



**Representative Bride Rose Sweeney**  
House Bill 380 (Election Engagement Restoration Act)  
House Government Oversight Committee  
December 7, 2022

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Chairman Wilkin, Vice-Chair White, Ranking Member Brown, and Members of the House Government Oversight Committee, thank you for the opportunity to testify on House Bill 380, the Election Engagement Restoration Act. The Election Engagement Restoration Act would repeal two new sections of the Revised Code that 1) prevent a nongovernmental entity from contributing money or collaborating on the operations of a Board of Elections – even at nonpartisan events; 2) ban legal settlements between public officials and third parties, instead forcing endless and costly litigation. These bans were tacked onto the most recent operating budget at the last minute and became law without any committee process or public vetting.

House Bill 380 removes a ban on BOEs or the Secretary of State accepting private grants for election-related purposes. These dollars are already reviewed by the bipartisan state Controlling Board or our bipartisan boards of elections, which understand how to run our elections and already have checks in place to ensure impartiality. The second provision this bill repeals is a ban on legal settlements between public officials and third parties, instead forcing endless and costly litigation (Ohio Revised Code § 9.58). In recent years, good government groups have secured important agreements to protect homeless voters, preserve voter access to the last three days of early voting, and prevent voters from being purged and having their votes rejected. This prohibition removes a basic tool for resolving conflict when there are clear deadlines in the world of election administration (i.e. Election Day).

Unfortunately, we have not been able to have a real debate about the need for these two new laws to show that they are not only unnecessary but harmful. More concerning than the ban on outside money or the ban on settlements is the ban on collaborating on election-related activity. While there is some disagreement over what the ban actually means, the ORC is rather clear about this new provision. It prohibits election officials from working with or accepting donations from quote any “nongovernmental person or entity for any costs or activities related to voter registration, voter education, voter identification, get-out-the-vote, absent voting, election official recruitment or training, or any other election-related purpose” (Ohio Revised Code § 3501.054).

At the very least, the Ohio legislature should clarify this code section. There is a significant disconnect between what supporters of the language say it does and what it actually does. At first, the Secretary of State told those concerned about the ban that it does not criminalize nonpartisan collaboration on voter registration, poll worker recruitment, training, or other get-out-the-vote activities such as the Secretary’s brewery and barbershop tours. They claimed that the ban only really covers donations of money to a board of elections. Still, bipartisan election officials – the ones in the trenches actually doing the hard work of running elections – remained concerned about the fallout from this law.

Some election officials contacted their county prosecutors for legal opinions about what the new statute did and did not apply to. The Montgomery County Prosecutor, for example, directed that the employees and officials of the Montgomery County BOE quote “may not ... work jointly with a nongovernmental organization or entities if that activity involves voter registration, voter education, voter identification, get-out-the-vote, absent voting, election official recruitment or training, or any other election-related purpose.” The Attorney General also issued an opinion saying, “Because collaboration entails the joint administration of a project, it does not cover a great many of the tasks in which officials might engage.”

Essentially, the Attorney General attempted to say two things at once; that any “collaboration” with private groups is still a first-degree misdemeanor and a felony for repeat offenders, but normal activities are somehow fair game. The confusion led the Ohio Elections Officials Association to say the following of the opinion in Cleveland.com: “Obviously, we’re always going to want the law to be as clear as possible, so I don’t think this alleviates our desire to clean up the statute...” We have seen this law prohibit normal election-related activities.

In one such case, the language was interpreted so broadly that a local board of elections could not use a church to conduct poll worker training without fear of breaking this new law. It makes sense if you think about it: training poll workers is an election-related activity that the BOE would work on often with a nongovernmental entity, in this case, a church. This led one of our colleagues to amend another bill to specifically exempt poll worker training from the new law. While this is a welcome change, it does not look holistically at the problem.

Election officials should not have to seek legal counsel or fear criminalization whenever they recruit poll workers or educate voters. We rely on trusted community partners to instill confidence in our elections, educate voters, and alleviate confusion because democracy, at its core, relies on all of us working together for the greater good. We often talk about public-private partnerships in the State of Ohio, but these laws prevent them. Banning money is unnecessary and shortsighted. Banning legal settlements is counterproductive for ensuring fair and timely election. But if we act on nothing else in this bill, then the least we can do is clarify that election workers won’t be criminalized simply for doing their jobs. I’d be happy to answer any questions.