

TESTIMONY OPPOSING HB 294  
House Government Oversight Committee  
Opposition testimony of Andrea R. Yagoda, Private Citizen

Chair Wilken, Vice Chair White, Ranking Member Sweeney and Members of the Committee thank you for affording me the opportunity to speak to you about this Bill. My name is Andrea R. Yagoda. I have been a resident of Ohio since 1974 and am a retired attorney. Some of aspects of this Bill are good although I think it could be better and there are provisions that I object to. I agree with Secretary LaRose that this Bill should be an introduction to a dialogue as to what voting legislation would best benefit Ohioans and that everyone should work together to draft the best Bill we can. And as representative Sweeny said if we are going to take on voting let's do it right and in a comprehensive manner.

In the last election cycle I contacted many Ohio voters. I was amazed at how many voters were not only unaware of early voting but also that they could vote absentee by mail. The pandemic educated Ohioans as to the alternative ways to vote in Ohio ie; Mail in ballots and I believe we will see a larger number of voters continue to use these methods to vote in the future which is why I applaud some of the aspects of this Bill but oppose others and wish the Bill went further than it does. Due to limited time, let me address my concerns relating this Bill first.

The Bill, as written, could very well decrease early voting times. The Sponsor testimony states:

10. Eliminate in-person absentee voting on the Monday prior to the General Election and shifting those hours to extend the in person voting hours to the week before the election, as has long been advocated by the

bipartisan Ohio Association of Election Officials, so that county BOE's can be wholly focused on preparation for Election Day.

In his testimony Secretary LaRose also stated that although this Bill removes six (6) hours of early voting on the Monday before Election Day, it does still guarantee 216 hours of early voting by enlarging other times on other days. Perhaps I am missing something but I could not find any provisions specifying the same. ORC 3509.051 in this Bill states in pertinent part:

(A)(1) In-person absent voting shall be permitted during the period beginning on the first day after the close of voter registration before the election and ending on the Sunday before the day of the election.

This provision does not specifically lay out days and voting times nor does it specify that there would be 216 hours of early voting time. In fact there is no guarantee of the amount of hours for early voting. In his testimony Secretary LaRose stated that we can create more convenient hours for voting by either increasing night hours or weekend hours but this Bill does not provide the same. Nothing in this Bill requires a specific number of hours in the early voting period. So, if we have a change in Administration at the Secretary of State's office the hours for early voting could easily be decreased. Just because Secretary LaRose says 216 hours, and the sponsors state that the Monday hours will be shifted to other days, that is not mandated in this Bill.

To vote absentee by mail this Bill "prioritizes" the method of identification. The first is Ohio Drivers License or State ID, then social security number and then a list of other alternatives. However, only if you "do not have or cannot provide" your drivers license number or your state ID number can you then

provide your social security number. If you “do not have or cannot provide” your social security number then the other alternatives. ORC 3509.04.

The sponsor testimony submitted in support of this Bill states:

8) Prioritize the order in which now-required forms of ID for absent voting by mail are to be furnished, so that voters **must use** the driver’s license number or state ID if they have one, **and only if they do not** may they use the last four numbers of their social security number or other permissible form of ID.

The analysis by the OLSC contradicts this testimony and states :

However, under the bill, the ballot is eligible to be counted if the voter provides any of the acceptable forms of ID, just as under current law. **A voter is not penalized for providing a less-preferred form of ID, even if the voter could have provided a more-preferred form of ID.** P. 18

The sponsors stated in their testimony that this Bill was, in part, to eliminate ambiguity and yet at the very onset the OSLC interprets the Bill differently than that intended by the sponsors. So ambiguity is present. I tend to interpret the Bill in conformity with that of the sponsors which is why I oppose this provision. The question then is how confusing would this be to the average voter when the OLSC interprets this section of the bill to mean any form of ID is satisfactory and the sponsors state that the bill is intended to mandate a specific ID and that other alternatives can only be utilized if the voter does not have the same. The OLSC lists several provisions of the code. However, only one appears to be applicable to wit; 3905.06(D) . ORC 3905.06 states “ (3)(a) An identification envelope statement of voter shall be considered incomplete if it does not include all of the following” and then lists: name, residence, date of birth, signature and one form of ID. This provision of the code states that only one form of ID is

required and does not prioritize IDs. Is this provision in conflict with ORC 3109.04? Are the Boards of Elections now required to investigate to determine whether the voter had either an Ohio driver's license or a state ID but chose to provide a social security number, and if the voter did only provide a social security number, can this ID/ballot be challenged? Or if the voter merely included a copy of a utility bill but had a driver's license and a social security number could that ballot be challenged because the law provides that a voter must provide a driver's license/state ID number unless s/he "does not have or cannot provide" the same. Is the ID envelope considered incomplete? It is one thing if you have no drivers license or state ID, but if you had either and failed to provide the number, can the voter then be questioned as why s/he could not provide the same? So does ORC 3109.04 encompass another investigatory step for our Boards of Elections? The rationale for deleting Monday voting and for changing the deadline to request an absentee ballot is to make it easier for the Boards of Election yet this "prioritization" seems to me to make more work for those same Boards.

Does this Bill merely "prioritize" as suggested by the OLSC or is it a mandate per the testimony of the sponsors? What could be the rationale for this? In the OLSC analysis, reference is made to *Obama for America v Husted* (2014)888 FS 2d 897 wherein the court held that the provisions for the military early vote differed from that of other voters. As such, the law was unconstitutional. The court relied on the principle that voters cannot be restricted or treated in different ways without substantial justification from the state. We all

have a constitutional right to participate in the electoral process on an equal basis. Why is ORC 3109.04 treating mail in absentee voters different than those who vote in person especially when we know that there is almost no voter fraud in Ohio whether it be in person early voting, in person election day voting or mail in absentee voting? When one votes in person, the voter's signature is matched as it is in considering an absentee mail in ballot. When voting in person one is not required to provide a drivers license, state ID nor their social security number. They may provide a utility bill, etc. Why the distinction? What could possibly be the substantial state interest in mandating a driver's license or state ID number for mail in absentee voting when not required for in person voting? I did not hear any substantial interest referred to in the testimony of the sponsors of this Bill nor did I hear Secretary LaRose even mention this in his testimony. Secretary LaRose referred to problems and solutions and thus this was not discussed as this mandate is not a solution to any problem. And if a Court determines that the different requirement is violative of the Equal Protection Clause of the Constitution will the legislature fix the problem by requiring all voters to produce a driver's license or state ID before a social security number or a utility bill? Sorry, but these days I do not have much faith in state legislatures when it comes to voting.

I am concerned for those eligible voters, who may be in jail or in the hospital. Many of these Ohioans may have a driver's license but may not have access to the same. So, can it be argued that although they have a license they "cannot provide" the number because they are in jail or are they now required to

contact someone who may know where the license is in order to obtain the number? I know seniors who have valid licenses but their children have taken them away with the keys to the car as they are no longer driving so will ballots submitted by these Ohioans be deemed incomplete because they do not know their drivers license number and may not have a state ID? How, one when submits their ballot does the voter prove s/he or BOE determine that the “cannot provide” the license number?? What about individuals whose licenses have been suspended and taken by the court or law enforcement?

What is the procedure then? When the County Board of Election receives an absentee ballot and the ID envelope indicates a social security number or that a utility bill is enclosed, does the BOE check for a drivers license, state ID or social security number? If the voter has a drivers license or state ID, or social security number, does the BOE have to notify the voter that the ballot is incomplete and that s/he must provide the license or state ID or social security number? Even Secretary LaRose testified that many voters will use their social security number as most voters know this number off the top of their heads. I would urge this committee to delete this so called “prioritization” of IDs for mail in absentee voting.

While I applaud the bill for including on line application for an absentee ballot and while I understand that the id requirement is the same as that for registration these two processes are like comparing apples and oranges. When applying for an absentee ballot a voter is already in the system. The ballot will not only contain two forms of id to be complete and counted, one is the voter’s

signature but the id envelope must include the voter's address and date of birth. To exclude Ohioans from this simpler process makes no real sense to me. I think of my 90 year old mother who was sharp as a tack mentally, confined to a wheelchair who had neither a driver's license, a state id as too difficult to transport her to the BMV, and no computer or printer. She was forced to rely on me to obtain the form. But not every handicapped or elderly Ohioan is lucky to have family nearby. Why the limitation with all the safeguards that are in place when the ballot is submitted?

While Secretary LaRose testified he would be open to more drop boxes, this bill sets the duration and location of dropboxes in stone without further legislation. A change in Administration will not permit another Secretary of State to expand dropboxes absent legislation. Why is the time, and location of dropboxes set in stone but not the time for early voting in this Bill?

While the sponsors of the bill testified they included dropboxes in this bill to avoid ambiguity, once the courts determined that the Secretary of State could permit dropboxes, this resolved the ambiguity. I, however, am glad to see the inclusion of dropboxes in the bill but not happy with the limitations thereof. Many Ohioans use the dropboxes to register to vote, make application for their absentee ballot and used them to drop off their ballot. Limiting the time to 10 days before the election severely limits the use of these boxes. Secretary LaRose stated that allowing Ohioans to request their absentee ballots until the Saturday before the election promoted procrastination. A longer time for dropboxes, convenient for many Ohioans, allows Ohioans to get their requests

for absentee ballots and their ballots in earlier making it easier for local Boards of Elections. Secretary LaRose testified that Ohioans should trust the USPS. I would never mail my ballot. Recently I mailed a letter from the Orange Road post office in Delaware County. The mail was sent to Worthington, less than 10 miles away. It took three (3) weekdays to work its way there. My daughter sent me a card from Pickerington it took five (5) days to get to southern Delaware County. Plus, unless you actually go into the post office and wait in line, there is no guarantee that your ballot will be postmarked.

Further limiting the location that the three (3) dropboxes be located at the Boards of Elections does nothing to reduce traffic. I spent quite a few days at the Franklin County BOE and there were very long lines every day and evenings of voters waiting to get into the parking lot. This consisted of those voting early in person and those just wanting to drop off ballots. Why should BOEs not be permitted to place dropboxes in places like libraries so voters can have easier access? Why only ten (10) days before the election. Why pick the same day to allow dropboxes as used to cut off requests for absentee ballots?

Many Ohioans today live in the suburbs and work in places not that close to their residence. Many Ohioans have to drop their children off at daycare/school or have to remain home until the bus arrives to pick their children up for school and may be unable, in light thereof, to get to their polling location in the morning and many have to retrieve their children at daycare after work. Not everyone that used dropboxes did so because they were "covid cowards".

Another disappointing portion of this bill is the requirement that a ballot be excluded if the ballot is not enclosed in the ID envelope. I realize that the sponsor thinks it important to read instructions but that is not always the case and even when read not fully understood. This appears to be a harsh action when everything contained matches with the records at the BOE and fraud is not even an issue.

Honestly I do not understand why the need to prohibit the prepayment of postage when Secretary LaRose is not opposed to the prepay.

From statements made by the sponsor of this Bill, I am expecting there may be amendments /sub bill. Of course, as of the date of this draft, the public has not seen the same. From statements made I fear that this Bill will be amended to include a mandate that every voter produce a valid Ohio driver's license or an Ohio ID. This ID purportedly would be free of charge. My mother was confined to a wheelchair. She no longer drove and did not have a valid Ohio driver's license nor did she have a State ID. My mother was living in an assisted living facility. Although they had a transport bus, the rides were limited to a specific mileage range. Thus, if the BMV was outside that range I would have to arrange for a private taxi to transport her. A taxi in which she could be rolled into the vehicle. Normally the cost round trip was no less than \$75.00. If I was unavailable, she would then have to pay for an aide to accompany her at the rate of \$21.00/hr whether by facility bus or taxi. Neither the bus nor tax wait for you. She called when done and would have to wait. There were times when we were forced to wait over two hours for the bus/taxi. Wait at the BMV for two hours??

My mother would not be alone. How many residents in assisted living and nursing homes facilities face this same problem and what about those who are handicapped and not in such a facility? Unless the state had a traveling ID section, a state ID would not be free and would disenfranchise the elderly and the handicapped. But perhaps this legislature has no problems disenfranchising the elderly and handicapped.

I ask this committee to vote no on this Bill .

*Andrea R Yagoda*