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JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

Testimony of Julie L. Flynn, Deputy Secretary of State
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Testifying in Support of

L.D. 1012 “RESOLUTION, Proposing an Amendment to the Constitution of Maine
Regarding the Timing of Judicial Review of the Determination of the
Validity of Written Petitions”

Senator Hickman, Representative Supica and Members of the Joint Standing Committee on Veterans and Legal Affairs, my name is Julie Flynn and I am the Deputy Secretary of State for the Bureau of Corporations, Elections and Commissions. I am speaking today in strong support of L.D. 1012.

L.D. 1012, in conjunction with L.D. 233 heard last month, 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 creating a significant impact on the petitions process or increased costs to the state. Specifically, L.D. 1012 changes the time period for judicial review of the validity of a written petition, from 100 days after submission of the petition to 100 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 change the timeframe in which the court may conduct judicial review.

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 the department – particularly the Bureau of Motor Vehicles; and even deployed the Deputy Secretary Policy Advisor to, in addition to her own work responsibilities, work full-time with the election staff. The Secretary of State and I

joined the team on evenings and weekends to engage in data entry, duplicate checking and petition certification.

For 35 days straight this team, including the Secretary and me, 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, Secretary Bellows found herself in the unprecedented position of asking new petitioners not to submit prior to the Christmas holiday, so I and several key election staff could take vacation time. This was especially important given that we 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 we are immensely proud of the work we did and indeed are doing now, we know this is not a sustainable situation. We're 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, we are 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 from submission. 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 ensuring they are arranged alphabetically by town. As each petition is removed from the 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 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: the 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. 1012 for judicial review of the validity decision for a petition to be completed within 100 calendar days following the Constitutional deadline for submitting petitions, rather than 100 calendar days from the date the petitions were submitted to the Secretary of State, in addition to the statutory changes proposed in L.D. 233, and coupled with the new CVR, would provide necessary relief and a more efficient workflow. Most importantly, passage of L.D. 1012 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. 1012 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.