

IMPLICATIONS OF HB 159 VOTER ID BILL FOR THE STATE OF OHIO

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Good afternoon and thanks to the committee for allowing me to testify today. I am a senior democracy fellow at Demos, a nonpartisan public policy think tank with offices in New York, DC and Boston, and a fellow at The Century Foundation, a think tank based in New York. I have been working on voting rights issues, and voter identification in particular, for a decade.

My comments will focus initially on the fiscal costs of implementing photo ID provisions for voting. These are important to understand in light of the current budget situation in Ohio. My understanding is that the state confronts an \$8 billion budget gap. Many of you will be working towards cutting spending for many government programs that serve your constituents.

And with this voter ID bill, the message to the citizens of Ohio is that while the state does not have money to fully fund programs they may rely on, it does have money for voter ID, a program that will cost millions of dollars to implement and addresses a problem that essentially does not exist – impersonation of another voter at the polls on Election Day. And, it threatens to disenfranchise some legitimate Ohio voters.

The Ohio Legislative Service Commission's Fiscal Note and Local Impact Statement that has been produced in association with this bill is extraordinarily flawed. It measures one aspect of the costs of a constitutional voter identification law – the expense of producing additional state identification cards – and even on that one measure it is far off the mark. The costs to Ohio to implement this measure will be far higher than the estimate in that document, as is demonstrated by examining some figures from other states that have implemented such laws, like Indiana, and states also poised to pass such laws that are also working to determine the probable costs.

Let's look first at just the cost of providing identification for Ohioans who do not have it, as is required to make the law pass constitutional scrutiny. The fiscal note for HB 159 is wholly inadequate for making that estimation. First, it reports that 8.7 million voting age Ohioans had a driver's license or a state identification card in 2010, more than the number of registered voters. By way of comparison, North Carolina has found that almost half a million registered voters lack a driver's license or a state identification card. In Missouri they found that number to be about a quarter of a million. The Ohio Legislative Service Commission's estimation merits further scrutiny.

Indiana has an ID law that to date is the most restrictive in the nation. It has been in place for a few years now. Indiana's law actually allows for more types of identification to be utilized by voters, notably ID cards issued by state colleges and universities, meaning the Ohio law if passed

could be the most draconian in the country. Nonetheless, an assessment of how much the Ohio voter ID program is likely to cost should be analyzed in light of Indiana's actual implementation experience. Indiana has a population of 6 million citizens. Its Bureau of Motor Vehicles issued 771,017 free photo IDs from 2007 – 2010 at a total cost of just over \$10 million.¹ Given Ohio's larger, 11.5 million citizen population, the Ohio Bureau of Motor Vehicles might have to spend over \$19 million over three years to issue a comparable number of free photo IDs in the Buckeye State. And this could be a minimum. Ohio's citizenry is more diverse ethnically and racially and has a higher poverty rate than Indiana, indicating that more people would lack government issued photo ID in Ohio than in Indiana.

However, that figure does not even include a huge list of other major expenses the state will incur.

• **VOTER EDUCATION:** The fiscal note does not assess the cost of educating voters about the new photo ID requirement. This is a serious omission, given what will be required in order for this bill to be upheld in a court of law.

Georgia passed its 2006 photo ID law to correct some of the problems with an earlier incarnation of its ID statute that was struck down in federal court. Among other things, the new law provided for an education and publicity campaign regarding the new requirements. Yet the court once again blocked the law, emphasizing the inadequacy of the voter education efforts. However, the court stated that “if the State undertakes sufficient steps to inform voters of the [law's] requirements before future elections, the statute might well survive a challenge.”

The Secretary of State sent multiple mailings and brochures over multiple election cycles to the hundreds of thousands of voters believed to lack driver's licenses. She advertised extensively on radio and placed public service announcements on cable television reminding voters of the photo ID requirement. In addition, the SOS office distributed information to public libraries and other public facilities across the state. Secretary Handel's office also partnered with utility companies to include educational inserts about photo ID in utility bills.

The court later upheld the law, noting the significance of the state's voter education efforts.

State officials agree that voter ID laws require aggressive publicity efforts to inform voters and ensure they aren't turned away at the polls. In 2010, Missouri estimated that in order to do effective outreach before each election that is likely to draw in new voters, it would cost \$16.9 million over three years for TV announcements and other outreach to the state's 4 million registered voters. If Ohio is anything like Missouri, this says to me that in Ohio proper voter education and outreach for just its 8 million *registered* voters might cost as much as \$33.8 million over the next three years, given the fact that twice as many individuals are registered to vote in Ohio than in Missouri. Even if this seems high, what if it is only half that? Is this something that Ohio can currently afford?

Ohio can not expect to withstand a legal challenge to a photo ID statute without providing for adequate voter education.² It is simply incomprehensible that the fiscal note totally ignores the cost of educating voters about the proposed new voter ID requirement.

- **IMPLEMENTATION COSTS.** None of the practical implementation costs are addressed by the Ohio fiscal note. Again, this list of additional likely costs are based on a range of fiscal notes produced in other states:
 - Expanded poll worker training given the complexity of implementing the requirement on the ground on election day. Missouri estimated this would cost over \$700,000.
 - Hiring more precinct judges and poll staff to handle IDs and provisional ballots and the likely resulting longer lines. In 2009, Maryland estimated that just in Montgomery County additional election judges would be needed if a photo identification requirement is implemented (one per polling place), for which compensation costs would total approximately \$110,000 for a primary and general election. The Missouri fiscal note estimates they will have to hire two new election judges per precinct at a cost of \$576,800.
 - Creating new and supplementing existing training material
 - Printing additional provisional ballots;
 - Creating new signs for every polling place;
 - Setting up and staffing a help line to answer inquiries from voters
 - Adding and training state and local elections staff. The Wisconsin fiscal note approximates that four new full time hires will be needed to assist the localities and implement the new law;
 - Updating the statewide voter registration database and providing training on changes: This may include modifying the database if there are new ID requirements regarding absentee ballots, to indicate any voters who may be exempt from the new requirements, and to manage new provisional ballot scenarios. Wisconsin estimates this will cost \$138,000
 - Updating the website

The bill would also add substantially to the work your hard working elections officials have to do, who are already stretched thin and burdened by an array of continually changing complicated rules. One example is the additional training poll workers will have to be given, especially if you want to be sure the requirement is implemented in a nondiscriminatory fashion, lest you run afoul of the Voting Rights Act. Discriminatory implementation of voter ID laws has been demonstrated to be a major problem in other states, especially with respect to Latino voters. Moreover, these proposals essentially require that poll workers perform a quasi-law enforcement function -- checking the validity of individuals' identification documents. Another example is printing and processing an increased number of provisional ballots that would ensue from people who show up at the polls without the necessary ID.

Even if voter ID would cost the state nothing and require nothing to implement, it would still be a harmful policy to pursue.

- Eleven percent of the U.S. population does not have the type of identification required by these laws. As many as 887,000 of Ohio's 8 million registered voters may lack a government-issued photo ID to vote.
- Young people and students are particularly harmed by photo ID requirements. Ohio's bill specifically excludes student ID, even those issued by Ohio public universities. Many students are unlikely to have a driver's licenses or a driver's license that reflects their current campus address.
- African Americans, Latinos and new American citizens are far less likely to have identification. Such groups have been the historic target of disfranchisement efforts in this country. Strict voter identification laws target them once again.
- Low Income Americans are disenfranchised. A national survey by the Brennan Center for Justice at the New York University School of Law found that Americans earning less than

\$35,000 were twice as likely to lack ID as Americans who earned more than that. Over 26 percent of Ohio earn less than \$35,000 according to 2009 census data.³

Numerous studies, national and state specific, have found that the rare examples of voter fraud are almost never the kind that could be prevented by a photo identification law

Voter ID laws address *one exceedingly rare form of voter* fraud: impersonation of another registered voter at the polls. Many state legislators and elections officials around the country who are pushing ID bills readily admit there has never been a case of in person impersonation fraud at the polls in their state, yet they are nonetheless pursuing passage of voter ID laws. For example, of the very small number of voting irregularities that occur at the polls, it seems many of them involve persons with felony convictions voting when they are ineligible. This would not be addressed by an ID requirement, as of course IDs do not indicate if you have ever committed a crime. Voter identification would also do nothing to address problems with fraud in the voter registration process or absentee ballot fraud. It is very important not to conflate all the different types of problems that can threaten the integrity of elections and automatically come up with voter ID as the best solution.

Here's the bottom line: In this economy does the Ohio state legislature really want to pass a bill that will mean spending millions of dollars chasing a phantom problem and that might be unconstitutional to boot?

CONCLUSION

Most states run their elections effectively without restrictive government-issued photo ID requirements. I believe Ohio can be just as successful in running clean but fair and honest elections as any other state in the nation. Ohio's voter turnout rate is very disappointing. Fewer than 45 percent of eligible voters cast a ballot in the 2010 midterm election.⁴ It is my opinion that if the Ohio state legislature is concerned about the fairness of its elections, and about fixing the state's enormous budgetary problems, it would be better off using all of its energies and resources to do something about the problem of lack of voter access and low participation rather than combating a problem it does not have, with a weapon that won't work.

ENDNOTES

1. Sean Greene, Debate over photo ID at the polls shifts to costs, Electionline.org, March 17, 20112. See Vishal Agraharkar, Wendy Weiser, and Adam Skaggs, The Cost of Voter ID Laws: What the Courts Say, Brennan Center for Justice, March 2011
3. U.S. Census Bureau, 2005-2009 American Community Survey 5-Year Estimates, http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=04000US39&-qr_name=ACS_2009_5YR_G00_DP5YR3&-ds_name=ACS_2009_5YR_G00_&-_lang=en&-_sse=on.
4. U.S. Election Project, 2010 General Election Turnout Rates, available at http://elections.gmu.edu/Turnout_2010G.html.