

January 24, 2017

To Senator Regina Birdsell, chair, and members of the Senate Election Law and Internal Affairs Committee:

Re: SB 47, an act relative to enforcement of election laws

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 Senate Bill 47 because it gives a Secretary of State seemingly broad powers to determine how laws should be interpreted, to investigate citizens, to initiate enforcement proceedings, and to impose penalties in regard to voting and voter registration, campaign finance, complaints received on election day, and actions taken by local election officials ranging from using the wrong color pen on the checklist to a moderator's discretion in hearing voter challenges.

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. The opportunity for abuse must be considered by the committee. While the Attorney General must conform to the reporting and accountability requirements of RSA 7:6-c and a code of professional ethics, these would not apply to a Secretary of State.

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.

In New Hampshire, the Legislature elects a Secretary of State. Under SB 47, it is possible that any Legislature could elect a Secretary of State for the specific purpose of pursuing investigations and prosecutions against political opponents. Under SB 47, there is no check on very broad powers that could be used to harass or intimidate election officials and voters.

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 of voter fraud or ballot officials' errors made by the public. 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. Law enforcement is the job 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 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 SB 47 and we urge the Senate Election Laws and Internal Affairs Committee to vote *Inexpedient to Legislate* on SB 47.

Respectfully submitted by

Liz Tentarelli, president League of Women Voters NH
(contact: home phone 763-9296 email: LWV@kenliz.net)

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.