



DIRECTIVE 2022-03

January 31, 2022

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

Re: House Bill (“H.B.”) 93

SUMMARY

On January 28, 2022, Governor DeWine signed H.B. 93 into law. H.B. 93 makes improvements to the Address Confidentiality Program administered by the Secretary of State’s Office (“Safe at Home”)¹ and notably Section 4 of H.B. 93 made many temporary law changes to the requirements for the 2022 primary election. H.B. 93 included an emergency clause. Therefore, the 2022 primary election provisions went into effect immediately upon the Governor’s signature.

The changes to the 2022 primary election outlined below apply only to those seeking nomination for the offices of the United States House of Representatives (“U.S. House”), the Ohio Senate, the Ohio House of Representatives (“Ohio House”), and the state central committee of a political party. H.B. 93 also repealed temporary law for U.S. House candidates contained in Senate Bill (“S.B. 258”).

This Directive outlines the changes H.B. 93 makes to election administration for the 2022 primary election. Please note that Courts’ ultimate decisions in ongoing litigation² may render some or all of this Directive moot. In the event that for example, the Court determines that the Ohio House and Ohio Senate district maps do not conform with the Court’s interpretation of the Ohio Constitution, my Office will issue additional instruction.

INSTRUCTIONS

I. 2022 PRIMARY ELECTION DEADLINES

Pursuant to H.B. 93, the 2022 primary election filing deadline remains **February 2, 2022** for all candidates *other* than those for U.S. House. Effective immediately, Section 4(A) of H.B. 93 makes the filing deadline for declaration of candidacy and petition or declaration of intent to be a write-in candidate for U.S. House no later than **4:00 p.m. on March 4, 2022** to the most populous county board of elections.

¹ The provisions in H.B. 93 related to Safe at Home are not effective immediately. An advisory on those provisions may be forthcoming.

² *Simon, et al. v. DeWine, et. al*, N.D. Ohio No. 4:21-cv-02267-JRA, *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-65, and *Adams v. DeWine*, Slip Opinion No. 2022-Ohio-89.

H.B. 93 also permits the Secretary of State to adjust deadlines pertaining to the administration of the May 3, 2022 primary election *except* for the following:³

- The deadline to file a declaration of candidacy, declaration of candidacy and petition, or declaration of intent to be a write-in candidate;
- The deadline to certify a ballot issue or question to the election officials or to file a petition with the election officials to place a question or issue on the ballot at the May 3, 2022 primary election or a special election on that date;
- The UOCAVA deadline; and
- Any deadline that, under Ohio law, falls on or after April 3, 2022.

Therefore, the certification and protest deadline for candidates to the offices of United States House of Representatives, Ohio House of Representatives (“House”), Ohio Senate, and state central committee of a political party shall be as follows:

- **Wednesday, March 9, 2022** – Most populous county board of elections or board of elections must certify the validity and sufficiency of partisan candidate petitions and provide the names of the certified candidates to the less populous county board of elections in the district.
- **Friday, March 11, 2022** – Protests against partisan candidates for U.S. House, Ohio House, Ohio Senate, and state central committee of a political party (including write-in candidates) must be filed with the most populous county by 4:00 p.m.

Pending the outcome of the ongoing litigation mentioned above, the Secretary may establish or amend other deadlines and dates related to the administration of the May 3, 2022 primary election.

II. OHIO HOUSE AND SENATE CANDIDATES

A. DECLARATION OF CANDIDACY, PETITION, NOMINATING PETITION, OR DECLARATION OF INTENT TO BE A WRITE-IN CANDIDATE

i. REQUIREMENTS FOR FILING VALIDITY

For candidates for Ohio House and Ohio Senate, boards are prohibited from invalidating a declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate on the basis that it does not include the number of the district the filer seeks to represent or includes an incorrect district number.⁴ The appropriate document filed by the candidate shall be deemed to include the correct number of the applicable House or Senate district in which the filer (i.e. the candidate filing to run) for Ohio House or Ohio Senate currently resides.⁵

In the alternative, Section 9(C) of Article XI of the Ohio Constitution provides that when the Ohio Redistricting Committee adopts a new district plan pursuant to an order of the Supreme Court of Ohio, as is currently the case, a candidate is allowed up to 30 days to change their residence to be

³ Section 4(G) of H.B. 93.

⁴ Section 4(B) of H.B. 93.

⁵ Section 4(B) of H.B. 93.

eligible for election in a district in which the candidate may not currently reside. As such, boards are prohibited from invalidating a declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate filed by a person seeking nomination for Ohio House or Ohio Senate on the basis that it contains the filer's former residence address that is *not* located in the district the filer seeks to represent, **so long as the filer takes the three actions listed below no later than** Tuesday, February 22, 2022:

- (1) Becomes a resident of the district the filer seeks to represent;
- (2) Files an addendum to the declaration of candidacy declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate with the board of elections that indicates the filer's new address; and
- (3) Updated their voter registration record to reflect their new residency.⁶

Attached to this Directive is a template addendum boards of election must provide to candidates and utilize for processing this particular change to a declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate in this situation. After a candidate for Ohio House or Ohio Senate notifies the board of elections of the filer's new residence address as set forth above, the signatures on the filer's petition shall be verified based on the filer's new residence.

However, a board of elections must invalidate an Ohio House or Ohio Senate declaration of candidacy declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate if the filer does not take the three actions listed above on or before February 22, 2022.⁷

ii. **REQUIREMENTS FOR SIGNATURE VALIDITY**

Boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for Ohio House or Ohio Senate on the ground that the signer does not reside in the *new* district the filer seeks to represent (i.e., per the plan the Ohio Redistricting Commission adopted on January 22, 2022) so long as:

- (1) The House or Senate district in which the filer resided under the General Assembly district plan adopted by the Ohio Redistricting Commission in September 2021 had territory in the county in which the signer resides; **and**
- (2) The *new* House or Senate district the filer seeks to represent has territory in the county in which the signer resides.⁸

Attached with this Directive is a list of counties within each district under the General Assembly district plan adopted by the Ohio Redistricting Commission in September 2021 and a list of counties within each district under the General Assembly district plan adopted by the Ohio Redistricting Commission on January 22, 2022.

⁶ Section 4(C)(1)(a)-(c) of H.B. 93.

⁷ Section 4(C) of H.B. 93. Pursuant to R.C. 1.14, the deadline is extended to the next succeeding day.

⁸ Section 4(D)(2)-(3) of H.B. 93.

Moreover, boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for Ohio House or Ohio Senate on the ground that the signature was signed before a district plan for Ohio House or Ohio Senate was adopted, enacted, or took effect, provided that a signature on a nominating petition is not valid if it is dated more than one year before the date the nominating petition is filed.⁹

III. UNITED STATES (“U.S.”) HOUSE OF REPRESENTATIVES CANDIDATES

A. H.B. 93’S IMPACT ON S.B. 258

H.B. 93 repeals Section 4 of S.B. 258, which (1) moved the congressional filing deadline to March 4, 2022; (2) required the Secretary to adjust applicable deadlines to accommodate the shorter timeframe; and (3) rendered invalid any declaration of candidacy, declaration of candidacy and petition, nominating petition or declaration of intent to be a write-in candidate filed by a person seeking nomination for the office of a member of the U.S. House prior to S.B. 258’s effective date of February 19, 2022.¹⁰

My Office issued [Advisory 2021-06](#) following the passage of S.B. 258. This Directive supersedes that Advisory. Therefore, any declaration of candidacy, declaration of candidacy and petition, nominating petition or declaration of intent to be a write-in candidate that was filed prior to S.B. 258 effective date (February 19, 2022), is no longer invalid solely on the ground that it was filed prior to that date.

B. FILING DEADLINE

As set forth above, the filing for a declaration of candidacy and petition or declaration of intent to be a write-in candidate for U.S. House is no later than **4:00 p.m. on March 4, 2022.**

C. DECLARATION OF CANDIDACY, PETITION, NOMINATING PETITION, OR DECLARATION OF INTENT TO BE A WRITE-IN CANDIDATE

i. REQUIREMENTS FOR FILING VALIDITY

For candidates for U.S. House, boards are prohibited from invalidating a declaration of candidacy, declaration of candidacy and petition or declaration of intent to be a write-in candidate on the basis that it does not include the number of the district the filer seeks to represent or includes an incorrect district number.¹¹

However, H.B. 93 requires the filer that seeks nomination for U.S. House to notify the election officials at the board of elections in writing of the district the filer seeks to represent.¹² My Office drafted a template notification, attached to this Directive, that candidates and/or boards of elections must utilize.

⁹ Section 4(F) of H.B. 93.

¹⁰ Section 3 of H.B. 93.

¹¹ Section 4(B) of H.B. 93.

¹² Section 4(B) of H.B. 93.

ii. **REQUIREMENTS FOR SIGNATURE VALIDITY**

H.B. 93 also sets forth several other circumstances that *do not* invalidate signatures on a U.S. House candidate's petition. First, boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for the U.S. House on the ground that the signer does not reside in the district the filer seeks to represent as long as:

- (1) The district the filer sought to represent under the congressional plan described in S.B. 258 of the 134th General Assembly had territory in the county in which the signer resides; **and**
- (2) The congressional district the filer seeks to represent has territory in the county in which the signer resides.

Attached with this Directive is a list of counties within each district under the congressional plan described in S.B. 258 of the 134th General Assembly.¹³

Second, boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for U.S. House on the ground that the signature was signed before a district plan for U.S. House was adopted, enacted, or took effect, provided that a signature on a nominating petition is not valid if it is dated more than one year before the date the nominating petition is filed.¹⁴ My Office will issue additional guidance pending the outcome of the litigation regarding the U.S. House district maps.

IV. **CANDIDATE FOR STATE CENTRAL COMMITTEE OF A POLITICAL PARTY**

A. **DECLARATION OF CANDIDACY, PETITION, NOMINATING PETITION, OR DECLARATION OF INTENT TO BE A WRITE-IN CANDIDATE**

i. **REQUIREMENTS FOR FILING VALIDITY**

Boards are prohibited from invalidating a declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate filed by a person seeking nomination for the state central committee of a political party on the basis that it does not include the number of the district the filer seeks to represent or that it includes an incorrect district number. If the filer seeks nomination for the office of the state central committee of a political party, the document shall be deemed to include the number of the applicable district in which the filer resides.¹⁵

ii. **REQUIREMENTS FOR SIGNATURE VALIDITY**

Boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for the office of state central committee of a political party on the ground that the signature was signed before a district plan of the applicable

¹³ Section 4(D)(1).

¹⁴ Section 4(F) of H.B. 93.

¹⁵ Section 4(B) of H.B. 93.

type was adopted, enacted, or took effect, provided that a signature on a nominating petition is not valid if it is dated more than one year before the date the nominating petition is filed.¹⁶

a. CONGRESSIONAL DISTRICTS

If a major political party uses congressional districts as a basis for election of its state central committee members, boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for the office of state central committee of a political party on the ground that the signer does not reside in the district the filer seeks to represent so long as the filer seeks nomination for the office of member of the state central committee of a political party to represent a congressional district and:

- (1) The district in which the filer resided under the congressional plan described in S.B. 258 of the 134th General Assembly had territory in the county in which the signer resides; **and**
- (2) The congressional district the filer seeks to represent has territory in the county in which the signer resides.¹⁷

b. SENATE DISTRICTS

On the other hand, if the state central committee of a political party is based on Senate districts, boards are prohibited from invalidating a signature on a declaration of candidacy and petition or nominating petition filed by a person seeking nomination for the office of state central committee of a political party on the ground that the signer does not reside in the district the filer seeks to represent so long as the filer seeks nomination for the office of member of the state central committee of a political party to represent a Senate district and:

- (1) The Senate district in which the filer resided under the General Assembly district plan adopted by the Ohio Redistricting Commission in September 2021 had territory in the county in which the signer resides; **and**
- (2) The Senate district the filer seeks to represent has territory in the county in which the signer resides.¹⁸

V. TRANSFER OF DECLARATION OF CANDIDACY, DECLARATION OF CANDIDACY AND PETITION, NOMINATING PETITION, OR DECLARATION OF INTENT TO BE A WRITE-IN CANDIDATE

Boards of elections that subsequently become aware that a filer for U.S. House, Ohio Senate, Ohio House, or state central committee of a political party who had previously filed with that board of elections, is seeking to represent a district for which a different board of election is the appropriate office to process the filing, are required to promptly transfer the filing to the appropriate board of elections.¹⁹ A transferring board must do all of the following:

¹⁶ Section 4(F) of H.B. 93.

¹⁷ Section 4(D)(4) of H.B. 93.

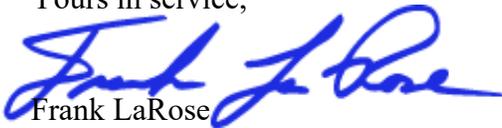
¹⁸ Section 4(D)(5) of H.B. 93.

¹⁹ Section 4(E) of H.B. 93.

- (1) Notify its county prosecutor that it may have a petition that needs to be transferred to another county and how the board was notified by the filer seeking to represent a different district than the one in which they originally filed;
- (2) Notify via electronic mail the Director and Deputy Director of the different board of elections that should receive the filing and the Elections Division (via election@OhioSoS.gov);
- (3) Scan the declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate and any additional relevant documentation and send to the different board of elections via electronic mail;
- (4) Send the declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate and any additional relevant documentation via trackable delivery service to the different board of elections; and
- (5) Notify the candidate that the board that the declaration of candidacy, declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate was originally filed with transferred the filing to the appropriate board of elections for verification and certification.

Each board of elections director must share this Directive with its legal counsel, the county prosecuting attorney, and voter registration system and voting equipment vendors as soon as possible. If you have any questions regarding this Directive, please contact the Secretary of State's elections counsel at (614) 728-8789.

Yours in service,



Frank LaRose
Ohio Secretary of State