

## **DIRECTIVE 2010-59**

August 24, 2010

TO: BOARDS OF ELECTIONS

Members, Directors, and Deputy Directors

### **2010 GENERAL ELECTION BALLOTS**

In accordance with R.C. 3505.01, attached are the forms of the official ballot certified by the office of the Secretary of State for use at the November 2, 2010 general election. These forms are templates for ballot design, format and order of offices and issues for all voting systems.

Accompanying this Directive are the following ballot forms:

- Official Office Type Ballot
- Official Nonpartisan Ballot
- Official Questions and Issues Ballot - selected bond issues and tax questions
- Official Questions and Issues Ballot - selected local liquor options

The following candidates have filed valid Declarations of Intent to be **Write-In** Candidates for the office of Governor and Lieutenant Governor, respectively:

- David L. Sargent II and Andrew C. Pfeifer

The following candidate has filed a valid Declaration of Intent to be a **Write-In** Candidate for the office of United States Senator:

- Arthur T. Sullivan

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 number of voters registered 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)(b) 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 general 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. Note, it is a recommended practice to place a colored sheet of paper at a point within the stack of ballots (e.g. the point where 75% of the ballots have been used) containing instructions for poll workers to call the board of elections to notify it of the extent of use of paper ballots when that point is reached in the stack of ballots for the particular precinct. Depending on whether or not this point in the stack is reached or the time of day it is reached, the board in consultation with poll workers can decide whether more ballots should be delivered and prevent waits in cases of ballot shortages.

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 all ballot types to be provided in the voting location where they will be used for the November 2, 2010 general election. Per the League of Women Voters settlement, counties using DRE machines as their primary voting system must have available back up paper ballots to any voter who requests one and in the event of machine or power failure. Additional details on back up paper ballots can be found in a separate directive.

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 or for any type of ballot.**

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. **Nickname:** 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, e.g., William Smith, Will Smith, Billy Smith, but not William "Bill" Smith or William (Bill) Smith.* The determination of whether or not a nickname is a natural derivative of a candidate's given name is determined at the discretion of the board of elections that certifies that candidate to the ballot.
- b. **Former Name(s):** Any former names which have been declared or submitted in accordance with the specific provision of R.C. 3513.06 shall be printed on the ballot in parenthesis directly

below the present name of such person, *e.g.*, *Frank Gene Thomas (Francis Eugene Thomason.* (R.C. 3505.02)

**5. Titles.** R.C. 3505.03 prohibits printing titles on the ballot 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 for the committee of such certified candidate and the treasurers of the committees for and against such certified ballot issue, 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 regarding its accuracy, and include instructions for notifying the board of any needed or requested correction(s), after which board personnel must review and correct for accuracy.

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](mailto:shenders@sos.state.oh.us) or

U. S. Mail: 180 E. Broad St, 15<sup>th</sup> 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 **written notice** of the appropriate candidates/issues to each less populous county within the multi-county district.
- b. The most populous county must also provide to the less populous counties within a multi-county district a separate receipt document **itemizing** each district candidate and issue being provided with the ballot information that allows the less populous county to confirm whether it received every candidate/issue itemized on the receipt document.
- c. Each less populous county must **return the separate receipt document** to the most

populous county in a district; either confirming it received every candidate/issue itemized on the receipt *or* identifying the itemized item(s) it did not receive.

- d. After the most populous county receives **ballot proofs** or layouts, it must send a copy of the relevant ballot proofs or layouts for both candidates and issues to each of the less populous counties in a multi-county district as part of the proofing process.
- e. The less populous counties within the district must notify the most populous county *immediately* of any **discrepancy** between 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 October 21, 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(B)(1) requires each board of elections to have absent voter ballots printed and ready for use by overseas and uniformed services voters 45 days before an election (by September 18, 2010).

R.C. 3509.01(B)(2) requires each board of elections to have absent voter ballots printed and ready for use by all other voters 35 days before an election (by September 28, 2010).

**A copy of each absentee ballot (candidates and questions and issues) must be forwarded to the Secretary of State's office at least 25 days (October 8, 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](mailto: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., 15<sup>th</sup> Fl., 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 provides the following:

- Boards may begin the official canvass not earlier than the 11<sup>th</sup> day after the election, November 13, 2010;
- Boards must begin the official canvass not later than the 15<sup>th</sup> day after the election, November 17, 2010; and
- Boards must complete the official canvass no later than the 21<sup>st</sup> day after the election, November 23, 2010.

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

Sincerely,

Jennifer Brunner

## **BALLOT PRINTING INSTRUCTIONS FOR November 2, 2010 GENERAL ELECTION**

### **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 and 3506.

- **Office Type Ballots:** (R.C. 3505.03)

The order of offices shall be listed in the following order:

- Governor and Lieutenant Governor
- Attorney General
- Auditor of State
- Secretary of State
- Treasurer of State
- U. S. Senator
- Representative to Congress
- State Senator
- State Representative
- County Commissioner
- County Auditor

- **Nonpartisan Ballots:** (3505.04)

- State Board of Education
- Chief Justice of the Supreme Court
- Justices of the Supreme Court
- Judge of Court of Appeals
- Judges of the Court of Common Pleas
- Judge of County Court

- **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 November 2, 2010:

- School and other districts
- County
- Municipal
- Township

Note, 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.

All 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 AND FORMATTING FOR BALLOTS (R.C. 3505.08(B))**

1. **Headings** shall be printed in display in Arial or Roman type font. The remainder of the ballot wording may be in the same font as the headings, but in any case, an entire ballot should contain no more than two font styles, limited to Arial or Roman type fonts. *E.g., the headings and party affiliations may look best to you in Arial font, with candidates or issues under each heading in Roman type font, or you may choose to print the entire ballot in Arial or in Roman.*
2. **Each office title** shall be printed in twelve (12) point boldface upper and lower case type, flush left and a screened (lightly shaded) heading should be used.
3. **Number of votes permitted for an office:** 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 person 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 replaced by the number of persons who may be lawfully elected to the office. *For example: **Vote for Not More Than 3.***

The "number of votes permitted for an office" 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 (e.g. in judicial races).

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.
5. **Name of political party** of a candidate on the official office type ballot shall be printed in ten (10) point lightface upper and upper and lower case type and shall be separated from the name of the candidate by a two (2) point blank space. *The name of the political party shall be flush with the name of the candidate.* No designation shall appear under the name of an independent candidate or candidate for a nonpartisan office. **Exception: If an independent candidate makes a request at the time of filing his or her petition to have the ballot designation "nonparty candidate" or "other-party candidate", it shall be printed in the same manner as above.** (See R.C. 3505.03) *The designation "independent" may not appear on the ballot.*
6. **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.
7. **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 next office appearing on the ballot.
8. **Separation of Names of Candidates:** A one (1) point rule shall separate names of candidates.
9. **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)**

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 descriptive of how to mark the ballot 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. Therefore, do *not* use wording 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. Such wording examples follow:

"Do not mark the ballot for more choices than allowed. Please see permitted number of choices directly below the title of office. If you mark the ballot for more choices than permitted, the race or issue will not be counted."

"Marking more than the permitted number of choices for an office or an issue, invalidates your vote for that office or issue. Please read instructions carefully for each office or issue."

"You may only vote for the number of candidates listed at the heading for each office, and you can mark only one vote per issue. If you mark too many votes for a candidate or issue, your vote will not be counted for that office or issue."

**BALLOT INK (R.C. 3505.08)**

All ballots shall be printed with black ink.

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

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 height. 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 having printed on the ballot and its attached stubs the same ballot number.

**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.

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 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)**

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 printed as commencing 1/1/11.
- The date for the two full terms for Justices of the Supreme Court shall be printed as one commencing 1/1/11 and the other commencing 1/2/11.
  - **For Justice of the Supreme Court** Full Term Commencing 1/1/11:
    - Judith Ann Lanzinger
    - Mary Jane Trapp
  - **For Justice of the Supreme Court** Full Term Commencing 1/2/11:
    - Paul E. Pfeifer
- In counties where more than one Judge of the Court of Appeals or Judge of the Court of Common Pleas are to be elected, unexpired terms shall be listed first beginning with the earliest date the unexpired term ends, followed by full terms in order of their commencement dates, earliest to latest, all within a division of the court if one exists, beginning with General Division, Probate, Domestic Relations and Juvenile, or if two or more of these divisions are combined, in the order of the first of the two courts combined. *E.g., General Division, Probate Division, Domestic and Juvenile Division, or General Division, Probate and Juvenile Division, Domestic Relations Division.*
- For all other offices, the designation of the term is not necessary except where there is an election for an unexpired term. Where there are both full and unexpired terms for County Commissioner in a statutory form of county government, place the full term first followed by the unexpired term. If your county has an unexpired term for another county office, it should appear in the same position as it would for a full term.

In the case of a county charter form of government, the election for the office of County Executive shall be listed first, followed by the election for the offices of County Council candidates, whose names shall be listed according to district and each district in numerical order. In the case of an election to an unexpired term or less than a full term for County Council, candidates for any such County Council seat shall be listed in numerical order of districts, even though the election is for less than a full term. All state ballot rotation laws apply to a county charter authorized election.

**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 to be identified on the ballot. In case of a district candidate the board of elections of 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 or her declaration of candidacy or petition of candidacy.

**ROTATION - CANDIDATES****Candidates’ Names (R.C. 3505.03)**

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)**

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. In the case of any office for which no valid declarations of candidacy, nominating petition or intent of write-in candidacy have been filed within the time prescribed by law, the board shall provide on the ballot the title of such office and shall state on the ballot that "no candidate filed" for the office.

**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. The board shall maintain a copy of the receipt provided to the vendor for the delivery of ballots and that documents the number of ballots in each package and number of precincts in each case.