



House of Representatives

General Assembly

File No. 439

February Session, 2018

Substitute House Bill No. 5419

House of Representatives, April 12, 2018

The Committee on Government Administration and Elections reported through REP. FOX of the 148th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CENTRAL COUNTING OF ABSENTEE BALLOTS.

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

1 Section 1. Section 9-147a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 [(a) At any election, primary or referendum all absentee ballots shall
4 be counted in the respective polling places except when counted at a
5 central location. Any election official serving in a polling place may
6 observe the counting of absentee ballots at that polling place.]

7 [(b) At] (a) Except as provided in subsection (b) of this section, at
8 any election, primary or referendum, all absentee ballots [may] shall,
9 within existing resources, be counted at a central location designated
10 by the registrars of voters in writing to the municipal clerk at least
11 twenty days before the election, primary or referendum, which
12 location shall be published in the warning for the election, primary or

13 referendum. [If] Except as provided in subsection (b) of this section, if
14 unaffiliated electors are authorized under section 9-431 to vote in the
15 primary of either of two parties, [absentee ballots may not be counted
16 at a central location unless both parties decide to have central counting
17 and designate the same room for such central counting. If such
18 designation of a central location has been made, the ballots shall not be
19 counted in any polling place but] all absentee ballots shall be
20 separated, counted, tallied [,] and placed in depository envelopes [and
21 returned] by voting district. Any member of the public may observe
22 the counting of absentee ballots at such central location.

23 (b) At any election, primary or referendum, all absentee ballots may
24 be counted in the respective polling places if the registrars of voters
25 agree that such absentee ballots should be so counted. If unaffiliated
26 electors are authorized under section 9-431 to vote in the primary of
27 either of two parties, absentee ballots may be counted in the respective
28 polling places if the parties agree that such absentee ballots should be
29 so counted. Any election official serving in a polling place may observe
30 the counting of absentee ballots at such polling place.

31 Sec. 2. Section 9-147c of the general statutes is repealed and the
32 following is substituted in lieu thereof (*Effective from passage*):

33 Each registrar of voters shall appoint one or more electors of the
34 town, known to be persons of integrity, to count all absentee ballots.
35 No spouse, parent, grandparent, child or sibling of a candidate may be
36 appointed to count absentee ballots on which the name of such
37 candidate appears. [If central counting has been designated, the]
38 Unless absentee ballots are to be counted in the respective polling
39 places pursuant to subsection (b) of section 9-147a, as amended by this
40 act, the registrars shall also jointly appoint a central counting
41 moderator and alternate moderator pursuant to the requirements of
42 section 9-229. No person shall print, publish, announce, or otherwise
43 make known such count prior to the time for the closing of the polls.

44 Sec. 3. Subsection (b) of section 9-140c of the general statutes is
45 repealed and the following is substituted in lieu thereof (*Effective from*

46 *passage*):

47 (b) Beginning not earlier than the seventh day before the election,
48 primary or referendum and on any weekday thereafter, all absentee
49 ballots received by the municipal clerk not later than eleven o'clock
50 a.m. of such day may be sorted into voting districts by the municipal
51 clerk and checked as provided in this subsection. On any such day,
52 beginning as soon as the ballots have been sorted, the registrars of
53 voters, without opening the outer envelopes, may check the names of
54 the applicants returning ballots on the official checklist to be used at
55 the election, primary or referendum by indicating "absentee" or "A"
56 preceding each such name and, if unaffiliated electors are authorized
57 under section 9-431 to vote in the primary of either of two parties, the
58 designation of the party in which the applicants are voting preceding
59 each such name. [If central counting of absentee ballots has been
60 designated by the registrars pursuant to section 9-147a, they] Unless
61 absentee ballots are to be counted in the respective polling places,
62 pursuant to subsection (b) of section 9-147a, as amended by this act,
63 the registrars shall also place such indication on a duplicate of the
64 checklist to be retained by the municipal clerk until he delivers it to the
65 registrars at twelve o'clock noon on election, primary or referendum
66 day for the use of the absentee ballot counters pursuant to subsection
67 (i) of this section. All absentee ballots received not later than eleven
68 o'clock a.m. of the last day before the election, primary or referendum
69 which is not a Sunday or legal holiday, shall be so sorted and checked
70 not later than such day.

71 Sec. 4. Subsection (e) of section 9-140c of the general statutes is
72 repealed and the following is substituted in lieu thereof (*Effective from*
73 *passage*):

74 (e) (1) Except as provided in subdivision (2) of this subsection,
75 ballots received not later than eleven o'clock a.m. on such last day
76 before the election, primary or referendum shall be delivered by the
77 municipal clerk to the registrars not earlier than ten o'clock a.m. and
78 not later than twelve o'clock noon on the day of the election or primary

79 and at twelve o'clock noon on the day of a referendum. [If central
80 counting has been designated pursuant to section 9-147a, the] Unless
81 absentee ballots are to be counted in the respective polling places,
82 pursuant to subsection (b) of section 9-147a, as amended by this act,
83 the municipal clerk shall also deliver to the registrars at this time the
84 duplicate checklist provided for in subsection (b) of this section, for the
85 use of the absentee ballot counters pursuant to subsection (i) of this
86 section.

87 (2) The municipal clerk may deliver the ballots at a time that is later
88 than the time provided in subdivision (1) of this subsection, provided
89 such time is mutually agreed upon by the municipal clerk and
90 registrars and is not later than eight o'clock p.m. on the day of the
91 election, primary or referendum.

92 Sec. 5. Subsection (i) of section 9-140c of the general statutes is
93 repealed and the following is substituted in lieu thereof (*Effective from*
94 *passage*):

95 (i) (1) [The] Except as otherwise provided in this subsection, the
96 absentee ballot counters, upon receipt of the ballots delivered by the
97 municipal clerk to the registrars at six o'clock p.m. and at the close of
98 the polls pursuant to subsections (g) and (h) of this section, shall check
99 the names of the applicants returning ballots on the [official] duplicate
100 checklist in the same manner as provided in subsections (b) and (c) of
101 this section. [, except as otherwise provided in this subsection.]

102 (2) [If central counting has been designated pursuant to section 9-
103 147a, the] (A) Except as provided in subparagraph (B) of this
104 subdivision, the names of applicants whose ballots were delivered at
105 six o'clock p.m. shall be called in to the appropriate polling places
106 where they shall be checked by the checkers on the official checklists,
107 and they shall also be checked by the absentee ballot counters on the
108 duplicate checklist required under subsection (b) of this section.

109 (B) When absentee ballots are counted in any polling place pursuant
110 to subsection (b) of section 9-147a, as amended by this act, the names

111 of applicants whose ballots were delivered at six o'clock p.m. shall be
112 checked by the absentee ballot counters and checkers at such polling
113 place on the official checklist used at such polling place.

114 (3) [If central counting has been designated] (A) Except as provided
115 in subparagraph (B) of this subdivision, the names of applicants whose
116 ballots were delivered at the close of the polls shall be checked by the
117 absentee ballot counters on the official checklists used at the polling
118 places [. The] and such official checklists, bearing the certifications
119 required by section 9-307, shall be delivered by the registrars or
120 assistant registrars to the central counting moderator for that purpose.

121 (B) When absentee ballots are counted in any polling place pursuant
122 to subsection (b) of section 9-147a, as amended by this act, the official
123 checklist used at such polling place shall remain in such polling place
124 for checking by the absentee ballot counters at such polling place.

125 (4) If the name of an applicant returning a ballot has been checked
126 on the official checklist as having voted in person the absentee ballot
127 counters shall, in checking the ballots, endorse on the face of the outer
128 envelope the word "rejected" followed by a statement of the reason for
129 rejection, and the outer envelope shall not be opened or the ballot
130 counted.

131 (5) [When] (A) Except as provided in subparagraph (B) of this
132 subdivision, when central counting is completed and the result is
133 announced, the central counting moderator shall deliver the duplicate
134 checklist, the official checklists and the returns required by section 9-
135 150b, as amended by this act, to the head moderator.

136 (B) When absentee ballots are counted in any polling place pursuant
137 to subsection (b) of section 9-147a, as amended by this act, and such
138 counting is completed and the result for such polling place is
139 announced, the moderator for such polling place shall deliver the
140 official checklist used at such polling place and the return required by
141 section 9-150b, as amended by this act, to the head moderator.

142 Sec. 6. Subsection (a) of section 9-150a of the general statutes is
143 repealed and the following is substituted in lieu thereof (*Effective from*
144 *passage*):

145 (a) The absentee ballot counters shall proceed [to the polling places
146 for which they have been assigned ballots or] to the central counting
147 location or to the respective polling places when counting is to take
148 place pursuant to subsection (b) of section 9-147a, as amended by this
149 act, at the times designated by the registrars of voters.

150 Sec. 7. Section 9-150b of the general statutes is repealed and the
151 following is substituted in lieu thereof (*Effective from passage*):

152 (a) The moderator shall record the result of each count of absentee
153 ballots, separately by time of count, on (1) [the moderator's return, or
154 in the case of central counting] a separate moderator's return for each
155 voting district, and (2) a separate record of the number of absentee
156 votes cast for each candidate [as shown on the moderator's return, or
157 in the case of central counting, such a record] for each voting district.

158 [(b) If the absentee ballots were counted at the polls, when all
159 counting is complete the moderator shall publicly declare the result of
160 such count as provided in section 9-309 and add such count to the
161 results from the voting tabulators recorded on the moderator's return.
162 Such return shall show separately the tabulator vote and the absentee
163 vote and the totals thereof.

164 (c) If the absentee ballots were counted at a central location]

165 (b) Except as provided in subsection (c) of this section, when all
166 counting is complete the moderator shall publicly declare the result of
167 such count. He shall then deliver to the head moderator the central
168 counting moderator's returns, together with all other information
169 required by law or by the Secretary of the State's instructions. The head
170 moderator shall add the results from the voting tabulators, recorded
171 on the moderator's return for each polling place, to the absentee count
172 recorded on the central counting moderator's return for the

173 corresponding voting district, in the manner prescribed by the
174 Secretary of the State. The returns so completed shall show separately
175 the tabulator vote and the absentee vote and the totals thereof.

176 (c) If the absentee ballots were counted in the respective polling
177 places, pursuant to subsection (b) of section 9-147a, as amended by this
178 act, when all counting is complete the moderator shall publicly declare
179 the result of such count as provided in section 9-309 and add such
180 count to the results from the voting tabulators recorded on the
181 moderator's return. Such return shall show separately the tabulator
182 vote and the absentee vote and the totals thereof.

183 (d) The Secretary of the State may prescribe the forms and
184 instructions for the tabulation, counting and return of the absentee
185 ballot vote.

186 (e) The sealed depository envelopes required by subsections (f) and
187 (m) of section 9-150a shall be returned by the moderator to the
188 municipal clerk as soon as practicable on or before the day following
189 the election, primary or referendum.

190 (f) The municipal clerk shall preserve for sixty days after the
191 election, primary or referendum the depository envelopes containing
192 opened envelopes and rejected ballots required by subsection (f) of
193 section 9-150a, and shall so preserve for one hundred eighty days the
194 depository envelopes containing counted ballots and related materials
195 required by subsection (m) of section 9-150a.

196 (g) No such depository envelope shall be opened except by order of
197 a court of competent jurisdiction, by the State Elections Enforcement
198 Commission pursuant to a subpoena issued under subdivision (1) of
199 subsection (a) of section 9-7b or within five days of an election,
200 primary or referendum for the purpose of a recanvass conducted
201 pursuant to law. After such a recanvass the depository envelopes and
202 their contents shall be returned to the municipal clerk and preserved
203 for the stated period.

204 (h) For sixty days after the election, primary or referendum the
205 following shall be preserved by the municipal clerk as a public record
206 open to public inspection: (1) All executed absentee ballot application
207 forms and direction by registrar forms, as required by subdivision (i)
208 of section 9-140; (2) the list and index of applicants for presidential or
209 overseas ballots as required by section 9-158h; (3) the numerical list of
210 absentee voting sets issued as required by subsection (e) of section 9-
211 140; (4) the list of the names of persons whose absentee ballots are
212 received by the municipal clerk, as required by subsection (a) of
213 section 9-140c; (5) all unused absentee ballots; and (6) all envelopes
214 containing ballots received by the municipal clerk after the close of the
215 polls, which shall remain unopened.

216 (i) For one hundred eighty days after the election, primary or
217 referendum the following shall be preserved by the municipal clerk as
218 a public record open to public inspection: (1) The affidavit regarding
219 the municipal clerk's endorsement of inner envelopes, as required by
220 subsection (a) of section 9-140c; and (2) the affidavit regarding delivery
221 and receipt of ballots, as required by subsection (j) of said section.

222 (j) At the expiration of the applicable retention period, if no contest
223 is pending and no subpoena has been issued by the State Elections
224 Enforcement Commission pursuant to subsection (1) of section 9-7b,
225 the municipal clerk shall destroy the materials preserved under this
226 section.

227 Sec. 8. Section 9-159o of the general statutes is repealed and the
228 following is substituted in lieu thereof (*Effective from passage*):

229 Any elector who has returned an absentee ballot to the municipal
230 clerk and who finds he is able to vote in person shall proceed before
231 ten o'clock a.m. on election, primary or referendum day to the
232 municipal clerk's office and request that his ballot be withdrawn. The
233 municipal clerk shall remove the ballot from the sealed package and
234 shall mark the serially-numbered outer envelope, which shall remain
235 unopened, "rejected" and note the reasons for rejection. The elector
236 shall also endorse the envelope. The rejected ballot shall then be

237 returned to the sealed package until delivered on election, primary or
238 referendum day to the registrars of voters in accordance with section 9-
239 140c, as amended by this act. The municipal clerk shall then give the
240 elector a signed statement directed to the moderator of the voting
241 district in which the elector resides stating that the elector has
242 withdrawn his absentee ballot and may vote in person. Upon delivery
243 of the statement by the elector to the moderator, the moderator shall
244 cause the absentee indication next to the name of the elector to be
245 stricken from the official checklist and the elector may then have his
246 name checked and vote in person. [In the case of central counting, the
247 clerk shall make a similar notation on] Unless absentee ballots are to be
248 counted in the respective polling places pursuant to subsection (b) of
249 section 9-147a, as amended by this act, the municipal clerk shall also
250 cause the absentee indication next to the name of the elector to be
251 stricken from the duplicate checklist to be used by the absentee ballot
252 counters.

253 Sec. 9. Subsections (c) to (h), inclusive, of section 9-159p of the
254 general statutes are repealed and the following is substituted in lieu
255 thereof (*Effective from passage*):

256 (c) Challenges made concerning ballots [which] that the municipal
257 clerk has not delivered to the registrars of voters for counting pursuant
258 to sections 9-140c, as amended by this act, and 9-147a, as amended by
259 this act, shall be made in writing to the municipal clerk. Challenges
260 made concerning ballots [which] that the municipal clerk has delivered
261 to the registrars of voters for counting pursuant to sections 9-140c, as
262 amended by this act, and 9-147a, as amended by this act, shall be made
263 in writing to [the moderator of the polling place at which the ballot is
264 to be counted or] the central counting moderator or the moderator of
265 the polling place at which the ballot is to be counted pursuant to
266 subsection (b) of section 9-147a, as amended by this act. All challenges
267 shall be made under oath.

268 (d) Immediately upon receipt of a challenge, the municipal clerk
269 shall send copies of the challenge to each registrar of voters and to the

270 person offering to vote by absentee ballot. The municipal clerk shall
271 send the copy of the challenge to the person offering to vote by first
272 class certified mail to the mailing address shown on the application for
273 the absentee ballot. The municipal clerk shall furnish copies of any
274 written response to the challenge to each registrar of voters. The
275 municipal clerk shall deliver the ballot in the inner envelope, which
276 shall not be opened, the serially-numbered envelope and any other
277 evidence relevant to the challenge, to the registrars, who shall sign a
278 receipt for the same.

279 (e) Immediately upon receipt of a challenge, the moderator shall
280 deliver copies of the challenge to each registrar of voters. The
281 moderator shall also deliver, or designate another election, primary or
282 referendum official to deliver, the ballot in the inner envelope, which
283 shall not be opened, the serially-numbered envelope and any other
284 evidence relevant to the challenge to the registrars, who shall sign a
285 receipt for the same.

286 (f) The registrars of voters shall examine the challenge, any written
287 response to the challenge and any other evidence or information they
288 deem relevant to the challenge, including the inner envelope, which
289 shall not be opened, and shall determine whether the challenge should
290 be upheld. If the registrars fail to agree that the challenge should be
291 upheld, it shall be deemed to have been denied.

292 (g) The registrars of voters shall make the determination not earlier
293 than noon of the day of the election, primary or referendum at which
294 the ballot is submitted and not later than the time when the counting
295 of all other absentee ballots at the election, primary or referendum has
296 been completed.

297 (h) The registrars of voters shall notify, in writing, the municipal
298 clerk and the central counting moderator, or the moderator of the
299 [central location if central counting of absentee ballots has been
300 designated] polling place at which the ballot is to be counted pursuant
301 to subsection (b) of section 9-147a, as amended by this act, of their
302 determination. If the challenge is denied, the absentee ballot shall be

303 delivered by the registrars to the appropriate location for counting
304 pursuant to law. If the challenge is upheld, the registrars shall mark
305 the word "rejected" on the serially-numbered outer envelope and note
306 the reasons for rejection, and shall return it together with all other
307 evidence received in connection with the challenge to the municipal
308 clerk who shall retain the same until delivered in accordance with
309 section 9-140c, as amended by this act, except that a challenge to a
310 ballot which the municipal clerk has delivered to the registrars of
311 voters for counting pursuant to sections 9-140c, as amended by this act,
312 and 9-147a, as amended by this act, shall be returned to the moderator
313 to whom the challenge was made.

314 Sec. 10. Subsection (g) of section 9-19j of the general statutes is
315 repealed and the following is substituted in lieu thereof (*Effective from*
316 *passage*):

317 (g) The elector shall forthwith mark the election day registration
318 ballot in the presence of the registrars of voters in such a manner that
319 the registrars of voters shall not know how the election day
320 registration ballot is marked. The elector shall place the election day
321 registration ballot in the election day registration ballot envelope
322 provided, and deposit such envelope in a secured election day
323 registration ballot depository receptacle. At the time designated by the
324 registrars of voters and noticed to election officials, the registrars of
325 voters shall transport such receptacle containing the election day
326 registration ballots to the [area, either district or] central location or
327 polling place, pursuant to subsection (b) of section 9-147a, as amended
328 by this act, where absentee ballots are counted and such election day
329 registration ballots shall be counted by the election officials present at
330 such central location or polling place. A section of the head
331 moderator's return shall show the number of election day registration
332 ballots received from electors. The registrars of voters shall seal a copy
333 of the vote tally for election day registration ballots in a depository
334 envelope with the election day registration ballots and store such
335 election day registration depository envelope with the other election
336 results materials. The election day registration depository envelope

337 shall be preserved by the registrars of voters for the period of time
 338 required to preserve counted ballots for elections.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	9-147a
Sec. 2	<i>from passage</i>	9-147c
Sec. 3	<i>from passage</i>	9-140c(b)
Sec. 4	<i>from passage</i>	9-140c(e)
Sec. 5	<i>from passage</i>	9-140c(i)
Sec. 6	<i>from passage</i>	9-150a(a)
Sec. 7	<i>from passage</i>	9-150b
Sec. 8	<i>from passage</i>	9-159o
Sec. 9	<i>from passage</i>	9-159p(c) to (h)
Sec. 10	<i>from passage</i>	9-19j(g)

Statement of Legislative Commissioners:

In Section 8, "as amended by this act" was inserted for accuracy.

GAE *Joint Favorable Subst. -LCO*

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:*** None***Municipal Impact:*** None***Explanation***

The bill requires, within existing resources, that absentee ballots be counted at a central location in each municipality unless the registrars of voters agree to count them at the polling places. Currently, absentee ballots must be counted at polling places unless the registrars agree to count them centrally. No fiscal impact is anticipated as the state and municipalities are not anticipated to change their method of counting absentee ballots.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis

sHB 5419

AN ACT CONCERNING CENTRAL COUNTING OF ABSENTEE BALLOTS.

SUMMARY

This bill requires that, within existing resources, absentee ballots cast at any election, primary, or referendum be counted at a central location in each municipality unless the registrars of voters agree to count them at the respective polling places. Under current law, absentee ballots must be counted at the polling places unless the registrars agree to count them centrally.

The bill makes numerous technical and conforming changes (e.g., applying the central counting requirement to primaries in which unaffiliated electors are authorized to vote). It also retains existing law's procedures for designating the central location and counting absentee ballots for both central locations and polling places. Thus, under the bill, with respect to centrally counted ballots, registrars must, among other things, (1) notify the municipal clerk in writing of the location at least 20 days before the election, primary, or referendum and (2) jointly appoint a central counting moderator and alternate moderator. The bill does not specify what happens if the registrars cannot agree on a location.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 17 Nay 0 (03/23/2018)