



Statement on Election Law Changes for NC House Committee on Oversight and Reform
June 22, 2023

The League of Women Voters believes voting is fundamental, and all Americans deserve the equal opportunity to make their voices heard in our democracy. This mission is central to our founding in 1920, predicated on the passage of the 19th Amendment which legally guaranteed American women the right to vote. Formed by the suffragists of the National American Woman Suffrage Association, the League began as a "mighty political experiment" designed to help 20 million women carry out their new responsibilities as voters.

Over the past 100 years, League members have been the “boots on the ground” for voter engagement. Many members regularly volunteer as poll workers and attend county board of election meetings. This provides the League with a unique perspective in both the ability of voters to understand election procedures and the ability of county boards of election to effectively administer those procedures.

NC Election laws are very complicated, and it is critical to fully understand how all the rules, policies and procedures work together. Most people don’t think about voting until it’s time to vote and they likely won’t understand all the changes you are now proposing until they go to vote next year. The League of Women Voters works to demystify complicated processes through voter education.

Voter Registration and Same-Day-Registration

North Carolina’s laws on voter registration can appear arbitrary and unreasonable to many voters. The requirement that all registration ends 25 days before an election, the very limited option for online voter registration and the fact that voter registration cannot be transferred between counties traps many would be voters. Citizens are often confused about these policies, especially since many rely on national media to learn about voting and upcoming elections.

- We have observed many voters who arrive at the polls thinking that updating their address at the post office means that their voter registration is also updated.
- If they work in one county but live in another, they don’t understand that they cannot vote on their lunch hour.
- The complicated 30-day residency rule confuses many voters who show up to vote in the wrong precinct.

NC does very limited outreach to residents and citizens. The needed funding to do this type of outreach is not routinely given to the NCSBE or to county boards. Existing state and county Board of Election websites can be incomplete or impenetrable to the average person. Voting advocacy groups bear the brunt of the need to educate and assist voters as they navigate the registration process.

The reliance on paper forms, with a “wet ink” signature requirement remains a barrier. In 2022 the shortage of paper voter registration forms meant that many new voters struggled to have access to forms, especially if they had difficulty finding and downloading an online form. County Boards of Election staff have been observed to incorrectly apply the law in processing and completing the voter registration process, denying even more voters the ability to vote.

Voting options such as same-day-registration (SDR) and early voting are critical elements in making voting in NC compatible with 21st century voters. The requirements of the 2002 HAVA Act have allowed many voters who may have been tripped up the voter registration deadlines to vote using a variety of forms that prove identity and residency. Analysis of years of SDR applications have not found instances of fraud. Instead, they have found additional problems with the over-reliance on the US Postal Service (USPS) as the final arbiter voter eligibility.

Voter Roll List Maintenance and Privacy Concerns

NC is in the minority of states that relies almost exclusively on the USPS to keep their voter rolls up to date. While the NCSBE gets death records and notices of felony convictions from other state agencies, much of the removal of voter records comes from information obtained by the USPS. Every election there are voters who make the good faith effort to register to vote using either paper or NCDMV registration portals within the 25-day window, but the secondary mailing from county BOEs is returned undeliverable. If this happens their voter registration is considered invalid, and any ballots cast on election day are not counted.

The problems and limitations of mail verification are well documented. Nonetheless, the NCSBE is not allowed to use other state records in a known robust state-of-the-art data matching technology system (ERIC). Accusations of data sharing with “progressive” organizations and unfounded privacy breaches are spurious at best.

Current proposals within SB 747 contain more direct, real threats to the privacy of NC voters. Allowing random members of the public to have access to the documentation within absentee ballot container envelopes as absentee ballots are reviewed, approved, and counted, as proposed by Senate Bill 747 seriously threatens the privacy of voters who use absentee ballots. Requiring absentee voters to submit copies of their voter photo ID as part of that absentee container envelope creates the risk of identity theft and is a breach of privacy of the ballot when it is prepared to be tabulated.

Absentee Voting

Over the years, absentee by mail voting has changed. The application process has gotten easier for voters, the delivery methods have expanded. More and more vulnerable voters see this method of voting as safe and secure. Disabled voters, voters who are health compromised see this method as their best opportunity to have their voices heard. In 2020 we experienced a global Covid pandemic, and many people understood the risk of in-person voting in crowded, indoor polling locations.

The expanded demand for absentee by mail voting coincided with service reductions by the USPS. Unfortunately, those service reductions are ongoing. Any additional pressure on this system from an arbitrary change in the delivery deadline will cause ballots to be thrown out.

It can take more than a week for mail to be delivered, even from an instate location. The USPS no longer routinely applies postmarks to mail. In 2022 it was observed that the USPS delivered clearly addressed election mail, not to the county BOE address on the envelope, but to a different county BOE office. This resulted in absentee ballots that were actually delivered by the deadline, but not counted because it took additional days to send those ballots to the appropriate county BOE.

The current proposal to further restrict receipt of absentee ballots will not make election results more “secure.” The pressure placed on county board members and staff to approve and count all absentee ballots on election night is unreasonable. They need to help supervise the closing of the polls and the delivery and inventory of all ballots, tabulators, and other election materials. These proposed changes mean they will be distracted by this arbitrary requirement to also count all absentee ballots. You can expect election results to be determined late into the night, or even the next day. Voters may not get the assurance you say they need on election night.

The Role of Observers

As discussed above, voters will need to contend with members of the public (not just political observers) seeking to participate in the absentee ballot counting process. Political party observers have also sought to increase their role at polling sites across the state. While in the election enclosure during in-person voting, voters expect to see lawfully authorized trained and unbiased election officials handle the poll books, ballots, voting equipment and instruct voters. Political party observers are not trained, unbiased or authorized representatives of boards of election.

We have evidence that political party observers see their role during in-person voting to observe whether precinct workers are adequately following the rules for evaluating voter IDs. Partisan operatives have stated that they are trained and prepared to enforce election laws at polling sites. Changes in laws governing election observers that do not clearly protect the

distinction between authorized election officials and political party observers will risk chaos at the polls and undermine voter confidence in elections.

According to the survey of precinct workers in the 2022 primary, some precinct officials experienced observers who would not follow regulation. The NCSBE unanimously voted to pass temporary rules in a meeting in the summer of 2022 that would address those concerns. The NC Republican Party sued to overturn those temporary rules and won in court in October 2022. These actions seriously question whether county boards of election and precinct officials will be sufficiently empowered to control partisan political observers and protect voters from intimidation.

Voter ID Implementation

LWVNC has long questioned the adverse impact of strict voter photo ID on vulnerable populations of young and minority voters, but we accept that the court has ruled, and NC must now prepare to implement this requirement. As we prepare to talk to voters, we are mindful of the last election in NC that included voter photo ID, during the 2016 primary election.

County poll worker training and instructions were uneven and more importantly the reasonable impediment affidavit was used consistently for voters who did not have an acceptable voter ID. There are many legitimate reasons why a voter is not able to access and present one of the specific approved voter photo ID. In 2016 a follow up study of experience during the primary indicated that more than 1,400 provisional ballots were not counted due to errors with this provision alone. In fact, it was not uncommon that poll workers did not that the reasonable impediment affidavit was a separate form that need to be attached to the outside of the provisional ballot application for it to be considered.

Assuring voters that poll officials fully understand these requirements and how the reasonable resemblance guidance will be applied is critical. In the most recent NCSBE hearing on these rules (6/19/2023) voters expressed a great deal of concern that their appearance will be scrutinized, challenged, and potentially denying their access to a ballot. We have observed at county board meetings that political observers are preparing to oversee and challenge those determinations.

That brings us to how absentee ballots are going to accommodate the voter photo ID requirement. There is no previous experience for this requirement. In the 2016 primary election, absentee ballots were exempt from supplying a voter ID. How this will work in 2023 and beyond is very complicated and potentially confusing. County election workers will not be able to compare the photo to the voter who completed the ballot (the 2-witness/notary requirement remains). There needs to be a new delivery mechanism for including/attaching the copy of the voter photo ID, or the reasonable impediment affidavit. It cannot be inserted into the application envelope that includes the completed ballot. Designing this delivery system and

training absentee voters to correctly submit their absentee ballot is expected to be very complicated.

Now, how to use these photocopies as part of the absentee ballot application approval process? Voters recognize the risk of identity theft when personal identifying information is not sufficiently protected. Copies of passports, NCDL or NCIDs that get into the wrong hands can pose a serious liability. In March 2022, NCSBE issued Numbered Memo 2022-01 that indicated the NCDL/NCID numbers, dates of birth and other identifying information is not a public record. How the public can participate in the absentee ballot application approval process without access to this data has yet to be determined. We hope to see more guidance in the rules from the NCSBE.

Election Integrity

In conclusion, all proposed election laws should be grounded on reliable and verified data and information, not on practices of other states, not on unfounded accusations by political operatives who hope to influence the results. The League of Women Voters believes changing North Carolina election laws to accommodate baseless claims of fraud will undermine the trust that exists between the governed and their government.