

Right to vote issue in hands of N.H. Supreme Court

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By State Rep. Wayne M. Burton. Burton is the state rep for Strafford 6/Durham and Madbury and is Deputy Ranking Member of the Committee on Election Law.

Lost in the heated debates over guns and budgets is a move by the NH House that holds great importance for NH, especially my district of Durham and Madbury. The initial version of HB 112 sponsored by the Republican House leadership, tied the right to vote with registering a vehicle in NH. That version rightly received blistering testimony from the ACLU and League of Women Voters among others. Both the District Court and Superior Court had ruled the concept wrong in a case now pending before the NH Supreme Court.

During the floor session the House killed by voice vote an amendment to HB 112 that added eight more factors that could disqualify voters. That amendment had won in our committee by a slim 9-8 margin. The motion failed on the House floor when a Republican urged its defeat based on the minority opinion I had written that was published in the House Record, one of the few minority reports to prevail. Our committee chair then moved a successful tabling motion to avoid a complete defeat and subsequently the House voted 190-148 to send the issue to the Supreme Court for an advisory opinion on the bill's constitutionality. The Court is now accepting comments on the issue through March 30.

This is important because under our current same-day voting laws and provision for student IDs as a government-issued document to be used to establish domicile, hundreds of otherwise legal college student voters could be disenfranchised. I'm proud that under current law, NH has moved from 27th in the country in voter turnout in 1984 to third in the US in 2012. On election day our goal must be 100% participation with all votes of equal value wherever one falls on the socio-economic-age scale.

Article 11 of the NH Constitution declares:

“All elections are to be free, and every inhabitant of the state 18 years of age and upward shall have an equal right to vote in an election. Every person shall be considered an inhabitant for the purposes of voting in the town, ward, or unincorporated place where he has his domicile.” Domicile has been essentially defined as where a person lives at the time of registration.

The “blurb” I wrote on HB 112 is reprinted below from House Record 19 dated March 6, 2015.

“HB 112 as amended encodes a partial list of factors in state law that might be considered by election officials in establishing a person's domicile for voting purposes. Five of the factors refer to how a person's residence is established by other statutes enacted for purposes other than voting. For voting eligibility purposes, current “domicile,” not long-term residence is required by the NH Constitution. One of the factors listed in the amendment, for example, is demonstrating eligibility to procure a NH hunting or fishing license. Since both require that a person live in NH for two years they are impermissible as criteria for establishing voter eligibility.

Another example is possessing a NH driver's license which requires that a person intends to remain in NH either permanently or indefinitely to qualify as a resident. Under the NH Constitution as interpreted by the courts, intent to remain in NH cannot be considered in determining a person's voting eligibility.

Because the list of factors in the amended bill, if made a part of a statute, could be confused by election officials as requirements, the minority believes those factors which are already included in the

Secretary of State's Guidelines are sufficient to inform election officials of determining a person's eligibility to vote. The current process has been well established and is working well. Therefore the minority of the Election Law Committee believes this bill is both unnecessary and potentially damaging to the integrity of our most precious right, that of casting our vote."

The House concurred by an overwhelming voice vote. Now it's up to our Supreme Court to support a full, not partial democracy.