

**PA 15-224—sSB 1051**

*Government Administration and Elections Committee*

*Appropriations Committee*

**AN ACT STRENGTHENING THE STATE'S ELECTIONS**

**SUMMARY:** This act modifies state election laws affecting, among other things, registrars of voters, the secretary of the state, voter registration, candidate endorsements and nominations, election returns, and post-election audits. It also authorizes municipalities to enter into agreements to jointly perform election functions.

Principally, the act:

1. requires that registrars of voters be certified;
2. under certain circumstances, authorizes the (a) removal of a registrar from office after an investigation and hearing or (b) secretary of the state to temporarily relieve a registrar of his or her duties;
3. explicitly requires that the secretary of the state's written regulations, declaratory rulings, instructions, and opinions be implemented, executed, or carried out;
4. requires the State Elections Enforcement Commission (SEEC) to complete investigations resulting from complaints the secretary files on alleged election law violations within 90 days after receipt;
5. subject to certain conditions, allows the secretary of the state, in consultation and coordination with UConn, to authorize the use of electronic equipment to conduct post-primary and post-election audits;
6. establishes an in-district residency requirement for petitioning, write-in, and minor party candidates;
7. requires registrars to notify the secretary no later than seven days after receiving primary petition pages for a municipal office candidate running in a state election;
8. changes several deadlines associated with canvassing election returns and submitting the official results to the secretary;
9. moves the mail-in voter registration deadline from 14 to seven days before an election;
10. allows U. S. citizens ages 16 or 17 to be appointed as ballot clerks;
11. requires that voter ID requirements be displayed in each polling place; and
12. exempts registrars of voters and deputy registrars from jury duty during the 21 days before and after each federal, state, or municipal election, primary, or referendum (§ 33).

The act makes several minor, technical, and conforming changes. For example, it eliminates certain obsolete references to “permanent assistant registrar of voters,” and “special assistant registrar of voters” (§§ 1, 2, 7, & 8). It also makes technical corrections to statutes governing how candidates' names appear on the ballot so that they conform to changes made by PA 11-173, which authorized all candidates to determine how their names appear on the ballot (§§ 19 & 20).

EFFECTIVE DATE: Upon passage, except that provisions on municipal office endorsements by major parties, residency requirements, and invalid nominations are effective January 1, 2016.

## §§ 1, 2, 4 & 5 — REGISTRARS OF VOTERS

### §§ 1 & 2 — *Training and Certification*

Under prior law, registrars of voters and deputy registrars could opt to become certified by voluntarily participating in a training course developed by a six-member committee. The committee consists of the secretary of the state, a representative from SEEC, and four registrars of voters whom the secretary appoints in consultation with the Registrars of Voters Association of Connecticut.

The act (1) makes the committee advisory; (2) requires, rather than allows, registrars to become certified; and (3) requires the secretary, in consultation with the committee, to establish a mandatory certification program. It allows assistant registrars to voluntarily participate in the training course, as existing law allows for deputies. The act also requires municipalities to fund their registrars' costs for completing the program and satisfying the certification criteria.

Under the act, registrars taking office on or before July 1, 2015 must complete the program and satisfy the certification criteria by July 1, 2017. With one exception, those taking office after July 1, 2015 must do so no later than (1) the end of their term, in the case of a two-year term, or (2) two years from their first day in office, in the case of a four-year term. A deputy registrar who becomes registrar by filling a vacancy within 90 days before a state election must complete an abridged program prescribed by the secretary of the state for a provisional certification. Completing the abridged program does not satisfy the full certification requirement.

The act eliminates the requirement that the secretary certify any qualified candidate whom the committee recommends for registrar certification. It instead requires that she certify individuals who successfully complete the required training and examination. The act also eliminates the secretary's authority to rescind a registrar's certification upon a finding of sufficient cause by a majority of the committee.

The act requires registrars to complete at least eight hours of training per year to maintain their certification. The secretary of the state must prescribe the training, and either she or a third party she approves must conduct it. The secretary must direct a registrar who fails to fulfill the annual training requirement to “take remedial measures,” which she must prescribe.

The certification maintenance training is separate from, and in addition to, the existing election law and procedures training program, which the advisory committee develops. By law, registrars must designate themselves or their deputies or assistants to receive at least ten hours of instruction annually under this program, and the secretary must hire registrars or former registrars to provide the training.

### § 4 — *Removal from Office*

The act establishes a formal process for removing registrars of voters from office. Under this process, the secretary of the state can seek removal by filing a statement with SEEC if, in her opinion, a registrar engaged in misconduct, willful and material neglect of duty, or incompetence in office.

Within 30 days after receiving the statement, SEEC must investigate and determine whether to refer the matter to the attorney general to pursue removal. Upon referral, the attorney general may ask SEEC to investigate further. If in his opinion the investigation warrants it, the attorney general may prepare a citation in the name of the state requiring the registrar to appear in Superior Court and show cause why he or she should not be removed from office. The registrar must be served with a copy of the attorney

general's statement and citation at least 10 days before he or she must appear in court.

The registrar is entitled to a full hearing during which the attorney general may require the attendance and testimony of witnesses and the production of evidence. If, after the hearing, the judge orders the registrar removed from office, the Superior Court clerk must cause the registrar to be served with the order. At that point, the registrar must be removed from office, and the deputy registrar immediately becomes the successor registrar.

The attorney general may designate a SEEC attorney as a special assistant attorney general to perform the duties assigned to the attorney general under the act.

### *§ 5 — Temporary Relief of Duties*

The act authorizes the secretary of the state to temporarily relieve a registrar of his or her duties who (1) fails to earn or maintain certification or (2) is the subject of an investigation related to his or her duties resulting from a statement filed with SEEC by the secretary. Under the act, the secretary may issue a written instruction to the registrar to appear before her on a specified date and at a specified time. The instruction must cite the reasons why it was issued and inform the registrar that the purpose of the appearance is to determine whether to temporarily relieve him or her of duty.

The registrar must appear before the secretary and have a fair opportunity to show cause why he or she should not be temporarily relieved of duty. After providing such an opportunity, the secretary may temporarily relieve the registrar if she determines that the public interest in the orderly conduct of elections would be served. In that case, the secretary must require that the deputy registrar administer office operations until (1) the registrar attains or maintains certification or (2) SEEC completes its investigation and takes final action on the matter.

The act specifies that (1) a municipality may continue paying a registrar's salary while a resolution is pending and (2) the procedure it establishes for registrars appearing before the secretary is not a contested case under the Uniform Administrative Procedure Act.

## **§§ 3 & 6 — THE SECRETARY OF THE STATE**

### *§ 3 — Authority*

The act requires that the secretary of the state's written instructions and opinions be labeled as such and cite the authority on which they are based. It also requires that her regulations, declaratory rulings, instructions, and opinions be implemented, executed, and carried out, whichever applies. Prior law presumed that these written statements correctly interpret and effectuate the administration of elections and primaries, but did not explicitly require that they be implemented. (PA 15-5, June Special Session, § 445 contains the same provisions on the secretary's written statements. It is effective January 1, 2016. )

By law, the above requirements do not apply to campaign finance laws, which are under SEEC's purview. The act specifies that campaign finance laws include those governing the Citizens' Election Program, computerization of campaign finance statements and data, and public financing for municipal elections.

### *§ 6 — Complaints to SEEC*

By law, SEEC receives complaints from the secretary of the state, registrars of voters, town clerks, and individuals under oath concerning alleged election law violations. It investigates and holds hearings as it deems appropriate.

Under existing law, SEEC has 60 days after receiving a written complaint to issue a decision or determine if probable cause exists. This means the commission must issue (1) Findings and Conclusions (i. e. , vote to dismiss); (2) a Consent Order and Agreement (i. e. , settlement); or (3) a Notice of Hearing after making a probable cause determination. After 60 days, the complainant or respondent may apply to Hartford Superior Court for an order to show cause why SEEC has not acted and provide evidence that it has unreasonably delayed action.

With respect to statements the secretary of the state files on or after July 1, 2015, the act requires SEEC to (1) determine whether to investigate within 30 days after the filing and (2) complete an investigation and issue a decision within 90 days after the filing. If SEEC fails to meet these deadlines, the secretary may apply to Hartford Superior Court for an order to show cause why it has not acted on the statement and provide evidence that it has unreasonably delayed action. Under the act, any such judicial proceeding must be privileged with respect to assignment for trial.

With certain exceptions (e. g. , complaints related to alleged violations of the federal Help America Vote Act), prior law did not establish a deadline by which SEEC had to complete investigations.

## §§ 9 & 10 — VOTER REGISTRATION

### § 9 — *Online Voter Registration System*

The law requires the secretary of the state to maintain an online voter registration system. In addition to new registrations, the system must permit a registered voter to apply to make changes to his or her registration information.

The act specifies that registrars and other admitting officials may use the online system to register voters during Election Day Registration (EDR). By law, a person may register and vote on Election Day at a designated EDR location if he or she is eligible to vote in this state and is (1) not already an elector or (2) registered in one municipality, but wants to change his or her registration because he or she resides in another municipality.

### § 10 — *Deadlines*

Prior law established separate voter registration deadlines before an election for mail-in and in-person applications. The act makes these deadlines uniform by moving the mail-in voter registration deadline from 14 to seven days before an election, thus making it the same as the in-person deadline.

## §§ 11 - 16 — ENDORSEMENTS AND NOMINATIONS

### §§ 11 & 12 — *Major Party Municipal Office Endorsements*

The act requires major parties to include the signatures of candidates they endorse to run in a primary for municipal office in the endorsement certificates they file with the town clerk. Existing law establishes the signature requirement for (1) major party legislative and statewide office candidates and (2) minor party nominations of municipal, legislative, and statewide office candidates.

The act eliminates the requirement that major parties file endorsement certificates for registrars of voters with town clerks. It instead requires that they file these certificates with the secretary of the state, as they must do under existing law for other municipal office candidates elected at a state election (e. g. , state representative in a single-town district). Thus, in state election years, town clerks must publish notice indicating that the list of endorsed candidates is available in the secretary's office, not in the clerk's office as under prior law.

The act conforms the endorsement certificate attestation requirements for justices of the peace and municipal office candidates elected at a state election to the attestation requirements for other offices. Specifically, the act eliminates the requirement that both the chairperson (or presiding officer) and the secretary of the endorsing town committee, caucus, or convention attest to the certifications. Instead, under the act, only one must do so.

*Forms.* Under the act, endorsements for municipal office candidates voted on at a state or municipal election must be on a form that the secretary of the state prescribes, or another form that complies with the certification requirements.

#### *§§ 13 - 15 — Residency Requirements*

The act establishes an in-district residency requirement for petitioning, write-in, and minor party candidates for municipal or district office. The requirement already applies to major party candidates.

Under the act, a petitioning or minor party candidate nomination is valid only when the candidate's name appears on the last-completed enrollment list for the district in which he or she will run. A write-in candidate registration is valid only when it meets the same standard. Under prior law, these nominations and registrations were valid when the candidate was a registered voter in the state.

#### *§ 15 — Invalid Nominations*

By law, minor parties must certify their list of nominations to the secretary of the state or town clerk, whichever applies, by the 62<sup>nd</sup> day before the election. The act deems invalid any certificate that the secretary or town clerk does not receive by this deadline. If invalidated, the party is deemed to have not nominated or certified any candidate for office. Similarly, under existing law, major parties are deemed to have not endorsed a candidate if they miss statutory deadlines for filing an endorsement certificate with the secretary or town clerk, as applicable.

#### *§ 16—Primary Petitions for Certain Municipal Office Candidates*

By law, registrars of voters receive and certify primary petition pages. For state and district office candidates, registrars must file certified petition pages with the secretary of the state no later than seven days after receiving them. For municipal office candidates, they must file the certified pages with the town clerk by the same deadline.

The act requires registrars to notify the secretary no later than seven days after receiving primary petition pages for a municipal office candidate elected at a state election. Specifically, registrars must file a certificate with the secretary, on a form she prescribes, that includes for each such candidate the (1) name and full street address and (2) office and district.

#### *§§ 17 & 18—POLLING PLACES AND POLL WORKERS*

##### *§ 17 — Ballot Clerks*

The act allows U. S. citizens ages 16 or 17 who are bona fide residents of a municipality to be appointed as ballot clerks after (1) attending poll worker training and (2) receiving written permission from a parent or guardian, or in some cases, school principal. Existing law allows them to also be appointed as checkers, translators, or voting tabulator tenders after satisfying these two requirements.

##### *§ 18 — Posting Voter ID Requirements*

The act requires that voter ID requirements be posted prominently with the official checkers at each polling place during a primary, election, or referendum. The secretary of the state must prescribe the display's form, and the registrars must provide one for each polling place. The display must be visible to each elector when his or her name is checked off the official checklist.

§§ 21 - 27 — ELECTION RETURNS

The act changes several deadlines associated with canvassing election returns and submitting the official results to the secretary of the state. Under prior law, head moderators had to lock the voting tabulators as soon as the polls closed and announce the tabulator vote totals for each candidate and any ballot question. As the moderator announced the votes, the checkers recorded them on tally sheets. The vote totals remained in full public view until signed by the moderator, checkers, and registrars or assistant registrars. Upon completing the statement of canvass, the moderator had to publicly announce the election results by reading (1) each candidate's name and ballot designation, including his or her absentee votes, and (2) votes for and against any ballot questions.

For candidates voted on in a state or federal election, moderators prepare a “duplicate list,” which includes candidate vote totals together with a statement of the number of names on the official checklist and the number that voted. Under prior law, duplicate lists were due by (1) midnight on election day to the secretary of the state, if submitted electronically; (2) 6: 00 p. m. the day following the election to the secretary, if hand delivered; or (3) 4: 00 p. m. to the State Police the day following the election, in which case the police had to hand deliver the lists to the secretary by 6: 00 p. m. that day. Moderators had to also transmit the results of municipal elections in this manner.

The act modifies several of these and associated deadlines. Principally, it:

1. requires moderators to prepare the candidate tabulator vote totals for transmission to the secretary once the checkers have recorded them;
2. for state and federal elections, names this document the “preliminary list” and requires that moderators immediately transmit it to the secretary by midnight on election day;
3. for state and federal elections, requires, rather than allows, moderators to transmit duplicate lists electronically and makes the deadline 48 hours after the polls close; and
4. for municipal elections, requires, rather than allows, moderators to transmit election results electronically and makes the deadline 48 hours after the polls close.

Several of the changed deadlines conform to the act's deadline for submitting the duplicate lists. Table 1 shows the deadlines under prior law and the act.

**Table 1: Election Returns and Canvass Deadlines**

<i>Act §</i>	<i>Requirement</i>	<i>Deadline under Prior Law</i>	<i>Deadline under the Act</i>
§ 21	Moderator deposits certificate from the official checkers with town clerk	Day following the primary or election	48 hours after the polls close

§ 21	Registrars deposit signed registry list with town clerk	Day following the primary or election	48 hours after the polls close
§ 23	Moderator announces (1) each candidate and his or her absentee votes and (2) votes for and against ballot questions	As soon as the polls close and count is complete	48 hours after the polls close
§§ 23 & 26	Moderator submits to secretary of the state preliminary list of election returns for offices voted on at a state or federal election	N/A	Midnight on election day
§ 26	Moderator submits to secretary of the state (1) duplicate list of election returns for offices voted on at a state or federal election or (2) results of votes for offices voted on at a municipal election	Midnight on election day, if delivered by electronic means (hard copy must be delivered within three days after the election);  6: 00 p. m. the day after the election, if delivered by hand; or  4: 00 p. m. the day after the election, if delivered by hand to the State Police (in which case the police must meet the 6: 00 p. m. deadline)	48 hours after the polls close, by electronic means (hard copy must be delivered within three days after the election)
§ 26	Moderator delivers duplicate list to town clerk	Day following election	None
§ 27	Registrars provide town clerk with results of votes cast	N/A	48 hours after the polls close

### §§ 22 & 23—*Interruptions to Canvassing*

Prior law (1) required election officials to canvass the returns immediately after the polls closed and (2) prohibited them from stopping until the canvass was complete. The act creates an exception to these provisions by allowing the canvass to be temporarily interrupted after the moderator transmits the preliminary list to the secretary of the state.

During the interruption, the moderator must:

1. return all tabulator keys to the registrars;
2. seal the tabulators against voting or tampering;
3. prepare and seal individual envelopes for write-in ballots; absentee ballots; moderator returns; and other notes, worksheets, or written materials used at the election; and

4. store the tabulators and envelopes in a secure place as directed by the registrars.

When the temporary interruption is over, the moderator must prepare to complete the canvass by (1) retrieving the keys, tabulators, and envelopes and (2) breaking the seals.

#### § 27 — *Meeting to Correct Returns in Multi-District Towns*

By law, head moderators, town clerks, and registrars in towns divided into voting districts must meet to identify any errors in the election night returns previously submitted to the secretary (i. e. , the “duplicate list”). The act requires these officials to meet no later than 9: 00 a. m. on the third day, rather than the seventh day, after a regular state election to identify errors. The moderators must correct any errors and file an amended return with the secretary and registrars no later than 1: 00 p. m. on the third day, rather than the 14<sup>th</sup> day, after the election.

#### §§ 28 & 29 — AUDITS

The act allows the secretary of the state, in consultation and coordination with UConn, to authorize the use of electronic equipment to conduct audits for any primary or general election held on or after January 1, 2016. As of the same date, it allows registrars of voters to conduct audits electronically when authorized to do so by the secretary pursuant to the act's provisions. Registrars must continue to conduct audits manually for any primary or election occurring before that date or for which electronic authorization has not been granted.

For the purposes of post-primary and post-election audits, “manual” means by hand and without the assistance of electronic equipment. “Electronic” means through the use of equipment authorized for that purpose by the secretary of the state.

Under the act, the secretary must prescribe the specifications for (1) testing, setting up, and operating the equipment and (2) training election officials on its use. In addition, the secretary and UConn must agree that there is enough equipment to accommodate all audits required by law (i. e. , at least 10% of all voting districts). The act specifies that it does not preclude a candidate or elector from seeking additional remedies, such as bringing a complaint in Superior Court, because of information revealed by the audit process.

By law, registrars of voters must audit the results between the 15<sup>th</sup> day after an election or primary and two business days before the canvass of votes. They must follow established procedures, including requirements for providing notice and selecting voting districts.

#### § 30 — MUNICIPAL AGREEMENTS

The act gives municipalities broad authorization to jointly perform functions required of them by state election law. Under the act, two or more municipalities may enter into an agreement to jointly perform any election function that they currently perform individually. Each agreement must (1) be negotiated and contain all provisions that the participating municipalities agree to; (2) establish a process for amending, terminating, and withdrawing from it; and (3) be submitted to each participating municipality's legislative body for approval.

The act establishes the same approval process for these agreements as the law provides for interlocal agreements (CGS § 7-339c). Specifically, before voting to ratify or reject the proposed agreement, the legislative body must provide an opportunity for public comment. For municipalities where the legislative body is the town meeting, the town meeting may vote to delegate its authority to ratify or

reject a proposed agreement to the board of selectmen, provided the board affords an opportunity for public comment. Under the act, the opportunity for a public comment does not have to be a public hearing.

The act requires that the agreement be filed with each participating municipality's town clerk and the secretary of the state. The filing must occur within seven days after the last legislative body to join the agreement ratifies it.

OLR Tracking: KS: KLM: TA: cmg