OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 293*
136th General Assembly

Bill Analysis

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Version: As Reported by Senate General Government

Primary Sponsors: Sens. Gavarone and Brenner

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SUMMARY

- Requires in general that all absent voter's ballots be delivered to the appropriate board of elections, in person or by mail, by the close of the polls (7:30 p.m.) on Election Day in order to be counted.
- Retains provisions of current law that allow uniformed services and overseas absent voter's ballots that arrive by mail after the close of the polls to be counted if they arrive by the fourth day after Election Day.

DETAILED ANALYSIS

Absentee ballot deadline

The bill requires all absent voter's ballots, other than uniformed services and overseas absent voter's (UOCAVA) ballots, to be delivered to the appropriate board of elections, in person or by mail, by the close of the polls (7:30 p.m.) on Election Day in order to be counted. Under continuing law, UOCAVA ballots that arrive by mail at the board after the close of the polls are eligible to be counted if they arrive by the fourth day after Election Day and the ID envelope is signed by the close of the polls.

Under existing law, all ballots delivered to the board in person must arrive by the close of the polls. However, ballots that are returned by mail and arrive at the board after the close of the polls can still be counted if they arrive by the fourth day after Election Day. In general, a ballot that arrives late by mail must be postmarked by the day before Election Day to show that the voter mailed the ballot before the close of the polls. (A postmark applied on Election Day would not prove that the ballot was mailed before 7:30 p.m.) A postmark applied by a postage meter is

* This analysis was prepared before the report of the Senate General Government Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

not valid for this purpose. UOCAVA ballots are not required to be postmarked and may contain a late or illegible postmark.[1]

Legal background

The validity of state laws that allow the counting of late-arriving absentee ballots is currently being litigated in several states, although not in Ohio.[2] In October 2024, the U.S. Court of Appeals for the Fifth Circuit ruled that Mississippi cannot accept late-arriving ballots for federal elections. The Court reasoned that because federal law requires all states to hold federal elections "on a single day," a state may not continue accepting ballots after that day. (By contrast, the Court found that the states *could* permit absent voters to submit their ballots in the days before Election Day because "the election results would not be 'decided or consummated before federal election day.'")[3] The U.S. Supreme Court has not yet announced whether it will hear an appeal of the decision, and the decision applies only in the 5th Circuit's jurisdiction of Mississippi, Louisiana, and Texas.

In March 2025, President Trump issued Executive Order 14248, *Preserving and Protecting the Integrity of American Elections.* Section 7 of the order (a) instructs the U.S. Attorney General to take enforcement actions against states that count late-arriving absentee ballots for federal elections and (b) instructs the U.S. Election Assistance Commission to withhold any available funding from those states.[4]

The executive order is being challenged in multiple pending cases. In July, the U.S. District Court for the District of Massachusetts issued a preliminary injunction that, among other things, prohibits the federal government from enforcing Section 7 against seven states that are involved in the case – California, Illinois, Maryland, Massachusetts, Nevada, New Jersey, and New York. In other words, pending a further court ruling, those states must be allowed to continue to accept late-arriving ballots. Two more states – Washington and Oregon – are currently seeking an order of that kind from the U.S. District Court for the District of Washington, but the court has not yet ruled.[5]

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[1] R.C. 3509.05. See also, R.C. 3501.32, 3511.09, and 3511.11, not in the bill.

[2] National Conference of State Legislatures, *Table 11: Receipt and Postmark Deadlines for Absentee/Mail Ballots* (August 1, 2025), available at ncsl.org via a keyword search for "table 11."

[3] *Republican National Committee v. Wetzel,* 120 F.4th 200, 204 and 208 (5th Cir. 2024), quoting *Voting Integrity Project, Inc. v. Bomer,* 199 F.3d 773, 776 (5th Cir. 2000).

[4] Federal Register, Executive Order 14248, Sec. 7 (March 25, 2025), available at federalregister.gov via a document search for "14248."

[5] *California v. Trump,* Case No. 25-CV-10810 (D. Mass. July 18, 2025) and *Washington v. Trump,* Case No. 2:25-CV-00602 (W.D. Wash. May 29, 2025).

HISTORY

Action	Date
Introduced	10-14-25
Reported, S. General Government	---

ANSB0293RS-136/ar