
OLR Bill Analysis

sSB 184

AN ACT EXTENDING THROUGH NOVEMBER 8, 2022, SEVERAL CHANGES REGARDING ELECTION ADMINISTRATION AS A RESULT OF COVID-19 AND CONCERNING ELIGIBILITY TO VOTE BY ABSENTEE BALLOT.

SUMMARY

This bill reinstates certain changes affecting absentee voting eligibility and procedures and election returns in effect for the 2020 state election and certain elections, primaries, and referenda held in 2021. Specifically, for the 2022 state election and a state or municipal election, primary, or referendum occurring before November 9, 2022 (i.e., “covered election, primary, or referendum”), the bill does the following, among other things:

1. generally delays the period during which municipalities must publish the warning for an election or primary (§§ 1, 2, 9, & 10);
2. expands the reasons for which electors may vote by absentee ballot to include the COVID-19 sickness (§§ 3 & 4);
3. gives the secretary of the state broad authority to change absentee voting forms and materials to conform to the expanded eligibility (§ 5);
4. gives town clerks an additional 24 hours to mail an absentee voting set after receiving a completed application (§ 6);
5. authorizes town clerks to mail absentee voting sets using a third-party vendor that the secretary of the state approves and selects (§ 6);
6. moves up the time at which town clerks may begin sorting absentee ballots and checking voter names on the registry list (§ 7);

7. authorizes municipalities to conduct certain absentee ballot pre-counting procedures (§§ 7-8 & 11);
8. moves up the deadline by which an elector who returned a completed absentee ballot but later finds he or she is able to vote in person must go to the town clerk's office to request that the ballot be withdrawn (§ 13); and
9. extends, generally by 48 hours, numerous deadlines and timeframes associated with canvassing and reporting election returns (§§ 14-19).

The bill also authorizes the secretary of the state, for a covered election or primary and subject to certain conditions, to waive requirements under the mandatory supervised absentee voting law (§ 12). Existing law provides similar authority for elections and primaries generally.

Additionally, the bill authorizes qualified voters to vote by absentee ballot in any election, primary, or referendum if they are unable to appear at their polling place during the hours of voting because of (1) illness, rather than because of their own illness as current law provides, or (2) absence from the town of their voting residence, rather than absence from the town of their voting residence during all voting hours as under current law (§§ 3 & 4).

Lastly, the bill makes several technical and conforming changes.

EFFECTIVE DATE: Upon passage

§§ 1, 2, 9 & 10 — PUBLIC NOTICE OF COVERED ELECTIONS AND PRIMARIES

By law, the town clerk must notify the town's electors about a state or municipal election or primary by publishing the warning in a general circulation newspaper. (For elections, they must also post the notice on the town's website.) The bill generally delays the period during which towns must publish these warnings, as shown in Table 1 below.

Table 1: Election and Primary Notice Requirements

Bill §	Requirement	Deadline or Timeframe Under Current Law	Deadline or Timeframe for Covered Election or Primary Under the Bill
§ 1	Town clerk or assistant town clerk must notify electors of the 2022 state election and a vacancy election for member of Congress, probate judge, or state legislator	From five to 15 days before the election	From four to seven days before the election
§ 2	Town clerk or assistant town clerk must notify electors of a municipal election	From five to 15 days before the election	From four to seven days before the election
§ 9	Town clerk must notify electors of a primary for state or district office	Upon receiving notice from the secretary of the state that a primary will be held	From four to seven days before the primary
§ 10	Town clerk must notify electors of a primary for municipal office, or for election as town committee member	Upon receiving notice from the registrar of voters that a primary will be held	From four to seven days before the election or primary

§§ 3-5 — EXPANDED ABSENTEE VOTING AUTHORIZATION AND UPDATED FORMS

COVID-19 Sickness (§§ 3 & 4)

For a covered election, primary, or referendum, the bill expands the reasons for which qualified voters (i.e., electors and people eligible to vote in a referendum) may vote by absentee ballot to include the COVID-19 sickness (see BACKGROUND).

The bill requires that absentee ballots be updated for a covered election, primary, or referendum by inserting on the inner envelope's statement "the sickness of COVID-19" as a reason for which electors may vote absentee. As with other types of absentee voters, those who vote by absentee ballot due to the COVID-19 sickness must sign the ballot under penalties of false statement in absentee balloting, which is a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both (CGS § 9-359a).

Illness and Absence from Town (§§ 3 & 4)

The bill authorizes qualified voters to vote by absentee ballot in any election, primary, or referendum if they are unable to appear at their polling place during voting hours because of (1) illness, rather than

because of their own illness as current law provides, or (2) absence from the town of their voting residence, rather than absence from the town of their voting residence during all voting hours as under current law. This authority applies to elections, primaries, and referenda generally (i.e., it does not expire November 9, 2022).

The bill requires revisions to the statement printed on the face of absentee ballots' inner envelope to show the revised reasons for which electors may vote absentee.

Changes to Forms and Materials (§ 5)

The bill gives the secretary of the state broad authority to change absentee voting forms and materials for a covered election, primary, or referendum when, in her opinion, changes are necessary to conform to law. The authorization applies to prescribed absentee voting forms and printed, recorded, or electronic materials.

§ 6 — DELIVERY OF ABSENTEE BALLOTS TO VOTERS

The bill, with certain exceptions, authorizes town clerks to mail absentee voting sets for a covered election, primary, or referendum using a third-party vendor that the secretary of the state approves and selects. It also requires (1) town clerks to mail the absentee voting sets within 48 hours, rather than within 24 hours, after receiving an application and (2) that any contract between the secretary and a third-party vendor require the vendor to mail each set within 72 hours after receiving the application from the clerk.

The bill's provisions on mailing absentee ballot sets do not apply when a referendum is held with fewer than three weeks' notice since, by law, town clerks may provide absentee ballots for these referenda only to people who apply in person (CGS § 9-369c(a)).

§ 7 — DELIVERY OF RETURNED ABSENTEE BALLOTS TO REGISTRARS

By law, town clerks must sort into voting districts any absentee ballots received by the day before an election, primary, or referendum. For ballots received by 11:00 a.m. on this day, registrars of voters must

check the names of applicants returning absentee ballots on the official registry list with “A” or “absentee.” This sorting and checking must be completed before, and the clerk must deliver the sorted and checked ballots to the registrars on, the day of the election, primary, or referendum.

For a covered election, primary, or referendum, the bill authorizes clerks to begin sorting ballots 14 days beforehand, rather than seven days beforehand as current law provides. It requires the town clerk to deliver these ballots at 6:00 a.m. unless a later time is mutually agreed upon, rather than between 10:00 a.m. and noon (unless a later time is mutually agreed upon) as under current law.

The bill also allows town clerks to deliver sorted and checked ballots to the registrars before the day of a covered election, primary, or referendum to begin certain pre-counting procedures (see below). Specifically, it allows any ballots received, sorted, and checked by 5:00 p.m. on the fourth day before the election, primary, or referendum to be delivered to the registrars at that time. It similarly allows ballots received, sorted, and checked by 5:00 p.m. on the third and second days before the election, primary, or referendum to be delivered to the registrars at those times.

In each case, the bill also allows the clerk to deliver the ballots at a later time that he or she mutually agrees upon with the registrars, but no later than 8:00 p.m. on the day of the election, primary, or referendum. The bill also requires the (1) clerk to include with the ballots an up-to-date copy of the duplicate checklist and (2) clerk and registrars to execute an affidavit of delivery and receipt stating the number of ballots delivered. Existing law applies these requirements to ballots delivered on the day of an election, primary, or referendum.

§ 8 — REQUIREMENTS FOR OPTING IN TO PRE-COUNTING

Under the bill, any municipality conducting pre-counting procedures for a covered election, primary, or referendum must do so at a central location. The registrars of voters must designate the location in writing to their respective town clerks at least 10 days before the election,

primary, or referendum, and it must be published in the warning for the election, primary, or referendum.

If a municipality uses the pre-counting procedures, the bill requires the registrars of voters and town clerk to jointly certify this decision to the secretary of the state, in writing, at least 10 days before the election, primary, or referendum. The certification must include the (1) name, street address, and relevant contact information for the designated central location and (2) name and address of each absentee ballot counter.

The secretary must approve or disapprove the certification within two days after receiving it. The bill also allows her to require the municipality to appoint one or more additional absentee ballot counters.

By law, municipalities must count absentee ballots at a central location unless the registrars of voters agree to count them in each polling place. The bill specifies that any ballots delivered to the registrars on the day of a covered election, primary, or referendum (i.e., those not delivered for pre-counting procedures) may still be counted in the polling places.

§ 11 — AUTHORIZED PRE-COUNTING PROCEDURES

By law, absentee ballot sets consist of an outer envelope, which contains information about the elector (e.g., name and address), and an inner envelope, which has the elector's marked ballot and a statement signed by the elector under penalty of false statement in absentee balloting. Current law sets out numerous absentee ballot counting steps, which are generally completed by absentee ballot counters or moderators. It requires that these steps be completed beginning on election day (CGS § 9-150a).

For municipalities that opt to use pre-counting procedures, the bill authorizes them to complete the following steps, beginning at 5:00 p.m. on the fourth day before the covered election, primary, or referendum:

1. remove the inner envelopes from the outer envelopes;

2. report to the moderator separately the total number of absentee, presidential, and overseas ballots received; and
3. reject ballots for which the inner envelope statement is improperly executed.

Under the bill, once the above steps are completed, the absentee ballots must be counted beginning on the election, primary, or referendum day in accordance with existing law.

Securing the Absentee Ballots Until Election Day

The bill requires that absentee ballots be secured throughout any pre-counting process. Specifically, the ballots must be secured according to (1) instructions from the secretary of the state and (2) existing statutory requirements on securing absentee ballots and related materials. Under the bill, the secretary must issue these instructions at least 10 days before the covered election, primary, or referendum.

§ 12 — MANDATORY SUPERVISED ABSENTEE VOTING

The bill authorizes the secretary of the state to waive any requirements under the mandatory supervised absentee voting law for a covered election or primary (see BACKGROUND). To waive a requirement, she must do so in recognition of a public health or civil preparedness emergency declared by the governor.

Before a waiver, the secretary must do the following:

1. consult with the public health commissioner, or the commissioner's designee,
2. give written notice to the town clerk and registrars of voters in each affected municipality, and
3. submit a report to the Government Administration and Elections (GAE) Committee about the waiver and specifying alternative actions that will be taken to provide affected electors with absentee voting opportunities.

Existing law authorizes the secretary of the state to suspend

supervised absentee voting that happens upon request, or mandatory supervised absentee voting, if she does so for a public health or civil preparedness emergency declared by the governor (CGS § 9-159q, as amended by PA 21-2, June Special Session, § 108). This authority does not expire November 9, 2022.

§ 13 — DEADLINE TO WITHDRAW A SUBMITTED ABSENTEE BALLOT

By law, electors who submit an absentee ballot must go to the town clerk's office and request to withdraw it if they later find they can vote in person. For a covered election, primary, or referendum, the bill moves up this deadline from 10:00 a.m. on the election, primary, or referendum day to 5:00 p.m. on the fourth day before it, which is the same time that municipalities may begin pre-counting procedures.

§§ 14-19 — EXTENSION OF CERTAIN DEADLINES & TIMEFRAMES

The bill extends, generally by 48 hours, numerous deadlines and timeframes associated with canvassing and reporting returns for a covered election, primary, or referendum (see CGS §§ 9-369c(f) and 9-381a) (see BACKGROUND). The changes also generally apply to a referendum held in conjunction with a covered election.

Table 2 lists, in chronological order, the deadlines and timeframes under current law and the bill.

Table 2: Changes to Canvassing and Election Returns Deadlines

<i>Bill §</i>	<i>Requirement</i>	<i>Deadline or Timeframe Under Current Law</i>	<i>Deadline or Timeframe for Covered Election, Primary, or Referendum in 2022</i>
§ 16	After submitting the preliminary list of returns, moderator completes the canvass, which includes announcing (1) each candidate's name and absentee vote count and (2) the results for any ballot questions	48 hours after the polls close	96 hours after the polls close
§ 18	Moderator submits to the secretary of the state the duplicate list of returns (1) by electronic means and (2) in sealed, hard copy	<ul style="list-style-type: none"> • 48 hours after the polls close for the electronic submission • Three days after the election, primary, or 	<ul style="list-style-type: none"> • 96 hours after the polls close for the electronic submission • Five days after the election, primary, or

Bill §	Requirement	Deadline or Timeframe Under Current Law	Deadline or Timeframe for Covered Election, Primary, or Referendum in 2022
		referendum for the sealed, hard copy	referendum for the sealed, hard copy
§ 15	Moderator deposits certificate (from the official checkers) with town clerk indicating the total number of names on the official checklist and the number checked as having voted	48 hours after the polls close	96 hours after the polls close
§ 15	Registrars deposit signed registry list with town clerk	48 hours after the polls close	96 hours after the polls close
§ 19	Registrars provide town clerk with results of votes cast	48 hours after the polls close	96 hours after the polls close
§ 19	For municipalities divided into voting districts, the (1) head moderators, town clerk, and registrars meet to identify any errors in the election or primary night returns and (2) moderators correct any errors and file an amended return with the secretary of the state, town clerk, and registrars	<ul style="list-style-type: none"> • 9:00 a.m. on the third day after the election, primary, or referendum for the meeting • 1:00 p.m. on the third day after the election, primary, or referendum for any amended return 	<ul style="list-style-type: none"> • 9:00 a.m. on the fifth day after the election, primary, or referendum for the meeting • 1:00 p.m. on the fifth day after the election, primary, or referendum for any amended return
§ 17	If there appears to be a discrepancy, tie vote, or close vote, including a close vote in a referendum, the head moderator calls for a recanvass (CGS §§ 9-311a, -311b, & -370a)	Three days after the election, primary, or referendum	Five days after the election, primary, or referendum
§ 17	When a recanvass is required due to a discrepancy, tie vote, or close vote, including a close vote in a referendum, the recanvass officials meet to recanvass the returns (CGS §§ 9-311a, -311b, & -370a)	Five business days after the election, primary, or referendum	Seven business days after the election, primary, or referendum
§ 14	In a recanvass, absentee ballot depository envelopes may be unsealed by court order or State Elections Enforcement Commission subpoena	Five business days after the election, primary, or referendum	Seven business days after the election, primary, or referendum
§ 17	If a discrepancy, close vote, or tie vote recanvass results in a correction to the original returns, the moderator files one copy of the corrected recanvass return with the secretary of the state and another with the town clerk	10 days after the election, primary, or referendum	12 days after the election, primary, or referendum

BACKGROUND

Related Bill

sHB 5262, reported favorably by the GAE Committee, makes (1) similar changes concerning absentee voting due to illness and absence from the town of residence and (2) an additional change about absentee voting due to physical disability.

Permitted Reasons for Voting by Absentee Ballot

The state constitution authorizes the General Assembly to pass a law allowing eligible voters to cast their votes by absentee ballot if they are unable to appear at a polling place on election day because of (1) absence from their city or town, (2) sickness or physical disability, or (3) the tenets of their religion prohibiting secular activity (Art. VI, § 7). The General Assembly exercised this authority and passed laws codified at CGS § 9-135.

Issuing Absentee Ballot Sets

By law, town clerks begin issuing absentee voting sets 31 days before an election and 21 days before a primary, or if that day falls on a weekend or holiday, the next preceding business day. Generally, clerks begin issuing the sets 19 days before a referendum or when an elector applies for an absentee ballot, whichever is later. However, when a referendum is held with fewer than three weeks' notice, clerks must make the sets available no later than four business days after the question is finalized (CGS §§ 9-140(f) and 9-369c(a) & (e)).

Mandatory Supervised Absentee Voting

Under the mandatory supervised absentee voting law, registrars of voters or their designees must supervise absentee voting at "institutions" (e.g., nursing homes and other residential care and mental health facilities) in which at least 20 patients are registered voters (including patients who are registered in a municipality other than the one where the institution is located). During these voting sessions, registrars or their designees deliver absentee ballots to the institution and jointly supervise voters while they fill out the ballots. Voters have the right to complete their ballots in secret, but registrars observe the process and are available to assist upon request.

Application of Election Procedures to Primaries and Referenda

By law, unless otherwise provided, procedures for regular elections apply to primaries as nearly as possible (CGS § 9-381a). Similarly, absentee ballot procedures for elections (e.g., issuing and returning the ballots and declaring the count) also apply to referenda as nearly as possible (CGS § 9-369c(f)).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 6 (03/09/2022)