

Overview of Committee Amendment to H. 429.

“An act relating to miscellaneous changes to election laws”

This strike-all amendment from the Senate Committee on Government Operations (“SGO”) to House Bill 429, an act relating to miscellaneous changes to election laws. It now incorporates provisions from S.32, “an act relating to ranked-choice voting for presidential primary elections” in Secs.11c–11j. Specifically, this SGO amendment:

- prohibits candidates who lose major party primaries from running in general elections;
- modifies campaign finance limits, permitting a political party to accept not more than \$20,000.00 from a candidate for State office;
- requires biennial committee reorganization reporting to include town and county-level political committee members;
- encourages the collection of candidate demographic information in numerous elections;
- changes registration dates for write-in candidates and increases minimum thresholds for write-in candidates to win in primary elections;
- enables electronic ballot returns for voters who have a disability and overseas voters, with a study committee to review this implementation and report back on January 15, 2024;
- enable towns, cities, and villages to opt-in to a ranked-choice voting (“RCV”) system *only by town vote* for the election of a candidate running for local office, e.g. select board member or mayor, but *not* a school board member (Secs. 1-4);
- creates a “Ranked-Choice Voting Study Committee to examine issues in implementing ranked-choice voting in Vermont across all elections for state and federal office; and
- requires the use of RCV for U.S. presidential primary elections for each major political party.

* * * Sore Loser Law * * *

Secs. 1 and 2 together will prohibit candidates who lose a major party primary election from running in the general election as another party's candidate or as an independent candidate. This prohibition is what is also commonly referred to in legal and political science fields as a "sore loser law." Note: *The SGO amendment will not alter this language as passed by the House in H.429.*

- Sec. 1 adds a new subsection (c) to [17 V.S.A. § 2381 \(applicability of subchapter\)](#) in Title 17, Chapter 49, Subchapter 2 (Nomination by Party Committee).
- Sec. 2 amends [17 V.S.A. § 2401 \(applicability of subchapter\)](#) in Title 17, Chapter 49, Subchapter 3 (Independent Candidates).

* * * Campaign Finance Limits for Statewide Candidates * * *

Sec. 3 amends [17 V.S.A. § 2941 \(limitations of contributions\)](#) to permit a political party to accept not more than \$20,000.00 from a candidate for State office. Note: *The SGO amendment lowers the House limit of \$60,000.00 down to \$20,000.00. It also corrects a typo in this language as passed by the House in H.429, changing a "may" to a "shall."*

* * * Biennial Committee Reorganization Reporting * * *

Sec. 4 amends [17 V.S.A. § 2313 \(filing of certificate of organization\)](#) requires biennial committee reorganization reporting to include town and county-level political committee members. Note: *The SGO amendment will not alter this language as passed by the House in H.429.*

[Note: Sec. 5 was labeled [Deleted.] in the bill as passed by the House.]

* * * Candidate Demographic Information * * *

Secs. 6, 7, and 8 will enable the collection of demographic information *voluntarily* provided by candidates running for local (but not school boards), county, and state offices; specifically, name, gender, age, race, or ethnicity. Note: *The SGO amendment adds an exemption to the Public Records Act, making this demographic information confidential, except that the Secretary of State may publish this data in aggregate form.*

- Sec. 6 amends [17 V.S.A. § 2359 \(notification to Secretary of State\)](#) in Title 17, Chapter 49 (Nominations), Subchapter 1 (Primary Elections).

- Sec. 7 amends [17 V.S.A. § 2361 \(consent of candidate\)](#) in Title 17, Chapter 49 (Nominations), Subchapter 1 (Primary Elections).
- Sec. 8 amends [17 V.S.A. § 2665 \(notification to Secretary of State\)](#) in Title 17, Chapter, 55 (Local Elections), Subchapter 2 (Town Meetings And Local Elections In General)

* * * Write-in Candidate Registration & Minimum Thresholds in Primary Elections * * *

Secs. 9, 9a, 9b, 9c will together require a write-in candidate for the General Assembly, *any county office*, any State office, or any federal office to register (by filing a consent of candidacy form) no later than 5:00 p.m. on the second Friday preceding the primary election. Note: *The SGO amendment does not apply the write-in candidate registration requirements to local elections, as was part of the House bill, and now omits amendments to [17 V.S.A. § 2682a](#).*

- Sec. 9 amends [17 V.S.A. § 2370 \(write-in candidates\)](#) in Title 17, Chapter 49 (Nominations), Subchapter 1 (Primary Elections) adding a new subsection (a).
- Sec. 9a amends 17 V.S.A. [§ 2472 \(Contents\)](#) adding subdivision (b)(6).
- Sec. 9b amends 17 V.S.A. [§ 2587. Rules for counting votes](#) subsection (e) regarding how clerks count votes. In brief, if a vote for a write-in candidate in an election for General Assembly, State office, or federal office, that had not registered prior to the election, the vote shall be counted as “a write-in vote that is without consent of candidate.” The election officials counting ballots and tallying results shall only list the names and votes received of registered write-in candidates. Any write-in votes for candidates who have not consented to the write-in candidacy shall be listed as “write-ins.”
- Sec. 9c amends 17 V.S.A. [§ 2702. Nominating petition](#) to add a new subsection (f) to apply the same write-in registration for presidential elections.

Sec. 9 will also, in to-be-designated subsection (b), increase the threshold for a write-in candidate to win a primary election so that a write-in candidate must receive the higher of i) 10 percent of the votes cast *for candidates* plus one additional vote OR ii) the same number of votes as the number of signatures required for the candidate’s office on a primary petition (except if write-in candidate receives more votes than a candidate whose name is printed on the ballot, the write-in candidate wins). Note: *The prior House language had stated “10 percent of the votes cast **for party** plus one additional vote.”*

* * * Electronic Ballot Returns * * *

Secs. 9d through 11 will enable electronic ballot *returns* for votes who have a disability and overseas voters by means of a secure online portal *administered* by the Secretary of State.

- Sec. 9d amended [17 V.S.A. § 2539 \(delivery of early voter absentee ballots\)](#) to add a definition of “overseas voter” based on the definitions of “Overseas voters” and the “United States” Uniformed And Overseas Citizens Absentee Voting Act (UOCAVA) in [52 U.S. Code § 20310 \(Definitions\)](#).
- Sec. 10 amends [17 V.S.A. § 2542 \(signing certificate\)](#), enabling the voter affirmation to be available electronically rather than only in print.
- Sec. 11 amends [17 V.S.A. § 2543 \(return of ballots\)](#), specifically adding language enabling electronic ballot *returns* for votes who have a disability and overseas voters by means of a secure online portal *administered* by the Secretary of State.

* * * Delinquent Disclosures for Candidates for State Office, State Senator, and State Representative * * *

Sec. 11a will amend 17 V.S.A. chapter 49, subchapter 4 (miscellaneous provisions) by:

- amending [17 V.S.A. § 2414 \(candidates for state and legislative office; disclosure form\)](#) to require candidates for county office (assistant judge, probate judge, sheriff, high bailiff, and state’s attorney) to provide the State Ethics Commission a financial disclosure the same as candidates for State Office and legislators;
- require the Secretary of State to post a copy of any disclosure forms and tax returns received on the Secretary’s official State website; and
- adding a new section 17 V.S.A. § 2415 (failure to file; penalties) that penalize candidates for State office, county office, State Senator, or State Representative who do not properly and timely file their disclosure forms. Non-compliant candidates would begin paying a \$10.00 penalty for each day delinquent after six working days from receiving notice. This penalty shall not exceed \$1,000.00.

* * * Electronic Ballots Return Report * * *

Sec. 11b will require the Secretary of State to report back by January 15, 2025, with an assessment of the electronic ballot return system as modified by 2023 amendments to 17 V.S.A. §§ 2542 and 2543, including any identified issues and recommendations for correcting any issues or improving related voting processes.

*** Opt-in Ranked-Choice Voting System for Town, Cities, and Villages ***

Sec. 11c amends 17 V.S.A. chapter 55 to add a new subchapter 4 titled “Ranked-Choice Voting.”

This new subchapter will add six new statutory sections:

- § 2691a adds definitions of relevant terms.
- § 2691b permits towns, cities, and villages to opt-in to using a ranked-choice voting system, *now only by a town vote* (the means of adoption by legislative body vote was removed). A town, city, or village must have already voted to elect officers by the Australian ballot system, *and now must be using tabulators* (not hand count, unless in a special circumstance). Once opted-in, a town, city, or village may discontinue the use of RCV at any time, similarly, *only by town vote*.
- § 2691c describes how ballots must be formatted.
- § 2691d described the process of RCV tabulation. In essence, if there are more than two active candidates, the active candidate with the fewest votes is eliminated, the votes for the eliminated candidate are transferred to each ballot’s next-ranked active candidate, and a new round of tabulation begins until there are two or fewer active candidates and the candidate with the most votes is declared the winner of the election. This process is described in more detail below.
- § 2691e describes the results reporting requirements, which will include vote data in each round of tabulation in addition to final results.
- § 2691f enables towns, cities, and villages to enact additional ordinances for the proper and efficient administration of the RCV system at the local level.

Sec. 11d states that a town, city, or village may only use the ranked-choice voting system beginning at the 2024 annual meeting. Nevertheless, a town, city, or village may vote to adopt RCV before then, but may not use RCV until the 2024 annual meeting.

*** Voter and Presiding Officer Education ***

Sec. 11e requires the Secretary of State to provide training and information regarding RCV processes to presiding officers in those towns, cities, and villages that have adopted RCV.

*** Ranked-Choice Voting Study Committee ***

Sec. 11f establishes a “Ranked-Choice Voting Study Committee.”

The Committee members will be two current members of the House of Representatives, two current members of the Senate, one designee appointed by the Secretary of State, three designees appointed by the Vermont Municipal Clerks’ and Treasurers’ Association (from different-sized towns, cities, and villages, different regions, and at least one shall be from a town, city, or village that use a hand count in elections), one designee appointed by the

Vermont League of Cities and Towns, a member each from two different organizations focused on the conduct of elections.

The Committee shall study ranked-choice voting systems with the goal of having recommendations, *if any, for the implementation of ranked-choice voting for all primary or general elections for state or federal office occurring in 2026*, including the following issues:

- (1) education of voters;
- (2) training of town clerks, presiding officers, and election staff;
- (3) election integrity, security, and transportation of ballots;
- (4) technological requirements in tabulators, hardware, and software;
- (5) methodology of ranked-choice voting systems;
- (6) canvassing of votes and roles of canvassing committees;
- (7) post-election processes and reporting; and
- (8) other items relating to the design and implementation of ranked-choice voting systems.

The Committee shall report on the above by January 15, 2024. The Committee shall sunset on November 1, 2024.

* * * Ranked-Choice Voting for Presidential Primary Elections * * *

Sec. 11g redesignates § 2705 (checklist) and § 2706 (provisions applicable), moving them ‘back’ in Chapter 57, Subchapter 1 (presidential primary) to ‘make room’ for new ranked-choice voting statutory sections.

Sec. 11h adds and modifies statutory sections to enable the RCV in presidential primary elections. These amendments include:

- creating a new § 2700 for definitions (these are very similar to the definitions in Sec. 1 adding § 2691a and definitions for towns, cities, and villages to opt-in to a RCV system);
- modifying ballot requirements in existing §§ 2701 and 2704 to explicitly require a presidential primary election for a major political party to be conducted using RCV;
- the type of RCV methodology to be used in a new § 2705, and permitting the party to award delegates either on a winner-take-all or proportional basis;
- Tabulation of ballots in a new § 2706, with direction on how to award delegates depending on whether the party opts to award delegates either on a winner-take-all or proportional basis;
- Results reporting in § 2707 and information from canvassing committees in § 2708.

Sec. 11i directs the Office of the Secretary of State to adopt rules to address various aspects of the administration and implementation of RCV.

Sec. 11j requires the Secretary of State to ensure that canvassing forms including tally sheets, summary sheets, and returns are all designed to accommodate ranked-choice voting.

* * * Effective Dates * * *

Sec. 12, Effective Date, will have the provisions of the bill take effect on July 1, 2023, except that:

- Secs. 11g (redesignation) and 11h (amending 17 V.S.A. chapter 57, subchapter 1) shall take effect on January 1, 2027. These sections pertain to the RCV opt-in for towns, cities, and villages, as well as the creation of the Ranked-Choice Voting Study Committee.
- Secs. 11i (rulemaking) and 11j (tally sheets; summary sheets; returns) shall take effect on January 1, 2025, providing the Secretary of State additional time to prepare in advance for the implementation of RCV for presidential primaries.