



**TESTIMONY ON SENATE BILL 878  
RELATED TO DROP BOXES**

Presented to the Senate State Government Committee

By  
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Good afternoon, my name is Lisa Schaefer and I am the executive director of the County Commissioners Association of Pennsylvania (CCAP), a non-profit, non-partisan association representing the commonwealth's 67 counties. Being the key administrators of the on-the-ground election, Pennsylvania's 67 counties have a significant responsibility in assuring elections remain fair, secure, accurate and accessible at every step of the process. Over the past several years, counties have worked closely with the General Assembly to achieve historic changes to the Pennsylvania Election Code, including the implementation of mail-in ballots under Act 77 of 2019. We appreciate this opportunity to offer our feedback on Senate Bill 878, specifically on the provisions related to drop boxes.

To say that 2020 was a challenging year for our counties to administer elections would be an understatement at best. As you are aware, this was the first time counties implemented the changes created by Act 77, while facing additional complications created by the very serious and unprecedented circumstances of the global COVID-19 pandemic – and in the middle of a highly contentious and high turnout presidential election. We applaud the county election offices and the tens of thousands of volunteers for the many challenges that were addressed in an extremely professional manner to maintain the security and integrity of the results and deliver successful elections in 2020.

That said, counties learned a great deal from their experience implementing Act 77 during the 2020 elections, and we know there are ways in which changes to the law can improve our ability to administer elections, as well as our ability to provide more efficient results. CCAP's Elections Reform Committee – which comprises county officials and county election directors from across the state – convened shortly after the November 2020 election and began reviewing county experiences, ultimately resulting in a preliminary report and recommendations released in January 2021. These include additional Election Code amendments, particularly to tighten up those matters that became subjects of interpretation throughout the various lawsuits and guidance, including clarifications to provisions surrounding drop boxes.

Senate Bill 878, as currently drafted, attempts to further clarify in the law counties' authority to use drop boxes for mail-in ballots, after questions were raised (and litigated) as to whether Act 77 permitted the use of drop boxes, and whether drop boxes constituted polling places. Although CCAP did not take a position on whether or not drop boxes should be permitted, SB 878 meets the overall objective for clarity by expressly allowing counties to provide them if they choose.

However, we have several additional questions and comments regarding the drop box language, including the requirement that drop boxes follow the same standards as polling places. While we understand the general intent related to access and political activity restrictions, we believe spelling out the intended requirements instead of just referring to polling places would be helpful to be sure all counties are able to implement this consistently and uniformly. Some examples of polling place requirements that might need to be clarified or specifically ironed out include the following:

- ID requirements – According to prior Department of State guidance, proof of identification (ID) requirements appear to be different for voting in-person at a polling place versus absentee voting.
- Supplies – Section 530 of the Election Code requires polling places to have a sufficient number of voting compartments with proper supplies, and we believe the intent is not for voters to be expected to complete their ballots at the drop box.
- Poll watchers – In SB 878, it appears the term “observers” is used in place of what we commonly think of as poll watchers, although the only other time that observers are referenced in the Election Code is related to the central count process, not polling places. But making that assumption:
  - There are requirements for poll watchers at polling places to receive official county credentials in advance and be assigned to specific precincts, including how many can be present and a requirement to remain outside the “enclosed space.” Would this also apply related to drop boxes?
  - The current law on poll watchers requires them to direct permitted challenges on a voter’s qualifications directly to the Judge of Elections – is a Judge of Elections required to be at each drop box, and if not, to whom should a poll watcher direct his or her challenge? And are a voter’s qualifications the only criteria a poll watcher can challenge related to a drop box?
  - Does language prohibiting poll watchers from attempting to influence or intimidate voters (which includes photographing or videotaping voters), or otherwise interfere with the orderly process of voting, apply with regard to drop boxes? Additionally, if video recording or live streaming of drop boxes is required, it may be necessary to clarify that this is not voter intimidation, but that other photographing or videotaping of voters remains so.
- Accessibility – On February 15, the U.S. Department of Justice issued [guidance](#) on requirements for drop boxes under The Americans with Disabilities Act (ADA). While these provisions seem to correlate well with requirements for polling places in terms of locations and physical access, there are standards for polling places which would mostly not apply or have varying degrees of application to drop boxes, including parking, accessible routes, ramps, protruding objects, entrances (as the ADA guidance imagines drop boxes as outside structures), lifts and voting area requirements.

Putting the polling place definition aside, there are various other questions and considerations for drop boxes that could use further clarity. Some of the other questions counties are seeking clarification on include:

- Location notification – The bill would require drop box location to be announced at least 30 days before it is established in accordance with the Sunshine Law. We are unclear if this references requirements under the definition of public notice in that law to publish the information in a newspaper of general circulation, and posting at the agency, or if this language means something else.
- DOS Standards – We further recommend that the Department of State be required to consult with counties in the development of standards for drop boxes, whose experience

with drop boxes to this point could help inform those standards and assure that counties will be able to operationalize those standards.

- Video monitoring – The bill suggests drop boxes must be monitored during each hour of operation, including the option for video surveillance and recording. We appreciate that SB 878 offers recording as an option rather than a mandate, noting counties have different IT capacities and infrastructure available to support livestreaming and/or recording, and so for many counties this would represent a cost for which there does not appear to be accompanying financial support.
- Security – Rather than specific language on monitoring, collection and securing ballots, we recommend that counties wishing to implement drop boxes be required to develop a security plan that would include measures such as how and when the ballots will be collected and transported, how the drop box will be secured and monitored and other similar matters. This would assure that counties have established these critical security procedures, while also offering flexibility for counties to meet their individual circumstances and resources.
- Timeframe – Finally, it is unclear what is meant by the “duration” of an election for which a drop box must be established.

With all of that said, we greatly appreciate the efforts of Sen. Argall and Sen. Street in developing SB 878, as county officials and election directors have already been part of multiple discussions on the bill’s language prior to its introduction, and our comments and feedback taken into consideration. We also appreciate the opportunity to share these comments with you today to continue these discussions, working together to offer solutions and iron out language that reflects the administrative role of elections. While there still are areas of the bill where we have questions or would recommend additional work, the effort that has gone into SB 878 to date represents a meaningful partnership and a positive step toward an Election Code bill that will address many of the changes counties seek to improve the administration of elections.

Counties further urge the General Assembly to continue to bring them to the table to discuss and provide feedback as any elections-related legislation is being developed so that we may work together to accomplish meaningful reforms. Counties have valuable experience to provide in the development of legislation to assure we can continue to administer elections that are secure and accurate. Regardless of whether counties have a policy position on any given reform, we must be consulted to ensure any new provisions are logistically possible and feasible.

We conclude by echoing any changes to the Election Code must be enacted well in advance of an election to allow for enough time to properly implement any changes, particularly if they involve developing new protocols or procedures, retraining poll workers, and so forth.

Thank you again for the opportunity to offer our testimony and your consideration of these comments. We look forward to continuing to work with you on the necessary legislative changes to improve the administration of elections in Pennsylvania.