



*Department of the Secretary of State*

*Bureau of Corporations, Elections and Commissions*

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**JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS**

Testimony of Shenna Bellows Secretary of State

Testifying in Opposition To

L.D. 1496 "An Act To Establish the Board of Canvassers for Certifying Election Results"

*April 21, 2021*

Senator Luchini, Representative Caiazzo 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 chief elections officer. I am speaking today in opposition to L.D. 1496.

Although some states do have a separate board that “canvasses” or “certifies” the election results reported by the local election officials, other states, including Maine, give that responsibility to the Secretary of State. This is a significant – albeit ministerial – duty to receive and aggregate the official returns filed by approximately 500 voting jurisdictions into a statewide tabulation of the vote, which can be reported to the Governor and posted on the Secretary of State’s publicly accessible website.

From a policy standpoint, it is unclear what value is added by having a partisan board do a second review of the nonpartisan staff’s careful tabulation of the vote. And from an administrative and logistical perspective, it would be impossible, even with substantial overtime, to compress the current process of creating the tabulation from 20 days to 10 days, in order to add the time needed for the second review and certification by the Board.

Attached to the end of this testimony is a summary of Maine’s current process for creating the official tabulation of the votes for all offices and ballot questions at a particular election. For the Special Senate District 14 Election on March 9<sup>th</sup> of this year, with only 11 municipalities – all of which finished their tabulator tallies and Returns of Votes Cast (ROVC) before 9 p.m. on election night - the Secretary of State was able to complete the official tabulation by the morning of March 10<sup>th</sup> and communicate the proclamation to the Governor.

However, for state primary and general elections, the Elections Division usually needs all 20 days to complete the statewide tabulation. Remember, during this same period, while some staff are completing the tabulation, others are conducting the central ranked-choice count and/or conducting any requested recounts. Likewise, a special election for a statewide office or even a Congressional District, with a significant number of municipalities involved, will take most, if not all, of the 20 days allotted by law to complete. The proofreading process alone may take 3 to 4 days.

The returns from the November 2020 general election take up about three, 3-inch binders, for example. If the Board is expected to complete a second review of all the municipalities' ROVC's (comparing the Warden's ROVC with the Clerk's ROVC) and proofread the printed tabulation again, it would likely take longer than the 3-4 days it takes the experienced elections staff to do.

Another concern is the ability for 3 or more members of the board to order a recount of all the ballots cast within a specific municipality or within the whole electoral district, if the members "determine that the returns submitted by municipal election officials are not accurate", as provided on page 2, lines 37-40. On what basis would the board make this determination? The Municipal Clerks do not submit a copy of the tabulator tally tapes, individual machine or lot tally sheets, or the Warden's Total Tally Sheets, on which the tallies from multiple tabulators or hand-counted lots are aggregated for recording on the Return of Votes Cast. Without these backup documents, it is difficult to understand what would justify the determination that the results were not accurate or the ordering of a recount. And once ordered, this would add to the work of the Elections Division to retrieve the ballots and conduct the recounts. It is unlikely these could be completed by the 20<sup>th</sup> day after the election so that the final results from the recount would be reported to the Governor. Instead, the tabulation would show the election night results and a "pending recount" footnote, and a corrected tabulation would have to be submitted to the Governor once the recounts are concluded. Moreover, we might not be able to complete the recounts of a Senate or House district ordered by the board and the new tabulations in time to produce the certificate of election needed to summon a Senate or House member to the convening of the Legislature as required by the Constitution.

And while it sounds simple to create a board with 2 members each from the major political parties during the odd-numbered year, it is likely that there will be one or more vacancies or members who are unavailable by the time they are needed to canvass the tabulation of the next general election more than 18 months later. If there is more than one vacancy, the board will not have a quorum, and there is no provision for appointing persons to fill the vacancy or vacancies in this proposal.

For the above reasons, we oppose this bill. I thank you and would be happy to answer any questions that the committee may have.

**Secretary of State's Process for Completing the Election Tabulation**  
**Attachment to Secretary of State's Testimony on L.D. 1496**

Following is Maine's current process for creating the official tabulation of the votes for all offices and ballot questions at a particular election:

- On election night, after all ballots are tabulated, the Warden completes and signs the Warden's Return of Votes Cast (ROVC) and delivers it to the Municipal Clerk;
- The Municipal Clerk reviews the Warden's ROVC against the tally sheets and tally tapes to determine if it is correct or if it has obvious errors that must be corrected;
- By 5 p.m. on the 2<sup>nd</sup> business day after the election (Thursday), the Municipal Clerk submits the municipality's election returns by delivery service, by fax or by email to the Elections Division of the Secretary of State. The return consists of 2 parts:
  - (1) an attested copy of the Warden's ROVC that was filled out by hand and originally signed at the completion of the count on election night, and
  - (2) the certified Clerk's ROVC, which was entered (based on the original Warden's ROVC or as corrected by the Municipal Clerk), saved and certified in the CVR, then printed, originally signed and dated by the Municipal Clerk;
- Starting on the day after the election, nonpartisan staff of the Elections Division help municipalities resolve issues with their returns and review the returns that are submitted by the municipalities;
- By the 3<sup>rd</sup> day after the election (Friday), staff begin to contact the municipalities that either have not submitted both of the ROVCs (we often have 10 – 20 % of the towns still outstanding by that date) or have submitted ROVCs that do not match and there is no notation of why changes were made;
- Once all (or nearly all) the municipalities are confirmed to have entered their ROVC's into the CVR - this may be up to 2 weeks after the election - the Elections Division staff extracts a results file for each office and for the ballot questions, each of which must be put into a spreadsheet and formatted for readability;
- Once the formatted spreadsheets are ready, a team of 3-4 staff proofreads the results spreadsheet for each office against the Warden's ROVC to ensure the correct numbers were entered;
- Once all the results spreadsheets are proofed and all corrections are made, the Secretary of State signs a proclamation of the votes to submit to the Governor by the 20<sup>th</sup> (calendar) day after the election.