

S.B. 601 – Oppose – Inconveniences Voters with Little Value for Officials

**Government Administration and Elections Committee
Testimony – February 13, 2015**

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Chairs and members of the Committee, my name is Luther Weeks, Executive Director of CTVotersCount, a Certified Moderator, and a Computer Scientist.

I oppose S.B. 601. It is intended to reduce work for officials in counting and accounting for multiple votes for cross-endorsed candidates. However, the bill would do little to reduce work for officials and have unintended, negative consequences, especially for voters.

The first thing to note is that our current optical scanners, the AccuVoteOS, likely cannot meet the certification requirements of this bill. (*) If the certification requirements are interpreted to de-certify our scanners, then until they are replaced, the only legal method for voting in Connecticut would be paper ballots and hand counting. In addition to clarifying the intent of the bill, before passage the Committee should verify that our current scanners can meet this requirement by consulting directly with an expert from the vendor Dominion, our distributor LHS Associates, or Dr. Shvartsman from UConn.

In any case, S.B. 601 fails to do what the title implies, “eliminate overvoting for a candidate”. It would require a more error prone process than we have today. It would make election officials jobs more, not less, challenging.

- **It would add to the number of hand-counted ballots which would still need to be counted as “unknown” - It would only apply to polling place, scanned ballots. Absentee ballots and EDR ballots as dual votes for candidates would be rejected.**
- **The significant cost would be a less positive voting experience for voters and for poll workers as voters are told they have “done something wrong” and need to vote again. Unable distinguish between overvotes for a single candidate vs. overvotes for multiple candidates, tenders would not be able to correctly, and legally advise voters on such rejections. (**)**

Time savings, if any, would be minimal and offset by increased time explaining the problem to voters, replacing their ballots and added hand counting of more ballots. This bill would only save the election closing allocation process for polling place optical scan votes in single-candidate races. The allocation process would still need to be accomplished for all the other classes of ballots. (*)**

Note: Registrars and the Secretary of the State’s Office are both convinced that Connecticut election officials are unable to accurately hand count votes on ballots, even under more ideal conditions than election night.(**)**

This change will be unnecessary, with electronic election night reporting, all calculations would then be handled automatically, relieving moderators of the allocation task.

Several times in the past I have testified against similar bills, pointing out similar concerns. I encourage you to drop this bill as your predecessors have so wisely done.

Thank you.

(* In 2011, I testified against a similar bill based on facts obtained from Mr. Jeff Silvestro, President of LHS Associates, responsible for programming our optical scanners:

Question asked and answer received

QUESTION:

Can the current version of the hardware and software for the AccuVote-OS in use in Connecticut be programmed via memory cards to present a distinct message for overvotes for cross-endorsed candidates than for regular overvotes, both for single and multiple vote contests? If not is there an existing certified version later than Connecticut's that supports this?

On 2/11/2011 11:43 AM, JEFF SILVESTRO wrote:

Luther,

None of this is possible. A cross endorsed candidate is still a single candidate, so the system will not recognize an overvote. Also the system is set with pre determined messages on the LCD. There is no way to add, remove or alter these messages. Please give me a call and we can discuss further. Are you aware of how cross endorsed candidates votes are tallied?

JEFF SILVESTRO

Vice President of Operations
LHS Associates, Inc.

My understanding from discussions with ROVAC in late 2013: Mr. Silvestro has since proposed a “work-around” that would treat a cross-endorsed candidate as two separate candidates, rather than one, producing an overvote error message when too many bubbles are filled-in.

That would work for single-vote races, but not for multiple-vote races since the scanner could not distinguish between a normal vote, and a cross endorsed dual vote which does not exceed the total multiple vote limit –The scanners would incorrectly tallying more than one vote for that single cross endorsed candidate from the same voter – an obvious problem that parties and candidates would soon learn to exploit.

() More on the Tabulator Tender Instructions:**

When an overvote is currently detected by the scanner, the Tabulator Tender tells the voter *“If you do not wish to correct the voting error, we can accept your ballot as presented. However, no votes for any office that you have “overvoted” will count...”*

Since courts have ruled that Connecticut is a “voter intent” state, that statement would not be accurate for cross-endorsed overvotes. Yet it would remain true for other overvotes.

The Tabulator Tender would not be able to determine which was the cases and accurately instruct the voter.

(*) When reporting the votes, Moderators or Head Moderators use a percentage formula set in law to allocate unknown votes between parties. Since this would still have to be used for all but polling place, scanner cast votes, it would be a matter of saving two to three minutes for one calculation involving two multiplications for each candidate.**

(**) Registrars and the Secretary of the State's Office assert that Connecticut Election Officials are unable to accurately hand count votes even under ideal conditions.**

Signed official reports from registrars of voters after each post-election audit claim they cannot count votes in just three races on ballots. These are ideal conditions, not like election night closing. In the latest post-election audit reports 16 or 21% of audit reports claimed human error as the cause of differences between hand and optical scanner counts:

<http://www.ctelectionaudit.org//2014/ObservationReport2014.pdf> (page 19)

Similarly, in 2011, Deputy Secretary of the State James Spallone disclosed that the Secretary of the State's Office encourages registrars to agree that they did not count accurately:

<http://ctvoterscount.org/clarification-official-post-election-audit-report/>