



LEAGUE OF WOMEN VOTERS OF MAINE

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TO: The Honorable Senator Scott Cyrway
 The Honorable Representative Louis Luchini, Co-chairs
 The Joint Standing Committee on Veterans and Legal Affairs

DATE: April 1, 2015

RE: LD 720: An Act to Establish an Open Primary System in the State

My name is Ann Luther. I am a resident of Trenton. I am here today as a volunteer member of the League of Women Voter's Advocacy Committee to testify *Neither-for-nor-Against* LD 720, An Act To Establish an Open Primary System in the State.

Essentially, LD 720 would establish a “Top Two” system to elect the Governor, U.S. Senator, and Representatives to Congress. Although this Act purports to establish an “open primary system,” in fact, LD 720 would actually eliminate all party primary nominating elections. It would also end the practice of independent candidates accessing the general election ballot by petition. Instead, the only way to access the general election ballot would be by finishing first or second in a primary election on which all candidates for the office appear. The bill does not specify, but if the top-two primary were held on the current June schedule, this would entail a change in the deadlines by which unenrolled candidates qualify for the ballot, which is now later in June.

This bill provides that the names of the two candidates who receive the most votes in the primary election for these offices will appear on the ballot for the general election. Rather than adopt a law that provides for only two candidates to compete in the general election, we advocate for a fairer and more equitable approach achieved with Rank Choice Voting.

Under this bill, the general election ballot for the affected offices would always be limited to exactly two candidates. If the first and second place finishers for an office were a Republican and a Democrat, then no Independent or third party candidates would appear on the ballot. This has been the norm in both California and Washington, the two states where this system is currently used. Every gubernatorial election in Washington and California has featured only one Democrat and one Republican since Top Two was adopted.

Because the first and second place primary finishers appear on the general election ballot irrespective of political party, occasionally both candidates on the general election ballot belong to the same political party. That means that under LD 720, a race for governor may feature two Democrats with no opportunity to vote for a Republican at all, let alone any third party or independent candidate. Similarly, some races may feature two Republicans with no opportunity to vote for a Democrat. **Analysis of turnout rates**

suggests that many more voters simply choose not to vote at all in elections between candidates of the same political party.

The Top Two primary election eliminates all but two candidates from the general election. Depending on how many candidates of the various parties participated, this may result in viable candidates preferred by a majority of voters not proceeding to the general election. If one party has many candidates competing in the primary, while the other party has only one or two, even a majority coalition could be so split that their candidate does not advance to the general.

For example, in California's first use of Top Two in 2012, there was an unusual result in Congressional District 31. That district is majority Democrat and majority Latino. However, five Democrats sought to win the seat, compared to only two Republicans. Consequently, the Democrats split, leading to the first and second place finishers both being conservative, white Republicans. This possible outcome may set up a perverse incentive for the major parties to narrow their candidate participation in the primaries before the election – not a good outcome for voters.

Similarly, the limitation to two candidates in the general election may foster strategic manipulation of outcomes, with independent expenditures designed to propel non-viable candidates into the general election or to bump off leading candidates prematurely.

Top Two gives considerable power to those who vote in primary elections, and primary turnout is considerably lower and less representative than general election turnout. In Maine in 2012, 15% of registered voters participated in the primary election, but 74% participated in the general election. The difference is not uniform among all demographics, either. For example, younger voters are less likely to vote in primary elections: In Maine, only 5% of registered voters under the age of 30 voted in the primary election, compared to 61% in the general election. These trends hold in California and Washington, as well, even after adoption of a Top Two system, so any hope that Top Two would actually increase primary turnout may be misplaced.¹ We fear that a Top Two system would not be effective in raising voter participation in the primary and may have the unfortunate consequence of lowering it in the general.

The League of Women Voters of Maine supports Rank Choice Voting.

- It minimizes “strategic” voting
- It allows voters to express their sincere preferences among candidates
- RCV eliminates problems of spoiler candidates knocking off major candidates
- RCV does not require separate run-off elections
- It promotes civility in campaigns
- RCV is most likely to elect a candidate with broad appeal
- It may improve voter participation

Compared to Ranked Choice Voting, the top-two primary system would result in a majority winner, and it would be less costly to implement, but it would not eliminate strategic voting, it would not increase voter participation, and it would not promote civility in campaigns. In summary, the League of Women Voters of Maine prefers Ranked Choice Voting to the Top Two primary system proposed by this bill.

¹ Email from FairVote to LWVME, March 17, 2015.