



**BALLOT ACCESS FOR OHIO for 2015 and
BEYOND
IN LIGHT OF SB-193 AS NOW UPHELD BY THE
COURTS
Otherwise Known As
The Ohio Voter Suppression Act of 2013**

By Don Shrader

As I have noted previously, this new law certainly reminds me of that which we used to ridicule growing up regarding Communist-block countries' elections. In most Communist countries one was required to vote (to make it look to the outside world that they were legitimately holding elections for office) even though there was only one candidate on the ballot, the person chosen by the Communist Party Central Committee as the only candidate permitted on the ballot. No write-in's allowed. In Ohio today, the candidates for the two major Parties are basically chosen by the Central Committees of the two Parties with little choice actually left to the voting public. Like the Communist-block countries, any semblance of competition at the ballot box, except in the General Election between the candidates chosen by the Major Party Central Committees (with rare exception) is simply a ruse. No write-ins allowed (except for Governor and President).

SB-193 obviates "a group of voters who had previously been recognized as a political party by a court order or a directive issued by the Secretary of State...." (underline mine) Thus, all parties other than the Republicans, Democrats, and Green have now been declared null and void and must form or re-form in accordance with the new election laws contained in this bill if they wish to be a recognized political party in the state of Ohio and be able to run candidates for any elective office in the state. **Sec. 3517.012(C)(3)** specifically declares that "If a party formation petition is insufficient, no candidate shall appear on the ballot in the general election as that political party's nominee, regardless of whether any candidate's nominating petition is sufficient."

(In my opinion, because no other third Party was on the ballot for Governor in 2014 other than the Green Party candidate, they received 3.3% of the vote, sufficient to remain as a recognized political Party in the State for four more years. The Libertarians are fighting in the courts to have their Party reinstated because of how their candidate for Governor – who was the cause for the hurried passage of SB 193 in the first place – was surreptitiously removed from the ballot by the Republicans.)

In 2008 through 2014, The Constitution, Libertarian, Green, and Socialist Parties were the four recognized minor parties in Ohio by the Secretary of State's Office. (The ACLU contested SB 193, which was passed by the Republicans at the last minute in a vain attempt to negate all third parties from having ballot access beginning in 2014. Thanks to the ACLU, the courts issued an injunction against SB 193 for 2014, but the law was recently upheld by the Courts for future years. We thank the ACLU for their efforts to fight this onerous legislation on behalf of all citizens in Ohio. In court, the Republican Party won and the people of Ohio lost.)

So, what does it mean to you now that Senate Bill 193 (SB 193) has been allowed to stand? For many, it won't mean a thing because they will go through the motions of voting as they always have without any care or understanding as to how their rights and privileges in voting have been taken away from them. (For all of those who will not support or vote for a third Party candidate because "it is just a vote for the other Party" should all now be happy because there will not be a Third Party candidate on the ballot to split the vote – except for the Green Party for a time, anyhow, which should make all supposed "conservatives" happy for now.) But for all who care and want to know, here is what SB 193 means to you:

1. All minor parties with the exception of the Green Party (which did garner 3.3% of the vote in the 2014 Ohio Gubernatorial race) are now null and void. The Green Party remains a recognized Minor Party in the State of Ohio for the next four years. (In my estimation, if no other minor Party qualifies under the rules below for ballot access, then it is possible that once again, the Green Party will remain ballot qualified as many will vote for them as a protest vote against the two major Parties. Others will just not vote. On the other hand, most likely, if another one or two minor

Parties – such as the Libertarian and Constitution Parties – become ballot qualified for the 2018 Ohio Gubernatorial election, it will likely once again split the vote among the minor Parties such that none will meet the 3% threshold, as has been the case in the past.)

2. At this point, as I understand it with respect to SB-193, the only way a minor party will be able to gain or regain recognition as a political party by the Secretary of State's Office will be by obtaining the valid signatures of qualified electors equal to at least one per cent (1%) of the votes cast in the most recent Gubernatorial or Presidential race, or approximately 30,500 signatures for the 2016 elections based upon the number of Ohioans who voted in the 2014 Ohio Gubernatorial race. Signature gathering cannot begin earlier than twelve (12) months prior to the 2016 general election with the petitions to be submitted to the Secretary of State no later than 125 days before the general election, or around July 4th.
3. Also, as I understand it currently, nominating petition solicitors/signature gatherers for another party or political candidate must be in-state registered voters who did not vote in another party's primary within the last 2 years (i.e. the 2014 or 2015 primary elections). Minor party candidates in Ohio, except for Presidential/ Vice Presidential candidates – if I am not mistaken, are prohibited from using non-Ohio residents as solicitors. (However, I admit that I could be mistaken regarding this constraint; any Party that decides to try to gain or regain official state status under the auspices of SB-193 will need to research this further to determine the exact specifics of these restrictions.)
4. Finally, it should be noted that historically, petitioners need to collect a minimum of 30% to 50% more signatures than the required minimum because 25% or more of the signatures will typically be declared invalid for one reason or another. So, for 2016, to obtain 30,000 valid signatures will require that each minor party collect more than $30,000 \times 1.3 = 39,650$ (realistically between 40,000 and 50,000) signatures from those who are registered voters. Of course, a voter may sign only one party petition.

In accordance with SB 193, any minor party that is able to collect the necessary 40,000 valid signatures will then need to poll 3% of the votes cast in the 2016 presidential race, or receive approximately 162,000 votes, (based upon the 2012 Presidential voting numbers) for them to remain a State recognized minor political party for another four years. With the exception of the Green Party, as noted above (and only if no other minor Party enters the race), none of the minor parties will be able to meet this threshold based upon historical figures, as those Republican legislators knew full well when drafting the legislation. The Libertarians did get just over 2% of the vote in the 2010 gubernatorial race and the Green Party got 1.6%. In 2012 no minor party candidate received even 1% - Libertarian Gary Johnson received 0.89% and no one else was close to that number. (Remember the mantra used by the major parties – “a vote for the minor party candidate is a vote for the guy you don’t want the most,” i.e. “a vote for Virgil Goode, the Constitution Party presidential candidate in 2012, is a vote for Obama.”)

It must be further noted that to remain ballot qualified under SB 193, minor parties must run candidates – and succeed - in the two most expensive races in the state – the race for Governor or alternately the race for President (each two-years apart from the other). To effectively compete in those races, even to get 3% of the vote, would likely require more than a hundred thousand dollars, perhaps several hundred thousand dollars, in advertising and other campaign promotional activities. Remember, the two major parties will be spending millions of dollars (even upwards of \$10 million) in promotional campaigns for each of those two offices. In addition, they will be campaigning and soliciting campaign funds even before the primary elections take place while the candidates of those minor Parties seeking ballot qualification or requalification will need to wait until August before they can truly begin their campaigns, which then requires even a higher level of funding and campaigning to successfully compete in those expensive races. The time and financial effort it takes to garner even 3% of the vote in either of those two races also significantly takes away from the minor party’s ability to successfully run candidates at the local and regional levels, those races where they can most effectively build the party. (For the Green, Libertarian, and Constitution Parties to all remain ballot qualified by the

3% election rule, they must collectively garner 10% of the vote in those two most expensive races – a virtual impossibility as the Republicans knew full well in passing this horrible suppression of voter choice.)

Continuing with SB 193, even if a party obtains the required number of signatures and submits its party formation signatures, the election law goes on to state, “Any qualified elector may file a written protest against the petition with the secretary of state...” (You think the duopoly of Republicans and Democrats are not going to take full advantage of this statement, especially if they feel threatened by the petitioning party!? Just ask Charlie Earl and the Libertarians with respect to the 2014 Governor’s race wherein the Republicans were able to remove Earl, the Libertarian candidate for Governor, from the election ballot over a very minor technicality which the Republicans themselves had violated for over 20 years in the past, if indeed it was a violation.)

Ohio Election Rules state that “at least ninety-five (95) days before the general election, the secretary of state shall determine whether the party formation petition is sufficient and shall notify the designated committee.” (Do you believe that any minor party will receive notification any earlier than 95 days – which is in August – before the general election at which point candidates must have already submitted their own petitions for certification! And what candidate is going to start spending time and money gathering signatures and campaigning before they know if they will be able to be on the ballot for the general election.)

It goes on to state, “If a party formation petition is insufficient, no candidate shall appear on the ballot in the general election as that political party’s nominee, regardless of whether any candidate’s nominating petition is sufficient.” What this effectively means is that potential candidates for parties being formed or re-formed cannot confidently begin campaigning for office at any level until 3 months before the election – until after the party receives notice from the Secretary of State’s Office that they have met the qualifications to be a recognized political party for the upcoming election.

This also means that they are prevented from running in the primary elections, which would allow them the opportunity to gain name recognition. In addition, Ohio Election Laws currently state a Party must enter their candidates in the Primary Elections in order to be on the ballot in the General Election. (I have

been unable to reconcile this requirement with the SB 193 rules; I asked a legal representative of the ACLU if he could explain it and all he could say was that he probably read SB 193 once per day and he could not reconcile it, only to note that SB 193 is a horrible piece of legislation regarding such issues.)

By the way, to run as an independent candidate, which includes anyone that is not part of an officially recognized political party by the Ohio Secretary of State, one must typically gather signatures of registered voters equal to at least 1% of the voters for that office in the last election. (Whether any Ohio registered voter can sign an independent candidate's petition or only those who did not vote in a party's primary within the last two years is currently indeterminate and needs further research although it is more likely that any registered voter can sign a petition for an independent candidate.)

Something else everyone needs to consider! Primaries not only restrict access to the ballot by third parties and independents, they also fund the election process for the two major parties at taxpayer expense! Why? Should not every party be responsible at its own expense for selecting its candidates and then meeting the necessary qualifications for placing those candidates on the general ballot in the fall? Do you understand how ensconced into the state constitution and election laws the two-party "duopoly" of Republicans and Democrats is? If you do not, you likely have not read the Ohio Constitution or you are not adequately thinking this through. Read the Ohio Constitution and see how many rules, regulations, and restrictions there are dealing with primary elections. In addition, check out the Ohio Revised Code on Election Laws. No wonder people say a third party cannot win. Under current laws contained in the Ohio Constitution along with all the other rules and regulations regarding Primary Elections, they are absolutely correct.

The voting public, sold a bill of goods by the duopoly – the Republicans and Democrats – fails to understand that the best form of government would be derived by having choices in voting that most closely aligns with one's political and other life choices (i.e. one's world view it is now called), such that one does not choose the "lesser of two evils between the two duopoly candidates" but his vote becomes a positive statement supporting his personal political viewpoint. Yes, sometimes that may cause the "worst" candidate to win an

election. How did that other side of the argument work out in the 2012 Presidential election!? The worst candidate (arguably) won the Presidential election, while all those "TEA Party conservatives" got nothing in terms of political positions within the Republican Party or the political arena (Congress, Legislatures, etc.). Worst, they gave up a golden opportunity to stand for principle over politics but in the end they all caved and became of none effect.

Unfortunately, because of this false philosophy implying that all elections are really only about two candidates, the general voting public has fallen into the trap, set by the duopoly, of only being willing to support one of two major party candidates. We must get the attention of the voting public and educate them to embrace the real truth and that is that choice is as valuable to good government as it is to the marketplace for goods and services. According to the current political way of thinking, the way to insure we would have the best cars on the road would be to consolidate all car companies into two major competing car companies, each with a single car line as dictated by the company executives and officials, with both companies operating through laws and procedures passed by the owners of the two major car companies. Of course, if this were to ever come to pass, we would have terrible cars that would operate poorly and be maintenance nightmares (much more than they already are), and be anything but what we really wanted in our own personal automobile while the company executives would live lives of luxury all the while claiming what a great job they are doing for the general public. Why can't we see this is what has happened in politics by allowing our political choices to be constrained by law to basically only two choices controlled by those in charge of each party!

Here is a baseline question that needs to be answered. IF competition is supposedly good for business, why is it bad for political office? Why is fair and equal competition at the ballot box undesirable?

What we need are uniform ballot access rules/laws that are reasonable and apply to all parties as well as to independents. Rules that allow a new Party to build from the ground up, county by county, and precinct by precinct, rather than be required to maintain ballot access by running candidates only in the most expensive and difficult races for political office (Governor and President) wherein they must then receive a virtually unachievable (for an emerging minor party)

minimum percentage of the vote to remain ballot qualified. We need rules that allow “the little guy” to compete and have real opportunity to win, not just the very well-to-do or those who curry favor with the wealthy or “political big wigs.” (The Government itself protects the industrial and commercial marketplaces from such monopolistic practices but virtually demands via legislation a monopoly [or duopoly] in the political arena.)

WHAT WE NEED IS: FAIR BALLOT ACCESS

~Don Shrader, Chairman, Constitution Party of Ohio