



TO: House Policy & Legislative Oversight Committee
FROM: Gary Daniels, Associate Director, ACLU of Ohio
DATE: October 17, 2013
RE: Senate Bill 193

To Chairman Dovilla, Vice Chair Buchy, Ranking Minority Member Gerberry, and members of the House Policy & Legislative Oversight Committee, my name is Gary Daniels, Associate Director for the American Civil Liberties Union of Ohio (“ACLU of Ohio”) and I appear to present opponent testimony on Senate Bill 193.

The ACLU is the oldest and largest civil liberties organization in the world with over 500,000 members nationwide and over 30,000 members and supporters across Ohio. The ACLU and ACLU of Ohio are non-profit, non-partisan membership organizations devoted to protecting basic civil rights and civil liberties for all Americans and all Ohioans.

For decades, the ACLU of Ohio has advocated on behalf of voters on election and voting matters through our education, public relations, legislative and, of course, legal work. With regard to SB 193, our concerns are brought forth on behalf of those voters who wish to vote for the candidate and/or party of their choice and those minor political parties who have been historically thwarted by the actions of the major political parties.

At some point, whether this election cycle or a future one, someone will file a lawsuit to challenge SB 193. I suspect it will come sooner rather than later. Litigation, whether successful or not, will most likely take years to resolve.

Any court will likely take interest in several problematic provisions in SB 193 that are, in various mixtures, impractical, unfair and constitutionally suspect:

1) Timing – Right now, there are minor political parties taking the necessary formal steps, under current law, to qualify for the 2014 ballot. Passing this bill will require them to scrap their current progress and spend their limited resources to adhere to SB 193. At the very least, this bill could be amended to make the effective date January 1, 2015. Fundamental and far-reaching changes in election law should not be done so close to major election dates. While the problems of minor party access deserve attention from this body to address past court rulings long ignored there is no reason those changes *must* apply to the 2014 election.

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2) Unnecessary petition requirements – Among other requirements, SB 193 requires minor political parties to obtain at least 500 voters' signatures from each of half of the congressional districts in Ohio on their party formation petitions (unless they receive a certain percentage of votes in a specific election which I will address in a moment). Sen. Seitz, the bill's sponsor, was quoted as saying, "that's to ensure that a minor party has some modicum of statewide support so that it's not limited to one little corner of the state". If a political party wants to be considered statewide and fails it should be because voters overwhelmingly rejected it, not because it was regulated out of existence. We say let the marketplace – the voters - decide.

3) Linking party existence to specific elections – Under SB 193, minor political parties can dispense with various requirements, including the one mentioned above, if their party's candidate receives 3% of the vote total in the most recent governor or presidential election. That is an improvement over the current 5%. However, why should the existence of a political party be so closely tied to its performance in *only* a governor or presidential race? What if that party does not want to field a candidate for governor? What if they, instead, choose to concentrate on races such as U.S. Senate, U.S. House, Ohio Senate or Ohio House, as examples? Or what if they choose to concentrate on local offices? This requirement offers them little choice but to run a candidate for governor or president even if that is not their intention or goal.

This is not an exhaustive list of problems with SB 193, a deeply flawed bill. But there is no doubt this subject needs attention from the legislature. It is far better for the Ohio General Assembly to abandon this bill, start over, and actually involve representatives from minor parties (among others) in drafting a new one.

As always, the ACLU of Ohio is available and willing to work on any improvements to this bill or similar legislation.