



Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

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JOINT STANDING COMMITTEE ON GOVERNMENT OVERSIGHT

Testimony of Shenna Bellows Secretary of State

Testifying regarding OPEGA's Report on Maine's Citizen Initiative and People's Veto Process

August 11, 2021

Senator Libby, Representative McDonald, and members of the Government Oversight Committee, I am Shenna Bellows, Maine's Secretary of State and chief elections official. In my first seven months in this new role, I have seen firsthand what I had known to be true prior: that the leadership and employees in the Bureau of Corporations, Elections and Commissions work hard every day to ensure Maine citizens have the ability to make their voice heard through elections, citizen initiatives, and people's vetoes. What I now understand in more detail is exactly how hard they work and how understaffed and under-resourced they are – the Elections Division has eight full-time staff working now.

Regarding the OPEGA report on Maine's Citizen Initiative and People's Veto Process, we think that it is thorough and balanced, and accurately reflects the Secretary of State's process for reviewing and certifying petitions. We consider the people's right to legislate as an integral part of our system of governance and make every effort to discharge our responsibilities in reviewing and certifying the circulated petitions fairly and effectively. We are confident in the integrity with which the Elections Division administers the petition process within existing resources. We do not believe that the issue and opportunities identified had any material impact on the outcome of any petition. That said, we agree with the opportunities identified in the report, although most of them require additional technology and/or staffing resources, and we look forward to working through these findings, concerns, and potential areas of improvement with the Legislature and the Ethics Commission to improve the petition process.

As many of you already know, our Department is already underway on procuring a new Central Voter Registration (CVR) system, as our current one was implemented in 2007. It is our hope that the new system will allow us to do some of the back end work discussed in this report more easily, while also allowing us to implement some of the currently-pending legislative proposals and continuing to safeguard voters' data.

One place that a new CVR could provide a positive impact directly relates to the one issue identified in OPEGA's report: "There is no established procedure governing how the Secretary of State conducts the signature validation process when there is more than one submission of petitions for a single citizen initiative or people's veto attempt."

In 2016, there were two sets of signatures submitted for the citizen initiative entitled “An Act to Allow Slot Machines in York County.” Due to technology and staffing constraints, a comparison of the duplicates between the two submissions was not possible during the available time. OPEGA states that by not checking the two datasets together for determination of duplicate signatures a risk is created that an initiative could qualify for the ballot with fewer than the required number of signatures. While this is certainly possible, based on an analysis of the petitions that were a subject of this report, we believe that for the York County petition, it would not have made a material difference to the outcome. The number of duplicates between the two data sets would have to have been almost six times the highest number of duplicates detected on other initiatives during the same period in order to determine the petition to be invalid. Additionally, had staff time been dedicated to doing this comparison, it would have resulted in failing to meet the 30-day deadline, which means automatic qualification of the petition for the ballot. Should the Legislature direct the Secretary of State to conduct duplicate reviews among all submissions of a multi-submission effort, more staffing and/or technology resources would be required.

The OPEGA report also identified four opportunities for potential improvement for the Department. The first is to expand current registration and reporting requirements, by requiring the petition organization registration to include disclosure of each hired individual’s role in the effort as well as provide their addresses. If the Legislature should add these requirements to the petition organization registration process, we can easily add these to the form. The Legislature should be aware of a pending lawsuit that may materially change Maine’s residency requirements for petition gathering before the US Court of Appeals for the First Circuit, “We the People PAC, et al., v. Shenna Bellows.” The Legislature may wish to postpone any changes to the requirements for petition gatherers until the constitutionality of Maine’s requirements is resolved.

The second opportunity for potential improvement in the report was around ensuring that signatures are collected in accordance with current requirements and that potential violations may be reported to and investigated by the Department. While we agree that this is a worthwhile goal, implementing such a policy would change the nature of our work and require the addition of an investigative section to conduct investigations and enforce penalties as well as a hearings section to conduct administrative hearings to ensure that the constitutional due process rights of petitioners are protected in the process.

The third opportunity for potential improvement – improving the efficiency of the signature validation process – relates directly back to the new CVR discussed earlier. We are requesting the functionality to certify petitions as part of the procurement process, and if funding permits, we hope to obtain and implement the petition functionality with the new CVR system.

Finally, the fourth opportunity for potential improvement is to improve transparency and effectiveness of the data on organizers of petition circulation from the beginning of that effort through better communication between the Department and the Ethics Commission. We agree we could improve on this by providing information to the Ethics Commission at the time we provide the legislation and title drafted by the Revisor of Statutes to the proponents. Alternatively, the Legislature could require proponents of a petition to file with the Ethics Commission as soon as they have filed an application with our office.

Our letter accompanying the OPEGA report also outlines a couple clarifications we had regarding the petition process and can be reviewed there.

In summary, we appreciate OPEGA's diligence and the Legislature's interest in the petition and referendum process. We are committed to providing the highest quality review and certification procedures within existing resources. We are proud of the work of the Bureau of Corporations, Elections and Commissions and the State of Maine's commitment to democracy. Thank you for the opportunity to appear before the Committee today; I am happy to answer any questions.



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**Testimony of Jonathan Wayne, Executive Director of the
Commission on Governmental Ethics and Election Practices
before the Government Oversight Committee
August 11, 2021**

Senator Libby, Representative McDonald, and distinguished members of the committee: my name is Jonathan Wayne, and I am the Executive Director of the Maine Ethics Commission. Thank you for the opportunity to testify concerning OPEGA's report on Maine's Citizen Initiative and People's Veto Process. The report is a valuable overview of the process and has thoughtfully identified areas where improvements might be possible, although tradeoffs could result in addressing some of the issues. In this testimony, I will offer a few brief comments on the five opportunities for improvement relating to how political campaigns are financed, as a supplement to my June 17, 2021 letter to Director Nixon included at the end of the OPEGA report.

Opportunity 4 – better communication between the Secretary of State and the Commission when a petition application is received. The Commission staff supports both suggestions as they will help us communicate with proponents in a timelier manner about their filing responsibilities under law.

Opportunity 5 – aligning contributions received by political action committees (PACs) and Ballot Question Committees (BQC) with their expenditures to support or oppose a specific ballot question. The Commission staff believes that members of the public can usually obtain information about contributors to a PAC or BQC by looking at the committee's campaign finance reports and seeking assistance from the Commission staff. We are always glad to review legislative proposals that might improve disclosure, but, as the report notes, legislation that restricts activities by PACs and BQCs could result in tradeoffs. For example, the Legislature could try to prohibit a BQC from influencing more than one ballot question, but limiting a BQC to working on a single

campaign could result in public policy organizations registering multiple BQCs with our office which would increase the administrative burden on the organizations. We are not sure if the State could defend this restriction if it were challenged as unconstitutional.

Opportunity 6 – introducing an additional expenditure type in campaign finance reports for paid signature gathering. The Commission staff is in favor of this suggestion and is asking our e-filing vendor about the cost and effort to make this change.

Opportunity 7 – delineating committee-to-committee transfers from total expenditures to better reflect funds directly spent for services and goods. The Commission staff agrees that when a PAC or BQC contributes funds to another PAC/BQC, this can complicate the task of calculating a total spent by all committees. Administratively, we will investigate ways to more clearly delineate contributions between PACs and BQCs in our campaign finance reporting system, so that they are better understood by the public. We have concerns about redefining the statutory term “expenditure” to exclude these payments.

Opportunity 8 – adjusting the PAC/BQC filing schedule to reduce campaign finance reports to only those elections in which a committee is participating. The Commission staff does not believe this is a problem that requires a solution. Regularly filed campaign finance reports provide more information to the public. Creating separate filing schedules for the 130+ PACs and BQCs registered with the Commission during an election year would create an unnecessary burden on our small staff to administer.

Thank you for the opportunity to speak to you today. I would be glad to answer any questions.