



PROTECTING THE VOTE FOR ALL AMERICANS

Government Oversight Committee
Ohio House of Representatives
Submitted via email

November 29, 2022

Dear Chair Wilkin, Vice Chair Swearingen, Ranking Member Brown, and Committee Members:

Fair Elections Center¹ writes to express its opposition to HB 294, the “Ohio Election Security and Modernization Act.” This bill would make it harder for Ohioans to vote, and is almost certain to lead to expensive, protracted litigation paid for by Ohio taxpayers.

HB 294 does not address any pressing issue facing Ohio voters or election officials, and would in fact increase voting barriers. For example, it would disadvantage working Ohioans by:

- **Making it harder to vote early by eliminating in-person absentee voting on the day before Election Day and restricting voting hours.** Although the bill would largely codify the Secretary of State’s current in-person absentee voting schedule, that schedule already disadvantages working voters by offering most voting hours during business hours and offering fewer weekend hours. These restrictions may prove especially difficult for working parents and retail or service workers with multiple jobs. Voters would be best served by keeping the current number of days for in-person absentee voting, increasing the number of voting hours on weekends, and giving counties the flexibility to provide additional hours.
- **Making it harder to vote by mail by making several changes, including the following:**
 - *Shortening the deadline to request a mail ballot and for the U.S. Postal Service and other couriers to deliver completed mail ballots to county boards.* Under the latter rule, voters who put their ballots in the mail by the day before Election Day would nonetheless be disenfranchised by mail delivery delays, through no fault of their own. Working voters are busy, and truncating the time they have to request and return a mail ballot would do nothing to improve the voting experience or promote election security.

¹ Fair Elections Center is a national nonpartisan, nonprofit voting rights organization based in Washington, D.C. Its mission is to use litigation, education, and advocacy to remove barriers to registration and voting, particularly those disenfranchising underrepresented and marginalized communities, and to improve election administration. Since 2012, Fair Elections Center has operated Campus Vote Project to help students understand and exercise their freedom to vote, including in Ohio.

- *Undermining the utility of drop boxes.* The bill would only allow each county up to three drop boxes, all of which must be in one location. Such a policy will be especially problematic in more populous and/or geographically larger counties. Drop boxes are an important access point for voters casting mail ballots and are particularly important in light of shorter deadlines to deliver mail ballots (see above).
- *Removing authority for the Secretary of State to send voters unsolicited mail ballot applications.* Providing all Ohio voters with free and equal access to mail ballot applications improved access to voting in 2020. While existing law does not require the Secretary of State to mail applications, eliminating the option to do so gives the Secretary fewer options to flexibly serve voters by expanding mail voting access.
- *Removing authority for the Secretary of State to provide postage-page ballot return.* There is no good reason to eliminate the option for state officials to provide free ballot return for voters, other than to make it harder and more expensive to vote by mail, particularly combined with drop box restrictions (see above).

The substitute amendment also makes it harder for the one-quarter of Ohio adults who live with a disability² to participate, by:

- **Perpetuating an existing Voting Rights Act violation.** Section 208 of the Voting Rights Act provides: “Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” 52 U.S.C. § 10508. This rule applies to each stage of the voting process, regardless of how a covered voter casts a ballot. *See id.* § 10310(c)(1). However, under Ohio Rev. Stat. § 3509.05, covered voters may only choose a relative to assist them in returning their mail ballot. *See* Ohio Rev. Stat. § 3509.05(A). HB 294 fails to ameliorate this violation, and in fact would exacerbate it by adding criminal penalties.
- **Eliminating provisions to require board of elections offices to meet the same accessibility requirements as polling places and codify the Secretary of State’s curbside voting procedures.** For many voters with disabilities, the right to cast their ballot privately and independently³ hinges on their ability to vote in person using electronic ballot marking devices. By removing these provisions, the substitute amendment ensures that many of these voters will continue to face inconsistent access to voting and/or have their rights subjected to the whims of future Secretaries of State.
- **Making drop boxes less accessible.** Transportation remains a major barrier for many people with disabilities.⁴ HB 294’s proposed drop box rules would make this return method less accessible or, in some cases, wholly inaccessible to them by concentrating them in a single location, instead of making them available in multiple locations that may be closer to where they live or work.
- **Excluding many voters with disabilities from using the online request tool.** Voters with disabilities and senior citizens are less likely to possess government-issued ID, and would

² *Disability & Health U.S. State Profile Data for Ohio (Adults 18+ years of age)*, CENTERS FOR DISEASE CONTROL & PREVENTION (May 18, 2022), <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/ohio.html>.

³ 52 U.S.C. § 21081(a)(3)(A).

⁴ Lisa Schur et al., *Disability and Voting Accessibility in the 2020 Elections: Final Report on Survey Results*, RUTGERS UNIV. 14 (Feb. 16, 2021), <https://www.courthousenews.com/wpcontent/uploads/2021/02/voting-accessibility-in-2020-elections.pdf>.

therefore be disproportionately blocked from using the online mail ballot request tool because HB 294 would require both an Ohio-issued driver's license or ID card *and* the last four digits of their Social Security number to request a mail ballot online.

In these and other ways, HB 294's changes would represent a regression, rather than a modernization, of Ohio's election practices. If past is prologue, HB 294's enactment will result in extensive litigation, the costs of which would ultimately, unfairly fall on the very voters affected by these changes. **For these reasons, Fair Elections Center respectfully urges the Committee to reject it.**

Thank you for your consideration. Fair Elections Center can be reached for additional questions or information through its Counsel, Cecilia Aguilera, at caguilera@fairelectionscenter.org.

Sincerely,

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