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DIRECTIVE 2011-31

October 11, 2011

To: ALL COUNTY BOARDS OF ELECTIONS
MEMBERS, DIRECTORS, AND DEPUTY DIRECTORS

Re: Unofficial Canvass – November 8, 2011 General Election

SUMMARY

This Directive outlines the procedures that county boards of elections are required to follow in conducting the unofficial canvass of the November 8, 2011 general election.

Please note that the Office of the Secretary of State will be staffed on Election Day from 6:30 a.m. until all results for the state issues have been reported to our office to assist county boards of elections with any problems, questions, or concerns that may arise.

UNOFFICIAL CANVASS

Pursuant to R.C. 3505.27, the unofficial canvass of the November 8, 2011 general election must be conducted in full view of the board members and any observer appointed under R.C. 3505.21.

The unofficial canvass must be conducted on election night in accordance with Revised Code sections 3505.27 (counting regular ballots cast at polling locations), 3505.28 (ballots not counted), 3509.06 (counting absentee ballots), 3509.07 (absentee ballots not counted) and 3511.11-.13 (uniformed service and overseas absentee ballots).

The unofficial canvass must include all ballots that the boards of elections determined to be eligible, as defined by state law, to be counted on election night (i.e., regular ballots cast at polling locations on the primary voting system and absentee ballots that are determined to be valid).

The unofficial canvass must not include ballots that are not eligible, as defined by state law, to be counted on election night (i.e., provisional ballots; absentee ballots postmarked on or before November 7, 2011 and received after November 8, 2011 but not later than November 18, 2011, and timely mailed but late received absentee ballots, in-country uniformed service, out-of-country uniformed service, or overseas absentee ballots that have not yet been received as of the closing of the polls).

PROCESSING AND TABULATION INSTRUCTIONS FOR COUNTIES USING PRECINCT BASED OPTICAL SCAN VOTING SYSTEMS

In accordance with R.C. 3506.14(B), each board of elections must test automatic tabulating equipment prior to the start of the count and at the conclusion of the count to ascertain that the central tabulation system accurately counted the votes cast for all offices and on all questions and issues. Directive 2008-90 (“Pre-Election Tests of Central Tabulation Systems”) provides detailed instructions for conducting the tests.

The board of elections must designate teams having an equal number of individuals from each major political party to inspect and/or tabulate the ballots as follows:

Optical Scan - Precinct Count (ballots tabulated in the precincts)

Verify that memory cards and a corresponding report of results from each precinct are received.

Tabulate votes cast that are stored on the memory cards.

Optical Scan - Central Count (ballots tabulated at the board of elections)

Beginning 10 days before Election Day, absentee ballots may be scanned but must not be tabulated. Set the machine to reject any blank ballot or any ballot containing one or more overvotes.

Inspect every ballot that the tabulator rejects to determine the cause(s) of rejection, including the following:

- the ballot is folded, torn, or mutilated,
- the ballot contains misaligned timing marks,
- the voter consistently failed to follow marking instructions, and/or
- the ballot contains one or more overvotes.

R.C. 3506.21 provides standards and definitions to ensure uniform application for ballots that were rejected by the central count tabulator. Any of the following marks, if made in a consistent manner throughout an optical scan ballot must be counted as a valid vote:

- A candidate, question, or issue choice that has been circled by the voter;
- An oval beside the candidate, question or issue choice that has been circled by the voter;
- An oval beside the candidate, question or issue choice that has been marked by the voter with an “x”, a check mark, or other recognizable mark;
- A candidate, question or issue choice that has been marked with a writing instrument that cannot be recognized by automatic tabulating equipment.

More information on determining or confirming voter intent can be found in Directive 2008-69 (“Remake of Optical Scan Ballots”).

No ballot shall be counted which is marked contrary to law, except that no ballot shall be rejected for any technical error unless it is impossible to determine the voter's choice. If the board determines that the basis for rejection by the tabulator is that a voter marked the ballot more than the permissible number of times for a particular race or issue, and there is no indication of contrary intent, an overvote exists. When an overvote exists, it is impossible to determine voter intent for the race or issue overvoted, and no vote is counted on the ballot for that race or issue. However, the ballot must be examined for any other reasons for tabulator rejection, and the board must make an effective determination of whether it is impossible to determine the voter's choice.

If it is determined that a voter filled in the oval next to a candidate for an office and also cast a write-in vote for that same candidate for the same office by filling in the oval next to the blank space provided for write-in candidates, that ballot should be set aside and remade in accordance with the instructions in the "Tabulation Instructions for Ballots With Write-In Candidate Votes" section, below, of this directive.

Any ballot for which the *sole* reason for rejection by the tabulator is one or more overvotes shall *not* be remade, but shall be included in the ballots that are tabulated after remakes of ballots have been completed so that all votes other than the overvote may be tabulated (see tabulation instructions, below).

Remake any ballot where the intent of the voter has been determined so that it may be processed by a tabulator. Please see Directive 2008-69 and the instructions in the previous section (above) for more information on the proper procedures to remake an optical scan ballot.

Directive 2008-69 provides instructions on the proper procedure to remake optical scan ballots. Remade ballots must be marked with an identifying mark or code to allow for the remade ballot to be matched with the original ballot. Linking original and remade ballots will allow the ballots to be compared at a later time to ensure integrity and accuracy.

Any ballot (other than a provisional ballot) that was cast at the precinct, but was not fed into the precinct-based optical scanner, should be processed or scanned in the same manner as above, including inspecting and remaking a rejected ballot as prescribed above (e.g., depending upon the board's local processes, examples of this could include a curbside ballot cast and placed into the emergency slot of the ballot box during rare instances that the precinct-based scanner was offline, etc.)

Set the tabulator to override overvoted races and issues, which will allow the tabulator to tabulate votes for races and issues that were otherwise properly marked.

Tabulate all absentee ballots, including all remade optical scan absentee ballots and ballots determined to have been rejected by the tabulator solely due to an overvote.

PROCESSING AND TABULATION INSTRUCTIONS FOR COUNTIES USING A COMBINATION OF DIRECT RECORDING ELECTRONIC MACHINES (DRE) AND CENTRAL COUNT OPTICAL SCAN UNITS**Direct Recording Electronic Machines (DRE)** (ballots tabulated in the precincts)

Verify that cartridges, PCMCIA cards or other removable memory devices and a corresponding report are received from each precinct.

Tabulate votes cast that are stored on cartridges, PCMCIA cards or other removable memory devices.

Optical Scan– Central Count (ballots tabulated at the board of elections)

See instructions above for “Optical Scan – Central Count under Processing and Tabulation Instructions for Counties Using Precinct Based Optical Scan Voting Systems.”

TABULATION INSTRUCTIONS FOR BALLOTS WITH WRITE-IN CANDIDATES

Ballots containing potential write-in votes should be segregated for inspection. Inspection and tallying of potential write-in votes should be made by designated team(s) consisting of an equal number of board employees from each major political party.

If the voter has written in an eligible write-in candidate’s first and last names, the board of elections must count this as a valid write-in vote. In this case, the board shall follow the manual hand count instructions explained in Directive 2008-34 (“Manual Hand Count Procedures”).

If the voter has written in *part of* an eligible write-in candidate’s name, the board of elections must count a vote in which a voter has written in only the first or last name of the candidate, if there is only one eligible write in candidate with that first or last name. If there are two or more write-in candidates with the same first or last name, however, the voter must provide sufficient information for election officials to determine the voter's intent in order for the vote to be counted. In this case, the board shall follow the manual hand count instructions explained in Directive 2008-34.

The unofficial canvass must include write-in votes for eligible write-in candidates consistent with these instructions. To the extent that this requirement impedes a board’s ability to produce accurate and timely certified unofficial results, a board may report as its unofficial canvass for write-in candidates the write-in vote totals reported by the voting system, which is a count of the number times write-in votes for that contest were recorded regardless of whether the vote was for an eligible write-in candidate.

Optical Scan Ballots - General Guidelines

In a race where only one candidate is to be selected, a voter’s selection of a candidate whose name is printed on the ballot *and* the selection of, and the writing in of, the name of a write-in candidate (other than an optical scan ballot that is to be centrally counted as

discussed below), invalidates the voter's vote in that race, as the voter has overvoted by marking more choices than permitted for a particular race.

Optical Scan Ballots – Central Count Only

A voter casting an optical scan ballot that is centrally counted at the board of elections' office does not receive an opportunity or a second chance either to correct the overvote or to override the rejection of the vote by a precinct-based optical scanner. Therefore, on an optical scan ballot that is centrally counted only, if a voter filled in the oval next to a candidate for an office and also cast a write-in vote for that same candidate for the same office by filling in the oval next to the space provided for a write-in candidate within that contest, such vote is not to be treated as an overvote. In this case, the ballot should be set aside and remade in accordance with the instructions in Directive 2008-69.

Direct Recording Electronic Machines (DRE)

The board of elections may use the summary reports produced by each individual DRE or group of DREs, additional reports created by the precinct election officials as may be required by the board of elections, or by uploading to the central tabulation system the removable electronic storage media from the voting machines to tally the number of votes for eligible write-in candidates.

REQUIRED REPORTS FOR THE NOVEMBER 8, 2011 GENERAL ELECTION

In addition to the electronically reported results on election night, and in accordance with R.C. 3505.30, each board of elections shall submit certified unofficial results for the November 8, 2011 general election by using the report forms accompanying this directive. Subtotals for regular and absentee ballots should be reported, along with a grand total for all ballots cast and tabulated as part of the unofficial canvass. Those forms are:

1. Unofficial Vote for State Issues
2. Supplemental Report
 - a. Number of Regular Ballots Counted
 - b. Number of Absentee Ballots Counted
 - i. In-country (regular and in-country uniformed services absentee ballots)
 - ii. Uniformed Services
 - iii. Overseas Civilians
 - iv. Total Number of Absentee Ballots Counted
 - c. Grand Total of Regular Ballots and Absentee Ballots Counted
 - d. Number of Outstanding Absentee Ballots
 - i. In-country (regular and in-country uniformed services absentee ballots)
 - ii. Out-of-country Uniformed Services
 - iii. Overseas Civilians
 - iv. Total Number of Outstanding Absentee Ballots
 - e. Number of Provisional Ballots Cast

Please transmit the reports on election night or no later than noon on Wednesday, November 9, 2011. You may transmit your reports to the Elections Division to the attention of Kathy Malott by one of the following methods:

- Fax: 614-752-7590
- Email: kmalott@ohiosecretaryofstate.gov

If your county is not the most populous county for a district (for an office or issue), you must report your county results to the most populous county of a district for which you have conducted your county's portion of the election before your board office closes. The results may be reported by telephone, fax, or e-mail. It is imperative that you make a final report to the most populous county of a district for which part of the district is in your county before you close your board office.

If you have any questions regarding this directive, please contact the elections attorney assigned to your county at (614) 466-2585.

Sincerely,



Jon Husted

CERTIFICATE OF RESULT OF UNOFFICIAL COUNT FOR STATE ISSUES

GENERAL ELECTION NOVEMBER 8, 2011

COUNTY

It is hereby certified that the following is the result of the UNOFFICIAL COUNT of the ballots cast at the November 8, 2011 General Election for the the state issues.

STATE ISSUE 1 PROPOSED CONSTITUTIONAL AMENDMENT Increase maximum age at which a person may be elected or appointed as judge	Yes	No
STATE ISSUE 2 PROPOSED REFERENDUM Referendum of S.B. 5	Yes	No
STATE ISSUE 3 PROPOSED CONSTITUTIONAL AMENDMENT To preserve the freedom of Ohioans to choose their health care and health care coverage	Yes	No
NUMBER OF PRECINCTS		
NUMBER OF PERSONS REGISTERED		
NUMBER OF PERSONS VOTING		

By:

Attest:

Chairperson

Director

Date of Signing:

To be submitted no later than noon on November 9, 2011 to:

Secretary of State - Elections Division

Attn: Kathy Malott

Fax: (614) 752-7590 or

Email: kmalott@ohiosecretaryofstate.gov

Supplemental Report Form - Unofficial Canvass

It is hereby certified by the County Board of Elections that the following is the unofficial number of ballots cast and counted at the General Election held Tuesday, November 8, 2011.

Total Number of Regular Ballots Counted	
Absentee Ballots Counted	
Number of In-Country (including in-country uniformed services)	
Number of Out-of Country Uniformed Services	
Number of Overseas Civilians	
Total Number of Absentee Ballots Counted	0
Grand Total of Regular Ballots and Absentees Counted	
	0

Outstanding Absentee Ballots (Sent but Not Returned by Close of Polls)	
Number of In-Country (including in-country uniformed services)	
Number of Out-of-Country Uniformed Services	
Number of Overseas Civilians	
Total Number of Outstanding Absentee Ballots (Sent but Not Returned by Close of Polls)	0

Provisional Ballots	
Total Number of Provisional Ballots Cast	

Signed by:

	Chairperson
	Director
	Date