



SB 296 Opponent Testimony
Provided on May 2, 2015 by:
Testimony by Deidra Reese, Ohio Voter Rights Coalition

Chairman Bacon, Members of the Senate Civil Justice Committee, thank you for the opportunity to provide testimony on behalf of the Ohio Voter Rights Coalition, a non-partisan advocacy group that supports free, fair and accessible elections. Our democracy is stronger when every eligible citizen is able to participate in our elections. We oppose SB 296 in its current form as it does not solve the problems that have been identified, and may have unintended consequences.

Court ordered extended voting hours are a necessary safe-guard to ensure that voters have a uniform number of hours to vote. By statute, polls must be open on Election Day from 6:30 am-7:30 pm, thereby providing 13 hours to vote. If technology failures or an emergency situation seriously disrupts voting, then a court may reasonably determine extended hours are warranted. In such instances a court order may be the only way to ensure uniform voting opportunities for all.

While there are those who do not agree that a shutdown of a major highway is a reason to keep the polls open, the real problem that occurred during the last two elections, was the breakdown of communication of the court orders. The problems that ensued were neither initiated or exasperated by voters. Had the information been communicated in a timely manner, much of the chaos could have been avoided.

On several occasions polls have been court-ordered to stay open late for unquestionably legitimate reasons that could be impacted by this kind of policy – e.g., running out of ballots, polls didn't open (on time), machine failures, power outage, etc. In these instances, courts are not callously extending voting hours so voters can "Kroger vote" 24/7. In fact, it is outrageous to suggest that voters are asking to "Kroger vote." While we certainly have the option to early vote, the law allows us to vote on Election Day at our local precinct. If on Election Day an unforeseen circumstance occurs that legitimately delays a voter from getting to their polling locations, a voter should have the unimpeded option to seek judicial recourse to keep polls open. They may win or lose that case, but they should have the option to make their case before a judge.

SB 296 unfairly punishes voters for problems they did not cause. One of the bill's most egregious provisions requires petitioners to pay a cash bond simply for the right to ask the court to consider extended voting hours. This is unsurmountable barrier for ordinary citizens. The right to vote shouldn't be dependent on the size of your bank account. While the bond is waived for people who are indigent, most citizens can't afford to gamble \$60,000 to win an injunction. This is akin to a poll tax that must be paid to simply exercise their rights.

We are fortunate we live in a nation where there is separation of powers. Courts are a recourse for citizens and we should not use legislation to create a barrier, based upon economic ability, to address this type of problem. Given the long list of election related lawsuit challenges to statues and administrative rules that have occurred over the past several years that have been lost by the state, it is clear that the judicial system provided much needed protection for voters. If we were to suggest that the state had to "post a bond" for any legislation that might be the subject of litigation you would rightfully call that outrageous. Similarly, this provision is outrageous because it intentionally and knowingly creates a barrier for people seeking to protect their right to vote that has been abridged for reasons beyond their control.

While some may argue that there is no need to ever extend the hours, past experiences have shown us that people were making every effort to vote and the courts had to intervene to allow it happen, whether we talk about 2000 and 2004 when people waited in line for hours to vote, or Hamilton County in 2015, when the BOE and Secretary of State reported that 83% of the polling locations experienced problems, we have evidence that sometimes the system fails voters. This legislation adds insult to the injury to the person who wants to participate in the election franchise.

Every vote matters. Secretary Husted identified 75 elections in 2014 and 2015 that were tied or decided by as little as one vote. If a polling place has significant delays, work, childcare, and other commitments may make it impossible for a voter to return in time to vote by the close of polls at 7:30. We should not expect any voter to have to return repeatedly to their polling location because of a problem at the poll. We do however have a right to expect that BOEs have contingency plans to address problems, and a method to communicate in the case an injunction is issued to keep the polls open.

Instead, of punishing voters, we should address the three challenges identified in the testimony of the Director of the Hamilton County BOE: (1) providing guidance for when to issue an injunction extending voting hours, (2) creating a standard procedure for notifying poll workers of extended hours, and (3) improving poll worker recruitment. To that end we recommend:

- Requiring a hearing before issuing an injunction. A court should promptly hold a hearing with the petitioner and a member of the relevant BOE to hear evidence before issuing an injunction.
- Exploring other options for notifying poll workers. BOEs may consider using a text message service to rapidly communicate with poll workers, prioritize sending notifications to polling location managers, and require poll workers to check the BOE website for any court-ordered extensions before closing the polls.
- Offering split-shifts and/or increase pay for poll workers. Working a 15 hour day is taxing for even the spryest of individuals, and is understandably difficult for aging poll workers. Providing statutory authority for split poll worker shifts, however, may attract more candidates, and may yield better poll worker performance. Increased compensation may also be considered. While county budgets are already thin, this additional cost could be offset by savings from online voter registration (if implemented). Secretary Husted has testified that from 2011 to 2014, online voter registration would have resulted in \$2.8 million- \$13.2 million in savings.

This concludes my testimony. Thank you for your consideration and I am happy to answer any questions.