



**League of Women Voters
New Hampshire**

January 29, 2015

Rep. Kathleen Hoelzel, Chairman
House Election Law Committee

Re: House Bill 112, AN ACT relative to domicile for voting purposes.

Dear Chairman Hoelzel and members of the committee:

The League of Women Voters was founded by the women who fought for more than 70 years to get the right to vote. We take voting seriously, and we pride ourselves on our work to make voting accessible to all citizens who are at least 18 years old as our United States and New Hampshire Constitutions require.

While voting is guaranteed to citizens 18 or older, the U.S. Constitution leaves it to the states to decide the procedures for voting. That means states can decide when, where and how votes are cast. It does not grant to states the right to set arbitrary restrictions on the right to vote. The right to vote belongs to citizens 18 years old or older. It is also not the job of legislators to vote on bills based on what makes them "feel good" or what they think "looks right." Legislators have the duty to educate themselves on federal and state laws and, then, make the best decisions for all of the people in the state.

The League of Women Voters was not able to present testimony during the hearing on HB112 because of the blizzard. Since a significantly amended version of HB112 was introduced, we have revised our testimony to address the amended HB112.

The current RSA 654:1, I, is a clear explanation of what constitutes being domiciled for voting purposes. There is no question that a person can only vote in one place and that place must be where a person physically lives more than any other place. It's also the place where a person conducts his or her domestic, social and civil affairs. People who are unemployed, homeless, disabled, living in a home owned by someone else, poverty stricken or who travel most days of the week all may exercise their right to vote under this RSA. The current RSA 654:1, I (a) makes it clear that students who live here while going to school have the right to vote where they live while attending school. The section dealing with students belongs as 654:1, I (a) and not as Roman numeral III as it is presented in the amended HB112 because it is a continuation of the definition of domicile for voting purposes.

Until recently, RSA 654:1, I, included another sentence cautioning that domicile for voting should not be confused with the many other different definitions of residency we have in New Hampshire. The League opposed removing that sentence because we believed it would lead to exactly the kind of confusion presented in HB112.

The amended HB112 goes further than offering a definition of domicile for voting purposes. It suggests various interpretations that can be applied to the definition presented in RSA 654:1, I. The new

Section II purports to offer advice on how to determine a citizen's domicile but, in reality, it suggests applying a hodgepodge of irrelevant and mostly unconstitutional limitations on a citizen's right to vote.

Almost all of the suggestions for determining evidence of a person's domicile require a citizen who wants to vote to pay a tax or fee or to show that he or she has financial resources or valuable and precious possessions. Of the others, one simply makes no sense in determining where a person lives for voting purposes and another would deny the right to vote to people who travel for business and spend four nights or more a week on the road.

II. (a) When determining a person's qualifications as a voter, the following factors may be considered as evidence of the person's domicile:

(1) The school district in which a person's residence is located.

School districts cross town and ward lines. Under this direction, it might be impossible for a person to know where they live for the purpose of voting. An elementary school district might include three different towns, a junior high district two other towns, and a high school district might include four towns. The State University System covers all towns in the state. A person's home might be in several school districts that overlap a great many towns. How would a voter know which district to vote in? The current standard of voting in the town or ward you live in makes sense, and that is already set out in RSA 654:1 (I).

(2) The address listed on the person's individual federal income tax return.

Tying a person's right to vote to proof of income, violates the Constitution's prohibition against a poll tax. It's disingenuous to say we don't require you to show proof of income, but we'd like to see your income tax return to prove your address.

(3) The address designated by the person as his or her residence or homestead for purposes of state and local taxes.

As we all know, New Hampshire doesn't have any sales or income tax. That leaves the property tax which requires someone to buy a house. We should not be using home ownership as criteria for deciding if someone should be allowed to register to vote. Besides violating the Constitution's prohibition against a poll tax, it is insulting to the large percentage of people in New Hampshire who don't own a house but may live here their whole lives.

(4) The place where the person spends most nights of the year.

This supposes that many of us rarely leave town. Many people travel a great deal and may spend most nights of the year in other places than their home. A truck driver or salesperson may spend four nights a week on the road. Some people have several residences that they visit throughout the year. The standard set in RSA 654:1, I. recognizes this and includes an explanation of how to determine domicile for voting purposes:

"An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence..."

(5) The place where the person keeps his or her most valuable and precious possessions.

This is just silly. It's utterly subjective. One person's definition of "valuable and precious" can be light years from another's definition. Not everyone has valuable and precious possessions. This criteria could

also disenfranchise anyone who keeps what they consider their most valuable and precious possessions in a safe deposit box or another secured storage facility which may not be in the same town where they live.

(6) The place that would be considered the person's residence for purposes of obtaining a driver's license.

The definition of residence for purposes of obtaining a driver's license requires an intention to live in New Hampshire permanently. The courts have consistently ruled that an intention to move sometime in the future cannot be used to deny the right to vote to someone who is currently domiciled in New Hampshire. The Strafford County Superior Court ruled on this last summer.

(7) The place that would be considered the person's residence for purposes of applying for a passport or other federal identification.

A residence address is not required for getting a United States passport. All you need is a mailing address which can be anywhere in the world. "Other federal identification" could refer to hundreds of different agencies and hundreds of different standards. It's impossible to know what this is supposed to mean. New Hampshire legislators should not be passing laws which they know no one can understand.

(8) The place that would be considered the person's residence for purposes of eligibility for a resident hunting or fishing license.

The definition of residency for a resident hunting or fishing license includes the requirement for a person to pay for a New Hampshire Driver's license or Non Driver Photo Identification. That's a poll tax, and it is prohibited by the United States Constitution.

New Hampshire Fish and Game Residency Requirement: "A New Hampshire resident is someone who holds a valid New Hampshire Driver's license or Non Driver Photo Identification issued by the State of New Hampshire Division of Motor Vehicles and does not claim a residence in any other state for any purpose."

II. (b) A person shall not be considered domiciled in this state if the person is temporarily absent from another state in a manner that would be consistent with RSA 654:2.

This assumes that all other states have the same laws as New Hampshire. They don't, and it's not likely that they will all rewrite their laws to comply with this section. RSA 654:2 defines who may be temporarily living outside of New Hampshire but still allowed to claim a domicile here for voting purposes under RSA 654:1. Other states have their own laws regarding absentee voting and may have different laws defining what a domicile is. For instance, they may not recognize people living in penal institutions or old age homes in New Hampshire as people who are eligible to vote absentee in their states. New Hampshire Legislators may write laws for New Hampshire but they should not try to impose our laws on other states.

HB112 appears to be nothing more than an attempt to find ways to prevent the homeless, unemployed, poverty stricken, non-homeowners, disabled and people who travel a great deal from voting in New Hampshire. It offers irrelevant and unnecessary advice which is mostly unconstitutional. The arbitrary rearrangement of the numbers and sections of RSA 654:1 adds to the confusion by making it appear that the new section II.(a) would apply to a student's right to vote in New Hampshire while attending school here, although it does not. It was clear from the questions that committee members asked during the hearing that they were confused by the language even after it was explained to them.

We live in a transient society. The average American moves once every five years. The current wording of RSA 654:1 offers a definition of domicile for voting purposes that covers where a person is actually living in terms of physical presence and, importantly, where that person has a domestic, social, and civic life that is relevant to the act of voting. It is a definition that recognizes that people don't live in one place all their lives but that they move for education, for work, for health, for retirement and for a hundred other reasons.

Instead of trying to prevent citizens from being able to vote, as HB112 does, the League of Women Voters hopes this committee might spend some time looking for ways to make it easier for people in this modern world to be able to vote.

Thank you,

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League of Women Voters NH