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July 19, 2024

Ms. Kim Burns
Assistant Secretary of State
Ohio Secretary of State
180 Civic Center Dr.
Columbus, Ohio 43215
Via email: kburns@ohioSOS.gov

RE: HB 2, Special Session, 135th General Assembly

Dear Ms. Burns,

I write today to provide guidance as to the application of House Bill 2, which the General Assembly passed in a special session in response to concerns about the timing of the Democratic National Convention. H.B. 2 is designed to fix the Democrats' 2024 timing problem so that their chosen candidates can be certified to the ballot. As explained below, it does just that.

By way of background, existing Ohio law requires major political parties to certify the names of their joint candidates for president and vice-president to your Office ninety days before the general election. R.C. 3505.10. This year that date is August 7, 2024. However, the Democratic National Convention, at which the Democratic Party will choose its presidential and vice-presidential candidates, will be held August 19th to the 22nd, after the certification deadline. A legislative fix was needed to address this issue, thus the General Assembly passed H.B. 2.

In relevant portion, H.B. 2 provides:

“(A) Notwithstanding any provision of the Revised Code to the contrary:
(1) a major political party shall certify to the Secretary of State in writing the names of its candidates for president and vice-president nominated by its national convention pursuant to section 3505.10 of the Revised Code not later than the sixty-fifth day before the 2024 general election.”

Use of the word “notwithstanding” indicates the General Assembly’s intent for the statute in which it is used to take precedence over any contrary statute. See, *Ohio Neighborhood Fin., Inc. v. Scott.*, 139 Ohio St.3d 536, 546 (2014) (“‘Notwithstanding’ indicates the General Assembly’s intention that R.C. 1327.57(A) take precedence over any contrary statute purporting to limit a registrant’s authority.”), citing, *State ex rel. Carmean v. Hardin Cty. Bd. of Edn.*, 170 Ohio St. 415, 422 (1960); *Cisneros v. Alpine Ridge Group*, 508 U.S. 10, 18 (1993) (“a ‘notwithstanding’ clause clearly

signals the drafter's intention that the provisions of the 'notwithstanding' section override conflicting provisions of any other section"). Here, use of the word "notwithstanding" signals the General Assembly's intent for H.B. 2 to override R.C. 3505.10 for purposes of the 2024 general election. H.B. 2's certification deadline—sixty-five days before the general election (September 1, 2024)—is meant to take precedence over the August 7, 2024 deadline set forth in R.C. 3505.10. We must give effect to that intent.

The General Assembly fixed the Democratic Party's timing problem. It must now certify its presidential and vice-presidential candidates to your Office by September 1, 2024. If I can be of any further assistance, please do not hesitate to reach out.

Sincerely,

Bridget C. Coontz

Chief Counsel and Ethics Officer

CC: Sarah Huffman, Esq.
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