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DIRECTIVE 2014-26

August 22, 2014

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

Re: Ballot Quantities

SUMMARY

This Directive provides minimum standards for ballot quantities for the November 4, 2014 General Election.

Providing ballots is one of the most essential duties of a board of elections. It is not acceptable for a Board to run out of ballots for an election. Likewise, it is unacceptable for a Board, its Director, or Deputy Director to delegate to any other person or entity the authority and responsibility for determining ballot quantities and machine allocation.

Each board of elections should take note of the contests on the ballot in each political subdivision to determine whether or not the Board should supplement the minimum requirements of state law and this Directive as it relates to the board's provision of ballots and/or voting machines for the election.

INSTRUCTIONS

I. FOR BOARDS OF ELECTIONS USING PRECINCT COUNT OPTICAL SCAN VOTING MACHINES AS THE PRIMARY VOTING SYSTEM FOR ELECTION DAY

- A. If a board of elections pre-prints the total stock of ballots to be used at a voting location on Election Day**, the Board must provide at least one percent (1%) more than the total number of voters registered in the precinct.¹ In determining the number of registered voters, a Board does not have to count electors who have failed to respond within 30 days to any confirmation notice.² Be mindful of the proper allocation of this quantity across precinct splits.
- B. If a Board has chosen to provide ballots on demand at a voting location on Election Day**, the Board must provide for each precinct at least five percent (5%)

¹ R.C. 3505.11(A).

² R.C. 3505.11(A).

more ballots than the total number of electors – regular and provisional – in that precinct who voted in the 2010 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.³ The Board must have enough blank paper stock on hand to equal the difference between the statutory minimums of subsections A and B, above.

Note: When considering whether to pre-print fewer ballots and supplement with ballots on demand, the Board must also consider whether or not its in-house printing capacity (including inventory of on-hand replacements for consumables) is sufficient to produce ballots on demand in the event that mass quantities of supplemental on demand ballots were required at the same time on Election Day. Be mindful of the proper allocation of this quantity across precinct splits.

- C. Provisional Ballots:** A board of elections must print and distribute to each precinct regular paper ballots and provisional ballot envelopes for use by provisional voters. The Board must provide ballots and envelopes in the quantity of at least five percent (5%) more than the number of provisional ballots cast in that precinct at the 2012 or 2010 General Election, whichever is greater.⁴ The number of ballots discussed in subsections A and B, above, must be increased by this number when determining the total number of ballots to be provided to a precinct. Be mindful of the proper allocation of these quantities across precinct splits and political parties.
- D.** The board of elections must vote in public session on the number of precinct count optical scanners to allocate and distribute to each precinct and/or polling location for use on Election Day.⁵ The Board must hold a second vote in public session, no earlier than 30 days prior to the general election, to allow for an opportunity to reconsider the initial allocation made prior to the 90th day and determine if any reallocation is necessary.⁶

II. FOR BOARDS OF ELECTIONS USING DIRECT RECORDING ELECTRONIC (DRE) VOTING MACHINES AS THE PRIMARY VOTING SYSTEM FOR ELECTION DAY

- A.** Boards of elections using direct recording electronic (DRE) voting machines as their primary voting system on Election Day must deploy at least one DRE voting machine for every 175 registered voters in a precinct or voting location at which the DREs are programmed to allow any voter in the location to vote on any machine in the location. There must never be fewer than three (3) DRE voting machines in any precinct or voting location. In determining the number of registered voters, a Board

³ R.C. 3505.11(B)(2).

⁴ This is a minimum requirement for preparedness, not a prediction for the number of provisional ballots expected to be cast this election.

⁵ R.C. 3501.11(I).

⁶ Directive 2014-16 (Election Administration Plans), Subsection 2.3. *See also* LWV Settlement Agreement, Exhibit B, Section I, Division B, Paragraph 1.

does not have to count electors who have failed to respond within 30 days to any confirmation notice. It may also exclude from the count any registered voter who has requested an absent voter ballot (by mail or in person) as of the date the allocation decision is made by the Board.

The board of elections must vote in public session on the number of DREs to distribute and allocate to each precinct and/or polling location for use on Election Day.⁷ The Board must hold a second vote in public session, no earlier than 30 days prior to the general election, to allow for an opportunity to reconsider the initial allocation made prior to the 90th day and determine if any reallocation is necessary.⁸

- B.** Boards of elections must program on the encoder card or cards all ballot types to be provided in the precinct or voting location at which the DREs are programmed to allow any voter in the location to vote on any machine.
- C.** In keeping with the terms of settlement agreement between the League of Women Voters and this office, boards of elections using direct recording electronic voting machines (DRE) as their primary voting system on Election Day must provide backup paper ballots for the November 4, 2014 General Election. Consult [Directive 2014-23](#) for specific instructions on this court-ordered mandate.
- D.** Boards of elections must provide sufficient supplies and equipment (e.g., paper for voter verified paper audit trail printers) so that voting may continue without undue delay resulting from missing or insufficient replacement supplies.
- E. Provisional Ballots:** A board of elections must print and distribute to each precinct regular paper ballots and provisional ballot envelopes for use by provisional voters. The Board must provide ballots and envelopes in the quantity of at least five percent (5%) more than the number of provisional ballots cast in that precinct at the 2010 or 2012 General Election, whichever is greater.⁹ Be mindful of the proper allocation of this quantity across precinct splits.

III. COMPETITIVE BIDS¹⁰

If the cost for printing ballots exceeds \$25,000, the Board must competitively bid the contract. The contract shall not be let until after five (5) days' notice published once in a newspaper of general circulation published in the county or upon notice given by mail by the board of elections, addressed to the responsible printing offices within the state. Each bid for such printing must be accompanied by a bond with at least two sureties, or a surety company, satisfactory to the Board, in a sum double the amount of the bid, conditioned upon the faithful performance of the contract and for the payment as damages by such bidder to the Board by reason of the failure of the bidder to complete

⁷ R.C. 3501.11(I).

⁸ Directive 2014-16 (Election Administration Plans), Subsection 2.3. *See also* LWV Settlement Agreement, Exhibit B, Section I, Division B, Paragraph 1.

⁹ This is a minimum requirement for preparedness, not a prediction for the number of provisional ballots expected to be cast this election.

¹⁰ R.C. 3505.13.

the contract. No bid unaccompanied by such bond shall be considered by the Board. The Board may, however, waive the requirement that each bid be accompanied by a bond if the cost of the contract is \$25,000 or less. The contract shall be awarded to the lowest responsible bidder. All ballots shall be printed within the state.

IV. BALLOT PROOFS¹¹

See [Directive 2014-25](#) for detailed instructions for proofing ballots.

V. SEALED PRINTED PAPER BALLOTS¹²

The Board must make adequate provision for the inspection of the printing and rotation of names on the ballots. The selected printing vendor must seal the ballots securely in packages, one package for each precinct in the county and deliver them to the Board at such time and place as the Board may direct. The Board, upon receiving such packages, must give a receipt for the ballots indicating the number of ballots in each package and the number of precincts in each case.

If you have any questions concerning this Directive, please contact the Secretary of State's elections counsel that is assigned to your county at (614) 466-2585.

Sincerely,



Jon Husted

¹¹ R.C. 3505.14.

¹² R.C. 3505.15.