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H.B. 680
133rd General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsor: Rep. Abrams

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SUMMARY

Public officials' orders concerning elections

- Prohibits any public official from causing an election to be conducted other than in the time, place, and manner prescribed by the Revised Code.

Absent voting

- Shortens the deadline by four days, for all elections, to apply to receive absentee ballots by mail.
- Clarifies that the Secretary of State may not prepay the return postage on any applications for absentee ballots or on any absentee ballots themselves.

Use of federal CARES Act funds

- Directs the Secretary of State to use any funds received under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act through June 30, 2021, for certain purposes, including additional equipment, supplies, and recruiting and training election officials for the November 2020 general election.

DETAILED ANALYSIS

Public officials' orders concerning elections

The bill prohibits any public official from causing an election to be conducted other than in the time, place, and manner prescribed by the Revised Code. Under the bill, a public official is any elected or appointed officer, employee, or agent of the state or any political subdivision, agency, board, commission, bureau, or other public body established by law. (By its terms, this definition might appear to include a judge as a public official. However, the bill probably would

not prevent a court from ordering a change in an election procedure if the court found that the procedure in the Revised Code violated the Ohio or U.S. Constitution or a federal law.)¹

Under continuing law, the Governor may postpone an election, for not more than six months, in the event of an emergency resulting from enemy attack.²

Absent voting

Deadline to request ballots by mail

The bill shortens the deadline to apply to receive absentee ballots by mail. Under the bill, an elector's application must be received at the office of the board of elections by 12:00 p.m. on the seventh day before Election Day, instead of by 12:00 p.m. on the third day before Election Day, as under current law. By shortening that deadline, the bill provides more time for the board to process the application and mail ballots to the elector, and for the elector to receive, mark, and return those ballots to the board.³

Postage

The bill clarifies that the Secretary of State may not prepay the return postage on any applications for absentee ballots or on any absentee ballots themselves. Continuing law prohibits the boards of elections from prepaying that return postage.⁴

Use of federal CARES Act funds

The bill directs the Secretary of State to use any funds received under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act through June 30, 2021, for certain purposes. Ohio is eligible for about \$12.86 million in CARES Act grant funds through the U.S. Election Assistance Commission (EAC) to be used to cover additional costs associated with conducting the 2020 federal election cycle due to the COVID-19 pandemic. Under continuing law, any funds received from the EAC are deposited in Ohio's Help America Vote Act fund. Typically, the Controlling Board then authorizes the Secretary to spend those federal funds.

Under the bill, the Secretary must use any such funds for the following purposes:⁵

- To pay all costs associated with the completion of the March 17, 2020, primary election in accordance with H.B. 197. (H.B. 197 appropriated \$7 million to the Secretary for that purpose, so some of the expenses will already have been paid.)

¹ R.C. 3501.40. Under the constitutional doctrine of separation of powers, a bill cannot limit authority that another branch of government, like the courts, has under the Ohio Constitution. See, for example, *South Euclid v. Jemison*, 28 Ohio St.3d 157 (1986).

² See R.C. 161.09, not in the bill.

³ R.C. 3503.16, 3509.03, 3509.08, 3511.02, and 3511.04.

⁴ R.C. 3509.03, 3509.04, 3511.02, and 3511.04.

⁵ Section 3 of the bill. See also R.C. 111.28, not in the bill, and U.S. Election Assistance Commission, [2020 CARES Act Grants](#).

- To pay for costs associated with recruiting and training precinct election officials and temporary employees of the boards of elections for the November 2020 general election;
- To provide personal protective equipment for election officials, and to pay for cleaning and modifying the layout of polling places and the offices of the boards of elections to provide for adequate social distancing;
- To provide any additional electronics or related equipment needed to handle increased volumes of mail that may result during the November 2020 general election;
- To pay the cost of mailing an application for absent voter's ballots to each elector in Ohio for the general election to be held on November 3, 2020, if the Controlling Board approves the transfer of CARES Act funds for that purpose instead of the transfer of moneys from the Controlling Board Emergency Purposes/Contingencies Fund (Fund 5KM0) for that purpose, as permitted under the most recent main operating budget act.

Severability clause

The bill specifies that the items contained in the bill, and their applications, are severable. If any item is held invalid, the invalidity does not affect the bill's other items.⁶

HISTORY

Action	Date
Introduced	05-26-20
Reported, H. State & Local Gov't	06-04-20
Passed House (61-35)	06-04-20

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⁶ Section 4 of the bill. See also Section 395.20 of H.B. 166 of the 133rd General Assembly.