

DIRECTIVE 2010-42

March 5, 2010

TO: BOARDS OF ELECTIONS

Members, Directors, and Deputy Directors

2010 PRIMARY BALLOTS

In accordance with R.C. 3513.05, attached are the forms of the official ballot certified by the office of the Secretary of State for use at the May 4, 2010 primary election. These forms are templates for ballot design, format and order of offices and issues for all voting systems. R.C. 3513.13 requires each board of elections to provide separate ballots for each political party listing candidates for nomination or election in a primary election. The wording of the two state issues must appear on all ballots throughout the state as certified to the Secretary of State by the Ohio Ballot Board. There will be no statewide write-in candidates.

Accompanying this Directive are the following ballot forms:

- Official Constitution Primary Ballot
- Official Democratic Primary Ballot
- Official Green Primary Ballot
- Official Libertarian Primary Ballot
- Official Republican Primary Ballot
- Official Socialist Primary Ballot
- Official Questions and Issues - state issues (certified text of two state issues)
- Official Questions and Issues - selected bond issues and tax questions
- Official Questions and Issues - selected local liquor options

The certified form of the official Questions and Issues ballot (issues, tax levies, bond issues, and local liquor options) must be used for all voting systems. This form contains examples of some of the questions and issues that *might* appear on the ballot in your county. Also, not every category or type of question/issue will appear on every ballot in every county, so please apply as much of the form as is appropriate to the ballots in your county.

Please review the appropriate sections of the Ohio Revised Code, local charter (if applicable), the *Questions and Issues Handbook*, and Advisories provided by our office for ballot language and formats that may not appear on the enclosed Official Questions and Issues Ballot.

IMPORTANT POINTS TO REMEMBER

Please study and follow the enclosed ballot printing instructions to ensure that your ballots conform to statutory requirements. Special attention should be given to the following:

- 1. Ordering Ballots.**
 - a. Optical Scan Counties.**

The governing statute, R.C. 3505.11, provides that the number of ballots to be printed for a precinct in a county that uses optical scan devices as its primary voting system shall be determined as follows:

- 1) **If a board of elections does not provide ballot on demand – R.C. 3505.11(A):**
The board must provide at least *one percent* (1%) **more** than the total registration in the precinct. However, in determining the number of ballots to be printed, a board shall not count electors who have failed to respond within 30 days to any confirmation notice.
- 2) **If a board has chosen to provide ballots on demand - R.C. 3505.11(B)(1)(a) and (2):** The board must prepare for each precinct at least five percent (5%) **more** ballots than the total number of electors in that precinct who voted in the 2006 primary election. If precinct election officials request additional ballots, the board must provide those ballots in a timely manner so that all qualified electors in that precinct who wish to vote may do so.

R.C. 3505.11 does not, however, address how the ballots are to be allocated among the several ballot types possible for each precinct. In determining how many of each type of ballot to print for each precinct, the board of elections should consider the variables affecting voter turnout and ballot demand, including the following:

- the number of ballots issued for each party's primary election conducted in the precinct on May 2, 2006,
- the number of "issues only" ballots issued in the precinct for the May 2, 2006 special election,
- local interest in candidate races on the ballot this election,
- local interest in issue races on the ballot this election, and
- local support for minor political parties for this election.

The secretary of state recommends that a minimum of 25 ballots for each of the four minor political parties that have candidates on the May 4, 2010 ballot be available in each precinct.

- b. **DREs.** A board of elections that uses DRE machines as its primary voting system or for ADA compliance must program on its encoder card or cards the ballots for all ballot types, including all partisan primary ballots, to be provided for the May 4, 2010 election.

Option: A precinct containing one or more splits may result in more ballot types for that precinct than can be accommodated on a single encoder card. In such cases, the board of elections may select from one of following options:

- 1) Program the encoder card for that precinct with the ballot types for all the partisan primaries and provide an optical scan ballot containing the Official Questions and Issues Ballot for that precinct to each voter.
- 2) Use a sufficient number of encoder cards to contain all the ballot types for that precinct. The board may purchase or borrow the additional encoder cards needed to accommodate all the ballot types to be provided to the voters.

2. **Spelling.** Each board must carefully check the spelling of candidates' names and all other details of the ballots.

3. **Rotation.** Names of candidates must be rotated on all ballots as prescribed in R.C. 3513.15. **No exemption from the rotation requirements has been granted for any voting system.**

Rotate the names of candidates from one precinct to another. The number of series to be printed in each of the several groups of candidates on any one ballot is **determined by the least common multiple of the number of names in each of the groups**. On the first rotation, the names must be listed alphabetically. (Rotation is not correct if the number of rotations is

based on the largest number of candidates for one office on the ballot.) *Please see pg. 8, Ballot Printing Instructions of this Directive for further information.*

For absentee ballot rotation, please refer to the attached ballot printing instructions that are part of this directive.

4. **Candidate's name.** A candidate's nickname may be printed on the ballot if the nickname is a natural derivative of the candidate's legal name. However, quotation marks or parentheses **cannot** be printed on the ballot. Example: A candidate named William Smith may have his name printed on the ballot as: William Smith, Will Smith, Billy Smith, but not William "Bill" Smith.

Note: Any former names which have been declared or submitted in accordance with R.C. 3513.06 shall be printed on the ballot in parenthesis directly below the present name of such person. (R.C. 3505.02) Example: Frank J. Thomas (John Francis Thomason).

5. **Titles.** R.C. 3505.03 prohibits printing on the ballot titles such as "Dr.," "Judge," "Rev.," etc.

6. **Proofing.** Boards of Elections must thoroughly and promptly check every detail of their ballots upon receiving the ballot layouts or proofs from the vendor or printer. Either the director and deputy director, or board employees they designate, shall proofread all series of ballots. After staff has proofed the ballots, the board members should also review and verify ballot layouts/proofs.

Once a board of election receives its ballot proofs, R.C. 3505.14 **requires** the board to:

- **Notify** the chairperson of the local executive committee of each political party, a designated representative of an independent or third party candidate, if any such candidate has qualified for the ballot, and a designated representative for each group supporting and/or opposing the ballot issues that appear on the ballot, informing each of them that the ballot proofs are available for inspection and correction. For the purposes of this requirement, if no such representative has been designated, the board may contact the treasurer whose name appears on the designation of treasurer, if any, filed on behalf of the group or committee.
- **Post** the ballot proofs for at least 24 hours in a publicly accessible place in the board office *and* in the county courthouse for inspection of any errors, and include instructions for notifying the board of any needed or requested correction(s), after which board personnel must review and correct any error.

Also each board of elections shall transmit copies of the proof of each **question and issue ballot** to the Secretary of State's office for review. Please transmit the proof to the attention of Serena Henderson by one of the following methods:

Fax: 614-752-4360;

E-mail: shenders@sos.state.oh.us or

U. S. Mail: 180 E. Broad St, 15th Flr., Columbus, OH 43215, or
P.O. Box 2828, Columbus, OH 43216

Note: *Please do not send proofs of candidate ballots to the Secretary of State's office. Each board of elections is responsible for verifying the accuracy of its candidate ballots.*

If a correction is required at any stage of the proofing process, the board must repeat the above notification and posting requirements and ensure that, in correcting the error, another part of the ballot was not inadvertently changed.

7. Multi-County District Elections. The most populous county of a multi-county district **must** notify all the boards in that district of the candidates or questions/issues that must appear on the ballot for that district. These boards must follow the notification procedure detailed below:

- a. The most populous county must send a **written notice** of the appropriate candidates/issues to each less populous county within the multi-county district.
- b. The most populous county also provides to the less populous counties receipts **itemizing** each district candidate and issue being provided with the ballot information.
- c. Each less populous county must **return the receipts** to the most populous county, either confirming it received every candidate/issue itemized on the receipt *or* identifying the itemized items it did not receive.
- d. After the most populous county receives **ballot proofs** or layout, it must send a copy of the relevant candidates/issues to each of the less populous counties as part of the proofing process.
- e. The less populous counties within the district must notify the most populous county *immediately* of any **discrepancy** on the proofs or layout and the information previously received.
- f. The most populous county of a multi-county district must *immediately* provide each less populous county within the district a written notice, with receipt, of any candidate who **dies** before Feb. 23, with instructions for the removal of that candidate's name from the ballot and, if appropriate, substitution of a replacement candidate's name.

8. Absentee Ballots

R.C. 3509.01 and R.C. 3511.04 require each board of elections to have absentee ballots printed and ready for use 35 days before a primary election (by March 30, 2010).

A copy of each absentee ballot (candidates and questions and issues) must be forwarded to our office at least 25 days (April 9, 2010) before the election. Please do not confuse the submission of a copy of the absentee ballot with the earlier submission of ballot **proofs**.

The copy of the absentee ballot should be transmitted and forwarded to the attention of Serena Henderson by one of the following methods:

- Email: shenderso@sos.state.oh.us; or
- CD or paper copy sent by U.S. Mail to:
P.O. Box 2828 Columbus, OH 43216 or
180 E. Broad St., 15th Flr., Columbus, OH 43216

It is the responsibility of the board of elections to send the absentee ballot file or CD to the Secretary of State's office. (R.C. 3509.01)

9. Official Canvass Deadline

As a reminder, R.C. 3505.32 requires all boards to complete their official canvass by May 25, 2010.

If you have questions after you have reviewed the enclosed directive with printing instructions, please contact your assigned Elections Division attorney.

Sincerely,

Michael Rankin
Assistant Secretary of State

BALLOT PRINTING INSTRUCTIONS FOR MAY 4, 2010 PRIMARY ELECTION

BALLOTS (R.C. 3513.13)

Separate primary election ballots shall be provided for each political party having candidates for nomination or election. Such ballots shall have printed at the top and below the stubs "Official (name of party) Primary Ballot." There are currently two major political parties (Democratic and Republican) and four minor political parties (Constitution, Green, Libertarian and Socialist) entitled under the law to hold primaries in Ohio this year. *See Directive 2009-21 and Advisory 2010-02.*

Primary election ballots for **minor political parties** *shall list only* the offices and positions for which valid declarations of candidacy have been filed with the board of elections, and shall contain *only* the names of persons whose declarations of candidacy have been determined to be valid.

Boards are not required to provide separate colored ballots for the primary ballots. However, if a board so chooses and a vendor is able to provide color-enhanced ballots (tinted headings or colored lines/bars), a board may do so.

The names of all persons who have qualified as candidates and not withdrawn shall be arranged, rotated, and printed upon the ballot in accordance with the provisions of Ohio Revised Code Chapters 3505, 3506, and 3513.

FORM OF BALLOT

The names of all persons, which have been duly presented as candidates and not withdrawn, shall be arranged, rotated, and printed upon the ballot in accordance with the provisions of Ohio Revised Code Chapters 3505, 3506, and 3513.

- **All Primary Ballots:** (R.C. 3513.13)

The order of offices for the **Democratic** and **Republican** ballots shall be as follows:

- Governor and Lieutenant Governor
- Attorney General
- Auditor of State
- Secretary of State
- Treasurer of State
- U. S. Senator
- Representative to Congress
- Chief Justice of the Supreme Court
- Justices of the Supreme Court
- Judge of Court of Appeals
- Member of State Central Committee Man
- Member of State Central Committee Woman
- State Senator
- State Representative
- Judges of the Court of Common Pleas
- County Commissioner
- County Auditor
- Member of County Central Committee.

The order of offices for the **Constitution** ballots shall be as follows:

- U. S. Senator
- Representative to Congress
- Judge of Court of Appeals
- State Senator
- State Representative
- Member of State Central Committee
- Judges of the Court of Common Pleas
- County Commissioner
- County Auditor

The order of offices for the **Green** ballots shall be as follows:

- Governor and Lieutenant Governor
- Representative to Congress
- Judge of Court of Appeals
- State Senator
- State Representative
- Member of State Central Committee
- Judges of the Court of Common Pleas
- County Commissioner
- County Auditor
- Member of County Central Committee.

The order of offices for the **Libertarian** ballots shall be as follows:

- Governor and Lieutenant Governor
- Attorney General
- Auditor of State
- Secretary of State
- Treasurer of State
- Representative to Congress
- Member of State Central Committee
- Judge of Court of Appeals
- State Senator
- State Representative
- Judges of the Court of Common Pleas
- County Commissioner
- County Auditor
- Member of County Central Committee.

The order of offices for the **Socialist** ballots shall be as follows:

- U. S. Senator
- Representative to Congress
- Judge of Court of Appeals
- State Senator
- State Representative
- Judges of the Court of Common Pleas
- County Commissioner
- County Auditor

- **Questions and Issues:** (R.C. 3505.06)

Questions and issues follow candidates, if any, on the ballot. Questions and issues shall be grouped together in the following political subdivision order for the elections held on May 4, 2010:

State
School and other districts
County
Municipal
Township

However, if it is not practicable for a board of elections to group questions and issues in the above order because of limitations presented in formatting for voter ease and clarity of presentation because of the type of voting machines the board uses, the board may group them in the following order: state, county, municipal, township, and school or other district. Absentee ballots must contain identical groupings to regular ballots. Each board of elections may determine the specific order in which the questions/issues within each group shall be placed on the ballot in that county. Absentee ballots must contain identical ordering of issues within groups to regular ballots.

The date of the election and the facsimile signatures of the members of the county board of elections shall also be placed on the ballot.

TYPE FACE FOR BALLOTS (R.C. 3505.08(B), 3513.13)

1. **Headings** shall be printed in display in Arial or Roman font. The remainder of the ballot wording should also be printed in Arial or Roman type for consistency throughout the ballot.
2. **Each office title** shall be printed in twelve (12) point boldface upper and lower case type, and a screened (lightly shaded) heading should be used. The office title shall be flush left, but the title and the shading should not extend into the voting channel or column.
3. **Vote allowed:** For offices for which only one person may be elected, immediately below the office title the following must be printed: "Vote for 1" in a minimum point size of ten (10) point boldface upper and lower case type.

For offices for which more than one may be elected, immediately below the office title the following must be printed, "Vote for Not More Than _____" in a minimum point size of ten (10) point boldface upper and lower case type, the blank space to be filled with the number of persons who may be lawfully elected to the office. For example: Vote for Not More Than 3.

The "vote allowed wording" should be flush left within the shaded title area directly underneath the title of the office or, (if applicable) term commencing or unexpired term ending date.

4. **Names of candidates** must be printed in a minimum of twelve (12) point boldface upper and lower case type. The name of each candidate must be flush left, but the name should not extend into the voting channel or column.
5. **Separation of Office Title and Candidate Names:** A two (2) point rule shall separate the title of the office from the names of the candidates for that office.
6. **Separation of Offices:** A four (4) point rule shall separate the name of a candidate or a group of candidates for the same office from the title of the office next appearing on the ballot.

7. **Separation of Names of Candidates:** A one (1) point rule shall separate names of candidates.
8. **Separation of Columns:** A two (2) point rule shall separate columns from each other.

BALLOT INSTRUCTIONS TO VOTERS (R.C. 3505.12, 3606.08, 3506.09, 3513.13)

Each ballot must contain instructions advising the voter of the manner in which to mark the ballot. The instructions should be in upper and lower case of a minimum of twelve (12) point type. Each board must provide clear instructions appropriate for its voting system(s). For example, "To vote you must completely darken the oval to the left of the candidate or answer of your choice." Do *not* use terminology in your instructions that a voter may interpret differently than what may be intended, such as: "Completely darken the oval opposite of your choice."

The instructions for an optical scan ballot should also contain wording to inform the voter if he or she marks more choices than permitted, the vote marked for that race or issue will not be counted.

BALLOT INK (R.C. 3505.08, 3513.13)

All ballots shall be printed with black ink.

STUBS (R.C. 3505.08, 3506.08, 3506.09, 3513.13)

Unless the Secretary of State's office has granted permission for a board to use a one-stub ballot, each optical scan ballot shall have attached at the top or bottom two stubs, each the width of the ballot and not less than one-half inch in length. Perforated lines shall separate the stubs from the ballot and each other. The top stub shall be known as "Stub B" and shall have printed on its face "Stub B". The other stub shall be known as "Stub A" and shall have printed on its face "Stub A".

Each stub shall also have printed on its face "Consecutive Number" Each ballot provided for use in each precinct must be numbered consecutively, beginning with the number 1, and by printing the same ballot number upon both of the stubs attached to the ballot.

QUESTIONS AND ISSUES BALLOT (R.C. 3505.06, R.C. 3505.08)

The heading "Official Questions and Issues" must appear *before* the text of the first question or issue listed on the ballot. Immediately below the heading of each question or issue shall be printed a brief title descriptive of each question or issue appearing on the ballot, such as "Proposed Bond Issue" or "Proposed Tax Levy." Each local question or issue appearing on the ballot *may*, but need not, be numbered.

BALLOT LANGUAGE FOR ISSUES (R.C. 3505.06)

A minimum type size of ten (10) point shall be used for all questions and issues. The ballot language for a local question or issue need not contain the full text of the proposal to be voted upon. The board of elections may prepare a condensed text, if it properly describes each local question or issue appearing on the ballot. The Secretary of State legal staff shall review the text of all local questions and issues.

The text of the state issues may not be condensed and must appear on the ballot as certified by the Ohio Ballot Board. However, in any case where condensed text is used for local questions and issues, the full text of the proposed question or issue, together with the percentage of the affirmative votes necessary for passage as required by law, shall be posted in each polling place in a visible location that is easily accessible to the voters.

PERCENTAGE OF VOTES FOR QUESTIONS AND ISSUES (R.C. 3505.06)

A brief statement of the percentage of affirmative votes necessary for passage as required by law shall be on the questions and issues ballot for each question and issue submitted and should be inserted in the space immediately below the title and name of entity requesting the submission of the question or issue. The percentages should be stated as follows: "A majority affirmative vote is necessary for passage," or such other brief statement as will be descriptive of the percentage of affirmative votes required for passage (e.g., "A fifty-five percent affirmative vote is necessary for passage.").

CANDIDATES - FULL AND UNEXPIRED TERMS (R.C. 3505.04, 3513.16)

In the case of judicial offices, immediately below the title of office, shall be printed either "Full Term Commencing..." or "Unexpired Term Ending..." followed by the appropriate date.

- The date for the full term for Chief Justice of the Supreme Court shall be commencing 1/1/11.
- The date for the two full terms for Justices of the Supreme Court shall be, one commencing 1/1/11 and the other commencing 1/2/11.
- For all other offices, the designation of the term is necessary where there is only an unexpired term to elect, or where there is both a full and unexpired term to elect. Where there are both full and unexpired terms for the County Commissioner, place the full term first followed by the unexpired term. If your county has an unexpired term for another county office, it should appear immediately following the office of County Auditor.

In counties where nominations are to be made for more than one full term for Judge of the Court of Appeals or Judge of the Court of Common Pleas, the offices should appear in chronological order by dates the terms commence and, if appropriate, the division of the court.

CANDIDATES WITH SAME NAMES (R.C. 3505.021)

In the event that two or more candidates for the same office have the same first and last names, please follow as appropriate the procedures set forth in R.C. 3505.021, which is set forth below:

In the event two or more persons with identical given names and surnames run for the same office in a general or special election on the same ballot, the names of the candidates shall be differentiated on the ballot by varying combinations of first and middle names and initials.

Immediately after it becomes known that two or more persons with the same given name and surname are to be candidates on the same ballot for the same office, the director of the board of elections for local, municipal, county, general, or special elections, or the director of the board of elections of the most populous county for district, general, or special elections, or the secretary of state for statewide general and special elections shall notify the persons with identical given name and surnames that the names of such persons will be differentiated on the ballot. If one of the candidates is an incumbent who is a candidate to succeed himself for the office he occupies, he shall have first choice of the name by which he is designated on the ballot. If an incumbent does not make a choice within two days after notification or if none of the candidates is an incumbent, the board of elections within three days after notification shall designate the names by which the candidates are identified on the ballot. In case of a district candidate the board of elections in the most populous county of the district shall make the determination. In case of statewide candidates, or in case any board of elections fails to make a designation within three days after notification, the secretary of state shall immediately make the determination.

"Notification" as required by this section shall be by the clerk of the board of elections or secretary of state by special delivery mail or telegram at the candidate's address listed in his declaration of candidacy or petition of candidacy.

ROTATION - CANDIDATES

Candidates' Names (R.C. 3513.15)

The names of all candidates for an office shall be arranged in a group under the title of that office and shall be rotated from one precinct to another, **except:**

- Absentee ballots, which shall bear a different rotation (discussed below), *or*
- When the number of candidates for a particular office is the same as the number of candidates to be elected to that office (uncontested races).

The least common multiple of the number of names in each of the several groups of candidates determines the number of series to be printed. For example, four of the seven offices on the ballot have uncontested races. The remaining three offices (only one candidate to be elected to each particular office) have the following number of candidates printed on the ballot:

Office One – two candidates
Office Two – three candidates
Office Three – four candidates

The least common multiple of this series of candidates is 12 (the smallest number possible that 2, 3 and 4 divide into evenly). Therefore, this series of candidates must rotate 12 times. The candidates for the uncontested races do not rotate.

The board of elections shall number all precincts in regular, serial sequence. In the first precinct, the names of the candidates in each group shall be listed in alphabetical order. In each succeeding precinct, the name in each group which is listed first in the preceding precinct shall be listed last, and the name of each candidate shall be moved up one place.

Absentee Ballots (R.C. 3505.03, 3513.15)

On absentee ballots, the names of all candidates for an office shall be:

- Arranged in alphabetical order in a group under the title of that office, and
- Alternated so that each name shall appear on each succeeding ballot, insofar as is reasonably possible, substantially an equal number of times at the beginning, at the end, and in each intermediate place (if any) of the group of candidates for that office.

In those counties using voting systems in which absentee ballots are combined with ballots voted at the precinct prior to tabulation (i.e., tabulated in the voter's home precinct), the ballot name order for candidates on **absentee ballots** shall be the same as the precinct ballot name order for candidates on **regular ballots**.

WRITE - IN VOTES – Blank Spaces (R.C. 3505.23, 3513.14)

A write-in space shall be provided on the ballot for every office for which the board of elections has received a valid declaration of intent to be a write-in candidate. This provision applies to both major and minor political party ballots.

Except for ballots for minor political parties as provided under "Ballots" on page 5 above, in the case of any office for which nomination may be made at the primary election, and for which no one filed a valid declaration of candidacy or intent to be a write-in candidate, the board shall provide on the primary ballot the title of such office and a statement that "no candidate filed a valid declaration of candidacy" (or, if no one filed a petition, "no declaration of candidacy was filed") for that office.

- o **County Central Committee:** Even if no valid declaration of candidacy is filed for the office of member of a county central committee, the board shall accept valid declarations of intent to be a write-in candidate for that office and shall provide a write in space on the ballot. However, if no candidate files either a valid declaration of candidacy valid or

declaration of intent to be write-in candidate, the office of county central committee shall not appear on the ballot.

- o **State Central Committee:** No write-in space shall be provided on the ballot for the office of member of a state central committee under R.C. 3513.14. If no person files a valid declaration of candidacy, then the office of state central committee shall not appear on the ballot.

SEALING OF PRINTED PAPER BALLOTS (R.C. 3505.15)

The board shall make adequate provision for the inspection of the printing and rotation of names of the ballots. The selected printing vendor shall seal the ballots securely in packages, one package for each precinct in the county in which the election is to be held, place a paper cover over them, and indicate on the cover the number of ballots contained in the package, with a space to indicate the precinct, and deliver them to the board at such time and place as the board may direct. The board, upon receiving such packages, shall give a receipt for them indicating the number of ballots in each package and the number of precincts in each case.