

# Senate Election Law and Municipal Affairs Committee

*Jessica Bourque 271-2104*

**SB 43**, removing articles of clothing from the definition of electioneering.

**Hearing Date:** January 14, 2025

**Time Opened:** 10:22 a.m.

**Time Closed:** 10:37 a.m.

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

**Bill Analysis:** This bill removes articles of clothing from the definition of electioneering.

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**Sponsors:**  
Sen. Lang

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**Who supports the bill:** Senator Tim Lang

**Who opposes the bill:** Rep. Timothy Horrigan, Ken Barnes, Linda Callaway

**Who is neutral on the bill:** Erin Hennessey

**Summary of testimony presented in support:**

**Senator Tim Lang, Prime Sponsor**

- This bill seeks to clarify an issue around electioneering that prohibits certain attire in polling areas.
- In 2018 the U.S. Supreme Court ruled that a Minnesota law forbidding political apparel in polling locations violated free speech, noting that there should be discretion used if someone is in the “act of voting”.
- This bill strikes “or article of clothing” from the statute to allow someone who goes into a polling place and is in the “act of voting” to be allowed to wear certain items of clothing and not subject to this law.
- After speaking with the Attorney General, there will need to be an amendment to address other portions of existing statutes.

**Summary of testimony presented in opposition:**

**Rep. Timothy Horrigan, Durham**

- Understands the free speech issues.
- Polling place is not a place for campaigning.
- It is hard to tell what clothing is electioneering and what is not.

- Believes we should leave the law the way it is.

Senator Gray said that it is his understanding that wearing something into a polling location that might have the name of a candidate but doesn't say "vote for" or "elect" or anything along those lines is ok to wear under current law.

**Ken Barnes, Contoocook**

- Believes that we should leave the statute as it is now.
- Moderators can use their discretion under the current law.
- Statute only talks about election clothing prohibited within the "no election" corridor outside the polls.

**Linda Callaway, New Durham Moderator**

- Electioneering is about influence inside or outside of polls.
- Voters should be able to vote without the undue influence of others.
- Considers voting a civic duty and not a partisan activity.
- Electioneering is corrosive to the polling place.

**Summary of Neutral Testimony Presented:**

**Erin Hennessey, N.H. Deputy Secretary of State**

- As written, this bill would only prohibit folks handing out election paraphernalia outside a polling location from distributing clothing. Other items will still be permitted.
- Discussed with Senator Lang that perhaps another way to go would be to change the definition in RSA 652:16-h. But cautioned that if you change the definition of electioneering then you need to change other areas of the law as well.