
SECRETARY OF STATE

Private funding for elections

- Prohibits a public official responsible for administering or conducting an election from collaborating with, or accepting or expending any money from, a nongovernmental person or entity for any costs or activities related to elections.
- Changes the purposes for which the Secretary of State may use the Boards of Elections Reimbursement and Education Fund and prohibits the fund from receiving revenues from fees, gifts, grants, or donations.
- Abolishes the Citizen Education Fund, which was to receive gifts, grants, fees, and donations from private individuals and entities for voter education purposes, and specifies the process to dispose of the remaining money in the fund.

Federal grants

- Requires grants the Secretary of State receives from the U.S. Election Assistance Commission, other than through the Help America Vote Act, to be deposited in the Miscellaneous Federal Grants Fund and spent in accordance with the grant agreement.

Foreign nonprofit corporation certificate of authority

- Eliminates a requirement that a foreign nonprofit corporation provide to the Secretary of State the location of its principal office in Ohio in order to obtain a certificate of authority to exercise its corporate privileges in Ohio.

Service of process fees

- Specifies that the \$5 fee the Secretary of State charges for service of process is per address served.

Copies of laws

- Eliminates from law a requirement that the Secretary of State forward a copy of each new law to the clerk of each court of common pleas within 60 days after it was filed with the Secretary.

Private funding for elections

Generally

(R.C. 3501.054)

The act prohibits a public official responsible for administering or conducting an election from collaborating with, or accepting or expending any money from, a nongovernmental person or entity for any costs or activities related to voter registration, voter education, voter identification, get-out-the-vote, absent voting, election official recruitment or training, or any other election-related purpose, other than the following:

- The collection of any fee that is authorized by law;
- The use of any building to conduct an election, including as a polling place;
- The donation of food for precinct election officials at a polling place on Election Day.

That prohibition does not apply to any money to be deposited in the Address Confidentiality Program Fund (Fund 5SN0) or the Women’s Suffrage Centennial Commission Fund (Fund 5VX0). The act defines “public official,” for purposes of this provision, as any elected or appointed officer, employee, or agent of the state or any political subdivision, board, commission, bureau, or other public body established by law.

Essentially, this provision of the act includes two prohibitions: (1) a prohibition against election officials “collaborating” with a private person or entity for election-related activities, and (2) a prohibition against election officials accepting money from a private person or entity to pay for election-related costs.

For example, it appears that this law prohibits the Secretary of State or a board of elections from working with a citizen group to hold a voter registration drive, conduct a voting education program, or recruit poll workers. Private groups still may engage in those activities, which are protected under the First Amendment,¹²³ but they will not have the benefit of logistical help, publicity, or other assistance from election officials. Meanwhile, if the Secretary or boards of elections hold such programs, they might not be allowed to use volunteers or donations to do so. And, election officials may not accept private grants or donations to pay for election-related expenses, although they still may seek federal or other government grants.

Board of Elections Reimbursement and Education Fund

(R.C. 111.27)

The act changes the purposes for which the Secretary of State may use the Board of Elections Reimbursement and Education Fund (Fund 5FG0) and, consistent with the prohibitions described above, prohibits the fund from receiving money from “fees, grants, donations, and other similar receipts.”

Prior law required the Secretary to use the fund to reimburse boards of elections for “various purposes,” including reimbursements made under certain sections of the Revised Code and to provide training and educational programs for members and employees of boards of elections. The act removes the language regarding “various purposes,” and instead requires the Secretary to use the fund to reimburse the boards pursuant to R.C. 3513.301, 3513.312, and 3521.03 (congressional special elections) and R.C. 3515.071 (state-ordered recounts), as well as for those training and educational programs.

¹²³ See, for example, *Project Vote v. Blackwell*, 455 F.Supp.2d 694, 700 (N.D. Ohio 2006), holding that private groups have a First Amendment right to hold voter registration drives.

Citizen Education Fund

(Section 516.20 and repeal of R.C. 111.29)

Given the prohibitions described above, the act also abolishes the Citizen Education Fund (Fund 4140), which was to receive gifts, grants, fees, and donations from private individuals and entities for voter education purposes. The Secretary of State was required to use the fund to prepare, print, and distribute voter registration and educational materials and to conduct related workshops and conferences for public education.

The act requires the Secretary, on July 1, 2021, or as soon as possible thereafter, to certify to the OBM Director the cash balance of, and current existing encumbrances against, the fund. The Secretary must specify the sources of revenue that make up the remaining cash balance in the fund.

The Director must cancel any existing encumbrances against the fund and return any remaining cash balance in the fund to the original revenue source as certified by the Secretary. The fund is abolished once the encumbrances are canceled and the remaining cash balance is returned.

Federal grants

(R.C. 111.28)

The act requires any federal grants the Secretary of State receives from the U.S. Election Assistance Commission (EAC), other than for purposes established under the federal Help America Vote Act (HAVA), to be deposited in the Miscellaneous Federal Grants Fund instead of the HAVA Fund.

Formerly, any federal grants from the EAC were placed in the HAVA Fund, even if they were not related to HAVA. The HAVA Fund is used for activities conducted pursuant to HAVA, while the Miscellaneous Federal Grants Fund is used according to the applicable federal grant agreements under other federal programs.

Foreign nonprofit corporation certificate of authority

(R.C. 1703.27)

The act modifies the information that a foreign nonprofit corporation must provide to the Secretary of State when it applies under continuing law for a certificate authorizing it to exercise its corporate privileges in Ohio. Prior law required a foreign nonprofit corporation to provide the location of its principal office in Ohio and to appoint a designated agent. The act removes the requirement to list an Ohio office and clarifies that the appointment of the agent must comply with the continuing law designated agent provisions that apply to foreign nonprofit corporations.¹²⁴

¹²⁴ See R.C. 1703.041, not in the act.

Service of process fees

(R.C. 111.16)

The act specifies that the \$5 fee the Secretary of State charges for service of process must be charged per address served. Continuing law requires all Ohio businesses to have an agent for receiving official and legal documents, and that agent's contact information must be registered with the Secretary. If a person sues a business, notice of that fact is served to the agent at the registered address. If the agent cannot be reached, the person seeking to sue can deliver the notice to the Secretary, who serves the notice to various last-known addresses of the business (such as the address in the business's most recent tax filings). The act clarifies that the fee for this service is \$5 for each of these addresses.

Copies of laws

(R.C. 149.08, repealed; R.C. 149.11, conforming)

The act eliminates from law a requirement that the Secretary of State forward a copy of each new law to the clerk of each court of common pleas within 60 days after it was filed with the Secretary.