

# Ohio Association of Election Officials Legislative Committee Meeting May 19, 2015

The legislative committee of the Ohio Association of Election Officials met on Tuesday, May 19, 2015 at 2:00 PM on a conference call. Tim Ward and Ken Terry were both present today. Ken Terry presided. Aaron Ockerman, executive director of the Ohio Association of Election Officials was also present and assisted with the lead when asked.

Aaron called the roll and Peggy Byers came on the call a little later. Present were: Penny Brooks, Peggy Byers, Steve Harsman, Kathy Jones, Sally Krisel, Sharon Locke, Lyn McCoy, Kathy Meyer, Debbie Reiter, Brian Sleeth, Ken Terry, Matt Tlachac, Curt Braden, Kathi Creed, Rob Frost, Sarah Kneuss, Faith Lyon, Debbie Quivey, Shantiel Soeder, Tim Ward, Lisa Welch and Kay Wick.

Dale Fellowes was a guest today.

Aaron did make mention that the money for the absentee application mailing is receiving favorable comments from both sides of the aisle, so the support is there. The money for the electronic poll books has made significant progress in the Senate. The proposal is now for a 90% match to each county with each individual county providing the additional 10% needed. It is looking like counties who have already purchased electronic poll books will be reimbursed. The one stipulation was that counties had to have purchased certified equipment in order to qualify for the match. Richland County bought electronic poll books nearly 10 years ago, so they can use the money to buy new equipment if they chose.

A new twist in this legislation is there will be the opportunity for counties to reduce to two poll workers for each precinct if they are using electronic poll books. Legislators felt this provision would help counties cover the 10% cost for the poll books in a very short period of time. The discussion this day from the legislative committee indicated floaters or unqualified poll workers cause more trouble rather than help the process.

Kathy Jones had introduced and lead a discussion to improve the process for election observers. Here is a recap of items Kathy suggests we ask to be changed (items in yellow):

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### **3505.21 Appointment of challengers and witnesses.**

*(A) As used in this section, "during the casting of the ballots" includes any time during which a board of elections permits an elector to vote an absent voter's ballot in person at the office of the board and any time ballots may be cast in a precinct polling place on the day of an election.*

*(B) At any primary, special, or general election, any political party supporting candidates to be voted upon at such election and any group of five or more candidates may appoint to the board of elections or to any of the precincts in the county or city one person, a qualified elector, who shall*

serve as observer for such party or such candidates during the casting of the ballots and during the counting of the ballots; provided that separate observers may be appointed to serve during the casting and during the counting of the ballots. No candidate, no uniformed peace officer as defined by section 2935.01 of the Revised Code, no uniformed state highway patrol trooper, no uniformed member of any fire department, no uniformed member of the armed services, no uniformed member of the organized militia, no person wearing any other uniform, and no person carrying a firearm or other deadly weapon shall serve as an observer, nor shall any candidate be represented by more than one observer at any one precinct or at the board of elections except that a candidate who is a member of a party controlling committee, as defined in section 3517.03 of the Revised Code, may serve as an observer.

(C) Any political party or group of candidates appointing observers shall notify the board of elections of the ~~names and addresses~~ name, address, phone number and email address of its appointees and the precincts at which they shall serve or that they will serve at the board of elections. Notification of observers appointed to serve on the day of an election shall take place not less than eleven days before the day of the election by four p.m. on forms prescribed by the secretary of state and may be amended by filing an amendment with the board of elections at any time until four p.m. of the ~~day~~ fourth day before the election. Notification of observers appointed to serve at the office of the board during the time absent voter's ballots may be cast in person shall take place not less than eleven days before absent voter's ballots are required to be ready for use pursuant to section 3509.01 of the Revised Code on forms prescribed by the secretary of state and may be amended by filing an amendment with the board of elections at any time until four p.m. of the fourth day before the observer is appointed to serve. The observer serving on behalf of a political party shall be appointed in writing by the chairperson and secretary of the respective controlling party committee. Observers serving for any five or more candidates shall have their certificates signed by those candidates. Observers appointed to a precinct ~~may~~ shall file their certificates of appointment with the voting location manager of the precinct ~~at the meeting on the evening prior to the election, or with the voting location manager of the precinct~~ on the day of the election. Observers appointed to the office of the board to observe the casting of absent voter's ballots in person prior to the day of the election ~~may~~ shall file their certificates with the director of the board of elections the day before or on the day that the observers are scheduled to serve at the office of the board. If the observer wishes to observe the casting/counting of ballots at the board of elections, it shall so be stated on the certificate of appointment. In no case shall a challenger/observer attempt to file their forms with the board of elections or voting location manager via an electronic device.

Upon the filing of a certificate, the person named as observer in the certificate shall be permitted to be in and about the applicable polling place during the casting of the ballots and shall be permitted to watch every proceeding of the precinct election officials from the time of the opening until the closing of the polls. The observer also may ~~inspect~~ view the counting of all ballots in the polling place or board of elections from the time of the closing of the polls until the counting is completed and the final returns are certified and signed. Observers appointed to serve at the board of elections on the day of an election under this section may observe at the board of elections and may observe at any precinct in the county. The precinct election officials shall protect such observers in all of the rights and privileges granted to them by Title XXXV of the Revised Code.

(D) No persons other than the precinct election officials, the observers, a police officer, other persons who are detailed to any precinct on request of the board of elections, or the secretary of state or the secretary of state's legal representative shall be admitted to the polling place, or any room in which a board of elections is counting ballots, after the closing of the polls until the counting, certifying, and signing of the final returns of each election have been completed.

(E) Not later than four p.m. of the twentieth day prior to an election at which questions are to be submitted to a vote of the people, any committee that in good faith advocates or opposes a measure may file a petition with the board of any county asking that the petitioners be recognized as the committee entitled to appoint observers to the count at the election. If more than one committee alleging themselves to advocate or oppose the same measure file such a petition, the board shall decide and announce by registered mail to each committee not less than twelve days immediately preceding the election which committee is recognized as being entitled to appoint observers. The decision shall not be final, but any aggrieved party may institute mandamus proceedings in the court of common pleas of the county in which the board has jurisdiction to

compel the precinct election officials to accept the appointees of such aggrieved party. Any such recognized committee may appoint an observer to the count in each precinct. Committees appointing observers shall notify the board of elections of the ~~names and addresses~~ **names, address, telephone number and email address** of its appointees and the precincts at which they shall serve. Notification shall take place not less than eleven days before the election on forms prescribed by the secretary of state and may be amended by filing an amendment with the board of elections at any time until four p.m. on the **fourth** day before the election. A person so appointed shall file the person's certificate of appointment with the voting location manager in the precinct in which the person has been appointed to serve. Observers shall file their certificates ~~before the polls are closed.~~ **upon entering the polling location with the voting location manager.** In no case shall more than six observers be appointed for any one election in any one precinct. If more than three questions are to be voted on, the committees which have appointed observers may agree upon not to exceed six observers. ~~and the precinct election officials shall appoint such observers.~~ If such committees fail to agree, the ~~precinct election officials~~ **board of elections** shall appoint six observers from the appointees so certified, in such manner that each side of the several questions shall be represented.

(F) No person shall serve as an observer at any precinct or at the board of elections unless the board of elections of the county in which such observer is to serve has first been notified of the name, address, **telephone number and email address** and location at which such observer is to serve. Notification to the board of elections shall be given by the political party, group of candidates, or committee appointing such observer as prescribed in this section. No such observers shall receive any compensation from the county, municipal corporation, or township, and they shall take the following oath, to be administered by one of the precinct election officials:

"You do solemnly swear that you will faithfully and impartially discharge the duties as an official observer, assigned by law; that you will not cause any delay to persons offering to vote; and that you will not disclose or communicate to any person how any elector has voted at such election."

Amended by 130th General Assembly File No. 47, SB 109, §1, eff. 2/25/2014.

Amended by 129th General Assembly File No. 105, SB 295, §1, eff. 8/15/2012.

Amended by 129th General Assembly File No. 40, HB 194, §1 Made subject to referendum in the Nov. 6, 2012 election. The version of this section thus amended was repealed by 129th General Assembly File No. 105, SB 295, §1, eff. 8/15/2012.

Effective Date: 08-08-1991; 05-02-2006

Aaron asked that we become familiar with these changes and be willing to vote at the next meeting on this topic.

Pat McDonald led the discussion on Campaign Finance. It is reported that many independent groups want online campaign finance reports in place for transparency. Many counties already scan their campaign finance reports. Following is the recap by Ken Terry on the current bill:

LSC 131 1310 Review  
5/19/15

- Allows electronic submission to BOE's and SOS for certain campaign finance filings (Line 344)
- SOS shall make campaign finance reports available online (Line 486)
- SOS may remove info from internet after "Reasonable period of time" (Line 504)
- SOS shall store the following "on computer": (line 895)
  - Contributions and expenditures
  - Disclosure of electioneering communications statements

- Deposit and disbursement statements
- Gift and disbursement info
- donation and disbursement info
- Each of the following shall be permitted or required to file campaign finance electronically: (Line 963)
  - Statewide office (required over \$10K in contributions or expenditures)
  - General Assembly (required over \$10K in contributions)
  - Court of appeals judge (required over \$10K in contributions)
  - Any other campaign Committee (other than state Board of Education) (required over \$5K in contributions)
  - State wide PAC or PCE, a legislative fund or state political party (required over \$10K in contributions or expenditures)
  - Political Party State Candidate fund (Required electronically)
  - County political party (other statements) (required over \$5K in contributions or expenditures)
  - Local PAC or PCE (required over \$5K in contributions or expenditures)
  - Individual, partnership or other entity that makes independent expenditures in support or opposition to state candidate or issue (Required if expenditure is over \$10K)
- BOE that receives campaign finance report electronically shall send to SOS within 5 business days, same day when receiving amendment (Line 1058)
- SOS required to put info online within 5 days of receipt (line 1067)
- If a committee for general assembly or appeals court judge files campaign finance via printed version, the committee shall file 2 copies and BOE shall send one via certified mail or electrically same day (Line 1252)
- SOS required to make the campaign finance reports that were filed electronically available online (Line 1357)

Curt Braden warned us to think of the expense involved as this will take software and hardware. He mentioned that we might have complaints from the public that we don't have terminals available. Someone mentioned that we already have public terminals for voter registration information. Why wouldn't we use those terminals? For auditing purposes, having all these reports online could be beneficial. Someone suggested we have an icon on our each of our websites. We were reminded that it had been discussed before that the Secretary of State take over all campaign finance matters. Our recent experiences with the Secretary of State's office would not indicate this would happen in the near future. It was noted that the legislation exempts Boards of Education, whether intentional or an oversight. We left this discussion with no plan for action.

Here are the reviews for the house bills relating to voter registration provided by Ken and Aaron:

HB 179 Review  
5-1-15

- Requires SOS to "adopt rules to implement the automatic voter registration program described in section 3503.11" (Line 115)
- Exempts new registrations sent by the BMV from having to comply with 3503.09 (line 297)
- The BMV shall provide to the SOS electronic records of each person who "appears to be eligible to register to vote or to update the person's registration" for the purpose of automatic registration(line 305)
- BMV must transmit: (line 314)
  - a) Name

- b) Address
  - c) DOB
  - d) Drivers license/state ID # OR (entire) SSN
  - e) Whether the person is a US citizen
  - f) electronic signature
- SOS sends to BOE who determines if the new registration or update to registration is valid and must send a notice of all of the following: (line 326)
    - a) The fact that the person will be registered to vote or have info updated unless the person declines
    - b) The procedure to decline automatic registration/update
    - c) the precinct the voter is registered in
    - d) A statement about voter ID
  - Notice is nonforwardable, if returned BOE must investigate and send to correct address, if address correction can not be determined voter must be registered and marked to indicate the notice was returned and required to vote provisionally (line 355)
  - Not earlier than 21 days after sending the notice the person shall be registered. (line 358)
  - If notice is returned the voter shall be sent a confirmation notice, if no activity after 2 federal elections the registration is cancelled. (line 385)
  - Removes requirement for a person registering an applicant to provide name, address, signature and employer. (line 475)
  - Removes several restrictions on persons who register applicants (line 2259)
  - Person's can not opt out of automatic voter registration at BMV, must do it through BOE process outlined in notice. (procedure not defined) (line 2735)

HB 181 Review  
5-1-15

- Require SOS to adopt rules to implement the automatic VR program in section 3503.11 (line 109)
- Exempts new registrations sent by the BMV or other agencies from having to comply with 3503.09 (line 292)
- The BMV **AND** each designation agency shall provide to SOS the records of each person who "appears to be eligible to register to vote or to update the person's registration" for the purpose of automatically registering the person to vote or updating the persons registration (line 463)
- Each public or private secondary school shall provide to the SOS records of each person who graduates from the school who appears to be eligible to register to vote or to update the persons registration for the purpose of automatic registration or update of VR record. (line 473)
- BMV, Agency or School must transmit the following: (line 483)
  - a) Name
  - b) Address
  - c) DOB
  - d) Drivers License/State ID # or last 4 of SSN
  - e) Whether the person us US citizen
  - f) Electronic Signature
- SOS sends to BOE who determines if registration/update is valid then shall send a notice with the following: (line 495)
  - a) The fact that the person will be registered to vote/info updated automatically unless the person declines to be registered to vote/update registration.

- b) the procedure to decline to be registered/have info updated
- c) the precinct the person will be registered to vote in
- d) a statement about voter ID
- Notice is nonforwardable mail, if returned BOE must investigate and send notice to correct address (line 528)
- Not earlier than 21 days after sending the notice the BOE shall register the person to vote. (line 531)
- If address correction can not be determined voter must be registered and marked to indicate the notice was returned and required to vote provisionally (line 538)
- If notice is returned the voter shall be sent a confirmation notice, if no activity after 2 federal elections the registration is cancelled. (line 558)
- SOS required to engage the services of one or more “usability, disability, and user interface design experts to test, review and approve the proposed form of the notice.” (Line 583)
- Removes requirement for a person registering an applicant to provide name, address, signature and employer. (line 653)
- The SOS shall establish, by rule, a secure online process for voter registration (line 1317)
- The online registration system shall allow new registrations, name changes, and address changes. (line 1321)
- Online system would require: (line 1325)
  - a) Name
  - b) Address
  - c) DOB
  - d) Drivers license/state ID number OR last 4 of SSN
  - e) Applicants attestation to the truth and accuracy of the info submitted.
- Signature comes from “a government database” or via a “signature card” the BOE must mail to voter when they register via online. (line 1354, more below)
- SOS compares data submitted to info in a “government database” associated with applicants DL#/State ID# or the last 4 SSN (line 1362)
- SOS determines if valid then forwards to BOE (line 1368)
- If voter has electronic signature on “government database” that shall be used for voter registration (line 1375)
- If voter is updating info, the previous signature in county database shall be used as voter signature (line 1382)
- BOE sends notification of registration signature card that instructs the voter to sign and return the card, SOS prescribed form (line 1397)
- BOE must prepay return postage for signature card (line 1411)
- Voter can also use notice of change of name or residence, poll list, signature poll book, provisional ballot or absentee ballot application to provide signature. (line 1417)
- Until the BOE has obtained the signature, the applicants signature on a petition is not valid (line 1424)
- If the majority of precinct election officials agree the signature of a voter doesn’t match the voter must vote provisionally (line 1730)
- If the elector’s registration does not have a signature because of online registration without a signature on file “it shall not be necessary to compare the” signature and the vote would vote a regular ballot (line 1737)
- Removes several restrictions on persons who register applicants (line 2598)

Ken noted that House Bill 179 requires that the signature would come from the Bureau of Motor Vehicles. The Secretary of State would then send the notice and allow the voter to opt out. Tim Ward talked about the many people who do not want to register to vote because they do not want to serve on jury duty. Ken reported that after 21 days the person is

registered. The biggest discussion on House Bill 181 today surrounded the automatic registration of high school Seniors. This bill would require a student graduate to qualify for automatic registration which someone mentioned might be considered discriminatory especially in counties with low graduation rates. Other thoughts:

Many cancellation requests  
How would we screen for non-citizens  
Automatic registration is not going to get people to the polls  
Matt Tlachac says the 21 days is confusing  
This will put lots of dead weight in our registration rolls  
Cost of extra ballots at 101%

The discussion ended with Matthew Tlachac moving we not support these bills. Ken Terry seconded the motion. The motion passed.

House Bill 189 would require a name and photo identification for every in-person voter. The photo identification could be a driver's license, or a commercial driver's license or a United States passport. If the voter cannot provide one of these, they must vote provisionally. Lisa Welch mentioned the Amish population in her county where for religious reasons they do not have a photo identification. Voting by mail would be the only way to avoid the photo identification. Penny Brooks reminded us that the goal is to get away from provisional votes. There was a provision to provide a photo identification for those who can't afford to pay. The voter could have the identification card replaced once, it would then be the voter's problem beyond that. There was discontent among our group as the opinion was that what we have works. Debbie Reiter moved we not support HB189. Kathy Meyer seconded the motion. The motion passed.

HB 193 deals with address confidentiality. This is the version our association opposes. There are so many steps it would make the Secretary of State's office a mail house. For domestic violence victims in particular, we prefer the model used for peace officers. There are competing versions of this bill out there so it was decided to table this one for the time being. We will wait a bit to make a decision.

SB158 was the last bill on our agenda, but it again deals with automatic registration. The committee felt like we had already said everything on this issue.

The bill for moving the primary date will be coming up again this week. The consensus of the group was that if the presidential primary cannot be moved back to May, our committee does not really have an opinion on the moving of the March presidential primary. Someone did mention that the weather is more of an issue in March. Poll workers are harder to get in March as many of them winter in the South and would not be in Ohio to work the primary.

Here is an update on the bill to move the primary. Our trustees voted to take no position on the legislation.

Aaron

<p>SENATE STATE AND LOCAL GOVERNMENT Wed., May. 20, 2015 Sen. LaRose: <a href="tel:614-466-4823">614-466-4823</a></p>	
<p><b>HB153</b></p>	<p><b>PRESIDENTIAL PRIMARY DATE (Dovilla M)</b> To change the date on which presidential primary elections are held.</p> <p>Sponsor Rep. Dovilla said the bill is very simple and moves the presidential primary election one week, taking it from the first Tuesday after the first Monday in March to the second Tuesday after the first Monday in March.</p> <p>Moving the date will allow Ohio to conform to Republican National Committee (RNC) standards for primaries and give the winner of the Republican primary for president a winner-take-all system for</p>

delegates.

Chairman LaRose asked if the move will have any kind of disproportionate impact on any party. Dovilla said it doesn't have a negative impact on any party, but could have a negative impact on Republicans if it does not move. He said it would require there to be election of delegates in the 16 congressional districts rather than a winner take-all. He said that would be out of conformity with what the nation has had traditionally with the Electoral College and more recently with party elections.

LaRose said he has heard concerns that moving the primary would set up a scenario for voting in the presidential primary different from what people are used to. He pointed to Ohio's early voting system as a way for people to still cast a ballot on the first Tuesday after the first Monday if they chose to. Dovilla said he trusts that the voters in Ohio recognize when an election is in a particular year. He said presidential primary elections have been moved around many times over the years, especially to help parties.

Sen. Brown asked how the move will impact filing deadlines for petitions. Dovilla noted a House amendment that allowed those that have taken out and circulated petitions with the old filing date to still be valid. He also said there is no material cost to changing the date.

Dovilla told LaRose that if the date is moved back another month instead of a week, it would put the filing deadline closer to the holidays.

LaRose said he plans to hold a second hearing and committee vote on the bill next week.

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The meeting was running long so the discussion on postmarks introduced by Deb Reiter will be moved to the next agenda.

Penny Brooks made a motion that the group adjourn. Ken Terry seconded the motion. The motion passed.

Respectfully submitted,

*Peggy Byers*

Peggy Byers