



## Election Deadline Changes

Amended Substitute House Bill 48, effective July 2, 2010, revises filing deadlines for ballot questions and issues, and candidate and other petitions – generally requiring that filings be made 15 days earlier than under current law. Among other matters, this legislation requires that tax levy and bond issue questions be certified to county boards of elections at least 90 days prior to the election at which they are to be placed on the ballot. Deadlines for necessary preliminary actions and filings are also adjusted accordingly.

This legislation will apply to proceedings for ballot questions and issues submitted at elections taking place after August 3, 2010.

If you have any questions or would like to discuss the new legislation in more detail, please contact your principal Squire Sanders lawyer or one of the individuals listed in this Alert.

## Report to Ohio School Districts – Updated 2010 Election Deadlines

Set forth below are the deadlines for the submission of most ballot issues, including property tax levies, bond issues and school district income taxes, for the November 2, 2010 election.

Under Amended Substitute House Bill 48, signed by Governor Strickland on April 2 and effective July 2, 2010, the deadlines for school district election proceedings for issue elections on and after November 2

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will be 15 days earlier than under current law. For most proceedings for such elections, except those for school district income taxes and certain bond issues discussed below, the only specific deadline will be a requirement that all the proper materials be completed and filed with the Board of Elections at least 90 days before the date of the election. Under current law, that deadline was 75 days.

In the case of school district income taxes, the first resolution will be required to be adopted and filed with the State Tax Commissioner no later than the 100th day prior to the election. The remaining proceedings will be required to be taken and filings made with the Board of Elections no later than the 90th day prior to the election. Under current law, those deadlines were 85 days and 75 days, respectively.

In the case of school districts intending to submit a bond issue requiring the consents of the State Superintendent of Public Instruction and the State Tax Commissioner because, after the issuance of those bonds, the school district's net indebtedness would exceed 4 percent of its tax valuation, the following will be required to be filed with the Department of Education and the Department of Taxation no later than the 120th day prior to the election: (i) a letter requesting the 4-percent consents, (ii) a statement of net bonded indebtedness on DTE Form 131 (if the board of education has not yet adopted its resolution of necessity for the bond issue as of that date, a draft DTE Form 131 may be submitted) and (iii) a "general certificate" setting forth certain specific information about the school district. Additional materials necessary to apply for 4-percent consents will be filed with both Departments no later than the 95th day before the election. The resolution of necessity, county auditor's millage certifications and resolution to proceed will be required to be filed with the Board of Elections no later than the 90th day prior to the election. Under current law, those deadlines were 105 days, 80 days and 75 days, respectively.

In the case of emergency tax levies, the only change made by Amended Substitute House Bill 48 was to extend to 90 days (from 75 days) the deadline for filing all proceedings with the Board of Elections. However, as a practical matter, the resolution of necessity will need to be adopted and the county auditor's millage certification obtained, sufficiently in advance of the 90-day deadline to permit the requisite filing to be made on that date. Under current law, the deadline for adoption of the resolution of necessity and its delivery to the county auditor is 80 days. Under both current law and the provisions of the Bill, the county auditor has five

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days after receiving the resolution to make the millage certification.

Similarly, in the case of other property tax levies, as a practical matter, the initial resolution will need to be adopted sufficiently in advance of the 90-day deadline to permit the board of education to obtain the requisite county auditor certifications, to adopt the resolution determining to proceed with the election and to allow a filing by the 90th day preceding the election. Under both current law and the provisions of the Bill, the county auditor generally has up to 10 days after receiving the initial resolution to make the required certifications.

For future elections, please note that the 90th day prior to an election will fall on the day after the preceding election. For example, the 90th day prior to the November 2, 2010 election is August 4, 2010, which is the day after the August 3, 2010 election. Therefore, if a school district has a tax levy or bond issue on the ballot at a current election and wishes to resubmit the issue at the next following election if it fails, this will likely require preparation of proceedings and board of education actions to place that issue on a future ballot in advance of knowing the results of the current election.

The purpose of this Report is to provide general information. Please contact Squire Sanders prior to undertaking any election proceedings so that we can assist in making certain that you take all of the proper steps and meet all applicable deadlines.

#### **GENERAL ELECTION – NOVEMBER 2, 2010**

120th day prior to election: Monday, July 5, 2010

100th day prior to election: Sunday, July 25, 2010

95th day prior to election: Friday, July 30, 2010

90th day prior to election: Wednesday, August 4, 2010

Last day to commence publication of election notice to have four full weeks is October 5, 2010; two full weeks is October 19, 2010; and 10 days is October 23, 2010.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

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