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HOUSE DEMOCRATIC POLICY COMMITTEE

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA

HOUSE DEMOCRATIC POLICY COMMITTEE HEARING

Topic: Voting Issues

G-50 Irvis Office Building – Harrisburg, PA

September 24, 2020

AGENDA

- 10:00 a.m. Welcome and Opening Remarks
- 10:10 a.m. Congresswoman Mary Gay Scanlon
Pennsylvania's 5th District
- 10:20 a.m. *Questions & Answers*
- 10:30 a.m. Panel One:
- Christine Reuther
Councilwoman, Delaware County Council
 - Joe Rodgers
President, National Association of Letter Carriers-Keystone Branch 157
- 10:50 a.m. *Questions & Answers*
- 11:10 a.m. Kathy Boockvar
Secretary, Pennsylvania Department of State
- 11:20 a.m. *Questions & Answers*
- 11:40 a.m. Panel Two:
- Carol Kuniholm
Vice President of Government and Social Policy, League of Women Voters of Pennsylvania
 - Brynne Madway
Staff Attorney, Disability Rights Pennsylvania
 - Kayla Cocci
High School Senior and First Time Voter
- 12:10 p.m. *Questions & Answers*
- 12:30 p.m. Closing Remarks



Disability Rights Pennsylvania

Testimony on
Voting Issues
House Democratic Policy Committee

Provided by:

Brynne S. Madway
Staff Attorney
September 24, 2020

Good morning Chairman Sturla, Chairman Dellosa and members of the House Democratic Policy Committee.

My name is Brynne S. Madway. I am a Staff Attorney at Disability Rights Pennsylvania. Disability Rights Pennsylvania is the federally mandated protection and advocacy agency designated by the Commonwealth of Pennsylvania. We provide legal and advocacy services to people with disabilities in Pennsylvania. On behalf of Disability Rights Pennsylvania, and our constituents, I would like to thank you for soliciting our views on voting issues in the Commonwealth.

People with disabilities want to vote. Numerous federal laws including the Help America Vote Act, the Americans with Disabilities Act, and Section 504 of the Federal Rehabilitation Act ensure that people with disabilities are able to participate in the electoral process. Together these laws require that municipalities make polling places accessible, purchase accessible voting machines, and provide reasonable modifications to procedures so that voters with disabilities can vote. Recent voting reforms in Pennsylvania made it easier for people with disabilities to participate in the primary in the midst of a global pandemic and will make it easier for voters

with disabilities to participate in the general election this year. But mail-in voting is not a panacea. Voters with disabilities must be able to vote in-person at their local polling places using accessible voting machines if they choose.

As the Commonwealth's protection and advocacy organization, Disability Rights Pennsylvania receives funding under the Help America Vote Act, which is often called "HAVA." We use this funding to educate voters with disabilities about their rights, provide assistance to voters with disabilities who encounter difficulty registering to vote and face barriers to voting on election day such as inaccessible polling places or accessible voting machines that are not functional on election day. On election day, voters with disabilities who encounter trouble at the polls can call us to receive advice and assistance. This year we provided assistance to voters during the primary election and have been doing voter outreach to make sure that voters with disabilities know how to vote this year. This is a crucial part of our work.

HAVA does more than fund our voter outreach and education efforts. It also mandates that voting systems—including machines, ballots, and instructions—be accessible to voters with disabilities. Voters with disabilities must be able to vote privately and independently. Every polling place must have at least one accessible voting machine. The Americans with Disabilities Act and Section 504 of the Federal Rehabilitation Act similarly protect voters with disabilities. Voters with disabilities should be able to vote at their local polling place on election day. County election officials need to make sure that they are aware of these laws and that they keep abreast of future developments as we move towards election day.

Even though federal law requires accessible polling places, voters with disabilities still encounter barrier to voting. For example, voters with mobility disabilities may encounter polling places that are not wheelchair accessible. Voters with visual disabilities may encounter voting machines that they cannot use without assistance. For many voters with disabilities, it can be a challenge just to get to a polling place due to a lack of transportation. Pennsylvanians with disabilities want to vote. Pennsylvanians with disabilities are entitled to vote.

Act 77 of 2019 and Act 12 of 2020 are historic pieces of legislation that will make it easier for Pennsylvanians, including Pennsylvanians with

disabilities to vote. Permitting every voter to vote by mail is a significant reform that will make it easier to vote, particularly in the midst of a global pandemic. For voters with disabilities who may encounter numerous barriers to voting in addition to COVID-19, voting by mail is an option that will hopefully lead to increased voter turnout. Importantly, unlike with absentee ballots, voters using mail-in ballots do not have to provide a reason for their choice. This means that voters with disabilities will not have to disclose their disability in order to vote.

That said, while many voters with disabilities may choose to vote by mail, others may want to vote in-person, as is their right. Those voters may, unfortunately, still encounter barriers to being able to vote. It is important for the legislature and local municipalities to take steps to ensure that voters with disabilities are able to exercise their right to vote.

Pennsylvanians with disabilities encounter transportation difficulties every day. These difficulties include things like a lack of access to wheelchair accessible vehicles, trips that must be planned far in advance, sidewalks that lack curb cuts, and numerous other barriers. These transportation difficulties do not disappear on election day. For some voters with disabilities, mail-in voting will mean the difference between voting and not voting due to a transportation problem. Other voters may, however, still be unable to vote because a ride they counted on did not show up, a transportation company encountered a delay, or a curb cut was not built.

While many polling places are accessible or can be made temporarily accessible on election day, voters with disabilities are not always able to vote in person because not every polling place in the Commonwealth is accessible. While many voters with disabilities may choose to take advantage of mail-in voting, mail-in voting should not be used as an excuse to avoid choosing an accessible location as a polling place or finding a way to make a polling place accessible. At the same time, we stand in solidarity with other civil rights activists. Local governments must not use accessibility concerns as a way to disenfranchise voters of color by consolidating polling places in minority neighborhoods.

Voters with disabilities may also encounter accessible voting machines not functioning properly or poll workers who are untrained on accessible features. Voters with visual disabilities may encounter voting machines that do not make an audible sound when a ballot is cast, and other

localities use paper provisional ballots which are inaccessible for voters who are blind or low vision. For some voters with disabilities, mail-in voting will solve these problems. Again, however, mail-in voting cannot be the only option for voters with disabilities. Any voter who wants to vote at their local polling place should be able to do so.

Again, I would like to commend the legislature for passing Act 77 of 2019 and Act 12 of 2020. Mail-in voting will help to ensure that voters with disabilities are able to participate in this historic election while staying safe from the novel coronavirus. But mail-in voting cannot be used as an excuse to get out of doing the hard work of making polling places and voting machines accessible and ensuring that voters with disabilities can get to the polls.

About Disability Rights Pennsylvania

Disability Rights Pennsylvania has been the federally mandated protection and advocacy system in our state for over forty (40) years. Our mission is to protect and advocate for the rights of persons with disabilities so they may live the lives they choose, free from abuse, neglect, discrimination, and segregation. Our vision is a Commonwealth where people of all abilities are equal and free.



**TESTIMONY ON
VOTING ISSUES HEADED INTO THE 2020 GENERAL ELECTION**

Presented to the House Democratic Policy Committee

By
Lisa Schaefer
Executive Director

September 24, 2020

The County Commissioners Association of Pennsylvania (CCAP) is a non-profit, non-partisan association providing legislative, educational, insurance, research, technology, and similar services on behalf of all of the Commonwealth's 67 counties.

We appreciate the opportunity offer our remarks on voting issues headed into the 2020 general election in November. Counties have a significant responsibility in assuring elections remain fair, secure and accessible at every step of the process. This year, the task is complicated greatly, as elections directors, county commissioners and other county officials also hold the unprecedented responsibility of considering risk to public health in holding an election during a global pandemic.

First, we appreciate the General Assembly's efforts to make necessary and quick changes to the primary election in light of the pandemic. The provisions included in Act 12 allowed for counties to continue to administer the election despite the looming COVID-19 pandemic and counties additional time to monitor the situation and evaluate appropriate steps to mitigate disruptions cause by these significant public health concerns.

Counties learned a great deal their experience with the June 2 primary election that we now hope will inform clear and prompt policy changes to ensure an accessible and secure general election on Nov. 3, 2020. With only a little over five weeks until the general election, counties urge the General Assembly's consideration of the following measures as soon as possible to allow counties to successfully implement them.

Allow counties to begin the pre-canvass period up to three weeks prior to the election.

As expected, during the June primary it took several days in most counties to fully process all of the mail-in ballots because of the sheer volume and the inability to begin the pre-canvass before 7 a.m. election day. Of the nearly 2.9 million votes cast during the June primary, more than 40% were cast by mail-in ballot.

In the recent Act 35 report provided by the Department of State, about 45 of the 67 counties reported starting their pre-canvass period before noon on election day during the primary, yet in about half of the counties, ballots were still being counted more than a week later. *This clearly demonstrates the need for an earlier pre-canvass period:* the day of the election, counties are consumed with the critical tasks of implementing a successful in-person election, and may be unable or unwilling to add additional tasks such as pre-canvassing on top of a day that is already very long and very busy.

Allowing counties to begin the pre-canvass process up to three weeks in advance would offer a more meaningful option to complete pre-canvass procedures such as verifying the barcode number and voter's information on the outer envelope match the information in the SURE system, opening envelopes and removing and flattening the tri-fold ballot – all following appropriate security and chain of command protocols for all individuals involved in the process – to prepare ballots to be placed into high-speed scanners. Counties are not asking for the

ability to begin tabulating votes during the pre-canvass period, just to complete the time-consuming manual work of preparing the ballots to be scanned.

Without an extended pre-canvass period, counties will face very real challenges in providing timely results following the election, especially a highly visible presidential election. For context, in the 2016 presidential election, more than 6 million total votes were cast, or double the number cast in the 2020 primary. If mail-in trends continue in this November's election, the number of ballots will be far too overwhelming for counties to process on Nov. 3 alone, and it may take days or even weeks until final results are known.

Extend Act 12 provisions to allow appointment of election officers from anywhere in the county.

Because of the spread of COVID-19, counties had significant challenges leading up to the June primary because of a decline in the availability of poll workers. With the pandemic still very much a reality, and these challenges not expected to go away, the flexibility offered for the primary election under Act 12 must be extended to the November general election.

Even where physical buildings are available to serve as polling places, counties are struggling to recruit and maintain enough poll workers to execute all of the work that goes into holding an election. The demographic of Pennsylvania's poll workers tends to be senior citizens, which is also the demographic most at risk to experience severe impacts as a result of contracting COVID-19. Counties had more than 30% turn over in poll workers for the June primary and anticipate this number to be even greater in November.

Many counties have had to think through their training for poll workers more strategically. Even where counties are able to identify a sufficient crew of poll workers to meet their needs, they must also figure out how to hold training on election day procedures, newer voting machines, and now, public health procedures at the polls – which typically involves bringing large groups of people together in a single place as well – in a safe manner.

Address all other issues after November if they are not vital to assuring ballots are received by 8 p.m. or to assuring timely election results. Any provision which is not necessary for the November election, particularly if it may delay the legislative process, should be postponed for further consideration. There has already been a considerable amount of uncertainty related to ongoing litigation, and counties and voters need as few changes as possible from this point forward to make sure they can be implemented smoothly. Thus, the current legislative effort should remain focused on this narrow set of issues.

Counties have a significant responsibility in assuring elections remain fair and secure at every step of the process, and we appreciate our strong partnership with the state to meet the needs of Pennsylvania's voters. Ultimately, our goal is to support counties' needs in conducting this general election during this unprecedented situation. This includes providing the safest possible environment for voters, poll workers and county officials while also assuring the integrity and accuracy of every vote in every race.

We look forward to working with the commonwealth to continue to fulfill this responsibility, and the responsibility to protect the health and safety of our residents, as we work through implementing reforms in advance of the 2020 General Election.

Thank you for your consideration of these comments. We would be pleased to discuss any further questions you may have on election practices and protocols at your convenience.