

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

HOUSE STATE GOVERNMENT COMMITTEE
SUBCOMMITTEE ON CAMPAIGN FINANCE AND ELECTIONS
PUBLIC HEARING

STATE CAPITOL
HARRISBURG, PENNSYLVANIA

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THURSDAY, JUNE 22, 2023
11:22 AM

TESTIMONY ON
OPEN PRIMARIES

BEFORE:

SUBCOMMITTEE:

HONORABLE MAUREEN MADDEN, MAJORITY SUBCOMMITTEE
CHAIRWOMAN
HONORABLE DAWN KEEFER, MINORITY SUBCOMMITTEE
CHAIRWOMAN
HONORABLE TIM BRENNAN
HONORABLE MALCOM KENYATTA
HONORABLE WENDY FINK

COMMITTEE:

HONORABLE SCOTT CONKLIN, MAJORITY COMMITTEE
 CHAIRMAN
 HONORABLE BRAD ROAE, MINORITY COMMITTEE CHAIRMAN
 HONORABLE TARAH PROBST
 HONORABLE BENJAMIN SANCHEZ (VIRTUAL)
 HONORABLE MELISSA SHUSTERMAN
 HONORABLE JACOB BANTA
 HONORABLE JAMIE BARTON
 HONORABLE ERIC DAVANZO
 HONORABLE BRETT MILLER

HOUSE COMMITTEE STAFF PRESENT:

JAMES MOSER
 MAJORITY LEGISLATIVE ADMINISTRATIVE ASSISTANT
 NICHOLAS HIMEBAUGH
 MAJORITY EXECUTIVE DIRECTOR FOR STATE GOVERNMENT
 COMMITTEE
 MATT HURLBURT
 MAJORITY RESEARCH ANALYST
 RACHEL ROMANOFISKY
 MAJORITY RESEARCH ANALYST

 MICHAELE TOTINO
 MINORITY EXECUTIVE DIRECTOR FOR STATE GOVERNMENT
 COMMITTEE
 KYLE SCHAEFFER
 MINORITY RESEARCH ANALYST

* * * * *

*Pennsylvania House Of Representatives
 Commonwealth of Pennsylvania*

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SUBMITTED WRITTEN TESTIMONY

* * *

(See submitted written testimony and handouts attached.)

1 P R O C E E D I N G S

2 * * *

3 MAJORITY CHAIRWOMAN MADDEN: [11:22] *Calls hearing to*
4 *order*5 MAJORITY CHAIRMAIN CONKLIN: [11:22] *Brief statement*
6 *on the history of elections in the United States.*7 MAJORITY CHAIRWOMAN MADDEN: [11:23] *Brief statement*
8 *on modern tools fostering voter participation in primary*
9 *elections.*10 MINORITY CHAIRWOMAN KEEFER: [11:25] *Brief statement*
11 *on concerns regarding open primaries.*12 MINORITY CHAIRMAN ROAE: [11:26] *No statement.*13 MAJORITY EXECUTIVE DIRECTOR HIMEBAUGH: [11:27] *Roll*
14 *Call-*

15 Madden (present)

16 Keefer (present)

17 Brennan (present)

18 Kenyatta (present)

19 Webster (absent)

20 Fink (present)

21 *Brief review of updated agenda.*

22 REPRESENTATIVE SOLOMON (PRIME SPONSOR): [11:28]

23 *Brief statement about primary turnout and how his bill helps*
24 *to fix both primary and general election turnout.*

25 MAJORITY CHAIRWOMAN MADDEN: [11:30] Thank you for
26 your testimony. Are there any questions? He'll take questions.

27 MAJORITY EXECUTIVE DIRECTOR HIMEBAUGH: [11:31]
28 *Recess for 30 seconds . . .* Alright, we're going to continue
29 on with testimony from our other Prime Sponsor if you would
30 like to continue Representative.

31 REPRESENTATIVE BROWN: [11:31] *Brief statement about*
32 *HB976's benefits and the need for reform.*

33 MAJORITY EXECUTIVE DIRECTOR HIMEBAUGH: [11:34] Thank
34 you Representative. We're going to start now with our first
35 testifier, Ben Williams from National Conference of State
36 Legislatures. Ben, thank you for joining us today.

37 MR. WILLIAMS: [11:34] *See attached testimony.*

38 CHAIRWOMAN MADDEN: [11:38] Representative Probst?

39 REPRESENTATIVE PROBST: [11:38] The only concern that
40 I have . . . back in 2016 there were some states that had open
41 primaries and there was a particular party that voted for the
42 opposite party for the person they thought would have the best
43 change of losing and it kind of messed up the way things
44 really should have gone. I am a little concerned about that .
45 . . I am a little bit worried that if it's completely open,
46 that you might have a democrat or a republican voting the
47 opposite and for the person that they basically want to lose.
48 It's just concerning for me for manipulation for an open
49 primary. I do believe we should have it. Was there one of the
50 4 choices that would address that? If you are a republican you

51 must vote for a republican candidate. If you're a democrat you
52 must vote for a democratic candidate. If you're an independent
53 are you allowed to vote both?

54 MR. WILLIAMS: [11:39] NCSL does not recommend that
55 legislatures adopt any policy at all . . . To your concern
56 about members of one party voting in another party's primary
57 to influence the outcome. That's a complicated question. There
58 would be nothing, that I understand, in PA law to prevent
59 someone from changing their registration in advance . . .
60 there would be nothing to prevent someone from switching their
61 party registration from one party to another and then voting
62 in that party's primary. On election day itself, the closed
63 primary system, or the partially closed primary system, gets
64 at what you're saying. The only 2 systems in our categories
65 that would allow someone to cross over on election day . . .
66 from one party to another and vote in another party's primary,
67 is the partially open system. And the open system there just
68 wouldn't be any registration at all. There would be no such
69 thing as a voter who was a registered democrat or a registered
70 republican. Those states, there are maps at the back of my
71 testimony that you can look at. The open primary states tend
72 to be scattered largely in the south and the upper mid-west.

73 REPRESENTATIVE PROBST: [11:41] I understand about
74 changing, but they can go ahead and vote for their party on
75 all down ballot, except for go across and manipulate the top

76 of the ticket and that's what happened in 2016 in some
77 southern states. So that's my concern.

78 MR. WILLIAMS (NCSL): [11:41] I am not familiar with
79 that, but I would be happy to do some further research and
80 provide further testimony to the committee if that would be
81 helpful.

82 MAJORITY CHAIRWOMAN MADDEN: [11:41] Thank you.
83 Representative Keefer?

84 MINORITY CHAIRWOMAN KEEFER: [11:41] You said there's
85 been some movement between states to open primaries. Some have
86 gone back. Can you tell me why some of the states that have
87 gone from open to back or vice versa why they have done that?

88 MR. WILLIAMS: [11:42] It's largely to what Rep.
89 Probst was talking about which was the concern around . . .
90 "hijacking," . . . the idea of selectively voting in one
91 primary to influence the outcome. The states that have done
92 that have been considering moving in the more closed direction
93 (there are bills in OH right now, the state of AL which
94 currently has fully open primaries has been considering moving
95 to fully closed--although those bills have not passed the
96 legislature, they've just been discussed in committee), so
97 there is some movement largely, if you aggregated across time,
98 the movement has been slightly in favor of more open primaries
99 but the states that have the truly open primaries where
100 there's no party registration that are in the south, they've
101 been that way since the 70's. So a lot of the movement is

102 actually in the categories between fully closed and fully
103 open--this partially closed partially open unaffiliated voters,
104 that's where a lot of the movement is.

105 MINORITY CHAIRWOMAN KEEFER: [11:43] Ok, thank you.
106 And on that same note, do you have that data broken down? It
107 would be nice to see a listing of the states and when they
108 changed or made any changes of anything to the primaries and
109 the dates when. That you could possibly provide after the
110 hearing.

111 MR. WILLIAMS: [11:43] Yes, absolutely. So we have, I
112 provided a similar timeline when I testified before the full
113 House State Government Committee in August of 2022 at
114 Villanova on this topic. I omitted it from this testimony just
115 because we are revamping our resources and double-checking
116 data to make sure they're fully accurate and we haven't
117 finished that yet but I can certainly provide the testimony
118 from August, 2022, which as we know right now is still the
119 most valid and as soon as there's an update finished, I'd be
120 happy to provide it to the Committee.

121 MAJORITY EXECUTIVE DIRECTOR HIMEBAUGH: [11:44] We've
122 got time for one final question. Any final questions before we
123 move on to the next testifier? Great seeing none, thank you
124 very much for your testimony, Ben. Appreciate NCSL and your
125 participation here today. You've done a great job . . .
126 appreciate you coming out from CO to be here with us today.

127 MAJORITY CHAIRWOMAN MADDEN: [11:44] Thank you very
128 much. Our next panel will be Thad Hall the Mercer County
129 Election Director and also Dori Sawyer, Montgomery County
130 Election Director. Thank you for being here.

131 MR. HALL: [11:45] *See attached testimony.*

132 MAJORITY EXECUTIVE DIRECTOR HIMEBAUGH: [11:49] Thank
133 you for your testimony. We're going to move on then to Dori
134 Sawyer and then we'll begin the Q&A . . . thank you.

135 MS. SAWYER: *See attached testimony.*

136 MAJORITY CHAIRWOMAN MADDEN: [11:53] Do we have any
137 questions? Rep. Miller?

138 REPRESENTATIVE MILLER: [11:53] Thank you. Thank you
139 for your testimony. I appreciate it. You've outlined pretty
140 well some of the complications that could arise from this type
141 of change. I want to ask a question. Right now, you mentioned
142 the number of ballots you'd have to create--the various
143 iterations of those that would complicate the situation. On
144 thing you didn't mention was this, in our elections, at least
145 in our area, we have elections for partisan committee members
146 as well as State committee. I'm sure other counties might do
147 it a little bit differently. So, in this particular case, you
148 would have an independent electing the republican leadership
149 of their county or precinct or democrat doing the same on the
150 state level. In this case . . . would a independent voter be
151 allowed to vote for the republican committee members or State
152 committee or democrat committee members or State committee?

153 MS. SAWYER: [11:54] Neither of the House Bills in
154 question answer that. But there is a bill in the Senate right
155 now, SB400, that states that they would not be permitted to
156 vote for committee people. That would result in us needing to
157 create a democratic ballot with, a democratic ballot without,
158 a republican ballot with, a republican ballot without. So,
159 increasing the number of ballots avail in a polling location
160 from two to four, increasing that tenfold, in the same way
161 again for the mail house or print vendor or if a county,
162 several counties print and mail their own ballots. And then,
163 we also have, I believe, 19 split precincts in PA. In those
164 elections you can have as many as eight different ballot types
165 inside of a polling location.

166 REPRESENTATIVE MILLER: [11:55] At a time when we've
167 had a lot of problems here the last several years introducing
168 this type of additional stress and confusion, would you say
169 that this would magnify that?

170 MS. SAWYER: [11:55] I think that it certainly adds
171 challenges to insuring quality. I think that the more
172 variables that you create, the greater the risk is for an
173 inadvertent mistake. I think that it's also going to be
174 confusing for the electorate themselves. And that you can't
175 expect an unaffiliated voter to know that they shouldn't
176 receive a ballot that has committee people on it.

177 REPRESENTATIVE MILLER: [11:55] And one final
178 question if I may. Is the, would this require a different type

179 of calibration for the machines that score these and/or a
180 separate machine that if you're of this particular type of
181 person, independent such as whatever, you put your ballot in
182 that machine, those of you put it in this machine, etc.?

183 MS. SAWYER: [11:56] I can only speak to the system
184 that Montgomery County uses. I don't have experience with the
185 others. Thad and I actually both use different systems. So our
186 system would be able to be programmed to accept any of the
187 four ballot types inside of the polling location. That
188 wouldn't be ap problem but additional logic and accuracy
189 testing would be required.

190 MR. HALL: [11:56] For the system I use it would be
191 the same. The one complication that would come up though is
192 that in the example that Dori was giving about having the four
193 different ballot styles, one for with and without committee
194 people, you often on touchscreen systems have to select the
195 ballot style you want so there would be four styles to pick
196 from and there's just opportunity for error there when you're
197 selecting.

198 MAJORITY CHAIRWOMAN MADDEN: [11:57] Thank you. We're
199 going to have to move on to the next panel now. Thank you very
200 much. Next we have Jeremy Gruber for Open Primaries, David
201 Thornburgh from Ballot PA, Rocky Bleier from Ballot PA Vets,
202 and the International Union of Operating Engineers Local #66
203 Member, James Kunz, Greater Harrisburg Chamber of Commerce
204 Past President, David Black. If you gentlemen could come up.

205 MAJORITY EXECUTIVE DIRECTOR HIMEBAUGH: [11:57] You
206 gentlemen may go in any order you wish but we do only have ten
207 minutes for the whole panel. We originally had 30 minutes
208 planned for this whole panel. We do apologize for how brief
209 this is going to be.

210 MR. GRUBER: [11:58] *See attached testimony.*

211 MR. THORNBURGH: [12:01] *See attached testimony.*

212 MR. BLIEIR: [12:06] *See attached testimony.*

213 MAJORITY CHAIRWOMAN MADDEN: [12:11] Thank you.

214 MAJORITY EXECUTIVE DIRECTOR HIMEBAUGH: [12:11] *Time*
215 *warning.*

216 MR. KUNZ: [12:11] *See attached testimony.*

217 MR. BLACK: [12:13] *See attached testimony.*

218 MAJORITY CHAIRWOMAN MADDEN: [12:14] Thank you. We're
219 going to go to Representative Probst for a quick question.

220 REPRESENTATIVE PROBST: [12:14] Thank you for your
221 service too and for being on the Steelers winning football
222 team. I love that as a Steelers fan. **Applause** But what I
223 really wanted to say is that I agree that independents, non-
224 affiliated, Green Party, they absolutely should be able to
225 vote in the primary. My concern was having manipulation from
226 republicans voting for democrats and democrats voting for
227 republicans. I want to be clear that I am for the independent
228 voter or non-affiliated to be able to vote in a primary. I
229 just don't know how to get there without other manipulations

230 happening. I think that we're going to be able to do that at
231 some point. So thank you.

232 MAJORITY CHAIRWOMAN MADDEN: [12:15] Representative
233 Keefer?

234 MINORITY CHAIRWOMAN KEEFER: [12:15] Thank you. I'll
235 consolidate this. Mr. Gruber, in your testimony you went
236 through the different myths and your myth #2 was that open
237 primaries would not actually complicate the election
238 administration. But in PA, as you, I'm sure everybody here is
239 very aware, our election code is quite disjointed. Very
240 convoluted and as I think our county testifiers mentioned,
241 just trying to connect all the pieces and make it actually
242 work would in fact not be an easy process. How would you
243 respond to that?

244 MR. GRUBER: [12:15] I would respond to it the way I
245 mentioned in my remarks. 41 states do this. PA is by far, and
246 I spend a lot of time reading through electoral codes.
247 Unfortunately, PA is not the only state with a antiquated and
248 challenging electoral code. There are plenty of other states
249 that have done so and they managed their way through it. Look,
250 there's always the ability to make an excuse, but in the end,
251 letting all voters vote is the number one prime directive of a
252 democracy. Period. If the bureaucracy in every one of these 41
253 states has figured out a way, despite any complications, to
254 make peace with making sure that every voter who wants a
255 ballot in their state can pick a ballot. And I'm absolutely

256 confident the Pennsylvanians who administer elections in
257 counties across the state are up to the challenge to do so as
258 well.

259 MINORITY CHAIRWOMAN KEEFER: [12:16] Thank you. And
260 my concern is just that they've just said that they were not
261 and we still have yet to facilitate and accurately implement
262 Act 77. They are still wading through all of the just because
263 of how ambiguously it was written and how poorly it was
264 implemented. I'm not putting that back on the county. I will
265 take ownership of that as the State legislature. But, we
266 haven't even mapped that one out but thank you.

267 MAJORITY CHAIRWOMAN MADDEN: [12:17] Thank you. We're
268 done with this panel. We have no more questions, correct?
269 Thank you, gentleman, for your testimony.

270 MAJORITY EXECUTIVE DIRECTOR HIMEBAUGH: [12:17] Thank
271 you, gentlemen, for your testimony.

272 MAJORITY CHAIRWOMAN MADDEN: [12:17] Next up we'll
273 have Mr. Michael Coulter, Professor of Political Science and
274 Humanities from Grove City College.

275 MR. COULTER: [12:17] (VIRTUAL) Hello, thank you for
276 letting me participate in the hearing today. I appreciate if I
277 can answer any questions for the Committee about this proposed
278 change.

279 MAJORITY CHAIRWOMAN MADDEN: [12:17] One moment Mr.
280 Coulter.

281 MINORITY CHAIRWOMAN KEEFER: [12:17] Thank you for
282 consolidating your time. As a way to try to facilitate all of
283 this we have a couple of questions. Here . . . first one I
284 have is, the thing that your testimony that you have submitted
285 to us prior to this hearing, you state that there will be cost
286 associated with providing ballots in the case of possible
287 voters using optical scan ballots. Can you explain that a
288 little bit more in detail what you meant?

289 MR. COULTER: [12:18] You have to have the directors
290 of elections, counties, and the earlier portion of the hearing
291 indicating they'd have to print additional ballots in the
292 event that an unaffiliated or other voter, voter with an other
293 party, would select a ballot. So that's the cost that I
294 referred to.

295 MINORITY CHAIRWOMAN KEEFER: [12:18] And as similar
296 to another question that was posed as far as the different
297 ballots for county committee, State committee, or specific
298 parties, have you looked at any other states and how they
299 allow that?

300 MR. COULTER: [12:19] I have not looked at whether
301 other states permit counties to, or how they handle election
302 for party officers. I do think there's a very strong argument
303 for not, if you're going to allowed independent voters or
304 unaffiliated voters to vote, that they would not be permitted
305 to vote for precinct committee man or committee woman or
306 county party offices for democrat or republican. These are

307 clearly associational offices associated with those
308 organizations and an independent or unaffiliated voter is
309 clearly not a member of that organization.

310 MINORITY CHAIRWOMAN KEEFER: [12:19] Ok. One of the
311 other points that you make is that in your testimony is that
312 there will likely be a few new voters. Can you go into more
313 detail there?

314 MR. COULTER: [12:19] Sure, I think this is a useful
315 point of comparison. In PA, there's one slight point I need to
316 clarify a bit more, about 13% of our voters are not registered
317 with a major party. Many of those voters who are registered
318 with a major party may see themselves as independent. They may
319 answer a survey and say that they're an independent voter,
320 when in fact they're registered with a party so they can
321 participate in a primary. So, the point is that in PA, the
322 vast majority of our registered voters can already participate
323 in primaries. When you compare that to states that allow
324 independents to choose which primary to vote in, those states
325 have very high percentages of independent voters. For example,
326 in MA, 61% of the voters in MA are not affiliated with a major
327 party. So I think the calculation might be different if we had
328 a much larger proportion of our electorate who was registered
329 as unaffiliated or other. I want to add also one other point
330 because it fits with this. Is the complication about other.
331 Other parties. That is, I think the argument for allowing
332 someone who was unaffiliated with either major party, there's

333 a certain logic to that. But I think the challenge in PA is
334 persons who are registered with say the Libertarian Party,
335 which is recognized as a minor party, in the past the Green
336 Party has been recognized as a minor party, those are
337 individuals who are seeking to be part of a political party
338 and are very clearly indicating they're not wanting to be part
339 of a major party. I think that is a difficulty, those minor
340 parties seeking to function as parties, members of those
341 should be treated differently than unaffiliated voters.

342 MINORITY CHAIRWOMAN KEEFER: [12:21] Thank you.

343 MAJORITY CHAIRWOMAN MADDEN: [12:21] Thank you. Are
344 there any other questions. Seeing none, thank you Professor
345 Coulter. Thank you for your testimony. Our final testifier,
346 Diana Dakey from the League of Women Voters. *Time update.*

347 MS. DAKEY: [12:22] *See attached testimony.*

348 MAJORITY CHAIRWOMAN MADDEN: [12:28] Thank you and
349 thank you for summarizing that. We have exactly three minutes
350 for time unless we extend recess. I'm going to start with
351 Representative Shusterman.

352 REPRESENTATIVE SHUSTERMAN: [12:28] Thank you
353 Chairwoman. I just want to thank this Committee for bringing
354 this hearing to us this year and I'm 100% in support. Part of
355 being a representative representing constituents means
356 everyone. And this is just the most transparent way to make
357 sure our elections are fair and that people are able to vote
358 on candidates that they like not because they are part of a

359 party but because they see those candidates representing them
360 and being the path forward to a better Commonwealth. So, I
361 know this is a little long but this is a long time coming to
362 hear this testimony and I look forward to bringing this back
363 to the 157th. Thank you.

364 MAJORITY CHAIRWOMAN MADDEN: [12:29] Thank you. And
365 as we go to Representative Wendy Fink I'll say that recess has
366 been extended for 15 minutes so we have a little breathing
367 room.

368 REPRESENTATIVE FINK: [12:29] Thank you. Thank you
369 for coming to testify this morning. So in your testimony you
370 had said that there shouldn't be any obstacles for equal
371 rights for voters and I completely agree with you. However,
372 we've had people come testify today, county election directors
373 and others have clearly laid out there concerns and the
374 complexities of this policy, of the process, the concerns that
375 it would, and difficulties that it would bring about. How do
376 you balance that, your statement that there shouldn't be
377 obstacles, equal rights for voters, with those complexities
378 that they stated?

379 MS. DAKEY: [12:30] Thank you. That's . . . we've
380 heard a lot of discussion about that today and that's an
381 important discussion. I think the overwhelming premise is that
382 we need to open the primaries to the unenrolled electors and
383 other states have done this. I think there was a question from
384 somebody on the Committee earlier about what trends do we see

385 in the United States. Are states going towards more open or
386 going towards not more open. I might call your attention to
387 the state of ME which recently, through legislative action, it
388 wasn't through a citizen initiative or referendum, through
389 legislative action the state of ME just adapted semi-open
390 primaries, which is what these bills today are all about. We
391 might look to see how they are handling because they're in the
392 process of implementing that right now, how they are handling
393 increased complexity they have brought upon themselves with
394 that change. Also, I would say that I'm a poll worker, I'm the
395 judge of elections in my Glenburn Township. We're small, but I
396 don't see a complexity with being able to hand somebody the
397 proper ballot. We all work together well as a team. We just
398 haven't had any confusion to date. I think we could handle
399 just one more minor little twist is something we can handle.

400 MAJORITY CHAIRWOMAN MADDEN: [12:32] Thank you so
401 much. Representative Kenyatta?

402 REPRESENTATIVE KENYATTA: [12:32] Thank you so much.
403 Thank you so much Madame Chair and thank you for having this
404 hearing. I want to say at the front that I'm supportive of
405 this concept but I have a question for you as it relates to
406 the election of committee people and State committee members.
407 How has that process played out in other states that have a
408 similar set up. I don't know enough about every state's laws
409 to know if they have committee people in the same way that we
410 do. I would assume they do not. But, in states that do have

411 this, if you are aware, how does that work out? And then I'll
412 just make one more broader comment and then allow you to
413 respond to my question. I know I came here on the tail end
414 because I was in another committee hearing, but I do think
415 that as we work through this process and hopefully advance
416 this legislation in this session that we do take to heart the
417 feedback from the elections administrators and that we are
418 thinking through how we can implement this in a way that is
419 responsive to their concerns as professionals who do this
420 every single day. It does not mean we should not do it. But it
421 does mean that as we engage in this process, I would hope that
422 the election administrators who are here, even if this is not
423 something that you would love to do, that you would engage
424 with this committee and with the makers of the bills to have
425 language that would at least allow you to execute this should
426 we move in this direction. And so thank you for being here and
427 for your testimony as well. But again, to the issue about
428 committee people. On that, I do have a bit of a concern.

429 MS. DAKEY: [12:33] Thank you. I think it was
430 mentioned earlier that there is a bill in the senate. That
431 bill, SB400 is a little clearer on that. When we talk about
432 primary, in terms of political science, a primary is an
433 election that is a winnowing process that determines which
434 candidates of parties advance to the election—the election
435 being the fall election. Those certain years in which
436 committee members, or parties are electing their committee

437 people, that's not a primary in the true sense. I agree that
438 the bills could be stronger on that language so that there's
439 no confusion that by opening primaries to unaffiliated voters
440 it's not granting them or expecting that they would vote for
441 committee people since they're not members, they're not
442 enrolled with the republican or democrat parties. I am sorry I
443 do not know what other states have done. Again, maybe ME's an
444 example. I wish I had looked into how they, what they would
445 have done about that. Thank you. Did I address your...

446 REPRESENTATIVE KENYATTA: [12:35] No you didn't and I
447 know I'll be around after so if there's some experts in this
448 room that can answer the question I appreciate it.

449 MS. DAKEY: [12:35] I don't want to hog the
450 microphone here either there are . . .

451 MAJORITY EXECUTIVE DIRECTOR HIMEBAUGH: [12:35] I
452 believe we have a question from Representative Brennan or a
453 comment here at the end.

454 REPRESENTATIVE BRENNAN: [12:35] I just want to thank
455 Chairman Conklin, Representative Solomon, Representative Brown
456 for bringing this up. Also Senators Laughlin, Boscola. I have
457 the good fortune of representing election boards for several
458 years. I think they do amazing work administering our
459 elections and I think what we see most problematic on their
460 part is a lack of support from the legislature and the State.
461 There's a bunker mentality because of the absence of support.
462 We see it with canvassing our votes. So we should be

463 supporting these election boards by making their job easier
464 and to administer the elections. But what we should also be
465 doing as a legislature, what we should always be doing, is
466 creating policy that's based on values. And, voting is the
467 hallmark of citizenship. There is nothing more important than
468 voting in civics. We have to find a way to make this work for
469 the 1.2 million Pennsylvanians who are excluded from the
470 primaries, for the 17% of my county, Bucks County, who aren't
471 able to vote in primaries. We have to remove ourselves from that
472 one of seven states that don't open up our elections to
473 independents. I thank you for coming here today and I hope you
474 continue to prod at your legislature for legislation that
475 supports our election boards and actually has values and
476 represents all Pennsylvanians. Thank you.

477 MAJORITY CHAIRWOMAN MADDEN: [12:37] Thank you. Are
478 there any questions from any other members? Representative
479 Miller?

480 REPRESENTATIVE MILLER: [12:37] Thank you. I
481 appreciate your testimony. You talked about equal rights and
482 the ability of those who are independent voters to be able to
483 have a say in electing those who will govern in the various
484 positions in our institutions. What do you say to a republican
485 or a democrat who says, "I want to vote, I want to have a say
486 but I want to have a say with the other party?" What do you
487 say to that person who does not have that same right that this
488 particular, these two pieces of legislation would afford an

489 independent voter to choose a particular party, but a
490 republican person would not have that choice, but a democrat
491 person would not have that choice, a Green Party, Libertarian,
492 etc.? What do you say to those people?

493 MS. DAKEY: [12:38] Here in PA, any voter can change
494 their registration by, to the other party, by observing the
495 time frames prior to the primary. So, voters can do that
496 presently. And, as far as how parties would look at this, I
497 have not been part of a party structure, but I would think
498 that republicans and democratic candidates would come to enjoy
499 the opportunity to reach out to unaffiliated voters earlier in
500 the election cycle. So more voters that might result in some
501 voters registering with a party prior to the primary. Or,
502 those voters, should they remain unaffiliated, then may vote,
503 have a reason to vote, request a certain party's ballot and
504 vote on that ballot in the primary. I hope I'm understanding
505 your question.

506 REPRESENTATIVE MILLER: [12:39] I was just wanting,
507 if the idea is a fundamental fairness of equality and being
508 able for an independent registered person to be able to vote
509 and republican or democrat, that right would not be afforded
510 to a republican who wanted to vote the democrat or a democrat
511 to vote in the republican, or a green wanted to vote in the
512 democrat, etc. So I was just wondering what you would say to
513 those people who don't have the same rights that would be
514 afforded to the people under these pieces of legislation.

515 MS. DAKEY: [12:39] Ok, because you have the right to
516 affiliate with a party, or not, a person who has affiliated
517 with a party has made a choice. No one has denied them the
518 choice to affiliate with the party of their choice.

519 MAJORITY CHAIRWOMAN MADDEN: [12:40] Thank you. Thank
520 you for answering that question. Do we have any other
521 questions from members? We have a few minutes so if the maker
522 of the bill would like to make some closing remarks or if
523 anyone has any questions for the maker of the bill, we have a
524 few minutes for that.

525 REPRESENTATIVE SOLOMON: [12:40] I really appreciate
526 the opportunity. Thanks for all the committee members'
527 comments and questions. I can't cover it all but in terms of
528 the voter turnout issue, this is fact: you implement open
529 primaries, voter turnout goes up 10%. 10% in voter turnout
530 across the states that have implemented some form of open
531 primary. The definitional issue, and we're happy to look at
532 SB400 if that tightens up the definition a little bit.
533 Unenrolled, unaffiliated is unenrolled unaffiliated. You have
534 made a decision not to affiliate with the two major parties or
535 any of the minority parties. You want to be an unaffiliated
536 voter, not part of a party. Not a partisan. We implemented Act
537 77 and I'm hearing a lot of consternation about it. But, we in
538 the legislature are the ones that voted for it. And I know
539 there's some buyer remorse on it, but the counties did a great
540 job in implementing it. There were certainly problems and the

541 county officials addressed that. And the same thing would
542 happen with this initiative. Many of the voting machines are
543 already ready to go in terms of being able to program that to
544 accommodate for this change and we need to make sure as many
545 of my colleagues mentioned that we work together with our
546 counties to implement such a change. This is a fundamental...
547 Fundamentally this is a civil right, social justice issue. You
548 cannot deny people the right to the ballot. That is what we
549 continue to do in PA. Thank you so much.

550 MAJORITY CHAIRWOMAN MADDEN: [12:42] Thank you. Rep.
551 Brennan you had a quick question?

552 REPRESENTATIVE BRENNAN: [12:42] Just a quick
553 question. The one thing I review HB976 and 979 and the Senate
554 Bills, there is a provision in the Senate Bill, sort of makes
555 sure that people who vote in a primary then are subsequently
556 identified, if an independent votes in a primary, the shore
557 system be controlled in a way and I don't understand how the
558 shore system works on a good day. But that those independents
559 not be subsequently be identified in the shore system or
560 otherwise as a republican or a democrat. I hope that whatever
561 we finally conclude with, that part of the bill... and if
562 there's anything you can educate me on that part of it I'd
563 appreciate it, but just wanted to throw that out there.

564 REPRESENTATIVE SOLOMON: [12:34] That's a great
565 point. The idea behind the bill, and again if the language, if
566 members prefer the language in SB400, fine by me. The idea is

567 that we don't track this information so that the unaffiliated
568 voter, we maintain the integrity of that choice and on that
569 day, that moment in time, on election day, that unaffiliated
570 voter is making a decision: do I want to vote in the
571 democratic primary because I like the democrats this go? Or do
572 I want to vote in the republican primary because republicans
573 have sold me on the message? That remains up to that
574 unaffiliated voter and upon leaving the voting booth we don't
575 track that information. That unaffiliated voter remains an
576 unaffiliated voter.

577 MAJORITY CHAIRWOMAN MADDEN: [12:44] Thank you. Rep.
578 Keefer for closing remarks?

579 MINORITY CHAIRWOMAN KEEFER: [12:44] If I could just
580 confirm what you just said. You want to make sure that we're
581 not tracking the ballot they selected. So that unaffiliated
582 they go and, are you just saying you're not...

583 REPRESENTATIVE SOLOMON: [12:44] That question was
584 about the shore system.

585 MINORITY CHAIRWOMAN KEEFER: [12:44] ...just making
586 sure you're not switching their party affiliation. Just making
587 sure that does not happen.

588 REPRESENTATIVE SOLOMON: [12:44] No party affiliation
589 changes. The unaffiliated voter remains an unaffiliated voter.
590 When they go in and they come out of the voting booth.

591 MINORITY CHAIRWOMAN KEEFER: [12:44] Alright. Thank
592 you. My concern remains just regarding the process. We just

593 need, there is a lot of things we need to fix in the election
594 code to administer this and not disenfranchise voters who are
595 currently being disenfranchised that continue. So, just had an
596 election in Luzerne County where they ran out of paper-
597 couldn't figure out how much paper they needed to have. My
598 county, prior to that in 2021 ran out of ballots in a primary
599 my voters stood in line for four hours to vote in an off-year
600 election. So there are some things that we need to fix, and
601 again it's just there's so much confusion because the election
602 code as we currently have it written, in addition to adding
603 Act 77, which there's a lot of ambiguity there, and some
604 guidance that contradicts even some of the code, we need to
605 hammer that out so that we can actually, or would be even able
606 to have the capacity to roll out something like this to make
607 sure that we're not adding further chaos to our already
608 chaotic system. I do want to thank, our counties do immense
609 work, given the constantly changing rules and processes and
610 procedures and that it's different in 67 counties. Somehow
611 they administer that. I'm not taking that away from them. We
612 have a lot of work to do before we try to add one more layer
613 onto it. And we do have, voters currently have, just as the
614 woman, our guest from League of Women Voters stated, the same.
615 They have 15 days that they can currently up to the election
616 they can switch, and vote, and participate in whichever
617 election or party that they would like to do that until this
618 is fixed. Thank you.

619 MAJORITY CHAIRWOMAN MADDEN: [12:46] Thank you. So,
620 change is hard. We all know that. And as I serve my 4th term I
621 find out in PA change is really hard. If I look at my own home
622 county, Monroe County, we did not, our county election board,
623 did not embrace Act 77 with open arms. Still to this day they
624 talk about it being two elections: one in-person election and
625 one mail-in election. And we were one of those five counties
626 wouldn't pre-canvas out ballots. So, I understand that change
627 is hard and I understand that from this testimony, most of
628 this sounds like an administrative fix. It sounds like we need
629 more people at the polls. We need to fund out elections
630 properly. We need to make sure we have enough paper. We need
631 to make sure we have enough ballots so that every
632 Pennsylvanian regardless of their political affiliation, or
633 their non-affiliation, is able to vote because it is our
634 constitutional right. For all the issues that Act 77 may still
635 have, PA voters embraced the no-excuse mail in voting with
636 open arms. We came out to vote in numbers never seen before.
637 And I expect that PA voters will react quite similarly to open
638 primaries. So, thank you for your testimony. Thank you to
639 everyone who came out to ask questions and testify and I look
640 forward to working with anyone to make this a better bill and
641 to get it through the House and the Senate. Thank you. The
642 meeting is adjourned. [12:47]