



Senate

General Assembly

File No. 73

February Session, 2012

Substitute Senate Bill No. 212

Senate, March 22, 2012

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PROVISIONAL BALLOTS FOR STATE AND MUNICIPAL ELECTIONS.

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

1 Section 1. Section 9-232c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 The moderator shall keep an accurate memorandum of the
4 challenge which shall include (1) the name of the challenged voter; (2)
5 [his] the challenged voter's registry list address; (3) the reason for the
6 challenge; (4) the name and address of the challenger; (5) pertinent
7 facts concerning the challenge; and (6) the result of the moderator's
8 decision. The challenged voter shall also sign such memorandum and
9 it shall be assigned the same number as the [challenged] provisional
10 ballot.

11 Sec. 2. Section 9-232j of the general statutes is repealed and the
12 following is substituted in lieu thereof (*Effective from passage*):

13 The moderator of the election in each voting district shall appear at
14 the office of the [town clerk] registrars of voters not later than eight
15 o'clock p.m. of the day before an election [for federal office] or a
16 primary. At such time, the [town clerk] registrars of voters shall
17 provide a provisional ballot packet to such moderator or moderators.
18 Each packet shall include: (1) The appropriate number of provisional
19 ballots, [for federal office provided by the Secretary of the State,] which
20 shall be equal to not less than one per cent of the number of electors
21 who are eligible to vote in the voting district served by the moderator,
22 or such other number as the [municipal clerk and the] registrars of
23 voters agree is sufficient to protect electors' voting rights, (2) the
24 appropriate number of serially-numbered envelopes prescribed by the
25 Secretary, (3) a provisional ballot inventory form, (4) a provisional
26 ballot depository envelope, and (5) other necessary forms prescribed
27 by the Secretary.

28 Sec. 3. Section 9-232k of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective from passage*):

30 The Secretary of the State shall prescribe [and provide to town
31 clerks] the provisional ballot which shall be [a] the regular ballot of
32 candidates, [for federal office.] The Secretary may prescribe that the
33 provisional ballot be the [overseas] ballot prepared under section [9-
34 158i] 9-135b.

35 Sec. 4. Section 9-232l of the general statutes is repealed and the
36 following is substituted in lieu thereof (*Effective from passage*):

37 (a) An individual may apply for and be issued a provisional ballot if
38 (1) the individual appears at the polling place and declares that such
39 individual is an elector in the town in which the individual desires to
40 vote and that the individual is eligible to vote in the primary or
41 election [for federal office] in the polling place, but the name of the
42 individual does not appear on the official registry list for such polling
43 place, and (2) the registrars determine that such name cannot be
44 restored under section 9-42 or transferred from another polling place
45 under section 9-35.

46 (b) If the moderator decides that an elector, whose name appears on
47 the registry list and who has been challenged pursuant to [sections]
48 section 9-232, [to 9-232f, inclusive,] is not eligible to vote in the primary
49 or election, [for federal office,] such elector may apply for and cast a
50 provisional ballot upon the execution of a written affirmation by the
51 elector at the polling place affirming that the elector is qualified to vote
52 in the election or primary [for federal office] in the polling place and
53 has neither offered himself or herself to vote nor voted in person or by
54 absentee ballot at said election or primary [for federal office] at the
55 polling place.

56 (c) If a poll worker denies an individual the opportunity to cast a
57 ballot for any reason for which a provisional ballot may be issued, a
58 registrar of voters or a designee of a registrar of voters shall offer such
59 individual a provisional ballot.

60 [(c)] (d) Such application for provisional ballot shall be prescribed
61 by the Secretary of the State, executed before an election official and
62 include a written affirmation, under penalty of false statement in
63 absentee balloting pursuant to section 9-359a, which shall be in the
64 form substantially as follows:

65 AFFIRMATION: I, the undersigned, do hereby state, under
66 penalties of false statement, that:

67 1. I am an elector in the town indicated.

68 2. I am eligible to vote in the election or primary indicated [for
69 federal office] today in the town and polling place indicated.

70 3.a. My name does not appear on the official list of eligible voters for
71 the polling place indicated, and the polling place officials called the
72 registrars of voters and were told that my name did not appear on the
73 active registry list for this town for at least one of the four years
74 previous or on one of the preliminary active registry lists for this year;
75 or

76 b. The moderator decided that I am not eligible to vote [for federal

77 office] in the town indicated for the reason of disfranchisement, lack of
78 identity, lack of bona fide residence or failure to present the prescribed
79 identification required for new electors after January 1, 2003, indicated.

80 4. My residence address is located in the voting district that this
81 polling place serves.

82 5. I have not voted and I will not vote otherwise than by this ballot
83 in person or by absentee ballot at this election or primary. [for federal
84 office.]

85 6. I apply for a provisional ballot. [for federal office.]

86 Sec. 5. Section 9-232n of the general statutes is repealed and the
87 following is substituted in lieu thereof (*Effective from passage*):

88 Immediately after the close of the polls, the moderator shall seal the
89 provisional ballot depository envelope and deliver such envelope to
90 the registrars of voters of the town. The registrars of voters shall
91 forthwith verify the information contained with each provisional
92 ballot. If the registrars of voters determine that the applicant is eligible
93 to vote, they shall note their decision on the outer envelope of the
94 ballot and open and count the provisional ballot in accordance with
95 the provisions of sections [9-232i] 9-232j to 9-232o, inclusive, as
96 amended by this act, and procedures prescribed by the Secretary of the
97 State. If the registrars of voters are unable to determine that the
98 applicant is eligible to vote or determine that the applicant is not
99 eligible to vote, the applicant's provisional ballot sealed envelope shall
100 be marked "rejected", along with the reason for such rejection, and
101 signed by the registrars of voters. The registrars of voters shall verify
102 and count all provisional ballots in their town not later than six days
103 after the election or primary. The registrars of voters shall forthwith
104 prepare and sign in duplicate a report showing the number of
105 provisional ballots received from electors, the number rejected and the
106 number counted, and showing the additional votes counted for each
107 candidate [for federal office] on the provisional ballots. The registrars
108 of voters shall file one report with the town clerk and shall seal one in

109 the depository envelope with the provisional ballots and file such
110 depository envelope with the town clerk. The depository envelope
111 shall be preserved by the town clerk for the period of time required to
112 preserve counted absentee ballots, [for federal elections.] The head
113 moderator shall forthwith file a corrected return [for federal offices]
114 with the town clerk and the Secretary showing (1) the final votes after
115 any recanvass, pursuant to sections 9-311 to 9-311b, inclusive, the votes
116 on provisional ballots and the totals, and (2) the number of provisional
117 ballots received from electors, the number rejected and the number
118 counted, as reported by the registrars of voters.

119 Sec. 6. Subsection (e) of section 9-236b of the general statutes is
120 repealed and the following is substituted in lieu thereof (*Effective from*
121 *passage*):

122 (e) For use at elections [for federal office] and primaries, the
123 Secretary of the State shall prescribe and the [municipal clerk]
124 registrars of voters shall provide for all polling places in the
125 municipality: (1) Instructions on how to cast a provisional ballot, (2)
126 instructions for mail-in registrants and first-time voters who register to
127 vote by mail on or after January 1, 2003, (3) general information
128 concerning voting rights under federal and Connecticut laws,
129 including information on the right of an individual to cast a
130 provisional ballot and instructions on how to contact the appropriate
131 officials if these rights are alleged to have been violated, and (4)
132 general information on federal and state laws concerning prohibitions
133 on acts of fraud and misrepresentation.

134 Sec. 7. Subsections (d) and (e) of section 9-23r of the general statutes
135 are repealed and the following is substituted in lieu thereof (*Effective*
136 *from passage*):

137 (d) If an individual described in subsection (a) of this section does
138 not submit the identification described in subsection (a) of this section
139 as part of the individual's application for admission as an elector,
140 when the individual has entered the polling place in an election for
141 federal office, the individual shall present: (1) A current and valid

142 photo identification, or (2) a copy of a current utility bill, bank
143 statement, government check, paycheck or other government
144 document that shows the name and address of the voter. If an
145 individual does not meet the requirements of this subsection in an
146 election for federal office, such individual may cast a provisional ballot
147 prescribed under sections [9-232i] 9-232j to 9-232o, inclusive, as
148 amended by this act. For purposes of this section, "election for federal
149 office" means an election for electors of President and Vice President, a
150 presidential preference primary, an election or primary for United
151 States Senator and an election or primary for Representative in
152 Congress.

153 (e) If an individual described in subsection (a) of this section does
154 not submit the identification described in subsection (a) of this section
155 as part of the individual's application for admission as an elector, and
156 if the individual votes by absentee ballot in an election for federal
157 office, the individual shall enclose in the outer absentee ballot
158 envelope, and not in the inner envelope with the ballot: (1) A copy of a
159 current and valid photo identification, or (2) a copy of a current utility
160 bill, bank statement, government check, paycheck, or other
161 government document that shows the name and address of the voter.
162 If an individual does not meet the requirements of this subsection in an
163 election for federal office, such individual's absentee ballot shall be
164 processed in accordance with the provisions of subdivision (2) of
165 subsection (d) of section 9-150a, as amended by this act, and treated as
166 a provisional ballot [for federal office only,] pursuant to sections [9-
167 232i] 9-232j to 9-232o, inclusive, as amended by this act.

168 Sec. 8. Subsection (d) of section 9-150a of the 2012 supplement to the
169 general statutes is repealed and the following is substituted in lieu
170 thereof (*Effective from passage*):

171 (d) (1) If the statement on the inner envelope has not been signed as
172 required by section 9-140a, such inner envelope shall not be opened or
173 the ballot removed therefrom, and such inner envelope shall be
174 replaced in the opened outer envelope which shall be marked

175 "Rejected" and the reason therefor endorsed thereon by the counters.
176 (2) If such statement is signed but the individual completing the ballot
177 is an individual described in subsection (a) of section 9-23r and has not
178 met the requirements of subsection (e) of section 9-23r, as amended by
179 this act, the counters shall replace the ballot in the opened inner
180 envelope, replace the inner envelope in the opened outer envelope and
181 mark "Rejected as an Absentee Ballot" and endorse the reason for such
182 rejection on the outer envelope, and the ballot shall be treated as a
183 provisional ballot [for federal offices only,] pursuant to sections [9-
184 232i] 9-232j to 9-232o, inclusive, as amended by this act.

185 Sec. 9. Subdivision (2) of subsection (a) of section 9-7b of the 2012
186 supplement to the general statutes is repealed and the following is
187 substituted in lieu thereof (*Effective from passage*):

188 (2) To levy a civil penalty not to exceed (A) two thousand dollars
189 per offense against any person the commission finds to be in violation
190 of any provision of chapter 145, part V of chapter 146, part I of chapter
191 147, chapter 148, section 7-9, section 9-12, subsection (a) of section 9-17,
192 section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h,
193 9-23j to 9-23o, inclusive, 9-23r, as amended by this act, 9-26, 9-31a, 9-32,
194 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-50a, 9-56, 9-59, 9-168d, 9-170, 9-
195 171, 9-172, [9-232i] 9-232j to 9-232o, inclusive, as amended by this act,
196 9-404a to 9-404c, inclusive, 9-409, 9-410, 9-412, 9-436, 9-436a, 9-453e to
197 9-453h, inclusive, 9-453k or 9-453o, (B) two thousand dollars per
198 offense against any town clerk, registrar of voters, an appointee or
199 designee of a town clerk or registrar of voters, or any other election or
200 primary official whom the commission finds to have failed to
201 discharge a duty imposed by any provision of chapter 146 or 147, (C)
202 two thousand dollars per offense against any person the commission
203 finds to have (i) improperly voted in any election, primary or
204 referendum, and (ii) not been legally qualified to vote in such election,
205 primary or referendum, or (D) two thousand dollars per offense or
206 twice the amount of any improper payment or contribution, whichever
207 is greater, against any person the commission finds to be in violation of
208 any provision of chapter 155 or 157. The commission may levy a civil

209 penalty against any person under subparagraph (A), (B), (C) or (D) of
 210 this subdivision only after giving the person an opportunity to be
 211 heard at a hearing conducted in accordance with sections 4-176e to 4-
 212 184, inclusive. In the case of failure to pay any such penalty levied
 213 pursuant to this subsection within thirty days of written notice sent by
 214 certified or registered mail to such person, the superior court for the
 215 judicial district of Hartford, on application of the commission, may
 216 issue an order requiring such person to pay the penalty imposed and
 217 such court costs, state marshal's fees and attorney's fees incurred by
 218 the commission as the court may determine. Any civil penalties paid,
 219 collected or recovered under subparagraph (D) of this subdivision for
 220 a violation of any provision of chapter 155 applying to the office of the
 221 Treasurer shall be deposited on a pro rata basis in any trust funds, as
 222 defined in section 3-13c, affected by such violation;

223 Sec. 10. Section 9-232o of the general statutes is repealed and the
 224 following is substituted in lieu thereof (*Effective from passage*):

225 Except as otherwise provided by the general statutes, section 9-23r,
 226 as amended by this act, and sections [9-232i] 9-232j to 9-232o, inclusive,
 227 as amended by this act, the provisions of the general statutes
 228 concerning procedures relating to counting absentee ballots shall apply
 229 as nearly as may be, in the manner prescribed by the Secretary of the
 230 State, to counting the provisional ballots under sections [9-232i] 9-232j
 231 to 9-232o, inclusive, as amended by this act.

232 Sec. 11. Sections 9-232d to 9-232f, inclusive, and section 9-232i of the
 233 general statutes are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	9-232c
Sec. 2	<i>from passage</i>	9-232j
Sec. 3	<i>from passage</i>	9-232k
Sec. 4	<i>from passage</i>	9-232l
Sec. 5	<i>from passage</i>	9-232n
Sec. 6	<i>from passage</i>	9-236b(e)

Sec. 7	<i>from passage</i>	9-23r(d) and (e)
Sec. 8	<i>from passage</i>	9-150a(d)
Sec. 9	<i>from passage</i>	9-7b(a)(2)
Sec. 10	<i>from passage</i>	9-232o
Sec. 11	<i>from passage</i>	Repealer section

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Secretary of the State	GF - Savings	Less than \$500	Less than \$500

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
All Municipalities	STATE MANDATE - Cost	Less than \$100	Less than \$100

Explanation

The bill authorizes the use of provisional ballots in state and municipal elections and primaries. It eliminates the requirement that the Secretary of the State (SOTS) provide the towns with provisional ballots. Instead, municipalities must print the ballots.

These changes result in a potential savings to the SOTS of less than \$500 per election cycle associated with the elimination of printing and mailing provisional ballots to municipalities. Conversely, there is a potential cost to each municipality of less than \$100 per election cycle associated with printing additional ballots.

The Out Years

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

OLR Bill Analysis**sSB 212*****AN ACT CONCERNING PROVISIONAL BALLOTS FOR STATE AND MUNICIPAL ELECTIONS.*****SUMMARY:**

This bill (1) authorizes provisional ballots for use in state and municipal elections and primaries under the same circumstances as they are currently authorized for use in federal elections and primaries and (2) requires their use in place of challenged ballots.

The bill eliminates challenged ballots and the procedures for casting and counting them, replacing them with provisional ballots. However, it retains the right of (1) individuals and appointed polling place challengers to challenge voters and (2) challenged voters to request a ballot and to vote.

The bill transfers, from town clerks to registrars of voters, certain election duties concerning provisional ballots. It also makes conforming and technical changes.

EFFECTIVE DATE: Upon passage

WHEN PROVISIONAL BALLOTS MAY BE USED

The bill allows an individual to apply for and receive a provisional ballot to vote for candidates for state or municipal office when he or she:

1. appears at the polling place claiming to be eligible to vote but his or her name does not appear on the official registry list and the registrars determine that the name cannot be immediately restored or transferred from another polling place,
2. is the subject of a challenge and the moderator decides he or she

is not eligible to vote, or

3. registered by mail without the necessary identification and appears at a polling place or applies for an absentee ballot for the first time after registering without proper identification.

These provisions already apply to federal office elections, which the bill specifies include presidential preference primaries.

If a poll worker denies an individual the opportunity to cast a regular ballot for any reason for which a provisional ballot may be used, the bill also requires a registrar or his or her designee to instead offer that individual a provisional ballot.

AUTHENTICATING AND COUNTING

The registrars have six days after a primary or general election to authenticate the information on each provisional ballot. The ballots are kept separate and counted only after the registrars verify the eligibility of voters who used them. Under current law, challenged ballots are kept separate and counted only in the event of a contested election.

FORMAT AND PRINTING

By law, the secretary of the state prescribes the provisional ballot format. The bill authorizes these ballots to be in the same format as regular absentee ballots, rather than overseas ballots.

The bill eliminates the requirement that the secretary provide towns with provisional ballots. Instead, towns must print these ballots as they currently print regular and absentee ballots.

The bill also eliminates a requirement that town clerks and registrars of voters agree to an appropriate number of provisional ballot packets for each voting district. Instead, registrars alone must make that determination. Similarly, registrars, rather than town clerks, must provide moderators with provisional ballot packets on the night before a primary or election for municipal, state, or federal office.

INSTRUCTIONS AND OTHER INFORMATION

Current law requires the secretary to prescribe, and town clerks to provide, certain information for polling places during an election for federal office. The bill transfers the clerks' responsibility to the registrars of voters and extends it to include primaries and elections for municipal and state offices. The information includes instructions on how to cast a provisional ballot, instructions for mail-in registrants and first-time voters, and voting rights information.

BACKGROUND

Provisional Ballots for Federal Office Candidates

To vote by provisional ballot, an individual must fill out an application under penalty of false statement attesting to his or her eligibility and current standing as an elector in the town where the polling place is located. The application includes a field for address, which helps the registrars verify the person's identity, and requires an attestation that the person has not yet voted in the present election.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/12/2012)