

Testimony on H. 429, Elections, Miscellaneous Changes
Betty J. Keller, MD
March 31, 2023

Good afternoon, Chair Hardy and all of you serving on this Senate Committee. I'm Betty Keller of St. Johnsbury, representing the League of Women Voters of Vermont. I thank you for this opportunity to speak with you about the miscellaneous changes for our elections proposed in H. 429.

I'd like to go through this bill in the order that the sections that I am discussing appear.

1) The first two sections I'd like to address raise similar concerns, so I will address them together:

Sec. 1. 17 V.S.A. § 2381(c) is added to read:

(c) In no event shall a candidate who loses a major party primary be nominated to appear on the general election ballot pursuant to this subchapter by a committee of any party other than the party for which the candidate appeared on the primary ballot.

And similarly,

Sec. 2. 17 V.S.A. § 2401 is amended to read:

§ 2401. APPLICABILITY OF SUBCHAPTER

(b) A candidate who loses a major party primary for any office shall not appear on the general election ballot as an independent candidate for the same office for which the candidate lost in the primary election.

The Vermont House appears concerned about the risk of a candidate who fails to win the primary election of a party to then “split” the vote of candidates who share similar values or positions. The correct solution to this is ranked choice voting, as this committee has recognized, and performed much great work in crafting S. 32. This bill from the House comes from a completely different direction, and would actually limit the function of RCV, by reducing the number of candidates that would be on the general election ballot, limiting voters’ choices.

The League of Women Voters of Vermont opposes these proposals. I would like to remind the committee that the intent of a primary election is for party members to choose who they would like to represent their party in the general election.

However, the point of the general election is for all voters to choose who they would like to represent them in each office.

The primary election is not supposed to be a government-sanctioned opportunity to give people who belong to political parties the opportunity to limit the choices for all other voters.

Each party has diversity, so a candidate who failed to win the primary of the party whose nomination they initially sought might still appeal not only to almost half of their

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party, but perhaps also to members of another party, as well as perhaps a large number of independent voters.

The LWVVT sees this legislation as primarily benefiting political parties and incumbents, and harming voters and Vermont as a whole.

We urge you to remove these two sections from the bill.

At the very least, we would want to see language added to sunset these provisions for offices that are elected by RCV in the future.

Consistent with the message above, the LWV would like to see the **deadline for candidates to file a consent of candidacy form for the general election, either as an independent, or for a different party, to be at least 10 days AFTER the primary election has been held.** This would make it easier for candidates to still run, even if they didn't win the election of the party whose nomination they first sought.

This change would support citizens' rights to seek office and voters' rights to choose who will represent them. These two rights are both articulated in our state constitution. There is no right for a party to restrict competition for votes.

2) The next section I would like to address is related to campaign contributions:

Sec. 3. 17 V.S.A. § 2941(a) is amended to read:

§ 2941. LIMITATIONS OF CONTRIBUTIONS

*(a) In any election cycle: * * **

(5)(A) A political party shall not accept contributions totaling more than:

(i) \$10,000.00 from a single source;

(ii) \$10,000.00 from a political committee; or

(iii) \$60,000.00 from a political party.

(B) Notwithstanding subdivision (A) of this subdivision (5), a political party may accept not more than \$60,000.00 from a candidate for State office. [Highlight mine.]

If I understand correctly, this creates a new category of donor: candidates for state office. The LWV VT does not see a valid argument for why these individuals should have the opportunity to donate more to their party than the rest of us. We are also concerned about the lack of transparency, when all the money donated to a single candidate is then attributed to that person, while it actually came from additional sources that are not named.

We recognize the current laws regarding campaign financing need some work, and the Vermont Senate has been stymied in its attempts to do so. However, this proposal is going in the wrong direction. Perhaps a study including members of both chambers

could find some common ground, but the RCV study committee is far more urgent. It would be better to delay this and leave it as is than to make this change.

3) The last section I wish to discuss today is the section on electronic voting.

The LWVVT supports making voting accessible to all voters, and also supports both voter privacy and the security of the election. These values are sometime at odds, as other witnesses have been testifying.

The most important change we would like to see is making voting more accessible to military, overseas, and disabled voters by allowing their ballots, which may be electronically transmitted to them, and they then print, fill out, and mail back, to count so long as they are postmarked by the day of the election.

The LWVVT encourages every effort in verifying the accuracy of the vote. Auditing is of course more challenging when there is an electronic device between the voter and the printed paper ballot which the voter cannot verify before it is counted, but we encourage efforts to create processes by which some portion of ballots could be verifiable.

LWVVT urges limiting the use of electronic ballots to those who truly need them. Every voter who requests electronic ballot returns must be advised of the security risk. Military members in areas of battle, in submarines, and in similar circumstances in which mailboxes are not accessible to them, should be allowed to use electronic ballot return, when the security of the devices and the transmission are assessed as sufficient. However, a stateside military voter who has easy access to a post office box should not.

People who are blind and have equipment at home to assist them in voting with privacy should be allowed to use it if assessed as secure, but just as people must meet criteria to justify a plate or placard for parking in spots for disabled people, eligibility for electronic ballot returns should have criteria set by the secretary of state. Many people with mobility disabilities can use a mail-in ballot.

The LWV Colorado completed a study on election security in 2022. I would like to share one of the requirements they included in their study:

9. Providing equitable voting access. When a voter would otherwise be disenfranchised, we should work diligently to provide a voting method which is as secure as possible under the circumstances. If allowing less secure voting methods, such as online ballot return, limit use to the rare situation in which a voter cannot physically use and return a voter-verifiable paper ballot. Voters should be warned that all online methods will be less private as well as less secure.

<https://s3.amazonaws.com/ClubExpressClubFiles/314195/documents/>

[Election Security Position 809458789.pdf?](#)

[AWSAccessKeyId=AKIA6MYUE6DNNCCDT4J&Expires=1680219624&response-](#)

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[content-disposition=inline%3B%20filename%3DElection_Security_Position.pdf&Signature=qLXFvpPRh55mONvYpvLNrQ%2FeJ6s%3D](#)

Their study also urged that states develop and rehearse contingency plans for disasters and cybersecurity recovery.

The LWVVT encourages including language that could provide a safety valve in the event of untoward events. This may require creating authority for the Secretary of State

- to withhold the opportunity for returning ballots electronically,
- to hold those ballots separate until a problem is resolved, and potentially
- to allow a voter whose ballot may have been compromised to either “cure” the ballot or to have the ballot discarded and to vote again with a reasonable time frame permitted for the voter’s circumstance.

Events that may trigger the Secretary of State’s office to invoke such authority might include

- inability to provide access to approved electronic devices able to accomplish the task securely
- evidence from an audit suggesting the system is not printing out ballots that accurately depict the voters’ choices
- credible information suggesting the electronic system has malfunctioned in other jurisdictions and that the problem has not been resolved
- credible information suggesting the system has been hacked.

If electronic ballot return is permitted, there must be language about what happens to election results if a problem arises, or language allowing the secretary of state to have discretion in addressing a problem. Such discretion should also be accompanied by guardrails.

The Secretary of State’s office must not be required to provide voting options that it deems to be insufficiently secure to justify the risk. The Secretary of State’s office must be authorized to provide the most equitable access it can, within the constraints of secure elections.

Respectfully submitted,

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League of Women Voters of Vermont

Please see references on next page.

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REFERENCES:

INDIVIDUAL'S RIGHT TO RUN FOR OFFICE; VOTER'S RIGHT TO ELECT OFFICERS⁵

Article 8. [Elections to be free and pure; rights of voters therein]

That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution.

<https://legislature.vermont.gov/statutes/constitution-of-the-state-of-vermont/>

CAMPAIGN FINANCING

Impact on Issues: https://www.lwv.org/sites/default/files/2023-02/LWV_ImpactOnIssues2022-2024.pdf p 42

The League of Women Voters of the United States believes that the methods of financing political campaigns should: Enhance political equality for all citizens; ensure maximum participation by citizens in the political process; protect representative democracy from being distorted by big spending in election campaigns; provide voters sufficient information about candidates and campaign issues to make informed choices; ensure transparency and the public's right to know who is using money to influence elections; enable candidates to compete equitably for public office; ensure that candidates have sufficient funds to communicate their messages to the public; and combat corruption and undue influence in government.

ELECTION SECURITY

Please see the attached .pdf's from the League of Women Voters of Colorado:

- Election Security Position Statement, LWV CO
- Pros and Cons for an Election Security Position, LWV CO
- Study Material for Election Security Position