
OLR Bill Analysis

sHB 5498

AN ACT CONCERNING ELECTION SECURITY AND TRANSPARENCY, VARIOUS OTHER REVISIONS RELATED TO ELECTION ADMINISTRATION AND STATE ELECTIONS ENFORCEMENT COMMISSION COMPLAINTS.

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BACKGROUND

SUMMARY

This bill makes various changes to the state's election laws. Primarily, it makes several changes to the laws on requesting and returning absentee ballots, including requiring the recording of drop boxes (§ 1); recording and reporting how absentee ballots are received by a town clerk (§ 2); and requiring voters to personally apply for an additional absentee ballot (§ 3).

Additionally, it sets expiration dates for absentee ballot applications (§ 6) and creates certain limitations on acquiring ballot applications in bulk (§ 7). It also requires the use of the central voter registration system to verify absentee ballot applications and ballots (§ 9) as well as eliminating one grounds for removal from permanent absentee ballot status (§ 21).

The bill also does the following:

1. modifies certain election crimes to provide more specificity on what constitutes violations of these crimes (§§ 4 & 5);
2. for voter registration data, (a) broadens what must be confidential and (b) limits the reasons it may be disclosed (§§ 8 & 10);
3. specifies or prohibits certain individuals from being at early voting, same-day election registration, and ballot counting locations (§§ 11-14);
4. allows out-of-state residents to serve as petition circulators (§§ 15-20);
5. expands the timeline for post-election audits for municipal elections and primaries (§ 22);
6. expands the means to obscure the name of a candidate when there is an unfilled vacancy on the ballot (§§ 23-28);
7. requires the secretary of the state to revise voter registration and party affiliation forms to address certain ambiguities (§ 29); and
8. requires that certain complaints filed with the State Elections Enforcement Commission (SEEC) be referred to the chief state's attorney (§ 30).

EFFECTIVE DATE: Various; see below.

§ 1 — RECORDING ABSENTEE BALLOT DROP BOXES

Requires municipalities to make video recordings of drop boxes and release them to the public

Under existing law, voters may cast absentee ballots by depositing them into a drop box that is regularly checked by the town clerk. The bill requires municipalities, by July 1, 2025, to install video recording devices to record each absentee ballot drop box. The recording must begin the first day absentee ballots are issued for an election or primary

and continue until the last ballot retrieval by the town clerk. The recording must also include evidence of the date and time.

Under the bill, these recordings must be made immediately available to the public from the recording date, but no later than five days after the last retrieval. (It is unclear what the bill means by “immediately available” if disclosure can occur up to five days after the election contest. The bill does not specify how often these recordings must be released or what periods they must cover (e.g., daily releases showing the entire previous calendar day).)

Additionally, the municipality must keep these recordings for a year. This requirement may be extended if SEEC or a court with jurisdiction orders their retention until the conclusion of a related pending investigation. Once the deadline has passed, the municipality may destroy the recording.

The bill also requires the secretary of the state to adopt regulations on using drop boxes, which may include drop box placement and position, video recording of the boxes, and retention of recordings.

EFFECTIVE DATE: Upon passage

§ 2 — RECEIPT OF ABSENTEE BALLOTS

Requires town clerks to record how absentee ballots are received and sets reporting requirements

The bill requires town clerks to note on the outer envelope of an absentee ballot how the ballot was returned to the clerk: (1) through a mail service (e.g., the U.S. Postal Service); (2) to a drop box, and if so, the box’s location; (3) in-person by the voter themselves or (4) in-person by the voter’s designee or immediate family member. Immediately after the polls close, the town clerk must give the secretary of the state a report detailing the total number of absentee ballots returned and a count of ballots returned by each method described above.

Under existing law, town clerks already must sign the outer envelope when it is received and note the date and time.

EFFECTIVE DATE: July 1, 2024

§ 3 — REQUEST FOR ADDITIONAL ABSENTEE BALLOT APPLICATIONS

Requires voters to personally request additional absentee ballot applications

Under existing law, voters may apply for a new absentee ballot after one has already been issued to them for various reasons (e.g., the previous ballot became unusable). The voter must note their reason for requesting a new ballot when applying for it.

The voter must also return the original absentee ballot if possible. If they cannot, they must include a statement (under the penalty of false statement) as to why they cannot and sign it, along with the new application. If a voter fails to return the original ballot and does not include a statement, they cannot be issued a new ballot.

The bill specifies that the voter must personally request a subsequent absentee ballot either (1) in person or (2) by having it directly mailed to the voter at a bona fide address they designate. (Presumably, the voter may designate their bona fide mailing address in a subsequent application to the town clerk.) These provisions do not apply to the first absentee ballot a voter applies for.

EFFECTIVE DATE: Upon passage

§§ 4 & 5 — VOTING INTERFERENCE CRIMES

Expands prohibition on using certain means to influence or attempt to influence a voter to stay away from an election to include using these means to influence a voter to refrain from voting; specifies certain existing voting interference crimes include votes cast by mail, into a secure drop box, or in-person

Existing law makes it a class D felony to influence or attempt to influence a voter to stay away from an election by force or threat, bribery, or corrupt, fraudulent, or deliberately deceitful means. The bill extends this provision to also cover using these prohibited actions to influence or attempt to influence an elector to refrain from voting. (A class D felony is punishable by up to five years imprisonment, up to a \$5,000 fine, or both.)

Under existing law, it is a class C felony to willfully and fraudulently

suppress or destroy any vote or ballot properly given or cast, or to willfully miscount or misrepresent the votes. (A class C felony is punishable by up to 10 years imprisonment, up to a \$10,000 fine, or both.)

The bill specifies that a violation of these provisions may occur for votes cast (1) by mail; (2) into a secure drop box; or (3) in person at a polling place, early voting location, or same-day election registration location.

EFFECTIVE DATE: Upon passage

§§ 6 & 7 — ABSENTEE BALLOT APPLICATION FORMS

Requires absentee ballot applications to be designated for a specific year and prohibits their use and distribution without a valid designation; limits the number of applications a person may request during certain periods

The bill requires the secretary of the state, on each absentee ballot application, to clearly and conspicuously note the year the application is valid. It also prohibits (1) town clerks from providing or accepting ballots without the applicable year noted and (2) any person from distributing or using an application without the current year noted.

Additionally, under existing law, a person may request multiple absentee ballot applications for themselves or others. The town clerk must maintain a log of individuals who have requested applications, their names and addresses, and how many applications they have requested.

The bill prohibits town clerks from giving a person five or more ballot applications “at a time” (presumably, per request) for an election, primary, or referendum. This limitation applies only to requests for applications for an election, primary, or referendum that are made at least 90 days before absentee ballots are issued for that election contest. (Since absentee ballot applications are not specific to an election or jurisdiction, it is unclear how town clerks would ascertain whether the application would be used for a specific election contest.)

EFFECTIVE DATE: July 1, 2024, except that the requirement for the

secretary to note the eligible year on absentee ballots is effective January 1, 2025.

§ 8 — CONFIDENTIALITY OF VOTER REGISTRATION DATA FROM OTHER ENTITIES

Requires all data shared from state agencies, other states, and the federal government for the voter registration system to be confidential

Under existing law, the secretary of the state may enter into an agreement with other states to share voter registration data to maintain Connecticut's voter registration systems. Current law requires the secretary to designate certain information as confidential if the entity that gave the data to her (i.e., a Connecticut state agency, another state, or the federal government) requires it.

Instead, the bill requires the secretary to designate all data received for these purposes from these entities as confidential. As under existing law, this information may be shared with secretary-supervised third-party vendors that maintain this system and agree to protect this information.

EFFECTIVE DATE: Upon passage

§ 9 — ABSENTEE BALLOT VERIFICATIONS

Requires town clerks to conduct absentee ballot verifications with the statewide centralized voter registration system

Existing law requires town clerks to check absentee ballot applications and returned ballots against registry and enrollment lists, such as checking if a voter is eligible to receive an absentee ballot application (CGS § 9-140(c)). Starting July 1, 2024, the bill requires town clerks to use the statewide centralized voter registration system to conduct these verifications. As required by existing law, the state system must contain information needed to compile the registry and enrollment lists currently used by the town clerks.

EFFECTIVE DATE: July 1, 2024

§ 10 — DISCLOSURE OF VOTER REGISTRATION INFORMATION

Limits disclosure of voter registration information for certain purposes and specifically prohibits others

The secretary of the state and registrars of voters collect and maintain voter registration information for various purposes, including voters' names, addresses, birthdates, and certain identification numbers. The bill limits disclosure of this information to uses for election-related, scholarly, journalistic, political, or governmental purposes, as determined by the secretary of the state. It specifically prohibits disclosure for personal, private, or commercial purposes (including harassment, advertising or marketing, or public distribution).

Under existing law, unchanged by the bill, driver's license numbers, identity card numbers, and Social Security numbers are always confidential and prohibited from disclosure. Also, voters may submit a signed statement requesting that certain information not be disclosed to protect the safety of the voter or his or her family.

EFFECTIVE DATE: October 1, 2024

§§ 11-14 — AUTHORIZED INDIVIDUALS AT CERTAIN ELECTION SITES

Specifies certain individuals who may be present at early voting and same-day election registration locations and prohibits others from being at ballot counting locations

Existing law allows (1) the public to observe absentee ballot counting at central counting locations and (2) election officials serving at a polling place to observe absentee ballot counting at that place. The bill specifically prohibits candidates up for election or nomination from being at these locations, except for town clerks, registrars, or deputy registrars performing their official duties, even if the clerk or registrar is on the ballot.

Existing laws generally prohibit individuals from being within a 75-foot radius of early voting or same-day election registration locations, except for certain individuals who need to perform official duties or conduct government business. The bill further specifies additional people who may be within an early voting or same-day election registration location to include:

1. a voter casting her or her vote;

2. a primary or election official (including town clerks and registrars performing their official duties, even if they are on the ballot for that election); and
3. unofficial party checkers.

The bill also makes a conforming change (§ 13).

EFFECTIVE DATE: July 1, 2024

§§ 15-20 — PETITION CIRCULATORS

Eliminates the prohibition on out-of-state residents circulating primary and nominating petitions

The bill eliminates the prohibition on out-of-state residents circulating (1) nominating petitions on behalf of petitioning candidates seeking congressional, statewide, legislative, or municipal office at a regular or special election or (2) primary petitions on behalf of major party candidates for congressional, statewide, legislative, or municipal office or president (in a presidential preference primary) (see BACKGROUND). It also makes technical and conforming changes.

For primary petitions, the bill allows any person to be a circulator if he or she (1) is qualified to vote under the law of any U.S. state or territory and (2) agrees to submit to Connecticut’s jurisdiction in any case or controversy about the petition’s circulation. Under current law, only enrolled party members of a Connecticut municipality may be circulators. For nominating petitions, the bill applies to non-resident circulators the existing eligibility requirements for resident circulators (i.e., that they be U.S. citizens, age 18 or older, and not on parole for a felony conviction). As with primary petitions, out-of-state nominating petition circulators must also agree to submit to Connecticut’s jurisdiction.

By law, each petition page has a statement that circulators must sign, under penalty of false statement, on their residency, petition circulation eligibility, and signature authenticity. The bill requires that for nominating petitions, this statement also include the out-of-state circulator’s agreement to submit to Connecticut’s jurisdiction (see

above).

For primary petitions, current law requires that each petition page include a signed statement from the registrar of voters attesting to the circulator's party enrollment in the registrar's municipality. Under the bill, if the circulator is not an enrolled party member, each petition page must instead include (1) a statement that the circulator agrees to submit to Connecticut's jurisdiction and (2) an attestation to this statement by the registrar in the municipality in which the page was circulated.

For nominating and primary petitions, existing law (1) requires registrars of voters, the town clerk, secretary of state, or other appropriate person (e.g., notary public), as applicable, to certify that circulators have signed the petition statement and (2) prohibits registrars, clerks, and the secretary from accepting petition pages without this statement (CGS §§ 9-404b(d), -410 & -453k). By law, false statement is a class A misdemeanor punishable by up to 364 days of imprisonment, up to a \$2,000 fine, or both (CGS § 53a-157b).

EFFECTIVE DATE: July 1, 2024

§ 21 — PERMANENT ABSENTEE BALLOT STATUS

Eliminates requirement that electors lose permanent absentee ballot status if they do not timely return the annual address confirmation notice

Under existing law, any voter who is either permanently physically disabled or suffering a long-term illness and unable to appear at a polling place on election day may apply to receive permanent absentee ballot status and to automatically be sent an absentee ballot for each election, primary, and referendum.

Existing law requires registrars to annually send a written notice in January to each voter with this status to determine if they still reside at the address provided. Current law requires registrars to remove a voter's permanent status if the voter does not respond within 60 days. The bill eliminates this requirement. Existing law, unchanged by the bill, requires registrars to remove a voter's permanent absentee ballot status if the notice is returned as undeliverable.

EFFECTIVE DATE: Upon passage

§ 22 — POST-ELECTION AUDIT TIMELINES

Expands timeline to conduct post-election audits for municipal election

After a regular election or primary, state law requires audits of at least 5% of the jurisdiction's voting districts (i.e., polling locations), selected at random by the secretary of the state and conducted by registrars of voters.

Current law requires these audits to take place at least (1) 15 days after the contest but (2) two business days before the canvass of votes. The bill maintains the existing requirements for federal and state elections but allows the audits for municipal elections and primaries to begin five days after, instead of 15. The bill still requires completion at least two business days before the canvass.

EFFECTIVE DATE: July 1, 2024

§§ 23-28 — APPEARANCE OF BALLOT VACANCIES

Generally requires election officials to obscure candidates' names in an opaque manner if a ballot vacancy occurs, instead of using blank stickers

The bill conforms the law to current practice by expanding the ways that town clerks may obscure a candidate's name when there is an unfilled vacancy on the ballot in a primary or general election (i.e., due to the candidate's death, withdrawal, or disqualification). Currently, the law requires clerks to place blank stickers over the name, but under current practice and following guidance from the secretary of the state, blank stickers are generally not used because the state's voting tabulators cannot process ballots with stickers. The bill generally requires town clerks, instead of using blank stickers, to obscure the name in an opaque manner, without specifying the means to do so. (In practice, this could mean using a black marker, among other things.) For presidential primaries, it specifically allows the secretary of the state to authorize clerks to use blank stickers or other means to obscure the name of a deceased candidate.

If a political party's endorsed candidate (in a primary) or nominee (in a general election) dies, withdraws, or is otherwise disqualified, existing

state law has a process for replacing him or her on the ballot and sets a deadline for doing so (CGS §§ 9-428 and 9-460). Unchanged by the bill, if ballots have already been printed and the candidate can be replaced under state law, printed stickers are placed over the vacancy with the replacement candidate or nominee's name. (In practice, a hand count is generally required if stickers are affixed to the ballot.)

EFFECTIVE DATE: July 1, 2024

§ 29 — PARTY REGISTRATION

Requires the secretary of the state to evaluate certain forms to minimize confusion and ambiguity about party enrollment

When a voter registers to vote, they may indicate a political party to affiliate with as well. Affiliating with a political party qualifies the voter for certain electoral privileges, primarily voting in that party's primary. The bill requires the secretary of the state, by July 1, 2024, to revise any forms for registering to vote or affiliating with a party to (1) clarify the portion of the forms on party affiliation and (2) minimize confusion or ambiguity related to words contained in political party names (e.g., independent).

EFFECTIVE DATE: Upon passage

§ 30 — SEEC COMPLAINTS

Requires referral of certain complaints filed with SEEC to the chief state's attorney and requires him to report on these referrals to the Government Administration and Elections Committee

The bill requires certain complaints filed with SEEC on or after July 1, 2024, to be referred to the chief state's attorney for further enforcement action (see BACKGROUND). Specifically, this applies to complaints where the commission determines that probable cause exists of a violation but did not issue a decision within 90 days after that determination.

Under the bill, the chief state's attorney must submit a report to the Government Administration and Elections (GAE) Committee on the status of any enforcement action taken for a referred complaint. It is unclear how often these reports must be made (e.g., for every

enforcement action on every referred case).

EFFECTIVE DATE: July 1, 2024

BACKGROUND

Petition Circulators Related Case

In January 2016, a federal judge granted the Libertarian Party's motion for a preliminary injunction and temporary restraining order against the petitioning party residency requirement. In applying strict scrutiny, the court rejected the state's argument that the residency requirement was narrowly tailored to minimize voter fraud and ensure that circulators were present for pre- and post-election hearings. It also held that (1) the Libertarian Party, in demonstrating the requirement would cause speech suppression, was substantially likely to succeed on the merits and (2) a preliminary injunction would be in the public interest (*Libertarian Party of Conn. v. Merrill*, No. 15-CV-1851 (JCH) (D. Conn. Jan. 26, 2016)).

In August 2016, the court issued a stipulated judgment and order finding that the (1) residency requirement violated the plaintiff's First Amendment rights and (2) loss of these rights constituted an irreparable injury and that an injunction was in the public interest. Thus, the order enjoined the state from applying any portion of the General Statutes that prohibited out-of-state residents from serving as circulators (*Libertarian Party of Connecticut v. Merrill*, No. 3:15-CV-01851 (JCH) (D. Conn. Aug. 9, 2016)).

SEEC Complaints

Under existing law, for election complaints filed with SEEC, the commission must conduct and complete a preliminary examination within fourteen days after receipt. SEEC may (1) dismiss the complaint, (2) attempt to speedily resolve the manner with the respondent, or (3) investigate and docket the complaint for a probable cause determination.

If a complaint cannot be speedily resolved within 45 days, the complaint must be docketed for a probable cause determination. If the

commission fails to issue a decision or make a determination within 60 days after receiving the complaint, the complainant or respondent may apply to the Superior Court in the Judicial District of Hartford for an order to show cause as to why the complaint has not been resolved and to provide evidence that SEEC has unreasonably delayed action.

Under existing law, complaints filed with SEEC must be resolved within one year after filing, except that the deadline may be extended by the amount of time SEEC investigates.

Related Bills

sSB 252, § 20, favorably reported by the GAE Committee, narrows the circumstances under which SEEC must dismiss a complaint within one year after receiving it.

sSB 254, § 2, favorably reported by the GAE Committee, makes an identical change to the timeline for canvasses of municipal elections and primaries.

SB 390, favorably reported by the GAE Committee, establishes a 12-month mandatory minimum term of imprisonment for certain election crimes.

sSB 392, § 5, favorably reported by the GAE Committee, requires SEEC to issue a decision or dismiss election complaints before an upcoming election if the complaint concerns the upcoming election and is brought within 90 days of the election.

sHB 5466, favorably reported by the Judiciary Committee, extends, in certain circumstances, the time period during which the chief state’s attorney may prosecute an election law violation referred from SEEC.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/26/2024)