



House of Representatives

General Assembly

File No. 628

January Session, 2013

Substitute House Bill No. 6111

House of Representatives, April 24, 2013

The Committee on Government Administration and Elections reported through REP. JUTILA of the 37th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.

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

1 Section 1. Section 9-153e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2014*):

3 (a) A member of the armed forces who is an elector or an applicant
4 for admission as an elector, or the member's spouse or dependent if
5 living where such member is stationed, may apply before a regular
6 election for a blank absentee ballot to vote for all offices being
7 contested at the election. The town clerk shall make such ballots
8 available for this purpose beginning not earlier than ninety days before
9 the election. Application shall be made upon a form prescribed by the
10 Secretary of the State or on the federal postcard application form
11 provided pursuant to the Uniformed and Overseas Citizens Absentee
12 Voting Act, 100 Stat. 924, 42 USC 1973ff et seq., as amended from time
13 to time, or any other applicable law and shall be issued only if the

14 applicant states that due to military contingencies the regular
15 application procedure, as set forth in section 9-140, cannot be followed.
16 Upon receipt of the application, the [municipal] town clerk shall issue
17 the ballot either by mail or electronic means, as requested by the
18 elector, which shall be prescribed and provided by the Secretary of the
19 State, and a list of the offices to be voted upon indicating the number
20 of individuals for which each elector may vote. As soon as a complete
21 list of nominated candidates, including the party designations of such
22 candidates, and questions is available, the town clerk shall send such
23 list to each applicant. If the list of candidates and questions is not
24 available when the ballot is issued, the town clerk shall include a
25 statement indicating that such list shall be mailed as soon as it becomes
26 available. The ballot shall permit the elector to vote by writing in the
27 names of specific candidates and offices for which he is voting. The
28 elector may also vote on the questions in a manner prescribed by the
29 Secretary of the State. If such ballot is issued by electronic means, the
30 town clerk shall include a certification prescribed by the Secretary of
31 the State that the elector shall be required to complete, sign and return
32 with the completed ballot in order for such ballot to be counted. If the
33 military contingency no longer exists, application for an additional
34 ballot for all offices may be made pursuant to the provisions of section
35 9-153b.

36 (b) Notwithstanding the provisions of subsection (a) of this section,
37 any member of the armed forces being deployed from this state or in
38 the process of being deployed from this state may receive a blank
39 absentee ballot from the Secretary of the State, beginning not earlier
40 than ninety days before a regular election. A blank absentee ballot may
41 be delivered to the member of the armed forces directly or given to any
42 member of the armed forces appointed to receive and distribute such
43 blank absentee ballot by such member's commanding officer in
44 consultation and coordination with the Secretary of the State. The
45 member of the armed forces responsible for the coordination of such
46 deployment shall provide notice to the Secretary, not later than one
47 business day before deployment or the process of deployment is
48 scheduled to begin, whichever is later, of the request for issuance of

49 such blank absentee ballots. Such notice shall include the number of
50 blank absentee ballots necessary, the name and town of residence of
51 each member of the armed forces included in such request and the
52 name of the member of the armed forces appointed to receive such
53 blank absentee ballots for distribution, if applicable. If the notice of
54 request for issuance of such blank absentee ballots is received by the
55 Secretary less than one business day before the deployment or process
56 of deployment is scheduled to begin, whichever is later, the Secretary
57 may provide such blank absentee ballots if the Secretary deems there is
58 adequate time. Whenever such blank absentee ballots are delivered,
59 the Secretary or member of the armed forces responsible for
60 distribution of such ballots shall also make available (1) (A)
61 applications for an absentee ballot prescribed by section 9-140, or (B)
62 applications prescribed by any federal department or agency as
63 provided in section 9-153a or pursuant to subsection (a) of this section,
64 and (2) applications for admission as an elector pursuant to section 9-
65 23h or 9-26. No blank absentee ballot delivered under this subsection
66 shall be counted unless an application made upon a form prescribed
67 by the Secretary of the State or on the federal postcard application
68 form provided pursuant to the Uniformed and Overseas Citizens
69 Absentee Voting Act, 100 Stat. 924, 42 USC 1973ff et seq., as amended
70 from time to time, or a request for a blank absentee ballot, or both as
71 described in subdivision (1) or (2) of this subsection, has been returned
72 to the town clerk in the applicant's town of residence in accordance
73 with this section. No ballot delivered under this subsection shall be
74 counted unless the name of the member of the armed forces is on the
75 registry list of the municipality to which the member's ballot is
76 returned or an application for admission as an elector or said federal
77 postcard application is returned prior to the close of the polls on the
78 day of the election. The Secretary or member of the armed forces
79 delivering such blank absentee ballots shall not be required to
80 determine the voter registration or eligibility status of any member of
81 the armed forces who receives such blank absentee ballot. No member
82 of the armed forces who receives a blank absentee ballot under this
83 subsection shall receive a list of offices provided in subsection (a) of

84 this section from the Secretary.

85 (c) The Secretary of the State may adopt regulations, in accordance
86 with the provisions of chapter 54, to carry out the provisions of
87 subsection (b) of this section.

88 Sec. 2. Section 9-153f of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective January 1, 2014*):

90 Notwithstanding the provisions of section 9-140, any elector who is
91 living, or expects to be living or traveling before and on election day,
92 outside the territorial limits of the several states of the United States
93 and the District of Columbia and any member of the armed forces who
94 is an elector or an applicant for admission as an elector, or the
95 member's spouse or dependent if living where such member is
96 stationed, may apply for a blank absentee ballot to vote for all offices
97 being contested at an election or primary. Application shall be made
98 upon a form prescribed by the Secretary of the State or on the federal
99 postcard application form provided pursuant to the Uniformed and
100 Overseas Citizens Absentee Voting Act, 100 Stat. 924, 42 USC 1973ff et
101 seq., as amended from time to time, or any other applicable law. The
102 [municipal] town clerk receiving such an application shall, as soon as a
103 complete list of candidates and questions to be voted upon at such
104 election or primary becomes available, but not later than forty-five
105 days prior to such election or primary, issue the ballot either by mail or
106 electronic means, as requested by the elector, which shall be the blank
107 ballot prescribed and provided by the Secretary of the State under
108 section 9-153e, as amended by this act. The town clerk shall include
109 with the ballot a complete list of the offices to be voted upon, the
110 number of individuals for which each elector may vote, the candidates,
111 and, in the case of an election, the party designation of each candidate
112 and questions to be voted upon. If such ballot is issued by electronic
113 means, the town clerk shall include a certification prescribed by the
114 Secretary of the State that the elector shall be required to complete,
115 sign and return with the completed ballot in order for such ballot to be
116 counted. If application for an absentee ballot is made at the time of

117 availability of regular absentee ballots as provided in section 9-140, the
118 provisions of section 9-140 shall prevail. Except as otherwise provided
119 in this section, the procedures governing the issuance of ballots under
120 this section shall conform as nearly as may be to the procedures
121 provided in section 9-140.

122 Sec. 3. (NEW) (*Effective January 1, 2014*) The Secretary of the State
123 shall implement, in consultation with local election officials, an
124 electronic free-access system by which (1) an elector or an applicant for
125 admission as an elector, as described in section 9-153e or 9-153f of the
126 general statutes, as amended by this act, may determine whether (A)
127 the elector's or applicant's application for a blank absentee ballot made
128 upon a form prescribed by the Secretary of the State or on the federal
129 postcard application form provided pursuant to the Uniformed and
130 Overseas Citizens Absentee Voting Act, 100 Stat. 924, 42 USC 1973ff et
131 seq., as amended from time to time, or any other applicable law has
132 been received, and (B) whether such elector's or applicant's absentee
133 ballot has been received, and (2) a citizen of the United States who is
134 eligible to vote for presidential and vice-presidential electors or other
135 federal office pursuant to section 9-158b of the general statutes, may
136 determine whether such citizen's ballot has been received.

137 Sec. 4. (NEW) (*Effective January 1, 2014*) (a) Each town clerk shall
138 request an electronic mail address from each applicant for admission
139 as an elector described in section 9-153e or 9-153f of the general
140 statutes, as amended by this act, as part of such applicant's voter
141 registration application. Any elector described in said section 9-153e or
142 9-153f may update his or her voter registration information by
143 supplying the town clerk of the municipality in which such elector is
144 registered with his or her electronic mail address. No municipal official
145 may make such electronic mail address available to any person other
146 than the town clerk or the registrars of voters of the municipality, or
147 their designees. The town clerk or the registrars of voters, or their
148 designees, may use such electronic mail address only for
149 communication with the elector pursuant to title 9 of the general
150 statutes, including, but not limited to, the transmission of a ballot

151 pursuant to section 9-153e or 9-153f of the general statutes, as amended
152 by this act, and other election materials, if the voter has requested
153 electronic transmission of such ballot or materials, and verification of
154 the elector's mailing address and location. A town clerk shall include
155 with each request of an applicant for an electronic mail address or to
156 any elector who updates his or her registration by supplying his or her
157 electronic mail address pursuant to this subsection, a statement that
158 any use or disclosure of an electronic address, except as provided in
159 this subsection, shall be prohibited. An electronic mail address
160 supplied to a town clerk pursuant to the provisions of this subsection,
161 shall be exempt from disclosure for purposes of the Freedom of
162 Information Act, as defined in section 1-200 of the general statutes.

163 (b) Any such elector or an applicant for admission as an elector
164 whose application for a blank absentee ballot is made upon a form
165 prescribed by the Secretary of the State or on the federal postcard
166 application form provided pursuant to the Uniformed and Overseas
167 Citizens Absentee Voting Act, 100 Stat. 924, 42 USC 1973ff et seq., as
168 amended from time to time, or any other applicable law, who requests
169 that his or her ballot be issued by electronic means, may request and be
170 granted permanent absentee ballot status for the purposes of section 9-
171 153e or 9-153f of the general statutes, as amended by this act. A town
172 clerk shall automatically send a blank ballot pursuant to said section 9-
173 153e or 9-153f to any elector with such permanent absentee ballot
174 status for each election or primary, as applicable. A town clerk shall
175 automatically send a blank ballot for the general election to any citizen
176 of the United States who is eligible to vote for presidential and vice-
177 presidential electors or other federal office pursuant to section 9-158b
178 of the general statutes, who requested a ballot for a primary preceding
179 such general election.

180 Sec. 5. (NEW) (*Effective January 1, 2014*) (a) A municipal election
181 official whose duty is to print and distribute ballots and balloting
182 material shall prepare an election notice for such municipality not later
183 than one hundred days before a regular election, as defined in section
184 9-1 of the general statutes, and as soon as practicable before a special

185 election, as defined in said section 9-1. The election notice shall contain
186 a list of all of the questions and federal, state and local offices that, as
187 of the date of such notice, the official expects to be on the ballot on the
188 date of the election.

189 (b) An elector or an applicant for admission as an elector, as
190 described in section 9-153e or 9-153f of the general statutes, as
191 amended by this act, or a citizen of the United States who is eligible to
192 vote for presidential and vice-presidential electors or other federal
193 office pursuant to section 9-158b of the general statutes, may request a
194 copy of such election notice. Upon such request, the municipal official
195 who prepared the election notice pursuant to subsection (a) of this
196 section shall send the notice to the elector, applicant or citizen by
197 facsimile, electronic mail or regular mail, as such person requests.

198 (c) The municipal official who prepared the election notice pursuant
199 to subsection (a) of this section shall update such notice with the
200 complete list of candidates and questions to be voted upon at such
201 election or primary and make the updated notice publicly available as
202 soon as all candidates and questions are known, and not later than the
203 date ballots are required to be transmitted to voters under section 9-
204 153e or 9-153f of the general statutes, as amended by this act. If the
205 municipality maintains an Internet web site, such municipal official
206 shall make such notice prepared pursuant to subsection (a) of this
207 section and any updated notice available on such Internet web site.

208 Sec. 6. (NEW) (*Effective January 1, 2014*) The provisions of sections 3
209 to 5, inclusive, of this act, modify, limit and supersede the Electronic
210 Signatures in Global and National Commerce Act, 15 USC Section 7001
211 et seq., but do not modify, limit, or supersede Section 101(c) of said act,
212 15 USC Section 7001(c), or authorize electronic delivery of any of the
213 notices described in Section 103(b) of said act, 15 USC Section 7003(b).

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2014	9-153e

Sec. 2	<i>January 1, 2014</i>	9-153f
Sec. 3	<i>January 1, 2014</i>	New section
Sec. 4	<i>January 1, 2014</i>	New section
Sec. 5	<i>January 1, 2014</i>	New section
Sec. 6	<i>January 1, 2014</i>	New section

Statement of Legislative Commissioners:

Changed "municipal clerk" to "town clerk" throughout, for consistency. In sections 1(b) and 5, repositioned principal clause to come before subordinate clause for clarity.

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 14 \$	FY 15 \$
Secretary of the State	GF - Cost	30,000	5,000

Municipal Impact:

Municipalities	Effect	FY 14 \$	FY 15 \$
Various Municipalities	Potential Cost	Minimal	Minimal

Explanation

The bill prescribes a process for providing deployed military members an absentee ballot. The bill also delineates a process for municipalities to manage the dissemination of absentee ballots and voting information for absentee voters. In addition, the bill requires the creation of an electronic system for voters to track the receipt of forms throughout the registration and voting process.

The Secretary of the State (SOTS) is anticipated to incur a cost of \$30,000 in FY 14 to develop an electronic system to allow the tracking of forms and ballots by absentee voters. The SOTS is also expected to incur annual costs of \$5,000 beginning in FY 15 for implementing the provisions of this bill concerning the delivery of ballots to military members deployed overseas and maintaining the electronic tracking system.

There is a potential cost to municipalities to distribute absentee voting materials and information. To the extent that municipalities have registered overseas voters, they may incur costs related to the

management of electronic mail addresses and creation and dissemination of election materials. These costs are anticipated to be minimal for affected municipalities.

The Out Years

The annualized ongoing fiscal impact identified above for the SOTS and municipalities related to the delivery of ballots or information to overseas voters and maintaining systems would continue into the future subject to inflation and the number of voters residing overseas.

OLR Bill Analysis**sHB 6111*****AN ACT CONCERNING THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.*****SUMMARY:**

This bill adopts certain provisions of the Uniform Military and Overseas Voters Act, which the Uniform Law Commission released in July 2010 to extend to state and local primaries and elections (regular and special) absentee voting procedures for military and overseas voters not covered by federal law. Generally, the provisions apply to (1) members of the armed forces, (2) their spouses or dependent family members living where they are stationed, and (3) other U.S. citizens residing or traveling outside the country (“military and overseas voters”).

Among other things, the bill:

1. establishes a process for distributing absentee ballots to military members being deployed,
2. requires the secretary of the state and local election officials to implement an electronic free-access system that military and overseas voters can use to determine whether their absentee ballot applications and ballots have been received,
3. requires town clerks to request e-mail addresses from military and overseas voters registering to vote,
4. authorizes certain military and overseas voters to request permanent absentee ballot status, and
5. requires that town clerks prepare election notices at least 100 days before regular elections and as soon as practicable before

special elections.

The bill specifies that its electronic communication provisions modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce (E-SIGN) Act. But they do not (1) modify, limit, or supersede E-SIGN's provisions on consumer disclosures (such as when consumers are considered to have consented to electronic disclosures) or (2) authorize electronic delivery of specified notices that are not subject to E-SIGN (see BACKGROUND).

Finally, the bill also makes technical changes.

EFFECTIVE DATE: January 1, 2014

§ 1 — 90-DAY BALLOTS FOR DEPLOYING MILITARY

By law, armed forces members and their relatives living where they are stationed may, due to military contingencies, request and receive a blank absentee ballot beginning 90 days before a regular election ("90-day ballot"). Town clerks subsequently send to them the list of candidates and questions to be voted on as soon as it is available.

The bill (1) establishes a process for distributing 90-day ballots to armed forces members (but not their families) being deployed or in the process of being deployed and (2) authorizes the secretary of the state to adopt implementing regulations.

Notice of Deployment and Request for Absentee Ballots

Under the bill, the armed forces member responsible for coordinating the deployment requests distribution of the 90-day ballots to deploying members by giving the secretary of the state notice at least one business day before the scheduled deployment or deployment process, whichever is later. The commanding officer of each member requesting a ballot, in consultation with the secretary of the state, may appoint another member to receive and distribute the ballots to members being deployed ("ballot distributor").

The notice must include the (1) ballot distributor's name, (2) number

of 90-day ballots necessary for distribution, and (3) name and town of residence of each armed forces member who will receive a ballot. If the secretary receives the request notice after the one business day deadline, she may still provide the ballots if she deems there is adequate time. However, the bill does not establish a standard for determining what constitutes adequate time.

Distribution

Deploying members may receive 90-day ballots from the secretary of the state directly or from the ballot distributor. When the secretary or ballot distributor delivers the ballots, he or she must also make available (1) voter registration cards and (2) absentee ballot applications (either the state form or the Federal Post Card Application) (FPCA) (see BACKGROUND).

The bill prohibits armed forces members from receiving the list of candidates and questions to be voted on from the secretary of the state. By law, unchanged by the bill, they receive the list from their town clerks.

Eligibility and Counting

Town clerks determine whether an armed forces member is registered to vote or eligible to register. Neither the secretary of the state nor the ballot distributor is required to determine eligibility.

The bill prohibits 90-day ballots from being counted unless (1) the armed forces member returns an absentee ballot application, request for a blank ballot, or both to the town clerk in the municipality where he or she resides and (2) his or her name is on the voter registry list for the municipality where he or she returns the ballot or he or she has submitted a voter registration card or FPCA by the close of polls on Election Day.

§ 2 — 45-DAY BALLOTS

In addition to the 90-day ballot, state law establishes a blank ballot that any elector living or traveling abroad, or members of the armed forces and their family members living with them, may use to vote in a

primary or regular election. Town clerks issues these ballots, together with the list of candidates and questions, as soon as the list is available.

The bill requires town clerks to issue this ballot no later than 45 days before the election or primary (“45-day ballot”).

§ 3 — ELECTRONIC FREE-ACCESS SYSTEM

The bill requires the secretary of the state, in consultation with local election officials, to implement an electronic free-access system. It does not set a date by which the system must be in place.

The system must allow military and overseas voters to determine whether their absentee ballot applications and absentee ballots have been received. It must also allow U.S. citizens eligible to vote using a presidential ballot to determine whether their ballots have been received (see BACKGROUND).

§ 4 — E-MAIL

The bill requires town clerks to request an e-mail address from each military and overseas voter applying for admission as an elector, as part of the voter registration application. It also authorizes military and overseas voters already enrolled as electors to update their registration information by giving their town clerk their e-mail address.

The bill makes these e-mail addresses exempt from disclosure under the Freedom of Information Act and prohibits municipal officials from making them available to anyone other than their town clerk, registrars of voters, or their designees. It prohibits clerks, registrars, and their designees from using the e-mail addresses for any purpose other than (1) communicating with voters under state election law or (2) verifying their mailing address and location. Town clerks must provide a nondisclosure statement to each voter from whom they request an e-mail address or who provides one indicating that any other use is prohibited.

§ 4 — PERMANENT ABSENTEE BALLOT STATUS

The bill authorizes military and overseas voters to request and receive permanent absentee ballot status provided they have also requested that they receive absentee ballots electronically. Under the bill, town clerks must automatically send a 90-day or 45-day ballot for each election or primary, as applicable, to each elector who has the status. The bill does not establish a procedure for determining whether a voter continues to remain eligible or for removing someone from the permanent absentee ballot status list.

The bill also requires clerks to automatically send a blank ballot for the general election to individuals eligible to use a presidential ballot and who requested a ballot for the primary preceding the election. People who are eligible to vote for federal offices by presidential ballot are not necessarily eligible to vote in a state election. Thus, it is unclear why clerks would automatically send them a blank ballot.

§ 5 — ELECTION NOTICES

The bill requires municipal election officials responsible for printing and distributing absentee ballots and balloting material (in Connecticut, town clerks) to prepare an election notice for the municipality (1) at least 100 days before a regular election and (2) as soon as practicable before a special election. The notice must have a list of questions and federal, state, and local offices that, as of the publication date, the official expects to be on the ballot.

A military or overseas voter, or a U.S. citizen eligible for a presidential ballot, may request a copy of the notice. The town clerk must send the copy by fax, e-mail, or regular mail, according to the individual's request.

The clerk must update the notice with the complete list of questions and candidates as soon as it is known for a primary or election, but not later than the date when town clerks transmit 90-day or 45-day ballots (see COMMENTS).

The bill does not require town clerks to create a notice for primaries, but it requires them to include in any update the complete list of

candidates and questions to be voted on at the primary.

The clerk must post the notice and its update on the municipal website, if any.

BACKGROUND

E-SIGN

E-SIGN (15 USC § 7001 et seq.) validates the use of electronic records and signatures. Connecticut has also enacted the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to -286), which also validates the use of such records and signatures. The two overlap significantly, although they are not identical. For example, E-SIGN applies only to interstate transactions, not intrastate transactions. CUETA provides that it supersedes, modifies, and limits the federal law except for E-SIGN's consumer disclosure provisions (CGS §§ 1-286).

The federal E-SIGN law specifies that the following notices are not subject to it:

1. court orders or notices, or official court documents required to be executed in connection with court proceedings;
2. utility cancellation or termination notices;
3. notices of eviction, foreclosure, repossession, acceleration, default, or the right to cure, under a rental agreement or a credit agreement secured by someone's primary residence;
4. notices that life insurance benefits, health insurance, or health insurance benefits are being cancelled or terminated, other than with respect to annuities;
5. notices of the recall or material failure of products that could endanger health or safety; and
6. documents required for transporting or handling hazardous material, pesticides, or other toxic or dangerous material (15

USC § 7003(b)).

FPCA

The FPCA allows applicants to submit a voter registration and absentee ballot application simultaneously. It also registers the applicant to vote and requests absentee ballots for all regularly scheduled federal elections for the calendar year in which it is submitted.

Presidential Ballots

The law permits U.S. citizens who not registered to vote, but who are at least age 18 to apply for and vote a presidential ballot to cast a vote for president and vice president, but not any other office. The person must apply to the town clerk no sooner than 45 days before the election, and can do so up until the polls close on Election Day. The clerk must be satisfied that the applicant is eligible for the ballot, and the applicant must sign a statement under penalty of false statement that the information he or she provides is true.

Related Bill

sSB 283, reported favorably by the Government Administration and Elections Committee, authorizes military and overseas voters to return their voted absentee ballots by fax or e-mail.

COMMENTS

Conflicting Deadlines

The bill requires town clerks to update the election notice with the list of questions and candidates to be voted on and make it publicly available no later than the date when both 90-day and 45-day ballots are mailed out. The bill thus creates an internal conflict between these two deadlines (i.e., 90 or 45 days beforehand).

List Unavailable

The bill requires clerks to update the election notice no later than the date when 90-day ballots are mailed out (i.e., as early as 90 days before a regular election). However, this is before the complete list of

questions and candidates is known.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 14 Nay 0 (04/05/2013)