

April 4, 2017

To Chair and members of the Senate Election Law Committee:

Re: HB 552, an act relative to investigation of election infractions

The League of Women Voters NH urges the committee to recommend ITL on HB 552.

The League of Women Voters NH is a nonpartisan organization that never supports or opposes candidates or political parties but does take stands on issues after study and agreement by members. Voting rights and good government are two of our core issues.

The League has serious concerns about HB 552 because it gives a Secretary of State the power to investigate citizens who have taken the time to vote, and to initiate enforcement proceedings against those who didn't complete each detail of the voting process according to increasingly stringent guidelines that they may or may not have clearly understood. This investigative power seems to go beyond the authority the Secretary currently has to send out letters to those voters who use affidavits to prove identity or domicile.

A Secretary of State does not have training to protect citizens' constitutional rights while investigating them, does not have training to evaluate evidence, and would apparently have no legal oversight. Any investigation begun by the Secretary of State would then still be handed over to the Attorney General, who would re-do the work. Costly duplication of effort.

We believe this bill would create a conflict with existing laws (RSA 7:6) that give the Attorney General the power to investigate and to bring cases to court in criminal matters. The public has entrusted law enforcement powers to the non-partisan Attorney General within legal limitations. Giving the same powers to a Secretary of State with no such legal requirements threatens the civil rights of New Hampshire citizens. It also seems to cross the separation of powers gap.

In New Hampshire, the Legislature elects a Secretary of State. Under HB 552, it is possible that any Legislature could elect a Secretary of State for the specific purpose of pursuing investigations against voters who support political opponents. We have no reason to believe that the current Secretary of State nor his staff would do so, but it would be possible.

The Secretary of State has a huge responsibility already. The Secretary and his staff must train election officials in hundreds of communities, supervise filings and maintain all the election records, and provide the public with important information about the election process via the website and in other ways. The League has long believed that even more training of elections officials is needed to avoid the occasional if often unfounded allegations made by the public of voter fraud or of ballot officials' errors. Well trained elections officials can "head off criticism at the pass" if they know how to address the many questions and situations that come their way on election day. Thorough training to protect the integrity of the vote and the rights of voters is the job of the Secretary of State.

Investigation and law enforcement are the jobs of the Attorney General.

The Attorney General's office already prosecutes voter fraud when it is found. If the Legislature believes the Attorney General's office needs more staff to conduct more investigations, the Legislature should increase the budget for personnel in the Attorney General's office rather than create an unsupervised and untrained parallel office in the Secretary of State's office.

The League of Women Voters NH opposes HB 552 and we urge the Senate Election Law Committee to recommend *Inexpedient to Legislate* on HB 552.

Respectfully submitted by

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for reference: RSA 7:6-c

7:6-c Enforcement of the Election Laws. –

I. Upon receipt of a signed written complaint, or upon his or her own motion, the attorney general may in his or her discretion, conduct investigations to determine whether any violation of the election laws has occurred and may prosecute anyone responsible for such a violation. In conducting an investigation under this section the attorney general may enlist the aid of the county attorneys, the state police, and other public officers. In the exercise of his or her powers and duties under this section, the attorney general may hold hearings and require the attendance of individuals by the use of subpoena and may require the production of books, documents, records, and other tangible goods by use of subpoena duces tecum. Any testimony required by the attorney general at a hearing which he or she is empowered to hold under this section shall be given under oath. The attorney general shall maintain records of complaints and investigations of alleged violations of the election laws.

II. (a) Beginning January 31, 2013, the attorney general shall, at least once during every 6-month period, provide a rolling report to the general court on the status of all complaints of alleged violations of the election laws received. The attorney general shall submit the report to the standing committees of the senate and house of representatives with jurisdiction over election law.

(b) The report shall include, but not be limited to the following:

(1) A summary of complaints received during the preceding 6 months, or during the period since the previous report if such period is less than 6 months, including the number of complaints categorized by type of complaint and month received.

(2) For each complaint investigated, the results of the investigation and a description of actions taken following the investigation.

(3) For each complaint not investigated, an explanation of why the complaint was not investigated.

(c) The requirements of subparagraph (b)(2) or (b)(3) may be satisfied by including with the report, for the complaint described, a closure letter, settlement agreement, cease and desist order, or complaint filed with a court, or any other official communication.

Source. 1971, 314:1. 2012, 95:1, eff. May 29, 2012.