



TO: The Honorable Louis Luchini
The Honorable John Schneck, Co-Chairs
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: April 10, 2019

RE: LD 1196 – RESOLUTION, Proposing an Amendment to the Constitution of Maine to Facilitate the Use of Ranked-choice Voting for Governor and Members of the Legislature

LD 1365 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for the Election of the Governor by Majority Vote

LD 1477 – RESOLUTION, Proposing an Amendment to the Constitution of Maine to Implement Ranked-choice Voting

Senator Luchini, Representative Schneck, and members of the Joint Standing Committee on Veterans and Legal Affairs:

Thank you for the opportunity to testify on LD 1196, 1365 and LD 1477.

My name is John Brautigam. I am here today as Legal Counsel and Senior Policy Advisor for the League of Women Voters of Maine.

These bills would remove the impediment to ranked choice voting identified by the 2017 Solemn Occasion opinion of the Maine Supreme Court. They would eliminate the constitution’s requirement of a “plurality” vote winner in the general election for state offices.

A majority of voters has taken a stand in favor of ranked choice voting on two occasions, including for these state offices. But the court has directed that the constitution must be amended before the full will of the voters can be realized. We support allowing the voters to have their say and sending them a proposed amendment to the constitution.

Constitutional amendments in Maine are far more common than they are in the federal system. The Maine Constitution has been amended 173 times since statehood in 1820.¹ At least five separate amendments – the 7th, 10th, 13th, 24th, and 88th – touched on the question of the election of various state officials by a plurality or a majority.

¹ <https://legislature.maine.gov/legis/lawlib/lldl/constitutionalamendments/index.html>

When a constitutional provision has been changed several times, perhaps that means that the provision is the kind of question that should not be deeply embedded in the source document of our political and legal system, but instead should be subject to the policy making branch's judgment, which may change as circumstances change.

Even those who do not necessarily favor ranked choice voting should consider supporting one of these resolves. The net effect of enacting any of these proposals is not to permanently enshrine ranked choice voting in the constitution, but only to give voters the chance to approve a constitutional amendment that removes the "plurality" obstacle to future ranked choice voting races for these offices. If you believe this issue should be decided on the basis of the expressed will of the voters exercising their constitutional rights, then we respectfully suggest that you should support one of these bills.

There are a few differences between these bills. LD 1196 simply replaces the word "plurality" with the word "majority" in several places in the constitution. This would plainly require abandoning the current "first past the post" approach. But LD 1196 would allow for different election systems for determining a majority. Two options would be ranked choice voting and conventional runoff elections.

LD 1477 takes a slightly different approach. It does not mandate a majority vote. Instead, it entrusts that decision to the legislature (or the people acting through their citizen initiative power). LD 1477 also addresses some constitutional provisions relating to the role of municipalities. These changes were included to clarify that functions of sorting ballots, creating lists of votes, and declaring outcomes currently entrusted to municipalities are not an impediment to the centralized tabulation needed in the case of ranked choice voting. With LD 1477, there would be no need for constitutional amendments in the future. Decisions of election procedure would be entrusted to the legislative branch.

LD 1365 would only address gubernatorial elections. Although we support that concept, the voters in 2016 and 2017 also asked for RCV in legislative elections, so that would be our preferred approach. Thank you for considering our testimony, and we ask you to support a constitutional amendment to allow for ranked choice voting.