



House of Representatives

General Assembly

File No. 498

February Session, 2008

Substitute House Bill No. 5888

House of Representatives, April 7, 2008

The Committee on Government Administration and Elections reported through REP. CARUSO of the 126th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO THE OPTICAL SCAN VOTING SYSTEM.

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

1 Section 1. (NEW) (*Effective from passage*) (a) There is established an
2 Independent Elections Audit Board that shall consist of five members,
3 not more than two of whom shall be members of the same political
4 party and at least one of whom shall not be affiliated with any political
5 party. Of the members first appointed, one shall have verifiable
6 expertise in statistics, be appointed by the minority leader of the House
7 of Representatives and serve for a term of one year from July 1, 2008;
8 one shall have a verifiable elections auditing background, be
9 appointed by the minority leader of the Senate and serve for a term of
10 three years from July 1, 2008; one shall have a detailed knowledge of
11 state election law, be appointed by the speaker of the House of
12 Representatives and serve for a term of one year from July 1, 2008; one
13 shall have an interest in good government, be appointed by the
14 president pro tempore of the Senate and serve for a term of three years

15 from July 1, 2008, and one shall be appointed by the Governor,
16 provided such member shall not be affiliated with any political party,
17 and shall hold office for a term of four years from July 1, 2008.
18 Thereafter, members shall be appointed for terms of four years from
19 July first in the year of their appointment and shall be appointed by
20 the person holding the same office as was held by the person making
21 the original appointment, provided any person chosen to fill a vacancy
22 shall be appointed only for the unexpired term of the member whom
23 he or she shall succeed. All appointments shall be made with the
24 consent of the state Senate and House of Representatives, provided the
25 initial appointees may serve without confirmation from July 1, 2008,
26 subject to approval at the next regular session of the General
27 Assembly. No person, who has served within the previous three years
28 as a public official, other than a member of the State Elections
29 Enforcement Commission, or who has served within the previous
30 three years as a political party officer, shall be appointed to
31 membership on the board. For purposes of this subsection, (1) "public
32 official" means an individual who holds or has held a state, district or
33 municipal office, as defined in section 9-372 of the general statutes, but
34 shall not include a justice of the peace or a notary public, and (2)
35 "political party officer" means an officer or member of a national
36 committee of a political party, or a state central or town committee, or
37 any person employed by any such committee for compensation. The
38 board shall elect one of its members to serve as chairperson and
39 another member to serve as vice-chairperson. Each member of the
40 board shall be compensated at the rate of two hundred dollars per day
41 for any day on which the member participates in a regular board
42 meeting, and shall be paid by the state for his or her reasonable
43 expenses, including necessary stenographic and clerical help.

44 (b) The board may, subject to the provisions of chapter 67 of the
45 general statutes, employ such employees as may be necessary to carry
46 out the provisions of this section.

47 (c) Notwithstanding the provisions of section 5-266a and 5-266b of
48 the general statutes, no member or employee of the board shall (1) be a

49 candidate in any primary or election, (2) hold any elected public office,
50 (3) be a political party officer, as defined in subsection (a) of this
51 section, or (4) hold any office of any committee, as defined in section 9-
52 601 of the general statutes. The members and employees of the board
53 shall otherwise be subject to the provisions of sections 5-266a and 5-
54 266b of the general statutes.

55 (d) The board shall be within the State Elections Enforcement
56 Commission for administrative purposes only.

57 (e) Not later than December 1, 2008, the board shall develop
58 standards and procedures for conducting audits of elections and
59 primaries. In developing such standards and procedures, the board
60 shall be cognizant of the current level of science utilized in the area of
61 election auditing. Additionally, subject to any other provisions of law,
62 such standards and procedures shall enable any such audit to
63 commence within forty-eight hours of the time when state election
64 officials announce the final unofficial vote in each district in which
65 votes are cast in the election that is the subject of such audit. On or
66 before January 1, 2009, such standards and procedures shall be
67 presented to the joint standing committee of the General Assembly
68 having cognizance of matters relating to elections in addition to any
69 board recommendations for the repeal or amendment of existing audit
70 standards or procedures. Any audit standards and procedures
71 developed by the board pursuant to this subsection shall require
72 approval by the General Assembly and shall take effect not sooner
73 than December 31, 2009.

74 Sec. 2. (NEW) (*Effective from passage*) Not later than October 1, 2008,
75 the Secretary of the State shall select an entity that shall be responsible
76 for the election-specific programming of any hardware, including all
77 memory cards and voting tabulators used in any optical scan voting
78 system utilized in the state. Concomitantly, the Secretary of the State
79 shall select a separate entity that shall be responsible for the testing of
80 such memory cards: (1) After such programming but prior to shipment
81 to registrars of voters, and (2) after the applicable election. Such testing

82 entity shall be located within the state. The Secretary of the State shall
83 implement procedures for the secure transport of such memory cards
84 to and from the entities described in this section.

85 Sec. 3. (NEW) (*Effective from passage*) The Secretary of the State shall
86 have oversight of all election recounts in the state. Notwithstanding
87 any provision of the general statutes, not later than October 1, 2008, the
88 Secretary of the State, in consultation with the registrars of voters, shall
89 establish a procedure for the recount of ballots in any election that
90 provides for the conduct of such recount to consist of a combination of
91 hand recounts and recount by use of voting tabulators. Any such
92 procedure shall only be utilized to conduct a recount if the candidates
93 for such office agree to the utilization of such procedure rather than a
94 recount performed by hand. The Secretary of the State shall establish a
95 recount team that shall consist of five persons, except that in the case of
96 a general election, such team shall consist of two members from each
97 party with candidates on the ballot.

98 Sec. 4. (NEW) (*Effective from passage*) Notwithstanding any provision
99 of the general statutes, for any state or municipal election each
100 registrar of voters shall have printed a number of ballots equal to one
101 hundred per cent of the number of electors on the last completed
102 enrollment list. Alternatively, the Secretary of the State may order such
103 registrar of voters to have printed a number of ballots less than one
104 hundred per cent of the number of electors on the last completed
105 enrollment list if the secretary determines such lesser number will
106 adequately accommodate the anticipated number of voters for such
107 election.

108 Sec. 5. Section 9-168d of the general statutes is repealed and the
109 following is substituted in lieu thereof (*Effective from passage*):

110 (a) On or before July 1, 1980, each polling place shall be made
111 accessible to and usable by physically disabled persons by complying
112 with the following standards of accessibility: (1) Doors, entrances, and
113 exits used to gain access to or egress from the polling place shall have a
114 minimum width of thirty-one inches; (2) temporary ramps shall be

115 made available or curb cuts provided where necessary for accessibility
116 to the entrance; (3) any stairs necessarily used to enter the polling place
117 shall have a temporary handrail and ramp; (4) in the polling place, no
118 barrier shall impede the path of the physically disabled to the voting
119 booth.

120 (b) The registrars of voters in each town, or the legislative body of
121 the town, shall select as polling places only those sites which meet the
122 standards of accessibility required under the State Building Code, as
123 revised pursuant to section 29-269, if applicable, or this section. The
124 registrars of voters in each town shall file with the Secretary of the
125 State either: (1) A certification, as prescribed by the Secretary of the
126 State, that states that each polling place selected complies with the
127 provisions set forth in this subsection, or (2) an application for waiver,
128 as described in subsection (c) of this section.

129 (c) The registrars or such legislative body may select a site not
130 meeting such standards if no available site within the voting district or
131 town can reasonably be made accessible if an application for waiver is
132 filed with the Secretary of the State and approved by the Office of
133 Protection and Advocacy for Persons with Disabilities. An application
134 for waiver shall be filed at least sixty days prior to the date on which
135 the primary or election will be held. The Secretary of the State shall,
136 within seven days after receipt of any such application, refer the
137 application to said office of protection and advocacy. Said office shall,
138 within thirty days, review the application and inform the Secretary of
139 the State of its approval or disapproval. The Secretary of the State shall
140 notify the applicant for waiver of such approval or disapproval within
141 seven days after the secretary is so informed.

142 (d) Not later than sixty days prior to any election, each registrar of
143 voters shall file with the Secretary of the State a plan and layout of the
144 polling place to assure privacy and accessibility for voters. Such layout
145 shall create a zone of privacy for such voters. In the event that the
146 Secretary of the State rejects such plan and layout, the secretary may
147 approve a waiver from such requirement. Any such plan and layout

148 shall be subject to change on the day of any such election in the event
149 of an emergency, provided such registrar of voters shall certify, in
150 writing, to the secretary the nature of such emergency.

151 Sec. 6. (NEW) (*Effective from passage*) The Secretary of the State, or
152 the secretary's designee, may issue a directive during any primary or
153 election, including but not limited to, a directive to the State Elections
154 Enforcement Commission to enforce any regulation adopted by the
155 Secretary of the State. Such directive shall be enforced in accordance
156 with the provisions of section 9-3 of the general statutes, as amended
157 by this act.

158 Sec. 7. Section 9-3 of the general statutes is repealed and the
159 following is substituted in lieu thereof (*Effective from passage*):

160 The Secretary of the State, by virtue of the office, shall be the
161 Commissioner of Elections of the state, with such powers and duties
162 relating to the conduct of elections as are prescribed by law and, unless
163 otherwise provided by state statute, the secretary's regulations,
164 declaratory rulings, directives, instructions and opinions, if in written
165 form, shall be presumed as correctly interpreting and effectuating the
166 administration of elections and primaries under this title, except for
167 chapter 155, provided nothing in this section shall be construed to alter
168 the right of appeal provided under the provisions of chapter 54.
169 Nothing in this section shall be construed to prohibit the enforcement
170 of a directive issued by the Secretary of the State, or the secretary's
171 designee, concerning any primary or election.

172 Sec. 8. Subsection (a) of section 9-236b of the general statutes is
173 repealed and the following is substituted in lieu thereof (*Effective from*
174 *passage*):

175 (a) The Secretary of the State shall provide each municipality with
176 sufficient quantities of a poster size copy, at least eighteen by twenty-
177 four inches, of a Voter's Bill of Rights, which shall be posted
178 conspicuously at each polling place. The text of the Voter's Bill of
179 Rights shall be:

180 "VOTER'S BILL OF RIGHTS

181 Every registered voter in this state has the right to:

182 (1) Inspect a sample ballot before voting;

183 (2) Receive instructions concerning how to operate voting
184 equipment, on sample voting equipment before voting;

185 (3) Cast a ballot if the voter is in line when the polls are closing;

186 (4) Ask for and receive assistance in voting, including assistance in
187 languages other than English where required by federal or state law;

188 (5) Vote free from coercion or intimidation by election officials or
189 any other person;

190 (6) Cast a ballot using voting equipment that accurately counts all
191 votes;

192 (7) Vote by provisional ballot if the individual registered to vote and
193 the individual's name is not on the voter list;

194 (8) Be informed of the process for restoring the individual's right to
195 vote if the individual was incarcerated for a felony conviction; [and]

196 (9) Vote independently and in privacy at a polling place, regardless
197 of physical disability; and

198 (10) Be informed of the different voting options available and have
199 the right to use the voting system of the individual's choice from the
200 systems available.

201 If any of your rights have been violated, you have the right to file an
202 official complaint with the State Elections Enforcement Commission at
203 (toll-free telephone number) or the United States Department of
204 Justice at (toll-free telephone number). In addition, before leaving
205 the polling place you may notify the moderator of the violation."

206 Sec. 9. (NEW) (*Effective from passage*) Notwithstanding any provision

207 of the general statutes, the registrars of voters shall ensure that each
208 voting booth is placed in a location that is in plain view of all election
209 officials and electors waiting to vote, provided there shall be not less
210 than three feet between each such voting booth. Each voting booth
211 shall be situated so that no person outside such booth can determine
212 how an individual utilizing such booth voted.

213 Sec. 10. (NEW) (*Effective from passage*) Whenever practicable, the
214 voting tabulator shall be placed not less than three feet from any wall,
215 partition or guardrail and not less than four feet from the checkers'
216 table. The registrars of voters shall place a guardrail or other marking
217 device around such tabulator to prevent electors waiting in line from
218 encroaching upon an elector who is submitting his or her ballot into
219 the tabulator. Such guardrail or other marking device shall be placed
220 not less than three feet from the tabulator and shall be arranged in a
221 manner to prevent electors from determining the votes cast on each
222 ballot submitted into the tabulator.

223 Sec. 11. (NEW) (*Effective from passage*) The registrars of voters shall
224 either ensure that each ballot clerk offer every elector a privacy sleeve
225 into which the ballot can be inserted and fully shielded from view or,
226 in the alternative, place such privacy sleeve in every voting booth for
227 the elector's use. No elector shall be required to accept a privacy sleeve.

228 Sec. 12. Section 9-229a of the 2008 supplement to the general statutes
229 is repealed and the following is substituted in lieu thereof (*Effective*
230 *from passage*):

231 (a) Notwithstanding any provision of the general statutes, the
232 Secretary of the State, upon receipt of a written request from a certified
233 candidate in any election or primary that is received by the Secretary
234 of the State not later than thirty days prior to such primary or election,
235 and after consultation with the registrars of voters, shall appoint
236 election or primary day polling place observers as requested who shall
237 be electors of the state, including without limitation an observer who
238 accompanies and observes the election or primary moderator. Such
239 polling place observers shall record the names and other identifying

240 information of individuals involved in any irregularities or violations
241 and report this information to the Secretary of the State or the
242 Secretary's designee who shall forward all such information to the
243 State Elections Enforcement Commission and all candidates whose
244 names appear on the ballot. During any such primary or election,
245 observers shall immediately report any irregularities or violations of
246 law and the names and other identifying information of any electors
247 who are not allowed to vote to the Secretary of the State, or the
248 Secretary's designee, who shall inform the relevant registrar of voters
249 and the moderator and require immediate and appropriate corrective
250 action.

251 (b) The Secretary of the State shall establish suitable duties,
252 responsibilities and a curriculum, training program and certification
253 process for such polling place observers. Such training program and
254 certification process shall include, without limitation, procedures for
255 counting and recording absentee ballots, the use of voting machines,
256 voting when a name does not appear on a voting list and the duties of
257 a moderator in the conduct of a primary and election. Once certified,
258 the Secretary shall assign each polling place observer to a specific
259 polling place or polling places. Once assigned, the polling place
260 observer shall have the ability to enter and leave the assigned polling
261 places at any time during election or primary day. If at any such time
262 an observer becomes disruptive to the orderly process of voting, the
263 moderator shall have the ability to remove such observers from the
264 polling place. No candidate or member of the immediate family of a
265 candidate shall be appointed as a polling place observer for a polling
266 place on which such candidate may appear on the ballot.

267 (c) Any observer who wilfully, knowingly or recklessly interferes
268 with the orderly process of voting shall be subject to the provisions of
269 section 9-366.

270 (d) The Secretary may adopt regulations, pursuant to chapter 54, to
271 administer the program established pursuant to this section.

272 (e) Notwithstanding any provision of the general statutes, the

273 registrars of voters of each municipality may appoint additional
274 election officials on the day of, or on any day after, an election or
275 primary, if, in the opinion of both registrars of voters, additional
276 election officials are needed because (1) an election official appointed
277 prior to the day of the election or primary is unable to serve as an
278 election official for any reason, (2) it is necessary to accommodate the
279 public convenience of the electors in any voting district, or (3) it is
280 necessary to improve the administration of the election or primary.
281 The registrars of voters shall file a written opinion with the municipal
282 clerk indicating the reasons for the appointment of any such additional
283 election officials. The registrars of voters shall certify in writing to the
284 certified candidates in any such primary or election the reason for
285 appointment of any such additional election officials.

286 (f) Not later than September 1, 2007, the Secretary of the State shall
287 establish a code of ethics for polling place observers, registrars of
288 voters and poll workers. Such code of ethics shall be conspicuously
289 posted in each polling place and in the office of the registrars of voters.

290 (g) The Secretary of the State may establish a training program for
291 instruction on such code of ethics and a training program concerning
292 accessibility of polling places by persons with disabilities.

293 Sec. 13. Subsection (a) of section 9-261 of the 2008 supplement to the
294 general statutes is repealed and the following is substituted in lieu
295 thereof (*Effective from passage*):

296 (a) In each primary, election or referendum, when an elector has
297 entered the polling place, the elector shall announce the elector's street
298 address, if any, and the elector's name to the official checkers in a tone
299 sufficiently loud and clear as to enable all the election officials present
300 to hear the same. Each elector who registered to vote by mail for the
301 first time on or after January 1, 2003, and has a "mark" next to the
302 elector's name on the official registry list, as required by section 9-23r,
303 shall present to the official checkers, before the elector votes, either a
304 current and valid photo identification that shows the elector's name
305 and address or a copy of a current utility bill, bank statement,

306 government check, paycheck or other government document that
307 shows the name and address of the elector. Each other elector shall (1)
308 present to the official checkers the elector's Social Security card or any
309 other preprinted form of identification which shows the elector's name
310 and either the elector's address, signature or photograph, or (2) on a
311 form prescribed by the Secretary of the State, write the elector's
312 residential address and date of birth, print the elector's name and sign
313 a statement under penalty of false statement that the elector is the
314 elector whose name appears on the official checklist. Such form shall
315 clearly state the penalty of false statement. A separate such form shall
316 be used for each elector. If the elector presents a preprinted form of
317 identification under subdivision (1) of this subsection, the official
318 checkers shall check the name of such elector on the official checklist in
319 ink. If the elector completes the form under subdivision (2) of this
320 subsection, the registrar of voters or the assistant registrar of voters, as
321 the case may be, shall examine the information on such form and
322 either instruct the official checkers to check the name of such elector on
323 the official checklist or notify the elector that the form is incomplete or
324 inaccurate.

325 Sec. 14. Section 9-310 of the 2008 supplement to the general statutes
326 is repealed and the following is substituted in lieu thereof (*Effective*
327 *from passage*):

328 As soon as the count is completed and the moderator's return
329 required under the provisions of section 9-259 of the 2008 supplement
330 to the general statutes has been executed, the moderator shall place the
331 sealed tabulator in the tabulator bag, and so seal the bag, and the
332 tabulator shall remain so sealed against voting or being tampered with
333 for a period of [fourteen days] time until the Secretary of the State
334 determines that such sealing is no longer needed for the purposes of
335 conducting any recanvass, except as provided in section 9-311 or
336 pursuant to an order issued by the State Elections Enforcement
337 Commission. If it is determined that a recanvass is required pursuant
338 to section 9-311 or 9-311a, as amended by this act, immediately upon
339 such determination the tabulators, write-in ballots, absentee ballots,

340 moderators' returns and all other notes, worksheets or written
341 materials used at the election shall be impounded at the direction of
342 the Secretary of the State. Such package shall be preserved for one
343 hundred eighty days after such election and may be opened and its
344 contents examined in accordance with section 9-311 or upon an order
345 of a court of competent jurisdiction. At the end of one hundred eighty
346 days, unless otherwise ordered by the court, such package and its
347 contents may be destroyed. Any person who unlocks the voting or
348 operating mechanism of the tabulator or the counting compartment
349 after it has been locked as above directed or breaks or destroys or
350 tampers with the seal after it has been affixed as above directed or
351 changes the indication of the counters on any voting tabulator within
352 fourteen days after the election or within any longer period during
353 which the tabulator is kept locked as ordered by a court of competent
354 jurisdiction or by the State Elections Enforcement Commission in any
355 special case, except as provided in section 9-311, shall be imprisoned
356 for not more than five years. Any tabulator may be released in less
357 than fourteen days, for use in another election, by order of a court, if
358 there is no disagreement as to the returns from such machine and no
359 order directing impoundment has been issued by the State Elections
360 Enforcement Commission.

361 Sec. 15. Subsection (a) of section 9-320f of the 2008 supplement to
362 the general statutes is repealed and the following is substituted in lieu
363 thereof (*Effective January 1, 2010*):

364 (a) Not earlier than the fifteenth day after any election or primary
365 and not later than two business days before the canvass of votes by the
366 Secretary of the State, Treasurer and Comptroller, for any federal or
367 state election or primary, or by the town clerk for any municipal
368 election or primary, the registrars of voters shall conduct a manual
369 audit of the votes recorded in not less than ten per cent of the voting
370 districts in the state, district or municipality, whichever is applicable,
371 and shall include absentee ballots centrally counted in the municipality
372 where such election occurred. Such manual audit shall be noticed to
373 the public in advance and be open to public observation. Any election

374 official who participates in the administration and conduct of an audit
375 pursuant to this section shall be compensated by the municipality at
376 the standard rate of pay established by such municipality for elections
377 or primaries, as the case may be.

378 Sec. 16. Section 9-311a of the general statutes is repealed and the
379 following is substituted in lieu thereof (*Effective from passage*):

380 For purposes of this section, state, district and municipal offices
381 shall be as defined in section 9-372 except that the office of presidential
382 elector shall be deemed a state office. Forthwith after a regular or
383 special election for municipal office, or forthwith upon tabulation of
384 the vote for state and district offices by the Secretary of the State, when
385 at any such election the plurality of an elected candidate for an office
386 over the vote for a defeated candidate receiving the next highest
387 number of votes was either (1) less than a vote equivalent to [one-half
388 of] one per cent of the total number of votes cast for the office but not
389 more than two thousand votes, or (2) less than twenty votes, there
390 shall be a recanvass of the returns of the voting machine or voting
391 machines and absentee ballots used in such election for such office
392 unless such defeated candidate or defeated candidates, as the case may
393 be, for such office file a written statement waiving this right to such
394 canvass with the municipal clerk in the case of a municipal office, or
395 with the Secretary of the State in the case of a state or district office. In
396 the case of state and district offices, the Secretary of the State upon
397 tabulation of the votes for such offices shall notify the town clerks in
398 the state or district, as the case may be, of the state and district offices
399 which qualify for an automatic recanvass and shall also notify each
400 candidate for any such office. When a recanvass is to be held the
401 municipal clerk shall promptly notify the moderator, as defined in
402 section 9-311, who shall proceed forthwith to cause a recanvass of such
403 returns of the office in question in the same manner as is provided in
404 said section 9-311. In addition to the notice required under section 9-
405 311, the moderator shall before such recanvass is made give notice in
406 writing of the time when, and place where, such recanvass is to be
407 made to each candidate for a municipal office which qualifies for an

408 automatic canvass under this section. Nothing in this section shall
409 preclude the right to judicial proceedings on behalf of a candidate
410 under any provision of chapter 149. For the purposes of this section,
411 "the total number of votes cast for the office" means in the case of
412 multiple openings for the same office, the total number of electors
413 checked as having voted in the state, district, municipality or political
414 subdivision, as the case may be. When a canvass of the returns for an
415 office for which there are multiple openings is required by the
416 provisions of this section, the returns for all candidates for all openings
417 for the office shall be canvassed. No one other than a canvass
418 official shall take part in the canvass. If any irregularity in the
419 canvass procedure is noted by a candidate, he shall be permitted to
420 present evidence of such irregularity in any contest relating to the
421 election.

422 Sec. 17. (NEW) (*Effective from passage*) Notwithstanding any
423 provision of the general statutes, any certified candidate in an election
424 or primary may have input on the selection of moderators for any such
425 election or primary.

426 Sec. 18. (NEW) (*Effective from passage*) Notwithstanding any
427 provision of the general statutes, the Secretary of the State shall
428 establish a certification program for registrars of voters. Each such
429 registrar of voters shall be certified pursuant to such program not later
430 than December 31, 2010. Not later than January 1, 2009, the Secretary of
431 the State shall report to the joint standing committee of the General
432 Assembly having cognizance of matters relating to elections on the
433 establishment of such program, including, but not limited to, the
434 availability of state or federal funds for such program. At the time of
435 such report, the Secretary of the State shall also report on the efforts
436 made to increase public education on the optical scan voting system.

437 Sec. 19. (*Effective from passage*) The sum of two hundred fifty
438 thousand dollars is appropriated to the Office of the Secretary of the
439 State, from the General Fund, for the fiscal year ending June 30, 2008,
440 for the purpose of establishing the board described in section 1 of this

441 act. Such funds shall not lapse on June 1, 2008 and shall continue to be
 442 available for expenditure during the fiscal years ending June 30, 2009,
 443 and June 30, 2010.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	9-168d
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	9-3
Sec. 8	<i>from passage</i>	9-236b(a)
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	9-229a
Sec. 13	<i>from passage</i>	9-261(a)
Sec. 14	<i>from passage</i>	9-310
Sec. 15	<i>January 1, 2010</i>	9-320f(a)
Sec. 16	<i>from passage</i>	9-311a
Sec. 17	<i>from passage</i>	New section
Sec. 18	<i>from passage</i>	New section
Sec. 19	<i>from passage</i>	New section

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Secretary of the State	GF - Cost	250,000	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
All Municipalities	STATE MANDATE - Cost	None	Indeterminate

Explanation

This bill establishes an Independent Elections Audit Board and sets parameters for its five-member board. The bill appropriates \$250,000 to the Office of the Secretary of the State (SOTS) but the board will be located in the State Elections Enforcement Commission (SEEC) for administrative purposes only. The funds are appropriated for FY 08, but allow unspent funds to be carried forward into FY 09 and FY 10.

In FY 08 (using current services as the base), a \$250,000 appropriation would reduce the anticipated surplus of \$160.4 million projected by the Office of Fiscal Analysis on 2/4/08 by \$250,000 and would increase the amount by which the budget is currently over the spending cap (\$690.4 million) by \$250,000.

Board members will be compensated \$200 per day and any reasonable expenses. The bill also authorizes the board to hire any necessary staff to carry out the responsibilities outlined in the bill. Since the appropriation is to the SOTS and not to the SEEC, there are no funds for the SEEC to hire staff, lease space, or other expenses for the board. These costs could be significant.

The bill also makes changes to voting law that affect the office of the SOTS. It is believed that these changes can be accomplished within the current budgetary resources. There is no fiscal impact associated with these provisions of the bill.

There is a potential cost to municipalities associated with establishing a procedure that will use a combination of hand recounts and recount by use of voting tabulars in the event that a recount is needed. There is a potential cost to municipalities who will be required to perform this hand recount. The cost of such a task is unknown at this time.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5888

AN ACT CONCERNING REVISIONS TO THE OPTICAL SCAN VOTING SYSTEM.

SUMMARY:

This bill establishes an Independent Elections Audit Board to develop standards and procedures for auditing elections and primaries. The board's recommendations cannot supersede current law without the General Assembly's approval.

The bill also changes state election laws and establishes new provisions concerning voting technology, voting procedures, polling places, election officials, and current audit procedures.

In light of the recently adopted optical scan voting system (including voting tabulators and voting booths), it requires the secretary of the state to select separate entities to program election hardware and test memory cards. It also changes polling place set-up to assure voter privacy and requires registrars to obtain approval on polling place selection from the secretary prior to an election.

It requires the registrars of voters to print enough ballots for 100% of the electors on the last-completed enrollment list, unless the secretary directs otherwise.

The bill expands the required information on the Voter's Bill of Rights.

The bill authorizes the secretary of the state, or her designee, to issue a directive during a primary or election, including a directive to require enforcement of her office's regulations. It gives her responsibility for overseeing any election recanvass (recount) and requires her to establish a team for conducting recounts. The bill

decreases the threshold for discrepancy recounts.

Under the bill, registrars who appoint additional election officials must certify the reason for doing so to the candidates in the election or primary. The bill gives candidates input into the selection of moderators. Registrars of voters must undergo a certification program that the secretary of the state creates.

Finally, the manual audits conducted in voting districts randomly selected under current law must include any absentee ballots that were centrally counted in the municipality where the election occurred. The bill specifies that the audit must be publicly noticed in advance.

EFFECTIVE DATE: Upon passage, except for the provision requiring manual audits to include absentee ballots, which is effective January 1, 2010.

§ 1— INDEPENDENT AUDIT BOARD

Membership and Staff

The bill establishes a five-member Independent Elections Audit Board and places it within the State Elections Enforcement Commission (SEEC) for administrative purposes only. The governor and the top four legislative leaders appoint the members. No more than two can be from any one political party and at least one must be unaffiliated. Members serve four-year staggered terms, except the initial appointees whose terms vary in length.

Initial, but not subsequent or vacancy, appointees must have knowledge, expertise, or interest in specified areas, except for the governor's appointee. The governor's initial appointee must be unaffiliated. Table 1 lists the initial appointees, their appointing authority, term, and required knowledge, expertise, or interest.

TABLE 1: INITIAL APPOINTEES

<i>Appointing Authority</i>	<i>Term, Beginning July 1, 2008</i>	<i>Required Knowledge, Expertise, or Interest</i>

Governor	4 years	None
President pro tempore of the Senate	3 years	Interest in good government
Speaker of the House	1 year	State election law knowledge
Minority leader of the Senate	3 years	Verifiable elections auditing background
Minority leader of the House	1 year	Verifiable statistics expertise

Appointing authorities appoint subsequent members for four-year terms and make vacancy appointments, which last for the unexpired term of the former member. Both chambers must confirm each appointment, except for the initial appointees who may serve without confirmation from July 1, 2008 until the General Assembly's next regular session.

The bill requires the board to elect one of its members to serve as chairperson and another to serve as vice-chairperson.

Under the bill, board members are compensated \$200 a day for each day the members participate in a regular board meeting. The state must reimburse the members for their reasonable expenses, including necessary stenographic and clerical help.

The bill authorizes the board to employ necessary staff in compliance with the State Personnel Act.

Prohibition on Political Activities

Appointees. The bill prohibits certain people from being appointed to the board. People who served during the previous three years as a (1) public official, other than a member of the SEEC, or (2) political party officer are barred from serving. The bill defines "public official" as an individual who holds or has held a state, district, or municipal

office, other than a justice of the peace or a notary public. It defines “political party officer” as (1) an officer or member of a political party’s national committee, (2) an officer or member of a state central or town committee, or (3) any person who is employed by one of these committees and receives compensation.

Board Members and Staff. Once appointed, board members and staff are restricted with respect to their political activities. The bill prohibits them from:

1. being a candidate in a primary or election;
2. holding any elected public office;
3. being a political party officer; or
4. holding any office of a party committee, political committee (or PAC), or candidate committee.

Otherwise, the bill specifies that board members and staff are subject to the law allowing classified state employees to express their political views and participate in political campaigns.

Duties and Responsibilities

The bill requires the board, by December 1, 2008, to develop standards and procedures for conducting audits of elections and primaries (see BACKGROUND). In developing the standards and procedures, the board must be cognizant of the current level of election auditing science. The standards and procedures must enable an audit to begin within 48 hours of the time when the state election officials announce the final unofficial vote in each district in which votes are cast that is subject to the election.

The board must, by January 1, 2009, present the standards and procedures to the Government Administration and Elections Committee, together with any recommendations it may have about whether to repeal or amend current law concerning audits.

The standards and procedures, which cannot take effect until January 1, 2010, are subject to General Assembly approval.

Appropriation

The bill appropriates \$250,000 to the Office of the Secretary of the State from the General Fund for FY 08 to establish the board, even though the board is located in the SEEC for administrative purposes (see COMMENT). Unexpended funds carry over to FYs 09 and 10. Board members' terms do not begin until July 1, 2008 (the start of FY 09).

§§ 2, 14 & 18 — VOTING MACHINES

Programming Hardware and Testing Memory Cards

The bill requires the secretary of the state, by October 1, 2008, to select an entity to program hardware necessary for elections, including memory cards and voting tabulators used in the optical scan voting systems. She must also select a separate, in-state entity to test the memory cards (1) after they are programmed but before they are shipped to the registrars of voters and (2) after the applicable election. (The bill does not specify whether this requirement applies to a primary.) The bill requires the secretary to implement procedures for securely transporting the memory cards to and from the programming and testing entities.

By law, the secretary may also enter into an agreement with UConn or a member of the Connecticut State University System to test voting equipment and develop standards for ensuring voting security, among other things (see BACKGROUND).

Sealing Voting Tabulators

The bill gives the secretary of the state the authority to determine how long voting tabulators must remain sealed in a tabulator bag after an election. Under current law, the tabulator must remain sealed in the bag for 14 days, unless a recount is required or the SEEC orders it open.

Report on Optical Scan Machines and Public Education

The bill requires the secretary of the state to report to the Government Administration and Elections (GAE) Committee, by January 1, 2009, on efforts to educate the public and increase their awareness of the optical scan voting system. This report is part of a requirement to report on a registrar of voters' certification program.

§§ 3-4, 6, 8, 13 & 16 — VOTING PROCEDURES

Ballots

For each state and municipal election, the bill requires the registrars of voters to print as many ballots as there are electors on the last-completed enrollment list. As an alternative, the secretary may order the registrars to print fewer ballots if she determines fewer than 100% will accommodate the anticipated number of voters for the election.

Checking Electors' Names off the Official Checklist

The bill requires official checkers to use ink to mark an elector's name off the official checklist when he or she presents a preprinted form of identification and is permitted to vote. The bill does not make the same change to the provision that requires checkers to mark an elector's name off the list after he or she has been permitted to vote by signing a statement under penalty of false statement attesting to his or her identity.

Voter's Bill of Rights

Under the bill, the Voter's Bill of Rights must inform voters that they have the right to (1) be informed of the different voting options available and (2) choose the voting system they want to use from among the systems available. By law, the secretary of the state must distribute the Voter's Bill of Rights posters to each municipality. The posters must be placed conspicuously in all polling places.

Secretary of the State's Directives

The bill authorizes the secretary of the state, or her designee, to issue a directive during a primary or election, including a directive to the SEEC to enforce any regulation of the Office of the Secretary of the State that is in effect. By law, the SEEC has the authority to issue

orders and attempt to secure voluntary compliance with any provision of the General Statutes relating to any primary, election, or referendum.

Under current law, the secretary's regulations, declaratory rulings, instructions, and opinions, when in written format, are presumed correct. The bill extends this presumption to her directives. Presumably, her directives must be in written format also.

Recounts

Under current law, election moderators may recanvass (recount) results within three days after an election if it appears that there is a discrepancy in the returns. The moderator starts the processes by summoning the recount officials. These officials are town clerks, machine mechanics, checkers, absentee ballot counters, and registrars.

The bill gives the secretary of the state responsibility for overseeing all election recounts in the state (see BACKGROUND – Related Bill). It requires her, in consultation with the registrars of voters, to establish a procedure for recounting ballots that consists of recounts by (1) hand and (2) voting tabulator. This procedure may be used only when the candidates who are the subject of the recount agree to use it rather than a hand recount exclusively.

The bill requires the secretary to establish a five-member recount team for a primary; and in the case of a general election the team must consist of two members from each party with candidates on the ballot. In a general election, the recount team includes no representatives of petitioning candidates. It is unclear what the recount team's responsibilities are in relation to existing recanvass laws.

The bill doubles, from 0.5% to 1%, the threshold difference that triggers an automatic recount in the case of a close vote in an election. Under current law, the secretary of the state (for a state or district office) or a town clerk (for a municipal office) orders a recount on a close vote if the difference in votes between the top two vote-getters is less than 0.5% of the total number of votes cast for the office, but not

greater than 2,000. The bill raises the percentage to 1%, increasing the potential for recounts. By law, the secretary also orders a recount when the difference in votes is less than 20.

§§ 5 & 9 — POLLING PLACES

Selection

By law, polling places must comply with specified accessibility standards for voters with disabilities, unless a suitable site is not available and the town applies for a waiver from the secretary of the state and the Office of Protection and Advocacy approves it.

The bill requires registrars of voters to file with the secretary, at least 60 days before an election, a polling place plan and layout that assures voter privacy and accessibility. The plan must create a zone of privacy for voters in light of the new voting booths and tabulators. If the secretary rejects the plan and layout, she may approve a waiver. The bill does not explicitly establish the same requirement for primaries. The bill specifies that in the event of an emergency on the day of an election, any plan and layout is subject to change provided the registrars certify the nature of the emergency to the secretary in writing.

Set-Up

The bill changes the configuration of polling places to ensure privacy in light of the new voting booths and tabulators. It requires registrars of voters to ensure that each voting booth is located in plain view of all election officials and electors waiting to vote and not less than three feet from the next voting booth. It requires that each voting booth be situated so that no person outside of it can determine how the person inside voted.

The bill requires that, when practicable, voting tabulators be placed at least three feet from any wall, partition, or guardrail and at least four feet from the checkers' table. It requires the registrars of voters to place a guardrail or other marking device so as to protect at least three feet surrounding the tabulator from electors waiting to vote and

prevent electors from seeing how an elector voted.

Privacy Sleeve

The bill requires registrars of voters to either (1) make sure that ballot clerks offer each elector a privacy sleeve for the placement of his or her ballot or (2) make privacy sleeves available to voters in each voting booth. The bill specifies that voters are not required to accept a privacy sleeve.

§§ 12 & 17 - 18 — PRIMARY AND ELECTION OFFICIALS

Additional Election Officials

By law, registrars of voters may appoint additional election officials on the day of a primary or election, or any day thereafter, if they both agree it is necessary (1) because a poll worker is unable to serve, (2) to accommodate the public, or (3) to improve a primary's or election's administration. If they do, they must file their reasons with the town clerk.

When registrars appoint additional election officials, the bill requires them to additionally certify in writing to the candidates who are certified in the primary or election, whichever is applicable, the reason for doing so.

Moderators

The bill authorizes any certified candidate to have input on the selection of moderators for the applicable primary or election. (The bill does not specify how candidates provide input or to whom. Further, the General Statutes do not define the term "certified candidate.")

Registrars of Voters

The bill requires the secretary of the state to establish a certification program for registrars of voters and, by January 1, 2009, report to the GAE Committee on its establishment, including available funding. At that time, she must also report on efforts to educate the public and increase their awareness concerning the optical scan voting system. All registrars of voters must receive their certification by December 31,

2010.

BACKGROUND

Random Audits

PA 07-194 (codified at CGS § 9-320f) requires registrars of voters to randomly audit votes after any election or primary; permits expanded audits when discrepancies are found; and permits the secretary of the state to adopt regulations to implement random, manual auditing and establish guidelines for expanded audits when there are differences between manual and machine counts.

Agreements with UConn or Other State Universities on Voting

The law permits the secretary to enter into an agreement with UConn or a member of the Connecticut State University System, solely or with others, to:

1. complete any technical review, testing, or research associated with certifying or decertifying voting equipment;
2. develop standards for using voting equipment during any election, primary, or referendum;
3. develop standards to ensure the (a) accuracy of voting equipment and (b) accuracy and reliability of recanvass procedures;
4. develop standards and procedures for (a) securing, setting up, and storing voting equipment; (b) testing, securing, and using an election management system; and (c) programming ballots and voting equipment;
5. develop standards, procedures, and oversight of post-election audits;
6. research and analyze data formats for programming ballots and election-related electronic data; and
7. develop any other standards necessary to protect the integrity of

voting equipment.

Related Bill

sSB 444, reported by the GAE Committee, amends current recount procedures to, among other things, alter the list of recount officials and transfer duties from the town clerk to the registrars of voters. sSB 444 includes the identical or similar provisions in this bill on (1) the Voter's Bill of Rights (§ 8 of sHB 5888), (2) polling place configuration (§ 10), and (3) privacy sleeves for ballots (§ 11).

COMMENT**Appropriation**

The bill appropriates funding for the audit board to the secretary of the state, though the board is located in the SEEC. An interagency transfer of funding for the board would require legislation. The bill's appropriation for FY 08 does not lapse on June 1, 2008 (which should be June 30).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 11 Nay 0 (03/19/2008)