

128th Legislature
Senate of
Maine
Senate District 10

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Joint Standing Committees:
Energy, Utilities & Technology
Taxation

Select Committees:
Joint Rules, Senate Rules, Senatorial Vote

October 27, 2017

Mr. Chairman and distinguished members of this committee:

Thank you for your invitation to address you in your discussion on the topic of ranked choice voting. My name is Andre Cushing; I am a state senator from Maine, serving in my third term, representing the people of Southern Penobscot County. Prior to this I served two terms in the Maine House of Representatives. I have worked at various levels on campaigns for a good deal of my life and have been involved with and overseen the election process for legislative races for the last eight elections in Maine. As part of this I have been involved with over 60 recounts of legislative, congressional, and referendum elections.

As you continue your review of the proposal to adopt rank choice voting in your state, I appreciate that in our country the dynamics of the political process, especially when it comes to choosing and the election of candidates to office, is both bewildering and frustrating to many. In a country that was forged by men and women who valued their independence of thought and action and chafed under the rule of those who they had little to no say in choosing those who govern them that a system of direct elections is so valued.

For more than 200 years we have operated a system of governance that is the envy of many other countries, and during that time very little has changed in the manner in which we elect our representatives.

I personally believe this process has validity, especially as it tempers, at times, the emotional reactions that can sway certain people in how they vote. It also provides a forum during the campaign for a longer term look at how individuals conduct themselves and a glimpse of what you may expect of them if they are selected for the office they are seeking.

The process of ranked choice voting may sound like a more reasonable and fairer method of making a choice, but its application is fraught with pitfalls to one of the more fundamental issues that makes our system so unique and impressive -the peaceful and smooth transition of government. In our system, it is critical for many reasons that there is a clear understanding of who is elected and a certainty as to when one administration or legislative body is granted the ability to take office at a date specific and therefore be able to know results of an election in a timely manner so they can make preparations, hire or appoint individuals to certain roles and

positions and smoothly begin the transition of government in a manner that creates the least disruption possible.

Employing the process of rank choice voting presents some theoretical but also some practical problems.

In the first phase of its application here in Maine and in other states there is a constitutional problem, as exhibited by the Maine Supreme Court's unanimous opinion rendered in response to the Legislature's request. I have sent along a copy of that opinion for your information and consideration in your discussion. The first application of this form of voting would likely result in a lawsuit or potentially several which could leave the result of who is elected in doubt for some period of time. While a state's constitution still prescribes when elected officials duties begin most do not accommodate the process for continuity of government when the results of an election are in doubt or being challenged. This may lead to potential issues that should be thought out before embarking on a course of changing the voting process.

Implementation of this process also offers some challenges which, while not insurmountable, again need proper thought and preparation; availability of appropriate equipment which can properly tabulate the ballots in a rank choice election, training and preparation of election clerks and workers to oversee, explain the process to voters and prepare for the process to account for review and recounting of ballots in the event that the majority threshold is not attained on the initial balloting counts.

What steps will be followed in the event that an unsuccessful candidate pursues a legal challenge and what that means to other candidates in a similar position, will all candidate results be held in those regions until a decision is reached by the judicial branch, will candidates be asked to join in a suit?

And then there is the ultimate question of how will these added costs in an election process be handled?

There are many other issues which may be more specific to your state and their process which I cannot speak to. I can tell you that based upon the myriad complications Maine was facing, our Legislature convened for special session on Monday of this week and adopted a new position which delays the implementation of rank choice voting in all statewide and other elections except where it presently is in place, which is the City of Portland for their mayoral elections, until December of 2021. The bill requires the Legislature to pass a constitutional amendment change and send it to the voters for approval by that date or the original law will be repealed.

I am happy to try and answer any questions at this time

Sincerely,



Senator Andre E. Cushing
Assistant Majority Leader