
OLR Bill Analysis

sSB 441

AN ACT CONCERNING ELECTION ADMINISTRATION OVERSIGHT.

SUMMARY

This bill establishes a 15-person Municipal Election Accountability Board to receive referrals of election administration violations from certain state entities, courts, and election and municipal officials (e.g., early voting, absentee voting, and same-day election registration violations). Further, the bill authorizes the board to (1) conduct review hearings to determine if violations occurred and (2) if violations took place, order varying oversight levels for election administration and establish procedural safeguards, up to a full intervention.

The bill specifies the board is within the Secretary of the State's office for administrative purposes only and that it is not to be construed to affect the State Election Enforcement Commission's (SEEC) or the secretary's existing election oversight authority. Additionally, it does not prevent anyone from seeking alternative remedies allowed by state election law.

By January 1, 2025, the bill requires the board to adopt any regulations it deems necessary to implement the bill's provisions.

EFFECTIVE DATE: July 1, 2024

BOARD OPERATIONS

Board Membership

Under the bill, the board consists of 15 members. It includes the secretary of the state and SEEC's executive director, or their respective designees, and 13 appointed members as shown in the table below. The secretary of the state serves as the board's chairperson.

Table: Appointed Members

<i>Appointing Authority</i>	<i>Number</i>	<i>Qualification</i>
House speaker, senate president pro tempore, and house and senate minority leaders	1 each	Election administration or election law experience
Secretary of the state	9	<ul style="list-style-type: none"> • One admitted to practice law in the state with election administration experience • Two moderators from different political parties and chosen from a list of five people recommended by the Registrars of Voters Association of Connecticut (ROVAC) • Two registrars of voters from different political parties and chosen from a list of five people recommended by ROVAC • Two town clerks from different political parties and chosen from a list of five people recommended by the Connecticut Town Clerks Association • Two municipal chief elected officials of different political parties and chosen from a list of five people jointly recommended by the Connecticut Conference of Municipalities and the Connecticut Council of Small Towns

Members appointed by the secretary of the state are subject to legislative approval. Among all appointed members, a municipality may only be represented once on the board.

The appointments are for four-year terms and until successors are appointed. Initial appointments must be made by August 1, 2024. Any vacancy will be filled for the original member's remaining term.

Board Logistics

Under the bill, appointed members must recuse themselves from participating in any board proceeding if they are, or an immediate family member is, involved in a matter before the board (this appears to disqualify a member from all board proceedings, including those with which they have no conflict). Immediate family includes a spouse, child,

parent, sibling, or dependent relative living in the member's home.

The bill specifies that members are not compensated for serving on the board, but can be reimbursed for expenses incurred in their duties.

REFERRAL TO THE BOARD

Secretary of the State or SEEC

The bill allows the secretary of the state or SEEC to refer a municipality to the board if either believes, based on any formal or informal complaints they have received, that there is a reasonable likelihood that irregularity or impropriety occurred in municipal election administration (i.e., for an election, primary, or referendum). They must provide any supporting evidence with the referral, including any affidavits, written or electronic correspondence, and documented findings from an investigation.

Superior Court

A superior court judge may also refer a municipality to the board based on a complaint before the court about an alleged election violation by the municipality. They may do so for the same reason that the secretary of the state or SEEC can make the referral (i.e., reasonable likelihood of irregularity or impropriety). The judge must provide any supporting evidence with the referral, including any record developed during a judicial proceeding.

Municipal Officers and Election Officials

A town clerk, registrar of voters, or moderator may refer a municipality to the board if they observe an act or omission in a municipality that may impede required election administration duties. Similarly, a municipality's chief executive officer (CEO) may do this after a review of the municipality's practices. The officer or official must provide any supporting evidence, including affidavits, written or electronic correspondence, procedure manuals and other guidance documents, absentee ballot application logs, moderator's diaries, and other contemporaneously-produced notes or records.

BOARD REVIEW

Under the bill, when a municipality is referred by one of the above entities, the board must (1) notify the referred municipality and (2) hold a review hearing within 10 days after the referral to present to the municipality the evidence provided by the referring entity. Before the hearing, the municipality must have the opportunity to submit a written response to the board about the referral.

At the hearing, the municipality has the right to respond to the evidence, including to rebut any fact alleged or confront witnesses. The municipality may be represented by the municipal CEO, corporation counsel, or any other authorized representative.

Within five days after the hearing, the board must vote on whether to designate a municipality for oversight. In making its decision, the board must consider (1) the municipality's response to the evidence; (2) the nature and severity of the alleged irregularities and improprieties, including if an election crime or a violation of the state's voting rights act occurred; and (3) how often these irregularities and improprieties appear to occur.

If oversight is approved, the board must determine the tier of oversight to be applied (see below) and how long the municipality will be subject to oversight. (The bill does not specify voting procedures or what voting threshold is required to take action.) The board's determination may be appealed under the Uniform Administrative Procedures Act and is privileged for assignment.

OVERSIGHT TIERS

The bill establishes four tiers of oversight that the board may implement. Low-numbered tiers generally warrant less oversight while high-numbered tiers warrant more.

Tiers I & II

Tier I oversight consists of the following:

1. developing and submitting a plan to mitigate the board's concerns, subject to any modifications and approval of the board;

2. mandatory training for election officials in election administration procedures conducted by (a) the secretary of the state; (b) moderators, town clerks, or registrars selected by her; or (c) a combination of both; and
3. distribution of instruction or training manuals or other resources to educate on election administration best practices.

Tier II oversight consists of all measures for Tier I, plus regular board contact with the municipality to ensure compliance.

Tier III

Under Tier III oversight, the municipality is subject to a board-appointed election monitor who is authorized to conduct inspections, inquiries, and investigations related to election administration duties and responsibilities performed by municipal officials and their appointees. The bill requires a monitor to immediately report any irregularity or impropriety discovered in these efforts to the secretary. To carry out these duties, the bill requires that the monitor have access to any records, data, and material maintained or available to the officials or appointees.

Further, the municipality must give the monitor any office space, supplies, equipment, and services necessary to perform these responsibilities.

Tier IV

Tier IV oversight consists of complete board administration of any election, primary, or referendum in the municipality and related procedures, regardless of any other provision of state municipal or election laws, any special act, or any charter or home rule ordinance.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 14 Nay 5 (03/26/2024)