



Testimony in Opposition to Senate Bill 871, Voter Registration Drive Restrictions
Virginia Senate Privileges and Elections Committee

January 24, 2017

Thank you for the opportunity to submit testimony on this important voter registration issue. Project Vote is a nonpartisan, nonprofit organization dedicated to realizing the promise of American democracy so that every eligible citizen can register, vote, and cast a ballot that counts. Project Vote works to protect voter registration drives, because of their importance in engaging citizens, and particularly historically marginalized citizens, in our democracy. Because these bills create unnecessary burdens on voter registration drives, we urge you to defeat these measures.

The Importance of Voter Registration Drives

Community-based voter registration drives—whether they are partisan or non-partisan, secular or religious, paid or volunteer—serve as critical intermediaries between states and citizens who are alienated from the political process. No substitute exists for the patriotic act of canvassing our neighborhoods to help community members register to vote.

Voter registration drives are a powerful tool to register potential voters because it reaches people in their own communities—at their homes, schools and businesses. Data show that voter registration drives play a key role in increasing political participation.¹ Although private organizations cannot actually register voters—only government officials can register them and add them to the rolls after processing applications—these organizations play an important role in connecting eligible citizens with the democratic process and helping them register.

Voter registration drives especially empower underrepresented groups that may not have the resources, time, or opportunity to register through other methods. However, the impact of drives may be stunted by burdensome restrictions on the canvassers and organizations that conduct voter registration drives.

Senate Bill 871 (2017) makes certain changes to the Commonwealth's voter registration process. This bill introduces several problematic features to the system that, once implemented, will make it significantly harder for voter registration drives to operate.

¹ See November 2014 Current Population Survey (CPS): Voting and Registration in the Election of November 2014 Table 12—Method of Registration by Selected Characteristics, U.S. Census Bureau, available at <http://www.census.gov/library/publications/2015/demo/p20-577.html>.

Bill Analysis

Summary

Overall, the new provisions in the bill would create unnecessary burdens for those who participate in voter registration activities that penalize legitimate efforts and make it harder for citizens to participate in democracy.

The bill contains new and more stringent requirements for registration of groups or individuals.

Existing law only requires registration if 25 or more forms are requested from an election official, and it is a group-based requirement based on obtaining the forms, not a canvasser/volunteer-level requirement. The new bill would require that *prior to engaging in any voter registration activities*, any individual or organization that will be distributing and collecting voter registration applications for delivery or transmittal to a general registrar or other appropriate entity authorized to receive completed applications shall be required to register with the Department of Elections as a third-party registration group. The Department would have to issue a unique identification number to each such individual or organization. Persons volunteering with or employed by a third-party registration group would also be required to register with the Department as a volunteer or employee of that group. The bill would require a person volunteering with or employed by a third-party registration group to be assigned by the group's organizer a unique identification number in a format approved by the State Board. The number would have to be put on each application.

The bill puts burdensome administrative requirements on grassroots organizing and registration efforts. For example, the new law, unlike existing law, does not put a floor on the number of forms received, or exclude people who print their own forms. As a result, even if all a concerned citizen wanted to do was print a few forms and collect them from classmates or friends, they would have to register with the state. Similarly, a person who might not know how to navigate the registration process on their own would be unable to get help submitting the application.

The bill is vague regarding the registration of employees and volunteers. Particularly if interpreted in a restrictive way, the bill could make volunteer and employee recruitment more difficult, for example, by causing a lag time between volunteer training and assignment of an ID number, which must be placed on the form.

In addition, while Project Vote understands the language of the requirements to apply only to groups who collect applications, to the extent the requirements apply to distribution of blank forms or to groups that only distribute blank applications and do not collect completed forms, such a requirement would be unduly restrictive, as there should be no restrictions on distribution of blank forms.

The bill creates new paperwork requirements that impose unnecessary burdens on voter registration activities and voter registration groups' employees and volunteers, penalizing legitimate activities.

As noted above, the bill requires that persons volunteering with or employed by a third-party registration group register with the Department as a volunteer or employee of that group. [§ 24.2-416.6(A).] The bill also requires that each group maintain a record of all volunteers and employees engaging in voter registration activities on behalf of the group. It requires that the record of volunteers and employees include the name and contact information of each such person and their unique identification number. This record is required to be provided to the Department of Elections *weekly*. [§ 24.2-416.6(B).] The bill would also require that when engaging in voter registration activities, *each person* must maintain a log of their registration activities. This log would be required to include information as required by the State Board and would be required to be submitted with all completed applications collected by the person. [§ 24.2-416.6(C).]

A federal district court in Florida found that it was particularly onerous to have to track when volunteers left a group with the state because volunteers come and go and may not even themselves know. *League of Women Voters of Florida v. Browning*, 863 F. Supp. 2d 1155, 1164 (N.D. Fla. 2012). By requiring a record of all volunteers and employees to be provided to the state on a weekly basis, it is unclear whether groups would need to remove employees and volunteers that are no longer engaging in voter registration activities. If they do, keeping track of volunteers, in particular, may be difficult. A weekly reporting requirement is very burdensome and is especially so for small groups with very limited resources.

This provision also gives significant discretion to the State Board of Elections as to what the log of registration activities would require, leaving the requirement particularly vulnerable to overreach. The Florida federal court found that a rule that required each organization to file monthly reports—setting out the number of forms it provided to registration agents and the number it received back from registration agents during the prior month—served no legitimate interest, imposed a burden for no legitimate reason, and preliminarily enjoined the law. *League of Women Voters of Florida v. Browning*, 863 F. Supp. 2d 1155, 1165 (N.D. Fla. 2012). Such paperwork requirements seem likely to discourage volunteers and penalize legitimate activities.

Changes to the training requirement are vague and if interpreted narrowly, could limit voter registration groups' ability to train canvassers/volunteers.

Existing law provides that individuals or agents representing a group must receive training (if receiving 25 or more forms from election officials). The new bill would remove the floor of 25 applications as well as the option for the group's agent to receive training and require "*all* persons engaging in voter registration activities" under the statute be "required to receive training approved by the State Board prior to engaging in such voter registration activities."

The requirement is vague about the source of the training, and fails to specify that people can receive the approved training from organizational leaders and not just directly from election officials. Training is important to conduct effective voter registration drives; however, if “approved” training was not offered often enough or at convenient hours, it would make it hard to recruit volunteers or employees and get them trained on a short time frame, burdening the drive efforts.

The bill would ban compensating volunteers or canvassers based on the number of completed applications they collect; Project Vote does not oppose this provision.

The bill prohibits compensating volunteers or employees on the basis of the number of completed voter registration applications the volunteer or employee collects and prohibits accepting compensation on that basis. [§ 24.2-416.6(D).]

Project Vote does not oppose a pay-per-application restriction and recommends as a best practice that drive workers for a paid (non-volunteer) drive are paid on an hourly basis.

Thank you for the opportunity to provide this testimony. Should you wish to contact me regarding this bill, please contact Michelle Kanter Cohen, Election Counsel, at 202-546-4173 ext. 309 or email mkantercohen@projectvote.org.