

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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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 19, 2010

RE: Submissions Under Section 5 of the Voting Rights Act for:
Laws of 2010, Chapter 19

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 2010, Chapter 19**, removing references to nomination for the office of vice-president, for preclearance by the U.S. Department of Justice.

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 2010, Chapter 19, amending RSA 655:17-b; RSA 655:53. See Attached Exhibit 2010:19 #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(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended or otherwise changed (prior law).

RSA 655:17-b See Attached Exhibit 2010:19 #2
RSA 655:53 See Attached Exhibit 2010:19 #3

(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.

This change removes the opportunity for individuals to seek general election ballot access through nominating papers for the office of vice-president. This completes a change to New Hampshire election law started in 2009, by Laws of 2009, Chapter 33, which removed the office of vice-president from filing forms and thereby from the party ballots at the Presidential Primary. Presidential candidates typically have not identified their choice for their candidate for vice-president at the moment in time when the New Hampshire Presidential Primary is held. Vice-Presidential nominees are now chosen by the national political parties at convention. Existing practice resulted in voters receiving ballots suggesting a meaningful opportunity to express a preference by voting for the individuals who sought nomination as their political party's vice-presidential candidate or by writing in a selection when practically such votes had virtually no effect on the selection process. The duty to count and report votes for nominees for vice-president, particularly where write-in candidates were numerous, was onerous for local and state election officials. As the practice yielded little or no benefit and required significant resources, these changes to New Hampshire's election laws ends the practice for the access to the general election ballot by nominating papers for stand-alone vice-presidential candidates. Political organizations and candidates for president who gain access to the ballot by nominating papers may still name their vice-presidential candidate and that name is printed on the ballot with the presidential candidate's name.

(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.

May 7, 2010.

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

July 6, 2010.

(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 not been enforced or administered.

(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.

Removing the opportunity for individuals to seek access to the general election ballot as a stand-alone candidate for Vice-President of the United States of America through nominating papers, simplifies the ballot for voters, eliminates voters being asked to vote on an office when their vote would have little or no effect, and improves the overall administration of elections by reducing the burden on local and state election officials. As noted above, voters will vote at the general election for Vice-President, just as a single vote for the Presidential/Vice-Presidential pair of the voter's choice.

(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.

See Exhibit 655:47, #7, to Pre-clearance submission RSA 655:47, being submitted simultaneously with this submission. Currently before the First Circuit, this is tangentially related litigation over whether a political organization's choices as nominees for President/Vice-President have an exclusive right to list that organization's name on the ballot, requiring others who gained ballot access by nominating papers to use a different organization name.

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

RSA 655:17-b was precleared on 12/8/05 by Department of Justice non-objection letter 2005-4328.

RSA 655:53 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

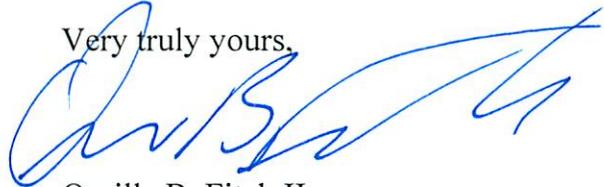
None.

§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
OBF/psm

Attachments

CC: Secretary of State William M. Gardner

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CHAPTER 19
 HB 1150 – FINAL VERSION
 2010 SESSION



10-2166

03/01

HOUSE BILL **1150**

AN ACT removing certain references to nomination for the office of vice-president.

SPONSORS: Rep. Horrigan, Straf 7

COMMITTEE: Election Law

ANALYSIS

This bill removes certain references to nomination for the office of vice-president.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

10-2166

03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT removing certain references to nomination for the office of vice-president.

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

19:1 Declaration of Intent. Amend RSA 655:17-b to read as follows:

655:17-b Declaration of Intent; Presidential [~~and Vice-Presidential~~] Candidates Who File Nomination Papers.

I. Declarations of intent for each candidate for president [~~and vice-president~~] who seeks nomination by nomination papers shall be in the form provided in paragraph II. Declarations of intent required by this section shall be filed with the secretary of state, signed by the candidate, and notarized by a notary public.

II. I, _____, declare that I am domiciled in the city (or town or unincorporated place) of _____, county of _____, state of _____, and am a qualified voter therein; that I intend to be a candidate for the office of [_____] *president* to be chosen at the general election to be held on the _____ day of _____; and I intend to file nomination papers by the deadline established under RSA 655:43. I further declare that, if qualified as a candidate for said office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

19:2 Nomination Papers. Amend RSA 655:53 to read as follows:

655:53 By Nomination Papers. Candidates for president [~~and vice-president~~] may be nominated by nomination papers as provided in RSA 655:40 through 655:45.

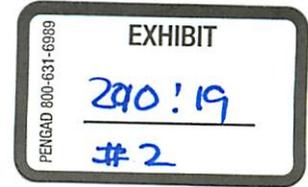
19:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 7, 2010

Effective Date: July 6, 2010

TITLE LXIII ELECTIONS

CHAPTER 655 NOMINATIONS



Nominations by Primary

Section 655:17-b

655:17-b Declaration of Intent; Presidential and Vice-Presidential Candidates Who File Nomination Papers. –

I. Declarations of intent for each candidate for president and vice-president who seeks nomination by nomination papers shall be in the form provided in paragraph II. Declarations of intent required by this section shall be filed with the secretary of state, signed by the candidate, and notarized by a notary public.

II. I, _____, declare that I am domiciled in the city (or town or unincorporated place) of _____, county of _____, state of _____, and am a qualified voter therein; that I intend to be a candidate for the office of _____ to be chosen at the general election to be held on the _____ day of _____; and I intend to file nomination papers by the deadline established under RSA 655:43. I further declare that, if qualified as a candidate for said office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

Source. 1985, 121:3, eff. July 19, 1985.

TITLE LXIII ELECTIONS

CHAPTER 655 NOMINATIONS

Presidential Nominations

Section 655:53

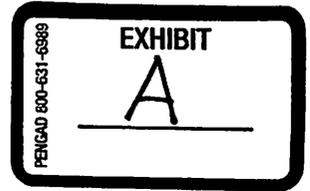
655:53 By Nomination Papers. – Candidates for president and vice-president may be nominated by nomination papers as provided in RSA 655:40 through 655:45.

Source. 1979, 436:1, eff. July 1, 1979.



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News Release

RELEASED BY: Attorney General Michael A. Delaney

SUBJECT: Voting Rights Act – Submission of a request 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. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission 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 We 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 1-866-8868-3703
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/>

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