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DIRECTIVE 2011-36

October 27, 2011

To: ALL COUNTY BOARDS OF ELECTIONS

Re: **Official Canvass and Report Forms for November 8, 2011 General Election**

SUMMARY:

This Directive outlines the procedures that county boards of elections are required to follow in conducting the official canvass of the November 8, 2011 General Election.

TIMELINE FOR OFFICIAL CERTIFICATION:

In accordance with state law, the boards of elections may begin the official canvass of the November 8, 2011 General Election no earlier than the 11th day after the election (Saturday, November 19, 2011), and must begin no later than the 15th day after the election (Wednesday, November 23, 2011). Each board of elections must complete its official canvass no later than the 21st day after the election (Tuesday, November 29, 2011). R.C. 3505.32(A).

PERMISSIBLE PRE-CANVASS ACTIVITY:

Prior to November 19, 2011, a board of elections may examine its poll books, poll lists or signature poll books, and tally sheets, and compare the information contained in those documents to the summary statements prepared by the precinct election officials. R.C. 3505.32(D). Each board must note and reconcile any error, defect, or omission that it detects during its examination of those records. Additionally, each board must verify the eligibility of persons casting provisional ballots and the validity of the required provisional voter statements. Procedures for these pre-canvass activities are provided in Advisory 2011-03 ("Determining the Validity of Provisional Ballots Consistent with Directive 2010-96"), Directive 2008-81 ("Guidelines for Provisional Voting"), and Directive 2010-96 ("Guidelines for Determining the Validity of Provisional Ballots").

Reminder: R.C. 3505.183(D) requires that a board determine the eligibility of every provisional ballot cast in that county before the board may canvass any provisional ballot. Further, R.C. 3505.183(D) provides that observers may be present while the board determines the eligibility of provisional ballots.

INSTRUCTIONS FOR OFFICIAL CERTIFICATION:

All Voting Systems

All valid ballots cast in the November 8, 2011 election – including eligible ballots cast at the polling places on Election Day, eligible provisional ballots, and eligible absentee ballots – must be included in the official canvass.

In accordance with R.C. 3506.14(B), each board of elections must test its automatic tabulating equipment prior to the start of the count and at the conclusion of the count to ascertain that the central tabulation system will accurately count 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.

Tabulation Instructions for Ballots Containing Votes NOT Included in the Unofficial Canvass

In accordance with R.C. 3505.32(C), each board first must tally all eligible ballots that were *not* included in the unofficial canvass, including provisional ballots; absentee ballots postmarked on or before November 7, 2011 and received after November 8, 2011 but no later than November 18, 2011; timely mailed in-country uniformed service, out-of-country uniformed service, or overseas absentee ballots that had not been received as of the closing of the polls; and challenged ballots that the board has determined are eligible.

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 in accordance with the inspection and tabulation instructions for central count optical scan ballots provided in Directive 2011-31 (“Unofficial Canvass – November 8 General Election”), issued on October 11, 2011.

Tabulation of Results for the Official Certification

After tabulating all ballots that were *not* included in the unofficial canvass, each board must continue the official canvass certification process as follows:

- **Optical Scan Ballots**

The board must:

- upload the memory cards containing votes that were centrally counted during the unofficial canvass (a county using a GEMS server may “re-import” the data containing votes that were centrally counted during the unofficial canvass in lieu of using external media, if the system is capable of doing so, or by rescanning all of the ballots),
- upload the precinct/polling place memory cards containing votes that were counted during the unofficial canvass, if applicable, and
- verify the count matches the unofficial count.

If the count does not match the unofficial count, the board must contact the Secretary of State’s Elections Administrator for additional instructions.

If the counts match, the board must combine the results of the re-run memory card tabulation of the unofficial canvass with the results of those ballots just tabulated that had not been included in the unofficial canvass.

- **Direct Recording Electronic Voting Machines (DREs)**

The board must:

- upload the precinct cartridges, PCMCIA cards, and other removable memory devices containing votes that were counted during the unofficial canvass, and

- verify the count matches the unofficial count.

If the count does not match the unofficial count, the board must contact the Secretary of State's Elections Administrator for additional instructions.

Note: The seal on the canister or the tape on the voter verified paper audit trail (VVPAT) shall not be broken to determine official results. If the seal must be broken for any auditing reason other than for recount purposes or a statewide post-election audit as prescribed by the Secretary of State, the board must notify the Secretary of State's Elections Division before proceeding.

If the counts match, the board shall combine the re-run results of the unofficial canvass with the results of those ballots just tabulated that had not been included in the unofficial canvass.

This procedure will produce the totals to be certified as the official results for the November 8, 2011 General Election.

FORMS FOR OFFICIAL CERTIFICATION:

The state issues abstract form and the certification forms for the reporting of candidate and issues results to the Secretary of State and, in some instances, to other boards of elections or public agencies are available on the Extranet. If you need assistance accessing the information, please contact Melanie Poole.

Additionally, because R.C. 3501.05(Y) requires the Secretary of State to publish a report on the number of absentee and provisional ballots cast and counted, the *Official Certification for Absentee Ballots* form, the *Official Certification of Provisional Ballots Issued* form, and the *Official Certification of Provisional Ballots Counted* form also are provided for each board to report those totals. All certifications, abstracts and **reports must be signed by the appropriate board personnel before being submitted to the Secretary of State's office**, to another board of elections, or to another public agency.

The following forms will be accessible to download from the Extranet:

1. Certification of Official Results for State Issues

This report must be sent to both the Secretary of State **and** the President of the Ohio Senate. Send the Senate President's report to:

Chief of Staff
Ohio Senate
One Capitol Square, 2nd Floor
Columbus, OH 43215

2. Certification of Official Results for Municipal Office (City and Village)

If the city or village office appears on the ballot in more than one county, the board of elections of the overlapping county must send a copy of the properly completed and signed certification to the board of elections of the most populous county of the city or village.

3. Certification of Official Results for Municipal Judge and Municipal Clerk of Court

If the municipal court office appears on the ballot in more than one county, the board of elections of the overlapping county must send a copy of the properly completed and signed certification to the board of elections of the most populous county of the court's jurisdiction.

4. Certification of Official Results for Township Office

It is legally possible for a township to extend into a neighboring county. If a township office appears on the ballot in more than one county, the board of elections of the overlapping county must send a copy of the properly completed and signed certification to the board of elections of the most populous county of the township.

5. Certification of Official Results for Board of Education / Educational Service Center Governing Board

If the office appears on the ballot in more than one county, the board of elections of the overlapping county must send a copy of the properly completed and signed certification to the board of elections of the most populous county of the school district.

6. Certification of Official Results for Local Questions and Issues (Form No. 5)

In reporting local questions and issues on Form No. 5, please indicate by use of an asterisk (*) any subdivisions that overlap into another county; however, *report only your county's results on Form No. 5*. Boards of elections of most populous counties must use Form No. 5-U (described below) for reporting vote totals for questions or issues that overlap into other counties.

7. Certification of Official Results by Most Populous County for Local Questions and Issues (Form No. 5-U)

If your county contains the most populous portion of a multi-county district, report the total vote for the question or issue on Form No. 5-U, indicating the vote for each county.

8. Certificate of Official Results for Local Liquor Option Questions (Form No. 126-B)

Send a copy of Form No. 126-B to the Secretary of State's office, *and* a separate copy of the form to the Division of Liquor Control at the following address:

Division of Liquor Control
PO Box 4005
Reynoldsburg, OH 43068-9005

9. Abstract of Precinct-level Official Results for State Issues

Each board of elections must submit a precinct-by-precinct abstract reporting all the following information: the number of registered voters, the number of persons voting, and the "Yes" and "No" results for each of the three state issues.

10. Supplemental Precinct-level Report

Each board of elections must enter on the appropriate lines of the Excel spreadsheet the following data for each of its precincts:

- number of provisional ballots cast,
- number of provisional ballots counted,
- number of provisional ballots rejected,
- number of votes cast by absentee ballot, and

- number of votes cast at polling place.

TIMELINE FOR REPORTS:

The Secretary of State's office must receive each board of elections' properly completed and signed certification, abstract and report forms no later than the close of business on Friday, December 2, 2011. Submit completed forms by one of the following methods:

- Electronically to Kathy Malott at kmalott@ohiosecretaryofstate.gov.
- Fax to Kathy Malott at 614-485-7590
- In person at the Elections Division, 180 East Broad Street, 15th Floor, Columbus.

Every board of elections must maintain a copy of each of its completed certification and report forms at its office.

RECOUNTS:

If, after canvassing all votes, more than the number of candidates to be elected to an office received the largest and an equal number of votes, R.C. 3505.33 requires the board of elections to break the tie by lot and to declare the winner *before* the board certifies the results of the election for that office and orders a recount.¹

Please do not delay submitting the official certification forms due to a recount for any race or issue. All recounts shall be conducted in accordance with the procedures set forth in R.C. 3515.01 through R.C. 3515.071.

If a recount is to be conducted, please send notice of the recount to the attention of Melanie Poole via fax at 614-485-7697, or email mpoole@ohiosecretaryofstate.gov. If a recount should result in vote totals changing, the board of elections must submit a properly completed and signed amended certification and abstract.

If you have any questions regarding this directive, please contact your county's assigned elections counsel at (614) 466-2585 or via email.

Sincerely,



Jon Husted

¹ By contrast, a board does not break a tie in the case of a ballot issue that received an equal number of votes for and against the issue; that issue failed by operation of law, because it did not receive a majority of affirmative votes. In short, a tie in an issue election results in the failure of the issue.