Bill as Introduced

HB 366 - AS AMENDED BY THE HOUSE

14april99.....0597h

1999 SESSION

99-0691
03/01

HOUSE BILL ***366***

AN ACT repealing the requirement that persons filing for a primary on the last day of the filing period do so in person.

SPONSORS: Rep. Buckley, Hills 44

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill repeals the requirement that persons filing for a primary on the last day of the filing period do so in person before the secretary of state.

. . . . . .

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 366 – AS AMENDED BY THE HOUSE

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT repealing the requirement that persons filing for a primary on the last day of the filing period do so in person.

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

1 1 Repeal. RSA 655:16, relative to personal filing, is repealed.

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

Committee Minutes

Date:	May 5, 1999
Time:	1:10 p.m.
Room:	LOB 104

The Senate Committee on Public Affairs held a hearing on the following:

House Bill 366	(New Title) repealing the requirement that persons filing for a primary on the last day of the filing period do so in person.

Members of Committee present: Senator Trombly
Senator Disnard
Senator Krueger
Senator Roberge
Senator Wheeler

The Chair, Senator Rick A. Trombly, opened the hearing by calling on the prime sponsor of the bill, Representative Raymond Buckley.

Representative Raymond Buckley: Thank you Mr. Chairman, members of the committee. For the record, I'm Representative Raymond Buckley, Hillsborough County. D. 44, a member of the House Election Law Committee. I introduced HB 366 because having been involved more than a few times in the process of trying to recruit candidates for office. We seem to have run into what we believe is a portion of the law that really did what the intent was. The law requires that on the last day of filing, the person must do it themselves in person. What this bill repeals is that a person has to file for office in person themselves. The candidate does not have to file in person at any other time, whether it's for local office or any other office. Up until the last day it can be done by mail, by someone else or by the candidate. Following the filing period the candidate parties file for them. This is the only 8 hour period that the person has to file in person. We feel this has caused problems on both sides of the isle. I was please to have the support of the Speaker on this, because of the instance she was also involved in where her husband wanted to file for treasurer and had to teach school so he could not get to the Secretary of States Office to file on the last day. No candidate can file for office unless they do it in person on the last day. When the parties are filing candidates for any vacant offices it is difficult to get an individual to Concord on the last day to file in person. This would require

that the person would still have to fill out the form, it would still have to be notarized and they would still have to pay the filing fee. This simply allows somebody else to go and pick up the form with the fee and bring it to the Secretary of States Office. We don not believe it would be an inconvenience to the Secretary of States Office, it would simply allow those people who wish to be candidates an opportunity to file and not have to do that in person. We see it more as a positive step forward. Thank you.

Senator Rick A. Trombly, D. 7: Thank you. Senator Disnard.

Senator George F. Disnard, D. 8: This turns me off, Representative Buckley. If I was thinking of running for office, I would have ten days in which to do so. I would have nine days to file for office to do so other than in person, if Mr. Jones decides the last minute to run, and has someone go down for him. I think this negates the process of people coming in and I strongly object to this. If it was a one or two day period, maybe but not with a ten day period.

Representative Raymond Buckley: Senator, let's say that someone get nominated to a federal position, the day before the last day of the filing period, so they decide not to run for reelection. Someone else can sign up and run for that office and have a third party deliver the filing form on Thursday. So now the party has to scramble around to find a strong candidate to file in person on the last day. That means they have to take time off work and come to Concord to file because the party can not file a candidate after because there is no vacancy. All this bill does is allow someone else to file that piece of paper and fee that the candidate has already filled out just as it does the other nine days of the filing period.

Senator George F. Disnard, D. 8: Representative, the example you used I have to laugh at because I find it hard to believe that is someone might be nominated for a federal position without never being aware of it ahead of time.

Senator Rick A. Trombly, D. 7: Senator Krueger.

Senator Patricia Krueger, D. 16: I find it hard to believe that we have someone who wants to run for office and can't drop what they are doing to come to Concord to file for office. The individual who could drop this filing off for them has to go pick up the filing where ever and come to Concord on the last day. So it can't be a question of timing. Part of the problem in this is people making the commitment to the time if elected into office. If you can't make the commitment to file, then maybe they don't really want to run and perhaps you are stuck with someone who has already filed.

Senator Rick A. Trombly, D. 7: Senator Wheeler.

Senator Katherine W. Wheeler, D. 21: Thank you Mr. Chairman. Representative Buckley, why did we ever have just the one day that had to be in person to file.

Representative Raymond Buckley: Since the form has to be notarized, I think the assumption is that someone is going to bring in a form notarized by somebody swearing that that person is a candidate and indeed they are not a candidate.

Senator Rick A. Trombly, D. 7: Isn't it true that the town clerks have to be open from 3:00 to 5:00 p.m. on the last day of the filing period to accept filings for state representative?

Representative Raymond Buckley: Yes.

Senator Rick A. Trombly, D. 7: If this committee had a problem in terms of this bill, do you think that the committee of the house might accept some sort of compromise allowing county, state senate and federal filings at the town clerk level when they are open from 3:00 to 5:00 p.m.

The problem that that creates is that we have such a small window of the three days for the political committees to file any vacancies and often we spend the weekend, and the following two or three days trying to recruit candidates for vacancies that don't exist because we then get the mail, the print out from the Secretary of States office after they get their mail and somebody did show up at 5:00 p.m. on the last day. Unless there is some other communication system where we extend the period where the political parities can fill in the vacancies to a 7 day period so we can be guaranteed to have all the mail in. But if you look at some of the town clerks, they will get the filing the last minute on Friday, they drop it in the mail but who knows when it really gets sent out. There are always filings arriving on the Wednesday, which is the last day for committees to file. I think if we add to the town clerks that it would just aspirate the problem.

Senator George F. Disnard, D. 8: But the bill is referring to the actual ten day filing period. Your argument is about the time afterwards.

Representative Raymond Buckley: I was responding to the Chair's questions of whether or not we should allow candidates on the last day of the filing period to file in person in their local community like a legislative candidate can do. My response to that was, that if you did that, that the

political parties may not know that somebody had filed for that seat until the Wednesday which is the last day for the parties to fill the vacancies.

Senator Rick A. Trombly, D. 7: Any other questions? Thank you Representative Buckley. Representative Davis.

Representative Frank Davis: Thank you Mr. Chairman, members of the committee. For the record my name is Frank Davis, Merrimack County D. 12, representing Pembroke and Allenstown. I am a member of the Election Law Committee and I was the chairman of the subcommittee who considered this bill. I want to make clear, what you probably know, but at the present there are two different situations under 655:15 dealing with elections. If a member of the house, my wife, another member of the family or a friend could go and take my application on Friday afternoon, but if I was running for governor, US senator, congress, county office, state senator or executive council, the current law says that I would have to appear in person. I wasn't think necessarily of any inconvenience to the political parities, but I was thinking about the individual. For me as a candidate for representative it is very easy to file at the last minute. Are committee heard that not only personal but work and other emergencies might take place and make it very difficult for the candidate to appear in person. The subcommittee approved the bill unanimously, the full committee approved the bill 13 – 2 and the House approved this bill by a voice vote. I urge you to support this legislation because if feel it is fair.

Senator Rick A. Trombly, D. 7: Any questions? Thank you Representative Davis. Secretary of State, Bill Gardner.

Bill Gardner: Thank you Mr. Chairman, members of the committee. The last day of the filing period is usually a memorable occasion over the years in my office. It's a very busy day, a lot of people come that last day and hang around. Some of the sights are quire amusing, I've had people walk in on the last day with their filing forms in their hand like a deck of cards. One was for county commissioner, one for executive councilor, some other county office just in case there was an opportunity to fill a seat that no one had filed for or in the event that someone was withdrawing. I've also had people come in with their withdrawal form already filled out for several office because what happens during the last day, later in the day, if someone decides to withdraw for a certain office, that opens it up for a number of other people and once you withdraw and you want to file for something else, by having to be there in person, if you make a mistake, you make the mistake for yourself, and you are not making it for someone else. I appreciate the concern to make it easier for certain people if someone is busy and can't make it, but on the other had if someone else files for you, there may be an vacant seat you would rather have

filed for or maybe someone else filed just before your filing was received in the office and you no longer wish to run, by filing in person on the last day the choice will be yours to make. Once that last day at 5:00 p.m. has passed there is no way to change what was done on that last day. That is why that day is such a critical day and why decisions that get made sometimes unfortunately people wish they didn't make the decisions that they made. That is the potential that exists when other people make the decision for someone else. It's a very contentions time, the last hour or two and the way I've done it during my years, I've had every one leave the front office except the individuals filing about 10 minutes before 5 and I'll say there is nine minutes left do any of you who wish to file, you have nine minutes to do so, then eight minutes and so on. If someone is filling out the form, but does not complete it, it's not a valid filing. The form has to be filled out in full by 5:00 p.m. I can see the Monday after the filing period, a lot of controversy, what do you say to a person who on Monday morning I didn't file, I didn't give this permission, but you have signed the filing, yes I may have signed it but I didn't give the person permission to file me for that office or I thought it was something else. What do you do then? That happens now when people do it in person sometime they say they really wish they hadn't filed. They didn't realize someone else had filed. So even with having to do it in person on the last day we get this type of issues. It will be compounded tremendously if the decision is made by someone other than the candidate.

Senator Rick A. Trombly, D. 7: Any questions? Senator Roberge.

Senator Sheila Roberge, D. 9: Did you give that testimony in the house when it came up for a hearing.

Bill Gardner: No.

Senator Rick A. Trombly, D. 7: Let me give you an example. The party was looking for candidates and had 4 or 5 strong candidates in the district. But those people, as the filing period was winding down those people just didn't want to run. One of the reasons was that they didn't want to have to raise the amount of money for a campaign. I didn't make the decision to run until probably noon of the last day. Now if I hadn't filed, or had the time to file that seat may have gone vacant and could have turned the balance of power in the senate to a tie. Now I have to ask you, given the convenience, and I think we can take care of your problem by saying people can withdrawn their nominations up to the Tuesday after the filing period. It would create some hassle for you, but so be it, we will take care of those people. But my question to you is on the theoretical argument. What's more important to the people of the state, having candidates and electins in the discussion on the issues or inconveniences to maybe ten people.

Bill Gardner: Well certainly the public would be better served with the discussion of the issues, but also, the public is better served if there are rules for procedures. The parties do have three days after the filing period ends to fill vacancies.

Senator Rick A. Trombly, D. 7: That is my second point, they don't have to appear in person if they are filed by the party.

Bill Gardner: That is correct because they are not running against anybody. That is the difference. When you are filed by the party, you are filling a vacancy, your not challenging someone who has filed properly during the process. When no one files during the process, then the rules are a little less strict. But it is different when someone comes in on the first or second day and files and then on the last day someone else comes in, not even the person, because, for whatever the reason.

Senator Rick A. Trombly, D. 7: What if a senator files and its down to the last day and that senator regrettably is stricken. If the party can find somebody to be on the ballot, but that person is unavailable to be in Concord to file in person does that mean that the party is stuck with a very ill senator unable to campaign on the ballot, with a willing candidate who simply is not there by virtue of the fact that time did not allow them to come up to Concord in person.

Bill Gardner: There might be someone who filed properly during the process and maybe the party leaders object to that person for whatever reasons and that party would not be able, on that last day, to do something to prevent that candidate.

Senator Rick A. Trombly, D. 7: This could even happen on the US Senate level or Governor. It could be potential that one person in this state is left with a total incapacitated candidate for US Senator, under the present law.

Bill Gardner: Yes, but think of the reverse. Lets say someone you allow a person to withdraw, how easy it would be to have some popular incumbent who has no intention of running for reelection, file for the office and then once the filing period closes, say okay, remove me now because we are going to fill it with someone who we really want, but we kept everybody else from running because no one wanted to run against the incumbent.

Senator Rick A. Trombly, D. 7: But the danger I'm talking about is that a party in the state could have a candidate for major office stricken without the ability to fill that seat in a timely fashion. If I filed for Governor and I have

no primary opposition as of 3:00 p.m. on the last day of filing and I have a stroke, and I'm in a coma, you can't take my withdrawal.

Bill Gardner: Yes, I can.

Senator Rick A. Trombly, D. 7: If I'm in the hospital with a stroke or heart attack, and I don't sign a form or something like that, they live with me.

Bill Gardner: If you have an incapacitated illness that happens to you after the time you file, you can have your name taken off.

Senator Rick A. Trombly, D. 7: Who initiates this process.

Bill Gardner: The candidate.

Senator Rick A. Trombly, D. 7: If I am in a coma, I can't initiate anything.

Bill Gardner: The candidate's wife can initiate the process or a doctor or family member. This can happen. We have 1,500 candidates file in this state every filing period and it happens. You can get off for this reason. You can not however get off because you do not want to run. But if you open it up, you will have some who files who has no intention of running, just does it to hold that slot. Then pulls out when no one else has the chance to file, so the process has been made over the years into one that is open and fair , but you have to have some rules to define it. Sometimes those rules you find ways to show that it doesn't fit.

Senator Rick A. Trombly, D. 7: Thank you Bill. Any questions? Does any one else wish to testify? See none I will close this hearing.

Hearing closed at 1:50 p.m.

Respectfully submitted,
Debra Cantara, secretary

Speakers

SENATE PUBLIC AFFAIRS COMMITTEE

Date 5/5/99 Time 1:10 p.m. Public Hearing on HB 366

Appearing in FAVOR: (Please print) **Please check box at left to speak.**

Speaking?	Name	Address	Representing
☑	REP. FRANCIS W. DAVIS	PEMBROKE	MERR COUNTY #12
☑	Rep. Raymond Buckley		
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Appearing in OPPOSITION: (Please Print) **Please check box at left to speak.**

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Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: October 19, 1999

THE COMMITTEE ON Public Affairs

to which was referred House Bill 366

AN ACT (New Title) repealing the requirement that persons filing for a primary on the last day of the filing period do so in person..

VOTE: 4-0

Having considered the same, report the same with the following amendment and recommend that the bill: **OUGHT TO PASS .**

Senator Rick A. Trombly
For the Committee

HB366 Docket

Next|Previous|Results List|Bill Status|Main

Bill Title: (New Title) repealing the requirement that persons filing for a primary on the last day of the filing period do so in person.

Date	Body	Description
1/28/1999	H	Introduced and ref to Elec Law; HJ15, p195
1/28/1999	H	Copy to Chairman on 01/28/1999 due on
1/28/1999	H	Hearing Feb 09 10:00 Rm308,LOB
3/11/1999	H	Subcom work session Mar 16 9:30 Rm308,LOB
3/16/1999	H	Subcom work session Mar 23 9:00 Rm308,LOB
3/30/1999	H	Maj Report OTP/AM for Apr 14 (vote 13-2;Reg#1)
3/30/1999	H	Prop Comm Am{0597}(New Title); HC35, p731
4/14/1999	H	Comm Am, AA VV; Passed with Am VV; HJ40, p928 + 947
4/20/1999	S	Introduction and referring to Public Affairs; SJ 14, Pg.296
4/23/1999	S	Hearing, 5/5/99, Room 104, LOB, 1:10 p.m.
6/22/1999	S	Committee Report, Rereferred to Committee, 6/24/99
6/24/1999	S	Rereferred to Committee, MA, VV; SJ 25, Pg.645
1/11/2000	S	Committee Report, Ought to Pass, 1/13/00
1/13/2000	S	Ought to Pass, RC 10y-12n, MF, Sen. Francoeur motion Inexpedient to Legislate, RC 12Y-10N, MA
1/13/2000	S	SJ 1, Pg.26-27

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