



# Jon Husted Ohio Secretary of State

180 East Broad Street, 16th Floor  
Columbus, Ohio 43215  
Tel: (877) 767-6446 Fax: (614) 644-0649  
[www.OhioSecretaryofState.gov](http://www.OhioSecretaryofState.gov)

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## **ADVISORY 2016-07**

September 12, 2016

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

Re: Substitute S.B. 63, Online Voter Registration (131<sup>st</sup> General Assembly)

## **BACKGROUND**

The Ohio General Assembly passed Sub. S.B. 63 on May 25, 2016. This Advisory alerts boards of elections to changes in the administration of elections resulting from the passage of this legislation.

## **EXPLANATION**

Below is a brief explanation of each provision of the legislation that impacts county boards of elections or the administration of elections. The legislation is effective on September 13, 2016<sup>1</sup>, but the legislation specifies that the earliest online voter registration can be implemented is January 1, 2017.<sup>2</sup>

### *Establishment of an Online Voter Registration System<sup>3</sup>*

- The legislation requires the Secretary of State to establish a secure online voter registration system no earlier than January 1, 2017. The system shall provide for the following:
  1. An applicant to submit a voter registration application to the Secretary of State online, and
  2. The applicant to be registered to vote, if all of the following apply:
    - a) The application contains all of the required information (i.e., the applicant's name, address, date of birth, last four digits of his or her Social Security number, and Ohio driver's license or state identification number);

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<sup>1</sup> <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-63>.

<sup>2</sup> R.C. 3503.20, as amended by the legislation.

<sup>3</sup> R.C. 3503.20(E), as amended by the legislation, reads in relevant part: "The online voter registration process established under division (A) of this section shall be in operation and available for use by individuals who wish to register to vote or update their voter registration information online not earlier than January 1, 2017."

- b) The applicant's information is not inconsistent with information on file with the BMV;
  - c) The applicant is a United States citizen, will have lived in Ohio for at least 30 days immediately preceding the next election, will be at least 18 years of age on or before the day of the next general election, and is otherwise eligible to register to vote; and
  - d) The applicant attests to the truth and accuracy of the information submitted in the online application under penalty of election falsification.
- If an individual registers to vote or updates his or her name or address using the online voter registration system, the Secretary of State's Office shall obtain an electronic copy of the applicant's signature that is on file with the BMV. This signature shall be used as the applicant's signature on his or her voter registration record.
  - The Secretary of State shall employ whatever security measures are necessary to ensure the integrity and accuracy of the voter registration information submitted online.
  - Errors in processing voter registration applications in the online system shall not prevent an applicant from becoming registered or voting.
  - The online voter registration system must include language, prescribed by the legislation, regarding eligibility requirements and authorization by the applicant to transmit from the BMV and use the applicant's electronic signature.
  - During the period beginning on the day after the close of voter registration before an election and ending on the day of the election, the online voter registration system must display a notice indicating that the applicant will not be registered to vote for purposes of that election.

*Filling a Vacancy in a County or Municipal Elective Office*<sup>4</sup>

- If a vacancy occurs in the office of county commissioner, prosecuting attorney, county auditor, county treasurer, clerk of the court of common pleas, sheriff, county recorder, county engineer, or coroner, that vacancy in office is filled by the county central committee that nominated the last occupant of the office as a candidate for the current term. If the last occupant of the office was elected to serve the current term as an independent candidate, the vacancy in office is filled by the board of county commissioners, except if the vacancy is in the office of county commissioner. If the vacancy is in the office of county commissioner, the prosecuting attorney and the remaining commissioners or a majority of them must make the appointment.
- If a vacancy occurs in the office of mayor of a city, the vacancy must be filled by the residents of the city who are members of the city central committee (if one exists) or the county central committee of the political party that nominated the last occupant of the

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<sup>4</sup> R.C. §§305.02, 733.08, and 733.31, as amended by the legislation.

office as a candidate for the office for the current term. If the last occupant of the office was elected to serve the current term as an independent candidate, the vacancy must be filled by the legislative authority of the city.

- If a vacancy occurs in the office of law director, auditor, or treasurer of a city, the vacancy must be filled by those members of the county central committee of the political party that nominated the last occupant of the office as a candidate for the office for the current term who reside in the city. If the last occupant of the office was elected to serve the current term as an independent candidate, the vacancy must be filled by the mayor of the city.

#### *Transfer of Information*<sup>5</sup>

- The legislation requires certain state agencies to transfer to the Secretary of State's Office any data or information that is collected by the agency during its normal course of business and is necessary to register to vote, update an elector's voter registration, or maintain the Statewide Voter Registration Database.
- The legislation requires the Secretary of State's Office to transfer to the county boards of elections the information and data received by the specified state agencies to identify ineligible electors and resolve duplicate registrations in the Statewide Voter Registration Database.

#### *Identification of Ineligible Electors*<sup>6</sup>

- The legislation requires the Secretary of State's Office to compare, on an annual basis, information in the Statewide Voter Registration Database with information from the Bureau of Motor Vehicles ("BMV") to identify any individual who does all of the following, in the following order:
  1. Submits documentation to the BMV that indicates that the individual is not a citizen of the United States;
  2. Registers to vote, submits a change of name or address, or votes in Ohio; and
  3. Submits documentation to the BMV that indicates that the individual is not a citizen of the United States.
- The Secretary of State's Office is required by the legislation to send a written notice to any individual identified, as outlined above, either to confirm that he or she is a United States citizen or to request that he or she submit a voter registration cancellation form, which is included with the notice, to the Secretary of State's Office. If the individual does not respond to the Secretary of State's Office not later than 30 days after the first notice was sent, the Secretary of State's Office must send the individual a second notice and cancellation form.

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<sup>5</sup> R.C. 3505.13, as amended by the legislation.

<sup>6</sup> R.C. 3503.15, as amended by the legislation.

- If, not later than 60 days after the Secretary of State's Office sends the first notice to an individual, the individual responds to the Secretary of State's Office and confirms that he or she is a United States citizen, the Secretary of State's Office shall take no action regarding the individual's voter registration.
- If, not later than 60 days after the Secretary of State's Office sends the first notice, the individual sends a completed voter registration cancellation form to the Secretary of State's Office, the Secretary of State's Office shall instruct the appropriate county board of elections to cancel the individual's registration.
- If an individual who was sent a second notice fails to respond to the Secretary of State's Office not later than 30 days after the second notice was sent, the Secretary of State shall refer the matter to the Ohio Attorney General for further investigation and possible prosecution. If the individual subsequently sends a completed voter registration cancellation form to the Secretary of State's Office, the Secretary of State shall instruct the appropriate county board of elections to cancel the individual's registration and shall notify the Ohio Attorney General of the cancellation.

*Certification and Use of Marking Devices<sup>7</sup>*

- The legislation permits certification by the Board of Voting Machine Examiners of a voting machine, marking device, or automatic tabulating equipment that the U.S. Election Assistance Commission does not certify as part of its testing and certification program.

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

Sincerely,

  
Jon Husted

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<sup>7</sup> R.C. 3506.05, as amended by the legislation.