

Senate Election Law and Municipal Affairs Committee
Tricia Melillo 271-3077

HB 105-FN, relative to domicile residency, voter registration, and investigation of voter verification letters.

Hearing Date: April 17, 2019

Members of the Committee Present: Senators Levesque, Sherman, Morgan, Birdsell and Gray

Members of the Committee Absent : None

Bill Analysis: This bill modifies the definition of domicile for voting purposes, modifies forms and procedures for voter registration, and removes the requirement that the secretary of state conduct post-election voter registration inquiries.

Sponsors:

Rep. Horrigan	Rep. W. Pearson	Rep. Frost
Rep. Spang	Rep. Mulligan	Rep. Berch
Rep. Kenney	Rep. Read	Rep. Cohen
Sen. Hennessey		

Who supports the bill: Rep. Horrigan, Rep. Vallone, Rep. Mulligan, Dennis Jakubowski, Shawn LaFrance, Kyri Claflin, Ruth Pevenceuch, Kathy Cahill, Lucy Crichton, M. Pevenceuch, Louis Spencer, James Howard, Gale Taylor, Jeanne Torpey, Maura Willing, David Cawley, Melissa Hinebauch, Elizabeth Corell, Doris Hampton, Bob Perry, David Holt, Susan Coverz, Olivia Zink, Henry Klementowicz, Linda Rhodes, Lonn Sattler, Shaune McCarthy, Diane McCann, Liz Tentarelli, Nancy Mirashio. Gilles Bissonnette, Cindy White, Deborah Jakubowski, Mary DeGozzaldi

Who opposes the bill: Deputy Secretary of State David Scanlan, Alvin See

Summary of testimony presented in support:

Representative Horrigan

- HB 105 is lengthy but it's aim is simple in that it would repeal SB 3, which was passed in 2017.
- It also will undo SB 318 which passed in 2012 and put the voting laws back to the way they were before 2012.
- The right to vote is based on being an inhabitant of NH.
- The biggest problem with SB 3 are the new voter registration forms it mandated. The forms were unnecessarily complicated and threatening
- The state constitution and federal voting law guarantee all citizens who live here the right to vote here but SB 3 tried to complicate things with several pages of convoluted, unconstitutional and contradictory language about residency and domicile.
- He saw the college students take time to fill out the forms even though they were complicated, showing their commitment to vote.
- HB 105 will also eliminate a complicated and ineffective procedure for verifying voter registrations after the election.

Representative Mulligan

- SB 3 is a restrictive law and places unnecessary obstacles for people who are trying to register to vote.
- SB 3 made the registration process more confusing and time consuming.
- In 2018 the court found it likely that SB 3 unconstitutionally burdens the right to vote.

Henry Klementowicz – ACLU NH

- HB 105 would rightfully roll back the changes made by SB 3, removing unnecessary and burdensome requirements enacted by that law.
- Prior to SB 3 a voter could prove the four qualifications, age, identity, citizenship, and domicile when registering to vote, either by documentary evidence or signing an affidavit.
- SB 3 changed the process regarding domicile. Those that seek to register more than thirty days before an election would not be able to register without proof of domicile. Those that seek to register within thirty days without documentation are given a lengthy confusing form and asked to make one of two choices.
- Both options are intimidating to new voters by noting that officials may take actions to verify a person's domicile.
- SB 3 also created a significant risk of longer lines at the polls depending on how many same-day registrants lacked documentation.
- On October 22, 2018, Judge Brown of the Hillsborough County Superior Court ruled SB 3 was likely unconstitutional and barred the Senate from enforcing it.
- Judge Brown noted that because SB 3 does not require proof of domicile before voting it does nothing to prevent fraud.
- Instead of preventing fraud it imposes additional burdens on legitimate voters.
- Senator Levesque asked how much has been spent in legal fees for SB 3. Mr. Klementowicz stated that he does not know but the state hired an outside attorney's office to defend it. State agencies would have that answer.

Liz Tentarelli

- They are a plaintiff in the SB 3 law suit.
- She brought up Judge Browns ruling and the wording of the registration form under SB 3.
- The committee should consider the queuing effect of SB 3 in a presidential primary or general election.
- The court ruled that the last November election was the only time SB 3 was in effect.
- The stable process is what had been done before SB 3.
- Not only were students impacted but Judge Brown stated that it would affect people with low economic status.
- SB 3 does nothing to prevent voter fraud because the votes are cast and not retrieved.
- The full trial has been scheduled for Sept 3rd – 13th 2019 so the legislature has the opportunity to save the taxpayers money by repealing SB 3 with the passage of this bill

Kyri Claflin

- She is a Supervisor of the Checklist in Ward 5 in Concord.
- Before the election after SB 3 went into effect she went through many training sessions

and tried to familiarize herself with the new forms.

- She has a PhD and found the language on the forms confusing.
- She explained the forms to a young woman who was trying to register on election day and the woman walked away thinking she could not vote due to her confusion over the proof of domicile language.
- After this encounter her impression of SB 3 was that it appears to be discriminatory for the many eligible NH voters who have less than optimal reading comprehension skills.

Nancy Mirashio – Newbury Town Moderator

- When SB 3 first came out all the elected elections officials from her town came out against the bill and today they all stand for HB 105.
- Her greatest concern as a moderator was that SB 3 did not treat people equally.
- SB 3 presumed that people were present for temporary purposes.
- New voters were processed differently with different verification procedures.
- Voters were potentially removed from the checklist if they did not provide the required documentation right after the election.
- Those that did not have proof of where they lived had to have a landlord write a note to register.
- Other verifying differences were the potential to be visited by two municipal officers or their agents to the domicile and they were subject to criminal or civil penalties.
- As an election official she is told by the NH constitution to treat people equally and SB 3 did not allow that.

Summary of testimony presented in opposition:

David Scanlan – Deputy Secretary of State

- There is an importance to the stability of voting laws.
- Repealing laws causes confusion among the voters and election officials.
- They train officials and then have to retrain them when the new law has been repealed.
- That is the impact of HB 105 would have.
- It is important that elections work for everybody.
- On one hand there are individuals that believe there is widespread voter fraud but the investigations they have done have shown that is not the case.
- On the other side of the spectrum are the individuals that believe in the ease of voting and permitting individuals to participate in the elections who maybe should not be.
- They have not have any significant issues since SB 3 has been passed.
- This bill is removing language from the statute that is important to the general way the Secretary of State's office does business.
- First, on page 1 lines 10-12 , that sentence was placed in the statute in 2007 and then in 2012 it was removed and now in 2019 this bill wants to put it back in.
- This is the confusing part and has led to NH being one of the only states that you don't have to be a resident in to vote.
- Lines 4-8 put in the requirements for voting and it should remain in the statute,
- Line 3 page 3 the word domicile is crossed out. HAVA requirements state we have to have the address of voters and it is not clear in line 3 that it is the physical address.
- Next, this language is trying to keep the voting list clean by removing names from other states voting lists and it would help if that language remained.

- On page 17, line 35, page 18 line 10, and page 19 line 26, this language removes the Secretary of State's authority to review and verify the voters that did not respond to the affidavit.
- The language also repeals the authority of the Secretary of State's office to share information with other states and verify if voters are registered in two states.
- Senator Morgan asked if SB 3 has been challenged in court. Mr. Scanlan replied that it had been.
- Senator Morgan asked how much the tax payers have paid to defend it. Mr. Scanlan answered that he would have to ask the Attorney General's office.
- Senator Levesque asked if he thinks the stability of the law should trump the ability of the laws to work for everyone. Mr. Scanlan replied that he believes that there are swings in laws of repeals and reenactment. He believes that no one has been denied the right to vote. There may be sections that need to be addressed in SB 3, but it does not help anyone to enact and repeal and reenact.
- Senator Levesque asked if there are any other states where college students can vote – Mr. Scanlan replied that NH is the only state where you do not have to be a resident, you have to be domiciled. He stated that in New Hampshire's neighboring states you have to be a resident. He does not know how they deal with vehicle registrations. He stated each deal with it different, making exceptions for college students and NH could do the same thing.
- Senator Morgan asked if there are differing standards for residency and domicile in other states. Mr. Scanlan answered that domicile is stricter than resident and you have to be a resident of a state before you can be domiciled in NH it is flipped.
- Senator Morgan asked if he believes that domicile is more stringent than resident. Mr. Scanlan stated that he believes that the court ruling has made NH less strict in terms of the residency requirement.
- Senator Morgan asked if he believes that while NH doesn't adhere to residency as every other state does, that we should adhere to domicile which is a stricter version of residency. Mr. Scanlan replied that the law in NH is what it is and needs to be followed. He stated that it is more liberal at this time in that you do not have to be a resident to claim domicile. He believes that you should have a residence in the place that you are going to claim domicile in.

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