

Ohio Senate General Government Committee

Testimony of Richard D. Topper

Opponent on SB 293

November 5, 2025

Good morning, Chair Roegner, Vice Chair Gavarone, Ranking Member Blackshear, and members of the Senate General Government Committee. My name is Richard Topper and I am presenting testimony in opposition to Senate Bill 293.

I'm an attorney and have practiced law for 45 years. Since 2004, I have volunteered, lectured and testified before the Ohio Senate and House on issues involving voting rights for Ohioans. All my voter advocacy work is pro bono.

Unfortunately, I will be out of state on the hearing date and will be unable to testify in person.

If you'd like to suppress the vote of 9500 Ohioans whose Absentee by Mail votes were postmarked the day before the election, but arrived at their County Boards of Election one to four days after the 2024 General Election, this is your kind of bill. If you truly care about counting every Ohioan's vote, you should not pass this bill out of committee.

This exercise in voter suppression affects both parties. Included in the 9500 Ohioans whose votes will be suppressed are 549 registered Republicans, 564 registered Democrats and 8524 Unaffiliated voters. Voters designated as unaffiliated are not what we commonly refer to as independent. Unaffiliated voters are those who did not declare a party affiliation in the last two primary elections. Therefore, many of those unaffiliated voters are those who vote mostly Republican or Democratic.

If this bill passes, the 9500 suppressed voters would include 1700 Ohioans who are 55 and older and 4000 voters who are temporarily out of state and out of country. This figure includes Ohioans serving our country.

Let talk about your Districts. 340 of the 2024 late-arriving ballots come from voters in counties Senator Huffman represents, over 300 came from voters in Stark County, and 230 in Portage County. Almost 800 votes in Franklin County and 850 in Hamilton would not have been counted.

The data that I just cited is available at the Absentee and Early Voting Data Dashboard at the Secretary of State's website:

<https://www.ohiosos.gov/elections/voters/ohio-absentee-data/>

It is important to know how important Absentee by Mail and early voting is to Ohioans.

In 2016, 1.8 million Ohioans voted early. That number was 1.35 million in 2018. In 2020, 2.1 million Ohioans voted early. In 2024, over 1 million Ohio voters cast their absentee ballots by mail or at a drop box. I urge you to review the absentee supplemental reports on the Secretary of State's website to see how many voters voted by mail in the counties you represent.

In 2016, 64,000 Franklin Countians voted early for Donald Trump. The number was 49,000 in 2018 for Mike DeWine and 85,000 for Donald Trump in 2020. In 2024, over 40,000 Franklin countians voted by mail for Donald Trump.

A 12/08/2022 Politico article quoted Republican chair, Ronna McDaniel and other party officials lamenting that Republican voters were led astray by calls to reject early voting, and that Republican party needed to embrace the early vote.

Vote by mail is also important in Ohio, because it reduces the burden on Election Day voting. Many of you may remember the 2004 Presidential election. The hours-long lines in the pouring rain were atrocious. Many polling locations were open long past 7:30 including one in Knox County that was open long past midnight. Many voters left the lines because they had to get to work, because they had to pick up their children, or because they didn't want to get sick in the rain. Ohio voters were not happy and many got the impression the election was rigged.

To avoid a constitutional referendum and because it made good political sense, Republicans and Democrats passed a bill in 2005 adopting fault-free absentee voting. Before HB 458, the deadline for counting mail ballots postmarked the day before the election was ten days after the election. Now it is four days.

If you only allow one day for mail postmarked on Election Day to arrive at County Boards, two things will happen. Both bad. First, you will have more people who requested absentee ballots casting provisional ballots. Voters who post their mail ballots will worry that the post office will not deliver their ballot on time. To make sure their vote will count, they will cast a provisional ballot on Election Day. This will further burden precinct election officials and will cause longer lines at polling locations. Casting a provisional ballot take at least five times as long as it takes to vote on a machine. If you have ever been a precinct election official, you know that.

Second, not counting legitimately cast ballots is anti-democratic. Many races, especially local races from state reps to county offices to city or township council to local issues including precinct liquor options in primary or general elections are decided by less than 100 votes. I've observed races which have been decided by absentee by mail ballots arriving at county board of elections from one to four days after Election Day. By not counting these votes, you are denying the

will of the people to choose the candidate of their choice or which issue they want to see pass or fail.

The sponsors fear voter fraud. However, there is absolutely no evidence of this.

I've heard one sponsor, Senator Gavarone, posit a hypothetical about a Wood County election in which the vote is 101-100 and that one vote which turned the election is due to a non-citizen voting. First of all, show us some evidence. Second, it is much more likely that an election will be wrongfully won by a candidate who didn't receive most of the votes, because votes for the candidate who should have won came in 1-4 days after the election.

A proponent testified that 34 states do not count ballots that arrive after Election Day. Included in those 34 states are states where drop boxes are easily accessible to voters and are not restrictive in time, place and method of delivery like Ohio. Among the states he cited are Florida which requires drop boxes must be geographically located so all voters in the county have an equal opportunity to cast a ballot. In Michigan, multiple drop boxes are accessible in cities and townships.

Ohio's one drop box per county Board of Elections harms those who do not live close to the county seat and/or do not drive, including rural Ohioans, seniors, voters with disabilities, low-income voters, and those who work during the BOE

business hours. The fact that you are seeking to suppress legitimately postmarked votes while restricting drop boxes is ridiculous.

The sponsors seem to want everything Donald Trump wants. So here is what Donald Trump promotes. He wants to make sure that voters remain engaged until the day of the election to assess candidates' performances. He doesn't like early voting. If a Trump Republican accedes to Donald Trump's wishes, the voter should hold on to their absentee by mail ballot until the day before the election. If they do that, there is a strong likelihood, their vote for Trump-endorsed candidates will not count.

The sponsors also cite *Republican National Committee v. Wetzel*, a case challenging Mississippi's law allowing counting of ballots arriving at BOE's within five days after Election Day. First, as stated by the LSC legal analysis, there are conflicting decisions from other jurisdictions. Second, the decision applies to federal elections only. Third, Ohio is not in that Court of Appeals' Circuit. Fourth, the case is presently pending before the United States Supreme Court in *Watson v. Republican National Committee* on a writ of certiorari and this issue may be moot.

If the committee is relying on this case, I would urge a stay on this bill pending the outcome of the US Supreme Court case cited above.

This is a bad bill. It takes away a right from Ohioans to vote in a manner which best suits them, and it will have an anti-democratic effect on Ohio elections.

I urge you to vote no.