

Michigan Election Reform Alliance.org - Testimony

Statement to the House Committee on Ethics and Elections December 16, 2009
Regarding HB 4539 and 4540 (Electronic Submission of Voter Registration Application)

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Since its founding, the Michigan Election Reform Alliance has supported the elimination of arbitrary and unnecessary barriers to voting. Under Michigan law, valid voter registration requires that a citizen appear in person and give their written signature before a sworn registration official. This process protects the integrity of the election system but also makes it difficult for many Michigan residents to register in time to qualify under the 30 day deadline before each election.

The most effective solution, one that preserves both election integrity and voter access, is for Michigan to join the growing number of states that permit *election day registration*. Election day registration guarantees that voters will be registered before a sworn official without incurring any delay in their ability to cast a ballot.

Until sensible election day registration reform is accomplished, we seem to be destined to consider small bits and pieces of legislation that attempt to chip away at the obstacles to voting created by our registration requirements. Some of these proposals, including the two bills under consideration today, also bring new and unintended problems.

Remote registration methods are incomplete. Like a mail-in application, an on line web form, as provided by HB 4539, does not constitute a valid and complete registration. Under Michigan Law and the provisions of the federal Help America Vote Act, a person wishing to vote for the first time after mailing in an application must still appear in person at the polling place and give their written signature before a sworn election official. Under HAVA, unless the person has mailed a photocopy of a government issued ID along with their application to vote, they must show such ID at the polls.

If HB 4539 intends to assist new voters who will be away for the next upcoming election, the bill fails to do so. A new voter who seeks an absentee ballot but is unable to appear in person before the local clerk will be denied in the same way as one who registers by mail. The bill attempts to solve this problem by allowing the on line applicant to use their drivers license number or their

State ID number to request substitution of their electronic signature in place of a written signature witnessed by an election official. But this is problematic. Electronic signatures are relatively crude facsimiles of written signatures and allow a wide range of discrepant signature specimens to pass the scrutiny of the most experienced clerks. Matching the electronic signature to the person on the strength of the drivers license number is thus easily open to fraud. Anyone who knows another's drivers license number or State ID number would be in a position to fake their identity for voting purposes. Moreover the electronic signature may be associated with a different address or even a changed name, and thus would be doubly difficult to confirm.

Applicants who have no existing Driver License or State ID are placed at a distinct disadvantage by this bill. Lacking these documents they will be able to vote only in person and only if they show some photo ID, as required by HAVA. The bill does not provide for any on line method for the applicant to submit a copy of the required photo ID. So, it's actually more feasible for such applicants to use a mail-in registration application.

For a citizen who is not a first time voter, and who wishes to update his/her registration, the bill does offer a potentially convenient method of application for those with access to the Internet. The bill facilitates the qualification of such voters by date stamping their application with the on line date, which could be days earlier than a postmarked letter. HB 4540 appears to attempt to provide the voter with some form of receipt (on line is not specified) which could represent a further improvement over the mail-in form, which provides no mechanism for issuing a receipt. A receipt is important when a voter's application is not received timely by the appropriate local clerk: the voter may use the receipt to qualify to vote according to the 30 day rule.

Aside from the conflicts with existing Michigan and federal law, we see a number of other drawbacks to the bill that may outweigh its potential advantages.

1. Voters already confuse applying to register by submitting an application form with being validly registered to vote. An on line application will further confuse new voters, who will not understand, for example, why they cannot vote by absentee ballot without first appearing in person to have their signature witnessed by an election official.
2. The use of electronic signatures, as proposed in HB 4539, presents new and uncharted security problems for voters and the integrity of election systems. The basis of proven voter identity in the Michigan voter registration process rests in the witnessing of the voter's written signature and attesting to the signature by a sworn election official ("Signed before me"). Allowing a voter to submit an unwitnessed signature by remote electronic means could compromise the system for establishing identity.
3. On line transactions are vulnerable to fraud. Hacking techniques, such as spoofing, Trojan horses, and phishing are widely used for fraudulent purposes. The amount of spam you receive in your own email, some of it sent under your own name, demonstrates how easy it is to falsify the identity of a sender or an originating computer. While we assume that on line applications using the Bureau of Elections web site would not connect to the central QVF server in real time (which would present a large additional threat to data security), any on line function available to the public is open to internet fraud.
4. Honest applicants who attach their electronic signature file also risk the theft of their

signature and their identity by hackers who can access the transaction by monitoring wireless signals or capturing information via keystroke loggers. While such risks can be minimized if the applicant uses appropriate security on a computer and internet connection they control, less sophisticated users and users of third party systems, such as at libraries or internet cafés, may face serious and unremediated vulnerabilities.

MERA urges revising these bills to address the integrity and compliance issues raised here. We also respectfully advise that the bill not leave critical procedural details to a partisan elected official. HB 4539 states in section 8) that implementation would be left to the Secretary of State to promulgate rules. We remind the Committee that no Secretary of State has promulgated valid rules under the Administrative Procedures Act since 1979. For the Legislature to perform its vital checks and balances, good election law must be complete, with procedures specified, and ready to implement.