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DIRECTIVE 2012-37

August 17, 2012

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

Re: Ballot Quantities

SUMMARY

This Directive provides minimum standards for ballot quantities for the November 6, 2012 General Election. Providing ballots is one of the most essential duties of a board of elections. It is not acceptable for a Board to run out of ballots for an election. Likewise, it is unacceptable for a Board, its Director, or Deputy Director to delegate to any other person or entity the authority and responsibility for determining ballot quantities and machine allocation.

INSTRUCTIONS

I. PRECINCT COUNT OPTICAL SCAN VOTING MACHINES

- A. **If a board of elections pre-prints the total stock of ballots to be used at a voting location on Election Day**, the Board must provide at least one percent (1%) more than the total number of voters registered in the precinct.¹ In determining the number of registered voters, a Board does not have to count electors who have failed to respond within 30 days to any confirmation notice.² Be mindful of the proper allocation of this quantity across precinct splits.
- B. **If a Board has chosen to provide ballots on demand at a voting location on Election Day**, the Board must provide for each precinct at least five percent (5%) more ballots than the total number of electors in that precinct who voted in the 2008 General Election (regular and provisional).³ Be mindful of the proper allocation of this quantity across precinct splits. If precinct election officials request additional ballots, the Board must provide those ballots in a timely manner so that all qualified

¹ R.C. 3505.11(A).

² R.C. 3505.11(A).

³ R.C. 3505.11(B)(1)(b).

electors in that precinct who wish to vote may do so.⁴ The Board must have enough blank paper stock on hand to equal the difference between the statutory minimums of A and B of this section.

When considering whether to preprint fewer ballots and supplement with ballots on demand, the Board must also consider whether or not its printer capacity is sufficient to produce ballots on demand in the event that mass quantities of supplemental on demand ballots were required at the same time on Election Day.

II. DIRECT RECORDING ELECTRONIC (DRE) VOTING MACHINES

- A. There must be at least one DRE voting machine for every 175 registered voters in a precinct or voting location at which the DREs are programmed to allow any voter in the location to vote on any machine in the location. There must never be fewer than three DRE voting machines in any precinct or voting location. In determining the number of registered voters, a Board does not have to count electors who have failed to respond within 30 days to any confirmation notice. It may also exclude from the count any registered voter who has requested an absent voter ballot (by mail or in person) as of the date the allocation decision is made by the Board. The board of elections must vote in public session on the number of precinct count optical scanners to distribute and allocate to each precinct and/or polling location.⁵
- B. Boards of elections must program on the encoder card or cards all ballot types to be provided in the precinct or voting location at which the DREs are programmed to allow any voter in the location to vote on any machine.
- C. A board of elections must print and distribute to each precinct regular paper ballots and provisional ballot envelopes for use by provisional voters. The Board must provide ballots and envelopes in the quantity of at least five percent (5%) more than the number of provisional ballots cast in that precinct at the 2008 General Election.⁶ Be mindful of the proper allocation of this quantity across precinct splits.
- D. Boards of elections must print and distribute backup optical scan ballots for use "in the event of long lines"⁷ and to "offer paper ballots to voters in the event of machine problems or breakdowns."⁸ See [Directive 2012-27](#).
- E. Boards of elections must provide sufficient supplies and equipment (e.g., paper for voter verified paper audit trail printers) so that voting may continue without undue delay resulting from missing or insufficient replacement supplies.

⁴ R.C. 3505.11(B)(2).

⁵ R.C. 3501.11(I).

⁶ This is a minimum requirement for preparedness, not a prediction for the number of provisional ballots expected to be cast this election.

⁷ LWV Settlement Agreement, Exhibit B, Section I, Division A, Paragraph 1.

⁸ LWV Settlement Agreement, Exhibit B, Section VII, Paragraph 2.

III. COMPETITIVE BIDS⁹

If the cost for printing ballots exceeds \$10,000, the Board must competitively bid the contract. The contract shall not be let until after five days' notice published once in a newspaper of general circulation in the county or upon notice given by mail by the board of elections, addressed to the responsible printing offices within the state. Each bid for such printing must be accompanied by a bond with at least two sureties, or a surety company, satisfactory to the board, in a sum double the amount of the bid. The Board may, however, waive the requirement that each bid be accompanied by a bond if the cost of the contract is ten thousand dollars or less. The contract shall be awarded to the lowest responsible bidder. All ballots shall be printed within the state.

IV. BALLOT PROOFS¹⁰

See Directive 2012-38 for detailed instructions for proofing ballots.

V. SEALED PRINTED PAPER BALLOTS¹¹

The board must make adequate provision for the inspection of the printing and rotation of names of the ballots. The selected printing vendor must seal the ballots securely in packages, one package for each precinct in the county and deliver them to the Board at such time and place as the board may direct. The Board, upon receiving such packages, must give a receipt for them indicating the number of ballots in each package and the number of precincts in each case.

If you have any questions concerning this Directive, please contact the Secretary of State's elections attorney that is assigned to your county at (614) 466-2585.

Sincerely,



Jon Husted

⁹ R.C. 3505.13.

¹⁰ R.C. 3505.14.

¹¹ R.C. 3505.15.