

Senate Election Law and Municipal Affairs Committee

Jessica Bourque 271-2104

SB 216, relative to the authority of moderators on election day.

Hearing Date: March 4, 2025

Time Opened: 9:50 a.m. **Time Closed:** 10:18 a.m.

Members of the Committee Present: Senators Gray, Lang, Rochefort, Perkins Kwoka and Long

Members of the Committee Absent : None

Bill Analysis: This bill defines the authority of moderators on election day over electioneering corridors and electioneering areas.

Sponsors:

Sen. McGough	Sen. Watters	Sen. Lang
Sen. Innis	Sen. Murphy	Sen. Gannon
Sen. Pearl	Rep. Osborne	Rep. Miles

Who supports the bill: Andrew Harmon

Who opposes the bill: Rep. Denis Murphy, Pete Basiliere, David Nelson, Sarah Burke Cohen

Summary of testimony presented in support:

Senator Tim McGough, Prime Sponsor

- This bill attempts to address two things: define the phrase “prior to” when it refers to the moderator’s jurisdiction over the electioneering zone and further define what “attended” means regarding political communication or signs.
- Senator McGough brought an amendment to address two things:
 - At the end of line 10, instead of the word “ending” it needs to be changed to “open”.
 - Adds a notwithstanding clause in section 6 so this doesn’t conflict with other statutes.
- Defining the rules up front will allow for equal enforcement.
- The more communication given to candidates, the better the polling day goes with less conflict between candidates.
- Many other states have already addressed these issues.
- The term “prior to” could vary between different polling locations.

Senator Lang asked about section 3, which states that if this bill were to be enacted, the moderator will only have jurisdiction over the polling place during the hours the polls are open. He also stated that when he was a moderator, he would stage the day before, and asked why the moderator would not have control over the area, even an hour before it opens, when people are already arriving.

- Senator McGough said that it is why they defined it as the electioneering area, which is the specific area and corridor.
- In this bill, the moderator's control would be narrowed to the no-electioneering corridor during the hours the polling place is open.
- Would like to limit the moderator's control over the adjacent private property.

Senator Lang followed up, stating that he was talking about the electioneering corridor and asked why the moderator would not have control over that until 7:01, when the polls open.

- Senator McGough clarified that he wishes to set a reasonable time such as 24 hours.
- In his last election, during the primary it was okay to set up at 5:00 p.m. the day before, but then during the general election, it was changed to midnight, and at 10:00 p.m., it was changed to 5:00 a.m.
- Senator McGough believes one standard should be communicated fairly and enforced equally.

Senator Perkins Kwoka said she believes these are valid concerns and that another issue is that different polling stations may have different corridor set-ups for example. She wants to ensure that administrators can administer elections in a way that works for their polling place. She asked what issue he was trying to solve.

- Senator McGough said he is trying to clarify what "prior to" means.

Senator Perkins Kwoka asked if his intent could be addressed by saying that the moderator has control on election day.

- Senator McGough agreed and said he thinks everyone knows when the day starts.
- Senator McGough said the second piece of the bill concerns attended signs. What exactly is an "attended" sign? For example, he believes that when he is touching his tablet, he is attending it, but what if it was in front of the chairman? Would he still be attending it?
- Wants to clarify what "attended" means but does not have a strong opinion as to what it should be.

Summary of testimony presented in opposition:

Pete Basiliere, Milford Town Moderator

- Has been a moderator since 2008 and has overseen 39 elections, including five presidential elections.

- Restricting the no-electioneering corridor extension to the property would likely impact smaller communities that do not have the space to hold the no-electioneering and electioneering corridors on the property.
- Section 3 may cause an issue if electioneering is expanded to 24 hours before the polls open because electioneering could occur on school property in front of students a full day in advance.
- Regarding section 4 about unattended signs being placed no more than 24 hours before the election, state laws should not dictate how private and public facilities should operate.
- Regarding the term “reasonable proximity” in the bill, he feels it replaces vague language with equally vague language and would prefer it be replaced with language from the electioneering handbook published by the Secretary of State. Recommends that it say something like “unattended signs are those that are not directly controlled by the person who is electioneering”.

David Nelson, Derry Town Moderator

- Shares many of the concerns as his colleague from Milford.
- Line 8 talks about “beyond the property,” which assumes a polling location utilizes a single parcel of land, which is mostly the case. However, in Derry, they use the Pinkerton Academy campus, and most of the parking is across the street from the polling place, making it a separate parcel of land. He suggests changing the word “property” to “properties” in the bill to remedy this.
- The no-electioneering corridor provides a space for voters to not interact with the candidates. He has observed two types of voters, those who like to interact with the candidates, and those who find it incredibly intimidating.
- The purpose of the no-electioneering zone is to give voters a choice of whether they wish to interact with the candidates or not.
- Derry holds elections on a private school campus and does not set up until late after school. If you allow signage to be placed 24 hours in advance, you are asking private parties to enable something that may be against their own policies, potentially harming the relationship and conflicting agreements.
- As written, this bill looks to solve a problem in a way that is too restrictive.
- If the committee believes this bill is worthy of support, he recommends significant amendments and recommends stating that election day starts at 12:01 a.m. on that Tuesday.

Senator Lang stated that when running elections in his hometown, the town hall's parking lot, where the polling is held, is shared with a library and a church. If he reads this correctly, he wonders whether his town would be able to set up a no-electioneering zone as it is not the same property.

- Mr. Nelson believes the purpose of the no-electioneering zone is to allow people to get out of their cars and go into the polling place without having to interact with the candidates if they do not wish to do so.

- He interprets the bill to mean that it would not be possible to have control outside of the direct property. The language is not flexible enough to cover all the different circumstances polling locations have throughout New Hampshire.

Sarah Burke Cohen, New Hampshire Municipal Association

- The moderators before her have done a good job explaining the reasons for opposition to this bill.
- This becomes a problem if candidates drop off signs 24 hours before, but moderators are not responsible for the polling place until it opens.
- Many schools are polling places, this could interrupt school operations by having unattended signs dropped off up to 24 hours ahead of time. Schools may need to move the signs during those hours, or the signs could be vandalized. This could lead to spirited conversations between the candidates if signs are damaged.

Representative Denis V. Murphy II, Winchester Town Moderator

- Has been a moderator for 6 terms.
- Over the past 4 years, legislation has made being an election official impossible.
- The requirements put into place are one reason municipalities are having more issues with voting procedures than less.
- The bill will hinder election officials, not help.
- Would like to see the committee ITL this bill for the sake of New Hampshire and its citizens.