



House of Representatives

General Assembly

File No. 508

January Session, 2003

Substitute House Bill No. 5241

House of Representatives, April 23, 2003

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT AUTHORIZING REFERENDUM CONTESTS AND COMPLAINTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2003*) Any person (1) claiming to
2 have been aggrieved by any ruling of any election official in
3 connection with a referendum, (2) claiming that there has been a
4 mistake in the count of votes cast for a referendum, or (3) claiming to
5 be aggrieved by a violation of any provision of section 9-355, 9-357 to
6 9-361, inclusive, 9-364, 9-364a or 9-365 of the general statutes in the
7 casting of absentee ballots at a referendum, may bring a complaint to
8 any judge of the Superior Court for relief from such ruling, mistake or
9 violation. In any action brought pursuant to the provisions of this
10 section, the complainant shall send a copy of the complaint by first
11 class mail, or deliver a copy of the complaint by hand, to the State
12 Elections Enforcement Commission. If such complaint is made prior to
13 such referendum, such judge shall proceed expeditiously to render

14 judgment on the complaint and shall cause notice of the hearing to be
15 given to the Secretary of the State and the State Elections Enforcement
16 Commission. If such complaint is made subsequent to such
17 referendum, it shall be brought within thirty days after such
18 referendum to any judge of the Superior Court, in which the person
19 shall set out the claimed errors of the election official, the claimed
20 errors in the count or the claimed violations of said sections. Such
21 judge shall forthwith order a hearing to be held upon such complaint,
22 upon a day not more than five nor less than three days from the
23 making of such order, and shall cause notice of not less than three nor
24 more than five days to be given to any person who may be affected by
25 the decision upon such hearing, to such election official, the Secretary
26 of the State, the State Elections Enforcement Commission and to any
27 other party or parties whom such judge deems proper parties to the
28 hearing, of the time and place for the hearing upon such complaint.
29 Such judge shall, on the day fixed for such hearing and without
30 unnecessary delay, proceed to hear the parties. If sufficient reason is
31 shown, such judge may order any voting machines to be unlocked or
32 any ballot boxes to be opened and a recount of the votes cast, including
33 absentee ballots, to be made. Such judge shall, if such judge finds any
34 error in the rulings of the election official or any mistake in the count
35 of the votes, certify the result of such judge's finding or decision to the
36 Secretary of the State before the tenth day succeeding the conclusion of
37 the hearing. Such judge may order a new referendum or a change in
38 the existing referendum schedule. Such certificate of such judge's
39 finding or decision shall be final and conclusive upon all questions
40 relating to errors in the ruling of such election officials, to the
41 correctness of such count, and, for the purposes of this section only,
42 such claimed violations, and shall operate to correct the returns of the
43 moderators or presiding officers, so as to conform to such finding or
44 decision, except that this section shall not affect the right of appeal to
45 the Supreme Court and it shall not prevent such judge from reserving
46 such questions of law for the advice of the Supreme Court as provided
47 in section 9-325 of the general statutes. Such judge may, if necessary,
48 issue such judge's writ of mandamus, requiring the adverse party and

49 those under such judge to deliver to the complainant the
50 appurtenances of such office, and shall cause such judge's finding and
51 decree to be entered on the records of the Superior Court in the proper
52 judicial district.

This act shall take effect as follows:	
Section 1	<i>July 1, 2003</i>

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Elect. Enforcement Com.	GF - Cost	None	None
Judicial Dept.	GF - Cost	None	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 04 \$	FY 05 \$
All Municipalities	STATE MANDATE - Cost	Potential	Potential

Explanation

This bill establishes a statutory right to bring a complaint to Superior Court when a person claims to have been aggrieved in connection with a referendum.

Any person may bring a complaint under current law when they are aggrieved in connection with a referendum. It is uncertain if specifying a person's right to bring a complaint in statute would affect the caseload of the Superior Court. Any potential impact is anticipated to be minor, however, and could be accommodated without additional appropriations to the Judicial Department.

As a result of this bill, the State Elections Enforcement Commission may incur a workload increase, which will not require additional funding.

Municipal Impact

This bill may result in a potential cost to municipalities. Under the bill, if sufficient reason is shown, a Superior Court judge may order a

new referendum. The extent to which specifying the court's authority in statute would increase the likelihood that new referenda would be ordered is unknown. The cost to municipalities to hold a referendum varies by town population. Small towns, such as Andover and Roxbury, can hold a referendum for \$1,000. Large cities, such as Bridgeport and Stamford, can hold a referendum for approximately \$40,000 and \$90,000, respectively.

OLR Bill Analysis

sHB 5241

AN ACT AUTHORIZING REFERENDUM CONTESTS AND COMPLAINTS

SUMMARY:

This bill creates a statutory right to bring a complaint when anyone claims to have been aggrieved in connection with a referendum by (1) an election official's ruling, (2) a mistake in the vote count, or (3) a violation of prohibited acts concerning absentee voting.

A person may file a complaint with any Superior Court judge following the bill's procedures, which are similar to those available for contests and complaints in an election for public office. The person has 30 days after the referendum to bring a complaint. After a hearing with all affected parties, the judge has 10 days to issue a decision when he finds an error unless the complaint is filed before the referendum, in which case he must decide "expeditiously." He can order a recount, a new referendum, or a change in the referendum schedule. His finding or decision is final, but it can be appealed to the Supreme Court.

EFFECTIVE DATE: July 1, 2003

COMPLAINT PROCEDURES

After filing the complaint with a judge, the complainant must send or deliver a copy of it to the State Elections Enforcement Commission (SEEC). When the complaint is filed before the referendum takes place, the judge must give the secretary of the state and SEEC notice of a hearing and render judgment expeditiously.

A complaint made after the referendum must be brought to a judge within 30 days after the referendum. The judge must order a hearing to take place from three to five days later, giving three to five days' notice to the election official who is the subject of the complaint, the secretary, SEEC, and any other affected parties.

If sufficient reason is shown at the hearing, the judge may order a recount. The judge has 10 days after the hearing to certify his ruling if he finds any error in an election official's ruling or mistake in the vote count. (If voting machines are used at a referendum, the moderator locks and seals them when the count is completed. By law, they remain locked, but only for 14 days unless the SEEC issues an order or there is a recanvass in case of a discrepancy, in which case, they stay locked for a longer period. Under the bill's provision allowing a complaint up to 30 days after a referendum, the machines may have already been unlocked and cleared by the time a complaint is filed.) The judge may order a new referendum or a change in the existing referendum schedule.

The judge's ruling is final and conclusive as to the questions relating to the complaint. The referendum returns must be corrected to conform to the ruling. But the bill allows a party to appeal the ruling to the state Supreme Court. If a question of law is raised at the hearing that any party claims needs Supreme Court review, the judge must transmit it to the chief justice, who must call a special session of the Court to hear the question immediately.

If necessary, the Superior Court judge may issue a writ of mandamus to enforce his order and enter his finding and decree in the Superior Court records.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0