



**TESTIMONY ON
ELECTIONS REFORM LEGISLATION**

Presented to the Senate State Government Committee

By
Lisa Schaefer
Director of Government Relations

April 30, 2019

Good morning. I am Lisa Schaefer, Director of Government Relations for the County Commissioners Association of Pennsylvania. The CCAP is a non-profit, non-partisan association providing legislative, educational, insurance, research, technology, and similar services on behalf of all of the Commonwealth's 67 counties.

We appreciate the opportunity to appear before you today to present our remarks on election reform legislation, focusing on the package introduced here in the Senate but commenting on other issues as well. Counties have a significant responsibility in assuring elections remain fair, secure and accessible at every step of the process. Yet we work with an election code from early in the last century, which has kept up only in patchwork amendments and which fails to recognize many trends in voter preference, capabilities of new technologies, and realities of delivering elections in today's communities.

Although not strictly the focus of today's hearing, as we shared with the Committee a few weeks ago election equipment and voting systems is counties' top priority for 2019. There are two points we need to keep before the Administration and the General Assembly: First, the need for purchase of new voting systems is based on the legally-binding Stein settlement. Second, the full county cash outlay for equipment is occurring in 2019, so while counties appreciate the Governor's request for \$75 million in state funding as a starting point, the Administration's proposal to provide \$15 million annually over five years should be compressed to a single year to match the county timeline, and increased if possible.

That said, the focus on election equipment, election security, and bad-actor influence on elections compels us to look more broadly at election reform, and we congratulate this committee and the sponsors of multiple pieces of legislation for recognizing the need to comprehensively review and update all aspects of election administration.

Counties have been pursuing reform for some time, with our active involvement in implementation of the National Voter Registration Act (NVRA) in the 1990s, the SURE voter registration system in 2000 and after, the Help America Vote Act in the 2000s, and other reforms since. To bring cohesion to its reform agenda, in 2013 CCAP created its Election Reform Committee, which includes commissioners and home rule counterparts, county election directors and representatives of the Department of State. The committee reviewed issues submitted by the membership and election directors, which varied in size and scope and touched on both administrative and philosophical issues. At their heart, they represent counties' cumulative experience in practice under statute, regulation and judicial decisions, and represent counties' interest in providing fair, efficient and open elections.

Out of that effort came a robust set of recommendations that were presented in the spring of 2014, which have since been formally adopted by the CCAP membership into our county platform. The election elements of the platform, attached, include ways to improve elections administration, to reduce costs while maintaining the integrity of the vote, and to maintain our positive relationship with the Department of State. Our Elections Reform Committee continues

to meet regularly to review all aspects of the elections process that counties oversee, from verifying voter registrations to training poll workers to counting and certifying election results.

We have been pleased to work with Chairman Folmer, his staff and other members of the Senate on the election reform legislation that is the subject of this hearing today. On balance, we believe this package of bills demonstrates a remarkable effort to engage county officials and county election directors in a comprehensive discussion on ways that Pennsylvania's election system can be streamlined and improved both for the voting public and for the counties that administer them. We thank Chairman Folmer for his commitment to partnering with counties and to seeking input on how legislation would play out in practice on the ground; it is a model we hope to see replicated working with the General Assembly on the many policy issues in which counties are involved.

Many of these bills are consistent with the recommendations made by our Elections Reform Committee and with our policy platform, including:

Absentee voting (SB 411, SB 414 and SB 415) – Under the Pennsylvania Constitution, voters may seek an absentee ballot only if they are unable to attend their polling place in person due to illness, disability, work or observance of religious holidays. Senate Bills 411 and 414, providing both the necessary constitutional and statutory changes, would remove these restrictions and allow any qualified elector to vote by absentee ballot without excuse, relieving counties of the task of evaluating the content and merits of the applicants' stated reasons for applying for an absentee ballot. This would reduce processing time for those applications prior to an election, and reduce the number of absentee ballot challenges during and after an election. CCAP also supports Senate Bill 415, which would create a permanent absentee ballot list rather than requiring voters to reapply for – and for counties to re-evaluate the application for – an absentee ballot for every election.

Poll worker recruitment (SB 412) – Counties support removing language in the state constitution that prohibits public employees from serving as poll workers, a prohibition that limits an already shrinking pool of available individuals to volunteer at the polls on election day. In addition, making government employees available would be an important stop-gap on election days when poll workers are not able to fulfill their duties, perhaps due to illness or other unforeseen circumstances; the logical choice to help assist in these cases are county elections staff who are already familiar with the voting systems and elections process, but currently are constitutionally prohibited from serving in this capacity. Poll worker recruitment and training continues to be a challenge across the state, and CCAP is actively participating in a work group convened by the Department of State to look at strategies for recruitment and retention.

Separate ballots for judicial retention elections (SB 413) – The state constitution requires a separate ballot (or separate column on voting machines) for judicial retention elections. While the provision was intended, we presume, to give voters special notice of that ballot position, its net effect is to cause significant and unwarranted expense in ballot preparation, as well as added steps in tabulation. Counties support Senate Bill 413, which would remove the language in

question from the state constitution, eliminating this separate ballot requirement. In particular as counties move increasingly to all paper ballot systems under the Stein settlement, as well as for absentee and provisional ballots, the provision in law that judicial retention races must be on a separate ballot should be eliminated. Doing so would be significantly more cost-effective.

Write-in winners (SB 417) – Counties support Senate Bill 417, which would require write-in candidates to receive the same number of write-in votes as would be required if they had filed signed nomination petitions or papers for those votes to be counted. Aside from the tabulations we now do for “fictional” figures, the more significant problem is in those all-too-frequent times where there is no candidate for a local office such as auditor or tax collector, yet a voter will write in a name, thus requiring counties to notify those individuals that they are the “winner.” Quite often they did not actually want the office, and in some cases, counties have even found themselves notifying multiple candidates who each received a single vote. The notifications, tie vote drawings, and so forth impose legal advertising and postage costs and divert staff time, and the school districts and municipalities cannot prepare for reorganization while these races are left unresolved.

Number of ballots to be printed (SB 418) – Counties are required to print ballots sufficient for 110 percent of the number of registered voters, which from counties’ experience results in wasted resources and unnecessary cost, particularly in municipal primaries and other lower-turnout elections. Local election boards have historical voter turnout percentage data (especially in municipal elections), as well as local knowledge of issues that might drive unusually high turnout in otherwise low-turnout elections (particularly primaries), that make it possible for them to determine the right amount of ballots to print. In addition, many counties now have ballot-on-demand printers that could be used if they run short. CCAP believes the standard in SB 418 to require printing of at least 10 percent more than the highest number of ballots cast over the prior three cycles of the same election is an appropriate threshold.

Options for smaller precincts (SB 419) – Small precincts are inefficient to operate, having the same facility, equipment and staffing requirements as larger precincts. Counties would support Senate Bill 419, which would allow counties, at their discretion based on local conditions, to provide for voters of precincts with 250 registered voters or fewer to cast their ballots exclusively by mail, or to consolidate such precincts with others. Doing so would reduce equipment purchase and maintenance requirements, as well as the time and difficulty of finding poll workers and polling places in these small precincts.

Straight party ballots (SB 421) – Certification of election equipment in Pennsylvania has historically been complicated by the unique requirements for voting equipment manufacturers to program their equipment to meet the “Pennsylvania Rule” governing how straight party ballots are cast and how straight party ballots are affected by a voter wishing to vote for one or more candidates from a different party. Rather than change that rule, the solution proposed by Senate Bill 421 would eliminate the straight party ballot option, acknowledging as well that straight-party balloting is counterproductive to voter consideration of the full ballot. Counties support the change.

Election Law Advisory Board (SB 422) – In its December 2017 report on voting technology, the Joint State Government Commission recommended creation of a commission to advise the General Assembly on amendments to the Election Code, in recognition of the value of including practitioner and stakeholder expertise in development of law and policy governing elections. Senate Bill 422 supports that recommendation, and CCAP appreciates the inclusion of county commissioners and county election officials as part of this Advisory Board.

CCAP members have not come to a definitive position regarding vote centers, proposed under Senate Bill 416, recognizing both the opportunities such centers could have for the convenience of voters and reducing the numbers of poll workers needed, as well as challenges with security and programming that must be addressed to protect the integrity of the vote. For instance, at a vote center a voting machine would need to be able to show each voter his or her individual ballot, programmed individually based on the voter's address to assure they are casting the appropriate ballot. Counties also recognize that efforts to locate vote centers can cause concerns with accessibility or inconvenience for a particular community or demographic, or even the perception that the siting is being manipulated for that purpose.

Counties are also uncomfortable with the concept of curbside voting that is presented in Senate Bill 416. We would prefer to focus on other efforts to improve voter accessibility, including assuring polling places are fully accessible and ADA compliant so that all voters have the same voting experience. We note as well that curbside voting also requires staff to leave the polling place, creating administrative and security issues. Other initiatives in this package like no-excuse absentee balloting and a permanent absentee ballot are tools that can also provide alternatives to voters who may not be able to easily get to their physical polling place on election day.

CCAP has not taken a position on the remaining bills that are the subject of today's hearing. Senate Bill 420 would require PennDOT to maintain a list of individuals who obtain a driver's license but are not yet old enough to vote, and to contact those individuals about their eligibility to vote once they have turned 18. While counties support efforts to encourage voter registration, and so PennDOT notification could be a worthwhile adjunct to comparable efforts in the school districts, we also need to be certain that the information the Department provides is properly drawn and conveyed.

Further, in Pennsylvania, only those individuals registered with the Republican or Democratic party are permitted to cast a ballot in the primary elections, and are permitted to do so only for candidates in the party in which they are registered. Senate Bill 300 would allow all qualified electors to vote in the primary election and to choose to cast their vote on either the Republican or Democratic ballot. Our Committee and membership has not discussed the matter in depth, but one conceptual note is that by allowing only unenrolled electors to have a choice to vote in either party in a primary, and not allowing a comparable choice for party-registered electors, there is a significant encouragement for electors to drop their current party registrations. We also leave it to our election directors and the Department of State to comment whether there are administrative issues, particularly with changes that might be needed to SURE and to maintaining voter rolls.

Many more reform efforts have been introduced in both chambers, from members in all caucuses, which we believe indicates an understanding of the need for this conversation and may signal a broader interest in moving some of them. Ultimately, our goal is to improve the administration of the elections process and to assure the ability of qualified voters to vote in all elections, while at the same time assuring the integrity and accuracy of every vote in every race.

Thank you for your consideration of these comments. We would be pleased to answer any questions you may have.



PENNSYLVANIA COUNTY PLATFORM

2018-2019 Official Policy Statement

VI ELECTIONS

A. General

1. The Association believes that the Pennsylvania Election Code contains many conflicting and antiquated provisions and, as a result, supports a complete rewrite or codification of the law. (Readopted 2012, readopted 2016)
2. The Association supports provisions in all amendments to the Election Code to provide realistic and adequate implementation time for new laws, procedures, and systems. (Added Spring 2014, readopted 2018)
3. The Association supports federal and state reimbursement to counties for the expense of conducting and administering federal and state elections. (Amended 2010, readopted 2012, readopted 2014, amended 2018)
4. The Association opposes any change in the date for primary election unless all other necessary changes in the Registration Laws and Election Code are also made at the same time. (Readopted 2012, readopted 2016)
5. The Association opposes any legislation that would authorize initiative and referendum where the referendum would be binding on local officials. (Readopted 2012, readopted 2016)
6. The Association supports the elimination of the "yes" retention question for judges, requiring judges to stand for re-election. (Readopted 2012, amended 2013)
7. The Association supports an amendment to the Election Code to require the Commonwealth to reimburse counties, in the same manner as is done for special elections for Pennsylvania House and Senate seats, for the cost of special elections for Congressional races. (Added 2002, readopted 2012, readopted 2014, readopted 2018)
8. The Association supports implementation of voter identification requirements in a manner which results in the greatest possible access for qualified electors, which will require close cooperation with the Department of State, clear and detailed information for county election directors and voters on requirements and rights, prompt and uniform response to legal

and practical questions, broad multimedia dissemination of information on ID requirements and how to obtain ID, uniform rules on what qualifies as ID, uniform and detailed training of poll workers, and access to data to assist county election offices in identifying registered voters who lack ID. (Amended and readopted, 2012, readopted 2016)

9. The Association supports changes in election law and practice that would:
 - a. Reduce restrictions on the application for and use of absentee ballots, in particular by amending the Pennsylvania Constitution, if necessary, to eliminate all reasons or conditions necessary to qualify for an absentee ballot and permit any qualified elector to vote by absentee ballot without excuse;
 - b. Improve administration of absentee balloting to provide greater convenience and accountability, including ease in application and submission of absentee ballots while maintaining the integrity, security, and secrecy of the process;
 - c. Provide for cooperation from the courts in recognizing the practical and cost implications of late action on ballot determinations, including a requirement that those factors be noted by the court during its deliberative process, relieving any county from requirements to reprint or reprogram ballots when a decision is rendered with insufficient time for the county to practically and with confidence make the required change, and requiring commonwealth reimbursement of costs incurred by counties for reprinting or reprogramming ballots based on decisions rendered within four weeks of the election;
 - d. Maintain the schedule for uniformed and overseas citizens absentee voting and provide that the federal write-in absentee ballot can be used in all elections for all offices. The Association also supports exploration of processes and technologies that will facilitate, with proper security, the registration, absentee application, and balloting processes for uniformed and overseas citizens.
 - e. Address disenfranchisement of voters occasioned by delayed receipt of absentee ballots sent late in the deadline window, based on US Postal Service (USPS) scheduling and routing, that does not affect the timely count of absentees, permits as necessary central count of absentees, does not inadvertently encourage late filing, educates the public on timely mailing, and takes into account the practical issues that might arise with authorization of no-excuse absentee.
 - f. Include in the polling place school-use mandate all schools that receive state instructional funding, and designate the date of the primary and general election as school in-service days to support the closing of schools that are used as polling places.
 - g. Improve administration of elections within the provisions of the Help America Vote Act, including clarity on provisional ballot procedures and tabulation, standards and enforcement of accessibility, alternative language accessibility, and what constitutes a vote.
 - h. Defer questions of electoral college reform to the national level but provide for greater access to the ballot for minor political parties and political bodies,

- i. Provide uniform standards for submission and placement of referendum questions, including a 90 day deadline for submission to the county board of elections.
- j. Make the requirement of newspaper advertising for the Election Proclamation discretionary, allowing counties instead to place the notice on the county website or other electronic publication.
- k. Clarify or correct the definition of "separate ballot" for judicial retentions, to allow printing the retention ballot on the face (as space permits) or back side of the regular ballot.
- l. Set an extended and uniform 90 day standard for the deadline for special elections for vacancies in municipal office.
- m. Allow the county board of elections to make appointments to vacancies on local election boards, effective for the balance of the unexpired term;
- n. For municipalities with fewer than 100 registered voters, permit the county to provide for the voters of the precinct to cast their ballots exclusively by mail.
- o. Make the overseer petition provision workable in Philadelphia by eliminating the requirement for concurrent assent by all law judges; and
- p. Amend results certification to provide that, when the required start of certification is a holiday or observed holiday, the certification will begin instead on the next regular business day. (Added 2005, amended 2009, 2010, amended and readopted 2012, f and i amended and j through n added Spring 2014, b added and c amended 2014, e added 2016, m amended and o added 2017, n added 2018)

10. The Association opposes early voting that relies on establishing and operating single or multiple polling places, and instead supports a mail-in early ballot system comparable to no-excuse absentee voting. (Added 2011, readopted 2012, readopted 2015, readopted 2017)

11. The Association supports establishment of special elections for vacancies in legislative or Congressional seats to coincide with a primary or general election whenever practical. (Added 2014, readopted 2018)

12. The Association supports an amendment to the Election Code to require that all statewide and local referenda appear on the November election ballot, with limited exceptions, to be exercised by special requirement, for placement on the primary ballot. (Added 2016)

13. The Association supports legislation that would provide further definition to the reapportionment process to meet the objective of balanced and cohesive legislative and congressional districts. (Added 2017)

14. The Association supports statutory clarity of write-in balloting, to include:
- a. Only tabulate and process votes for a write-in if the number of write-in votes cast exceeds the number of signatures required to qualify for the nominating petition for that office;

- b. Replace Election Code language permitting voters to affix write-ins on the ballot with language allowing counties to adopt local rules prohibiting or regulating the use of stickers for write-ins;
- c. Delineate clear standards on timing, means, and method for the county to notify successful write-in candidates following certification of the count, require successful write-ins to certify that they accept the nomination or position, and require successful write-ins to file the candidate affidavit and pay relevant filing fees; and
- d. Recognize local party rules governing nominations to party offices. (Added 2017)

15. The Association supports creation of an Elections Advisory Commission as a legislative service agency, including representation from county commissioners or home rule equivalents, and informed by county election directors and stakeholders, to provide advice and counsel to the General Assembly on any legislative proposal dealing with election administration or other amendments to the Election Code. (Added 2018)

16. The Association supports eliminating the straight party ballot provision from the Election Code. (Added 2018)

B. Qualifications and Petitions

1. The Association supports legislation to improve the validity of the petition circulation process, including better clarity and training on petition content and circulation rules and increased penalties for fraudulent practices. (Added 2013, readopted 2017)

2. The Association supports an amendment to the Election Code to reduce or eliminate petition requirements for judge of election and inspector of elections. (Added Spring 2014, readopted 2018)

C. Polling Places

1. The Association believes that constables should no longer be required to be present at each polling place in every election district, and the decision to eliminate or maintain their presence should be at the option of the local election board. (Readopted 2012, readopted 2016)

D. Ballots and Election Systems

1. The Association supports county choice in selection of voting equipment, believing the determination, while compliant with state and federal certification requirements:

- a. Should be on a voluntary calendar that is predicated on market, equipment availability, and reasonable timelines including employee, poll worker and voter training,
- b. Should meet the needs and expectations of the county's voters,
- c. Should have available reliable and ongoing state and federal funding, and
- d. Should be statutorily framed as a decision by the board of commissioners or home rule equivalent, rather than the election board. (Added 2018)

2. The Association supports full federal funding, or in absence of full federal funding full Commonwealth funding, of the equipment, registration, accessibility, and related provisions of the Help America Vote Act, including alterations of or additions to any requirements under that act or any successor federal or state act. (Added 2003, amended 2009, readopted 2012, readopted 2013, readopted 2017)

3. The Association supports election system certifications based on objective criteria, including the quality of the equipment, its utility to the electors, and its compliance with Pennsylvania statute and practice, supports legislation to allow expedited consideration of new and updated technologies, and supports limiting decertification of equipment to circumstances where there are demonstrated systemic flaws or there are material changes to statutes governing equipment features or operability. (Added 2001, readopted 2012, readopted 2016, amended 2018)

4. The Association opposes the use of voting systems (such as internet voting) or electronic transmittal of completed ballots, data or information that might influence the tabulation or canvass of the ballots or certification of results, until concerns for the security and integrity of the election process and the outcome are fully addressed. (Added 2001; amended 2006, readopted 2012, amended 2014, readopted 2018)

E. Voter Registration

1. The Association opposes legislation permitting same day voter registration, with the exception of dual use of the Federal Write-in Absentee Ballot (FWAB) for registration purposes by a member of the uniformed services or merchant marine on active duty, or an eligible spouse or dependent at the time the absentee ballot is cast. (Amended 2011, readopted 2012, readopted 2015)

2. The Association opposes automatic voter registration. (Added 2016)