



JON HUSTED
OHIO SECRETARY OF STATE

180 EAST BROAD STREET, 16TH FLOOR
COLUMBUS, OHIO 43215 USA
TEL: (877) 767-6446 FAX: (614) 644-0649
WWW.SOS.STATE.OH.US

ADVISORY 2011-07

October 14, 2011

To: All County Boards of Elections, Members, Directors, and Deputy Directors

Re: **Am. Sub. H.B. 224 (129th General Assembly)**

SUMMARY:

This Advisory alerts boards of elections to changes in the administration of elections resulting from the passage of Amended Substitute House Bill 224.

EXPLANATION:

Amended Substitute House Bill 224 received unanimous bipartisan support in both the Ohio House and Senate and was signed by the Governor on July 27, 2011. The new law makes changes to election administration, particularly in regard to absentee voting by uniformed services and overseas individuals. The law will take effect on October 27, 2011.¹

In light of the referendum petition filing that has stayed the effective date of a separate elections reform bill (Am. Sub. H.B. 194), and in order to eliminate confusion over the current status of the law governing elections, presented below is a list of the new requirements under Am. Sub. H.B. 224.

Voter Residency

- A person does not lose residency in Ohio if he or she moves out of the United States and does not become a resident of another state. The person's residence shall be the place at which he or she resided before moving out of the United States. R.C. 3503.02(G)(2).
- A person who was born outside the United States is deemed to have a voting residence in the state at the place in the precinct where the person's parent or guardian continuously resided for at least thirty days immediately before leaving the United States. R.C. 3503.02(G)(3), R.C. 3511.011(D)(2).
- If an address that is considered to be the place of residence for a qualifying voter who lives outside Ohio ceases to be a recognized residential address, the board of elections must assign that voter an address for voting purposes. R.C. 3503.02(G)(4).

¹ While some provisions were to take immediate effect, they relate to Am. Sub. H.B. 194, which has been stayed.

In –Person Absentee Voting

- In-person absentee voting ends at 6 p.m. the Friday before the election for non-uniformed military and overseas voters. R.C. 3509.03. For the November 8, 2011 general election, this means that non-UOCAVA in person absentee voting ends at 6 p.m. on Friday, November 4.
- Uniformed and overseas voters may vote in-person absentee until the close of the polls on the day of the general or primary election. They must vote at the board of elections office between 6 pm the Friday before the election and the close of the polls on the day of the election. R.C. 3511.10.

Uniformed Services and Overseas Voters Absentee Ballots

- A person who was born outside the United States may vote an absentee ballot. Such a person is deemed to have a voting residence in the state at the place in the precinct where the person's parent or guardian continuously resided for at least thirty days immediately before leaving the United States. An application for absentee ballot by a person born outside the United States must include a statement that the person's parent or legal guardian resided in Ohio for at least thirty days immediately before leaving the United States. R.C. 3511.011 (D)(2).
- Members of the National Guard and the organized militia are included in the definition of uniformed services voters and fall under RC Chapter 3511 for absentee voting purposes.
- A postmark is not necessary in order for a uniformed services or overseas absentee ballot to be counted. If a voted UOCAVA ballot is received by the board within ten days after the election, it shall be counted—regardless of whether it contains a timely postmark, a late postmark, or no postmark—as long as the voter signed the identification envelope no later than 12:01 a.m. on the date of the election. R.C. 3511.09 and R.C. 3511.11(C). Because the Secretary of State prescribed form for UOCAVA identification envelope does not contain a place for the military or overseas voter to provide the time at which the voter signed the envelope, any such timely received UOCAVA ballots should be presumed to have been signed by the statutory time.
- A uniformed services or overseas absentee voter will no longer be required to indicate on the absentee ballot return envelope that the voter be outside the United States on Election Day.
- The Federal Write-In Absentee Ballot, previously used only for federal offices, now may be used to vote for *all federal, state, and local* offices, questions, and issues. R.C. 3511.14.
- The declaration accompanying a Federal Write-In Absentee Ballot may be used simultaneously to register the person to vote if it is received no later than thirty days before the election.
- In addition to the family members already listed, a daughter-in-law and son-in-law may make application to have uniformed overseas absent voter's ballots mailed, e-mailed, or sent by fax. R.C. 3511.02(C).
- Each board of elections must prepare an election notice for each precinct for use with the

Federal Write-In Absentee Ballot. An *initial notice* must be prepared at least one hundred days before a regularly scheduled election and as soon as possible before an election that is not regularly scheduled. R.C. 3511.16. This initial notice shall contain the following:

- A list of all federal, state, and local offices the board expects to be on the ballot,
- A list of all questions and issues the board expects to be on the ballot, and
- Specific instructions on how a uniformed services or overseas voter must indicate his or her choice on the Federal Write-In Absentee Ballot.

After the date on which the ballot form is certified and no later than the date by which uniformed services and overseas ballots must be ready printed and ready for use, the board of elections must provide an *updated notice* with the following information:

- A list of certified candidates for each office on the ballot, and
- A list of all certified questions and issues on the ballot.

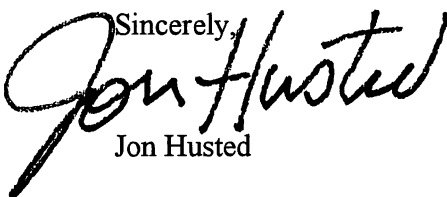
A uniformed services or overseas voter may request a copy of this notice to be sent via mail, fax, or e-mail. If the board of elections maintains an internet website, the board must post the initial notice and the updated notice on its website.

The preceding list of changes in law will be effective as of October 27, 2011.

Please note that because of the method of interpreting the interplay between HB 194 and 224, the following requirements of current law remain unchanged, despite being referenced in HB 224:

- When a voter provides a social security number for election purposes, the voter shall give *only the last four digits* of his or her Social Security Number.
- A U.S. Passport is not an acceptable form of identification for voting.
- A current state identification card is an acceptable form of photo identification. However, state identification card *number* may not be used to register to vote, to vote a provisional ballot, to apply for an absentee ballot, or to vote an absentee ballot.
- Poll workers shall direct a voter to the correct precinct when the voter is not eligible to vote in the precinct at which he or she appears. R.C. 3505.181(C).
- A voter who casts a provisional ballot has ten days after election day to bring acceptable identification to the board of elections.

If you have any questions concerning this Advisory, please contact your county's assigned elections counsel at (614) 466-2585.

Sincerely,

Jon Husted