



Shenna Bellows
Secretary of State

Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

Julie L. Flynn
Deputy Secretary of State

Testimony of Shenna Bellows, Maine Secretary of State
Maine Department of the Secretary of State

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HB 2004, “Relating to ranked choice voting”

Chair Lieber, Vice-Chair Knopp, and Members of the Senate Committee on Rules, my name is Shenna Bellows and I am the Maine Secretary of State and the chief elections officer. I am testifying today in support of HB 2004, “A Relating to ranked choice voting” and to provide you with information about the implementation of Maine’s ranked choice voting law and the administrative effort it takes to run a ranked-choice election.

Prior to my time in office, I was an original member of the Committee for Ranked Choice Voting, which worked to pass Maine’s ranked choice law, trying repeatedly through the legislative process, and eventually succeeding in passing the law through Maine’s citizen initiative process in 2016. Unfortunately, despite widespread support for ranked choice voting by voters across Maine’s political spectrum, there continued to be partisan opposition to using ranked choice voting in Maine elections after it passed at the ballot box. This left my predecessor without the full range of tools that would have been helpful in implementing ranked choice voting and left the task of voter education largely up to the Committee for Ranked Choice Voting and our allies.

To that end, we hit the road around the state to provide voter education, often holding ice cream socials where attendees could rank their preferences, eat some ice cream, and see for themselves how easy it is to vote in this manner. In an ideal world, the work we were doing would have supplemented a robust voter education campaign from the Secretary’s office, but given that he was forced to work with just the staff and resources he already had, they did a commendable job, leaning heavily on in-person appearances by the Secretary to interested groups and short animated videos that explained to Mainers what their ballot would look like and how to fill it out.

On the administrative side, then-Secretary Matt Dunlap and Maine’s longtime Deputy Secretary for Corporations, Elections and Commissions Julie Flynn got to work on figuring out how such an election would be administered. Ballot design, new training for Maine’s 500 municipal clerks and their staff, procurement of a high-speed tabulator for the central tabulation, logistics for ballot transport were all added to our small-but-mighty Elections Division’s workload, again, without the truly needed resources to do this. They made it work – shuffling around when some vendors were paid, working even more overtime than they would have – but it wasn’t ideal. It is often said that they “pulled the rabbit out of the hat” to run that first election in 2018.

One multifaceted logistical challenge that Maine faces regarding ranked choice voting is our municipally-run election setup, with some jurisdictions being small enough to still count ballots by hand. Because certified election results are only required to be reported to the state Elections Division within two business days of Election Day, whether or not a ranked choice tabulation will be required is not always apparent right away. For this reason, only first choice rankings are reported on initial returns reported to the state and media. After all, the order in which each candidate placed in the first round would not be known for certain until all results are in, so each town doing their initial counts would not know which candidate would or would not be moving on to the second round. To be clear, certified tabulation from ranked choice voting is not official until 20 days after the Election Day.

For this reason, Maine conducts ranked choice tabulations centrally in Augusta, our state capitol. This requires finding space to conduct the effort, with space enough for the public and media to view, while ensuring the safety and integrity of the ballots. It also requires collecting the memory devices (for municipalities that use tabulators) and ballots from all around whichever district is subject to a tabulation. So far in Maine that has ranged from the entire state (in the 2018 Democratic primary for governor), to our Second Congressional District (several times, and please note that it is the largest east of the Mississippi River by landmass), to state legislative districts (in a handful of primaries – our State Senate districts each have about 39,000 residents and State House districts have about 9,000).

In 2018, the Governor, under whose jurisdiction the State Police serve, refused to allow the State Police to assist in collecting these materials and transporting them to Augusta. This forced then-Secretary Dunlap to rely on a courier service to conduct this work. Again, while this was successful and secure, it was far from ideal. In fact, he received a lot of pushback from, ironically, supporters of the governor who felt that only law enforcement should do this job.

Thankfully in my time as Secretary I have had a cooperative partner in the Governor and State Police and in 2022 elections, we have used a combination of State Police and other sworn law enforcement from the Department of Secretary of State because I also oversee the Bureau of Motor Vehicles and our enforcement division work on identity theft, vehicle dealer licensing and other related matters. This was good for several reasons: the State Police are very familiar with the towns and cities which they cover, which provided a trusted face for the municipal clerks to hand materials to; they are well-organized and used to keeping careful records about chain of custody; and they are respected members of our communities by Mainers of all political backgrounds. Last November, anticipating that we were likely to need to collect ballots from the Second Congressional District, we met several times ahead of Election Day with the State Police to plan for ballot and memory device retrieval. This advanced planning proved fruitful – we collected ballots in a single day and secured them at a state office building on the same campus as the State Police headquarters.

Prior to ballot arrival we had worked with the Bureau of General Services to re-key the space we occupied and to install motion-sensor cameras on the two entrances to the ballot storage room. For additional security Capitol Police provided officers to staff the entrance to the space every time the public was in the space, and officers from the BMV Division of Enforcement were present whenever the ballots were outside the storage room. State Police were on call during the entirety of the tabulation process in case data were irretrievable from a memory device and the paper ballots needed to be retrieved from a municipality. This did end up needing to happen a couple times, but thankfully we did not need to take them up on the offer to use their plane, though we greatly appreciated that it would have been available if needed.

For transparency and to instill public confidence in the tabulation process, this Department has used live video feeds to show the tabulations. In the early years, Secretary Dunlap did a live Facebook feed of the tabulation results. This year we chose to livestream everything – this resulted in us all being on Facebook Live for well over 24 hours across three days and gave us the opportunity to talk viewers through every step of the process from opening secure boxes of voted ballots, to uploading data from memory devices, to explaining how ballots were being kept secure, to showing how the campaigns sat together to review the accuracy of the tabulations as compared to election night returns, to why we almost – but not quite – finished Tuesday evening and would be continuing to work another day, to the final results. Our Department’s Information Services team provided support for the technology to make this possible, and we will be working to make it even more viewer friendly for future tabulations. It was a tiring but rewarding experience, and we believe it was helpful for voter education here in Maine and helped show reporters and viewers from around the country and world that Maine runs safe, secure, accurate and accessible ranked choice elections.

When we evaluate the success of ranked choice voting in Maine, one of the most important aspects of the initiative’s success was the thought put into procedures before ranked choice voting was rolled out. Ballot design was critically important. Similarly, there are different rules for tabulation in different jurisdictions. Maine’s decision to tabulate centrally and to release the final results once all of the ballots were counted for an entire race, rather than releasing partial results at different times, went a long way in establishing public confidence although some external critics felt that New York City’s approach of releasing partial results as ballots came in was preferable. Regardless of the policy and procedural decisions made in Oregon, what’s most important is that a clear consensus be reached and statutory guidance be provided to the Department of Secretary of State to local election officials well in advance of carrying out ranked choice voting.

There were legal challenges to ranked choice voting. Indeed, Maine’s Supreme Court issued a “solemn occasion” ruling that ranked choice voting for the general election for state races including for governor and state legislators violated Maine’s Constitution. Similarly, Alaska experienced litigation, although the Alaskan Supreme Court ruled in favor of ranked choice voting and explicitly criticized the Maine Supreme Court’s findings.

Additionally, Maine did not initially adopt ranked choice voting for the presidential primary. Now, that we have three election cycles where we have used ranked choice voting for primary elections for races for the state legislature and governor and for Congressional primary and general elections, we are embarking on implementation of ranked choice voting for the presidential primary.

In conclusion, I would say that Maine’s experience with ranked choice voting has been a rewarding one, though it certainly does have logistical challenges and requires additional preparation and administration. As you consider a path forward, I would urge you to ensure the Oregon Secretary of State is not put in the same impossible position that Secretary Dunlap found himself in. Funding and staff for a robust voter education campaign is vital so voters retain their faith in your election administration. Adequate additional funding and staff for the Department so staff can capably administer elections, including answering an increase in questions from voters. Ensuring that trusted law enforcement will be available to conduct ballot retrieval and provide security to tabulation facilities. Investing in additional resources to show the electorate how their votes are being accurately tabulated. These are all vital to the successful administration of not just the single race being proposed to be conducted under ranked choice in this bill, but all of Oregon’s elections.

Thank you for the opportunity to testify, and I would be happy to answer any questions.