



TO: The Honorable Louis Luchini
The Honorable Chris Caiazzo, Co-Chairs
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: February 10, 2021

RE: RESOLUTION, Proposing an Amendment to the Constitution of Maine To Implement
Ranked-choice Voting

Good morning Senator Luchini and Representative Caiazzo.

My name is Will Hayward. I am here today as the Advocacy Program Coordinator on behalf of the League of Women Voters of Maine. I am testifying in support on LD 202, RESOLUTION, Proposing an Amendment to the Constitution of Maine To Implement Ranked-choice Voting.

The League of Women Voters of Maine is a nonpartisan political organization that has been working for over 100 years to encourage informed and active participation in government, to increase understanding of major public policy issues, and to influence public policy through education and advocacy. We never support or oppose any political party or candidate.

In single-seat elections, the League of Women Voters of Maine supports election systems where the winner is the person who receives a majority of the votes. We believe that the majority threshold is healthy for our democratic process and provides a mandate for governing. We support ranked choice voting as the best way to determine which candidate has a majority of the vote. We have not supported runoff elections due to the fall-off in turnout that regularly occurs in the runoff vote, and the additional resources they require.

The League supports LD 202. This bill would remove the impediment to ranked choice voting identified by the 2017 Solemn Occasion opinion of the Maine Supreme Court. It would eliminate the constitution's requirement of a "plurality" vote winner in the general election for state offices. A majority of voters have taken a stand in favor of ranked choice voting on two occasions, including for these state offices. But the court has advised that the constitution must be amended before the full will of the voters can be realized.

We believe that this issue is sufficiently important that voters should have the final say, and sending them a proposed amendment to the constitution will do that. Constitutional amendments in Maine are far more common than they are in the federal system. The Maine Constitution has been amended 173 times since statehood in 1820. The current "plurality" rule is itself the result of constitutional amendments. At least five separate amendments – the 7th, 10th, 13th, 24th, and 88th – touched on the question of the election of various state officials by a plurality or a majority.

When a constitutional provision has been changed several times, perhaps that means that the provision is the kind of question that should not be deeply embedded in the source document of our political and legal system, but instead should be subject to the policy making branch's judgment, which may change as circumstances change.

That's what a constitutional amendment should do. It should not enshrine ranked choice voting in the constitution. Given our long experience with this question, it should allow the legislative branch to determine the voting method.

Even those who do not necessarily favor ranked choice voting should consider supporting this resolve. The net effect of enacting this proposal is only to give voters the chance to approve a constitutional amendment that removes the "plurality" obstacle to future ranked choice voting races for these offices. If you believe this issue should be decided on the basis of the expressed will of the voters exercising their constitutional rights, then we respectfully suggest that you should support this bill.

LD 202 simply replaces the word "plurality" with the word "majority" in several places in the constitution. This would commit the state to always using the "majority" standard, and therefore would plainly require abandoning the current "first past the post" approach. But it does not decide whether the majority winner would be determined by ranked choice voting or by a runoff election. Therefore the bill's title – "Proposing an Amendment to the Constitution of Maine To Implement Ranked-choice Voting" – is somewhat inaccurate.

A bill in the 129th Legislature – LD 1477 – would have removed the "plurality" or "majority" language from the constitution altogether, and directed the method of election to be determined by the Legislature (or the people acting through their citizen's initiative power).

Elections by plurality or majority. The Legislature, or the people acting pursuant to Section 18, shall predetermine by law whether the electors choose the Governor, Senators and Representatives by a plurality or majority of the votes.

This would both enable the implementation of ranked choice voting in the form that voters intended, and enable future changes to election methods without yet another constitutional amendment. We support this legislation as presented, but believe this alternative leaves open a wider range of options moving forward.

Thank you for the opportunity to testify. I would be happy to answer any questions from the Committee.