

As Introduced

135th General Assembly  
Regular Session  
2023-2024

H. B. No. 546

Representative Gross

Cosponsors: Representatives Daniels, Wiggam, Lorenz, Seitz, Willis, Williams,  
Dean, Barhorst, Creech

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A BILL

To amend sections 3505.28, 3506.01, and 3509.07 and 1  
to enact section 3506.022 of the Revised Code to 2  
require all ballots in Ohio elections to have an 3  
identifying watermark. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3505.28, 3506.01, and 3509.07 be 5  
amended and section 3506.022 of the Revised Code be enacted to 6  
read as follows: 7

**Sec. 3505.28.** (A) No ballot shall be counted which is 8  
marked contrary to law, except that no ballot shall be rejected 9  
for any technical error unless it is impossible to determine the 10  
voter's choice. ~~If~~ 11

(B) (1) If two or more ballots are found folded together 12  
among the ballots removed from a ballot box, they shall be 13  
deemed to be fraudulent. ~~Such ballots~~ 14

(2) If the election officials determine, based on an 15  
absent or incorrect watermark described in section 3506.022 of 16  
the Revised Code, that a ballot is not genuine or was not issued 17

to an elector in the applicable precinct, the ballot shall be 18  
deemed to be fraudulent. 19

(3) Ballots described in divisions (B) (1) and (2) of this 20  
section shall not be counted. They shall be marked "Fraudulent" 21  
and shall be placed in an envelope indorsed "Not Counted" with 22  
the reasons therefor, and such envelope shall be delivered to 23  
the board of elections together with other uncounted ballots. 24

(C) No ballot shall be rejected because of being marked 25  
with ink or by any writing instrument other than one of the 26  
pencils provided by the board of elections. 27

**Sec. 3506.01.** As used in this chapter and Chapters 3501., 28  
3503., 3505., 3509., 3511., 3513., 3515., 3517., 3519., 3521., 29  
3523., and 3599. of the Revised Code: 30

(A) "Marking device" means an apparatus operated by a 31  
voter to record the voter's choices through the marking of 32  
ballots enabling them to be examined and counted by automatic 33  
tabulating equipment. 34

(B) "Ballot" means the official election presentation of 35  
offices and candidates, including write-in candidates, and of 36  
questions and issues, and the means by which votes are recorded. 37

(C) "Automatic tabulating equipment" means a machine or 38  
electronic device, or interconnected or interrelated machines or 39  
electronic devices, that will automatically examine and count 40  
votes recorded on ballots. Automatic tabulating equipment may 41  
allow for the voter's selections to be indicated by marks made 42  
on a paper record by an electronic marking device. 43

(D) "Central counting station" means a location, or one of 44  
a number of locations, designated by the board of elections for 45  
the automatic examining, sorting, or counting of ballots. 46

(E) "Voting machines" means mechanical or electronic 47  
equipment for the direct recording and tabulation of votes. 48

(F) "Direct recording electronic voting machine" means a 49  
voting machine that records votes by means of a ballot display 50  
provided with mechanical or electro-optical components that can 51  
be actuated by the voter, that processes the data by means of a 52  
computer program, and that records voting data and ballot images 53  
in internal or external memory components. A "direct recording 54  
electronic voting machine" produces a tabulation of the voting 55  
data stored in a removable memory component and in printed copy. 56  
"Direct recording electronic voting machine" does not include a 57  
voting machine that captures votes by means of a ballot display 58  
but that transfers those votes onto an optical scan ballot or 59  
other paper record for tabulation. 60

(G) "Help America Vote Act of 2002" means the "Help 61  
America Vote Act of 2002," Pub. L. No. 107-252, 116 Stat. 1666. 62

(H) "Voter verified paper audit trail" means a physical 63  
paper printout on which the voter's ballot choices, as 64  
registered by a direct recording electronic voting machine, are 65  
recorded. The voter shall be permitted to visually or audibly 66  
inspect the contents of the physical paper printout. The 67  
physical paper printout shall be securely retained at the 68  
polling place until the close of the polls on the day of the 69  
election; the secretary of state shall adopt rules under Chapter 70  
119. of the Revised Code specifying the manner of storing the 71  
physical paper printout at the polling place. After the physical 72  
paper printout is produced, but before the voter's ballot is 73  
recorded, the voter shall have an opportunity to accept or 74  
reject the contents of the printout as matching the voter's 75  
ballot choices. If a voter rejects the contents of the physical 76

paper printout, the system that produces the voter verified 77  
paper audit trail shall invalidate the printout and permit the 78  
voter to recast the voter's ballot. On and after the first 79  
federal election that occurs after January 1, 2006, unless 80  
required sooner by the Help America Vote Act of 2002, any system 81  
that produces a voter verified paper audit trail shall be 82  
accessible to disabled voters, including visually impaired 83  
voters, in the same manner as the direct recording electronic 84  
voting machine that produces it. 85

(I) "Watermark" means a unique, randomly assigned 86  
identifying image, pattern, or alphanumeric code that is placed 87  
upon, or embedded within, a paper ballot, that is not visible to 88  
the unassisted human eye, and that becomes visible to election 89  
officials through the use of an alternate light source or other 90  
technology. 91

Sec. 3506.022. Every ballot used in this state shall 92  
include a watermark that allows the election officials to 93  
ascertain that the ballot is genuine and that the ballot is the 94  
same ballot the election officials issued to the voter who cast 95  
the ballot. 96

**Sec. 3509.07.** If election officials find that any of the 97  
following are true concerning an absent voter's ballot or absent 98  
voter's presidential ballot cast under section 3503.16, 3509.05, 99  
3509.08, or 3511.09 of the Revised Code and, if applicable, the 100  
person did not provide any required additional information to 101  
the board of elections not later than the fourth day after the 102  
day of the election, as permitted under division (D) (3) (b) or 103  
(E) (2) of section 3509.06 of the Revised Code, the ballot shall 104  
not be accepted or counted: 105

(A) The statement accompanying the ballot is incomplete as 106

described in division (D) (3) (a) of section 3509.06 of the Revised Code or is insufficient;

(B) The signatures do not correspond with the person's registration signature;

(C) The applicant is not a qualified elector in the precinct;

(D) The ballot envelope contains more than one ballot of any one kind, or any voted ballot that the elector is not entitled to vote;

(E) Stub A is detached from the absent voter's ballot or absent voter's presidential ballot; or

(F) The election officials determine, based on the watermarks described in section 3506.022 of the Revised Code, that the ballot is not the ballot that was issued to the elector.

(G) The elector has not included with the elector's ballot any identification required under section 3509.05 or 3511.09 of the Revised Code.

The vote of any absent voter may be challenged for cause in the same manner as other votes are challenged, and the election officials shall determine the legality of that ballot. Every ballot not counted shall be endorsed on its back "Not Counted" with the reasons the ballot was not counted, and shall be enclosed and returned to or retained by the board of elections along with the contested ballots.

**Section 2.** That existing sections 3505.28, 3506.01, and 3509.07 of the Revised Code are hereby repealed.