



**Town of Fairfield** · Registrar of Voters Office  
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### **SB 939 – An Act Concerning the Elections Related Statutes**

This bill contains a lengthy package of changes to make our elections statutes conform with current technology and practices, much of which overlaps with HB 6330, 6331, 6332, and 6333. While a final package would likely incorporate different approaches from these other bills, I would like to share a few thoughts on issues raised by SB 939, and note a handful of technical issues that the committee may wish to consider in the final drafting process.

#### **Cross-Endorsements**

Concerning cross-endorsements, Section 54 amends the statutes to prevent ballots where the *same candidate* is selected multiple times from being counted. These votes are currently counted in accordance with a court order, but Registrars have discretion on how to “assign” these votes, either for the major party, minor party, or under no party. I oppose this amendment in the strongest terms, as it will disenfranchise a significant number of voters without significant benefit to the process of election administration. The language reads:

In the event that a candidate is cross endorsed and appears on the ballot in more than one line, if an elector casts more than one vote for such candidate, **the tabulator shall be programmed to reject the vote as an overvote. Such ballot containing the overvote shall be destroyed by election officials and the elector shall be given a new ballot and an opportunity to vote using the new ballot.**

An informal survey of Connecticut towns has led me to believe that, on average, between 1% and 1.5% of voters “double vote” for cross-endorsed candidates, making up over a third of a minor party’s votes in these races. Under this proposal, one of three things would occur:

- 1) Voters in a polling place would most often be offered a new ballot, and in most of those cases would proceed to fill out the new ballot. If this ballot were filled out correctly, it would be counted without incident.
- 2) Some voters will vote in the “auxiliary bin” of the tabulator’s ballot box, either due to refusing a new ballot or because of maintenance procedures which occur during the day in a polling place. These ballots, if they contain a “double vote” for the same candidate, would be discarded in whole, even if votes could be ascertained for other offices. Counter-intuitively, if a voter “double-voted” for, say, Tom Foley and Dan Malloy, the remainder of the ballot would still be read.
- 3) Some voters will not have the opportunity to get a new ballot, either because they voted by absentee ballot or because they left the polling place without their rejected ballot being noticed. These individuals will have their ballots destroyed without recourse.

Connecticut is, according to OLR Report 2005-R-0873, one of ten states to allow cross-endorsement of candidates on the ballot. I took the opportunity to communicate with these states and ask about their policy for counting double-voted ballots.

Delaware      Ballots with “double votes” are “counted in the combined total, but not added to either party’s total.”

New York      “Double-voted” ballots are counted as a vote for the major party.

- Oregon Ballot does not include "party lines" – candidate names appear once, with endorsing party/parties listed underneath.
- South Carolina "Double-voted" ballots are sent to the County Canvassing Board, which is directed to count the vote, but uses their own discretion when assigning it to a particular party (similar to current Connecticut practice.)
- Vermont Ballot does not include "party lines" – candidate names appear once, with endorsing party/parties listed underneath.

Four other states (Arkansas, Mississippi, South Dakota, and Utah) do not have a policy due as a result of having either non-partisan general elections, no minor parties, or not having cross-endorsements used in practice.

As a Registrar, I am not concerned with how we are directed to count these votes: the legislature could codify current SOTS advice and direct that the votes be counted for the minor party; it could follow New York's lead and count them for the major party; or it can direct Registrars to record "unknown" votes under no party, as Delaware does. Whatever the policy, my office will adapt and fill out the paperwork regardless of how many columns it contains. But to discard votes from legitimate voters, when their candidate preference can be (and currently is) clearly ascertained, is not acceptable.

### **Production of Lists**

SB 939 sharply reduces the number of "lists" which must be printed and filed, both around election time and throughout the year. This is in recognition that the official lists of voters are now (as required by the federal Help America Vote Act) maintained centrally in a statewide computer database, "the single system for storing and managing the official list of registered voters throughout the State" (per P.L. 107-252 Sec 303(a)(1)(B)(i).) Additionally, the Secretary of the State (along with many individual towns) now publishes the list of voters online, so voters can check their status and eligibility without needing to visit their town hall.

SB 939 still envisions printed documents, filed in multiple locations, as being a necessary component of election administration. However, lists no longer need to be painstakingly typed and corrected. The statutes reflect this fact by allowing registration up to 13 hours before the polls open for primaries, and I hope you will consider extending this concept by eliminating as many printed lists other than polling place check-off lists from the statutes as is feasible.

My foremost concern with lists is that they be made available to candidates, Town Committees, and other interested parties in a timely fashion, especially near elections. SB 939 tries to balance this consideration with the variety of schedules in different town offices by requiring that printed lists be stored elsewhere outside of Registrar office hours. I would like to suggest that an existing statute provides a template that reflects the need to respond to election-sensitive document requests and accommodates the part-time nature of the office in many small towns.

Section 9-23g(c) requires that Registrars respond with notice of acceptance or rejection of a voter registration application within ten days for most of the year; within four days in a period from 3 to 7 weeks before an election; and on the same day it is received in the final days of registration. This provides a baseline for office availability and responsiveness in Connecticut's smallest towns: that Registrars must respond every couple of weeks for most of the year, once a week in September to early October, and must be available daily in the few weeks before an election.

Making lists – in electronic or printed format – available to those requesting them on a similar schedule seems eminently reasonable. At election time, no candidate would have to wait more than a day for a list. For the rest of the year, document requests could be fulfilled in a timeframe that fits within FOI best practices. SOTS already produces an electronic file of voters in all towns to comply with Sec. 9-65(b) that constitutes the final pre-election list, and this file could be consulted if necessary for archival and legal purposes. With all of that in mind, I hope this committee will consider reducing the number of printed lists to the absolute minimum necessary.

### **Other Technical Concerns in SB 939**

- Section 11      Removing the phrase “or some name intended for his name” would seem to prevent those who have changed name due to marriage, divorce, etc from being restored to “active” status.
- Section 33      Public examination to certify that the ballots have been properly prepared is performed before the ballots are printed, per Sec. 9-136b(b). Examination at the public machine test is not productive.
- Section 35      With the removal of the “machine mechanic” position, this language appears to preclude Registrars from preparing or transporting tabulators in years they are to appear on the ballot.
- Section 54(d)    If the Secretary is to maintain the power to purchase and approve direct recording electronic voting machines (“DREs”), it is not appropriate to refer to these machines as “tabulators.”