



**Senate State Government Committee**

**Hearing on SB 878**

**Department of State**

**9/23/2021**

Chairman Argall and Chairman Street, the Department of State appreciates the opportunity to provide comments on Senate Bill 878.

The Department of State is committed to continuing efforts to modernize the Commonwealth's elections and making voting more convenient, secure, and accessible for all Pennsylvanians. Any changes to the Election Code should increase access to voting options for voters and enable counties to administer elections more efficiently across state. However, components of this bill do the opposite. The bill will remove or reduce options such as permanent mail-in voting and ballot drop boxes that allow voters to receive and submit their ballot more easily and does not give counties the tools necessary to run elections as efficiently as possible.

Removing the permanent mail-in voting list would eliminate a convenient option for voters. The co-sponsorship memo for SB 878 states that the permanent mail-in list creates "a tremendous amount of confusion". The Department feels that if confusion exists the solution is not to eliminate the list, but to revise the process for maintaining the list and decrease the burden on voters and county election offices. Currently over 2 million Pennsylvanians utilize this option.

SB 878 includes new onerous requirements for a county board of elections to establish ballot drop boxes. The drop boxes must be monitored during each hour of operation, ballots must be picked up daily after 8:00pm, locations for ballot drop boxes must be publicly announced at least thirty days prior to establishment, and, most troublingly each ballot drop box will be considered a polling place and subject to all requirements of polling places under the Election Code. These requirements would place a tremendous burden on our counties and disincentivize the use of drop boxes, which

are an election administration best practice. We have seen a downward trend in the number of poll workers over the past several years. Maintaining constant monitoring during operating hours and ensuring poll workers and watchers are present at each ballot drop box will be challenging for the counties to do with the limited staff and resources they have, especially in the crucial weeks leading up to an election. Requiring video monitoring of drop boxes may limit their use of in rural counties where broadband access, or hardwired connections to enable cameras, may not be available . Drop box security and reliability can be achieved by counties without these requirements – many other states have used them for years. For example, in Colorado they are either monitored by an election official **or** by video security surveillance. In the 13 states that allow drop boxes, only 3 states require them to be staffed. The majority offer the option of staffing **or** video surveillance. Moreover, it is unclear why ballot drop box locations should be subject to heightened monitoring and other requirements when compared to U.S. Postal Service mail boxes, where ballots can also be submitted. Instead of creating disincentives to the implementation of this best practice, the Department would support legislation to assist counties with the uniform implementation of drop boxes across the commonwealth.

The Department understands the concerns of counties processing mail-in ballot applications at the current one-week deadline and recognizes that this is the reason for changing the deadline to two weeks before the election. The Department feels that if this change is to be considered, it should be paired with a change to allow voters to request a mail-in ballot in person at the county board of elections at a date closer to Election Day than the current one-week deadline.

This bill also allows for three days of pre-canvassing of mail-in ballots. The three days leading up to an election are, as you can imagine, a hectic time for county election offices preparing for Election Day. Many counties spend the weekend prior to election day delivering polling place equipment and materials, setting up or reviewing polling places to make sure they are ready for election day or providing last minute poll worker refresher course, to make sure all polling place staff are prepared for the election. Counties have called for a pre-canvassing period of up to twenty-one days in order to allow them to complete their pre-canvass prior to Election Day and give them flexibility. Pre-canvassing is required to be livestreamed and that legally present observers “be permitted to be in an area which is within audio range and has a clear line of sight to view the

proceedings.” DOS supports transparency in these proceedings, but the bill is unclear as to who makes those determinations which could lead to confusion and legal challenges.

The bill requires the Department of State to gather death records of Commonwealth residents every day in the two weeks leading up to each election. DOS would be required to search reports published by the Department of Health, county registers of wills, and newspaper obituaries across the state. These sources may not produce the most accurate or timely records and may result in voters who are actually eligible to vote accidentally and in correctly being removed from the register. There is an existing process for list maintenance governed by both state and federal law and attempting to conduct list maintenance while juggling voter registration and ballot request deadlines carries significant risk of disenfranchisement. That said, DOS is grateful the Legislature has heard requests to allow the state to fully participate in ERIC and make full use of the data sharing tools provided by membership in ERIC. These tools are essential to support list maintenance efforts in the Commonwealth.

Finally, the Department supports the creation of a tracking system to allow voters to securely look up information about their ballot, including when it is mailed out and when it is recorded as received. Comprehensive tracking is an important enhancement to the election process, and will add to the security of our mail ballot system by ensuring that an applicant can determine where their mail ballot is at all times during its round trip journey from the county election office, to the voter, and back. Tracking limits the potential for a mail-in or absentee ballot to be returned by an unauthorized party without detection by allowing the applicant and county election office to see at all times where the ballot is in the vote-by mail process.

It is worth noting that creation of this sort of tracking mechanism will likely involve the use of an Application Programming Interface (API), to connect the voter facing website to the SURE system and allow the voter to submit their query and receive an update on their ballot status. As there has been some confusion about how APIs interact with the SURE system, DOS would like to again state for the record that its current web API **does not** allow sensitive personal information such as Social Security number or Driver’s License number to be accessed within the SURE system, or allow any party to change records. As the department has noted repeatedly in past testimony, its web API simply transports data or queries to the SURE system where the records are reviewed by authorized county or department account holders prior to any changes being made. Any new API

created to allow tracking would utilize a similar security architecture to ensure that personal identifying information maintained in the SURE system is maintained securely.

The Department of State appreciates the opportunity to provide our feedback on SB 878 and is pleased to continue to discuss ways in which we can make voting more accessible to all Pennsylvania's eligible voters. Please do not hesitate to reach out with any questions.