Dear Directors, Deputy Directors and Board Members:

First, having managed a county board of elections, I know firsthand the challenges that you are experiencing due to the confluence of several events — all of which are out of your control and ours. Had HB 194 become law last month, there would be uniform days and hours for in person voting. Absent a referendum on HB 194 there would not be confusion about what portions of HB 224 are and are not relevant. And without a referendum against the congressional district bill we would all have a clear understanding of the districts, the date of the 2012 primary and the proper filing deadline.

I make these statements not to assign blame, but as evidence that self-government can sometimes be messy. As the guardians of the “little d” democratic process, we elections officials, more than anyone, must accept the inconveniences of “little r” republican form of government and the rights that we as citizens of the state have reserved to ourselves for initiative and referendum. It is messy, but it is good.

With that being said, I know county boards of elections become the targets of frustrated and sometimes unkind voters and candidates demanding answers you cannot provide. We receive the same calls and share in your inability to provide decisive answers in these situations.

Again, I personally understand how trying this time is for you. Let me assure you that we in the Secretary of State’s office are working daily to do our best in communicating information that provides consistent and uniform application of state law without overstepping our authority.

We appreciate your hard work and understanding of our position as well.

Below, please find answers to Frequently Asked Questions regarding Advisory 2011-07 (H.B. 224) and Directive 2011-32 (Congressional Redistricting).

1. Does in person absentee voting really end at 6 p.m. on Friday, November 4?

Yes. HB 224, which received a unanimous, bipartisan vote in both the House and the Senate, ends in person absentee voting at 6 p.m. on Friday, November 4. This provision of HB 224 is not impacted by the stay of HB 194 based upon our application of Attorney General Opinion 2011-035.

The exceptions to this are 1) a person who appears at the board office (or alternate in person absentee voting location) to cast an in person absentee ballot under the provisions of UOCAVA, in which case this person may do so up until 7:30 p.m. on Election Day, and 2) an absent voter ballot cast under RC 3509.08(B). Remember that while most UOCAVA-covered individuals are overseas, one doesn’t necessarily have to be overseas to qualify (e.g., the spouse of a deployed member of the uniformed services, a member of the uniformed services stationed state-side, etc).

2. Can a person cast a provisional ballot at the board of elections after 6 p.m. on Friday, November 4?

Yes. A voter must be able to cast a provisional ballot whenever the board is otherwise publicly open. R.C. 3503.16. A provisional ballot is not a type of absent voter’s ballot.
3. What about the noon deadline on Saturday, November 5?

You must be able to receive applications for absent voter ballot delivered by the mail to the Director by noon on Saturday, November 5. You are not required to have “regular business hours” or be “open to the public” the Saturday before the election. Hours of operation are established by majority vote of the board in public session.

Even if you are “open to the public” on the Saturday before the election, as noted above, you cannot accept an application for absent voter’s ballot after 6 p.m. Friday if it is delivered “in person” to the Board, unless the application is for a UOCAVA ballot or authorized by RC 3509.08(B) (Form 11-B: “Application for Absent Voter’s Ballot by Voter Hospitalized or Whose Minor Child is Hospitalized Because of an Accident or Unforeseeable Medical Emergency”).

4. When can precinct election officials vote given the close of in person absentee voting at 6 p.m. on Friday, November 6?

Our best advice is to plan as best as you can to provide your precinct elections officials with an application that they can return in person before the 6 p.m. 11/4 deadline or by mail before the noon 11/5 deadline. We recognize that this causes a hardship for precinct elections officials who receive training over the weekend or on Monday and who would otherwise normally request and cast an in person absent voters ballot at, or as a part of, the training program. Precinct elections officials who are assigned to work at the same voting location where they are registered are eligible to cast a regular ballot at the precinct on Election Day so long as they otherwise qualify (sign the poll book, provide ID, etc).

5. Is my board required to be open to the public any specific hours?

Yes. All county boards of elections must be open until 6 p.m. on Friday, November 4, to accept absentee ballot applications submitted by mail or in person because of the deadline in HB 224.

Otherwise, no. Boards of election are not required to be open to the public any specific hours. The day and time requirements established in HB 194 are on hold due to the referendum, so days and times for in person absentee voting at times on days before November 4 are at the Board’s discretion to establish by majority vote of the board in public session as “regular business hours.”

However, whenever the board is open to the public for regular business hours, it should provide for the return of voted ballots under 3509.05(A)(3rd paragraph).

6. With the possible referendum on HB 319 and the Court Decision last Friday, what should we do about Congressional redistricting and the December 7 filing deadline?

We too are concerned about the impact of the referendum. The General Assembly is working on a number of possible solutions, at least one of which is likely to be enacted as early as this week. We will let you know as soon as we know something definitive.

7. What happened to the bulletin board?

As a part of our directive review process (with more information on that coming after the election), we decided it was best to remove that information since some of it was stale given changes to the law. It will be re-posted at a later time.

If you have any additional questions, please do not hesitate to contact the elections attorney assigned to your county.
Keep up the great work!

-md

Matthew M. Damschroder  
*Director of Elections*  
614-466-5515

MDamschroder@sos.state.oh.us

Follow Ohio Secretary of State Jon Husted: