



LEAGUE OF WOMEN VOTERS
NEW HAMPSHIRE

www.LWVNH.org

4 Park St Room 200
Concord, NH 03301

January 23, 2018

To: House Transportation Chair Smith and the committee members

From: Liz Tentarelli, president, League of Women Voters NH

Re: **HB 1583, relative to indicating citizenship on drivers licenses and nondrivers ID cards**

The League of Women Voters is a non-partisan political organization dedicated to protecting the rights of Americans to vote. We are the direct descendents of the women's suffrage organization that gained the right for women to vote in 1920.

The League urges the committee to recommend Inexpedient to Legislate on HB1583.

Only Kansas and Arizona require documentary proof of citizenship in order to vote. Affidavit is enough in all other states. Where does NH want to fall? Do we currently have a problem with non-citizens voting, or is this another case of a solution in search of a problem?

In Kansas in 2016 the law requiring those who registered to vote via Motor Voter (at the DMV) to provide additionally to local elections officials documentary proof of citizenship before they would be allowed to vote was challenged. Later the same year the case went to the 10th circuit court (Fish v. Kobach 16-3147) The 10th circuit court affirmed the lower court's decision to halt implementation of the law requiring those who registered to vote at the DMV to provide additional documentary proof of citizenship before they would be allowed to vote. (1) Apparently Kansas has appealed further (maybe to the Supreme Court—I'm not sure), and as of last May no decision had been rendered.

Documentary proof of citizenship was also an issue with a case involving Alabama, Georgia, and Kansas, in which the Executive Director of the federal Election Assistance Commission sent letters to those states allowed them to require voter registrants using the federal voter registration form to provide documentary proof of citizenship. In June 2016 the DC court ruled that the states could implement the requirements, but plaintiffs appealed to the DC Court of Appeals. (2) In September of the same year the U.S. Court of Appeals for the District of Columbia struck down the statutes in the three states requiring additional proof. (3)

If this bill HB 1583 passes, requiring documentation of citizenship to get a drivers license on which will be emblazoned either "citizen USA" or noncitizen USA" and then such drivers license is used to prove identity and citizenship for voting purposes, might NH be liable for a similar lawsuit? Not a lawyer, I don't know, but before going forward with this, someone needs to find out.

Quibble: for the identification cards for some reason "sex" is being added to the list of items for which an applicant must submit proof. We won't make crude comments about what constitutes proof, but the more important question is why the sex of an applicant is at all relevant if the intent expressed in the "Legislative Finding" first paragraph of the bill is the integrity of the vote. Surely the sponsors aren't working their way backwards 98 or more years to the days when women were not allowed to vote.

References:

(1) Fish v Kobach, in 10th Circuit Court 16-3147

(2) [League of Women Voters v. Newby](#) (documentary proof of citizenship)

U.S.D.C. for the District of Columbia, 1:16-cv-00236

U.S.C.A. for the District of Columbia, 16-5196

In February 2016, the Brennan Center, Stroock & Stroock & Lavan LLP, and Kirkland & Ellis LLP filed suit on behalf of the League of Women Voters and state affiliates. The suit challenges letters sent by Election Assistance Commission Executive Director Brian Newby in January 2016 to the secretaries of state of [Alabama](#), [Georgia](#), and [Kansas](#). Without explanation, he allowed the three states to require that applicants using the federal voter registration form provide documentary proof of citizenship.

The suit asserts that Newby lacked the authority to make this decision, and that issuing the letters violated both EAC policy and federal law. On June 29, the district court ruled that Alabama, Georgia, and Kansas could implement their proof of citizenship requirements for the 2016 election. Plaintiffs appealed this decision to the D.C. Circuit Court of Appeals.

On February 24, 2017, the district court remanded the matter to the Election Assistance Commission. Judge Richard Leon instructed the Commission to determine whether Executive Director Newby had authority to allow the three states to require proof of citizenship on the federal form. The preliminary injunction remains in place.

(3) Note that a federal appeals court blocked the documentary proof of citizenship registration requirement in Alabama, Georgia, and Kansas on September 9, 2016. The U.S. Court of Appeals for the District of Columbia acted swiftly in the case, issuing a two-page, unsigned ruling just a day after hearing oral arguments. <https://www.nbcnews.com/politics/elections/appeals-court-blocks-proof-citizenship-requirement-voters-3-states-n646001>

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