



TESTIMONY OF ALICIA REA, ESQ.

LD 1149 – Ought Not to Pass

An Act to Require an Individual to Present Photographic Identification for the Purpose of Voting

Joint Standing Committee on Veterans and Legal Affairs

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Senator Hickman, Representative Supica and members of the Joint Standing Committee on Veterans and Legal Affairs, good afternoon. My name is Alicia Rea and I am a policy fellow for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions through advocacy, education, and litigation. On behalf of our members, I urge you to oppose LD 1149.

While this measure is billed as “An Act to Require an Individual to Present Photographic Identification for the Purpose of Voting,” this referendum in fact requires much more than photographic identification for the purpose of voting, with far reaching changes to Maine’s already safe and secure election processes. These changes will make it harder for eligible Maine voters to access the ballot box. Changes to voter identification processes are serious and the ACLU of Maine objects to that voter suppression tactic, and the additional elements of this bill must be highlighted for this committee and the public to know what is contained in the citizen initiative.

Changes Beyond Voter Identification

Restrictions on absentee voting simply create barriers that make voting harder for eligible voters. As the oldest state in the nation, it is critical that our safe and secure systems support access by Maine elders. As a state that celebrates support for its rural communities, we need to ensure access to the polls for those residing outside of our population centers, where internet access is less reliable and travel imposes logistical burdens. The current absentee voting system in Maine is secure, safe, and has proven incredibly popular for elders, rural Mainers, and others—from merchant mariners to disabled voters. This proposal could disenfranchise those of all political persuasions across the state by imposing a range of new and unnecessary processes and barriers.

Ongoing Absentee Voting

This bill proposes to change how absentee voters may request their absentee ballot, eliminating the existing option that allows voters over the age of 65 and those who self-identify having a disability to apply for status as an ongoing



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absentee voter.¹ Eliminating the ongoing absentee voting program means that Maine elders and Mainers with disabilities will have to go back to requesting an absentee ballot repeatedly for each and every election.

The impacts of changes to ongoing absentee voting will be felt most noticeably in the first elections following the policy change, as voters who expect to automatically receive absentee ballots may not have enough time to learn about the change and then make their request in writing or in person, prior to the next election. Combined with the elimination of the ability to request an absentee ballot by telephone, this change will suppress eligible votes in upcoming elections.

Absentee Voter Application by Telephone

This bill eliminates the ability of absentee voters to request a ballot over the telephone.²

This proposed restriction assumes that voters needing to vote absentee in Maine have the ability to get to their election clerk's office in-person or to communicate the request by electronic means. But absentee ballots are meant for those who have trouble accessing their polling place on election day, and they are likely to have barriers to getting to their election clerk's office, as well. These Mainers may be unable to drive, face mobility limitations, work an overnight shift, or may be mariners at sea thousands of miles away.

By allowing electronic means as the alternative to requesting a ballot in person or by mail, this proposal assumes that voters in Maine have access to both computers and reliable internet. We know that this simply isn't true—rural Mainers, those with limited technical proficiency, and those without the means to afford home computers will have fewer options for requesting their ballots, suppressing more qualified voters.

Challenged Ballots

This bill adds three additional reasons for a voter or municipal official to challenge another voter's ballot.³ The proposed additional reasons to challenge a voter's ballot are if (1) the voter did not present valid photo identification when voting in-person, (2) the voters' signature does not correspond with the person's registration signature, and (3) if an absentee voter did not include the identification as required in the ballot initiative. Signatures can change over time while documents may not change as quickly—this change could impact young voters who might adopt one signature when they are obtaining drivers licenses at age 16 when they cannot vote until two years later, at age 18. Voters with a self-identified disability might also have changes in their signatures. Finally, not all voters will know of the updated identification requirements in

¹ 21-A M.R.S. §754-A(2).

² §754-A(4).

³ The current standards for challenging a voters' ballot are codified at 21-A M.R.S. §673(1).

submitting their absentee ballots and the burden of explaining this change to voters will unfairly fall upon municipalities.

Drop Box Changes and Postage Prohibition

This bill will require drop boxes for ballots to be located outside the office of the registrar, on the property on which the office of the registrar is located. It would also restrict each municipality to one drop box. This will, again, impact voters who are otherwise eligible to vote by requiring them to travel to a single location, possibly not centrally located, to submit their absentee ballot into a drop box. Combined with the portion of this initiative that prohibits municipalities from providing return postage on absentee ballots, these provisions have the effect of discriminating against eligible voters on the basis of poverty. If an eligible voter cannot afford stamps or to pay for a ride to the drop box, eligible votes will be suppressed.

Bipartisan Election Officials

This bill will require a “bipartisan team of election officials” to retrieve absentee ballots from drop boxes. Currently, municipal clerks or a team of 2 people designated by the municipal clerk may retrieve absentee ballots from drop boxes.⁴

While this change may seem minimal, it will require the municipality to seek out Democratic and Republican representatives to perform these routine duties that have been entrusted to municipal clerks who administer safe and secure elections. It is unclear who these bipartisan election officials might be. If they must be employed by the city, this will limit smaller municipalities who might not have folks from both parties in their employ. If the election officials are those who volunteer to help administer elections, then it will place a burden of coordination on the clerk to find and manage these volunteers over the absentee ballot period. There is no evidence or reason to not place our trust in the municipal clerks and their designees, who have faithfully discharged their duties in our elections.

Issuance of Absentee Ballots

This bill’s issuance of the absentee ballot section would mandate municipal clerks to mail “identification envelopes” with a form that states, among other things, that the voter declares “under penalty of unsworn falsification” that the ballot arrived with no marks and the voter is the person who caused the ballot to be marked. The form goes on to state in all capital letters that “WHOEVER COMMITS UNSWORN FALSIFICATION COMMITS A CLASS D CRIME.” While this is true under Maine law, there is no explanation of the

⁴ See 21-A M.R.S. §752-B.

elements of the crime of unsworn falsification contained on the identification envelope.⁵

Voter Identification

Here in Maine, we are proud to be a leader on voting rights. The Maine legislature has repeatedly rejected efforts to restrict access to the ballot. And in 2013, the issue of voter ID was comprehensively investigated and rejected by the 2012 Elections Commission, a taskforce chaired by former Superior Court Judge John Atwood. The commission was formed by then-Secretary of State Charles Summers pursuant to a 2011 voter ID bill that was amended into a study. The Commission researched legal cases, considered policy research, and held hearings across the state of Maine. Hundreds of Mainers offered testimony, both in person and in writing. In their final report, members of the Commission weighed the pros and cons of a voter ID law in Maine and recommended against voter ID, finding that “the negative aspects of a Voter ID law outweigh its potential benefits.”⁶

We strongly agree with the 2012 Elections Commission. Voter ID in Maine will create many problems:

First, this bill will prevent legal, registered voters from casting their votes. Maine elders, who may have given up driving, and people living in poverty, who may not be able to afford a car, are less likely to have a driver’s license. Mainers living in rural areas will face challenges getting to a state office to obtain a photo ID. Birth certificates, passports and other documents required to get a government-issued ID cost money and require resources that many Mainers simply do not have.

Second, this proposal will create confusion at the polls, slowing down the process. The bill is explicitly clear that the photo ID is only to verify identity, not residence, which will likely inject confusion into the process when the address on a person’s ID differs from the address on the voting log. The bills are silent about what happens if an election clerk or warden thinks the photo ID does not match the voter. Can the voter appeal? Is the voter required to produce a corroborating ID? What happens if a voter is improperly turned away?

Third, this bill places a heavy burden on election workers. Clerks and wardens will have to be trained on which photo IDs are acceptable, they will have to recognize valid IDs from all 50 states, the federal government, and be familiar with verifying the veracity of concealed carry permits, under these two bills.

⁵ The crime of unsworn falsification is codified at 17-A M.R.S. §453.

⁶ 2012 Elections Commission Report, available upon request.



Finally, this proposal will cost money that would be better spent elsewhere. Resources will be needed to train election workers. If the legislature fails to provide funding for such training, the bill may be an unfunded mandate. With ongoing economic hardship in the state, surely this money could be spent elsewhere in a way that would benefit Mainers.

Because this citizen initiative will create real risks to legal Maine voters, we urge you to oppose it.