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JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

Testimony of Shenna Bellows, Secretary of State
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Testifying in Support of

L.D. 233 “An Act to Ensure Efficiency in Petitions Reviewed by the Secretary of State
by Clarifying Deadlines Related to Those Petitions”

Senator Hickman, Representative Supica 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 State’s chief elections officer. I am speaking today in strong support of L.D. 233.

L.D. 233 is an important bill that will protect the integrity of Maine elections by smoothing out the workflow requirements placed on a small elections staff without a significant impact on the petitions process or increased costs to the state. Specifically, L.D. 233 would allow the Secretary of State to process petitions within 30 business days, rather than 30 calendar days, after the deadline for submission to the Elections Division. This bill does not change the amount of time a petition campaign has to gather signatures, nor the lifespan of those signatures. Additionally, this bill does not negatively impact the timeframe in which the court may conduct judicial review.

Please note that there is an amendment to the bill as originally printed to avoid any constitutional issues. We appreciate the Office of the Attorney General’s assistance in drafting the amendment, which does not change the substance or the goal of the bill in any capacity.

I will also note there is a constitutional amendment that accompanies this bill that has not yet been released by the Revisor’s Office. Therefore, for this bill to become effective, the constitutional amendment would need to be ratified.

The Department fully supports the citizen’s initiative and people’s veto processes outlined in Maine’s Constitution. We are proud of Maine’s tradition of citizen engagement in our democracy. We also take seriously our obligations under the Maine and United States Constitution to conduct free, fair and secure elections. In the fall of 2022, our elections division of only 11 staff found themselves in an unprecedented situation – having to review over 159,000 signatures across two citizen initiatives within 30 calendar days while simultaneously preparing for a general election and then having to conduct a ranked-choice central count, several recounts, and the final statewide tabulation. As you can imagine, this placed the elections division in an intense and stressful situation.

In order to assist the elections staff, we employed the help of a temporary agency who was able to send four additional personnel; we enlisted help from the other bureaus within my department – particularly the Bureau of Motor Vehicles; and even deployed my Deputy Secretary Policy Advisor to, in addition to her own work responsibilities, work full-time with the election staff. I joined the team on evenings and weekends to engage in data entry, duplicate checking and petition certification alongside my team as well.

For 35 days straight this team, including myself, worked tirelessly to process the two petitions while ensuring our elections procedures were upheld. This resulted in a massive amount of overtime hours spent to complete our work. However, despite the immense workload, we accomplished all our legal requirements. I am proud to report that the 2022 general election and subsequent recounts and tabulation were successful, and we accurately certified the two petitions.

In December, I unfortunately found myself in the unprecedented position of asking new petitioners not to submit prior to the Christmas holiday, so I could permit staff to take vacation time. This was especially important given that staff had so few free weekends and evenings in the fall. Subsequently, two petitions were delivered to the Elections Division on December 27 and January 19 respectively. We once again found ourselves recruiting personnel from other Bureaus, hiring temporary workers and requiring emergency overtime hours on nights and weekends.

While I am immensely proud of the work we did and indeed are doing now, I know this is not a sustainable situation. I'm particularly concerned about the impact these simultaneous and arduous requirements could have on the quality of election administration in the future. Alternatively, the near impossibility of such a difficult workload could lead future Secretaries to choose to send all petitions to the ballot without certification. Additionally, in an era when we are seeing massive retirements and exits of election professionals from the field because of threats to election workers and the demands placed upon them, I am concerned that forcing staff to continuously engage in such intense overtime work without relief will contribute to staff turnover and difficulty in recruiting election staff in the future. We urge the legislature to fix the process to safeguard the integrity of future elections and petition certification processes alike.

Overview of the petition process

Some may ask why the petition certification process generates such an extraordinary level of effort including overtime hours when confined to the 30-day calendar timeline. It's important to understand that the current process for determining the validity of a petition is a multi-step, manual process. First, once a campaign delivers their boxes of petitions, elections staff remove every petition from the box and begin organizing them alphabetically by town. As each petition is removed from their original box, election staff check that each signature page has the corresponding legislation stapled to it (if it is a multi-page petition) and must take note if it is not. Next, the petitions are hand counted twice into batches of 50 and placed in labeled manila folders and new boxes. Then, a numeric sticker is placed on every single petition page. Once every petition is numbered, the following information from the petition is manually entered into a database: name of the signer, the town where the person signing is registered, and the petition number and line number where the signature appears. For one of the petitions that was submitted before Election Day in 2022, that meant over 74,000 signatures.

Once all the information from the petitions is entered into a database, staff then need to conduct checks for duplicate signatures. In order to do this, the information entered is generated into a report that is then reviewed by staff for potential duplicate signer names. Upon the identification of a potential duplicate signature, a team of two staff pull each petition where a potential duplicate name appears and examine the signature and handwriting to determine whether the signature was made by the same person on each petition. For each duplicate, staff notates on each petition which was the original signature, which was the duplicate, and on which petition and line to find the corresponding signature. When all potential duplicate signatures have been reviewed, every petition undergoes a certification process where several elements must be met including proper dates, review of circulator affidavits, and proper notarization of the petition, to name a few. Again, this step is all done manually. What required elements are or are not present determines the validity of the signatures on the petition. For example, if a signature was dated more than one year before submission to the Secretary of State or a petition was not properly notarized, those would be grounds to invalidate a signature or multiple signatures. Once that is completed, the number of valid signatures, and the number and reason for any invalid signatures are entered into the database, along with the names of the circulators and the notaries and the date of the notarization.

The final step involves proofing every petition and the corresponding data entry to ensure the number of valid and invalid signatures determined during the certification step have been correctly recorded. To reiterate, this is done manually.

We are currently working on updating our central voter registration (CVR) system, Phase I of which we will implement later this year. We look forward to this updated system for many reasons – including the petitions module the new CVR will contain (included in Phase II for completion in 2024.) This module will allow us to automate some of the manual procedures we do when processing petitions. However, this alone is not a solution to the current problem because it still will not prevent a situation where multiple petitions are brought to the elections staff at once for processing during the peak season of election administration.

The change in L.D. 233 from 30 calendar days for this work to be completed to 30 business days following the deadline for submission to the Elections Division, coupled with the new CVR, would provide necessary relief and a more efficient workflow. Most importantly, passage of L.D. 233 would safeguard the quality of election administration and petition certification processes by ensuring the two are not required to be conducted simultaneously.

For the above reasons, I support L.D. 233 and appreciate Representative Supica introducing this important piece of legislation. I thank you for the opportunity to testify and would be happy to answer any questions the committee may have.

An Act to Ensure Efficiency in Petitions

Be enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §905, sub-§1, as amended by PL 2017, c. 277, §6, is further amended to read:

1. Secretary of State. The Secretary of State shall review all petitions filed in the Department of the Secretary of State for a people's veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17, or for a direct initiative under the Constitution of Maine, Article IV, Part Third, Section 18.

The Secretary of State shall determine the validity of the petition and issue a written decision stating the reasons for the decision within 30 business days from ~~the date of filing of a written petition~~ the constitutional deadline for filing of a written petition with in the Department of the Secretary of State under the Constitution of Maine, Article IV, Part Third, Section 17 or 18.

The Secretary of State may invalidate a petition if the Secretary of State is unable to verify the notarization of that petition.

Sec. 2. 21-A MRSA §905, sub-§3, as amended by PL 2021, c. 570, §9, is further amended to read:

3. Supreme Judicial Court. Any aggrieved party may appeal the decision of the Superior Court, on questions of law, by filing a notice of appeal within 3 days of that decision. The appellant must file the required number of copies of the record with the clerk within 3 days after filing notice of appeal. After a notice of appeal is filed, the parties have 10 days to file briefs with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The standard of review must be the same as for the Superior Court. Except as provided in subsection 4, the court shall issue its decision within 30 days of the date of the decision of the Superior Court, provided that, if Art. IV, pt. 3, § 22, of the Maine Constitution is applicable to the appeal, the court's decision will issue sooner if necessary to complete judicial review within 100 days of the filing of the petition with the Secretary of State.

Section 3. Effectiveness

This Act shall become effective only upon ratification of an amendment to Article IV, pt. 3, §22, of the Maine Constitution consistent with the provisions of this Act.

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. IV, Pt. Fourth, § 22 is amended to read:

Section 22. Election officers and officials, how governed. Until the Legislature shall enact further laws not inconsistent with the Constitution for applying the people's veto and direct initiative, the election officers and other officials shall be governed by the provisions of this Constitution and of the general law, supplemented by such reasonable action as may be necessary to render the preceding sections self executing. The Legislature may enact laws not inconsistent with the Constitution to establish procedures for determination of the validity of written petitions. Such laws shall include provision for judicial review of any determination, to be completed within 100 days from the ~~date of filing of a written petition~~ deadline for filing of a written petition in the office of the Secretary of State.