

**FairVote Testimony -HB 1046**  
**2/24/2005**

Chairperson Sheila Hixson, Vice-Chairperson Anne Healey, distinguished members of the House Ways and Means Committee thank you for giving me the opportunity to comment on H.B. 1046. My name is Andrew Kirshenbaum and I oversee the Right to Vote Initiative at FairVote – The Center For Voting and Democracy.

Based in Montgomery County, FairVote is dedicated to fair elections where every vote counts and all voters are represented. As a catalyst for reform, we conduct research, analysis, education and advocacy to build understanding of and support for more democratic voting systems.

The Right to Vote Initiative is FairVote's newest program. The Initiative seeks to secure and protect the right of all U.S. citizens to vote. We develop and encourage the adoption of policies that will increase voter turnout, enhance the quality of elections and the accuracy of results. Included with my statement is a copy of the Right to Vote initiative's eight featured reform proposals that we have developed in response to the electoral problems seen in 2000 and that persisted through the 2004 election. We firmly believe that these reforms are critical to protect the right of all U.S. citizens and Maryland residents to vote. Note that our list of reforms prominently highlights early voting as a means of reducing the burden on election administrators and increasing voter participation.

The right of every citizen to cast a secret and secure ballot is the foundation of democracy. However, when members of Congress designated the first Tuesday of the month of November as the day when presidential electors were to be chosen in each state, they could not have predicted how the voting process would evolve through the years. Instead of elections where only a small segment of the population is allowed to vote, today the vast majority of Americans can vote. In fact, approximately 120 million or about 60% of the population did so this past November, an encouraging increase in turnout, but one that election officials were not always prepared for. In addition to a secure ballot that is correctly counted, we now expect the voting process to be efficient and results to be accurate. We do not want to wait more than thirty minutes to vote – let alone two or three hours, as was the case in many Maryland polling locations last November, and certainly not 10 hours, as in some Ohio polling places -- and we expect results to be decided clearly by the voters, not by judges trying to interpret ambiguous laws and standards.

Recognizing that a fair number of eligible voters such as active duty military members, the elderly, the disabled and those abroad cannot cast an in-person ballot, for years every state in the nation has allowed voters to vote absentee. Yet, as recent elections, and in particular the 2004 election demonstrate, absentee ballots may not be enough to ensure that every eligible voter can cast a ballot that will be counted. Just last week, I was sent contacted by a Nebraska resident who told me that he had applied for an absentee ballot because he was going to be moving on Election Day. The state sent him an absentee ballot, but realized that the ballot sent contained an error. Nebraska reissued the ballot and sent it, but by the time the second ballot reached this person, it was too late to be returned and counted in time for the election. Moreover, in every election, there are reports of election officials who simply do not send out absentee ballots or selectively send out ballots. During the past election, one county commissioner in West Virginia did not send out the ballots until Election Day. In Broward County, Florida, 58,000 absentee ballots were not delivered in time to reach voters before the election, forcing some voters to go so far as to fly back to Florida to ensure their vote would be counted. Voters who are overseas, including Maryland's servicemen and women abroad, depend on absentee ballots to vote, but many more of these Maryland residents would be able to vote in person if they were given more days to vote.

We believe several proposals should be considered to ensure everyone has fair and reasonable access to voting, and these are not mutually exclusive. One potential reform is to make Election Day a holiday,

thereby increasing the pool of potential poll workers and leading to voting being more evenly spread out during the course of election day; Puerto Rico makes Election Day a holiday, and regularly votes at rates far higher than most, if not all, states.

We also believe early voting must be on the table. Already 35 states use early voting. Currently the states of Florida, Missouri, New Jersey, Nebraska and the Commonwealth of Virginia have introduced legislation for early voting. Almost 1.5 million Florida voters cast ballots at early vote sites, constituting roughly 20% of the total electoral vote – likely contributing to an easier Election Day in 2004 for more Florida voters, as well as poll workers and election officials. Many other states had similar experiences. In fact, some counties had more early voters than voters who cast ballots on Election Day four years ago. Compare this to Ohio, which did not have an early voting option in November, resulting in election officials facing a crush of voters at the polls.

We recognize that there is debate about whether or not early voter will actually increase turnout. Common sense suggests that when voters have more options and more opportunities to vote, they will use them, but there may be potential downsides to having voters cast ballots before the campaigns have officially ended. However, early voting in that respect is no different from absentee voting which is used in every U.S. state. Yet, looking beyond the turnout question, early voting has positive consequences that could improve the overall quality and efficiency of the voting process for voters and election officials alike.

First, it will provide voters who may need more time to vote such as the elderly and disabled an opportunity to vote in a less stressful environment and without the time limits placed on voters by some poll workers. Moreover, shift workers, stay at home and working parents, students and anyone else who cannot afford to stand in an 8 hour line will have more options to find time in their schedule to vote. More opportunities to vote are ever important as the working day is no longer confined to 9-5. It is easier and less stressful for a citizen to plan to vote over the course of a few days, rather than a few hours. Consequently, voters most in need of quick and efficient voting will be able to cast a ballot in a timely fashion, resulting in a decrease in election day foot traffic.

Secondly, early voting provides a remedy for voters who are unable to vote on Election Day, but only became aware of this situation after the deadline for applying for absentee ballots. Such examples include a family emergency or last minute schedule changes at one's job.

Furthermore, early voting is not just beneficial for voters; it will also help election officials run better elections. Inevitably there will be Election Day problems, machines will breakdown, poll workers will give out wrong instructions and voters will be unintentionally disenfranchised. These problems are exacerbated by high turnout on one day of voting. But, by adopting early voting some of these issues can potentially can be spotted and fixed earlier on. Election officials will be able to redistribute resources, such as machines and poll worker staff if necessary, and disseminate pertinent information about policies and procedures to confused poll workers and voters. In the worst case scenario votes can be recast before Election Day if a problem emerged in the first few days of early voting.

Finally, early voting will help reduce the present reliance on absentee balloting as the only alternative to in-person voting. Voters will no longer have to rely on the U.S. postal service to correctly deliver the ballots or election officials to send them out in time.

I did have one specific suggestion about the legislation. There is a provision for how to select early voting polling locations. Provision C-3 suggests that if the number of polling locations is not equally divisible by two that the number of geographic locations selected by the local board shall be less than, by no more than two, the number selected by each of the two principal parties. We would instead suggest that in this situation, the local board should be able to pick e more than the major parties – e.g., if there are 10

locations, the local board would pick four and the principle parties would each pick 3, rather than have each party pick four and the local board pick only one.

Let me conclude by stating that early voting is an important potential step, but at the same time one of a number of reforms that Maryland can adopt to provide its citizens with the best possible voting policies and procedures to better ensure that every voter can vote and that their vote will be accurately counted.

I look forward to answering any questions you might have.