

# Bill as Introduced

HB 1301 - AS INTRODUCED

2012 SESSION

12-2560  
03/01

HOUSE BILL        **1301**

AN ACT            relative to challenges to voters.

SPONSORS:        Rep. Ingbretson, Graf 5; Rep. Mirski, Graf 10

COMMITTEE:      Election Law

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ANALYSIS

This bill removes the requirement that a person asserting a voter challenge submit an affidavit stating the basis of the challenge. The bill also permits voter challenges to be submitted on election day at the voter registration table.

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Explanation:      Matter added to current law appears in ***bold italics***.  
                      Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
                      Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twelve*

AN ACT                   relative to challenges to voters.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Challenge of Voter; Affidavit. Amend RSA 659:27 to read as follows:  
2           659:27 Challenge of Voter; Affidavit.

3           I. A voter offering to vote at any state election may be challenged by any other voter  
4 registered in the town or ward in which the election is held, an election official, a challenger  
5 appointed by a political committee pursuant to RSA 666:4, or a challenger appointed by the attorney  
6 general pursuant to RSA 666:5.

7           II. Upon receipt of a [written] challenge, the moderator shall determine if the challenge to  
8 the ballot is well grounded. If the moderator determines that the challenge is well grounded, the  
9 moderator shall not receive the vote of the person so challenged until the person signs and gives to  
10 the moderator an affidavit in the following form: I, \_\_\_\_\_, do solemnly swear (or  
11 affirm) under penalties of voter fraud, that I am the identical person whom I represent myself to be,  
12 that I am a duly qualified voter of this town (or ward), and have a legal domicile therein. If the  
13 moderator determines that the challenge is not well grounded, the moderator shall permit the voter  
14 to proceed to vote.

15           ~~III. No voter or appointed challenger shall challenge a person's qualifications to be a voter~~  
16 ~~at the election day voter registration table.]~~

17           2 Challenges. Amend RSA 659:51, I to read as follows:

18           I. All absentee ballots are subject to challenge after the moderator publicly announces the  
19 name of the absentee voter, except for voters provided for in RSA 7:46, but not after the ballot is  
20 removed from the envelope. ~~[No challenge to an absentee ballot may be asserted except in~~  
21 ~~conformity with the requirements of RSA 659:27-a.]~~ ***A person who makes a challenge shall state***  
22 ***the reason for the challenge.***

23           3 Repeal. RSA 659:27-a, relative to affidavit required from the person asserting a challenge, is  
24 repealed.

25           4 Effective Date. This act shall take effect 60 days after its passage.

# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 1301

**BILL TITLE:** relative to challenges to voters.  
**DATE:** 1/24/2012  
**LOB ROOM:** 308      **Time Public Hearing Called to Order:** 1:08  
**Time Adjourned:** 2:18

(please circle if present)

**Committee Members:** Reps. Bates, Scala, Drisko, Jasper, Hoelzel, Doherty, Eaton, Birdsell, Byrnes, DeJong, DeLemus, Erickson, Reilly, Thomas, Cote, Pierce, Perry, Gimas and Leishman.

**Bill Sponsors:** Rep. Ingbretson, Graf 5; Rep. Mirski, Graf 10

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. Ingbretson** – Straight forward bill. Difficulty should be for unlawful usurper who is voting illegally. The Challenger should have an easier way to complain. All you want to do is sign a paper to refute a complaint. We should go back to the way it was when a challenge was easy.

**Rep. David Pierce** – Constitutional right to challenge.

**Rep. Ingbretson**- No

**Rep. David Pierce** – Challenge Interloper refuses.

**Rep. Ingbretson** – No harm done.

**Rep. David Pierce** – The bill shifts burden of right to vote. There is no requirement.

**Rep. Ingbretson** – The challenger Line 7 & 8 of bill.

**Rep. David Pierce** – No affirmative evidence needed to prove challenge, Lines 21 + 22. Imposing.

**Rep. Ingbretson** – Make a statement with no one in front of you.

**Rep. David Pierce** – The law was changed in 2002 someone came in with a replacement mass complaint. Anyone who looked younger than 25. No need for reason for a challenge. No express challenge no evidence needed. By returning to old way these types of complaints can be lodged.

**Rep. Ingbretson** – No. If need be it could be further amendment. But those challenging just have to sign a paper.

**Rep. David Pierce** challenge on individual is not that big a deal for me, it interrupted the voting for hours because of mass complaint. Is that OK with you?

**Rep. Ingretson** – No, but I don't think this shifts the burden. Suggest the ease of signing a paper should not effect the time. No base burden created by signing. Very difficult to cheat and easy to prove that's its not fraud.

**Rep. David Pierce** – Mass challenges are individual.

**Rep. Ingretson** – How did that happen and because of the law.

**Rep. D. Pierce** – How do you prevent Mass Challenges?

**Rep. Ingretson** – What grounds are you challenging? The moderator has discretion. Challenger is willing to sign about challenger.

**Rep. D. Pierce** – Federal Statue 42 USC 1983 – has there been a case brought claiming a challenge has violated that statute.

**Rep. Ingretson** – I don't know.

**Deputy Scanlon – Secretary of State** – Concerns, policy, statute has changed over years. 1) Create climate where mass complaints can occur. 2) The language eliminates challenging at the registration table where personal information is given and so it could be exposed. We recognize voters and challenges & respect we need to have a process that works.

**Rep. David Pierce** – Line 3 at basis challenge doesn't apply to voting.

**Deputy Scanlon** –Yes

**Rep. John Gimaz** – III stops from going to registration table.

**Rep. David Pierce** – Some challenges are punishments for voter.

**Deputy Scanlon** – I don't know.

**Rep. Peter Leishman** – Did you receive challenges

**Deputy Scanlon** – Hard to say. It's not uncommon.

**Rep. David Pierce** – 2002 mass complaint. It was after that happened they gave moderators power to combat mass challenges.

**Deputy Scanlon** – Recall Attorney General and Secretary of State coming up with that/ day, so yes.

**Rep. David Pierce** – Manual changed, don't recall specific Election law.

**Rep. Kathleen Hoelzel** – Line 17 – 22 659:51, only to absentee ballots.

**Deputy Scanlan** – Yes

**Rep. Kathleen Hoelzel** - a challenge has to qualify complaint



**Deputy Scanlan** – Absentee only

**Rep. D. Bates** – Example; as it currently exists do you recall anything in time with unreasonable complaints since.

**Deputy Scanlan** – Maybe some minor but no major.

**Rep. Mirski** – In favor to revert to what is was. Mass challenges are unique. The election officials refused people to come close enough to see to complain on individuals. The election officer made it very difficult to challenge. To suggest it was gratuitous is incorrect. Ed Naile needs to testify. Students were challenge. By making it difficult to challenge it makes it more conducive to vote illegally. Shouldn't I be able to challenge easily in my own community? Mass Challenge is an anomaly. Busses with out of state plates should be easily challenged. Revert back to the way it was. The Attorney General never bothered to check challenges until statute of limitations was up. The Moderator determines the challenge legitimacy. If you have a challenge to absentee make it. Strongly urges for winding things back.

**Rep. D. Pierce** – What prevents you from challenging NY plates.

**Rep. Mirski** – Now I'm the one who has to go through a serious long process to challenge. Its backwards.

**Rep. D. Pierce** – If voter is qualified voter and one is not

**Rep. Mirski** – Challenge with an affidavit

**Rep. D. Perry** – Current law – Section 659-27-a.

**Rep. Mirski** – It throws cold water on legitimate challenges, inhibits discovering voter fraud.

**Rep. Joseph Thomas** – How does this work?

**Rep. Mirski** – Come to supervision and someone sees NY plates and you know the person is not who they say they are. Then the illegitimate voter signs the affidavit his penalties occur later.

**Rep. Thomas** – Does the person get to vote anyway.

**Rep. Mirski** – Line 8. The moderator determines the legitimacy of the complaint.

**Rep. D. Pierce** – Under the bill what would prevent teams of challengers ?

**Rep. Mirski** – that is already done. Gratuitous challenges.

**Rep. D. Pierce** – If not in law, should it be?

**Rep. Mirski** – Not aware of it happening not a bad thing no one wants voter fraud. Blame the Attorney General. If he had looked at it perhaps we wouldn't be here now on this subject. Then the wrong response was to make it harder to challenge.

**\*Jeff Dickerson** – Granite State Independent Living – Opposes. Fear of intimidation of voters.

Written testimony – fears this bill could disenfranchise voters. If I need to sign an affidavit then the challenger needs to sign an affidavit.

**Rep. D. Pierce** – Is there something in numbers that take interest in this bill?

**Jeff Dickerson** – Potentially, seniors and handicapped. Alot out in the community. Greater potential for them to be recognized as members of community.

**Rep. David Pierce** – Because not as visible

**Jeff Dickinson** – Could be

**Paul Twomey** – Oppose Bill. Hanover in 2002 the students can vote where they go to school. The Attorney General did investigate and did not sit in the closet. To say they have to sign but the challengers should not have to sign. You should have some certainty when you challenge and be willing to sign a paper. If someone says he/she looks underage the repeating of that should be punished. Challenger was arrested. Where you see challenges it's done with people with dark skin. Elections are finely balanced things we can't have that. Going back to old allows long lines. No problem 2002. Interpretation is better of Attorney General and Secretary of State. Consequences for those who do disrupt.

**Rep. D. Pierce** – Statutory, the bill imposes reason for challenging an absentee and no requirement for in person.

**Paul Twomey** – Could be denial of equal treatment absentee is a different situation.

**Rep. David Pierce** – Revision of statue since 2002 if legislature repeals. Could that be seen by the court to allow moderators to have authority.

**Paul Twomey** – Better off with legislature having authority, giving it to the moderator it would not work as well.

**\*Joan Ashwell – League of Women Voters** – Innocent till proven guilty if you remove the challengers requirement then it can be done with impunity. The moderator handles the challenges. MA 2006 mass challenge in Dover with current law the moderator was able to handle it. Doing away with written challenge takes away the seriousness of the challenge. Should not be casual. If I challenged I would want my challenge in writing than I would have something to follow up on that complaint. should be following up. Also protects the moderators by having challenge in writing. Taking away the ability to remove challenges from regular tables. This is one of the problems. We have elected supers of the checklist. Now anyone can say you're lying with out proof. Challengers should be legitimate. Some heavy on Challenged as well as challengers.

**Melissa Berardin** – Opposes Bill –

**Rep. Pierce** – Broad discretion to challengers would encourage mass challenges.

**Melissa Berardin** – Slows process, burden should be on challenger.

Respectfully submitted,

*Susan C. DeLemus*

Rep. Susan DeLemus, Clerk

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 1301

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LOB ROOM: 308 Time Public Hearing Called to Order:

Time Adjourned:

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Byrnes, DeJong, DeLemus, Erickson, Reilly, Thomas, Cote, Pierce, Perry, Gimas and Leishman.

open 1:08

Smith

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Difficulty should be for unlawful user who is voting illegally. The Challenger should have an easier way to complain. All you need to do is sign a paper to report a complaint. We should go back to the way it was when a challenge was easy.

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Pierce - No affirmative evidence need to ~~et~~ prove  
Challenge lines 21 + 22

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Ingbretson - Make a statement with no one ~~if~~ in  
front of you.

Pierce - The Law was changed in 2002 someone  
came in <sup>with?</sup> was a mass complaint. Anyone  
who looked younger than 25. No need for  
reason for a challenge. No express challenge  
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Pierce - ~~if~~ <sup>challenge</sup> on individual is not that big a deal. For  
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Pierce - Fed Statute 42 USC 1983 - Has there been a case brought claiming a challenge has violated that statute.

Ingbretson - Don't know

## Scanlan SOS

Concerns - policy - statute has changed over yrs

- ① Create climate where mass complaints can occur.
- ② The language eliminates challenging at the registration table where personal info is given + so it could be exposed.  
We recognise voters + challengers + respect we need to have a process that works.

She

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Scanlon - yes

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Scanlan - recall AG + SOS coming up w/ that day so yes

Pierce - Manual changed don't recall specific Electron Law update

Hoeyell - Line 17-22 659:51 - only to absentee ballots

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Hoeyell - a challenger has to qualify complaint

Scanlan - Absentee only

Bates - Example: as it currently exists Do you recall and anything in time w/ unreasonable complaints since.

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Jeff Dickerson - Granite State Independent Living Again Against the Bill  
Fear of intimidation of voters

- written testimony - fears this bill could disenfranchise voters. If I need to sign an affidavit then the challenger needs to sign an affidavit.

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Dickerson - Potentially - Seniors + handicapped. A lot out in the community. Greater potential for them to be recognized as members of community



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## PAUL Twomey Oppose Bill

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That w

Joan Ashwell League of Women Voters

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as well as challengers.

Melissa Berardin Oppose -

^ Broad discretion to Challengers to ✓  
Pierce ✓ Encourage mass challenges.  
Bernardin - Slows process Burden should be on  
Challenger

Close 2:18

Susan C. DeLemus

# Testimony

White

January 24, 2012

HOUSE ELECTION LAW COMMITTEE - 1:00 p.m. LOB 308

**Re: HB 1301**, relative to challenges to voters.

Dear Chairman Bates and members of the Committee:

America Votes is non-profit organization that, among other things, works to expand access to the ballot, coordinate issue advocacy and election campaigns, and protect every American's right to vote.

We are here today in opposition to HB 1301. This bill will introduce intimidation into the polling place. In our democracy we seek to protect the rights of voters, not to put up barriers for those wishing to exercise their Constitutional right to vote.

In New Hampshire, we have strict registration requirements where the voter must register in person before a local official and prove a number of qualifications. Voters must state their name before a ballot clerk before obtaining a ballot. Additionally, our laws allow individuals to challenge voters who they believe to be unqualified to vote.

HB 1301 would make changes to the challenge law that are unnecessary and benefit the challenger rather than the person trying to exercise their right to vote. HB 1301 changes the law so that the burden of proof is no longer on the challenger, yet it leaves in place a requirement that the challenged voter file in writing before being allowed to vote.

Additionally, this bill allows challengers to deny the judgment of the Supervisors of the Checklist in regard to who is eligible to vote.

We are gravely concerned that the result of this legislation would be giving broad permission to challengers to indiscriminately challenge any voter, thereby slowing down the voting process for qualified voters, and creating an unnecessary burden to exercising this constitutional right.

We respectfully urge the committee to vote HB 1301 Inexpedient to Legislate.

Sincerely,

Melissa Bernardin  
America Votes



21 Chenell Drive  
Concord, NH 03301-8539  
603.228.9680  
800.826.3700  
tty 888.396.3459  
fax 603.225.3304  
www.gsil.org

January 24, 2012

House Election Law Committee  
NH House of Representatives  
107 North Main Street  
Concord, NH 03301

Dear members of the House Election Law Committee:

I am writing as a representative of Granite State Independent Living (GSIL), a statewide private non-profit organization that for over 30 years has assisted people with disabilities and seniors in living independently in the community. GSIL opposes this proposed legislation, HB1301, because we fear its passage would introduce intimidation into the polling place.

HB1301 proposes to remove the requirement for individuals challenging a voter to do so in writing. We fear that making the challenge process more informal in this way will result in more incorrect challenges and create an intimidating atmosphere at the polls, which clearly is not a place where intimidation can be tolerated. By allowing challengers to slow down the voting process for qualified voters, HB1301 would create an unnecessary burden to exercising this constitutional right. As a people who value free and easily accessible voting for all of our citizens, and as a state that has historically gone above and beyond to ensure that everyone who wishes to vote is able to do so, we should be loath to pass bills such as this that may discourage some folks from voting.

Another troubling result of HB1301 is that it would allow challengers to deny the judgment of the Supervisors of the Checklist in regard to who is eligible to vote. Even more troubling than that is the resulting (and revolting) notion of fellow citizens acting as the "voting police" at the polls, influencing who gets to vote and who doesn't. This rings more of the false democracy seen in some police states than it does the free and open democracy this nation is based upon.

Finally, these proposed changes give an unfair advantage to the challenger. It is unfair to require a voter to file in writing to execute their right to vote, without the same burden of proof on the challenger.

Thank you for the opportunity to express our concerns over this bill. This bill does not honor the NH way. Please oppose HB1301.

Sincerely,

A handwritten signature in black ink that reads "Jeff Dickinson". The signature is written in a cursive style.

Jeff Dickinson  
Advocacy Director



# TITLE LXIII ELECTIONS

## CHAPTER 659 ELECTION PROCEDURE

### Challenges

#### Section 659:27-a

##### 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

Name of Person Making the Challenge:

\_\_\_\_\_  
Last Name First Name Middle Name/Initial

\_\_\_\_\_  
Party affiliation

\_\_\_\_\_  
If person making a challenge is a voter: Physical Address--Street Name & Number

\_\_\_\_\_  
If person is a political party or attorney general appointee: mailing address & phone number

\_\_\_\_\_  
The challenger's qualifications to assert the challenge

**INFORMATION ON THE VOTER BEING CHALLENGED:** The person making the challenge shall complete the following:

Name being used by the voter who you wish to challenge:

\_\_\_\_\_  
Last Name First Name Middle Name

**GROUND FOR THE CHALLENGE:** The person making the challenge shall indicate the ground on which the challenge is made (check all grounds that apply).

The person seeking to vote is not the individual whose name he or she has given

The person seeking to vote has already voted in the election at (name polling place) \_\_\_\_\_ at approximately (state time if known) \_\_\_\_\_

The person seeking to vote is disqualified as a voter by conviction of a willful violation of the elections laws (state offense, court, and date of conviction) \_\_\_\_\_

The person seeking to vote is under 18 years of age

The person seeking to vote is not a United States Citizen

The person seeking to vote is not domiciled in the town or ward where he or she is seeking to vote (state

person's true domicile--town/city) \_\_\_\_\_

\_\_\_ The person seeking to vote does not reside at the address listed for that person on the checklist

\_\_\_ The person seeking to vote is an incarcerated convicted felon who is currently sentenced to incarceration (state name of institution person is in) \_\_\_\_\_

\_\_\_ This is a primary and the person seeking to vote in the (state political party name) \_\_\_\_\_ primary is not a declared member of the party he or she claims to be affiliated with

\_\_\_ The person seeking to vote is ineligible to vote pursuant to the following state or federal statute or constitutional provision: \_\_\_\_\_

**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)

On the date shown above, before me, \_\_\_\_\_ (print name of notary public, justice of the peace, election officer), appeared \_\_\_\_\_ (print name of person whose signature is being notarized), known to me or satisfactorily proven (circle one) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

\_\_\_\_\_  
Notary Public/Justice of the Peace/Official Authorized by RSA 659:30

**TO BE COMPLETED BY THE MODERATOR:** Ruling on the challenge:

If the ground at issue is age, citizenship, or domicile: The supervisors of the checklist have ruled that the challenged voter is: qualified as a voter; not qualified as a voter.

The moderator rules on challenges based on other grounds. The moderator rules that the challenge is: well grounded; not well grounded. If it is ruled that the voter is not qualified or that the challenge is well grounded, the challenged person may vote only if he or she completes and swears to a challenged voter affidavit.

II. 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:

- (a) The person seeking to vote is not the individual whose name he or she has given.
- (b) The person seeking to vote has already voted in the election at the time and place specified in the challenge.
- (c) The person seeking to vote is disqualified as a voter by conviction of a willful violation of the elections laws, such conviction having been for the offense specified in the challenge.
- (d) The person seeking to vote is under 18 years of age.
- (e) The person seeking to vote is not a United States citizen.
- (f) The person seeking to vote is not domiciled in the town or ward where he or she is seeking to vote because the person's true domicile is in the town or city specified in the challenge.
- (g) The person seeking to vote does not reside at the address listed for that person on the checklist.
- (h) The person seeking to vote is an incarcerated convicted felon who is currently sentenced to incarceration



in the institution specified in the challenge.

(i) The person is attempting to vote in a primary and the person is not a declared member of the party with which he or she claims to be affiliated.

(j) The person is ineligible to vote pursuant to some other state or federal statute or constitutional provision specified in the challenge.

Source. 2010, 366:5, eff. July 23, 2010.

# Voting Sheets

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 1301

**BILL TITLE:** relative to challenges to voters.

**DATE:** 2/14/2012

**LOB ROOM:** 308

**Amendments:**

Sponsor: Rep. OLS Document #:

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**Motions:** OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Scala

Seconded by Rep. Baldasaro

Vote: 10-6 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE: NO**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Susan D. DeLemus, Clerk

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Motions: OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Scala*

Seconded by Rep. *Baldasaro*

*motion carries*

Vote: *10-6* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: *NO*

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. ~~Kathleen Hoelzel~~, Clerk  
*Susan DeLemus*

ELECTION LAW

*relative to challenges to voters.*

Bill #: HB 1301

Title: \_\_\_\_\_

PH Date: 1/24/12

Exec Session Date: 2/14/12

Motion: OTP

Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Bates, David, Chairman	✓	
Scala, Dino A, V Chairman	✓	
Drisko, Richard B		
Hoelzel, Kathleen M, Clerk		✓
Doherty, Shaun S	✓	
Eaton, Stephanie		
Baldasaro, Alfred P	✓	
Smith, William B	✓	
Birdsell, Regina M	✓	
Byrnes, John J	✓	
DeJong, Cameron W		
DeLemus, Susan C	✓	
Erickson, Duane H	✓	
Reilly, Harold T		
Thomas, Joseph D	✓	
Cote, David E		✓
Perry, Robert J		✓
Pierce, David M		✓
Leishman, Peter R		
Gimas, John G		✓
<i>Daler</i>		✓
TOTAL VOTE:	<i>10</i>	<i>6</i>

# Committee Report

**REGULAR CALENDAR**

**February 15, 2012**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Majority of the Committee on ELECTION LAW to  
which was referred HB1301,

AN ACT relative to challenges to voters. Having  
considered the same, report the same with the  
recommendation that the bill OUGHT TO PASS.

**Rep. Dino A Scala**

**FOR THE MAJORITY OF THE COMMITTEE**

**MAJORITY  
COMMITTEE REPORT**

Committee: **ELECTION LAW**  
Bill Number: **HB1301**  
Title: **relative to challenges to voters.**  
Date: **February 14, 2012**  
Consent Calendar: **NO**  
Recommendation: **OUGHT TO PASS**

**STATEMENT OF INTENT**

We in the Majority feel that HB 1301 removes an unnecessary step to the process of challenging a voter. Although we all believe the right to vote is and will continue to be held to the highest standard of fairness, a right to challenge a voter should remain valid and to a degree unencumbering to the Challenger. The majority feels removing the paperwork of a challenge voter affidavit will not increase the amount of unwanted challenges because the moderator has the final authority in all challenges. The system of challenges has worked for many years with the affidavit. The Majority feels it is time to remove this unnecessary requirement.

Vote 10-6

Rep. Dino A Scala  
FOR THE MAJORITY

Original: House Clerk  
Cc: Committee Bill File



REGULAR CALENDAR

ELECTION LAW

**HB1301**, relative to challenges to voters. **OUGHT TO PASS.**

Rep. Dino A Scala for the **Majority** of ELECTION LAW. We in the Majority feel that HB 1301 removes an unnecessary step to the process of challenging a voter. Although we all believe the right to vote is and will continue to be held to the highest standard of fairness, a right to challenge a voter should remain valid and to a degree unencumbering to the Challenger. The majority feels removing the paperwork of a challenge voter affidavit will not increase the amount of unwanted challenges because the moderator has the final authority in all challenges. The system of challenges has worked for many years with the affidavit. The Majority feels it is time to remove this unnecessary requirement. **Vote 10-6.**

Original: House Clerk  
Cc: Committee Bill File

HB 1301  
OTP  
10-6  
Regular Calendar

We in the Majority feel that HB 1301 removes an unnecessary step to the process of challenging a voter. Although we all believe the right to vote is and will continue to be held to the highest standard of fairness, a right to challenge a voter should remain valid and to a degree unincumbering to the Challenger. The majority feels removing the paperwork of a challenge voter affidavit will not increase the amount of unwanted challenges because the moderator has the final authority in all challenges. The system of challenges has worked for many years with the affidavit. The Majority feels it is time to remove this unnecessary requirement.

Rep. Dino Scala

*David Bates*

# COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: 1301

TITLE: rebutal relative to challenges to voters

DATE: 2/14/12 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
  - OUGHT TO PASS W/ AMENDMENT
  - INEXPEDIENT TO LEGISLATE
  - INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)
- Amendment No.  
\_\_\_\_\_

## STATEMENT OF INTENT:

We in the Majority feel that HB 1301 Removes an unnecessary step to the process of challenging a voter. Although we all believe the right to vote is and will <sup>continue</sup> remain to be held to the highest standard of fairness, a right to challenge a voter should remain valid and ~~unimpaired~~ to a degree unimpaired to the challenger. The majority feels by removing the paperwork of a challenge voter affidavit will not increase the amount of unwarranted challenges <sup>because</sup> due to the moderator having <sup>has</sup> the final authority in all challenges. The system of challenges has worked for many years without the affidavit. The majority feels it is time to remove this <sup>unnecessary requirement</sup> unwarranted mandate.

COMMITTEE VOTE: 10 - 6

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. DINO A. SCALA  
For the Committee

**REGULAR CALENDAR**

**February 15, 2012**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Minority of the Committee on ELECTION LAW to  
which was referred HB1301,**

**AN ACT relative to challenges to voters. Having  
considered the same, and being unable to agree with  
the Majority, report with the following Resolution:**

**RESOLVED, That it is INEXPEDIENT TO LEGISLATE.**

**Rep. Kathleen M Hoelzel**

**FOR THE MINORITY OF THE COMMITTEE**

**MINORITY  
COMMITTEE REPORT**

Committee: **ELECTION LAW**  
Bill Number: **HB1301**  
Title: **relative to challenges to voters.**  
Date: **February 14, 2012**  
Consent Calendar: **NO**  
Recommendation: **INEXPEDIENT TO LEGISLATE**

**STATEMENT OF INTENT**

This bill would eliminate the explicit requirements that a challenger to a voter must state a reason for the charge that a voter should not be allowed to vote, that the challenger must have evidence to back up his allegation. Instead, it requires the voter to disprove the allegation, and that challenge be in writing. This turns the law on its head. The minority believes that someone who wishes to take away someone else's most fundamental right to vote should be held to the highest standard, not the lowest. The minority felt strongly that eliminating the written challenge requirement leaves town moderators at real risk of legal action because the moderator cannot require documentation of the challenge. Without a written record of the challenge, the moderator would have no means to defend herself against a claim that she had done something wrong. But most importantly, Deputy Secretary of State testified that the bill creates an opportunity for mass, indiscriminate challenges that could have the effect of disenfranchising our fellow citizens' fundamental right to vote. This legislature is duty-bound to protect the right to vote, not create opportunities for taking it away.

Rep. Kathleen M Hoelzel  
FOR THE MINORITY

Original: House Clerk  
Cc: Committee Bill File

REGULAR CALENDAR

ELECTION LAW

**HB1301**, relative to challenges to voters. **INEXPEDIENT TO LEGISLATE.**

Rep. Kathleen M Hoelzel for the **Minority** of ELECTION LAW. This bill would eliminate the explicit requirements that a challenger to a voter must state a reason for the charge that a voter should not be allowed to vote, that the challenger must have evidence to back up his allegation. Instead, it requires the voter to disprove the allegation, and that challenge be in writing. This turns the law on its head. The minority believes that someone who wishes to take away someone else's most fundamental right to vote should be held to the highest standard, not the lowest. The minority felt strongly that eliminating the written challenge requirement leaves town moderators at real risk of legal action because the moderator cannot require documentation of the challenge. Without a written record of the challenge, the moderator would have no means to defend herself against a claim that she had done something wrong. But most importantly, Deputy Secretary of State testified that the bill creates an opportunity for mass, indiscriminate challenges that could have the effect of disenfranchising our fellow citizens' fundamental right to vote. This legislature is duty-bound to protect the right to vote, not create opportunities for taking it away.

Original: House Clerk

Cc: Committee Bill File

HB 1301  
Minority Report  
ITL

This bill would eliminate the explicit requirements that a challenger to a voter must state a reason for the charge that a voter should not be allowed to vote, that the challenger must have evidence to back up his allegation. Instead, it requires the voter to disprove the allegation, and that challenge be in writing. This turns the law on its head. The minority believes that someone who wishes to take away someone else's most fundamental right to vote should be held to the highest standard, not the lowest. The minority felt strongly that eliminating the written challenge requirement leaves town moderators at real risk of legal action because the moderator cannot require documentation of the challenge. Without a written record of the challenge, the moderator would have no means to defend herself against a claim that she had done something wrong. But most importantly, Deputy Secretary of State testified that the bill creates an opportunity for mass, indiscriminate challenges that could have the effect of disenfranchising our fellow citizens' fundamental right to vote. This legislature is duty-bound to protect the right to vote, not create opportunities for taking it away.

Rep. Kathleen Hoelzel

*David Bates*

MINORITY REPORT

COMMITTEE: Election Law

BILL NUMBER: HB 1301

TITLE: relative to challenges to voters

DATE: 2/14/12 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No. _____
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STATEMENT OF INTENT:

The Deputy Secretary of State testified that  
this bill opens the report

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COMMITTEE VOTE: 10-6

• Copy to Committee Bill File
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RESPECTFULLY SUBMITTED,

Rep. ~~Robert R. [unclear]~~ Kathleen M. Hoehzel  
 For the Minority



HB 130L

Minority Report

ITL

This bill would eliminate the <sup>explicit</sup> requirements that a challenger to a voter must state a reason for the charge that a voter ~~was~~ should not be allowed to vote, ~~and~~ that the challenger must have evidence to back up his ~~charge~~ allegation. <sup>(A)</sup> Instead, it requires the voter to disprove the allegation. This turns the law on its head. ~~is~~

The minority believes that someone who wishes to take away someone else's most fundamental right to vote should be held to the highest standard, not the lowest. ~~A no town moderators~~ <sup>The minority</sup> ~~on the committee~~ felt strongly that eliminating the written challenge requirement leaves town moderators at real risk of legal action because the moderator cannot require documentation of the challenge. Without a written record of the challenge, the moderator would have no means to defend herself against a claim that she had done something <sup>wrong.</sup>

(A) and that the challenge be in writing.

But most importantly, ~~the~~ ~~the~~ Deputy Secretary of State testified that the bill creates an opportunity for mass, indiscriminate challenges that could have the effect of disenfranchising our fellow citizens' fundamental right to vote. This legislature is duty-bound to protect the right to vote, not create opportunities for taking it away.