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Contacts:

Carrie Davis, League of Women Voters of Ohio, 614-469-1505

Catherine Turcer, Common Cause Ohio, (w) 614-441-9145 (c) 614-579-5509

Deidra Reese, Ohio Voter Rights Coalition (c) 614-563-0549

Voting Advocates Rally To Protect Judicial Safeguards

Columbus, OH – Voting advocates urged legislators Tuesday to back off a fast-tracked bill that would stymie judges' ability to ensure that all voters have equal opportunity to cast their ballot in the 2016 Presidential Election.

Senate Bill 296, which is set for a 9:00 a.m. vote Wednesday in the Ohio Senate Civil Justice Committee, would drastically limit state courts' ability to order polls remain open past normal Election Day voting hours.

Fair and free election advocates mobilized Tuesday to prepare testimony demonstrating how court-ordered extended voting hours are a critical safeguard to ensure all Ohioans have a uniform number of hours to vote when technology failures or emergency situations disrupt normal Election Day voting.

“Extended voting hour orders are a fair and reasonable way to ensure that voters who encounter problems at the polls due to no fault of their own still have the chance to vote,” said Deidra Reese, of the Ohio Voter Rights Coalition. “Extended voting hour orders are rare, but a necessary safeguard to ensure that unforeseen emergencies do not disenfranchise lawfully registered voters.”

State statute requires the polls to be open on Election Day from 6:30 a.m. to 7:30 p.m., thereby providing 13 hours to vote. However, courts may order extended hours for local voters when county boards of election face extenuating circumstances, such as polling locations that do not open on time, voting machine failures, running out of ballots, or weather-related emergencies.

For example, during 2007 problems with touch-screen machines in Putnam County led then Secretary of State Jennifer Brunner to call for the polls in this northwestern Ohio county to remain open until 9:00 p.m. In another case that year, a judge ordered certain polling places in Cuyahoga County to stay open until 9:00 p.m. due to severe weather.

Senate Bill 296 would not only make it harder for courts to issue such extended-voting orders, but an extreme provision would require any plaintiff seeking an emergency court order to post a cash bond in order to even file a petition with a state court for extended voting hours. This bond is supposed to cover overtime costs for extended hours, essentially requiring voters to pay for running that part of the election, which totaled \$58,500 for Hamilton County in 2015 and 2016. While the bond is waived for people who are indigent, only that individual would be permitted to vote after hours leaving out any other voters in the same predicament – an absurd outcome.

“SB 296 presents an insurmountable barrier for ordinary citizens seeking access to the courts,” said Ellis Jacobs, of the Miami Valley Voter Protection Coalition. “The right to vote shouldn’t be dependent on the size of your bank account. Most citizens can’t afford to gamble \$60,000 to win an injunction. And the 26th Amendment to the U.S. Constitution forbids imposing a poll tax on the right to vote.”

In addition to the proposed hurdles to extended voting hours, advocates question the need to create barriers to judicial safeguards to solve a reported internal communication problem.

“Supporters of SB 296 point to problems that can come up when last-minute emergency court orders are issued, like what happened during the primary in several counties in southwest Ohio. But most of those problems had to do with communication breakdowns and insufficient planning – not due to the court orders themselves,” Carrie Davis, League of Women Voters of Ohio, said. “Rather than racing through legislation making it harder to get an emergency court order, we ought to focus on solutions to the real problems – better Election Day communication and contingency planning.”

After the 2015 General Election, Ohio Secretary of State Jon Husted called for an analysis of problems in Hamilton County that prompted a court-ordered voting hour extension. In a December 2015 report by the Hamilton County Elections, Board Chairman Tim Burke assumed responsibility for the troubled implementation of new technology, when 83.8% of polling locations in the county reported some type of problem with using e-poll books for the first time.

“If legislators are concerned about establishing a judicial process for extending polling hours, they should do so,” said Catherine Turcer of Common Cause Ohio. “But our elected officials need to put the onus where it belongs, not on the voters. Voters are responsible for getting themselves to the poll with ID they need for voting. Boards of Elections and the Ohio Secretary of State are responsible for addressing the obstacles that get in the way of voters casting a ballot and finding ways to address unexpected occurrences including the occasional need for longer polling hours.”

Referring to the problems in Hamilton County that ostensibly prompted introduction of the bill, “None of this was the fault of the voter and a judge rightly decided to extend polling hours to give voters additional time to cast their ballots,” noted Turcer.

Senate Bill 296 has been scheduled for a vote this week after only two previous hearings to consider testimony from the sponsor and proponents. The Ohio Association of Election Officials has not taken an official position on the bill.