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Fiscal Note & Local Impact Statement

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Version: As Reported by House Government Oversight

Primary Sponsors: Reps. Seitz and Ray

Local Impact Statement Procedure Required: No

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Highlights

The bill enacts the Ohio Election Security and Modernization Act, which modifies election law and affects elections administration in several ways. Overall, the bill would result in some cost increases for the Department of Public Safety (DPS) as well as election administration cost reductions for the Secretary of State (SOS) and county boards of elections. The following provisions have fiscal effects:

- **Electronic pollbook funding.** The bill appropriates \$7.5 million in FY 2023 from Dedicated Purpose Fund (DPF) appropriation item 100668, Electronic Pollbooks, under the budget of the Department of Administrative Services to pay for county electronic pollbook acquisitions. The bill allocates funding to each county board of elections based upon the number of registered voters in each county.
- **Noncitizen IDs.** The Bureau of Motor Vehicles, under the Department of Public Safety, may incur additional costs to create and implement a noncitizen notation for commercial driver's licenses (CDL), driver's licenses, and state identification (ID) cards, and to issue a free replacement card if a noncitizen becomes a U.S. citizen in between renewals in order to remove the noncitizen notation. By having to forgo the fees otherwise assessed for driver's licenses and state ID cards, the bill's free replacement cards may also result in some degree of revenue loss, the magnitude of which is uncertain.
- **August special elections.** The bill eliminates the ability of political subdivisions to conduct special elections in August, except during a Congressional special election or if a political subdivision is in fiscal emergency. Under current law, political subdivisions pay the full cost of placing these items on the special election ballot. Under the bill, political subdivisions would be responsible only for their proportionate share of printing and advertising costs along with the other measures on the primary or general election ballot.

- **Ballot Printing Contracts.** The bill modifies the process by which a board of elections must award any ballot printing contract in excess of \$25,000. Overall, this may potentially reduce ballot printing costs for some county boards of elections, however, the magnitude of these cost savings is unclear.
- **Absent voter ballot applications.** The bill eliminates the authority of the Secretary of State, or county boards of elections to mail unsolicited absent voter ballot applications to registered voters. The SOS spent just below \$3.7 million for mailings during the November 2020 general election, and just over \$2.3 million for the November 2022 general election.
- **Absent voting.** The bill modifies the timelines associated with absent voting by mail and in-person absent voting by reducing the number of days available for voting by these methods. Ultimately, county boards of elections may see some minimal cost savings associated with these changes.

Detailed Analysis

Overview

The bill enacts the Election Security and Modernization Act which makes numerous changes to the Elections Law. Provisions that have a fiscal impact on the Secretary of State (SOS), the Bureau of Motor Vehicles (BMV), and local boards of elections deal with: (1) providing county boards with funding to buy electronic pollbooks, (2) requiring the BMV to produce a new type of ID to be given to noncitizens, (3) limiting when political subdivisions may hold August special elections, (4) changing ballot printing contract procurement procedures, and (5) revising absent voting and other election administration changes. Overall, the provisions of the bill would result in cost increases related to identification (ID) production for the BMV. The bill will reduce election administration costs related to absent voter mailings for the SOS. Concurrently, some provisions of the bill would potentially result in some net cost savings for county boards of elections.

Electronic pollbook funding

The bill appropriates \$7.5 million in FY 2023 from Coronavirus Relief Fund (Fund 5CV3) line item 100668, Electronic Pollbooks, under the budget of the Department of Administrative Services (DAS). This money is to be used to pay 85% of the projected allocation costs of acquiring electronic pollbooks and ancillary equipment for each county. The bill requires DAS, in conjunction with the SOS, to allocate the funding to each county board of elections based upon the number of registered voters in each county. The bill further specifies that any county that has purchased electronic pollbooks after December 31, 2019, but prior to the effective date of the bill, may be reimbursed for up to 85% of the acquisition cost, not to exceed the county's allocated portion of the appropriation.

Noncitizen ID cards

The bill requires every commercial driver's license (CDL), driver's license, and state ID card issued to a person who is not a U.S. citizen to include a notation indicating that the person is a noncitizen. The bill also requires the BMV, under the Department of Public Safety, to issue a free replacement CDL, driver's license, or state ID card if the person becomes a U.S. citizen in between renewals in order to remove the noncitizen notation. The bill specifies that the replacement card is to be identical to the card being replaced minus the noncitizen notation.

As a result, the BMV will likely incur additional one-time costs to design and incorporate some form of noncitizen notation to comply with the bill's requirements. The bill does not specify how the notation is to be made or where on the card it is to appear. Presumably this offers the BMV some flexibility to implement the notation requirement in a manner that fits into existing policies and with minimal fiscal effect.

The bill may also result in a revenue loss for the BMV and deputy registrars to issue a replacement CDL, driver's license, or state ID card to each noncitizen who becomes a U.S. citizen before the card's expiration and is entitled to such a replacement under the bill at no cost. The magnitude of any loss experienced is difficult to predict, as the number of noncitizens with a CDL, driver's license, or state ID card that become citizens annually and would qualify for a replacement under the bill is not readily available. The amount of revenue loss will also depend upon whether the replacement card issued is a CDL, driver's license, or state ID card, and the validity period (four-year or eight-year), as the fee assessed varies. The BMV currently incurs production and distribution costs of \$1.47 per CDL, driver's license, or state ID card issued.

August special elections

By eliminating the ability of county boards of elections, political subdivisions, and taxing authorities to hold August special elections, these entities would avoid the cost of doing so in the future. When special elections are held, the political subdivision or taxing authority is responsible for the costs of conducting them. These costs fluctuate depending on the number of voting precincts involved. Overall, the per-precinct costs of conducting an election varies based upon the precinct location and number of voters in that precinct. Typically, these costs vary from between \$800 to \$1,000 per precinct in rural precincts to approximately \$1,600 to \$2,000 for urban precincts. For the August 2, 2022, special election, there were 29 local special election ballot questions statewide. If these measures are instead placed on a primary or general election ballot, the entity placing the measure on the ballot would be responsible only for its proportionate share of ballot printing costs and ballot advertising costs.

Despite the general prohibition, the bill allows for political subdivisions or taxing authorities to conduct an August special election in two circumstances. The first is when it is held at the same time as a special election to nominate or elect a candidate for the U.S. House of Representatives. In such cases, a political subdivision or taxing authority whose territory is located entirely within the congressional district may hold a special election for an office, ballot question, or ballot issue. The second exception is when a political subdivision or school district is in fiscal emergency. In such cases, those entities may conduct an August special election, regardless of whether or not there is a congressional race. As of December 2021, there are 12 local governments but no school districts in fiscal emergency.

Ballot printing contracts

The bill modifies the process by which a board of elections must award any ballot printing contract in excess of \$25,000. Overall, the bill may potentially reduce ballot printing costs for some county boards of elections, but the total magnitude of ballot printing cost reductions is uncertain. The bill makes two primary changes to the bidding process for ballot printing contracts. First, the bill modifies the bidding procedures for election ballots in amounts of over \$25,000 by requiring a vendor to post a performance bond equal to 10% of the estimated ballot

printing costs. It is uncertain as to whether or not the required performance bonds would impact the number of vendors bidding on a printing contract.

The more significant potential fiscal impact under this provision, however, is from eliminating the current law requirement that all ballot printing contracts be awarded to vendors within the state. It is possible that allowing out-of-state vendors to bid on these contracts could result in lower printing costs. However, it is unclear how much of an impact this change may have on ballot printing costs overall. As an example, during the CY 2020 election cycle, the cumulative ballot printing costs for all county boards of elections across the state was just over \$5.4 million. The printing price per ballot typically varies between primary and general elections, primarily due to the number of printed ballots that are needed. Several additional factors have a bearing on ballot printing costs. First, the total number of printed ballots needed generally impacts the printing cost per ballot. Secondly, whether the ballots are printed as absent voter ballots or election day ballots also impacts the rate. Finally, the ballot printing costs are impacted by the length of the ballot. The costs are higher when there are multiple ballot initiatives or ballot questions to vote on. Of all these, the ballot length typically has the greatest impact on cost. The table below summarizes the range of ballot printing costs by ballot type as well as primary or general election for the 2020 election cycle.

Ballot Printing Costs – Cost per Ballot During the 2020 Election Cycle			
Ballot Type	Lowest Rate	Highest Rate	Statewide Average Rate
Primary Election – Absent Voter Ballot	10¢	\$2.10	40¢
Primary Election – Election Day Ballot	12¢	52¢	30¢
General Election – Absent Voter Ballot	10¢	\$2.10	39¢
General Election – Election Day Ballot	12¢	52¢	30¢

Data reported to Secretary of State by individual county boards of elections.

As the table above shows, the average per-ballot printing cost ranged from as low as 10¢ per ballot to as high as \$2.10 per ballot. Overall statewide, ballot printing costs ranged from between 30¢ to 40¢ per ballot. LBO does not yet have these costs for the 2022 election cycle; however, the projected per-ballot costs are likely to be very similar to those listed in the table above. While it is possible the ballot printing changes in the bill may reduce some of these printing costs, the extent of those potential cost reductions is not clear.

Absent and early voting

Absent voter ballot applications

The bill eliminates the current law authority that allows the Secretary of State to mail unsolicited applications for absent voter's ballots to individuals for a general election if the General Assembly appropriates funds for that particular mailing. The bill additionally prohibits the Secretary of State or any other public office from prepaying the return postage on an application for absent voter's ballots or on the ballots themselves. Overall, these changes would

eliminate any postage and mailing costs to the Secretary of State or any applicable boards of elections. These mailing costs are paid from the Absent Voter Ballot Mailing Fund (Fund 5RG0). The cost of these mailings was just below \$3.7 million for the November 2020 general election and just over \$2.3 million for the November 2022 general election.

Absent voting by mail

The bill shortens the deadline to submit an application to cast absent voter's ballots by mail from noon on the third day before the election day to the close of business on the seventh day before election day. This applies to applications delivered to the office of a board of elections either in person, by mail, or online. Shortening this deadline may reduce the number of absent voter ballots requested and returned, but to what degree is unclear. If this were the case, county boards of elections would see some cost savings in postage costs. During the November 3, 2020 general election, there were almost 2.3 million absent voter ballots mailed to voters. Of that amount, about 2.1 million were returned to the board of elections either through the mail or delivered to the board by the voter.¹

Online applications

The bill requires, no more than one year after the effective date, that the Secretary of State establish a secure online system for voters to apply and receive an absent voter's ballot by mail. This system must allow for all completed online applications to be transmitted to the relevant county board of elections. The Secretary of State has already begun procedures to develop and implement such a system. Thus, this provision in the bill does not impose any new costs on the Secretary of State.

Return procedures

The bill specifies that absent voter's ballots that are not returned to the board by mail must be personally returned to the office of the board of elections, and not to any other location, such as a drop box elsewhere in the county. The bill specifies that the board of elections can provide just one secure outdoor drop box on the premises of the board of elections. The board may do so from the period beginning on the first day after the close of voter registration before election day and ending at the close of the polls on election day. These provisions do not impose any additional costs on county boards of elections since the drop box provisions are permissive.

The bill specifies that absent voter ballots that are postmarked before election day must arrive at the board of elections by mail by the seventh day after the election rather than the tenth day as under current law in order to be counted. Correspondingly, the bill requires boards of elections to begin counting late-arriving and cured absent voter ballots and provisional ballots on the eighth day after the election rather than the eleventh day as under current law. Adjusting these timelines may result in some minimal number of absent voter ballots to be rejected by boards of elections. This may in turn result in a quicker counting of these late-arriving ballots.

¹ Ohio elections statistics from the Secretary of State can be accessed at sos.state.oh.us/elections/election-results-and-data/2020/.

In-person absent voting

The bill specifies that in-person absent voting must be permitted for all voters beginning on the day after the close of voter registration before an election and ending on the Sunday before the election, and prescribes a schedule of days and hours for in-person absent voting that must be used statewide. In effect, the bill eliminates one day of in-person absent voting, that being the Monday immediately preceding election day but in turn redistributes those six hours throughout the week prior. This provision does not appear to have significant fiscal impacts on county boards of elections. There may be some minimal cost savings for boards of elections that rent or otherwise acquire an early voting location outside of the office of the board of elections. During the 2020 general election cycle, only Lucas and Summit counties did so. During the 2020 general election cycle, there were approximately 1.3 million in-person absent voter ballots cast statewide. It is unclear as to the impact that removing one day of early voting on the total number of in-person absent voter ballots cast.

Other election provisions

The bill contains several other election administrative provisions that primarily codify existing SOS directives. The bill requires each board of elections to prepare and submit an Election Administrative Plan (EAP) before each presidential primary and each general election held in an even-numbered year. The bill also modifies the procedures for the pre-election testing of voting machines, which also conforms the law to current SOS directives. Finally, the bill removes a requirement that a high school student be a senior in order to serve as a precinct election official under the “Youth at the Booth” Program. This change would allow a greater number of students to be eligible for the program.