

Opponent Oral Testimony on House Bill 2438

House Committee on Elections

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Chair Proctor, Members of the Committee,

I'm the President of Loud Light Civic Action which works to protect and advance voting rights. I've worked on Kansas election policy for the last decade and appreciate the opportunity to raise concerns within the proposed language of HB 2438.

Primary Impact: Disenfranchisement

For the last decade, safe and secure online voter registration tools have helped countless Kansans register to vote. By effectively banning tools like this, many of those voters wouldn't have been able to overcome the barriers to voter registration and would have been denied access to the ballot through bureaucracy.

Absolute Ban Instantly, Theoretical Approval Process To Be Determined

The immediate impact would be an absolute ban and there is no guidance for future approval. The approval or rejection of an online tool by the Secretary of State is completely at their discretion. There is no objective clear criteria to gain approval. The legislature shouldn't be in the business of anointing any person, let alone a partisan political position, with the power to unilaterally ban a perfectly safe and secure means of registering to vote. There is also no appeals process for a rejection, creating due process concerns for both voters who have their registration rejected and the civic leaders who are just trying to help Kansans vote.

Current Kansas Online Registration Tool Creates Extrajudicial Barriers for Voters

The only state sponsored online voter registration tool creates a two tier system for voter registration requirements and creates an undue burden on Kansas voters. There is no legal requirement for Kansas voters to have a Kansas State ID to register or to vote. There is no legal requirement for Kansas voters to have their registration match the address on their drivers license, nor is this a requirement for voting. These are not requirements of the federal voter registration form, yet they are a requirement to register online using the state voter registration form. This effectively creates extrajudicial voter registration requirements by the state of Kansas through weaponizing bureaucracy against its citizens.

Immediate Implementation Without Rules and Regulations

HB 2438 requires the Secretary of State to implement rules and regulations on this law by January 1st, 2027, which is many months after the law has already taken effect and after the 2026 election. This leaves all Kansans engaged in our elections without legal clarity, from voters to local election officials. There is no clarity on which federal registration forms can be accepted or must be rejected. What are the security standards for online voter registration and how will encryption methods be coordinated with the Secretary of State? Are email providers considered an additional party banned from transmitting registrations? What is the process for verifying the receipt of voter registration applications for the county elections office, for the online registration tool, and for the voter themselves? There are too many questions to pass a law that could impact thousands of Kansas voters.

There are Constitutionally Questionable Mandates that May Be in Violation of Federal Law

County election officials are required to accept federal voter registration forms as mandated by the National Voter Registration Act. Voter accessibility laws give citizens the right to have assistance of their choice in electoral engagement. This bill mandates that county officials reject federal voter registration forms based on the registrant's chosen source of assistance.

Short-Notice Hearings Deprive the Public of Participation & Legislators of Information

This hearing was scheduled just 24 hours notice to the public and less than 2 hours after the bill language was publicly available. It is inherently anti-democratic to restrict public commentary through such an expedited timeline. Additionally, 3 bill hearings touching on different, complex areas of election law, all scheduled on the same day with this expedited timeline and lack of public notification means that both public stakeholders and legislators won't have the time to effectively prepare to engage in well informed discussions.

Passing Major Changes to Election Law in an Election Year with Immediate Implementation

Again, it is inherently anti-democratic to major significant legal shifts in electoral law that will have a major impact on Kansas voters without ensuring there is adequate time to implement changes without negatively impacting them. Voters most likely to be impacted include new registrants like first time voters and people who are moving into Kansas from out of state, and current voters who need to update their registration, such as members of our military, students, working class Kansans or those who move for accessibility reasons, such as the senior citizens and disabled voters. This expedited implementation timeline may also have a negative impact on our local election officials, who won't even have rules and regulations to help guide them in complying with this law.

Concerns with Confidence in our Elections

While Loud Light Civic Action is more concerned with the facts and realities of election administration and comes at instilling voter confidence through education in our electoral process, we understand that many lawmakers are deeply concerned about the feelings of some misinformed voters. As such, restoring the confidence of those voters in our elections has been identified as a priority to this legislative body. One could be concerned that passing a law with such a rapid timeline, a half baked implementation plan, and widespread impact when the Chairman is on the ballot for state Election Officer would undermine those efforts. Online rumblings of corruption and cheating have already begun around this bill. While we believe that the Chairman would never aim to pass a law in order to personally benefit from it in his upcoming election, it would be wise for the body to consider the public perception and its impact on electoral confidence if they want to maintain this policy priority.

Conclusion: Loud Light Civic Action strongly urges members of this committee to oppose HB 2438 at this time. While we would welcome a well constructed data security bill regarding online voter registration, HB 2438 lacks the specific standards and requirements to ensure that it is effective in protecting our citizens' data while massively increasing barriers for voters to engage in their civic duty. As such, we cannot support the bill as it is currently written. Thank you. I'm happy to stand for any questions when appropriate.