



JON HUSTED
OHIO SECRETARY OF STATE

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

DIRECTIVE 2011-11

March 18, 2011

To: ALL COUNTY BOARDS OF ELECTIONS

Re: Official Canvass and Report Forms for May 3, 2011 Primary/Special Election

SUMMARY

This Directive outlines the procedures that county boards of elections are required to follow in conducting the official canvass of the May 3, 2011 primary/special election.

TIMELINE FOR OFFICIAL CERTIFICATION

In accordance with state law, the official canvass of the May 3, 2011, Primary/Special Election may begin no earlier than the 11th day after the election (Saturday, May 14, 2011) and must begin no later than the 15th day after the election (Wednesday, May 18, 2011). Each board of elections **must complete the official canvass** of votes cast in the May 3, 2011, primary/special election **no later than the 21st day after the election (Tuesday, May 24, 2011)**.

PERMISSIBLE PRE-CANVASS ACTIVITY

Prior to May 14, 2011, boards may examine poll books, poll lists or signature poll books, and tally sheets, and compare the information contained in those documents to the summary statements. Each board must note and reconcile any errors, defects, or omissions. Each board must verify the eligibility of persons casting provisional ballots and the validity of the required provisional voter statements. (See Advisory 2011-03, Directive 2008-81, and Directive 2010-96).

Reminder: R.C. 3505.183(D) requires that a board determine the eligibility of every provisional ballot cast in that county before the board may canvass **any** provisional ballot. Further, R.C. 3505.183(D) provides that observers may be present while the board determines the eligibility of provisional ballots.

INSTRUCTIONS FOR OFFICIAL CERTIFICATION

All Voting Systems

All valid ballots cast in the May 3, 2011 election – including eligible ballots cast at the polling places on Election Day, eligible provisional ballots, and all eligible absentee ballots – must be included in the official canvass.

In accordance with R.C. 3506.14(B), each board of elections must test the automatic tabulating equipment just prior to and just after the tabulation of ballots to ascertain that the central tabulation system will accurately count the votes cast for all offices and on all

questions and issues. Please see Directive 2008-90 for detailed instructions for conducting the test prior to commencing the tabulation and after completing the tabulation of ballots for the official canvass.

Tabulation Instructions for Ballots Containing Votes NOT Included in the Unofficial Canvass

In accordance with R.C. 3505.32(C), each board first must tally all eligible ballots that were *not* included in the unofficial canvass (i.e., provisional ballots, absentee ballots postmarked on or before May 2, 2011 and received after May 3, 2011 but no later than May 13, 2011, and timely mailed but late received absentee ballots, in-country uniformed service, out-of-country uniformed service, or overseas absentee ballots that have not yet been received as of the closing of the polls).

The board of elections must designate teams having an equal number of individuals from each major political party to inspect and/or tabulate the ballots in accordance with the inspection and tabulation instructions for central count optical scan ballots provided in Directive 2011-10 (Unofficial Canvass – May 3, Primary/Special Election) issued on March 17, 2011.

Tabulation of Results for the Official Certification

After tabulating all ballots that were *not* included in the unofficial canvass, each board must continue the official canvass certification process as follows:

- **Optical Scan Ballots**

The board must:

- upload the memory cards containing votes that were centrally counted during the unofficial canvass;
- upload the precinct/polling place memory cards containing votes that were counted during the unofficial canvass, if applicable;
- verify the count matches the unofficial count.

If the count does not match the unofficial count, the board must contact the Elections Administrator in the Secretary of State's office for additional instructions.

If the counts match, the board must combine the results of the rerun memory card tabulation of the unofficial canvass with the results of those ballots just tabulated that had not been included in the unofficial canvass.

- **Direct Recording Electronic Voting Machines (DREs)**

The board must:

- upload the precinct cartridges, PCMCIA cards, and other removable memory devices containing votes that were counted during the unofficial canvass;
- verify the count matches the unofficial count.

If the count does not match the unofficial count, the board must contact the Elections Administrator in the Secretary of State's office for additional instructions.

Note: The seal on the canister or the tape on the verified voter paper audit trail (VVPAT) shall not be broken to determine official results. If the seal must be broken for any auditing reason other than for recount purposes or a statewide post-election audit as prescribed by the Secretary of State, the board must notify the Elections Division of the Secretary of State's office before proceeding.

If the counts match, the board shall combine the rerun results of the unofficial canvass with the results of those ballots just tabulated that had not been included in the unofficial canvass.

This procedure will produce the totals to be certified as the official results for the May 3, 2011, primary/special election.

FORMS FOR OFFICIAL CERTIFICATION

In addition to the certification forms listed below for reporting candidate and issues results, additional reporting forms accompany this directive. As R.C. 3501.05(Y) requires the Secretary of State to publish a report on the number of absentee and provisional ballots cast and counted, the *Official Certification for Absentee Ballots* form, the *Official Certification of Provisional Ballots Issued* form, and the *Official Certification of Provisional Ballots Counted* form are provided for all Boards to report those totals.

As indicated below, a copy of some candidate and issue certification forms must be returned to other officials in addition to the Secretary of State. The following candidate and issue reporting forms are included with this directive:

- **Certification of Official Results for Municipal Office.** If the municipal office appears in more than one county, the overlapping county must send a copy of this form to the most populous county.
- **Certification of Official Results for Municipal Judge and Municipal Clerk.** If the office appears in more than one county, the overlapping county must send a copy of this form to the most populous county.
- **Certification of Official Results for Local Questions and Issues (Form 5).** In reporting local questions and issues on Form 5, please indicate by use of an asterisk (*) any subdivisions that overlap into another county; however, report only your county's results on Form 5. Most populous counties must also use Form 5-U (described below) for reporting vote totals for questions or issues that overlap into other counties.
- **Certification of Official Results by Most Populous County for Local Questions and Issues (Form 5-U).** If your county contains **the most populous portion of a multi-county district**, please report the total vote for the question or issue on Form 5-U indicating the vote for each county.

- **Certificate of Official Results for Local Liquor Option Questions** (Form 126-B). Copies of this form are sent both to the Secretary of State's office *and* to the Division of Liquor Control at the following address:

Division of Liquor Control
PO Box 4005
Reynoldsburg, OH 43068-9005

TIMELINE FOR REPORTS

The Secretary of State's office **must receive** each board's properly completed certification forms **no later than the close of business on Friday, June 3, 2011**. Completed forms may be submitted by one of the following methods:

- Electronically to Kathy Malott at kmalott@sos.state.oh.us.
- Fax to Kathy Malott at 614-485-7590
- In person at the Elections Division, 180 East Broad Street, 15th Floor, Columbus.

Every board must maintain a copy of each of its completed certification and report forms at its office. All certification forms and reports must be signed before being submitted to the Secretary of State's office or to another county board of elections.

RECOUNTS

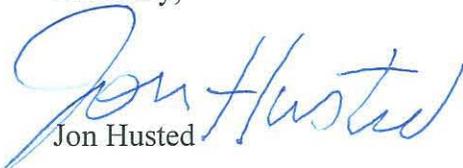
If, after canvassing all votes, more than the number of candidates to be elected to an office received the largest and equal number of votes, the board must break that tie as provided in R.C. 3505.33 and declare the winner *before* the board can certify the results of the election for that office.¹

Do not delay submitting the official certification forms due to a recount for any race or issue.

Any recount shall be conducted in accordance with the procedures set forth in R.C. 3515.01 through 3515.071. A revised Directive on proper recount procedures is forthcoming. If a recount should result in vote totals changing, the board must submit an amended certification and abstract. If a recount is to be conducted, please send notice of the recount to the attention of Melanie Poole via fax at 614-752-4360 or email mpoole@sos.state.oh.us.

If you have any questions regarding this directive, please contact your county's assigned elections counsel at (614) 466-2585 or via email.

Sincerely,


Jon Husted

¹ By contrast, a board does not break a tie in the case of a ballot issue that received an equal number of votes for and against the issue; that issue failed by operation of law, because it did not receive a majority of affirmative votes necessary for passage. In short, a tie vote on a question or issue election results in the failure of the issue.