



**TESTIMONY ON SENATE BILL 690
OPEN PRIMARIES**

Presented to the Senate State Government Committee

By
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The County Commissioners Association of Pennsylvania (CCAP) is a non-profit, non-partisan association representing the commonwealth's 67 counties. Being the key administrators of the on-the-ground election, Pennsylvania's 67 counties have a significant responsibility in assuring elections remain fair, secure, accurate and accessible at every step of the process. Over the past several years, counties have worked closely with the General Assembly to achieve historic changes to the Pennsylvania Election Code, including the implementation of mail-in ballots under Act 77 of 2019. We appreciate this opportunity to offer our feedback on Senate Bill 690, which aims to allow voters not aligned with a party to vote in a primary election in Pennsylvania.

Counties have not adopted a policy position regarding open primaries in Pennsylvania, but want to ensure any Election Code amendment related to open primaries is practical, implementable and ultimately ensures a uniform, consistent and fair experience for voters in the commonwealth. To that end, counties offer the following thoughts and recommendations to Senate Bill 690 for consideration should the bill move forward, particularly as the primary election process would relate to voter registration, ballot options and absentee and mail-in ballots.

Voter Registration

The idea behind legislation to open up Pennsylvania's primaries to all registered electors hinges on the ability for any eligible person to vote regardless of their political party status. In SB 690 as currently drafted, the definition appears to be limited to expanding voter access to "unenrolled electors" – that is, a registered elector who has no political party affiliation tied to their voter registration status. While the addition of this definition would open the primary to those specific voters, registered voters who may have a political party affiliation outside of Republican or Democrat, including those voters registered as Independents and electors who have left their party affiliation blank, would remain ineligible to vote in a primary election under this definition. If the intent is truly to allow all registered electors, regardless of political party status, to vote in a primary election, counties recommend the definition be reviewed to assure it meets this intent.

Additionally, under Section 902.1 of the bill, the unenrolled elector may select the ballot of the party of their choosing and the registered elector is then marked as their chosen party ballot for the purpose of documentation of ballot choice. Counties would want to be sure the statewide voter registration system can accurately document the voter with their unenrolled/unaffiliated status while also maintaining their ballot choice designation since a request for a specific party ballot is not a political party affiliation for the registered elector.

Ballot Options

Under the Election Code, only party electors are currently qualified to vote on party offices such as presidential electors, delegates and committee positions. This requirement and language in Article VIII should be reviewed in conjunction with consideration of Senate Bill 690. Otherwise counties would be required to have four separate ballot styles programmed on machines and printed in even-numbered year primaries: a Democratic ballot with all Democratic offices for voters registered as Democrat, a Republican ballot with all Republican offices for voters registered as Republican, a Democratic ballot for unenrolled electors who want to vote a

Democratic ballot that does not include party offices and a Republican ballot for unenrolled electors who want to vote Republican that does not include party offices. Not only could this lead to administrative hardship in ensuring machines are able to be programmed with four separate ballot options, but this could cause additional confusion for poll workers to ensure each elector is receiving the proper ballot in accordance with the Election Code based on their political party affiliation or requested party ballot. Should the Election Code language remain as-is regarding party offices, counties would seek further guidance on ballot printing requirements for the four types of ballots as this would be an additional incurred cost to counties and may not fit under the current prescribed ballot printing requirements.

Application to Absentee and Mail-In Ballots

There are also several considerations related to the applicability and process for handling these unaffiliated ballots in the case of absentee or mail-in ballots. First, counties would have to adjust the application for both absentee and mail-in ballots to ensure there is a place for an unenrolled elector to designate which party ballot they would like to receive. Counties would need to be able to ensure the voter's ballot choice can be documented within the voter registration system while also ensuring the voter's unenrolled status is retained so they receive the proper ballot and are not falsely identified with a party affiliation long-term.

Counties already face challenges when voters change their party registration during a primary election, particularly with absentee and mail-in ballots. If a registered voter applies for a ballot, and receives their ballot from the county, prior to the voter registration deadline, but then decides to make a change to their party registration after receiving that ballot, the original ballot has to be canceled and a new ballot issued to reflect the appropriate registration. This can happen frequently as counties diligently try to mail out ballots as soon as they are available to ensure the voter has time to adequately return their ballot to the county. While this issue would not change in an open primary concept, it increases the likelihood of voters changing their registration and could add to an administrative burden counties currently face that ought to be taken into consideration.

With all of that said, we appreciate the opportunity to share these comments with you today to continue these discussions, working together to offer solutions and iron out language that reflects the administrative role of elections. Should the discussion related to open primaries move forward, counties appreciate the upfront dialogue to assure the change would be able to be implemented as intended.

Counties further urge the General Assembly to continue to bring them to the table to discuss and provide feedback as any elections-related legislation is being developed so that we may work together to accomplish meaningful reforms. Counties have valuable experience to provide in the development of legislation to assure we can continue to administer elections that are secure and accurate. Regardless of whether counties have a policy position on any given reform, we must be consulted to ensure any new provisions are logistically possible and feasible.

We conclude by echoing any changes to the Election Code must be enacted well in advance of an election to allow for enough time to properly implement any changes, particularly if they involve developing new protocols or procedures, retraining poll workers, and so forth.

Thank you again for the opportunity to offer our testimony and your consideration of these comments. We look forward to continuing to work with you on the necessary legislative changes to improve the administration of elections in Pennsylvania.