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DIRECTIVE 2007-29

November 7, 2007

To: ALL COUNTY BOARDS OF ELECTIONS

Re: **Official Canvass and Report Forms for November 6 General Election**

Timeline for Official Certification

In accordance with R.C. 3505.32(A), the official canvass of the November 6, 2007, general election may begin no earlier than 11 days after the election (Saturday, November 17, 2007) and must begin no later than 15 days after the election (Wednesday, November 21, 2007). All boards of elections must complete the canvass of votes cast no later than 21 days after the election (Tuesday, November 27, 2007).

Prior to November 17, 2007, boards may examine pollbooks, poll lists or signature pollbooks and tally sheets and compare them to the summary statements. Any errors, defects or omissions shall be noted and reconciled. Boards may verify the eligibility of persons casting provisional ballots and the validity of the required provisional voter statements. (*See Dir. 2007-06*)

Instructions for Voting Systems

All Voting Systems: In order for a board to declare and certify official results, all valid ballots cast in the November 6, 2007, election—including eligible ballots cast at the polls, provisional ballots and all absentee ballots—must be included in the official canvass.

- **Optical scan**

1. **Central Count:** In accordance with R.C. 3505.32(C), each board first must scan and tally all eligible ballots that were not included in the unofficial canvass. Set the central scanners to reject blank ballots *and* overvoted ballots. The board must designate inspection teams comprised of an equal number of board employees from each major political party to inspect the rejected ballots and, if possible, determine voter intent.

As stated in R.C. 3506.21(B), voter intent is determined by examining the ballot for a consistently made mark that is contrary to voting instructions. *Examples:* Rather than filling in the oval or box, the voter underlined or circled choice; circled oval or box by choice; made an "X", checkmark or other recognizable mark beside the choice; or marked the ballot with a writing instrument not recognized by the tabulator.

2. **Precinct Count:** Each board then must rerun the precinct/polling place memory card and verify the count matches the unofficial. If it does not, the board must run all ballots through the tabulator and set it to reject blank ballots and overvoted ballots. The board must designate inspection teams consisting of an equal number of

employees from each major political party to efficiently inspect the rejected ballots to determine voter intent.

- **DRE**

1. In accordance with R.C. 3505.32(C), each board first must tally all eligible ballots that were not included in the unofficial canvass. The board must run the cartridges, PCMCIA cards and other removable memory devices on which the uncounted ballots are stored.
2. The board then must rerun the precinct cartridges, PCMCIA cards and other removable memory devices and verify that the count matches the unofficial. If it does not, the board must compare the audit trail or the internal program on the voting machine to the cartridge results and determine the cause of the difference.

Note: The seal on the canister or the tape on the verified voter paper audit trail (VVPAT) is not to be broken to determine official results. If the seal must be broken for any auditing reason other than for recount purposes, the board must notify this office immediately.

Forms for Official Certification

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

1. Certification of Absentee and Provisional Ballots Cast and Counted.
2. Certification of Results for Offices of a City or Village.
3. Certification of Results for Township Trustee and Fiscal Officer.
4. Certification of Results for Member of School Board.
5. Certification of Results for Local Questions and Issues (Form No. 5) - see additional instructions, below.
6. Certification of Results by Most Populous County for Local Questions and Issues (Form 5-U) .
7. Certificate of Results for Local Liquor Option Questions (Form 126-B) (*to be sent to the Division of Liquor Control and Secretary of State*) .

- **Form 5 and 5-U** (see nos. 5. and 6. above)

In reporting local questions and issues on Form 5, please indicate by an asterisk (*) any subdivisions which overlap into another county. 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 (described in no. 6 above), indicating the vote for each county.

- **Form 126-B** (see no. 7 above)

This form is sent 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

This office must receive each board's properly completed certification forms **no later than the close of business on Friday, December 7, 2007**. Completed forms may be submitted as follows:

- Electronically to Kathy Malott at kmalott@sos.state.oh.us.
- In person at the Elections Division, 180 East Broad Street, 15th Floor, Columbus.
- Via U.S. Mail to: Secretary of State's Office, Elections Division, PO Box 2828, Columbus, OH 43216. If you choose to mail your completed forms, please remember that **our office must receive them by December 7**.

Recounts

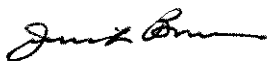
If, after canvassing all votes, more than the number of candidates to be elected to an office received the largest and equal number of votes, the board must break that tie as provided in R.C. 3505.33 and declare the winner before the board can certify the results of the election for that office. (By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

Please do not wait to complete any recount procedures provided for in R.C. 3515.01 through 3515.071 before submitting the abstracts and official certification forms. 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 Robin Fields via fax at 614-752-4360 or email rfields@sos.state.oh.us

If you have any questions regarding this directive, please call the Elections Attorney assigned to your county at (614) 466-2585.

Sincerely,



Jennifer Brunner