

As Reported by the Senate General Government Committee

136th General Assembly

Regular Session

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Am. S. B. No. 4

Senator Gavarone

A BILL

To amend section 3501.05 and to enact section 1
3501.055 of the Revised Code to establish the 2
Election Integrity Unit in the Office of the 3
Secretary of State and to modify the law 4
governing the prosecution of Election Law 5
violations. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3501.05 be amended and section 7
3501.055 of the Revised Code be enacted to read as follows: 8

Sec. 3501.05. The secretary of state shall do all of the 9
following: 10

(A) Appoint all members of boards of elections; 11

(B) Issue instructions by directives and advisories in 12
accordance with section 3501.053 of the Revised Code to members 13
of the boards as to the proper methods of conducting elections. 14

(C) Prepare rules and instructions for the conduct of 15
elections; 16

(D) Publish and furnish to the boards from time to time a 17
sufficient number of indexed copies of all election laws then in 18

force; 19

(E) Edit and issue all pamphlets concerning proposed laws 20
or amendments required by law to be submitted to the voters; 21

(F) Prescribe the form of registration cards, blanks, and 22
records; 23

(G) Determine and prescribe the forms of ballots and the 24
forms of all blanks, cards of instructions, pollbooks, tally 25
sheets, certificates of election, and forms and blanks required 26
by law for use by candidates, committees, and boards; 27

(H) Prepare the ballot title or statement to be placed on 28
the ballot for any proposed law or amendment to the constitution 29
to be submitted to the voters of the state; 30

(I) Except as otherwise provided in section 3519.08 of the 31
Revised Code, certify to the several boards the forms of ballots 32
and names of candidates for state offices, and the form and 33
wording of state referendum questions and issues, as they shall 34
appear on the ballot; 35

(J) Except as otherwise provided in division (I) (2) (b) of 36
section 3501.38 of the Revised Code, give final approval to 37
ballot language for any local question or issue approved and 38
transmitted by boards of elections under section 3501.11 of the 39
Revised Code; 40

(K) Receive all initiative and referendum petitions on 41
state questions and issues and determine and certify to the 42
sufficiency of those petitions; 43

(L) Require such reports from the several boards as are 44
provided by law, or as the secretary of state considers 45
necessary; 46

(M) Compel the observance by election officers in the 47
several counties of the requirements of the election laws; 48

(N) (1) Except as otherwise provided in division (N) (2) of 49
this section, through the election integrity unit created under 50
section 3501.055 of the Revised Code, investigate the 51
administration of election laws, frauds, and irregularities in 52
elections in any county, and report violations of election laws 53
to the attorney general or prosecuting attorney, or both, for 54
prosecution; 55

(2) On and after August 24, 1995, report a failure to 56
comply with or a violation of a provision in sections 3517.08 to 57
3517.13, 3517.20 to 3517.22, 3599.03, or 3599.031 of the Revised 58
Code, whenever the secretary of state has or should have 59
knowledge of a failure to comply with or a violation of a 60
provision in one of those sections, by filing a complaint with 61
the Ohio elections commission under section 3517.153 of the 62
Revised Code. 63

(O) Make an annual report to the governor containing the 64
results of elections, the cost of elections in the various 65
counties, a tabulation of the votes in the several political 66
subdivisions, and other information and recommendations relative 67
to elections the secretary of state considers desirable; 68

(P) Prescribe and distribute to boards of elections a list 69
of instructions indicating all legal steps necessary to petition 70
successfully for local option elections under sections 4301.32 71
to 4301.41, 4303.29, 4305.14, and 4305.15 of the Revised Code; 72

(Q) Adopt rules pursuant to Chapter 119. of the Revised 73
Code for the removal by boards of elections of ineligible voters 74
from the statewide voter registration database and, if 75

applicable, from the poll list or signature pollbook used in 76
each precinct, which rules shall provide for all of the 77
following: 78

(1) A process for the removal of voters who have changed 79
residence, which shall be uniform, nondiscriminatory, and in 80
compliance with the Voting Rights Act of 1965 and the National 81
Voter Registration Act of 1993, including a program that uses 82
the national change of address service provided by the United 83
States postal system through its licensees; 84

(2) A process for the removal of ineligible voters under 85
section 3503.21 of the Revised Code; 86

(3) A uniform system for marking or removing the name of a 87
voter who is ineligible to vote from the statewide voter 88
registration database and, if applicable, from the poll list or 89
signature pollbook used in each precinct and noting the reason 90
for that mark or removal. 91

(R) Prescribe a general program for registering voters or 92
updating voter registration information, such as name and 93
residence changes, by boards of elections, designated agencies, 94
offices of deputy registrars of motor vehicles, public high 95
schools and vocational schools, public libraries, and offices of 96
county treasurers consistent with the requirements of section 97
3503.09 of the Revised Code; 98

(S) Prescribe a program of distribution of voter 99
registration forms through boards of elections, designated 100
agencies, offices of the registrar and deputy registrars of 101
motor vehicles, public high schools and vocational schools, 102
public libraries, and offices of county treasurers; 103

(T) To the extent feasible, provide copies, at no cost and 104

upon request, of the voter registration form in post offices in 105
this state; 106

(U) Adopt rules pursuant to section 111.15 of the Revised 107
Code for the purpose of implementing the program for registering 108
voters through boards of elections, designated agencies, and the 109
offices of the registrar and deputy registrars of motor vehicles 110
consistent with this chapter; 111

(V) Establish the full-time position of Americans with 112
Disabilities Act coordinator within the office of the secretary 113
of state to do all of the following: 114

(1) Assist the secretary of state with ensuring that there 115
is equal access to polling places for persons with disabilities; 116

(2) Assist the secretary of state with ensuring that each 117
voter may cast the voter's ballot in a manner that provides the 118
same opportunity for access and participation, including privacy 119
and independence, as for other voters; 120

(3) Advise the secretary of state in the development of 121
standards for the certification of voting machines, marking 122
devices, and automatic tabulating equipment. 123

(W) Establish and maintain a computerized statewide 124
database of all legally registered voters under section 3503.15 125
of the Revised Code that complies with the requirements of the 126
"Help America Vote Act of 2002," Pub. L. No. 107-252, 116 Stat. 127
1666, and provide training in the operation of that system; 128

(X) Ensure that all directives, advisories, other 129
instructions, or decisions issued or made during or as a result 130
of any conference or teleconference call with a board of 131
elections to discuss the proper methods and procedures for 132
conducting elections, to answer questions regarding elections, 133

or to discuss the interpretation of directives, advisories, or 134
other instructions issued by the secretary of state are posted 135
on a web site of the office of the secretary of state as soon as 136
is practicable after the completion of the conference or 137
teleconference call, but not later than the close of business on 138
the same day as the conference or teleconference call takes 139
place. 140

(Y) Publish a report on a web site of the office of the 141
secretary of state not later than one month after the completion 142
of the canvass of the election returns for each primary and 143
general election, identifying, by county, the number of absent 144
voter's ballots cast and the number of those ballots that were 145
counted, and the number of provisional ballots cast and the 146
number of those ballots that were counted, for that election. 147
The secretary of state shall maintain the information on the web 148
site in an archive format for each subsequent election. 149

(Z) Conduct voter education outlining voter 150
identification, absent voters ballot, provisional ballot, and 151
other voting requirements; 152

(AA) Establish a procedure by which a registered elector 153
may make available to a board of elections a more recent 154
signature to be used in the poll list or signature pollbook 155
produced by the board of elections of the county in which the 156
elector resides; 157

(BB) Disseminate information, which may include all or 158
part of the official explanations and arguments, by means of 159
direct mail or other written publication, broadcast, or other 160
means or combination of means, as directed by the Ohio ballot 161
board under division (F) of section 3505.062 of the Revised 162
Code, in order to inform the voters as fully as possible 163

concerning each proposed constitutional amendment, proposed law, 164
or referendum; 165

(CC) Be the single state office responsible for the 166
implementation of the "Uniformed and Overseas Citizens Absentee 167
Voting Act," Pub. L. No. 99-410, 100 Stat. 924, 42 U.S.C. 168
1973ff, et seq., as amended, in this state. The secretary of 169
state may delegate to the boards of elections responsibilities 170
for the implementation of that act, including responsibilities 171
arising from amendments to that act made by the "Military and 172
Overseas Voter Empowerment Act," Subtitle H of the "National 173
Defense Authorization Act for Fiscal Year 2010," Pub. L. No. 174
111-84, 123 Stat. 3190. 175

(DD) Adopt rules, under Chapter 119. of the Revised Code, 176
to establish procedures and standards for determining when a 177
board of elections shall be placed under the official oversight 178
of the secretary of state, placing a board of elections under 179
the official oversight of the secretary of state, a board that 180
is under official oversight to transition out of official 181
oversight, and the secretary of state to supervise a board of 182
elections that is under official oversight of the secretary of 183
state. 184

(EE) Perform other duties required by law. 185

Whenever a primary election is held under section 3513.32 186
of the Revised Code or a special election is held under section 187
3521.03 of the Revised Code to fill a vacancy in the office of 188
representative to congress, the secretary of state shall 189
establish a deadline, notwithstanding any other deadline 190
required under the Revised Code, by which any or all of the 191
following shall occur: the filing of a declaration of candidacy 192
and petitions or a statement of candidacy and nominating 193

petition together with the applicable filing fee; the filing of 194
protests against the candidacy of any person filing a 195
declaration of candidacy or nominating petition; the filing of a 196
declaration of intent to be a write-in candidate; the filing of 197
campaign finance reports; the preparation of, and the making of 198
corrections or challenges to, precinct voter registration lists; 199
the receipt of applications for absent voter's ballots or 200
uniformed services or overseas absent voter's ballots; the 201
supplying of election materials to precincts by boards of 202
elections; the holding of hearings by boards of elections to 203
consider challenges to the right of a person to appear on a 204
voter registration list; and the scheduling of programs to 205
instruct or reinstruct election officers. 206

In the performance of the secretary of state's duties as 207
the chief election officer, the secretary of state may 208
administer oaths, issue subpoenas, summon witnesses, compel the 209
production of books, papers, records, and other evidence, and 210
fix the time and place for hearing any matters relating to the 211
administration and enforcement of the election laws. 212

In any controversy involving or arising out of the 213
adoption of registration or the appropriation of funds for 214
registration, the secretary of state may, through the attorney 215
general, bring an action in the name of the state in the court 216
of common pleas of the county where the cause of action arose or 217
in an adjoining county, to adjudicate the question. 218

In any action involving the laws in Title XXXV of the 219
Revised Code wherein the interpretation of those laws is in 220
issue in such a manner that the result of the action will affect 221
the lawful duties of the secretary of state or of any board of 222
elections, the secretary of state may, on the secretary of 223

state's motion, be made a party. 224

The secretary of state may apply to any court that is 225
hearing a case in which the secretary of state is a party, for a 226
change of venue as a substantive right, and the change of venue 227
shall be allowed, and the case removed to the court of common 228
pleas of an adjoining county named in the application or, if 229
there are cases pending in more than one jurisdiction that 230
involve the same or similar issues, the court of common pleas of 231
Franklin county. 232

Public high schools and vocational schools, public 233
libraries, and the office of a county treasurer shall implement 234
voter registration programs as directed by the secretary of 235
state pursuant to this section. 236

Sec. 3501.055. (A) There is in the office of the secretary 237
of state the election integrity unit. 238

(B) Under the direction of the secretary of state, the 239
election integrity unit shall do all of the following: 240

(1) Investigate allegations of election fraud and voter 241
suppression, including any alleged violation of Chapter 3599. of 242
the Revised Code, other than an alleged violation of section 243
3599.03 or 3599.031 of the Revised Code, on the unit's own 244
initiative or upon receiving a complaint; 245

(2) Allow the public to submit allegations of election 246
fraud and voter suppression to the unit; 247

(3) Refer allegations submitted to the unit or otherwise 248
investigated by the unit under this section to a prosecutor, a 249
law enforcement agency, or another state or federal agency for 250
further investigation or prosecution, as appropriate; 251

<u>(4) Submit a report to the governor and the general</u>	252
<u>assembly not later than the fifteenth day of January of each</u>	253
<u>year. The report shall include all of the following with respect</u>	254
<u>to the previous calendar year:</u>	255
<u>(a) The number of allegations the unit received from</u>	256
<u>members of the public;</u>	257
<u>(b) The number of allegations the unit investigated on its</u>	258
<u>own initiative;</u>	259
<u>(c) The number of allegations the unit referred to another</u>	260
<u>agency for further investigation or prosecution;</u>	261
<u>(d) All of the following concerning each allegation:</u>	262
<u>(i) The general nature of the allegation;</u>	263
<u>(ii) The county in which the violation is alleged to have</u>	264
<u>occurred;</u>	265
<u>(iii) Whether the allegation has been referred to another</u>	266
<u>agency for further investigation or prosecution, and if so, to</u>	267
<u>which agency;</u>	268
<u>(iv) The current status of the investigation or any</u>	269
<u>resulting criminal or civil proceeding.</u>	270
<u>(C) In performing its duties, the election integrity unit</u>	271
<u>may administer oaths, issue subpoenas, summon witnesses, compel</u>	272
<u>the production of books, papers, records, and other evidence,</u>	273
<u>and hold hearings.</u>	274
<u>(D) Within one year after receiving a referral for further</u>	275
<u>investigation or prosecution from the election integrity unit,</u>	276
<u>the prosecuting attorney shall either prosecute the violation or</u>	277
<u>provide to the election integrity unit a written statement</u>	278

explaining the reason for declining to prosecute the referral or 279
requesting any additional evidence needed to meet the prima 280
facie standard established under section 3599.42 of the Revised 281
Code. If the prosecuting attorney declines to prosecute the 282
violation within one year after receiving the referral, the 283
election integrity unit may refer the violation to the attorney 284
general for further investigation or prosecution. If the 285
prosecuting attorney or the attorney general requests additional 286
evidence, the election integrity unit shall provide such 287
evidence, if available, within ninety days after receiving the 288
request. Within one hundred eighty days after receiving the 289
additional evidence, the prosecuting attorney either shall 290
prosecute the violation or provide a written statement to the 291
election integrity unit explaining a reason for declining to 292
prosecute. If the prosecuting attorney fails to provide this 293
statement or prosecute within one hundred eighty days after 294
receiving the additional evidence, the election integrity unit 295
may refer the violation to the attorney general for further 296
investigation or prosecution. 297

Section 2. That existing section 3501.05 of the Revised 298
Code is hereby repealed. 299