SB 153 (136th GA) Election Administration Changes

Unfunded Mandates on Boards of Election:

- Additional direct costs for prepaid postage on all confirmation notices sent by BOEs
- Direct costs associated with purchasing equipment or software necessary for postal service origin tracing requirements for absentee ballots
- Additional staff time to investigate absentee ballots returned via mail that do not include a legible postmark, is postmarked on or after the day of the election, or is postmarked using a postage evidencing system.
- Additional direct costs associated with required mailings to all individuals included on reports prepared and transmitted by the SOS pursuant to ORC 3503.151 (mismatched BMV and voter file data) and ORC 3503.152 (citizenship verification). BOEs are required to investigate and mail applicants included in the report a notice that specifies the reasons someone's voter registration has been flagged as deficient. and continuously review subsequent reports for individuals who have taken corrective action on their BMV or voter file records that requires the provisional ballot notation to be removed from their voter file record.Reasons for the new required mailings are:
  - 1.) The record contains neither a OH DL or SID# nor the last 4 SSN
  - 2.) The record contains and OH DL or SID# but one of the following apply:
    - a. The # does not exist in the records of the BMV
    - b. The # exists in the records of the BMV, but is not associated with the first name, last name, and DOB that appear on the voter file record
    - c. Except as provided in division (E)(2) of this section, the # exists in the BMV records and is associated with the first name, last name, and DOB that appear on the voter file record, but the residence address that appears in the records of the BMV does not match the address in the voter file record
  - 3.) The record contains the last 4 SSN, but one of the following apply:
    - a. Those digits do not exist in the SSA records
    - b. Those digits exist in the SSA records, but are not associated with the first name, last name, and DOB that appear in the voter file record
- Additional direct costs associated with mailing registration cancellation notices to voter's who's provisional ballots were not deemed valid and counted.
- Additional staff time required to validate all petition submissions to account for new validation procedures, including checking individual voter registration dates and cross referencing those individual records with submitted part-petitions. BOEs still must complete this task within 10 days of receiving the petitions

- Additional staff time required to investigate allegations of fraud relating to petition circulation, including verifying compensated circulators were wearing identifying badges and each circulator "personally" wrote the number of signatures per part-petition
- Additional staff, and potential equipment costs for executing the creation, transmission, and retention of daily county voter files
- Additional staff time to review and evaluate all provisional ballots by the four day post-election deadline. Time demands are likely to increase significantly given the new criteria for requiring voters to cast provisional ballots
- In lieu of dop boxes being banned, additional staff time and/or personnel is required to have BOE employees physically present during hours of operation for any exterior absentee ballot drop off location located on, or adjacent, to the BOE property
- Additional costs associated with verifying individuals providing the last four of the SSN on election forms do not possess a DL or SID. New language on voter registration, absentee ballot envelopes, provisional ballots, etc. now declare a person can only provide the last 4 of their SSN if they do not possess a BMV issued ID.
- Additional costs associated with increased mailing and forms being sent to UOCAVA voters who are identified on registration lists and marked as having to vote provisionally.
- Additional administrative and list maintenance costs associated with identifying individual UOCAVA voters who cast a federal write-in absentee ballot under the Uniformed and Overseas Citizen Absentee Voting Act.

BRENNAN CENTER ANALYSIS: SB 153 (4/8/2025)

- Re noncitizens and DPOC:
  - As we read it, it's kind of a backdoor proof of citizenship requirement for voters who get flagged thru the voter registration verification process or thru SoS regular review of the statewide database, which would now be mandated monthly as opposed to annually, and require the SoS to generate and share those reports w/ BOEs and the public (citizenship would not be public).
  - In part, it seems to be attempting to codify what LaRose was trying to do last year in regard to voters w/ noncitizen drivers' licenses - but instead of authorizing a challenge process at the polls, it's trying to create a broader process that SoS and BOEs would execute thru the registration verification and list maintenance processes to flag and remove noncitizens (which would likely sweep up actual citizens as well).

- ○ It's not clear how the SoS or BOEs would electronically verify citizenship or flag noncitizens beyond what they are already getting thru statutorily authorized data sharing agreements w/ BMV and other state agencies. And we aren't clear on whether that process is currently requesting citizenship data from BMV for every registration when it's being processed, only when SoS does an annual review of the voter list, or some other process in place (or none).
  - ○ Would mandate designating anyone whose citizenship has not been verified thru statewide database as a provisional voter unless they provide proof of citizenship.
  - ○ Would mandate cancellation if they don't respond to two notices w/in a 28-day window (unclear if this would fall into the function as systematic removals.
- Seems to require state ID or SSN for all voters, potentially in violation of HAVA:
  - ○ Because the SoS reports are required to flag voters w/ neither state ID or SSN, and BOEs are required to act on that info, it seems like this functions to extend the provisional voting status designation to voters who do not (and those in the past who did not) provide a state ID or SSN when they register to vote. If this is how this would work in practice (the drafting is confusing here), this could be a potential HAVA violation. This is because HAVA allows a voter to register w/out a state ID or SSN as long as they show proof of residency the first time they vote (and no photo ID; it could be a utility bill). And even though Ohio voters have to show photo ID when they vote, under this proposed law, it seems like voters who have Veterans Affairs or military ID, and have satisfied the HAVA proof of residency requirement w/ that or some other document, would still be required to provide a state ID or SSN in order to vote a regular ballot.
  - ○ It also requires the state to flag address mismatches w/ BMV and requires the same notice and provisional voter status for them, which would impact people who move w/in the state and haven't had time to update their BMV address.
- Attempts to intimidate and discourage ballot initiative efforts:
  - ○ You all know much more about the initiative petitioning process, but this seems to add a lot of intimidating language to the circulator affirmation, in addition to fees and sanctions on the committee if a petition is successfully challenged in court.
- Re national context/messaging:
  - ○ It is more moderate compared to the SAVE Act, which would require DPOC upfront and for every voter - this could be categorized as just formalizing the usual verification and list maintenance that SoS/counties

do - seems like a strategic choice and makes messaging more challenging for opposition. While not as sweeping, it will still sweep up citizens who may not readily have proof of citizenship available (and as you probably know, Brennan has a bunch of resources online about the effects of this type of requirement, e.g. [this](#)).

- ○ Could see SoS try to frame this as creating more protections against wrongful removal b/c it creates a notice process as opposed to automatic removal or rejection of registration applications.
- ○ As you know, there are state versions of the SAVE Act being introduced, so this bill is not extreme compared to what a lot of states are attempting.
- ○ Overall seems like it could require significant changes to statewide database and county election management systems (new fields, new and more numerous reports, and new notices to voters). And it adds new system/process flows that local election officials may not be happy about, including an increase in provisional voting ballot processing. You've probably already connected w/ those who are friendly and maybe be good allies in opposition. If not, Brennan could potentially help brainstorm that.
- ○ If we're reading this right, it does seem to adversely and possibly unlawfully impact veterans who register to vote w/out a state ID or SSN (the potential HAVA violation discussed above).
- ○ Regarding the address discrepancies thru BMV, you could point out that lots of states streamline list maintenance by automating BMV and otherwise ensuring compliance w/ the Section 5 of the NVRA, which requires BMVs and SoSs to work together to ensure voter registration updates happen thru BMV. It's expensive and embarrassing to instead send voters who move a notice that they have to vote provisionally unless they take extra steps to update their address; and to put the burden on local BOEs to update voter registrations thru an onerous provisional voting process.

I hope this is helpful! It might make sense for us to connect w/ ACLU of OH if this conflicts at all with what they are finding or you need us to do a deeper dive. Just let us know.