TESTIMONY OF COMMON CAUSE MICHIGAN, DEMOS, 
FAIR ELECTIONS LEGAL NETWORK, LAWYERS' COMMITTEE FOR CIVIL RIGHTS 
UNDER LAW, AND PROJECT VOTE 
IN OPPOSITION TO SB 754, SB 751, SB 803 

BEFORE THE HOUSE COMMITTEE ON REDISTRICTING AND ELECTIONS 
MAY 22, 2012 

The undersigned voting and civil rights organizations appreciate the opportunity to submit the following testimony in opposition to Senate Bill 754, Senate Bill 751, and Senate Bill 803, bills to amend Michigan’s election law. Michigan’s system of elections is by no means perfect. Problems with voter registration, absentee ballots, confusion over voter identification requirements, deceptive voting practices, aggressive challenges, and voting machine breakdowns, among others, have led to the disenfranchisement of too many eligible voters. Instead of addressing these real problems with Michigan’s election system, SB 754, SB 751, and SB 803 address phantom problems that will only serve to create further confusion and needlessly erect barriers to the ballot box. We urge this committee to reject these bills and work on bi-partisan reforms that will ensure all Michigan voters have true access to our most fundamental right, the right to vote.

Opposition to the proposed effective date of all three bills 
The undersigned object to the proposed timing of these bills. As passed by the Senate, the effective date of the bills is June 1, 2012. For SB 754, this timing is especially problematic for organizations operating voter registration drives. This bill requires the Secretary of State to develop and provide training for these organizations, and to develop other administrative requirements such as forms. However, the bills failed to indicate how soon such materials must be made available.

Drives already underway will have to determine whether they may continue to operate safely in the window between the effective date of the bill and the Secretary of State’s rolling out of required training and forms. The bill provides no safe harbor time period for such organizations to become compliant, that is, to obtain the training and otherwise meet the regulatory requirements. 

Other aspects of the bills are objectionable because the effective date is too close to Michigan’s August primary to allow election administrators and polling place personnel (not to mention the public) to absorb these important changes without a great deal of confusion. In combination, the June 1 timing requirement will serve to prevent access to the polls by new registrants and current voters alike.

Opposition to Senate Bill 754 

Senate Bill 754 contains unnecessary requirements that will make it more difficult for Michiganders to participate in the electoral process. The bill’s two provisions, 

1
The proposed tracking program for third-party registration organizations (p. 3, L. 21)

By helping voters to register.

One of the burdens on voter registration drives included in this bill—and in similar

Registration Drive.

2000 over the million citizens self-reported registration through a voter

accepted by the current population survey, in

laws an essential method for increasing civic participation by making the political

Voter Registration Act of 1993 (VRA), with due's having been recognized by Federal

minority citizens registered to vote. Particularly since the enactment of the National

Teaching tools to underrepresented communites and helping millions of new voters.

While this bill includes a photograhic identification requirement, a third do not.

Restrictions on Voter Registration Drives

solution in search of a problem.

Further restrictions on organizations conducting third party voter registration are a
available, and accessible online as well as in person. The object of the training should be to make voter registration drives more reliable and more useful to the public—not to make it harder for them to operate.

SB 754 further provides that the third party voter registration organization is a fiduciary to "the voter registration applicant"—presumably that means an applicant who hands a form to the organization, though the bill does not specify (p. 4, l. 24). The fiduciary's duty is not spelled out, except to say that the organization ensures that the form is delivered "promptly." This lack of specificity could lead to an organization being liable for civil damages if it fails to carry out the undefined duties.

Notably, no other entity conducting voter registration seems to owe a similar fiduciary duty under this legislation. Neither designated voter registration agencies (e.g., public assistance or disability services offices), nor any other government entity excluded from the definition of third party organizations in the bill (p. 5, l.21- p.6, l.2), owes the applicant a duty to deliver an application promptly, to process it on time, or even to process it at all. In fact, stories of mishandled or lost applications in the very busy 2004 and 2008 election cycles abound. A voter whose application, though timely submitted, was misfiled or lost in the last-minute crush at the Secretary of State’s or clerk’s office simply had no recourse (except a provisional ballot which would not be counted) when she showed up on Election Day expecting to be on the roll. Surely private parties, many of them volunteers, should labor under no more stringent standards than the public servants we employ to accept and process voter registration applications.

The bill also imposes a one-day deadline for an organization to submit any voter registration application it collects within one week of the close of registration (p. 5, l. 4). Many states have tighter than usual deadlines as the registration period nears its end, but one business day is unusually tight (and, according to our research, unique). This deadline would eliminate any meaningful opportunity for an organization to run even the most rudimentary quality control checks on the applications—which would in turn make the job of election administrators that much harder in their most taxing period in the registration cycle. Third party organizations would be submitting applications they had no opportunity even to spot check, and, as a result, errors and omissions that are routinely remedied by the organization, after consulting with the applicant, would now become the responsibility of the election officials to evaluate.

Photographic Identification Requirement for Registration

Finally, in addition to its damaging provisions restricting the ability of third party voter registration drives to operate effectively, SB 754 would impose a photographic identification requirement on anyone who applies in person to register to vote at any government agency (p. 1, l.1-p. 2, l. 9). We believe this provision violates the NVRA’s central purpose: to increase voter registration and therefore participation
For all of the foregoing reasons, the Committee should defeat SB 754 and turn its

Federalism argument created by the NVRA, and the EAC has rejected such a requirement.

In addition, Congress has granted the Election Assistance Commission the authority

Registration policy.

the use of the Federal mail-in form is at odds with the intent of Federal Voter

(Registration Argument) The NVRA allows additional state requirements in coordination

also indicates that the existing paperwork is cumbersome. 42 U.S.C. § 1973gg-2. The

The language of the statute is clear. In considering the NVRA, Congress created a

The form also contains each Eligibility Requirement and an assertion that the

The NAVRA states that the Federal form

as well the appropriate state election officials, may require only such identifying information as is necessary to

other things, the NVRA states that the Federal form

In the past two decades specifically rely on use of the Federal Voter Registration Act or the Federal

The NVRA mandates that those states, like Michigan, that are subject to it must

rather than removing barriers to electoral participation.

via public registration at a designated voter registration site, the requirement in SB 754 that a

Federal Voter Registration Act, the NVRA, and the EAC has rejected such a requirement.

Registration Act (and the later-passed Help America Vote Act) are specific about the

The appropriate state election officials...
attention instead to election reforms that encourage voter registration and voting rather than making it harder for citizens to participate in our civic life.

**Opposition to Senate Bill 751**

We are strongly opposed to the passage of Senate Bill 751, which would needlessly create unprecedented confusion over the registration and absentee voting process in Michigan. Young voters, college students, and mobile citizens such as those serving in the military and their families would particularly bear the brunt of the impact of this bill.

The bill allows for a voter to be removed entirely from the registration list if the Department of State “believes” they have moved out of the state, the voter does not respond within 30 days to a postcard seeking verification of their residency and then does not vote in the next 2 general elections. We believe this would violate Section 8 of the National Voter Registration Act, which prohibits states from removing voters from a voter file unless they fail to vote in two consecutive federal elections after failing to respond to mailings specified in the law.

There are many reasons why a voter may temporarily leave the state and get a new drivers license, and these do not necessarily affect their eligibility to vote in Michigan. They could be attending college, caring for an ailing family member, living on a military base with an active duty family member. Yet if their notification postcard gets lost in the mail, or they fail to respond within 30 days, they could be turned away from the polls or have their absentee ballot discarded the next time they attempt to vote.

So long as these residents continue to reside in Michigan for most of the year and do not register in another jurisdiction, they should be legally able to vote without any additional barriers. This bill would make it more difficult for them to vote, at a time when Michigan should be doing everything it can to retain our residents and our talent.

The bill also says if a voter doesn’t vote for 6 consecutive years, and then chooses to vote absentee, their ballot is automatically challenged. The law for challenged ballots in Michigan generally allows for a voter’s eligibility to be challenged if someone has “good cause” to believe they are ineligible to vote. How is someone’s decision not to vote for 6 years alone sufficient “good cause” to believe they are not qualified to do so on the 7th or 8th year? We should be doing everything we can to encourage lapsed voters to re-engage in civic life, not erecting further barriers to their participation.

And as you know, with every election there is a great deal confusion at the polling place when voters are challenged at the polls. But even then, when a voter’s eligibility is challenged when they attempt to vote in person, they have clear notice that their ballot is challenged and must be given adequate and accurate information
common cause is a nonpartisan, grassroots organization dedicated to restoring the core values of American democracy, preventing an open, honest and accountable zero impact on increasing the security of elections.

This report will explore all of these complications and more, while having absolutely

longer these questions and concern.

I offer them to strengthen harassment and discrimination in addition to nothing in the second language. Further, if a citizen so much as hesitates before checking the line to the signature box, it unnecessarily confuses the process and creates an illegal

where stating that the application certifies, “I am a citizen of the United States of

the Federal and state government, therefore doubling an absence provision, since voters are already

citizenship, when they register to vote. In fact, there is a

legally excuse; if needlessly duplicated an absence provision, since voters are already

resident status. This new requirement would address the problem at its root and

We are opposed to Senate Bill 803, which would deny the right to vote to any citizen

Opposition to Senate Bill 803

and quelled voter who refuses to check a box that attests and explains their

access to the electoral process, this report would do nothing more than needlessly

convers and complete the voting process.

For these and other reasons, we are strongly opposed to Senate Bill 751. At a time

making their ballot would not.

obtain their ballot in person would have to meet this additional burden, but those

Protection Clause of the U.S. Constitution since absentee voters, who choose to

bipartisan to the process on otherwise eligible voters. It may also violate the Equal

ballot is automatically challenged, in addition to the needless confusion and needlessly

distribution of their absentee ballots and do not present photo identification,

Finally, Senate Bill 751 also extends this automatic challenge to voters who appear

eligibility to participate in our democracy.

and even worse, the rejection of votes from citizens who should be otherwise

yields little in the way of security this provision is meant to create a great deal of confusion

important in another state with every intention of continuing to reside in

yet the "automatic challenge" for absentee ballots applies also to voters who may be

overcome the challenge.

ensuring absentee voters would have similar notice and opportunity to respond and

about how to overcome the challenge. There is little in the current proposal to
government that serves the public interest, and empowering ordinary people to make their voices heard in the political process. Common Cause is a champion for campaign finance reform, election reform, ethics in government, government accountability, and the media.

Démos is a nonprofit, nonpartisan public policy research and advocacy organization that works to strengthen democracy in the United States by reducing barriers to voter participation and encouraging civic engagement.

Fair Elections Legal Network (FELN) is a national, nonpartisan advocacy organization whose overall mission is to remove barriers to registration and voting for traditionally underrepresented constituencies and protect their ability to exercise their right to vote.

Lawyers' Committee for Civil Rights Under Law was established in 1963 as a nonpartisan, nonprofit organization at the request of President John F. Kennedy. Our mission is to involve the private bar in providing legal services to address racial discrimination and to secure, through the rule of law, equal justice under law. For over 48 years, the Lawyers' Committee has advanced racial equality by increasing educational opportunities, fair employment and business opportunities, community development, open housing, environmental health and justice, criminal justice and meaningful participation in the electoral process.

Project Vote is a national nonpartisan, nonprofit organization that promotes voting in historically underrepresented communities. Project Vote takes a leadership role in nationwide voting rights and election administration issues, working through research, litigation, and advocacy to ensure that our constituencies can register, vote, and cast ballots that count.