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H.22

Introduced by Representatives Hubert of Milton, Cole of Burlington, Consejo  
of Sheldon, Cupoli of Rutland City, Devereux of Mount Holly,  
Dickinson of St. Albans Town, Higley of Lowell, Juskiewicz of  
Cambridge, Townsend of Randolph, and Townsend of South  
Burlington

Referred to Committee on

Date:

Subject: Elections; conduct of elections; ballots; recounts

Statement of purpose: This bill proposes to require the Secretary of State to  
supply towns with standardized ballots that can be used in vote tabulators; to  
require that certain towns register and count votes using vote tabulators; and to  
require that recounts be performed using vote tabulators.

An act relating to standardized ballots and vote tabulators

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 17 V.S.A. § 2362 is amended to read:

§ 2362. PRIMARY BALLOTS

(a) The ballots shall be prepared and furnished to the towns by the  
~~secretary of state~~ Secretary of State and shall contain the names of all  
candidates for nomination at the primary. Ballots shall be printed on index

1 stock and configured to be readable by vote tabulators. A separate ballot for  
2 each major political party ~~in the same format as is used for optical scan~~  
3 ~~tabulator ballots~~ shall be printed in substantially the following form:

4 \* \* \*

5 Sec. 2. 17 V.S.A. § 2451 is amended to read:

6 § 2451. BOARD OF CIVIL AUTHORITY

7 (a) The board of civil authority shall have charge of the conduct of  
8 elections within the political subdivision for which it is elected. At any time  
9 before an election, the board of civil authority may issue guidance for elections  
10 officials that assists officials in conducting elections within the political  
11 subdivision. Guidance issued by the board shall not conflict with federal or  
12 state elections laws. A quorum of the board of civil authority shall be available  
13 at all times when the polls are open, and those members of the board of civil  
14 authority present at a polling place shall constitute a quorum for the transaction  
15 of business relating to the conduct of the election and the qualification and  
16 registration of voters at this polling place.

17 (b) The board may require the political subdivision for which it is elected  
18 to use vote tabulators for the registering and counting of votes as provided in  
19 section 2491 of this chapter.

1 Sec. 3. 17 V.S.A. § 2471 is amended to read:

2 § 2471. GENERAL ELECTION BALLOT

3 (a) A consolidated ballot shall be used at a general election, which shall list  
4 the several candidates for the offices to be voted upon. ~~The offices of~~  
5 ~~president and vice president of the United States, United States senator, United~~  
6 ~~States representative, governor, lieutenant governor, state treasurer, secretary~~  
7 ~~of state, auditor of accounts, attorney general, state senator, representative to~~  
8 ~~the general assembly, judge of probate, assistant judge, state's attorney,~~  
9 ~~sheriff, and high bailiff shall be listed in that order.~~ The offices of President  
10 and Vice President of the United States, U.S. Senator, U.S. Representative,  
11 Governor, Lieutenant Governor, State Treasurer, Secretary of State, Auditor of  
12 Accounts, Attorney General, State Senator, Representative to the General  
13 Assembly, Judge of Probate, Assistant Judge, State's Attorney, Sheriff, and  
14 High Bailiff shall be listed in that order. Any statewide public question shall  
15 also be listed on the ballot, before the listing of all offices to be filled. The  
16 ballot shall be prepared at state expense under the direction of the ~~secretary of~~  
17 ~~state~~ Secretary of State. The color of the ballot shall be determined by the  
18 ~~secretary of state~~ Secretary of State. The printing shall be black. Ballots shall  
19 be printed on index stock and configured to be readable by vote tabulators.

20

\* \* \*

1 Sec. 4. 17 V.S.A. § 2491 is amended to read:

2 § 2491. ~~POLITICAL SUBDIVISION MAY USE VOTING MACHINES~~

3 SUBDIVISIONS; VOTE TABULATORS

4 (a) ~~A town~~ Except as provided in subsection (b) of this section, a board of  
5 civil authority may vote at any annual or special meeting to employ electronic  
6 devices (“voting machines”), at a meeting held not less than 60 days prior to an  
7 election and warned pursuant to 24 V.S.A. § 801, vote to require the political  
8 subdivision for which it is elected to use vote tabulators for the registering and  
9 counting of votes in subsequent elections. Voting machines may be used in  
10 combination with the paper ballots described in the preceding subchapter, so  
11 that each voter may choose whether to use a paper ballot or a voting machine  
12 to cast his or her vote, if the town so votes.

13 (b) A town with 1,000 or more registered voters as of December 31 in  
14 even-numbered years shall use vote tabulators for the registering and counting  
15 of votes in subsequent general elections.

16 Sec. 5. 17 V.S.A. § 2493 is amended to read:

17 § 2493. RULES FOR USE OF VOTING MACHINES

18 (a) ~~The secretary of state~~ Secretary of State shall adopt rules governing the  
19 use and the selection of any voting machine in the state. These rules shall  
20 include requirements that:

21 \* \* \*

1           (6) Establish a process for using voting machines in recounts.

2                                 \* \* \*

3           Sec. 6. 17 V.S.A. § 2535(b) is amended to read:

4           (b) If necessary, special ballots may be prepared ~~of such different weight of~~  
5 ~~paper, or overall size and shape as shall be prescribed by the secretary of state,~~  
6 to conform with minimum postal, ~~military, naval, air force or other~~ federal or  
7 military regulations and orders covering the transportation of such ballots,  
8 provided that the text is identical in substance, except as to type size, with that  
9 appearing on the official ballots.

10          Sec. 7. 17 V.S.A. chapter 51, subchapter 9 is amended to read:

11                                 Subchapter 9. Recounts and Contest of Elections

12                                 \* \* \*

13          § 2602b. ASSIGNMENT OF DUTIES

14          (a) The county clerk shall supervise the recount and may appoint a  
15 sufficient number of impartial assistants to perform appropriate tasks which  
16 have not been assigned to recount committee members. The Secretary of State  
17 shall recruit town clerks to serve as impartial assistants to the county clerk for  
18 operating the vote tabulators. The county clerk shall store all ballots, still in  
19 their sealed containers, in his or her vault until the day of the recount.

20                                 \* \* \*

1 § 2602c. PREPARATION FOR RECOUNT

2 (a) Before the recount begins, the county clerk shall explain the recount  
3 procedures which are to be followed and shall answer questions relating to  
4 such procedures. The county clerk shall use volunteer town clerks to operate  
5 and instruct on the use of vote tabulators.

6 (b) ~~The Each~~ recount ~~teams established~~ team shall recount the contents of  
7 one container before ~~another container is opened~~ opening another container at  
8 its table, shall recount the contents of all the containers relating to one polling  
9 place before moving to those of another polling place, and shall complete the  
10 recount for one town before moving to material relating to another town.

11 \* \* \*

12 § 2602f. ~~FIRST TALLY~~ RECOUNT BY VOTE TABULATOR

13 (a) ~~The caller shall call the name of the person voted for and/or blank~~  
14 ~~ballots, and/or spoiled ballots. The tally person and the double check person~~  
15 ~~or persons each shall make a suitable mark for that candidate and/or blank~~  
16 ~~ballots, and/or spoiled ballots~~ Machine-readable ballots from each pile shall be  
17 fed through a vote tabulator by one team until all machine-readable ballots  
18 from the container have been entered. For ballots unable to be read by a vote  
19 tabulator, such as damaged or plain paper ballots, a second team shall collect  
20 these ballots from the pile and transfer the voter's choices on those ballots to  
21 blank ballots provided by the Secretary of State. After all of the

1 machine-readable ballots have been fed through the machine, the first team  
2 shall feed through the machine any transfer ballots created by the second team.  
3 The recount teams shall switch roles for each subsequent container of ballots  
4 of a polling place that are to be fed through the vote tabulator, if there is more  
5 than one container per polling place. This process shall be used until all ballots  
6 from a polling place have been tabulated by a vote tabulator.

7 (b) After all ballots from a polling place have been tabulated by a vote  
8 tabulator, a recount team shall print the tabulator tape containing the unofficial  
9 results and document those results on a tally sheet. Another recount team shall  
10 then open the tabulator's ballot box and remove all ballots. The ballots shall  
11 then be divided among the recount teams to be examined to find write-in  
12 names and markings of voter intent that were not machine readable as outlined  
13 in the Secretary of State's vote tabulator guide and most recent elections  
14 procedures manual. A caller, tally person, and double-check person shall be  
15 used to examine the ballots removed from the ballot box. If the caller and the  
16 observer or observers do not agree on how a ballot should be counted, the  
17 entire team shall review the ballot and if all members agree, it shall be counted  
18 that way.

19 (c) If one person does not agree, that ballot shall be set aside as a  
20 questioned ballot and a copy shall be made, which copy shall be clearly  
21 marked on its face identifying it as a copy. ~~Such~~ Any copies shall be placed on

1 the top of the other ballots and shall remain together with the other ballots.  
2 Each original ballot deemed questionable shall be attached to a note which  
3 identifies it by town, county, polling place, and bag seal number. The originals  
4 of these questionable ballots shall be clipped to the summary sheet for that  
5 polling place and returned to the court for a final decision.

6 (d) After the court has rendered a final decision on a given questionable  
7 ballot, it shall be returned to the county clerk who shall keep it in a sealed  
8 container for a period of two years.

9 (e) Write-in votes for preprinted candidates shall be counted as votes for  
10 that candidate.

11 (f) If the tally persons do not agree on the number of votes for a candidate  
12 on ballots not able to be read by the vote tabulator, the ballots shall be retallied  
13 until they do agree. Then the team shall notify the clerk that it has completed  
14 ~~the first~~ its recount.

15 \* \* \*

16 Sec. 8. REPEAL

17 17 V.S.A. §§ 2492 (legislative branch to obtain voting machines); 2602g  
18 (second tally); and 26021 (recounts using voting machines) are repealed.



1       Sec. 9. SECRETARY OF STATE; VOTE TABULATOR COSTS

2           (a) The Office of the Secretary of State shall pay the following costs  
3       associated with 17 V.S.A. § 2491(b) by using federal Help America Vote Act  
4       funds, as available:

5           (1) full purchase and warranty cost of vote tabulators, ballot boxes, and  
6       two memory cards for each town;

7           (2) annual maintenance costs of vote tabulators for each town; and

8           (3) the first \$500.00 of a vote tabulator's memory card configuration  
9       cost for each general election.

10          (b) A town shall pay the remainder of any configuration cost not covered  
11       by subdivision (a)(3) of this section.

12       Sec. 10. CALCULATION OF NUMBER OF REGISTERED VOTERS

13          For the purpose of Sec. 4, 17 V.S.A. § 2491(b) (political subdivisions; vote  
14       tabulators; town requirement to use vote tabulators), the calculation of the  
15       number of registered voters in a town shall be based on the number of those  
16       voters beginning in the year 2014.

17       Sec. 11. EFFECTIVE DATES

18          This act shall take effect on passage, except that Sec. 4, 17 V.S.A.  
19       § 2491(b) (political subdivisions; vote tabulators; town requirement to use vote  
20       tabulators) shall take effect on July 1, 2016.