



**LEAGUE OF WOMEN VOTERS®  
OF OHIO**

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**Testimony on Am Sub HB 194  
Before the Senate Committee on Government Oversight and Reform  
By Peg Rosenfield  
League of Women Voters of Ohio  
Thursday, June 16, 2011**

Chairman Faber, Ranking Member Smith, and members of the Senate Government Oversight and Reform Committee, thank you for the opportunity to present testimony on Amended Substitute House Bill 194. I am Peg Rosenfield, Elections Specialist for the League of Women Voters of Ohio.

One of the League's Principles reads: "The League of Women Voters believes that every citizen should be protected in the right to vote." The consent of the governed means that we absolutely believe in the importance of every vote, and that the right to vote is hollow without access and unless your vote is counted.

There are a number of administrative proposals in Amended Sub HB 194 that we agree are needed changes in election laws, and we welcome these. We are particularly pleased to see that voters who change their names would again be able to vote a regular ballot instead of a provisional ballot, and that ballots that were not sealed in the secrecy envelope may still be counted. We heartily agree that no one should lose his or her vote because of a minor oversight.

Indeed, there are a number of issues that we believe are better addressed in Amended Substitute House Bill 194 than in Amended Substitute Senate Bill 148, and we have listed some of them on Attachment I.

I would like to focus your attention on our concerns about just three of the provisions of the proposed bill that we believe unnecessarily limit Ohioans' right to vote and to have that vote counted.

1. "Right church, wrong pew"
2. Restrictions on absentee voting
3. Voter intent

## **1. Right Church, Wrong Pew**

Because of the ongoing consolidation of polling places into fewer voting locations, it is increasingly likely that voters may get to the correct voting location and then be directed to the incorrect precinct table. If a poll worker does not catch the error, the voter will vote a provisional ballot in the wrong precinct, which will not be counted because as this bill is written, the voter is required to vote only in his own precinct. His or her vote would not count if it is cast in the wrong precinct. The number of voters who will be disenfranchised if their vote is not counted is substantial. Norman Robbins, who could not be here to testify in person today, prepared a chart which I have attached as Exhibit II. The last column on the chart shows the number of provisional ballots which were rejected in 2008 for the “wrong precinct” in counties represented by members of this Committee.

We train poll workers to help voters at the polls and enable them to protect voters right to have their votes counted. Most people do not live and breathe elections as some of us do, and it is hardly reasonable to expect someone to know s/he is in precinct 16B not 16C, or even to know exactly what candidates and issues should appear on their ballot. Nor do we believe that any voter will deliberately choose to vote in the wrong precinct. So the reason that a voter votes in the wrong precinct is an error on the part of the polling place officials. To cast out such votes deprives legitimate voters of their right to vote. We strongly believe such votes should be counted for all races and issues for which the voter was eligible to vote. It is my understanding that the Ohio Association of Election Officials also supports the counting of these ballots.

## **2. Absentee Voting**

The increase in absentee voting has helped prevent a repeat of the long lines of voters that caused hardship for voters and embarrassed Ohio in 2004. To that same end and to increase convenience for voters, boards of elections have initiated a variety of innovations that have also been successful in reducing some of the stress on poll workers and have afforded voters a variety of means to cast their vote. In many instances, such as here in Franklin County, these innovations have permitted the consolidation of polling locations – a cost savings for the boards of election.

I have been questioned whether these differences violate the right to equal protection embodied in the 2009 settlement of the League's lawsuit against the Secretary of State. So I checked with our attorneys and was assured that the lawsuit and settlement were designed to insure a fair and even playing field protective of voters' rights. The aim was to prevent voters from being disenfranchised or unduly burdened by individual counties that were interpreting and applying the law in varying ways that took away the right to vote. Neither the settlement nor the right to equal protection provides that counties should only do the minimum – and no more. Counties may provide additional assistance to voters beyond the minimum the law requires, taking into account their particular demographic, geographic and financial circumstances.

Therefore, the League of Women Voters of Ohio urges –

- that all counties provide in-person absentee voting for more than the effective 5 1/2 days that is currently allowed in the bill;
- that all counties be allowed to choose whether to mail absentee ballot applications to all of their registered voters;
- that all counties be allowed to choose whether to prepay postage for the return of voted ballots;
- that all counties be allowed to choose whether to open one or more alternative sites for in-person absentee voting, both for voters' convenience and so that the election board may use its board office space to prepare for election day; and
- that all counties be allowed to choose whether to be open for in-person absentee voting all day on Saturdays and hours of their choice on Sundays, and on the weekend before election day.

It is important to think through the consequences of the proposed reduction in in-person absentee voting days and sites and the prohibition on mailing absentee ballots. Again, I direct your attention to the chart prepared by Norman Robbins. It is clear that in a number of counties, voters will encounter inordinate wait times for in-person absentee voting and at the polls on election day if the proposed bill is enacted in its present form.

### **3. Voter Intent**

Again let me stress that most people do not pay a lot of attention to the finer points of election law, and they may be caught inadvertently in an error. If a voter wants to be absolutely sure that his vote counts for candidate "George Washington," he may fill in the bubble beside Washington's name, then make doubly sure by also writing in "Washington" in the space for write-in votes. While technically that could be called a double vote, it is clear what the intent of the voter was. Ohio has always used "intent of the voter" to determine whether a ballot could be counted. Not counting that vote seems to smack of punishing the voter for not paying attention in class. We urge that "double bubble" votes should be counted whenever the intent is clear. This problem was corrected in Amended Substitute Senate Bill 248 and needs to be corrected in Amended Substitute HB 194 as well.

There are also a number of places in the bill where we believe clarification would be helpful; we would be very pleased to work with the sponsors, committee, and the Secretary of State and his staff to address these issues. In light of these and our major concerns, we strongly urge that this bill needs more consideration.

Thank you for your kind attention. I will be happy to try to answer any questions.

## Attachment I

### Recommendations on Am Sub HB 194 (Mecklenborg, Blessing) for Combining with Am Sub SB 148

1. **RC Sec. 511.27** [page 2], **1545.21** [p.4], **3501.01** [p.7], **3513.12** [p.192], **3513.262** [p.197]  
Add this House language into the Senate bill, moving the presidential primary back to May, as suggested by elections officials.
2. **3501.05** [p.11], **3503.15** [p. 71] Add this House language to the Senate bill to require the Secretary of State to notify Boards of Elections when the Secretary purges a voter from the registration database, so the BOE can correct any SOS errors.
3. **3501.29** [p.47], **3517.106** [p.258], **3517.11** [p.283] Add these provisions in the House bill to the Senate bill to allow certifications to be sent to the Secretary of State by mail or electronically.
4. **3501.40** [p.59] Do not include this House language that forbids presumption of poll worker error when a voter is not informed or is misinformed.
5. **3505.181(F)** [p.112] The poll workers should assist any voter who nees or requests assistance, not just those who are blind, disabled, or illiterate. (How are they to determine who is eligible for assistance?)
6. **3505.21** [p.127] Add this provision in the House bill to the Senate bill allowing observers at the Board of Elections or any absentee site/s during absentee voting. Also add some reasonable rules for observers.
7. **3509.01** [p.153, lines 4684-4687] Add these provisions in the House bill into the Senate bill, allowing in-person absentee voters who are in line when the voting closes to cast their ballot, like the election-day rule.
8. **3509.01(D)(2)** [p. 153] Add the language in the House bill to the Senate bill on the process for sending replacement absentee ballots to absentee voters when a late vacaancy must be filled.
9. **3517** [pp. 213-307] Add all of the 3517 provisions in the House bill into the Senate bill to address the relevant court decisions. (The campaign finance specialists in the Secretary of State's office could confirm if these are appropriate.)
10. **3599.30** [p.318] Do not include the prohibition in the House bill against transporting students to a polling place Student voting should be encouraged (and the voting process is secret at a polling place, so there can be no undue influence exerted on the students).
11. **3501.02** [Section 3 at p.321, and Section 4 at p.348] Add these House provisions to the Senate bill, aligning petition deadlines with the Ohio Constitution.

## Attachment II

**Effects of HB 194**, if passed, on: a) number of in-person absentee voters per day, if the total number of such voters in 2008 had to be processed in HB194's 6 days; b) waiting times, given as estimated actual hours for the worst days in 2008 – these surely will be much longer if there are so many more voters per day in 2012; c) increasing the actual numbers of provisional ballots rejected in 2008 for voting in the “wrong precinct” since poll workers would be under no obligation to give voters information as to their proper precinct/polling place.

		in person absentee voting				election day voting		provisional ballots
		votes per day			longest waiting time	votes cast per precinct		
SENATOR	COUNTIES	2008, on the basis of 35 days, including weekend	2008, on the basis of 25 days, NOT incl. weekend	projected for 2012 under HB194, on basis of 6 days	actual, 2008 (hrs)	actual 2010	projected 2012 if turnout=2008	rejected in 2008 for "wrong precinct"
Manning	Huron					261	372	34
	<b>Lorain</b>	385	539	2,243	2.5	343	434	143
	E. Seneca					303	438	32
								<b>Total 209</b>
Widener	Madison					211	290	16
	Clark					370	<b>501</b>	165
	<b>Greene</b>	255	357	1486	NA	320	411	208
								<b>Total 389</b>
Hite	Defiance	135	189	785		282	382	45
	Fulton					352	473	39
	<b>Hancock</b>	~171	239	~1,000	1-2 hrs	311	404	20
	Hardin	41	57	240		221	303	30
	Henry					250	318	19
	Paulding	29	41	169		336	446	12
	Putnam	38	53	224		484	<b>636</b>	9
	Williams	40	56	231		406	<b>555</b>	27
	VanWert					188	253	35
								<b>Total 236</b>
Faber	<b>Allen</b>	149	209	871	3-3.5	231	326	103
	Champaign					397	<b>504</b>	7
	Mercer					351	429	20
	Preble					287	385	3
	Shelby					437	<b>525</b>	32
	part Auglaize					359	456	53
part Darke					378	481	73	

								<b>Total 291</b>
Grendell	Lake	291	407	1699	2 hrs	301	<b>520</b>	284
	<b>Geauga</b>					321	401	119
	E. Cuyahoga	1500	NA	9000	3-4 hrs	212	374	3423
								<b>Total 3826</b>
Jordan	<b>Delaware</b>					393	441	68
	Knox					263	300	29
	Morrow					296	392	22
	Richland	286	400	1668	1-1.5 hrs	370	<b>595</b>	81
	part Ashland	68	95	396		271	374	32
								<b>Total 232</b>
Smith	Cuyahoga (Cleveland)	1500	NA	9,000	3-4 hrs	212	374	<b>3423</b>
Tavares	Franklin (Columbus )	1500	NA	9,000	6 hrs	296	388	<b>1139</b>
Skindell	Cuyahoga (Lakewood , Cleveland)	1500	NA	9000	3-4 hrs	212	374	<b>3423</b>

*Prepared by Norman Robbins, Emeritus Professor at Case Western Reserve University and research director of Northeast Ohio Voter Advocates.*