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JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

LD 155 “An Act to Protect Voting Integrity by Establishing a Residency Verification”

Testimony Provided by Julie L. Flynn, Deputy Secretary of State

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Senator Mason, Representative Luchini and Members of the Committee:

The Secretary of State is opposed to this legislation, which would establish a residency verification requirement only for students at a postsecondary educational institution who live in campus housing. Because this bill creates a different set of requirements for different classes of voters, it violates the Equal Protection clause of the Fourteenth Amendment to the U.S. Constitution.

To avoid an Equal Protection violation, the State would have to apply a residency verification requirement to all voters, rather than just to one group or class of voters. However, applying only the three factors in the bill to all voters would create a different problem – voters who don’t drive or who have not lived in Maine long enough to file a Maine income tax return would have no way to have their residency verified. Additionally, owning property and paying property tax in Maine is not evidence of residency, as a person may own a residence in which they do not live, or which they rent to another person.

Current law already requires that all persons who register to vote must provide proof of residency to the Registrar of Voters in order to register to vote. Title 21-A section 112, subsection 1, paragraph A, provides a list of factors that may be offered by an applicant and considered by the Registrar in determining whether the applicant is a qualified resident. These factors include the residence address listed on a Maine driver license (or state identification card), the place where any motor vehicle owned by the person is registered, and the residence address shown on a current income tax return. However, the residency factors in current law also include:

- a direct statement of intention by the person (i.e., an oath of residency);
- the location of a dwelling currently occupied by the person (e.g., as shown on a rent receipt, lease agreement, utility bill, etc., bearing the applicant’s name and residence address);
- the residence address at which a person’s mail is received (e.g., as shown on official mail such as a bank statement, W-2 form, paycheck stub, etc., bearing the applicant’s name and residence address);
- the residence address shown on a current resident hunting or fishing license held by the person;
- the receipt of any public benefit conditioned upon residency (e.g., evidence of eligibility for general assistance or state/federal welfare benefits, or a homestead tax exemption showing the person’s name and residence address); or
- any other objective facts tending to indicate a person’s place of residence.

The Registrar does not need to find all of these factors to be present in order to conclude that an applicant qualifies to register to vote in the municipality. Although many voters do have a Maine driver license or ID credential, others do not. As Maine's durational residency provision was struck down as unconstitutional decades ago, a voter can move to Maine, or to a new residence in Maine, on Election Day, and be eligible to register and vote in the municipality. At the time they register to vote, new voters may not have updated the address on their driver license or vehicle registration or filed Maine income tax returns from that address, and a requirement that verification be limited to these items would likely be successfully challenged.

Finally, the Registrar has no database or information source available to use to independently verify the residence of a voter based on the factors listed in this bill. Rather, the voters would have to supply the documents needed to verify residency to the Registrar. As the proposed bill does not also amend the provisions that govern voter registration during the Closed Period (i.e., the 20 days prior to the election) and on Election Day, the Registrar would have to allow these voters to vote a challenged ballot and sort it out via hearing after the election.

I would be happy to answer any questions you have, either now or at the work session.