

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL

SECTION 5 VOTING SUBMISSION

TO: Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

DATE: July 26, 2010

RE: Submissions Under Section 5 of the Voting Rights Act for:
Laws of 1983, Chapter 176

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973(c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits **Laws of 1983, Chapter 176**, relative to overseas voters, for preclearance by the U.S. Department of Justice.

A change to RSA 657:22 made in 2010 is being simultaneously being submitted for preclearance in submission 2010:182. Changes made to RSA 657:22, in 1979 have been precleared. We are submitting this 1983 change to RSA 657:22 to "catch up" preclearance of RSA 657:22 to allow preclearance of the 2010 change to RSA 657:22. Laws of 1983, Chapter 176 also amended RSA 652:13, however, that change was previously precleared on 8/22/05 by Department of Justice non-objection letter 2005-2151, 2005-2178, therefore that change is not part of this submission.

Submission: In accordance with 28 CFR §51.27 and 51.28, the submission is as follows:

(a) A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting (new law).

Laws of 1983, Chapter 176, amending RSA 657:22. See Attached Exhibit 1983:176, #1.

(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended or otherwise changed (prior law).

Laws of 1979, Chapter 436:1, is the prior form of RSA 657:22. See Attached Exhibit 1983:176, #2.

(c) A clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

Section 2 amends RSA 657:22 to set a 5:00 p.m. on election day deadline for armed services or federal overseas citizens absentee ballots. Under the prior law a 5:00 p.m. on the day before the election deadline existed for receipt of all absentee ballots, with this change that day before deadline applies only to non-armed services and non-overseas citizen absentee ballots.

(d) The name, title, address, and telephone number of the person making the submission.

Orville B. Fitch II, Deputy Attorney General
New Hampshire Attorney General's Office
33 Capitol Street
Concord, New Hampshire 03301
(603) 271-1238

Between 8/1/2010 and 8/31/2010 contact:

Richard Head, Associate Attorney General
New Hampshire Attorney General's Office
33 Capitol Street
Concord, New Hampshire 03301
(603) 271-1248

(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

Attorney General Michael A. Delaney

State of New Hampshire

(f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.

Not applicable

(g) Identification of person or body responsible for making the change and the mode of decision (e.g. act of state legislature, ordinance of city council, administrative decision by the registrar).

This change is an act of the New Hampshire General Court, New Hampshire's state legislature, with approval of the legislation by the Governor of the State of New Hampshire.

(h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

The New Hampshire Constitution Part Second, Article 2, grants supreme legislative power within the state to the House of Representatives and Senate, who with a right to negate each other are granted power to make law through Part Second, Article 5. The legislature, through a bicameral process passed each Chapter Law set forth above. Each bill was signed into law by the Governor or allowed to become law without signature, pursuant to New Hampshire Constitution Part Second, Article 44.

(i) The date of adoption of the change affecting voting.

June 10, 1983.

(j) The date on which the change is to take effect.

August 9, 1983.

(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

This change to New Hampshire's voting laws has been enforced or administered.

As was exhaustively addressed in a 2004 letter to the federal Department of Justice, New Hampshire is engaged in an effort to catch up on preclearance submissions. This change is being submitted now to "catch up" the preclearance as

there is a change in this act related to the subject of a 2010 change, preclearance for which is being sought simultaneously through submission 2010:182.

(l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

This change affects the entire State of New Hampshire.

(m) A statement of the reasons for the change.

Section 2 amends RSA 657:22 to set a 5:00 p.m. on election day deadline for armed services or federal overseas citizens absentee ballots. Under the prior law a 5:00 p.m. on the day before the election deadline existed for receipt of all absentee ballots, with this change that day before deadline applies only to non-armed services and non-overseas citizen absentee ballots. The apparent reason for this change was to fill a gap left by the prior law where there was no defined deadline for accepting for processing and counting absentee ballots from armed services and federal overseas citizens.

(n) A statement of the anticipated effect of the change on members of racial or language minority groups.

There is no anticipated adverse effect on members of racial or language minority groups.

(o) Identify any past or pending litigation concerning the change or related voting practice.

There is no known past or pending litigation concerning these changes or related voting practices.

(p1) A Statement that the prior practice has been precleared, with the date, or is not subject to the preclearance requirement and

The 1979 change to RSA 657:22 was precleared on 6/22/2004 by Department of Justice non-objection letter 2004-2563, 2581, 2582.

(p2) A statement that the procedure for the adoption of the change has been precleared, with the date, or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.

New Hampshire's Constitution, in its current form, was adopted June 2, 1784, four years before the United States Constitution took effect upon its ratification by

New Hampshire on June 21, 1788. No amendments to Part Second, article 2 or Part Second, article 44 have occurred since 1784, therefore the authority for adopting law changes predates New Hampshire's ten towns becoming subject to Preclearance on effective November 1, 1968.

(q) For redistrictings and annexations.

Not applicable.

(r) Supplemental

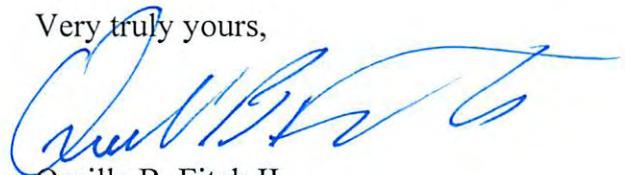
None.

§51.28 (g) Public notice that announce the submission to the Attorney General, inform the public that a complete duplicate copy of the submission is available for public inspection and invites comments for the consideration of the Attorney General and statements regarding where such public notices appeared.

Exhibit A is a copy of a press release issued July 19, 2010 announcing the 2010 round of Preclearance submissions, the availability of copies at the New Hampshire Attorney General's Website and Office, and inviting comments to the United States Attorney General.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



Orville B. Fitch II
Deputy Attorney General
bud.fitch@doj.nh.gov
(603) 271-1238

Attachments

CC: Secretary of State William M. Gardner
494440.doc

660:5 Conduct of Recount. If directed by the secretary of state, the state police shall collect all ballots requested from the town or city clerks having custody of them and shall deliver them to the public facility designated by the secretary of state. At the time and place so appointed, the ballots cast for such office shall be counted by the secretary of state and such assistants as he may require. The candidates, their counsel and assistants shall have the right to inspect the ballots and participate in the recount under such suitable rules as the secretary of state may adopt. Each candidate or his counsel shall have the right to protest the counting of or failure to count any ballot. The secretary of state shall thereupon rule on said ballot and shall attach thereto a memorandum stating such ruling and the name of the candidate making the protest. If, at any time during the counting of the ballots, a discrepancy appears in any ballot for any reason, the secretary of state shall suspend the recount until the discrepancy is resolved, at which time he shall continue the recount. In no event shall a discrepancy result in a second recount for the same candidate, as provided in RSA 660:3.

175:6 Petitions Not Required. Amend RSA 660:7 (supp) as inserted by 1979, 436:1 as amended by striking out said section and inserting in place thereof the following:

660:7 Application. Any person for whom a vote was cast for any nomination of any party at a state or presidential primary may apply for a recount. The application shall be made in writing to the secretary of state and shall be submitted not later than 3 days after the publication of the result of the primary for a recount of all ballots cast for such nomination. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2. If the difference between the vote cast for the applying candidate and another candidate who was declared nominated or who qualified for at least one delegate under RSA 659:93 or who qualified for federal election funding shall be greater than one percent of the total vote cast for that office, the applying candidate shall agree in writing with the secretary of state to pay the full expense of the recount. In such case, the applying candidate shall deposit with the secretary of state an amount of money reasonably estimated to cover such expenses.

175:7 Effective Date. This act shall take effect 60 days after its passage.
 [Approved June 10, 1983.]
 [Effective Date August 9, 1983.]

CHAPTER 176 (HB 558)

AN ACT RELATIVE TO OVERSEAS VOTERS.

Be it Enacted by the Senate and House of Representatives in General Court convened:

176:1 Change in Definition of Election. Amend RSA 652:13 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

652:13 Federal Election. "Federal election" shall mean any state general, special, or primary election held solely or in part for the purpose of choosing or nominating any candidates for the offices of president, vice-president, presi-

dential elector, United States sen
 federal overseas voters who are el
 in "election":

ing Fo
 rted by
 the fol

657:22 Cutoff. In any state elec
 completed armed services or fed
 vered to him by any means after
 ballots shall not be accepted afte
 election day. Ballots received aft
 unopened until the time set for th
 provided in RSA 659:100 at whi
 troved, unopened and unexamined

176:3 Effective Date. This ac
 [Approved June 10, 1983.]
 [Effective Date August 9, 1983.]

CHAP

AN ACT INCREASING TH
 DEATH ACTION MAY BE

*Be it Enacted by the Senate and
 convened:*

177:1 Actions by an Admini
 said section and inserting in pla

556:11 New Action. If an act
 for such cause at any time within
 subject to the provisions of RSA

177:2 Effective Date. This ac
 [Approved June 10, 1983.]
 [Effective Date August, 9, 1983.]

CHAP

AN ACT RELATIVE TO ACTION

*Be it Enacted by the Senate and
 convened:*

178:1 Actions Covered by I
 said section and inserting in pla

556:8 Effect of Insolvency.
 trator after the estate is decree
 deceased was insured for the ma



[1983

the secretary of state, the state
the town or city clerks having
public facility designated by the
jointed, the ballots cast for such
e and such assistants as he may
assistants shall have the right to
nt under such suitable rules as
ate or his counsel shall have the
unt any ballot. The secretary of
hall attach thereto a memoran-
andidate making the protest. If,
s, a discrepancy appears in any
ll suspend the recount until the
all continue the recount. In no
ount for the same candidate, as

SA 660:7 (supp) as inserted by
section and inserting in place

a vote was cast for any nomina-
mary may apply for a recount.
e secretary of state and shall be
ublication of the result of the
ch nomination. Each candidate
f state fees as provided in RSA
for the applying candidate and
ed or who qualified for at least
ied for federal election funding
al vote cast for that office, the
the secretary of state to pay the
plying candidate shall deposit
y reasonably estimated to cover

ffect 60 days after its passage.

3 558)

SEAS VOTERS.

representatives in General Court

Amend RSA 652:13 (supp) as
section and inserting in place

" shall mean any state general,
rt for the purpose of choosing or
resident, vice-president, presi-

1983]

CHAPTER 177

147

dential elector, United States senator, or United States representative. For
federal overseas voters who are eligible to vote in federal elections as provided
in RSA 657:2, "federal election" shall also include any presidential primary
election.

176:2 Cutoff for Accepting Federal Overseas Absentee Ballots. Amend
RSA 657:22 (supp) as inserted by 1979, 436:1 by striking out said section and
inserting in place thereof the following:

657:22 Cutoff. In any state election, a town or city clerk shall not accept any
completed armed services or federal overseas citizens absentee ballots deli-
vered to him by any means after 5:00 p.m. on election day. All other absentee
ballots shall not be accepted after 5:00 p.m. on the day immediately prior to
election day. Ballots received after such times shall be retained by the clerk
unopened until the time set for the destruction of other state election ballots as
provided in RSA 659:100 at which time the envelopes shall likewise be des-
troyed, unopened and unexamined.

176:3 Effective Date. This act shall take effect 60 days after its passage.

[Approved June 10, 1983.]

[Effective Date August 9, 1983.]

CHAPTER 177 (HB 671)

AN ACT INCREASING THE TIME WITHIN WHICH A WRONGFUL
DEATH ACTION MAY BE BROUGHT BY AN ADMINISTRATOR.

*Be it Enacted by the Senate and House of Representatives in General Court
convened:*

177:1 Actions by an Administrator. Amend RSA 556:11 by striking out
said section and inserting in place thereof the following:

556:11 New Action. If an action is not then pending, one may be brought
for such cause at any time within 6 years after the death of the deceased party,
subject to the provisions of RSA 508.

177:2 Effective Date. This act shall take effect 60 days after its passage.

[Approved June 10, 1983.]

[Effective Date August, 9, 1983.]

CHAPTER 178 (HB 672)

AN ACT RELATIVE TO ACTIONS ALLOWED AGAINST INSOLVENT ESTATES.

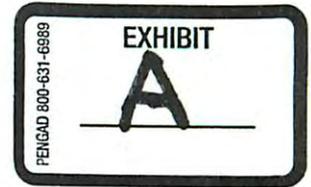
*Be it Enacted by the Senate and House of Representatives in General Court
convened:*

178:1 Actions Covered by Insurance. Amend RSA 556:8 by striking out
said section and inserting in place thereof the following:

556:8 Effect of Insolvency. No action shall be begun against an adminis-
trator after the estate is decreed to be administered as insolvent, unless the
deceased was insured for the matter which is the subject of the action, and, in

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397



MICHAEL A. DELANEY
ATTORNEY GENERAL

ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL



News Release

RELEASED BY: Attorney General Michael A. Delaney

SUBJECT: Voting Rights Act – Submissions of requests for preclearance of 2010 changes to New Hampshire Voting laws and procedures

DATE: July 19, 2010

RELEASE TIME: Immediate

Contact: Deputy Attorney General Bud Fitch (603) 271-1238

Attorney General Michael A. Delaney announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance. Submissions will be made over the next several weeks until all 2010 changes to New Hampshire's election laws have been submitted.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. The State has submitted preclearance requests for most of the changes made to New Hampshire voting law and is in the process of completing that updating of preclearance.

Federal regulations require that the public be notified that the State has filed requests for preclearance and that the submissions be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Delaney and the federal Department of Justice invite persons interested in pending submissions to submit comments and information, in writing or by telephone, to the Voting Section of the Civil Rights Division at the earliest possible date to assure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7254 - NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington D.C. 20530 (the envelope and first page should be marked "Comment under Section 5"). Further information on the federal Department of Justice's Voting Rights Section can be found at:

<http://www.justice.gov/crt/voting/>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov

A Letter describing the historical circumstances of the ten New Hampshire towns becoming subject to the Voting Rights Act preclearance requirements, originally sent to the federal Department of Justice in 2004, is available at:

<http://www.doj.nh.gov/elections/>

#