

MAKING DEMOCRACY WORK IN SC

# Network Update

**LWV** LEAGUE OF WOMEN VOTERS'  
OF SOUTH CAROLINA



May 28, 2022

## MDW SC Update: Act 165 & its Effects

There is considerable concern around the state about plans for early in-person and absentee by-mail voting under Act 165, the newly enacted elections and voting law. The following is offered as background for a better understanding of the issues.

At both the state and county levels, there has been very little time to implement a complex new law. Changing everything about in-person voting before election day at the last minute was never going to be trouble free. Also, election officials have been made very much aware that legislators believe they should have essentially no latitude in interpreting and implementing election law.

In general, election officials try to put election laws into effect in a way that works for voters. At present, they also must be very concerned that nothing they say or do can be construed as in any way critical of state law or those who make state law. If you see public comments from SEC officials, remember that under Act 165 they are only allowed to say that we live in the best of all possible worlds.

A secondary consequence of Act 165 is more restrictive interpretation of existing law and practice. This includes an end to submitting applications for absentee ballots by email or fax. An Attorney General's opinion has long been understood to permit this practice (the AG in question was Henry McMaster). However, because the opinion is less than totally explicit about application to absentee voting, the SEC has ended this practice. With other statutory changes in excused absentee voting by mail, this will make excused absentee voting an increasingly difficult process.

PLEASE encourage everyone possible to vote in-person early or on election day to minimize chances that their vote may not be on time or might be discarded for technical reasons.

However, early in-person voting is not going to be as easy as it should be. Some counties are listing only one early in-person voting location, leaving some voters with excessive distances to a polling place. In one case, Charleston County, there were alternative plans in place to use a mobile voting unit at six locations around the county, which has been done in the past. However, in the absence of explicit permission in the law for this measure the SEC has instructed Charleston not to use the mobile unit. In the short time frame available, this came too late before the May 24 deadline to inform SEC of early voting locations for other options to be identified and put in place, so this large county will have one early voting location.

In other cases, some counties that have in the past chosen to provide too few voting locations have repeated their behavior. Rep. Brandon Newton of Lancaster, primary author of the original early voting bill H.4919, provided a formula to prevent this and ensure that every county provided accessible locations for all. The formula was amended and was made workable as it went through the legislative process.

However, the formula was removed in the final amended version of S. 108. Nevertheless, the SEC has the legal authority to intervene to require counties to adhere to state law. The law states that:

*(G)(1) Each county board of voter registration and elections must determine locations for its early voting centers. In selecting locations for early voting centers, the county board of voter registration and elections must consider geography, population, and ADA compliant accessibility. The county board of voter registration and elections must distribute the locations throughout the county to maximize accessibility for all voters in the county to the greatest extent possible.*

Anyone who believes that their county is not meeting this standard can ask the SEC to intervene.

As the primary process continues, it will become very important for citizens to reach out to their legislators to improve the law so that voters are well served. In the meantime, be reasonable and even kind with your election officials. Demand that they do the best that they can, while understanding that at present sometimes that is less than we would wish.

~Lynn Shuler Teague  
VP for Issues and Action, LWVSC