JENNIFER BRUNNER
OHIO SECRETARY OF STATE

180 EAST BROAD STREET, 16TH FLOOR
COLUMBUS, OHIO 43215 USA
TEL: 1-877-767-6446 FAX: 1-614-644-0649
WWW.SOS.STATE.OH.US

DIRECTIVE 2008-63
August 13, 2008

TO: ALL COUNTY BOARDS OF ELECTIONS

RE: Processing Voter Registration Applications Received the Week Immediately Preceding a Voter Registration Deadline

Two fundamental purposes of the county boards of elections are:
- To facilitate the voter registration of eligible persons; and
- To facilitate the ability of each qualified elector to vote in elections conducted in the elector's precinct.

It is anticipated that the November 4, 2008, election will be the first election for which many Ohioans will register to vote, and other Ohioans will have recently changed their addresses in boards of elections records. A significant number of those new and changed registrations will be generated by voter registration drives conducted up to the registration deadline on October 6, 2008.

R.C. 3599.11(B)(2)(a) provides that:
- no one who helps another person to register to vote outside an official voter registration place shall knowingly fail to return any registration form entrusted to that person to a board of elections or the secretary of state's office within 10 days after that registration form is completed, or
- no later than the voter registration deadline for an election, whichever day is earlier,
- unless the registration form is received by the person within 24 hours of the thirtieth day before the election, in which case the person must return the registration form to any board of elections or the secretary of state's office within 10 days of its receipt.

Consequently, boards of elections can expect to receive large numbers of new and changed voter registrations, in the week immediately preceding the voter registration deadline for the 2008 general election, October 6, 2008. (For the purposes of R.C. 3599.11(B)(2)(a), "within 24 hours of the thirtieth day" means within 24 hours of the last day of registration.) Because part of that week coincides with the beginning of the absentee voting period for that election, the boards also should expect to receive large numbers of absentee ballot applications along with the registration applications. **A board of elections must register a person as an elector before issuing an absentee ballot to that person.**

Therefore, to promote the ability of all eligible electors for the general election to vote by absentee ballot if they so choose, boards of elections are directed to expedite the processing of voter registrations received during the week immediately preceding the voter registration deadline for the 2008 general election and during the 10-day period after the deadline if the registrant will be eligible to vote in the November 4, 2008, election, notwithstanding the

provisions of R.C. 3503.19(C)(1)[1]. In light of the increasing numbers of absentee voters by mail, this directive is essential to permit new and changed registrations to be processed in time to enable the board to mail an absentee ballot to such a voter and for the voter to timely return the voted ballot.

A board that is satisfied as to the truth of the statements made on the voter registration application shall register the applicant not later than the second Friday after the voter registration deadline, i.e., not later than October 17, 2008, and shall immediately send to the applicant an acknowledgement notice. The acknowledgement notice must contain notification of the applicant's registration, the precinct in which the applicant is to vote and the notice required by R.C. 3503.19(C)(1)(c) regarding acceptable proof of voter identity.

If a newly registered elector submitted an absentee ballot application with his or her voter registration application, the board shall issue the appropriate absentee ballot to that elector as soon as practicable, but not more than five business days after mailing the acknowledgement notice to that elector.

Additionally, there are several days before the 2008 general election during which a person may appear at the board of elections office and simultaneously submit for that election applications to register to vote or to update an existing registration and to request an absentee ballot. As discussed above, a board of elections must first obtain from the person who presents himself or herself to vote during this period a completed voter registration or change of address form.

Boards of elections are required to develop procedures to immediately register the applicant and issue an absentee ballot to the newly registered elector of the county at the time of registration, reserving the right to delay registration and immediate absentee voting if a board is not satisfied as to validity of the application and the applicant's qualifications. Boards of elections utilizing satellite locations for early in-person absentee voting should develop sufficient procedures to enable them to comply with this directive as they would if in-person absentee voting were taking place at the board's office.

It is critical that all Ohio elections officials work to ensure that persons eligible to vote in the general election by absentee ballot be afforded a timely opportunity to do so. Boards of elections may wish to consider hiring temporary employees to assist in this process to meet the deadlines set forth in this directive and in order to timely process the large number of voter registration applications and absentee ballot applications that are expected in connection with the 2008 general election.

If you have any questions about this directive, please contact your assigned elections counsel by email or at telephone number (614) 466-2585.

Sincerely,

Jennifer Brunner

Jennifer Brunner

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[1] R.C. 3503.19(C)(1) provides in pertinent part:

"A board of elections that receives a voter registration application and is satisfied as to the truth of the statements made in the registration form shall register the applicant not later than twenty business days after receiving the application, unless that application is received during the thirty days immediately preceding the day of an election.

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The notification shall be by nonforwardable mail. If the mail is returned to the board, it shall investigate and cause the notification to be delivered to the correct address."

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MEMORANDUM

To: All Counties; BOE Contacts

Cc: Field Staff; Elections

From: Secretary of State, Jennifer Brunner

Date: 08/13/2008

Re: Processing Voter Registration Applications Received the Week Immediately Preceding a Voter Registration Deadline

Directive 2008-63, among other subjects, clarifies issues surrounding the overlap between the end of voter registration and the beginning of absentee voting in Ohio. This is the first election in which issues have been raised regarding the overlap.

In instituting no-fault absentee voting, the General Assembly also created a 5-day overlap between the end of voter registration and the beginning of absentee voting. This overlap has existed since the 2006 primary election.

Sub. H. B. No. 234 was passed by the General Assembly on 10-19-05 and became effective on 01-27-06. According to the Legislative Service Commission, this bill changed Ohio absentee voting laws as follows:

- Permits any qualified elector to vote by absent voter's ballots at an election (R.C. 3509.02(A)).
- Eliminates the qualifications that electors were required to meet under former law in order to vote by absent voter's ballots (R.C. 3509.02(A) and (C), 3509.03, and 3509.04(B)).

According to R.C. 3509.02, "Those ballots shall be designated as "Absent Voter's Ballots" and shall be printed and ready for use on the thirty-fifth day before the day of the election, except that those ballots shall be printed and ready for use on the twenty-fifth day before the day of a presidential primary election." This law became effective on 08-28-2001.

R.C. 3503.19 stipulates the voter registration deadlines for Ohio elections. This law became effective on 08-22-1995 and was amended on 05-02-2006, after the legislature created no-fault absentee voting.

To address these questions, the Secretary of State has provided the following guidance, in keeping with long-standing Ohio law:

- Notes that a board of elections must register a person as an elector before issuing an absentee ballot to that person.
- Requires boards to complete voter registration processing no later than 10-17-08, to assure every qualified elector is able to vote via absentee or on Election Day.
- Requires boards to develop procedures to immediately register an applicant and issue an absentee ballot to the newly registered elector of the county at the time of registration. During the overlap period.
- Allows boards to delay registration and immediate absentee voting if the board is not satisfied as to validity of the application and the applicant's qualifications.