



Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

Shenna Bellows
Secretary of State

Julie L. Flynn
Deputy Secretary of State

JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

Testimony of Shenna Bellows Secretary of State
Department of the Secretary of State
April 07, 2021

Testifying In Opposition To
L.D. 253 "An Act To Strengthen Maine's Election Laws by Requiring Photographic Identification for the Purpose of Voting"
L.D. 557 "An Act To Require Photographic Identification for the Purpose of Voting"
and
L.D. 1083 "An Act To Create a Voter Identification System"

Senator Luchini, Representative Caiazzo and Members of the Joint Standing Committee on Veterans and Legal Affairs, my name is Shenna Bellows and I am the Secretary of State and the chief elections officer. I am speaking today in strong opposition to L.Ds. 253, 557, and 1083. We can all agree that the constitutional right to vote, guaranteed to all Maine citizens, is fundamental to our democracy. All voters should have the freedom to vote equally, and any bill that infringes on that freedom should be viewed with the strictest scrutiny with regards to the need and the public interest. Forcing people to carry a specific type of ID to vote would result in logistical challenges, financial burdens and potential discrimination.

First, the logistics of such a practice would cause undue hardship at all levels of election administration but especially for the approximately 500 municipalities that will be on the frontlines of implementation. The time for each voter to check in at the Incoming Voter List (IVL) and obtain a ballot would increase by the amount of time it would take for the voter to present the ID and the election official to look at it and confirm the voter's identity and address against the information on the voter list. While we do not have any scientific data on check-in times in Maine, on average the current process should only take about 1-2 minutes.

Although none of these bills have language to explicitly allow a voter without a photo ID to vote a provisional (i.e., challenged) ballot, the federal Help America Vote Act of 2002 (HAVA) requires that if an eligible voter is being denied the right to vote, they must be offered an opportunity to vote a challenged ballot rather than being turned away. The process for administering the challenged or provisional ballot would likely take several minutes, and towns would have to hire extra election officials to handle that process efficiently.

Requiring voters to carry an ID to vote does nothing to advance true election integrity. In the 26 years that Deputy Secretary Julie Flynn has overseen the Elections Division, there has not been any evidence presented to the State of voter impersonation at the polls in order to influence the outcome of an election.¹

In January of 2012, Deputy Secretary Julie Flynn prepared a report to the Secretary of State on our efforts to investigate suspected dual voting during the 2008 and 2009 elections; the report was shared with the Committee in 2012. Of the initial 240 pairs/groups of suspected dual voting, 229 of them were determined through administrative review to reflect only apparent (not actual) dual voting as the result of human error by election officials. Of the remaining 11 cases referred to the Attorney General for investigation, only 2 resulted in prosecution after further investigation; while the other 9 cases reflected apparent (not actual) dual voting as the result of human error. Experience has shown that where there has been a suspected case of fraud, there have been safeguards in place from the municipal level going to the Attorney General's office so that these incidents would be identified and investigated promptly. Thus, we believe these bills present a solution for which there is no documented problem.

Second, implementing a voter ID requirement would create significant administrative tasks and costs for the Bureau of Motor Vehicles (BMV) and the Elections Division of the Secretary of State. The BMV would incur the cost of materials for producing the free Maine non-driver identification card for any registered voter or prospective registrant who does not have a photo ID. Currently, there are 1,214,773 registered voters in Active status. Of those, there are 162,266 individuals who could not be matched with a Maine driver license or state ID credential, and thus would require some other form of photographic identification if they wished to vote at the polls. While some of these voters may have a passport or federal photo ID, there is no way to know how many of these voters do not have a photo ID and would need to obtain the free photo identification document described in LD 1083.

The cost to the BMV to produce a credential for eligible persons who do not have another form of acceptable photographic identification to verify identity for the purpose of voting is \$3.46. Thus, it would cost approximately \$561,440 to provide these cards to 162,266 potential voters. These costs are only to cover the materials, and do not take into account the increased workload on the BMV main and branch offices to administer the application process and produce the non-driver ID cards for up to 162,266 individuals. There certainly could be a large number of voters trying to obtain the ID cards in the days or weeks prior to an election.

Moreover, based on the experience of other states that have implemented a voter ID requirement, Maine would also incur the costs of designing and implementing a voter education and outreach program to inform voters of the new law as well as how to obtain the free voter ID card if needed. The National Conference of State Legislatures (NCSL) published a study in 2014 of the costs for implementing a voter ID law and indicated that the voter outreach costs ranged from \$40,000 in Mississippi for TV ads (out of a total of \$220,000 appropriated for implementation) to \$600,000 in Indiana during the implementation year.

¹ In the 2020 election, there was a situation of a college student voting using her roommate's absentee ballot. However, the Attorney General stated there was no indication the student intended to do so in order to influence the outcome of the election but rather she did it because of a "personal dispute." *University of Maine Student Accused of Voting as Roommate*, Associated Press, Oct. 20, 2020, <https://apnews.com/article/elections-crime-maine-voting-2020-voting-1e466c446d2258bf0a02900b2ea52071>.

States also have spent millions of dollars on litigation costs as voter ID laws have been challenged in the courts. Since the court decisions have been based on the specific requirements in each state's laws and specific facts about their impact, it is hard to predict how this particular law would fare if it were challenged. However, the exclusion of college IDs from the acceptable forms of identification might be challenged on equal protection or Twenty-Sixth Amendment grounds as alleged age discrimination or it is conceivable the law could also be challenged under Article II, §1 of the Maine Constitution as an unauthorized additional qualification for voters. Additionally, provision of free IDs does not insulate these bills from legal challenges. Texas, North Carolina, and Wisconsin all provided for free IDs in their voter ID laws, and all three laws wound up being enjoined by lower courts, although in each case, those injunctions were ultimately dissolved by appellate courts. It would be a mistake to assume that because those states ultimately prevailed, Maine would as well. The fact that injunctions initially issued in all three cases shows that these are close legal questions that will turn at least in part in the evidence that plaintiffs can muster of a substantial burden on voting.

Finally, we should be proud of the work we have done in Maine to move us forward toward greater participation, consistently ranking in the top 3 nationally for voter turnout. We should avoid any changes that make it harder to vote or that would move us backward. Implementing these bills would undermine the good, bipartisan work we have always done to protect Mainers' voting rights. Passing these bills would mean putting into statute discriminatory practices rooted in white supremacy. In order to bypass constitutional amendments meant to enfranchise individuals enacted after the Civil War, states implemented literacy tests, poll taxes, and good moral character tests to keep Black voters from the ballot box.² By the early 1890s in Mississippi, racist tactics coupled with violence and intimidation, resulted in reducing the percentage of eligible Black voters from more than 90 to less than 6.³ Today, voter ID laws are the new means of voter suppression. In a report by the U.S. Commission on Civil Rights, a bipartisan and independent organization, the Commission found that practices such as voter ID laws "wrongfully prevent some citizens from voting . . . and have a disparate impact on voters of color and poor citizens."⁴ These bills would not only negatively impact people of color but also the elderly, transient, people with disabilities, students, and low-income communities. In order to make our democracy as representative as possible, we cannot enact practices that would shut out certain members of society.

For the above reasons, we oppose these bills. I thank you and would be happy to answer any questions that the committee may have.

² Gumbel, Andrew, *America's Shameful History of Voter Suppression*, The Guardian, Sep. 13, 2017, <https://www.theguardian.com/us-news/2017/sep/13/america-history-voter-suppression-donald-trump-election-fraud>.

³ McKeever, Amy, *Voter Suppression Has Haunted America Since it was Founded*, National Geographic, Aug. 21, 2020, <https://www.nationalgeographic.com/history/article/voter-suppression-haunted-united-states-since-founded>.

⁴ *An Assessment of Minority Voting Rights Access in the United States – 2018 Statutory Report*, U.S. Commission on Civil Rights, Sept. 2018, available at https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf.