

1 S.86

2 Introduced by Senator White

3 Referred to Committee on

4 Date:

5 Subject: Elections; miscellaneous

6 Statement of purpose of bill as introduced: This bill proposes to make
7 miscellaneous changes to election laws.

8 An act relating to miscellaneous changes to election laws

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

10 * * * Definitions * * *

11 Sec. 1. 17 V.S.A. § 2103 is amended to read:

12 § 2103. DEFINITIONS

13 As used in this title, unless the context or a specific definition requires a
14 different reading:

15 * * *

16 (24) "Political subdivision" means any county, municipality (including
17 cities, towns and villages), representative district, senatorial district, school
18 district, fire district, water, sewer or utility district, ward₂ and any consolidation
19 of the foregoing entities authorized under the laws of this ~~state~~ State.

20 * * *

1 ~~section 2103 of this title.~~ Once approved, application information shall be
2 added to the statewide voter checklist on an expedited basis. If an applicant
3 has failed upon the date of the election to provide any information required
4 upon the application form pursuant to section 2145 of this title, the town clerk
5 shall notify the applicant that the form was incomplete and the applicant may
6 provide the information on or before the date of the election.

7 (b) [Deleted.]

8 (c) If the town clerk does not determine that an applicant meets the
9 requirements of section 2121 of this title, the clerk shall immediately forward
10 the application to the board of civil authority, which shall meet in a timely
11 manner after the receipt of the application and proceed under section 2146 of
12 this title to determine whether the applicant meets the requirements of
13 section 2121. For purposes of adding applicants to the checklist, a quorum
14 shall consist of three members of the board of civil authority.

15 (d) Periodically, or at least five days prior to each election, the town clerk
16 shall forward to the board of civil authority a list of additions to the checklist.

17 * * * Party Organization * * *

18 Sec. 3. 17 V.S.A. § 2321 is amended to read:

19 § 2321. REPRESENTATIVE DISTRICT COMMITTEE

20 The “representative district committee” of a party shall consist of those
21 members of the town committee residing in a representative district, ~~as finally~~

1 ~~established by the legislative apportionment board.~~ A representative district
2 committee may encompass less than an entire town or may extend across town
3 lines. Such a committee shall elect its own officers when called upon to meet,
4 but it need not meet unless required to perform some function under this title.
5 Any three members may call the first meeting by giving at least five days
6 written notice to all other members; thereafter, the committee shall meet at the
7 call of the chair.

8 * * * Standardized Ballots and Vote Tabulators * * *

9 Sec. 4. 17 V.S.A. § 2362 is amended to read:

10 § 2362. PRIMARY BALLOTS

11 (a) The ballots shall be prepared and furnished to the towns by the
12 ~~secretary of state~~ Secretary of State and shall contain the names of all
13 candidates for nomination at the primary. Ballots shall be printed on index
14 stock and configured to be readable by vote tabulators. A separate ballot for
15 each major political party ~~in the same format as is used for optical scan~~
16 ~~tabulator ballots~~ shall be printed in substantially the following form:

17 * * *

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

19 § 2451. BOARD OF CIVIL AUTHORITY

20 (a) The board of civil authority shall have charge of the conduct of
21 elections within the political subdivision for which it is elected. At any time

1 before an election, the board of civil authority may issue guidance for elections
2 officials that assists officials in conducting elections within the political
3 subdivision. Guidance issued by the board shall not conflict with federal or
4 state elections laws. A quorum of the board of civil authority shall be available
5 at all times when the polls are open, and those members of the board of civil
6 authority present at a polling place shall constitute a quorum for the transaction
7 of business relating to the conduct of the election and the qualification and
8 registration of voters at this polling place.

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

12 Sec. 6. 17 V.S.A. § 2471 is amended to read:

13 § 2471. GENERAL ELECTION BALLOT

14 (a) A consolidated ballot shall be used at a general election, which shall list
15 the several candidates for the offices to be voted upon. ~~The offices of~~
16 ~~president and vice president of the United States, United States senator, United~~
17 ~~States representative, governor, lieutenant governor, state treasurer, secretary~~
18 ~~of state, auditor of accounts, attorney general, state senator, representative to~~
19 ~~the general assembly, judge of probate, assistant judge, state's attorney,~~
20 ~~sheriff, and high bailiff shall be listed in that order.~~ The offices of President
21 and Vice President of the United States, U.S. Senator, U.S. Representative,

1 Governor, Lieutenant Governor, State Treasurer, Secretary of State, Auditor of
2 Accounts, Attorney General, State Senator, Representative to the General
3 Assembly, Judge of Probate, Assistant Judge, State's Attorney, Sheriff, and
4 High Bailiff shall be listed in that order. Any statewide public question shall
5 also be listed on the ballot, before the listing of all offices to be filled. The
6 ballot shall be prepared at state expense under the direction of the ~~secretary of~~
7 ~~state~~ Secretary of State. The color of the ballot shall be determined by the
8 ~~secretary of state~~ Secretary of State. The printing shall be black. Ballots shall
9 be printed on index stock and configured to be readable by vote tabulators.

10 * * *

11 Sec. 7. 17 V.S.A. § 2491 is amended to read:

12 § 2491. ~~POLITICAL SUBDIVISION MAY USE VOTING MACHINES~~

13 SUBDIVISIONS; VOTE TABULATORS

14 A town board of civil authority may ~~vote at any annual or special meeting~~
15 ~~to employ electronic devices ("voting machines"),~~ at a meeting held not less
16 than 60 days prior to an election and warned pursuant to 24 V.S.A. § 801, vote
17 to require the political subdivision for which it is elected to use vote tabulators
18 for the registering and counting of votes in subsequent elections. ~~Voting~~
19 ~~machines may be used in combination with the paper ballots described in the~~
20 ~~preceding subchapter, so that each voter may choose whether to use a paper~~
21 ~~ballot or a voting machine to cast his or her vote, if the town so votes.~~

1 Sec. 8. 17 V.S.A. § 2493 is amended to read:

2 § 2493. RULES FOR USE OF VOTING MACHINES

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

6 * * *

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

8 * * *

9 Sec. 9. 17 V.S.A. § 2535(b) is amended to read:

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

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

17 Subchapter 9. Recounts and Contest of Elections

18 * * *

19 § 2602b. ASSIGNMENT OF DUTIES

20 (a) The county clerk shall supervise the recount and may appoint a
21 sufficient number of impartial assistants to perform appropriate tasks which

1 have not been assigned to recount committee members. The Secretary of State
2 shall recruit town clerks to serve as impartial assistants to the county clerk for
3 operating the vote tabulators. The county clerk shall store all ballots, still in
4 their sealed containers, in his or her vault until the day of the recount.

5 * * *

6 § 2602c. PREPARATION FOR RECOUNT

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

11 (b) ~~The~~ Each recount ~~teams established~~ team shall recount the contents of
12 one container before ~~another container is opened~~ opening another container at
13 its table, shall recount the contents of all the containers relating to one polling
14 place before moving to those of another polling place, and shall complete the
15 recount for one town before moving to material relating to another town.

16 * * *

17 § 2602f. ~~FIRST TALLY~~ FIRST TALLY RECOUNT BY VOTE TABULATOR

18 (a) ~~The caller shall call the name of the person voted for and/or blank~~
19 ~~ballots, and/or spoiled ballots. The tally person and the double-check person~~
20 ~~or persons each shall make a suitable mark for that candidate and/or blank~~
21 ~~ballots, and/or spoiled ballots~~ Machine-readable ballots from each pile shall be

1 fed through a vote tabulator by one team until all machine-readable ballots
2 from the container have been entered. For ballots unable to be read by a vote
3 tabulator, such as damaged or plain paper ballots, a second team shall collect
4 these ballots from the pile and transfer the voter's choices on those ballots to
5 blank ballots provided by the Secretary of State. After all of the
6 machine-readable ballots have been fed through the machine, the first team
7 shall feed through the machine any transfer ballots created by the second team.
8 The recount teams shall switch roles for each subsequent container of ballots
9 of a polling place that are to be fed through the vote tabulator, if there is more
10 than one container per polling place. This process shall be used until all ballots
11 from a polling place have been tabulated by a vote tabulator.

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

1 entire team shall review the ballot and if all members agree, it shall be counted
2 that way.

3 (c) If one person does not agree, that ballot shall be set aside as a
4 questioned ballot and a copy shall be made, which copy shall be clearly
5 marked on its face identifying it as a copy. ~~Such~~ Any copies shall be placed on
6 the top of the other ballots and shall remain together with the other ballots.
7 Each original ballot deemed questionable shall be attached to a note which
8 identifies it by town, county, polling place, and bag seal number. The originals
9 of these questionable ballots shall be clipped to the summary sheet for that
10 polling place and returned to the court for a final decision.

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

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

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

20 * * *

1 Sec. 11. REPEAL

2 17 V.S.A. §§ 2492 (legislative branch to obtain voting machines); 2602g
3 (second tally); and 26021 (recounts using voting machines) are repealed.

4 * * * Correction of Cross-references and
5 Other Technical Corrections * * *

6 Sec. 12. 17 V.S.A. § 1881a is amended to read:

7 § 1881a. SENATORIAL DISTRICTS; NOMINATIONS AND ELECTION

8 * * *

9 (c) Petitions for nominating candidates for ~~senator~~ Senator in the ~~general~~
10 ~~assembly~~ General Assembly by primary ~~under chapter 9 of this title~~ or by
11 certificates of nomination of candidates for that office by convention, caucus,
12 committee, or voters under chapter ~~44~~ 49 of this title may be filed in the office
13 of any county clerk in a senatorial district. On the day after the last day for
14 filing those petitions or certificates for that office, the other county clerk shall
15 notify the senatorial district clerk of the facts concerning those petitions or
16 certificates. The senatorial district clerk shall be responsible for determining
17 the names of candidates and other facts required by law to appear on the ballot
18 for the office of ~~senator~~ Senator, and for obtaining and distributing the ballots
19 to the other clerks in the district. In senatorial districts, the ballots for ~~senator~~
20 Senator in the ~~general assembly~~ General Assembly shall be separate from those
21 for other county officers.

1 * * *

2 Sec. 13. 17 V.S.A. § 1933 is amended to read:

3 § 1933. NONPERFORMANCE OF DUTY BY PUBLIC OFFICER

4 (a) ~~A~~ Except as provided in subsection (b) of this section, a public officer
5 upon whom a duty is imposed by the provisions of this title, who ~~wilfully~~
6 willfully neglects to perform such duty or who ~~wilfully~~ willfully performs it in
7 such a way as to hinder the object of the provisions of this title, shall be fined
8 not more than \$500.00; ~~but,~~

9 (b) ~~the~~ The provisions of this section shall not apply to a public officer
10 upon whom a duty is imposed by the provisions of ~~chapter 9, section 571 of~~
11 ~~chapter 11, and chapter 13~~ chapters 47 and 49 of this title, the nonperformance
12 of which is an offense under either of such chapters.

13 Sec. 14. 17 V.S.A. § 2020 is amended to read:

14 § 2020. OFFENSES APPLYING TO PRIMARY ELECTIONS

15 The provisions of sections 1972-1974 and 2011-2019 of this ~~title~~ chapter
16 shall apply to primary elections held under the provisions of ~~chapter 9~~ 49 of
17 this title, and the word “officer” or “officers,” when used in any of such
18 sections to designate a person or persons to be voted for at an election, shall
19 include a candidate or candidates for nomination by primary election.

1 Sec. 15. 17 V.S.A. § 2369 is amended to read:

2 § 2369. DETERMINING WINNER; TIE VOTES

3 (a) ~~Persons~~ A person who ~~receive~~ receives a plurality of all the votes cast
4 by a party in a primary shall be ~~candidate~~ a candidate of that party for the
5 office designated on the ballot.

6 (b) If two or more candidates of the same party are tied for the same office,
7 the choice among those tied shall be determined upon five days' notice and not
8 later than 10 days following the primary election by the committee of that
9 party, which shall meet to nominate a candidate from among the tied
10 candidates. The committee that nominates a candidate shall be as follows:

11 (1) ~~Upon five days notice and not later than 10 days following the~~
12 ~~primary election,~~ the state committee of a party; for a state or congressional
13 office;

14 (2) the senatorial district committee for ~~state senate~~ State Senate;

15 (3) the county committee for county office; or

16 (4) the representative district committee for a ~~representative~~
17 Representative to the ~~general assembly shall meet to nominate a candidate~~
18 ~~from among the tied candidates~~ General Assembly.

19 (2)(c) The committee chair shall certify the candidate nomination for the
20 general election to the ~~secretary of state~~ Secretary of State within 48 hours of
21 the nomination.

1 Sec. 16. 17 V.S.A. § 2565 is amended to read:

2 § 2565. DELIVERY OF BALLOTS

3 As each voter passes through the entrance of the guardrail, an election
4 official or officials shall hand him or her one of each kind of ballot. ~~He or they~~
5 The election officials shall also answer any questions a voter may ask
6 concerning the process of voting. The presiding officer shall keep the election
7 officials in charge of furnishing ballots to voters supplied with a sufficient
8 number of blank ballots, keeping the remainder of the blank ballots safely
9 secured until needed.

10 * * * Gender Neutrality * * *

11 Sec. 17. STATUTORY REVISION; GENDER NEUTRALITY; “CHAIR,”
12 “SELECTBOARD MEMBER,” ETC.

13 The Office of Legislative Council, in its statutory revision capacity, is
14 directed to make amendments to the Vermont Statutes Annotated to change the
15 terms “chairman” to “chair”; “vice chairman” to “vice chair”; and “selectman”
16 to “selectboard member” and to make similar changes for the purpose of
17 gender neutrality, so long as those changes have no other effect on the meaning
18 of the statutes in which the changes are made. These changes may also be
19 made when new legislation is proposed or when there is a republication of the
20 Vermont Statutes Annotated.

