

Ohio Association of Election Officials

Legislative Committee Meeting

November 23, 2015

The legislative committee of the Ohio Association of Election Officials met on Monday, November 23, 2015 at 2:00 PM on a conference call. Tim Ward presided. Aaron Ockerman, executive director of the Ohio Association of Election Officials was also present and assisted with the lead when asked.

Peggy Byers called the roll. Present were: Paul Adams, Penny Brooks, Peggy Byers, Bruce Carter, Amy Grubbe, Sharon Locke, Lyn McCoy, Kathy Meyer, Debbie Reiter, Brian Sleeth, Matt Tlachac, Jan Kelley, Debbie Quivey, Julia Leathers, Shantiel Soeder, Tim Ward and Lisa Welch.

Dale Fellows was a guest today.

The minutes had been sent out by email. Amy Grubbe moved a motion the minutes be accepted. Paul Adams seconded the motion. The motion passed.

Ken Terry had prepared this review before our meet in October:

SB 63 Review (online Voter Registration)
10/5/15

- Changes definition of party candidate from a candidate who "Claims to be member of" to "is affiliated with a" (Line 117)
- Adds space on registration to write in political party the applicant wishes to be affiliated with (line 411)
- If applicant doesn't provide party or a name that isn't a recognized party the applicant is registered as non-affiliated (Line 420)
- If applicant already affiliated with a party and doesn't write a different valid party in that line stays affiliated with current party (line 432)
- Requires SOS to regularly transmit to BOEs to ensure accuracy of SWVRDB, look for duplicates and unqualified voters (Line 566)
- Requires SOS to conduct annual review of SWVRDB that compares SWVRDB to BMV, including US Citizenship status, includes cancellation of registration time lines and referring to attorney general for non-citizens that are registered (Line 689)
- Requires department of health to send death notices to BOE by the last day of each month (Line 744)
- Creates online registration (Line 943)
- Electors political party shall be determined from; Registration, most recent declaration of party, or casting a partisan ballot in partisan primary (Line 1138)
- Allows an elector to file a "declaration of political party affiliation" on SOS prescribed form (Line 1156)
- Allows electors to vote any party during primary (Line 1624)
- Removes ability for poll worker to challenge voter based on party chosen (Line 1652)
- Requires partisan candidates to be affiliated with the party they file for as of the date of filing declaration of candidacy (Line 1683)

Aaron updated us today that this bill has passed the Senate, but there has been no hearing in the house. There has been discussion about how to handle the party affiliation as the legislators do not appear to have a clear plan about where to go on that matter. Aaron asked that we reach out to our representatives to give

them our thinking on this topic. This legislation would definitely save money for everyone and it would be better for the voters. Paul Adams from Lorain County asked what the basis is for the concern for the party affiliation. Aaron indicated he feels they just have not had enough time to digest this yet. What would be the political ramifications for the party with this issue?

Amy Grubbe, Erie County, spoke to HB 309 (postmarks) at our October meeting. Kathleen Clyde brought this legislation forward. Amy says this legislation basically follows UOCAVA. If the voter signed inside envelope with a legitimate date, but there is no postmark, the vote may count. The legislation would give the benefit of the doubt to the voter. Aaron gave us this summary:

1. The return envelope does not have to have the postmark to count.
2. If we received an absentee from the post office in the 10 days after the election, these envelopes would not require the postmark to count. The identification envelope inside could not have a date after the election and still count.
3. Anything received after the 10th day would not count

Aaron indicated he felt Rep. Clyde is intentionally trying to give voters an additional day. There was some discussion about the possibility of people trying to perpetuate fraud by dropping in ballots to something like a drop box where they knew the envelope was not going to be postmarked. Tim Ward expressed concern that this could allow people who procrastinated the ability to cancel out someone's vote who had followed all the rules. Jan Kelley from Montgomery County expressed that this is a slippery slope we are headed down and we should not give a knee jerk reaction to this problem. Some wanted us to hammer on the post office to do their job. Amy took time to remind us that this legislation is fashioned after the present UOCAVA rules. Dale Fellows told us that when they first had a big problem with this in Lake County, Jan Clair talked with the post office and was able to nearly eliminate this problem. Dale mentioned Brian Williams' report that said there have been many changes in the Akron post office that may have contributed to the problem that resulted in the 900 votes not being counted in Summit County in the November 2017 election. Tim Ward furthered with postal workers can affect the return and the results. Paul Adams reported they had 17 rejects in Lorain County this time because of postmarks. Debbie Reiter furthered with legislation needs to address this. We don't control the post office. The post office would not appreciate a visit from each of the 88 counties. We would then have to worry about the differences in the solution in the 88 counties. Aaron tried to get us to wrap up this conversation with a plea that we need to be responsive. Aaron wants us to think about our wants and wishes on this matter, email him, and he wants to go back to Representative Clyde with ideas.

This was Ken's recap on the address confidentiality legislation:

LSC 131_1199 Review
6/5/15

- Definitions of Address, Confidential address, governmental entity, guardian, incompetent, parent and ward (Line 16)
- A person may apply to SOS to have an address designated by SOS to serve as the person's address and refers to "Subject to division (E) of this Section" but there is no division (E) (Line 34)
- The application must contain the following: (Line 41)
 - Sworn statement that the applicant fears for their safety because they are a victim of domestic violence, stalking or human trafficking.
 - Designation of SOS as agent for the purposes of the process and receipt of mail
 - The mailing address and telephone number of the applicant

- The address the applicant does not want disclosed
- Signature & date
- Application must be filed with SOS (line 62)
- SOS certifies the application issues a unique program ID number and info on how to register to vote and vote as a program participant. (Line 65)
- Certificate is valid for 4 years. (line 76)
- Program participant may renew the certification via a renewal procedure put in place by SOS. (line 81)
- Participant may request that a government entity other than BOE use the address designation provided by SOS (line 88)
- Participant may use the address as the address for their place of employment (line 96)
- SOS shall forward all mail sent to that address daily in a separate package. (line 99)
- SOS may contract with USPS for special rate (line 106)
- Address use does not apply to municipal-owned public utility. Those addresses are not public record and shall not be released (Line 110)
- Program participant may apply to BOE to request that the address be kept confidential. (Line 116)
- Program participant may only vote by absentee or provisional (no in person or mail requirement in this section) (Line 137)
- If participant signs a petition, may provide ID number instead of address. (line 145)
- When an app is received by BOE, the Director shall contact SOS and verify ID number, application shall be stored so that only the director, deputy director and members of the board have access to the application. (Line 152)
- Participants ID number goes in place of address in SWVRDB. (Line 162)
- If participant already registered, address shall be removed from VR record, SWVRDB, any poll book, poll list or signature book (Line 166)
- ID number shall appear in place of address in participants record in VR and SWVRDB (Line 194)
- No info of participant shall be included in any poll book, list, or a signature book. (line 200)
- No info, even the name, shall be available to public via SWVRDB (Line 203)
- Process to change name/address (Basically same as to apply) (line 212)
- SOS shall cancel certification of participation in program if the Application had a false statement, the participant filed a written request to ease being a participant, or the certification has expired. (line 276)
- If participant moves or changes name they may vote provisionally on election day at the new precinct (line 1323)
- Changes to provisional ballot form to include program ID number (Line 1800)
- If provisional voter a program participant, address does not need to be included on provisional form (Line 1924)
- Observers not allowed to witness the determination of eligibility of provisional ballots of program participants. (line 2118)
- Changes absentee application to include space to write program participant ID number (Line 2177)
- If absentee voter a participant address does not need to be on absentee form (Line 2203)
- Absentee requests still sent to BOE, BOE sends to SOS who sends to voter.
- Address not pre-printed on ID envelope of participant's absentee (Line 2287)
- Absentees from program participants required to be centrally counted (line 2298)
- Absentee ID envelope not incomplete if it does not contain address of program participant (Line 2399)
- Observers not permitted to witness the examination of absentees cast by program participants (Line 2442)

On Thursday, November 19, Aaron sent these updates:

The Sub Bill changes include language revisions with the following four issues:

- 1. Remove access to the CAP addresses through the court and replace with a process for any law enforcement agency chief and prosecuting attorney, and their designees, to have access through OHLEG. This will provide an audited trail of access.***
- 2. Specify that a person may only enter program when changing residences.***
- 3. Address concern that the proposed statute may conflict with the current general statute on specifying when "service is complete."***
- 4. How other states have drawn the line between keeping aggregate data public and protecting personally identifiable info from disclosure.***

The discussion today was there was not much update on this issue. This is the bill getting the most attention according to Aaron. Tim Ward raised some questions. How does a board challenge a voter who is not on the roles at all? Less than 30 days before the election, but there needs to be a change, how do we deal with that? How is this going to affect the Jury pool? Saturday deadline at noon, how is this going to work? How are these people going to be deleted? Aaron says he is getting ongoing questions from Representative Duffey. Aaron also wants us to stay in contact with him with our concerns.

Aaron expressed that he had been asked by one of our Boards to explore the possibility of a Board Member voting by electronic means. Aaron noted we have some snowbirds on our Boards and this would be helpful in this case. Could we avail ourselves of technology? Aaron has been doing some personal research in this matter. Are there questions or concerns on this matter from our group? Tim Ward wanted to know if Aaron had talked to the Secretary of State's office. Aaron had not. Some contributed that they tried to prepare their calendars a full year in advance so Board members would make themselves physically present. Some of the discussion today said current Sunshine laws would demand a physical presence. Paul Adams asked if any other entities permit a vote by Skype or other electronic means. Penny Brooks mentioned the need for a Board Member to inspect a petition or ballot. Aaron says he will put all of this together and report at a future meet.

We then moved on to campaign finance issues. Here is Ken's recap (Senate Bill 206):

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)

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Shantiel Soeder and the crew in Cuyahoga County worked closely with Senator LaRose in drafting this legislation, so Aaron asked her to chime in today. The biggest concern expressed today was for candidates who do not have the technological savvy to submit a report online. Aaron reported the legislation does exempt any elected official who makes less than \$5000 per year or if they raise less than \$2000 for their campaign. Matt Tlachac and Pat McDonald came down to Columbus to speak on this legislation for the Association. Aaron expressed his thanks and stated that he felt this was a good hearing. The exception to this was Senator Bill Seitz who literally threw a temper tantrum because he did not see the need for this legislation. Matt Tlachac revealed that 74% of candidates and elected officials file their financial disclosure documents online. Matt says this is a testament that some people enjoy filing online. Aaron reported he expects this legislation to move forward.

Ken's recap for SB 212 (reduction of number of poll workers and addresses the death notice):

SB 212 Review

10-5-15

-If electronic poll books are being used in a multi precinct polling location the BOE can choose to appoint not less than 2 precinct election officials per precinct (Line 81)

-If BOE determines that an elector's registration was canceled in error the BOE shall restore the registration and treat it as though it was never canceled

Aaron expressed he has been in a steady dialogue with the sponsors, with those in the Senate Democratic caucus, and with the advocacy groups that have questions. These groups have proposed some amendments on the death notice legislation. Aaron wanted some feedback today. If someone is not deceased, but removed from the rolls, Aaron said his understanding was that if this was discovered after the close of registration for an election, the voter would get a provisional ballot and after doing the research, the Board of Elections would remedy this situation. Paul Adams pointed out that if this was discovered well before the election, the records would be fixed and the voter would not have to vote provisional. Do we want to codify this? Tim Ward was concerned that dead people would be voting or someone could come in to vote for a dead person. Tim asked if we could address this with a Directive from the Secretary of State rather than codifying this issue. After much discussion, Aaron said he had no problem putting this in a Directive rather than have it placed in the revised code.

In regards to reducing poll workers, Aaron asked if we would be comfortable in exempting gubernatorial or Presidential Elections. This all depends on the number of voters in the precinct, but it was felt that it would be good to have the option to reduce poll workers. Each county knows its own needs. The decision today was to let this up to the individual Board of Elections.

The Election Administration Plan has us put a formula in for allocating voting machines. Would we be willing to put our formula for poll workers in the Administration plan? This bill is not going anywhere in the next month or two. We were to think about all of these things. Aaron said he had no problem going back to the sponsors to tell them we were mulling over these issues and we would get back to them.

Eric Morgan had sent Aaron this email:

The Miami County Board of Elections would like to propose that the provisional envelopes include a section that would allow the PEO to include the precinct number as well as the party when applicable. We would also like a "office use only" section to input the voter's county ID number. Any feedback would be appreciated. Thanks.

The discussion revealed that many counties already apply a label for this purpose. We tabled for today and will pursue at the next meeting. We would not proceed on this issue before the Primary 2016 Election as many counties are already ordering envelopes at this point.

Rep. Scherer had asked Aaron about some potential changes in petition law. He now wants it to say that if you file with a political party, but your petition comes up short, you can file as a write-in for that same office. There was some concern about creating write-ins. Aaron was not sure if the legislation was to include both the Primary and General Elections. There was some discussion that not all counties handle the petition process in the same way. Tim Ward felt this was a local issue and that we should not penalize all boards with this issue. Aaron was going to let Rep. Scherer know that we have some concerns on this. It was noted that there was a School Board member in Rep. Scherer's district who did not make the ballot. This situation prompted the initiation of this conversation. It was noted we could have a class again at conference on petitions. We could have a Best Practice that was presented by the Trustees of the OAEO.

Rep. O'Brien from Trimble County wanted legislation to require all candidates for auditor have a college degree. If no qualified candidates come forward, the Board of Elections could extend the term of the current auditor. There was not much response to this idea. Aaron said there was no bill number yet. 'A college education is no guarantee of common sense' was a comment today.

Amy led the discussion on the legislative review of directives. There were some directives put up on the SOS website for general comments. Amy was wondering if the legislative committee should be reviewing these. Someone added the OAEO should be looking at these also. Aaron could have this conversation with the Secretary of State. Aaron will do that and get back to us. The Election Official manual is on the website just now. We, the legislative committee, should have some insight before directives are presented for general input. We speak louder as a group. Aaron will have this conversation with Matt Damshroeder. There should be bipartisan review of any suggestions.

Shawn Stevens, Penny Brooks and Aaron have been in conversation with the county commissioners association to explore the potential for machine funds from the state. The plan would be similar to that used for the electronic poll books. The Secretary of State is now putting in a capital bill request. Could we do this over a 4-year period rather than in one or two years? There could be money in the budget for machines. Those who just bought new machines could be grandfathered for these funds. There was a very positive response from the commissioners' association to this idea of providing funds for new machines. How would

we work out the split? Who would go first? Who would go last? All and all, this was a very positive conversation. Aaron and Penny were pleased.

Paul Adams wanted our group to discuss a joint effort on our part to have unnecessary primary elections eliminated. Paul told us of a situation in his county where a candidate withdrew before the 70th day before the election, but they still had to have a primary even though that person's name did not appear on that ballot. That election cost the city \$12,000. Hamilton County has had a similar situation. The wording in the code ties the hands of the county to eliminate the election when there is not a competitive race. Many on the call expressed that something similar had occurred in their county. This creates lots of expense for an unnecessary cause. Paul has had conversations with Carrie Kuruc at the Secretary of State's office. Paul Adams will work on a solution and Aaron will help Paul draft legislation to remedy this situation.

Reemployed people through PERS continue to struggle with the new rules on health care. Senator Larose has been working with Aaron to draft legislation that would have reemployed Board of Elections people stay in the regular healthcare system. This was the only solution they could come up with that would be viable for Board of Election employees. There is some concern that some Board personnel in smaller counties will be paying more for healthcare than they make. Aaron did warn the group that nothing will probably happen before the end of the year on this matter. Franklin County has 60 people who code their DREs who will be affected by this new rule. Aaron expressed that whether it is two or sixty employees, it does hurt.

Aaron mentioned Senator Sykes proposal relative to judges being able to extend voting hours. There was no real time to delve in to this today. Aaron will keep us informed as the legislation develops.

Kudos from Aaron, many of the pieces of legislation on the agenda today have not been introduced yet. We have also wanted to get out in front of many issues rather than being reactionary. Numerous legislators have been reaching out to us for our opinions and advice. Aaron says the agenda today is proof that we are making progress.

Lisa Welch made a motion that the group adjourn. Matt Thachac seconded the motion. The motion passed.

Respectfully submitted,

Peggy Byers

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