislative committee of the Ohio Association of Election Officials met on Thursday, February 20, 2014 at 10:00 AM on a conference call. Tim Ward and Ken Terry presided. Aaron Ockerman, executive director of the Ohio Association of Election Officials was present and led portions of the meet.

Peggy Byers called the roll. Present were: Adam Booth, Penny Brooks, Peggy Byers, Bruce Carter, Brad Cromes, Tom Gerrity, Steve Harsman, Karla Herron, Jan Kelley, Sarah Kneuss, Sharon Locke, Faith Lyon, Kathy Meyer, Carla Patton, Deborah Reiter, Ken Terry and Tim Ward.

Ken Terry prepared these reviews of pending legislation:

#### **SB 205 Review**

- Changes term "Armed Service" to Uniformed Service or Overseas (Line 186)
- SOS may mail absentee ballot apps only for General Elections and only if General Assembly has appropriated funds to do so (Line 222)
- Other public offices/employees are prohibited from mailing unsolicited applications (Line 225)
- Clarifies that any elector who needs assistance can have someone help them on election day or during absentee voting (Line 230)
- Prohibits BOE's from prepaying return postage on absentee ballots (Line 297 & 370 & 638 & 686)
- Election Officials may not fill out any portion of absentee application, except SOS or BOE may preprint name and address only on applications (Line 300 & 373 & 642 & 783 & 817)
- Requires ID envelopes to include name, address, DOB, ID and Signature to be counted. (Line 419)

#### **SB 216 Review**

- In multi-precinct polling locations the BOE may by vote of at least 3 members; Designate a single presiding judge & combine poll books for that location. (Line 56)
- Removes requirement to write down the last 4 digits of DL# when address doesn't match. (Line 140 & 359)
- Name change with proof such as marriage license or court order with old and new names (and without moving) can cast regular ballot (Line 158)
- Specifies that the written affirmation on the provisional envelope serves as change of name/address notification. (Line 188 & 248 & 293 & 947)

- Reduces time to provide ID after voting provisional to 7 days after election (Line 370 & 636 & 650 & 1036)
- Consolidates reasons for voting provisionally from 13 to 7 (Line 370 through 547)
- Provisional voter required to complete affirmation that voter is resident of precinct and eligible to vote in election (Line 554)
- Voter required to provide ID on affirmation (Line 601)
- Codifies form used by poll worker when provisional voter votes at correct poll but wrong precinct (Line 704)
- Provisional Ballot Affirmation includes; Name, DOB, Address, Check box to be checked if voter has moved, former address, ID & Signature (Line 771)
- Required info to count provisional; printed name, signature, DOB, current address & signed statement(s) (Line 984)
- Electors DOB must match SWVRDB to count (Line 1025 & 1086)
- Address must match SWVRDB to count unless box that voter has moved is checked (Line 1028 & 1089)
- Codifies right church wrong pew case (Line 1115)
- Line 1178 appears to give voter until 10th day to provide missing info in conflict with other sections
- Absentee ID envelopes required to have the following info to count; name, address, DOB, ID and signature. (Line 1222)
- Codifies notifying absentee voters of insufficiencies with ID envelope. (Line 1237)
- Only allows 7 days to correct absentee ID envelope errors (Line 1249)

### **SB 238 Review**

- For non-UOCAVA voters Absentee voting starts the day after the close of registration (Line 34)

SB 205 and SB 238 passed in both the Senate and the House. These bills should go in to effect 90 days after the Governor signs them. They will not be in effect for the May primary this year.

Since these bills were adopted, Aaron was going to write a summary about how the bills contradict our association's recommendations and email it to our group.

SB 216 – This bill has been delayed, but Aaron indicated it will likely be up for vote next week. State representative Kathleen Clyde sent these suggested amendments to Senator Bill Seitz in a letter. Aaron shared this letter with the Legislative Committee of the OAEO in an email:

**Amendment 1569x1: Count ballots with adequate information; Reject ballots with inadequate information**

Request additional information on the provisional ballot envelope, but do not require that missing or imperfect information will cause the ballot to be thrown out. If enough information is provided to determine the identity of the eligible voter, the vote should be counted. The question is not; How hard is it for the voter to provide all this information? The question is: Should a voter lose her fundamental right to vote because of a small error or minor oversight, especially when there is enough information given to verify the voter's registration? This amendment would bring Ohio law into compliance with the federal Civil Rights Act's prohibition on rejection ballots for simple paperwork errors. Election officials will not be required to divine the intent of a voter, but rather must only count a ballot where the voter's registration can be verified and must reject ballots where they cannot. For example, where a voter made an obvious error by providing 2014 as his birth year, his ballot must still be counted, because no reasonable person would argue that such an obvious error makes it impossible to determine who cast the ballot.

**Amendment 1568: Common-sense error correction on voters' provisional ballot envelope**

Include the common-sense correction and information-gathering provisions for voters that your bill from the 128<sup>th</sup> General Assembly, SB 8, contained. SB 216 permits voters to correct their provisional ballot envelope or provide missing information only by mail or in person, whereas SB 8 permitted the use of modern methods such as telephone, email, and internet contact.

**Amendment 1570X1: Protection of all wrong precinct ballots caused by poll worker error**

Provide vote-counting protection to all voters who are misled by election officials, not just to voters who are misled by election officials at their multi-precinct polling location. Election official error is election official error no matter where it happens. This amendment will not result in the "rogue businessman" voting downtown on his lunch break because election officials will still be able to document when they sent the voter to the correct precinct. In such cases, the incorrect precinct ballot will not count and the precinct system will be respected.

On amendment 1568, the legislative committee did not feel this was a good idea. This would not be easy for counties to do.

On Amendment 1569X1 and 1570X1, there was not any unanimous decision by the group. Aaron took notes and planned to share the ideas that were tossed out with those working on the bill.

Of particular note during the discussion on provisional ballots was the idea of having provisional votes on another color of ballot paper so they would be easily identified. Someone mentioned that a high speed scanner might not count this ballot. It was noted that provisional ballots sometimes do get put through the scanner by the voter instead of being placed in the special envelope so they can be checked out before they are accepted. Once a vote gets through the scanner in our present situation, it is impossible to tell whether that was meant to be a provisional ballot or not. Another participant noted that if we do anything to make a provisional ballot look different from a regular ballot, it might be possible to identify the voter if there is low turnout in that precinct. Allen County uses a supervisor program where this person helps the voter fill out the provisional so they will be more apt to get it right.

House Bill 250 is the bill that talks about eliminating special elections in Ohio. There was a robust discussion on this matter, but no recommendations were sent forward.

Aaron began a discussion on new legislation that would allow counties to use schools as polling places. Aaron mentioned the bill is problematic as it is now written, because the legislation indicates this is an optional choice for the schools. The option for opting out pertained to whether the school wanted to use

this day as a in-service day. The bill sponsor is addressing this issue as it was not his intention that participation in this practice would be optional. There is language in this bill that would require election officials to notify the schools before their calendar is released for the year. There was some discussion about whether the schools would be paid for their use as a polling place. There was a wide range of dollars that different counties presently pay to their private facilities for use as a polling place. This is definitely a matter that will require more thought.

There was also a lively discussion about the annual absentee request where a voter would just check a box on an absentee request form to get all the ballots mailed to them for each election in that year. This topic was not addressed in the recommendations by the Absentee Task Force. No absolute recommendations came out of today's discussion either.

Tim Ward, Steve Harsman and Adam Booth helped to get a discussion moving about removing write-ins from the Ohio ballots. While some felt this could be done, it was pointed out this could be problematic. Some candidates wait to see who has gone through the petition process before they decide to run. Tim Ward suggested that if a candidate wanted to be a write-in, they should have to file on the same day as everyone else. The Secretary of State's office is not going to weigh in on this matter. As the discussion ended, the decision was that the OAEO should take no position in this matter.

Representative Bill Blessing from Cincinnati has taken up the cause to allow absentee voters who vote in the Board of Election office to run their ballot through the scanner immediately. While this measure is not in any bill now, Representative Blessing understands this practice would be better for the voter and the election officials. He hopes to get this introduced in a bill soon.

There was an incident in Madison County where a Common Pleas Judge ruled that the Board of Elections had to accept a write-in vote when the bubble beside the write-in was not colored in, but the name was clearly written on the write-in line. It has been the practice in Ohio that a write-in vote cannot count if the bubble is not filled in. There has been a directive from the Secretary of State's office that dictates the oval has to be colored for the write-in vote to count. The discussion indicated our members will wait to see if there are lawsuits or other direction in this matter.

Penny Brooks moved a motion the meeting be adjourned. Ken Terry made the second. The motion was accepted.

Respectfully submitted,

*Peggy Byers*

Peggy Byers