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Feasibility of Limiting Polling Places to Handicap Accessible Schools and Government Buildings

Conducted Pursuant to House Resolution 2007-332

February 2008

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I. Introduction

House Resolution 332 of 2007 calls on the Legislative Budget and Finance Committee to examine the feasibility of limiting polling places to schools and government buildings that are accessible to persons with disabilities.

The study objectives were:

1. Determine, by county, the number and percentage of polling places that are handicap accessible.
2. For any county in which fewer than 90 percent of the polling places are handicap accessible, determine the feasibility of limiting polling places to schools and government buildings that are accessible to persons with disabilities.

The data for this report came primarily from the Pennsylvania Department of State, which maintains statistics on polling places and their handicap accessibility. In those counties where fewer than 90 percent of their polling places were handicap accessible, we spoke to county election officials to obtain their input on the feasibility of limiting polling places to handicap accessible schools and government buildings.

Important Note

This report was developed by Legislative Budget and Finance Committee staff. The release of this report should not be construed as indicating that the Committee's members endorse any or all the report's findings and recommendations.

Any questions or comments regarding the contents of this report should be directed to Philip R. Durgin, Executive Director, Legislative Budget and Finance Committee, P.O. Box 8737, Harrisburg, Pennsylvania 17105-8737.

II. Accessibility of Pennsylvania Polling Places to Persons With Disabilities

The Pennsylvania Department of State maintains statistics on all of the over 9,000 polling places used in the Commonwealth, including their handicap accessibility. If a polling place is not handicap accessible, the data indicates the reasons why, as reported by the county.

As shown in Table 1, only seven Pennsylvania counties (Clearfield, Clinton, Jefferson, Philadelphia, Washington, Wayne, and Westmoreland) appear to have significant accessibility problems, which we have defined as 10 percent or more of polling places being classified as inaccessible. If Philadelphia is excluded from the statewide statistics, 96 percent of the polling places in the remaining counties are handicap accessible.

Table 1

2007 Polling Place Accessibility Survey							
County	Population	Polling Places	% Accessible	County	Population	Polling Places	% Accessible
Adams	91,292	48	100.0%	Lackawanna	213,295	163	100.0%
Allegheny	1,281,666	1,320	98.9	Lancaster	470,658	233	100.0
Armstrong.....	72,392	68	100.0	Lawrence	213,298	106	97.2
Beaver.....	181,412	129	100.0	Lebanon	120,327	55	100.0
Bedford.....	49,984	35	100.0	Lehigh	312,090	139	100.0
Berks	373,638	189	97.4	Luzerne	319,250	165	97.0
Blair	129,144	97	98.0	Lycoming.....	120,044	86	100.0
Bradford	62,761	61	100.0	McKean.....	45,936	42	100.0
Bucks	597,635	306	99.7	Mercer.....	120,293	100	100.0
Butler.....	174,083	85	100.0	Mifflin.....	46,486	30	93.3
Cambria.....	152,593	165	95.6	Monroe.....	138,687	50	100.0
Cameron	5,974	10	100.0	Montgomery	750,097	407	98.0
Carbon	58,802	45	93.3	Montour.....	18,236	15	100.0
Centre	135,758	89	98.8	Northampton	267,066	149	100.0
Chester.....	433,501	223	97.3	Northumberland .	94,556	94	100.0
Clarion.....	41,765	41	100.0	Perry	43,602	32	100.0
Clearfield	83,382	71	53.5	Philadelphia	1,517,550	1,681	6.7
Clinton	37,914	34	76.5	Pike	46,302	18	100.0
Columbia	64,151	42	97.6	Potter	18,080	33	100.0
Crawford.....	90,366	67	100.0	Schuylkill	150,336	167	93.4
Cumberland....	231,674	101	100.0	Snyder.....	37,546	25	100.0
Dauphin.....	251,798	159	100.0	Somerset.....	80,023	68	100.0
Delaware	550,864	424	91.7	Sullivan	6,556	15	100.0
Elk	35,112	32	100.0	Susquehanna	42,238	43	97.7
Erie.....	280,843	138	100.0	Tioga	41,373	44	100.0
Fayette	148,644	103	97.1	Union.....	41,624	36	100.0
Forest	4,946	9	100.0	Venango.....	57,565	48	93.8
Franklin	129,313	74	98.6	Warren	43,863	31	100.0
Fulton	14,261	13	100.0	Washington	202,897	185	71.9
Greene	40,672	44	95.5	Wayne.....	47,722	37	54.1
Huntington.....	45,586	58	100.0	Westmoreland....	369,993	306	85.0
Indiana	89,605	68	94.1	Wyoming	28,080	30	100.0
Jefferson	45,932	37	48.6	York.....	381,751	159	97.5
Juniata.....	22,821	20	100.0				
				TOTALS.....	12,417,704	9,197	79.7%

Source: Pennsylvania Department of State.

Even for those counties where fewer than 90 percent of the polling places are handicap accessible, requiring that polling places be limited to handicap accessible schools and government buildings may not be feasible. As shown in Table 2 below, oftentimes the schools and government buildings in these counties are also not handicap accessible.¹

Table 2

Handicap Inaccessible Polling Places in Selected Pennsylvania Counties

County	# School Polling Places Inaccessible	# Government Building ^a Polling Places Inaccessible	# Other Polling Places Inaccessible	Total Polling Places Inaccessible	% of Polling Places Inaccessible
Clearfield	0	25	10	35	49.3%
Jefferson	0	15	7	22	59.5
Philadelphia.....	362	41	930	1,333	79.3
Wayne	0	9	8	17	45.9
Westmoreland...	2	21	28	51	16.7

NOTE: Due to report timing differences, some differences exist between Table 1 and Table 2 in the percentage of handicap accessible polling places. In the Department of State report used to develop Table 2, which provides detail on the handicap accessibility of specific polling places, Clinton and Washington Counties report more than 90 percent of their polling places to be handicap accessible. These counties, therefore, are not included in Table 2. Officials in Clinton and Washington Counties confirmed that 90-100 percent of their polling places are now handicap accessible.

^aIncludes fire and emergency services buildings.

Source: Developed by LB&FC staff from Pennsylvania Department of State reports.

Efforts to Improve Handicap Accessibility

We contacted the county election officials in the five counties listed above to determine what steps, if any, they are taking to improve the percentage of handicap accessible polling places within their county.

Officials in several of these counties noted that the criteria for handicap accessibility are quite specific (see Exhibit 1) and to locate polling places in schools or government buildings that meet all the criteria could either be expensive or require voters to travel considerable distances. Additional comments from county election officials are presented below.

Clearfield. Clearfield County officials acknowledged that they would have great difficulty in bringing all their polling places up to full handicap accessibility standards. The official we spoke to noted, however, that all but about 12 of their 71 polling places are, for most practical purposes, handicap accessible, even though

¹Although public buildings and schools are generally required to be accessible, exceptions exist and not every area in the building need be accessible. More stringent requirements, however, are applicable to alterations of the building or new construction.

they do not meet all the required standards. He also suggested that there is considerable variability in what counties consider handicap accessible and that Clearfield is “pretty critical” in how they categorize their polling places.

Exhibit 1

Criteria for Handicapped Accessible Polling Places

1. Handicapped Parking Sign?
2. Extra space for wheelchair in handicapped parking space?
3. Parking space with unobstructed access to polling place?
4. Is handicapped space located the shortest distance to poll?
5. Is a loading zone 48" x 20 feet parallel to the vehicle?
- 5a. From the parking spaces, is there barrier-free route to poll?
6. Is the route from parking space to poll at least 36" wide?
7. Is route to polling place building free of steps?
8. Does pathway include curb cuts or curb ramps?
9. Are all slopes less than one inch rise for one foot length?
10. Do ramps on pathway have handrails?
11. Does pathway have a slip-resistant surface even when wet?
12. Is there a sign indicating the nearest accessible entrance?
13. Possible to vote without using one or more stairs?
14. Do all ramps in polling place have handrails?
15. Are all doorsills one-half inch or less in height?
16. Are the doorways at least 32" wide?
17. Can all doors be opened by a handicapped voter?
18. Do the door knobs have pull-down or looped handles?
19. Are corridors to voting area at least 36" wide?
20. Can the elector easily enter the elevator?
21. Is the elevator at least 4' x 4' wide?
22. Are the elevator controls reachable by a handicapped voter?
23. Are Braille instructions present in the elevator?
24. Is there a barrier-free route to the polling machine?

Source: Pennsylvania Department of State.

Jefferson. The Jefferson County official we spoke to reported that a new Director of Elections had been hired and that increasing the number of handicap accessible polling places was one of their priorities.

Philadelphia. A Philadelphia County official reported that although only 113 of their polling places are “fully accessible,” all but 202 of the county’s remaining polling places are “substantially accessible.” This official noted that the amount of handicap accessible parking required for a polling place to be fully accessible is not feasible in many Philadelphia neighborhoods and that many of the violations are relatively minor, such as not having proper doorknobs, handicap ramps with steeper slopes than allowed under federal rules, and sidewalk grates with holes that are larger than three-quarters of an inch. He also noted concerns regarding who would be financially responsible for all the required upgrades.

According to Department of State data, some of the most common reasons Philadelphia schools are deemed not handicap accessible are: no handicap parking (321), the route to the polling place not free of steps (131), pathways to the polling place do not have curb cuts or curb ramps (106), ramps on pathway to polling place do not have handrails (151), ramps in polling place do not have handrails (130), pathways do not have a slip-resistant surface when wet (100), not possible to vote without climbing one or more stairs (197), doors cannot be opened by handicap voter (254), and door knobs do not have pull down or loop handles (244).

Wayne. Wayne County reported it received a \$45,000 HAVA (Help America Vote Act) grant and plans to have 75-80 percent of its polling places handicap accessible by the 2008 General Election. The elections official also noted that restricting polling places to schools and other government buildings would be a major problem in their county because the children who live in Wayne County often attend public schools located in another county, and there are very few government buildings in some areas of the county.

Westmoreland. The county elections official we spoke to indicated the county had no specific plans for making their polling places more handicap accessible.

Conclusion

Restricting polling places to schools and government buildings does not appear feasible because:

- **Outside of Philadelphia, the vast majority (96 percent) of nongovernmental polling places are already handicap accessible.** Requiring voters who currently vote at a nearby, nongovernmental handicap-accessible polling place, such as a church or local business establishment,

- **Many schools and government buildings themselves are not handicap accessible.** In Philadelphia, for example, only 65 (14 percent) of the schools and government buildings currently being used as polling places are classified as handicap accessible. While we did not attempt to determine how many handicap accessible schools and government buildings may exist that are not being used as polling places, limiting polling places to only handicap accessible schools and government buildings would dramatically reduce the number of polling places currently being used across the state². In Philadelphia, for example, it would reduce the number of existing polling places from 1,681 to 65.
- **None of the county elections officials we spoke to thought it feasible to limit polling places to handicap accessible schools and government buildings.** Although we did not survey every county, none of the election officials we spoke to indicated they thought it feasible to limit polling places to handicap accessible schools and government buildings. Several, however, did voice support for legislation to require schools to be polling places if deemed necessary by the county.

²Many counties have not classified the type of buildings used for their polling places, so it was not possible to determine on a statewide basis how many polling places are in handicap accessible schools and government buildings.

III. Background Information

Voting is the foundation of our American democratic system. As such, federal law generally requires access to voting on Election Day for persons with disabilities. The following federal laws are relevant:¹

- **Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §1973ee et seq.** Under this law, state political subdivisions responsible for conducting elections must ensure that polling places used in federal elections are accessible, as determined by the state. Exceptions are allowed if the state determines that all potential polling places have been surveyed and no accessible place is available and the political subdivision cannot make one temporarily accessible. In these cases, voters with disabilities who are assigned to inaccessible polling places must be, upon advance request, either reassigned to an accessible polling place or provided another means for voting on Election Day.
- **Help America Vote Act of 2002, 42 U.S.C. §15301 et seq.** After the election in 2000, Congress passed this election reform statute with accessibility as its central theme. It requires that every polling place have at least one disabled-accessible machine by 2006 “in a manner that provides the same opportunity for access and participation...as for other voters.” Under this act, states received funds to, among other things: (1) acquire such voting machines; (2) educate and train election officials and voters in their use; and (3) improve the accessibility and quantity of polling places, including providing physical access for individuals with disabilities, providing non-visual access for individuals with visual impairments, and providing assistance to Native Americans, Alaska Native citizens, and to individuals with limited proficiency in the English language.
- **Americans with Disabilities Act, 42 U.S.C. §§12131-12134.** Title II of the ADA provides that public entities may not exclude or deny qualified individuals with disabilities the benefits of their programs, services, or activities. As such, public entities are required to provide reasonable modifications in their programs, services, and activities. Accordingly, if a person requires modifications due to a physical or mental disability to enable that person to register to

¹The Voting Rights Act of 1965, 42 U.S.C. §1973 *et seq.* was enacted to prohibit discrimination in voting based on race and color. A 1982 amendment allowed voters who needed help because of “blindness, disability, or inability to read or write” to get “assistance by a person of the voter’s choice . . .” It did not ensure a private or independent ballot and did not address physical accessibility of the polling place.

vote or cast a ballot, modifications must be provided, unless they would create an undue burden or fundamental alteration in the program. For example, a voter may need an explanation of instructions in simpler language, a ballot might need to be adjusted for individuals with visual impairments, or a friend or family member might need to accompany the voter into the voting booth.

- **National Voter Registration Act, 42 U.S.C. §1973gg et seq.** This law requires states to designate as voter registration agencies: (1) all offices that are primarily engaged in providing disability services and that receive state funds; and (2) all offices that provide public assistance. Disability services offices that have been designated as voter registration agencies include state and county offices of mental health and mental retardation, blindness and visual services offices, veterans' affairs offices, health department offices, labor department offices, aging department offices, and alcohol and substance abuse offices. Such agencies must make voter registration forms available to their clients and provide assistance in completing them, and must accept completed applications and transmit them to state officials.

Recently, court cases have been addressing the interpretation of these laws, several of which impact Pennsylvania's polling places. These cases include, for example:

- **NAACP v. Philadelphia Board of Elections (E.D. Pa. June 16, 1998).** The NAACP filed suit to enjoin the Philadelphia Board of Elections from using alternative ballots, which are required under the Voting Accessibility of the Elderly and Handicapped Act in federal elections, in state and local elections. Alternative ballot procedures enable voters with disabilities assigned to an inaccessible polling place to use an alternative means to cast a ballot on Election Day. The court held that use of alternative ballots procedures was a reasonable modification to comply with the Americans with Disabilities Act. The issue of whether the ADA required accessible voting systems was not before the court.
- **National Organization on Disability v. Tartaglione (E.D. Pa. Oct. 11, 2001).** Four advocacy organizations filed suit against election officials for purchasing voting systems that were not accessible to voters with visual impairments. The court denied a motion to dismiss plaintiffs' ADA and Section 504 claims because voters with visual impairments were not afforded the same opportunity to participate in the voting process as non-disabled voters. The court also

refused to dismiss a claim that the election officials' purchase of a new electronic voting systems that were not accessible and independently usable by voters with visual impairments violated the ADA and 28 C.F.R. §335.151(a).

- **National Organization on Disability v. Tartaglione (Unreported Case, E.D. Pa. August 6, 2003).** Under a settlement agreement, each of Philadelphia City's 1,682 polling places had to have at least one electronic voting machine by January 1, 2006, that is equipped with earphones and audio instructions usable by a voter who is blind or visually impaired. The city was also required to create a Polling Place Access Committee to evaluate the approximately 800 of 1,682 polling places with 66 wards that are not accessible to people who use wheelchairs. Modifications to make the voting places accessible were to be completed by May 1, 2006.

IV. Appendix

APPENDIX A

PRINTER'S NO. 1922

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 332 Session of 2007

INTRODUCED BY THOMAS, MAHER, MOUL, CALTAGIRONE, KULA, BLACKWELL,
ROAE, CURRY, BOYD, SWANGER, JOSEPHS, YOUNGBLOOD AND DALEY,
JUNE 14, 2007

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 14, 2007

A RESOLUTION

1 Directing the Legislative Budget and Finance Committee to
2 examine the feasibility of limiting polling places to schools
3 and government buildings that are accessible to persons with
4 disabilities.

5 WHEREAS, Current law requires a county board of elections to
6 select, wherever possible and practicable, schoolhouses,
7 municipal buildings or rooms, or other public buildings for
8 polling places; and

9 WHEREAS, It may or may not be feasible to limit polling
10 places to schools and government buildings that are accessible
11 to persons with disabilities; therefore be it

12 RESOLVED, That the House of Representatives direct the
13 Legislative Budget and Finance Committee to examine the
14 feasibility of limiting polling places to schools and government
15 buildings that are accessible to persons with disabilities; and
16 be it further

17 RESOLVED, That the committee report its findings and
18 recommendations to the House of Representatives within six

1 months of the passage of this resolution.