

To: House Finance Committee

From: Collin Marozzi, Deputy Policy Director, ACLU of Ohio

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RE: HB 54 – Opponent Testimony



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J. Bennett Guess
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Thank you, Chairman Stewart, Vice Chair Dovilla, Ranking Member Sweeney and members of the House Finance committee for the opportunity to provide opponent testimony to the Chapter 35 provisions included in HB 54, the state transportation budget. My name is Collin Marozzi, and I serve as the Deputy Policy Director for the American Civil Liberties Union of Ohio.

The ACLU works in courts, legislatures, and communities to defend and preserve the individual rights and liberties the Constitution and laws of the United States guarantee everyone in this country. That includes protecting access to the ballot. The ACLU has been at the forefront of expanding and defending voting rights since our organization's founding in 1920, including standing up for the voting rights of disabled voters, racial minorities, Native and indigenous communities and more. It is our experience that when legislatures seek to modify election laws, the appropriate tool is a scalpel, rather than a sledgehammer. The proposed changes to Chapter 35 in HB 54 employ the latter.

The provisions included in this bill will create detrimental changes to our voter registration, provisional balloting, and list maintenance procedures. As a result of HB 54, eligible voters will be forced to unnecessarily vote provisionally and potentially lead to eligible voters being kicked off the rolls entirely. It is clear the intent of the legislature is to require some form of citizenship verification prior to, or in tandem with, voter registration. Lines 990-993 of the substitute bill would prohibit the BMV from registering, or updating someone's voter registration, until that applicant has "presented proof of United States citizenship." Aside from the serious NVRA questions, this language proposes to start every single Ohioan doing business before the BMV at square one. But the truth of the matter is millions of Ohioans have already presented the BMV their status documents, so why should they have to again?

The 2005 federal REAL ID requirement is set to take effect on May 7, 2025. This means any Ohioan who wants to board a plane or enter a federal building after May 7, 2025 will need to show REAL ID compliant identification. Why does this matter? Because everyone must present proof of their resident status to obtain a REAL ID. Ohio has been offering and issuing REAL IDs since July



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2, 2018.¹ That is nearly seven years of Ohioans already opting in to provide the BMV with this data. The electronic data transfer provisions passed in HB 74 during the lame duck session of the 135th General Assembly will take effect shortly, and that bill requires BMVs to electronically share information regarding voter registration, including eligibility, with the Secretary of State and county Boards of Elections. The ACLU of Ohio encourages this body to use the scalpel, not the sledgehammer. Fine tuning language to have BMVs share REAL ID citizenship data with election administrators is a common sense, tailored approach to meeting the goal of verifying citizenship for Ohio voters without subjecting every person to additional, redundant, and burdensome rounds of document production.

Second, HB 54 will explode Ohio's already disproportionately large number of provisional ballots and will mandate continuous voter purges of eligible Ohioans through the creation of the surrender and expiration list. To start, how will "surrender" be interpreted? Without an operable definition in the bill, surrender could be interpreted to mean any number of things including, but not limited to, moving out of state and obtaining a new DL/SID, an administrative license suspension, 12-point license suspension, being cited for no car insurance, or late child support payments. According to Ohio BMV data, 388,365 Ohioans had a BMV or court suspension of their license in 2023.² We can all agree that things like being late on child support or being arrested for an OVI, though undesirable behavior, should not be grounds for losing your right to cast a regular ballot, but this is what HB 54 contemplates.

The large amounts of data needed to execute the monthly suspension and expiration reports will hit our small county Boards of Election the hardest. Small counties with limited staff must comply with state laws to the same extent as bigger counties, but without the benefits of having larger, more technically proficient staff and bigger budgets. These monthly reports generate more opportunities for human error to enter the equation and could ultimately lead to fully eligible Ohioans having to now cast a provisional ballot for no reason – or at least no reason known to them. There is no notification requirement in HB 54 for when an individual is put on the surrender and expiration list. So, they are just going to show up to the polls and be forced to vote a provisional ballot, perhaps for the first time ever, without any reason why. This sow's distrust in the system and its administrators. This is unwise and could further damage the public's confidence in our elections.

¹ <https://governor.ohio.gov/media/news-and-media/new-license-to-fly#:~:text=Ohio%20began%20offering%20federally%20compliant,for%20the%20federally%20compliant%20version.>

² https://bm.ohio.gov/links/bmv_2023-Facts-Figures.pdf



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The same can be said for the six-month expiration trigger for a provisional ballot. This has the high likelihood of making some of our most vulnerable populations be forced to cast a provisional ballot, again, without ever receiving notice of their new provisional ballot designation. Senior citizens who have transitioned to long-term care facilities, home bound individuals, disabled voters, active-duty military, and people in our jails, a majority of whom are there pre-trial and have not been convicted of a crime, are going to be disproportionately impacted. What's more concerning than the number and population of voters who will likely bear the brunt of this, is why are we even tying DL/SID status to someone's eligibility criteria at all. You do not need a driver's license to register to vote, or prove your identity at the polls, or vote by mail. The fact is the provisions in HB 54 treat people who use DL/SID differently than those who choose to use a different form of voter ID. This was one of the consequences the ACLU of Ohio and other voter advocates foretold when Ohio instituted our strict photo ID requirement in 2022. Now, the operative criterion for casting a ballot is not whether you're a citizen, it's not whether you're 18, it's not whether you've met residency requirements. Instead, in states with strict photo ID, the operative criteria for whether you can vote is if you can obtain and keep the right kind of photo ID.

The ACLU of Ohio urges this committee's rejection of the Chapter 35 provisions currently included in HB 54. Consideration of changes of this magnitude deserve standalone legislation where these ideas can be fully vetted. There exists a better balance between the state's interest in ensuring only eligible Ohioans vote, and voters' interest in their access to the ballot not being needlessly impeded. There are common sense ways for the General Assembly to achieve this objective. The ACLU of Ohio offers our assistance in building this better balance.

Thank you and I'd be happy to answer any questions.

