



Written Testimony of

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Before the Committee on Government Administration and Elections

on

**Legal and Policy Issues Regarding
Raised Bill No. 6372, An Act Concerning Direct Primaries, and
Raised Bill No. 91, An Act Concerning the Circulation of Nominating Petitions**

February 5, 2003

Mr. Chairman and members of the Committee:

Thank you for accepting this written testimony on behalf of the Brennan Center for Justice at New York University School of Law. The mission of the Brennan Center is to develop and implement an innovative and nonpartisan agenda of scholarship, public education, and legal action that promotes equality and human dignity, while safeguarding fundamental freedoms. The Center's Democracy Program works to promote full participation and fair representation in accountable government. Issues of ballot access, because they are so intertwined with the right to vote for a candidate of one's choice, are a key area of focus within the Program.

The bill proposed by the Secretary of State, Raised Bill No. 6372, is a welcome step toward enabling voters to determine who should represent their parties in races

for state and federal offices. As the Committee may be aware, the Brennan Center represented the plaintiffs in *Campbell v. Bysiewicz*, the case in which United States District Judge Peter C. Dorsey recently found the current primary system for multi-town districts to be unconstitutional. The Secretary of State has presented a bill that directly responds to many of Judge Dorsey's concerns, and we have comments about only three aspects of her proposal.

The first concerns the qualifications for persons circulating nominating petitions. Section 2(d) of the bill, at lines 66-67, requires that each circulator must be "an enrolled party member of a municipality in this state." A similar provision appears in § 30, amending § 9-410(c) of the General Statutes, at lines 1191-92. If these provisions were construed to require that circulators be enrolled in the district in which the candidate wishes to run, they would be unconstitutional under the Second Circuit's decision in *Lerman v. Board of Elections of the City of New York*.

We believe that the bill's language is not intended to place such a restriction on circulators, particularly because § 30 deletes a requirement that now exists in § 9-410(c) of the General Statutes that petition circulators be "entitled to vote in the primary for which such candidacy is being filed." Nonetheless, to avoid any ambiguity that could lead to needless litigation among competing candidates, it may be preferable for the bill to be amended to incorporate the alternative language already contained in Raised Bill No. 91. That bill requires the circulator, under penalties of false statement, to certify that he or she is a resident of Connecticut, as well as a United States citizen and at least eighteen years old. These eligibility requirements are not only unambiguous, but they also avoid the administrative cost to the state of having the registrar in the circulator's

municipality verify—on each page of the petition—the circulator’s registration status, as Raised Bill No. 6372 would require.

The second issue we would like to address concerns a barrier to ballot access that is found in only four other states, and which we do not believe is justified in Connecticut. Section 26(a) of the bill, at lines 937-38, requires candidates for statewide office not only to obtain the minimum required number of total signatures of party members statewide, but also to obtain signatures from at least one percent of the party’s members in each of the state’s five Congressional districts. To our knowledge, the only other states that require any particular geographic distribution of petition signatures are Indiana, Iowa, New York, and Michigan. Even in those states, the distributional requirements are generally less onerous than what is proposed in this bill, because they do not require signatures from every jurisdiction or district in the state. For example, in Iowa, statewide candidates must obtain signatures from voters in fewer than one-quarter of Iowa’s counties. In New York and Michigan, signatures must come from voters in only one-half of each state’s Congressional districts, and even then candidates must get only 100 signatures in each district. Finally, while statewide candidates must obtain signatures from all Congressional districts in Indiana, only 500 from each district are required.

Connecticut’s need to ensure that candidates who appear on the ballot have a reasonable amount of support is satisfied by requiring a minimum number of total signatures. Forty-five other states’ election systems operate without forcing candidates to meet geographic distribution requirements. (Louisiana has a distributional requirement, but in practice all candidates in that state simply pay a filing fee to appear

on the ballot, so the petition provisions are unused). Adding such a requirement will add expense, not only for candidates, but also for the Secretary of State's office in reviewing submitted petitions. For these reasons, we believe that the distributional requirement should be stricken from § 26(a) of the bill.

Third and finally, § 26(b) of the bill, at lines 986-988, requires the signatures of at least five percent of the enrolled party members in the district for the offices of state senator, state representative, and judge of probate. The vast majority of states that have similar petition provisions require signatures from much smaller percentages of the electorate, frequently only a few hundred voters or as little as one-half of one percent of the total votes cast for the office in the previous election. There are variations and exceptions, but it should be noted that the bill proposed by the Secretary of State would require signatures from only two percent of party members in the district for Congressional elections, and there is no reason to think that establishing the seriousness of candidates for other offices should require 2½ times as many signatures. We suggest that the Committee amend § 26(b) to apply the same two-percent requirement to candidates for state district offices, and also consider reducing the requirement in single-town districts from five to two percent for the sake of consistency.

For the same reasons, it would be advisable to correct the bill's inconsistent treatment of the dates when petition forms would be made available. As it stands under § 1 at lines 2-10, petitions for statewide and Congressional offices would be available at the beginning of January, leaving ample time for candidates to collect signatures, while petitions for state district offices would be available only "on the day

following the close of the applicable district convention,” which leaves only two weeks for petitions to be circulated. Again, there seems to be no justification for the inconsistency; and again, we suggest that the Committee consider revising not only the provision governing state district offices in multi-town districts, but also the statute governing single-town districts, to bring both into line with a uniform first-of-the-year standard.

Once more, we thank the Committee for the opportunity to provide this information, and we would be happy to discuss the bill further with Committee staff by telephone.