



General Assembly

February Session, 2004

**Amendment**

LCO No. 2892

\*HB0550002892HDO\*

Offered by:

REP. O'ROURKE, 32<sup>nd</sup> Dist.

To: House Bill No. 5500

File No. 162

Cal. No. 140

**"AN ACT CONCERNING COMPLIANCE WITH THE FEDERAL  
HELP AMERICA VOTE ACT."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 9-7b of the general statutes, as amended by section  
4 2 of public act 03-223 and sections 53 and 65 of public act 03-241, is  
5 repealed and the following is substituted in lieu thereof (*Effective from*  
6 *passage*):

7 (a) The State Elections Enforcement Commission shall have the  
8 following duties and powers:

9 (1) To make investigations on its own initiative or with respect to  
10 statements filed with the commission by the Secretary of the State or  
11 any town clerk, or upon written complaint under oath by any  
12 individual, with respect to alleged violations of any provision of the  
13 general statutes relating to any election or referendum, any primary  
14 held pursuant to section 9-423, as amended, 9-425 or 9-464 or any

15 primary held pursuant to a special act, and to hold hearings when the  
16 commission deems necessary to investigate violations of any  
17 provisions of the general statutes relating to any such election, primary  
18 or referendum, and for the purpose of such hearings the commission  
19 may administer oaths, examine witnesses and receive oral and  
20 documentary evidence, and shall have the power to subpoena  
21 witnesses under procedural rules the commission shall adopt, to  
22 compel their attendance and to require the production for examination  
23 of any books and papers which the commission deems relevant to any  
24 matter under investigation or in question. In connection with its  
25 investigation of any alleged violation of any provision of chapter 145,  
26 or of any provision of section 9-359 or section 9-359a, the commission  
27 shall also have the power to subpoena any municipal clerk and to  
28 require the production for examination of any absentee ballot, inner  
29 and outer envelope from which any such ballot has been removed,  
30 depository envelope containing any such ballot or inner or outer  
31 envelope as provided in sections 9-150a, as amended, and 9-150b and  
32 any other record, form or document as provided in section 9-150b, in  
33 connection with the election, primary or referendum to which the  
34 investigation relates. In case of a refusal to comply with any subpoena  
35 issued pursuant to this subsection or to testify with respect to any  
36 matter upon which that person may be lawfully interrogated, the  
37 superior court for the judicial district of Hartford, on application of the  
38 commission, may issue an order requiring such person to comply with  
39 such subpoena and to testify; failure to obey any such order of the  
40 court may be punished by the court as a contempt thereof. In any  
41 matter under investigation which concerns the operation or inspection  
42 of or outcome recorded on any voting machine, the commission may  
43 issue an order to the municipal clerk to impound such machine until  
44 the investigation is completed;

45 (2) To levy a civil penalty not to exceed (A) two thousand dollars  
46 per offense against any person the commission finds to be in violation  
47 of any provision of chapter 145, part V of chapter 146, part I of chapter  
48 147, chapter 148, section 9-12, as amended, subsection (a) of section 9-

49 17, section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, as  
50 amended, 9-23h, as amended, 9-23j to 9-23o, inclusive, 9-26, 9-31a, 9-32,  
51 9-35, as amended, 9-35b, 9-35c, 9-40a, 9-42, as amended, 9-43, 9-50a, 9-  
52 56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-409, as amended, 9-410, as  
53 amended, 9-412, as amended, 9-436, as amended, 9-436a, 9-453e to 9-  
54 453h, inclusive, as amended, 9-453k, as amended, 9-453o, as amended,  
55 [or] sections 1 to 3, inclusive, of [this act] public act 03-241 or sections  
56 83 to 90, inclusive, of public act 03-6 of the June 30 special session, or  
57 (B) two thousand dollars per offense or twice the amount of any  
58 improper payment or contribution, whichever is greater, against any  
59 person the commission finds to be in violation of any provision of  
60 chapter 150. The commission may levy a civil penalty against any  
61 person under subparagraph (A) or (B) of this subdivision only after  
62 giving the person an opportunity to be heard at a hearing conducted in  
63 accordance with sections 4-176e to 4-184, inclusive. In the case of  
64 failure to pay any such penalty levied pursuant to this subsection  
65 within thirty days of written notice sent by certified or registered mail  
66 to such person, the superior court for the judicial district of Hartford,  
67 on application of the commission, may issue an order requiring such  
68 person to pay the penalty imposed and such court costs, state  
69 marshal's fees and attorney's fees incurred by the commission as the  
70 court may determine. Any civil penalties paid, collected or recovered  
71 under subparagraph (B) of this subdivision for a violation of any  
72 provision of chapter 150 applying to the office of the Treasurer shall be  
73 deposited on a pro rata basis in any trust funds, as defined in section 3-  
74 13c, affected by such violation;

75 (3) (A) To issue an order requiring any person the commission finds  
76 to have received any contribution or payment which is prohibited by  
77 any of the provisions of chapter 150, after an opportunity to be heard  
78 at a hearing conducted in accordance with the provisions of sections 4-  
79 176e to 4-184, inclusive, to return such contribution or payment to the  
80 donor or payor, or to remit such contribution or payment to the state  
81 for deposit in the General Fund, whichever is deemed necessary to  
82 effectuate the purposes of chapter 150;

83 (B) To issue an order when the commission finds that an intentional  
84 violation of any provision of chapter 150 has been committed, after an  
85 opportunity to be heard at a hearing conducted in accordance with  
86 sections 4-176e to 4-184, inclusive, which order may contain one or  
87 more of the following sanctions: (i) Removal of a campaign treasurer,  
88 deputy campaign treasurer or solicitor; (ii) prohibition on serving as a  
89 campaign treasurer, deputy campaign treasurer or solicitor, for a  
90 period not to exceed four years; and (iii) in the case of a party  
91 committee or a political committee, suspension of all political  
92 activities, including, but not limited to, the receipt of contributions and  
93 the making of expenditures, provided the commission may not order  
94 such a suspension unless the commission has previously ordered the  
95 removal of the campaign treasurer and notifies the officers of the  
96 committee that the commission is considering such suspension;

97 (C) To issue an order revoking any person's eligibility to be  
98 appointed or serve as an election, primary or referendum official or  
99 unofficial checker or in any capacity at the polls on the day of an  
100 election, primary or referendum, when the commission finds such  
101 person has intentionally violated any provision of the general statutes  
102 relating to the conduct of an election, primary or referendum, after an  
103 opportunity to be heard at a hearing conducted in accordance with  
104 sections 4-176e to 4-184, inclusive;

105 (D) To issue an order to enforce the provisions of the Help America  
106 Vote Act, P.L. 107-252, as amended from time to time, as the  
107 commission deems appropriate;

108 (4) To inspect or audit at any reasonable time and upon reasonable  
109 notice the accounts or records of any campaign treasurer or principal  
110 campaign treasurer, as required by chapter 150 and to audit any such  
111 election, primary or referendum held within the state; provided, (A) (i)  
112 not later than two months preceding the day of an election at which a  
113 candidate is seeking election, the commission shall complete any audit  
114 it has initiated in the absence of a complaint that involves a committee  
115 of the same candidate from a previous election, and (ii) during the

116 two-month period preceding the day of an election at which a  
117 candidate is seeking election, the commission shall not initiate an audit  
118 in the absence of a complaint that involves a committee of the same  
119 candidate from a previous election, and (B) the commission shall not  
120 audit any caucus, as defined in subdivision (1) of section 9-372, as  
121 amended;

122 (5) To attempt to secure voluntary compliance, by informal methods  
123 of conference, conciliation and persuasion, with any provision of  
124 chapters 149 to 153, inclusive, or any other provision of the general  
125 statutes relating to any such election, primary or referendum;

126 (6) To consult with the Secretary of the State, the Chief State's  
127 Attorney or the Attorney General on any matter which the commission  
128 deems appropriate;

129 (7) To refer to the Chief State's Attorney evidence bearing upon  
130 violation of any provision of chapters 149 to 153, inclusive, or any  
131 other provision of the general statutes pertaining to or relating to any  
132 such election, primary or referendum;

133 (8) To refer to the Attorney General evidence for injunctive relief  
134 and any other ancillary equitable relief in the circumstances of  
135 subdivision (7) of this [section] subsection. Nothing in this subdivision  
136 shall preclude a person who claims that he is aggrieved by a violation  
137 of any provision of chapter 152 or any other provision of the general  
138 statutes relating to referenda from pursuing injunctive and any other  
139 ancillary equitable relief directly from the Superior Court by the filing  
140 of a complaint;

141 (9) To refer to the Attorney General evidence pertaining to any  
142 ruling which the commission finds to be in error made by election  
143 officials in connection with any election, primary or referendum. Those  
144 remedies and procedures available to parties claiming to be aggrieved  
145 under the provisions of sections 9-323, 9-324, 9-328 and 9-329a, as  
146 amended, shall apply to any complaint brought by the Attorney  
147 General as a result of the provisions of this subdivision;

148 (10) To consult with the United States Department of Justice and the  
149 United States Attorney for Connecticut on any investigation pertaining  
150 to a violation of this section, section 9-12, as amended, subsection (a) of  
151 section 9-17 or section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a,  
152 9-23g, as amended, 9-23h, as amended, 9-23j to 9-23o, inclusive, 9-26, 9-  
153 31a, 9-32, 9-35, as amended, 9-35b, 9-35c, 9-40a, 9-42, as amended, 9-43,  
154 9-50a, 9-56 or 9-59 and to refer to said department and attorney  
155 evidence bearing upon any such violation for prosecution under the  
156 provisions of the National Voter Registration Act of 1993, P.L. 103-31,  
157 as amended from time to time;

158 (11) To inspect reports filed with the Secretary of the State and with  
159 town clerks pursuant to chapter 150 and refer to the Chief State's  
160 Attorney evidence bearing upon any violation of law therein if such  
161 violation was committed knowingly and wilfully;

162 (12) To intervene in any action brought pursuant to the provisions  
163 of sections 9-323, 9-324, 9-328 and 9-329a, as amended, upon  
164 application to the court in which such action is brought when in the  
165 opinion of the court it is necessary to preserve evidence of possible  
166 criminal violation of the election laws;

167 (13) To adopt and publish regulations pursuant to chapter 54 to  
168 carry out the provisions of section 9-7a, this section and chapter 150; to  
169 issue upon request and publish advisory opinions in the Connecticut  
170 Law Journal upon the requirements of chapter 150, and to make  
171 recommendations to the General Assembly concerning suggested  
172 revisions of the election laws;

173 (14) To the extent that the Elections Enforcement Commission is  
174 involved in the investigation of alleged or suspected criminal  
175 violations of any provision of the general statutes pertaining to or  
176 relating to any such election, primary or referendum and is engaged in  
177 such investigation for the purpose of presenting evidence to the Chief  
178 State's Attorney, the Elections Enforcement Commission shall be  
179 deemed a law enforcement agency for purposes of subdivision (3) of

180 subsection (b) of section 1-210, as amended, provided nothing in this  
181 section shall be construed to exempt the Elections Enforcement  
182 Commission in any other respect from the requirements of the  
183 Freedom of Information Act, as defined in section 1-200;

184 (15) To enter into such contractual agreements as may be necessary  
185 for the discharge of its duties, within the limits of its appropriated  
186 funds and in accordance with established procedures; [and]

187 (16) To provide the Secretary of the State with notice and copies of  
188 all decisions rendered by the commission in contested cases, advisory  
189 opinions and declaratory judgments, at the time such decisions,  
190 judgments and opinions are made or issued;

191 (17) To receive and determine complaints filed under the Help  
192 America Vote Act, P.L. 107-252, as amended from time to time, by any  
193 person who believes there is a violation of any provision of Title III of  
194 P.L. 107-252, as amended. Any complaint filed under this subdivision  
195 shall be in writing, notarized and signed and sworn by the person  
196 filing the complaint. At the request of the complainant, there shall be a  
197 hearing on the record, conducted in accordance with sections 4-167e to  
198 4-184, inclusive. The commission shall make a final determination with  
199 respect to a complaint prior to the expiration of the ninety-day period  
200 beginning on the date the complaint is filed, unless the complainant  
201 consents to a longer period for making such determination. If the  
202 commission fails to meet the applicable deadline under this  
203 subdivision with respect to a complaint, the commission shall resolve  
204 the complaint within sixty days after the expiration of such ninety-day  
205 period under an alternative dispute resolution procedure established  
206 by the commission.

207 (b) In the case of a refusal to comply with an order of the  
208 commission issued pursuant to subdivision (3) of subsection (a) of this  
209 section, the superior court for the judicial district of Hartford, on  
210 application of the commission, may issue a further order to comply.  
211 Failure to obey such further order may be punished by the court as a

212 contempt thereof."