

NEWS:

Controversial Voting Bills Pushed Through House

JUNE 23, 2018 - Two contentious bills seeking to make fundamental changes to Delaware's voting laws were pushed through the House of Representatives late Thursday.



[House Bill 90 \(as amended\)](#) would allow early voting at least 10 days prior to an election. Voters would have to report to locations established by elections' officials to cast their ballots. The amended bill would exclude most local elections from the requirement except for the City of Wilmington.

According to the National Conference of State Legislatures, [37 states](#) have an apparatus for allowing any qualified voter to cast a ballot at a designated location prior to Election Day, without needing to provide an excuse or justification. Delaware is one of the remaining 13 states.

Testifying at the request of [State House Minority Leader Danny Short, R-Seaford](#), House Attorney Ron Smith said he believed the proposed statute would violate the Delaware State Constitution. Citing [Article V, Section 4A](#), Mr. Smith said the constitution only allows for voting before Election Day via absentee ballot and restricts the use of such voting to specific reasons designated in the code.

"Early voting is, in effect, a form of absentee voting," Mr. Smith said. "You are voting before Election Day. The early voting bill does not require [the excuse of a] disability, or a vacation trip, medical surgery, or whatever it may be as spelled out in the constitution ... so we would have an immediate conflict [if this bill was enacted]."

He added that since the early voting bill would not take effect until January 1, 2022, the constitution could be changed before that date. "There is time to address that conflict, but we have not fixed it at this point," he said.

The lead sponsor of the bill, State Rep. David Bentz, D-Newark-Christiana, disputed that absentee balloting and early voting shared any commonality and that the constitutional prohibitions applied. "They are different forms of voting," he said.

But Mr. Smith persisted, noting the bill does not require voters to supply a reason for casting a ballot in advance of the election, as is the case with absentee voting. "You're essentially gutting Article V, Section 4A, rendering it meaningless," he said.

The bill passed 25 to 15, with one not voting, clearing the chamber along strictly partisan lines.

The second bill, [House Bill 400](#), sponsored by House Majority Whip John Viola, D-Newark, would allow same-day voter registration at all polling places for all primary, special, and general elections. Currently, citizens must register to vote no later than the fourth Saturday prior to the election.

As of late March, the National Conference of State Legislatures reported that [15 states](#) have enacted same-day voter registration, with two others -- North Carolina and Maryland -- allowing it during a portion of their early voting period, but not on Election Day.

"We, as a society, should be encouraging more people to vote, not trying to make it harder for them to participate in the electoral process," Rep. Viola said.

Should the bill become law, it would not be implemented in time for the upcoming election, taking effect at the start of the New Year.

State Rep. Mike Ramone, R-Pike Creek South, said he was worried about the possibility of fraud or mistakes that could occur under the proposal. Questioned by Rep. Ramone on the House floor, State Election Commissioner Elaine Manlove conceded that the process called for in the bill could allow an unqualified citizen -- such as an ineligible convict -- to register and vote. She said while such a person would be subject to potential discovery and later prosecution, there would be no way to rescind the fraudulently cast ballot because "we don't connect the voter to the vote."



State Rep. Mike Ramone

Rep. Ramone also asked about the possibility of allowing citizens who register on Election Day to cast provisional ballots, the authenticity of which could be verified before the vote was counted. However, Commissioner Manlove said Delaware is unique among states in certifying election results the Thursday morning following the election -- not providing enough time to validate what could be a large number of provisional ballots.

Opponents noted that under the bill -- as is presently the case with standard registration -- citizens are not required to present photo identification, but can instead use documents such as utility bills, bank statements, or paychecks to establish identity. They said such documents can easily be manufactured and that while this type of fraud could be perpetrated under the current system, same-day registration would provide a far broader opportunity for such crime, potentially allowing fraudulent votes to be cast at any of the state's hundreds of polling locations.



State Rep. Rich Collins

"To me, it would be obvious that some [disreputable] candidates, once this bill passes, would literally have a bus and just go round-up people," said State Rep. Rich Collins, R-Millsboro, during the debate. "You could easily be dealing with ... 50 or 60 people marching [into a polling place]."

The bill cleared the House by a vote of 22 to 18, with one absent. Like the early voting measure, the legislation was approved by the chamber solely with the votes of House Democrats.

Both bills now head to the Senate for consideration. The traditional legislative session concludes July 1st.