

May 18, 2019

The Honorable Four Price
P.O. Box 2910
Austin, Texas 78768

Via email: four.price@house.texas.gov

Dear Chair Price,

We, the undersigned organizations, write to you regarding Senate Bill 9 (“SB 9”). Following approval by the House Elections Committee yesterday, we expect the bill to be in front of you for consideration for a calendar in the near future. We ask you and your fellow Committee members to refrain from setting this bill.

As you know, SB 9 would enact a sweeping set of changes to the Election Code negatively affecting millions of voters across Texas. It imposes burdensome new forms on those who provide rides to voters who need curbside voting, and those who provide assistance to voters with disabilities or who do not speak English. By creating new election processes that will require more election workers and more training to implement, without providing any new funding to counties, it creates a large scale unfunded mandate. It also, in a fairly unprecedented step, threatens election workers with criminal penalties for failing to follow certain technical procedures regardless of whether the election worker has any knowledge or intent that they have failed to do so. And a new provision re-distributing countywide polling places would lead to substantial closures of voting centers in minority neighborhoods in favor of white majority neighborhoods, almost certainly violating the Voting Rights Acts and inviting years of litigation.

In general, beyond its many substantive problems, SB 9 was not carefully thought out and has numerous drafting problems that will create serious unintended consequences. For instance, in Section 1.08 of the bill, which deals with procedures during the opening and closing of polling places, the language requires an election worker to have "[a] representative from each political party required to nominate candidates by primary election" sign the tape showing the count on the voting machines. This is a vague phrase that is not defined and does not appear anywhere else in the Election Code. On its face this would include anybody representing the party in any capacity -- for instance, it would even include a precinct chair or convention delegate from an entirely different county. Under this new law, an election worker would commit a jail-able offense if they did not allow a party representative from an entirely different county to sign the tape if the representative shows up and requests to do so.

Further, as alluded to, the countywide polling place provision would put counties in an impossible spot. It requires them to set polling places based on the number of registered voters in particular

regions as of the effective date of the election. Of course, this number is not knowable until the actual date of the election, and so is impossible to truly comply with. And, as a practical matter -- often tens of thousands of last minute registrations are not finally processed until after early voting has begun. Moreover, this provision opens counties up to suit if they fail to comply with its arbitrary requirements and, likely, to suits alleging racial discrimination under the Voting Rights Act. The voting machine provisions, which in principle would have bipartisan support, have been so plagued by poorly written language and vendor-specific concerns that they now face bipartisan opposition. Indeed the bill as a whole has faced bipartisan criticism.¹

At least 120 witnesses registered to testify in opposition to this poorly conceived law at the Elections Committee's hearing on Wednesday. Many of them remained for over ten hours after the hearing temporarily adjourned for it to reconvene so that they could speak with the Committee, sharing their heartfelt stories about overcoming obstacles to voting and asking the Committee not to add any more. Members of both parties have also expressed concerns over substantial changes to provisions regarding paper audit trails made this week in the Committee's Substitute--revisions that have not yet been fully vetted.

Proceeding any further with SB 9 at this time would not merely fast track a piece of legislation that Texans have expressed grave concerns over, it would also risk that the Committee's changes to the paper audit trail sections may cause substantial unintended consequences to the security and integrity of our elections.

There are many other important bills that the Texas House must consider in the days ahead, measures that have been far more fully considered and enjoy far stronger bipartisan support than this bill. We ask you to prioritize those bills and exercise your authority to keep SB 9 off the House floor.

Sincerely,

ACLU of Texas

The Arc of Texas

ADAPT of Texas

¹ Sanford Knowlin, *Republican Elections Official Blasts Texas Bill That Would Make It a Felony to Incorrectly Fill Out a Voter Application*, San Antonio Current (May 7, 2019), <https://www.sacurrent.com/the-daily/archives/2019/05/07/republican-elections-official-blasts-texas-bill-that-would-make-it-a-felony-to-incorrectly-fill-out-a-voter-application>.

Battleground Texas Engagement Fund

Children's Defense Fund - Texas

Coalition of Texans with Disabilities

Common Cause

Engage Action

Indivisible Austin

Indivisible Project

Jolt Initiative

La Union del Pueblo Entero (LUPE)

Mi Familia Vota

MOVE Texas

Personal Attendant Coalition of Texas

Progress Texas

REV UP Texas

Texas AFL-CIO

Texas Civil Rights Project

Texas Freedom Network

Texas NAACP

Texas Organizing Project

Texas Parent to Parent

Cc: The Honorable Dennis Bonnen
The Honorable Joe Moody
The Honorable Joe Deshotel
The Honorable John Frullo
The Honorable Craig Goldman
The Honorable Oscar Longoria
The Honorable Will Metcalf
The Honorable Tom Oliverson
The Honorable Eddie Rodriguez
The Honorable Toni Rose
The Honorable John Wray