

February 21, 2023

To: House Election Law Committee

From: Liz Tentarelli, president, League of Women Voters NH lwnnewhampshire@gmail.com

Re: **HB460**, the bill to get rid of affidavits to prove voter qualifications

The League of Women Voters New Hampshire is a non-partisan organization whose primary mission is empowering voters. To that end, for the past 103 years, the League has tried to explain the voting and registration process in the simplest terms possible. As election laws have gotten more complicated, our explanation of process has become less and less simple.

We often get calls or emails asking for advice from would-be voters, especially after a bill like this is in the news.

People ask about registering to vote after they've just moved and do not have a tax bill or an updated drivers license. Parents ask how their eager 18 year olds can register if they don't drive and have no other proof of where they live, except the parents' word. A town clerk told me once of a young man who showed up with a birthday card in its envelope, addressed to him from his grandma, and said it was the best he could find to prove where he lives.

People like you and me, with stable homes and passports and drivers licenses, need not worry about registering. It may take a bit of time to assemble the documents, but we have them. This is not true for the temporarily homeless, the very young and very old, people with disabilities, and probably others.

The League of Women Voters opposes HB460 on the grounds that it makes voter registration harder for New Hampshire residents, that it gets rid of affidavits to prove qualifications which have been used successfully for a decade at least, and that it puts the voter last in the interests of the law. It raises conspiracy theories of wide-spread illegal voting, which have never been supported by evidence, above the goal of a representative government in which all eligible voters shall have a voice.

In this testimony I address three points of bad policy about the use of affidavits in HB460.

The section of this bill about proving domicile is deja vu of SB3, passed in 2017 and ruled unconstitutional by the NH Supreme Court in July 2021. What is intriguing here is the part below, following the list of suggested documents that one could present:

(I) Any other reasonable documentation which establishes that it is more likely than not that the applicant is domiciled at the address in the town or ward in which the applicant desires to vote. An applicant whose domicile is at an abode of another and whose name is not listed on the document offered as proof of domicile may provide a written statement from a person who is listed as owner, property manager, or tenant on the document that the applicant resides at that address, signed by that person under penalty of voting fraud if false information is provided.

One must ask why someone else's word is considered more truthful than the word of the applicant, verified only by signing an affidavit.

Don't get me wrong. I know of many cases where someone has no documents of their own to present: my 20-something grandson is moving shortly into an apartment in another state with several guys, and his name is not on the lease or utility bill. Also for some low income people, "couch-surfing" is one way they manage temporary homelessness until they can put together money for their own place. And

elderly people, like my neighbor's mother, move in with grown children and have no lease or utility bills in their name.

But why are they—the potential voters—not allowed to sign an affidavit to attest to domicile, and yet their friend/relative/landlord can do so on their behalf via an affidavit? Either an affidavit is a legally binding document or it is not. Decide.

II. The evidence described or presumptions established in paragraph I [*the first part of the bill about citizenship, age, domicile and identify*] may be defeated by evidence establishing that it is more likely than not that the applicant is not qualified as a voter.

This doesn't explain who might do this, what kind of evidence, etc. Can an angry neighbor kill someone's chance of registering just by saying the voting applicant has a car with out of state plates? We have to skip to much later in the bill, about challenged voters, to find out that a person needs merely to sign an affidavit and state a reason to throw someone's election day registration into turmoil.

In that section about challenged voters, two interesting situations arise.

First, at the same that this bill does not allow voter registrants to sign affidavits to prove qualification, this bill allows people who challenge voters to do so merely by signing affidavits.

5 Challenges; Asserting a Challenge. RSA 659:27-a is repealed and reenacted to read as follows:

659:27-a Asserting a Challenge.

I. No challenge may be asserted **except in the form of a signed affidavit**, under oath administered by an election official, in the following form:

INFORMATION ON THE PERSON MAKING THE CHALLENGE

BASIS FOR THE CHALLENGE: The person making the challenge shall state the specific source of the information or personal knowledge upon which the challenge of the particular individual is based:

OATH: The person making the challenge shall complete the following:

I hereby swear and affirm, under the penalties of perjury, that to the best of my knowledge and belief the information above is true and correct.

_____ (Signature of challenger) [*and this document is then notarized*]

The moderator then steps in, to evaluate the challenge.

II.(a) A challenge may be asserted only upon personal knowledge or other basis of probable cause that the challenged voter is ineligible to vote. No challenge may be accepted unless one of the following grounds is asserted and specific facts are offered in support of such grounds: [list of possible grounds to challenge follows here]

(b) Before ruling on the challenge, the moderator shall give the challenged voter an opportunity to be heard. **A person aggrieved by the moderator's decision on a voter challenge may obtain immediate review of the decision in the superior court** pursuant to RSA 654:12, V.

And in that last part (b) is another irony: Somehow a person who is challenged and has the moderator rule that there are likely grounds to deny them a ballot is supposed to (1) get to one of only 13 superior courts in the state, (2) find a judge available to rule instantly on the case, (3) get the paperwork needed to prove that ruling, and (4) get back to the polling place so they may cast their ballot. Really?

Both of these rewrites of how to deal with a challenged voter show that the interests and sympathies of the sponsors are with the challengers, not with the voters. Shameful.

Please recommend Inexpedient To Legislate on this unnecessary and contradictory bill, HB460.