



Testimony of FairVote – The Center for Voting and Democracy Drew Spencer, Legal Fellow

Presented to the Government Affairs and Immigration Joint Committee, May 9, 2013

About FairVote

I am a legal fellow at FairVote – The Center for Voting and Democracy. FairVote is a non-partisan, non-profit thinktank and advocacy organization working since 1992 on reforms ranging from election administration to electoral systems. Based in Maryland, FairVote works locally, statewide and nationally. FairVote has advised non-governmental organizations and policy-makers at all levels on the conduct of elections.

Analysis of Non-Citizen Resident Voting

FairVote has long advocated for an amendment to the United States Constitution explicitly affirming that voting is a fundamental right. We also advocate for local legislation expanding voting rights to youth after they turn 16. Although we do not have a position on voting rights for non-citizen residents, we believe commitment to a right to vote demands openness to expansion of suffrage rights to all members of a community with a stake in the outcome. When it comes to the right to vote, strict scrutiny should be applied to decisions to deny voting rights. As more communities debate FairVote's Promote Our Vote resolutions to support a constitutional right to vote and commit to local actions to encourage voter turnout and uphold suffrage rights, we believe more communities will join New York City in debating this change.

Resident voting was common earlier in our nation's history, and it remains in place today in many towns and cities. Towns in Maryland that permit non-citizens to vote include Chevy Chase Section 3, Garrett Park, Somerset, Martin's Addition, Barnesville, and Takoma Park (where FairVote is headquartered). These towns have made a decision that if a resident pays taxes and either pays rent or owns property within their borders, that person deserves a voice in city government. Even a town as small as Garrett Park, which only has about 20 non-citizens registered to vote, understands the value of suffrage enough to maintain a separate voter roll for those individuals, so that they will be able to participate in this most patriotic activity.

In interviews I conducted with several of these towns' clerks and town managers, I heard universal approval of including all residents of voting age in elections. Though the issue may seem like one that would provoke controversy, no town reported any opposition to legal resident voting or any attempts at repeal; indeed, Takoma Park elected officials seem wary of the possibility of consolidating local elections with congressional elections precisely because doing so might make voting rights for non-citizen residents too challenging to administer. Nobody I spoke to reported any special attention being paid to the issue; it seems that in these places non-citizen voters are treated just like any other voters. Most maintained a separate roll for non-citizen voters, but in local elections these rolls are merged, so that no one asked or knew which voters were citizens and which were legal residents.

One lesson from Takoma Park is that non-citizen voting will be most meaningful when combined with steps a city can take to encourage voter participation of all its residents. Recent citywide elections in Takoma Park have had voter turnout of registered voters of less than 20%, with low numbers also for non-citizen residents. Looking at new ways to engage city residents about the importance of local government and the value of participation will be important – and we suspect all the more valuable if twinned with expansion of suffrage rights.

Again, FairVote has no position on suffrage for non-citizen residents, but we can say that the evidence so far suggests that where a legal resident lives in a particular town or city and wants to vote, including that person in the activity of voting is not hard to administer and does not cause controversy. We are delighted to see the issue gaining more attention in more cities, and we look forward to conducting a more detailed analysis that we can provide to other places considering suffrage to non-citizen residents.