



**GAE Committee  
Public Hearing  
February 15, 2019**

**TESTIMONY OF SECRETARY OF THE STATE DENISE W.  
MERRILL REGARDING:**

- **H.B. No. 5335, AN ACT CONCERNING REMOVAL FROM PARTY ENROLLMENT LISTS**
- **H.B. No. 5611, AN ACT CONCERNING THE COUNTING OF INCARCERATED PERSONS FOR PURPOSES OF DETERMINING LEGISLATIVE DISTRICTS**
- **H.B. No. 5817, AN ACT CONCERNING OFFICIAL AND UNOFFICIAL CHECKERS IN POLLING PLACES**
- **H.B. No. 5818, AN ACT EXTENDING THE HOURS OF ELECTION DAY REGISTRATION**
- **H.B. No. 6045, AN ACT CONCERNING ELECTION DAY AND PRIMARY DAY REGISTRATION**
- **H.B. No. 6047, AN ACT CONCERNING POLLING PLACES THAT SERVE MULTIPLE VOTING DISTRICTS**
- **H.J. No. 17, RESOLUTION PROPOSING A STATE CONSTITUTIONAL AMENDMENT TO PROVIDE FOR LEGISLATION BY DIRECT INITIATIVE AND REFERENDUM**
- **H.J. No. 23, RESOLUTION PROPOSING AN AMENDMENT TO THE STATE CONSTITUTION TO ALLOW FOR DIRECT INITIATIVE AND REFERENDUM**

- S.B. No. 22, **AN ACT CONCERNING PAYMENT OF CERTAIN FINES PRIOR TO THE RESTORATION OF ELECTORAL PRIVILEGES**
- S.B. No. 266, **AN ACT REQUIRING POLLING PLACES AT INSTITUTIONS OF HIGHER EDUCATION**
- S.B. No. 479, **AN ACT DESIGNATING ELECTION DAY AS A STATE HOLIDAY**

Good morning Chairmen Fox and Flexer, Vice Chairs Haskell and Winkler, Ranking Members Sampson and France, and members of the committee. My name is Denise Merrill and I am the Secretary of the State of Connecticut. I would like to address a number of bills before the committee.

I will start with the resolutions that propose an amendment to the Connecticut Constitution to create a process for direct initiative and referendum.

- H.J. No. 17, **RESOLUTION PROPOSING A STATE CONSTITUTIONAL AMENDMENT TO PROVIDE FOR LEGISLATION BY DIRECT INITIATIVE AND REFERENDUM**
- H.J. No. 23, **RESOLUTION PROPOSING AN AMENDMENT TO THE STATE CONSTITUTION TO ALLOW FOR DIRECT INITIATIVE AND REFERENDUM**

I cannot support these proposed Constitutional Amendments. Our country was founded on the principles of representative democracy. James Madison, writing in one of our most important founding documents, Federalist No. 10, explicitly argues against direct democracy, as unable to deal with “the mischiefs of faction,” pointing out that direct democracies are “spectacles of turbulence and contention.” Madison diagnoses a republican, representative democracy as the “remedy for the diseases” that plague direct democracies.

I am a California native, so I have witnessed this “spectacle of turbulence and contention” up close. Ballot questions can be complex; direct initiatives can require citizens to become both subject matter experts and lawyers, but without providing the necessary background information. On one or two ballot questions (as Connecticut has had over the last few years), perhaps that can be workable, but California had *eleven* ballot propositions in 2018, and *seventeen* in 2016. We cannot and should not expect Connecticut voters to become experts in bonds for housing and veterans loans, taxation of millionaires for bonds for homelessness prevention housing, bonds for water-related infrastructure and environmental projects, bonds for children’s hospitals, transfers of tax assessments for seniors and the severely disabled, altering existing fuel tax law, making daylight savings time permanent, requiring dialysis clinics to offer refunds if their revenue is over a certain amount, allowing local governments to regulate rent, whether ambulance drivers

should be on call during breaks, and the sale of meat from animals confined in spaces below a specific size. And that was just in 2018. The voter guide was 96 pages long.

Madison made another argument in Federalist No. 10, and again in No. 51, that resonates today – the danger of factions. Madison viewed representative democracy as a check on the majority’s ability to trample on the rights of a minority. Direct initiative and referenda pose a significant risk to those rights of the minority and to civil rights. Civil rights should not be subject to popular whim. As recently as 2008 a ballot proposition in California banned same sex marriage, a result that would be unthinkable just ten years later. Further, it is hard to argue with a straight face that a ballot proposition codifying discrimination on the basis of race and/or ethnicity would not have passed at various places and times in recent American history, horrifyingly later than we would like. Direct initiatives and referenda are playing with the fire that is the dark side of popular opinion.

Finally, the Citizens’ Election Program is one of the things that I am proudest of from my time in the legislature – taking big money out of the political process empowers small, local donors and makes meeting and talking to voters the number one job of candidates, instead of raising money. Direct initiatives and referendum will open the floodgates and usher big money back into Connecticut politics.

This past September, the San Francisco Chronicle reported that in California “[n]o initiative resulting purely from a volunteer drive has reached the ballot in three decades. ... A corporation, advocacy group or wealthy individual with sufficient means can get anything on the ballot.” Direct initiatives and referenda are often presented as an outlet for popular discontent, to let citizens do what the politicians will not. But in practice, they would sweep aside Connecticut’s proud experiment with a part-time citizen legislature and replace it with a direct initiative and referenda process that gives corporations, industry trade groups, and millionaires control over the law-making process. In Connecticut we have taken large steps toward eliminating the influence of big money in politics. Instituting a direct initiative and referenda process will erase those gains. Although well-intentioned, this resolution could result in the turning over of our democracy to megabanks, pharmaceutical companies, and oil conglomerates.

I urge you to reject this resolution.

- **H.B. No. 5335, AN ACT CONCERNING REMOVAL FROM PARTY ENROLLMENT LISTS**

This bill would remove the ability of the registrars of voters and deputy registrars to remove someone from the political party of their choice, or prevent them from joining the party of their choice.

The existing statute that grants this ability is inherently disenfranchising of voters who wish to vote in a party primary. Only a voter should have the right to decide to which political party they belong.

I support this bill.

- **S.B. No. 22, AN ACT CONCERNING PAYMENT OF CERTAIN FINES PRIOR TO THE RESTORATION OF ELECTORAL PRIVILEGES**

This bill would bring how people who were convicted of federal or out-of-state crimes in line with how people who were convicted in Connecticut law are treated with regard to the restoration of voting rights after a period of confinement. Currently, only individuals with federal or out-of-state convictions are required to pay fees before their voting rights are restored; individuals who were convicted in Connecticut have their voting rights restored regardless of whether any fees or fines are outstanding. Only seven states (all in the Deep South except for Connecticut and Arizona) use court debts alone to prevent an individual from voting, and only Connecticut treats individuals differently depending on the jurisdiction in which they were convicted. Current law is both unfair and confusing to voters.

I support this bill.

- **S.B. No. 266, AN ACT REQUIRING POLLING PLACES AT INSTITUTIONS OF HIGHER EDUCATION**

Under current law, a polling place on a college campus is permissible if the town chooses to so locate it. I support the concept of requiring polling places to be located on the campuses of Connecticut's larger colleges and universities, and I am happy to work with the proponents of the bill, as we have in years past, to improve the feasibility of the concept, including with regards to when towns receive notice of the need for a campus polling place, colleges and universities that span multiple towns, residential schools versus commuter schools, the cost of additional polling places, and ensuring that the creation of new polling places has a minimal effect on existing polling places.

- **H.B. No. 5611, AN ACT CONCERNING THE COUNTING OF INCARCERATED PERSONS FOR PURPOSES OF DETERMINING LEGISLATIVE DISTRICTS**

This bill requires incarcerated persons to be counted at their last known address prior to incarceration, if known, rather than in the location of their correctional facility, for the purposes of determining legislative districts after the decennial census. As in the past, I am testifying in support of this concept. Counting incarcerated persons in the community in which they lived prior to incarceration will give more accurate population counts in both Connecticut's major

cities, and in the towns that host our correctional facilities, and will result in legislative districts that more accurately represent the communities from which they are drawn.

I support this bill.

- H.B. No. 5818, **AN ACT EXTENDING THE HOURS OF ELECTION DAY REGISTRATION**
- H.B. No. 6045, **AN ACT CONCERNING ELECTION DAY AND PRIMARY DAY REGISTRATION**

These bills would bring the timing for Election Day Registration (EDR) in line with the timing for voting at the polls on Election Day, by requiring that people who are in line to register and vote at a town's EDR site by 8:00pm on Election Day would be allowed to vote even after 8:00pm.

I support the concept of this bill, but, as written, there are some logistical issues that need to be worked out. By way of background, Connecticut is the only state that has EDR that requires a cross check between towns as the voter is registering to vote by EDR. Since the inception of EDR, tens of thousands of voters have been registered on Election Day and there has only been one case, in the first year of EDR, of someone attempting to register in a second town after voting in an original town.

As written, these bills would require, in order to fulfil the existing requirement to perform the cross check between towns, all 169 towns in the state to keep their election offices open until the last town has completed their EDR activities. There is currently not a mechanism for towns to communicate their status with each other, nor is there a mechanism to force a town to stay open until all other towns have finished EDR.

In order to make this concept workable, it would require removing the cross check requirement between towns in Title 9 Section 19j subsection (e). I have proposed eliminating this requirement in separate legislation this session.

H.B. 6045 also applies Election Day Registration to primary elections; currently, EDR only exists for general elections. When it has been properly staffed and administered, EDR in Connecticut has been a smashing success. In 2018, almost 20,000 voters took advantage of the opportunity to register to vote, or change their address, on Election Day – 20,000 voters who might not have been able to vote had EDR not existed in Connecticut.

This portion of the bill would simply take our general election EDR program and apply it to primary elections as well, allowing people to register to vote for the first time or change their address, and allowing unaffiliated voters to join a party.

This is a common sense expansion that is long overdue.

- **H.B. No. 5817, AN ACT CONCERNING OFFICIAL AND UNOFFICIAL CHECKERS IN POLLING PLACES**

This bill would require the official checkers to speak loudly enough for the unofficial checkers to hear when checking voters into a polling place. Although my office has not seen many complaints along these lines, so legislation may not be needed, this should already be happening in the polling place on Election Day.

- **S.B. No. 479, AN ACT DESIGNATING ELECTION DAY AS A STATE HOLIDAY**

This bill, along with several other proposals that have been made, would make Election Day a state holiday in Connecticut, as it is in several other states. The best example of this is probably Puerto Rico, where Election Day is a holiday, is treated as a celebration, and voter turnout is very high. This would make voting more convenient and could increase voter turnout.

I support this bill.