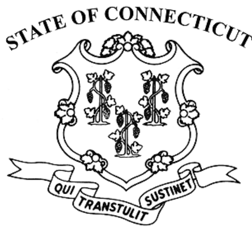

Senate

General Assembly

File No. 610

January Session, 2023

Substitute Senate Bill No. 1226

Senate, April 17, 2023

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING STATE VOTING RIGHTS IN RECOGNITION OF JOHN R. LEWIS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2023*) (a) As used in this section and
2 sections 2 to 9, inclusive, of this act:

3 (1) "Alternative method of election" means a method of electing
4 candidates to the legislative body of a municipality other than an at-
5 large method of election or a district-based method of election, and
6 includes, but is not limited to, proportional ranked-choice voting,
7 cumulative voting and limited voting;

8 (2) (A) "At-large method of election" means a method of electing
9 candidates to the legislative body of a municipality in which such
10 candidates are voted upon by all electors of such municipality;

11 (B) "At-large method of election" does not include any alternative
12 method of election;

13 (3) "District-based method of election" means a method of electing
14 candidates to the legislative body of a municipality in which, for
15 municipalities divided into districts, a candidate for any such district is
16 required to reside in such district and candidates representing or
17 seeking to represent such district are voted upon by only the electors of
18 such district;

19 (4) "Federal Voting Rights Act" means the federal Voting Rights Act
20 of 1965, 52 USC 10301 et seq., as amended from time to time;

21 (5) "Government enforcement action" means any denial of
22 administrative or judicial preclearance by the state or federal
23 government, pending litigation filed by a state or federal entity, final
24 judgment or adjudication, consent decree or other similar formal action;

25 (6) "Legislative body" means the board of aldermen, council, board of
26 burgesses, representative town meeting, board of education, district
27 committee, association committee or other similar body, as applicable,
28 of a municipality;

29 (7) "Municipality" or "municipal" means any town, city or borough,
30 whether consolidated or unconsolidated, any local or regional school
31 district, any district, as defined in section 7-324 of the general statutes,
32 or any other district authorized under the general statutes;

33 (8) "Organization" means a person other than an individual;

34 (9) "Protected class" means a class of citizens who are members of a
35 race, color or language minority group, as referenced in the federal
36 Voting Rights Act;

37 (10) "Racially polarized voting" means voting in which the candidate
38 or electoral choice preferred by protected class members diverges from
39 the candidate or electoral choice preferred by electors who are not
40 protected class members; and

41 (11) "Vote" or "voting" includes any action necessary to cast a ballot
42 and make such ballot effective in any election or primary, including, but

43 not limited to, admission as an elector, application for an absentee ballot
44 and any other action required by law as a prerequisite to casting a ballot
45 and having such ballot counted, canvassed or certified properly and
46 included in the appropriate totals of votes cast with respect to
47 candidates for election or nomination and to referendum questions.

48 (b) In the construction of this section and sections 2 to 9, inclusive, of
49 this act, words and phrases that are not defined in subsection (a) of this
50 section, but that are used in the federal Voting Rights Act and
51 interpreted in relevant case law, including, but not limited to, "political
52 process" and "prerequisite to voting", shall be construed in a manner
53 consistent with such usage and interpretation.

54 Sec. 2. (NEW) (*Effective July 1, 2023*) (a) (1) No qualification for
55 eligibility to be an elector in a municipality or other prerequisite to
56 voting may be imposed, no ordinance, regulation or other law regarding
57 the administration of elections may be enacted by a municipality, and
58 no standard, practice, procedure or policy may be applied by a
59 municipality, in a manner that results in an impairment of the right to
60 vote for any protected class member.

61 (2) It shall be a violation of subdivision (1) of this subsection for any
62 municipality to impose any qualification for eligibility to be an elector
63 or other prerequisite to voting, to enact any ordinance, regulation or
64 other law regarding the administration of elections or to apply any
65 standard, practice, procedure or policy that:

66 (A) Results or will result in a disparity among such municipality's
67 protected class members in electoral participation, access to voting
68 opportunities or ability to participate in the political process; or

69 (B) Based on the totality of the circumstances, results in an
70 impairment of the opportunity or ability of such municipality's
71 protected class members to participate in the political process and elect
72 candidates of their choice or otherwise influence the outcome of
73 elections.

74 (b) (1) No municipality shall employ any method of election for any
75 office of the municipality that has the effect, or is motivated in part by
76 the intent, of impairing the opportunity or ability of protected class
77 members to participate in the political process and elect candidates of
78 their choice or otherwise influence the outcome of municipal elections
79 as a result of diluting the vote of such protected class members.

80 (2) (A) The following shall constitute a violation of subdivision (1) of
81 this subsection:

82 (i) Any municipality that employs an at-large method of election and
83 in which (I) racially polarized voting by protected class members occurs,
84 or (II) based on the totality of the circumstances, the opportunity or
85 ability of protected class members to elect candidates of their choice or
86 otherwise influence the outcome of elections is impaired; or

87 (ii) Any municipality that employs a district-based method of election
88 or an alternative method of election, in which the candidates or electoral
89 choices preferred by protected class members would usually be
90 defeated and in which (I) racially polarized voting by protected class
91 members occurs, or (II) based on the totality of the circumstances, the
92 ability of protected class members to participate in the political process
93 and elect candidates of their choice or otherwise influence the outcome
94 of elections is impaired.

95 (B) (i) In determining whether racially polarized voting by protected
96 class members in a municipality occurs or whether candidates or
97 electoral choices preferred by protected class members would usually
98 be defeated, the superior court for the judicial district of Hartford (I)
99 shall consider elections held prior to the filing of an action pursuant to
100 this section as more probative than elections conducted after such filing,
101 (II) shall consider evidence concerning elections for any municipal office
102 in such municipality as more probative than evidence concerning
103 elections for other offices, but may still afford probative value to
104 evidence concerning elections for such other offices, (III) shall consider
105 statistical evidence as more probative than nonstatistical evidence, (IV)
106 in the case of claims brought on behalf of two or more protected classes

107 that are politically cohesive in such municipality, shall combine
108 members of such protected classes to determine whether voting by such
109 combined protected class members is polarized from other electors and
110 shall not require evidence that voting by each such protected class's
111 members is separately polarized from such other electors, and (V) shall
112 not require evidence concerning the intent of electors, elected officials
113 or such municipality to discriminate against protected class members.

114 (ii) Evidence concerning the causes of, or reasons for, the occurrence
115 of racially polarized voting shall not be deemed relevant to the
116 determination of whether racially polarized voting by protected class
117 members in a municipality occurs or whether candidates or electoral
118 choices preferred by protected class members would usually be
119 defeated.

120 (c) (1) In determining whether, based on the totality of the
121 circumstances, an impairment of the right to vote for any protected class
122 member, or of the opportunity or ability of protected class members to
123 participate in the political process and elect candidates of their choice or
124 otherwise influence the outcome of elections, has occurred, the superior
125 court for the judicial district of Hartford may consider factors that
126 include, but are not limited to: (A) The history of discrimination in or
127 affecting the municipality or state; (B) the extent to which protected class
128 members have been elected to office in the municipality; (C) the use of
129 any qualification for eligibility to be an elector or other prerequisite to
130 voting, any statute, ordinance, regulation or other law regarding the
131 administration of elections, or any standard, practice, procedure or
132 policy, by the municipality that may enhance the dilutive effects of a
133 method of election in such municipality; (D) the extent of any history of
134 unequal access on the part of protected class members or candidates to
135 election administration or campaign finance processes that determine
136 which candidates will receive access to the ballot or financial or other
137 support in a given election for an office of the municipality; (E) the
138 extent to which protected class members in the municipality or state
139 have historically made expenditures, as defined in section 9-601b of the
140 general statutes, at lower rates than other individuals in such

141 municipality or state; (F) the extent to which protected class members in
142 the municipality or state vote at lower rates than other electors in the
143 municipality or state, as applicable; (G) the extent to which protected
144 class members in the municipality are disadvantaged, or otherwise bear
145 the effects of public or private discrimination, in areas that may hinder
146 their ability to participate effectively in the political process, such as
147 education, employment, health, criminal justice, housing,
148 transportation, land use or environmental protection; (H) the extent to
149 which protected class members in the municipality are disadvantaged
150 in other areas that may hinder their ability to participate effectively in
151 the political process; (I) the use of overt or subtle racial appeals in
152 political campaigns in the municipality or surrounding the adoption or
153 maintenance of a challenged practice; (J) the extent to which candidates
154 face hostility or barriers while campaigning due to their membership in
155 a protected class; (K) a significant or recurring lack of responsiveness on
156 the part of elected officials of the municipality to the particularized
157 needs of a community or communities of protected class members,
158 except that compliance with a court order shall not be considered to be
159 evidence of such responsiveness; and (L) whether the particular method
160 of election, ordinance, regulation or other law regarding the
161 administration of elections, standard, practice, procedure or policy was
162 designed to advance, and does materially advance, a valid and
163 substantiated state interest.

164 (2) No particular combination or number of factors under subdivision
165 (1) of this subsection shall be required for the court to determine the
166 occurrence of an impairment under this subsection.

167 (d) Any individual aggrieved by a violation of this section, any
168 organization whose membership includes individuals aggrieved by
169 such a violation or the Secretary of the State may file an action alleging
170 a violation of this section in the superior court for the judicial district of
171 Hartford. Members of two or more protected classes that are politically
172 cohesive in a municipality may jointly file such an action in such court.

173 (e) (1) Notwithstanding any provision of title 9 of the general statutes

174 and any special act, charter or home rule ordinance, whenever the
175 superior court for the judicial district of Hartford finds a violation by a
176 municipality of any provision of this section, such court shall order
177 appropriate remedies that are tailored to address such violation in such
178 municipality and to ensure protected class members have equitable
179 opportunities to fully participate in the political process and that can be
180 implemented in a manner that will not unduly disrupt the
181 administration of an ongoing or imminent election. Such court shall take
182 into account the ability of officials who administer elections in such
183 municipality to implement any change to voting for an ongoing or
184 imminent election in a manner that is orderly and fiscally sound, and
185 shall not order any remedy that contravenes the Constitution of
186 Connecticut. Appropriate remedies may include, but need not be
187 limited to: (A) A district-based method of election; (B) an alternative
188 method of election; (C) new or revised districting or redistricting plans;
189 (D) elimination of staggered elections so that all members of the
190 legislative body are elected at the same time; (E) reasonably increasing
191 the size of the legislative body; (F) additional voting days or hours; (G)
192 additional polling places; (H) additional means of voting, such as voting
193 by mail, or additional opportunities to return ballots; (I) holding of
194 special elections; (J) expanded opportunities for admission of electors;
195 (K) additional elector education; (L) the restoration or addition of
196 individuals to registry lists; or (M) retaining jurisdiction for such period
197 of time as the court may deem appropriate, during which period no
198 qualification for eligibility to be an elector or prerequisite to voting, or
199 standard, practice or procedure with respect to voting, that is different
200 from that which was in effect at the time an action under subsection (d)
201 of this section was commenced shall be enforced unless the court finds
202 that such qualification, prerequisite, standard, practice or procedure
203 does not have the purpose, and will not have the effect, of impairing the
204 right to vote on the basis of protected class membership or in
205 contravention of the guarantees with respect to such right that are set
206 forth in sections 1 to 9, inclusive, of this act, provided, in any action
207 brought pursuant to chapter 149 of the general statutes, any remedy
208 ordered shall be consistent with the provisions of said chapter.

209 Notwithstanding the provisions of subparagraph (M) of this
210 subdivision, any such finding by the court shall not be a bar to any
211 subsequent action to enjoin enforcement of such qualification,
212 prerequisite, standard, practice or procedure.

213 (2) Such court may only order a remedy if such remedy will not
214 impair the ability of protected class members to participate in the
215 political process and elect their preferred candidates or otherwise
216 influence the outcome of elections. Such court shall consider remedies
217 proposed by any parties to an action filed pursuant to subsection (d) of
218 this section and by other interested persons who are not such parties.
219 The court shall not give deference or priority to a remedy proposed by
220 a municipality simply because it has been proposed by such
221 municipality. The court shall have authority to order that a municipality
222 implement one or more remedies that may be inconsistent with the
223 provisions of state or municipal law, where such inconsistent provisions
224 would otherwise preclude the court from ordering an appropriate
225 remedy.

226 (f) (1) In the case of any proposal for a municipality to enact and
227 implement (A) a new method of election to replace such municipality's
228 at-large method of election with either a district-based method of
229 election or an alternative method of election, or (B) a new districting or
230 redistricting plan, the legislative body of such municipality shall act in
231 accordance with the provisions of subdivision (2) of this subsection if
232 any such proposal was made after the receipt of a notification letter
233 described in subsection (g) of this section or after the filing of a claim
234 pursuant to this section or the federal Voting Rights Act.

235 (2) (A) Prior to drawing a draft districting or redistricting plan or
236 plans, or transitioning to a proposed district-based method of election
237 or alternative method of election, the municipality shall hold at least one
238 public hearing at which members of the public may provide input
239 regarding such draft or proposal, including, if applicable, the
240 composition of districts. Notice of each such hearing shall be published
241 at least three weeks prior to the date of such hearing. In advance of each

242 such hearing, the municipality shall conduct outreach to members of the
243 public, including to language minority groups, to explain the districting
244 or redistricting process and to encourage such input.

245 (B) After all such draft districting or redistricting plans are drawn, the
246 municipality shall publish and make available for public dissemination
247 at least one such plan and include the potential sequence of elections in
248 the event the members of the legislative body of such municipality
249 would be elected for staggered terms under such plan. The municipality
250 shall hold at least one public hearing at which members of the public
251 may provide input regarding the content of such plan or plans and, if
252 applicable, such potential sequence of elections. Such plan or plans shall
253 be published at least three weeks prior to consideration at each such
254 hearing. If such plan or plans are revised at or following any such
255 hearing, the municipality shall publish and make available for public
256 dissemination such revised plan or plans at least two weeks prior to any
257 adoption of such revised plan or plans.

258 (g) (1) Prior to filing an action against a municipality pursuant to
259 subsection (d) of this section, any party described in subsection (d) of
260 this section shall send by certified mail, return receipt requested, a
261 notification letter to the clerk of such municipality asserting that such
262 municipality may be in violation of the provisions of sections 1 to 9,
263 inclusive, of this act.

264 (2) (A) No such party may file an action pursuant to this section
265 earlier than fifty days after sending such notification letter to such
266 municipality.

267 (B) Prior to receiving a notification letter, or not later than fifty days
268 after any such notification letter is sent to a municipality, the legislative
269 body of such municipality may pass a resolution (i) affirming such
270 municipality's intention to enact and implement a remedy for a
271 potential violation of the provisions of sections 1 to 9, inclusive, of this
272 act, (ii) setting forth specific measures such municipality will take to
273 facilitate approval and implementation of such a remedy, and (iii)
274 providing a schedule for the enactment and implementation of such a

275 remedy. No party described in subsection (d) of this section may file an
276 action pursuant to this section earlier than ninety days after passage of
277 any such resolution by such legislative body.

278 (C) If, under the laws of the state or under any charter or home rule
279 ordinance, the legislative body of a municipality lacks authority to enact
280 or implement a remedy identified in any such resolution within ninety
281 days after the passage of such resolution, or if such municipality is a
282 covered jurisdiction as described in section 5 of this act, such legislative
283 body may take the following measures upon such passage:

284 (i) The municipality shall hold at least one public hearing on any
285 proposal to remedy any potential violation of the provisions of sections
286 1 to 9, inclusive, of this act, at which members of the public may provide
287 input regarding any such proposed remedies. In advance of each such
288 hearing, the municipality shall conduct outreach to members of the
289 public, including to language minority groups, to encourage such input.

290 (ii) The legislative body of such municipality may approve any such
291 proposed remedy that complies with the provisions of sections 1 to 9,
292 inclusive, of this act and submit such proposed remedy to the Secretary
293 of the State.

294 (iii) Notwithstanding any provision of title 9 of the general statutes
295 and any special act, charter or home rule ordinance, the Secretary of the
296 State shall, not later than ninety days after submission of such proposed
297 remedy by such municipality, approve or reject such proposed remedy
298 in accordance with the provisions of this clause. The Secretary may
299 require that such municipality or any other party provide additional
300 information related to the submission of such proposed remedy. The
301 Secretary may only approve such proposed remedy if the Secretary
302 concludes (I) such municipality may be in violation of the provisions of
303 sections 1 to 9, inclusive, of this act, (II) the proposed remedy would
304 address any such potential violation, (III) the proposed remedy does not
305 violate the Constitution of Connecticut or any federal law, and (IV) the
306 proposed remedy can be implemented in a manner that will not unduly
307 disrupt the administration of an ongoing or imminent election.

308 (iv) Notwithstanding any provision of title 9 of the general statutes
309 and any special act, charter or home rule ordinance, if the Secretary of
310 the State approves the proposed remedy, such proposed remedy shall
311 be enacted and implemented immediately or, if immediate
312 implementation would unduly disrupt the administration of an ongoing
313 or imminent election, as soon as possible. If the municipality is a covered
314 jurisdiction as described in section 5 of this act, such municipality shall
315 not be required to obtain preclearance for such proposed remedy. The
316 decision of the Secretary to approve such proposed remedy shall be final
317 and shall not be subject to review in any court or forum, except as
318 provided in the Constitution of Connecticut.

319 (v) If the Secretary of the State denies the proposed remedy, (I) such
320 proposed remedy shall not be enacted or implemented, (II) the Secretary
321 shall set forth the reasons for such denial, and (III) the Secretary may
322 recommend another remedy that the Secretary would approve. The
323 decision of the Secretary to deny such proposed remedy shall be final
324 and shall not be subject to review in any court or forum, except as
325 provided in the Constitution of Connecticut.

326 (vi) If the Secretary of the State does not approve or reject such
327 proposed remedy within ninety days after the submission of such
328 proposed remedy by the municipality, the proposed remedy shall not
329 be enacted or implemented. The decision of the Secretary to not approve
330 or to reject such proposed remedy shall be final and shall not be subject
331 to review in any court or forum, except as provided in the Constitution
332 of Connecticut.

333 (D) A municipality that has passed a resolution described in
334 subparagraph (B) of this subdivision may enter into an agreement with
335 any party who sent a notification letter described in subdivision (1) of
336 this subsection providing that such party shall not file an action
337 pursuant to this section earlier than ninety days after entering into such
338 agreement. If such party agrees to so enter into such an agreement, such
339 agreement shall require that the municipality either enact and
340 implement a remedy that complies with the provisions of sections 1 to

341 9, inclusive, of this act or pass such a resolution and submit such
342 resolution to the Secretary of the State. If such party declines to so enter
343 into such an agreement, such party may file an action pursuant to this
344 section at any time.

345 (E) If, pursuant to the provisions of this subsection, a municipality
346 enacts or implements a remedy or the Secretary of the State approves a
347 proposed remedy, a party who sent a notification letter described in
348 subdivision (1) of this subsection may, not later than thirty days after
349 such enactment, implementation or approval, submit a claim for
350 reimbursement from such municipality for the costs associated with
351 producing and sending such notification letter. Such party shall submit
352 such claim in writing and substantiate such claim with financial
353 documentation, including a detailed invoice for any demography
354 services or analysis of voting patterns in such municipality. Upon
355 receipt of any such claim, such municipality may request additional
356 financial documentation if that which has been provided by such party
357 is insufficient to substantiate such costs. Such municipality shall
358 reimburse such party for reasonable costs claimed or for an amount to
359 which such party and such municipality agree, except that the
360 cumulative amount of any such reimbursements to all such parties other
361 than the Secretary of the State shall not exceed fifty thousand dollars,
362 adjusted in accordance with any change in the consumer price index for
363 all urban consumers as published by the United States Department of
364 Labor, Bureau of Labor Statistics. If any such party and such
365 municipality fail to agree to a reimbursement amount, either such party
366 or such municipality may file an action for a declaratory judgment with
367 the superior court for the judicial district of Hartford for a clarification
368 of rights.

369 (F) (i) Notwithstanding the provisions of this subsection, a party
370 described in subsection (d) of this section may seek preliminary relief
371 for a regular election held in a municipality by filing an action pursuant
372 to this section during the one hundred twenty days prior to such regular
373 election. Not later than the filing of such action, such party shall send a
374 notification letter described in subdivision (1) of this subsection to such

375 municipality. In the event any such action is withdrawn or dismissed as
376 being moot as a result of such municipality's enactment or
377 implementation of a remedy, or the approval by the Secretary of the
378 State of a proposed remedy, any such party may only submit a claim for
379 reimbursement in accordance with the provisions of subparagraph (E)
380 of this subdivision.

381 (ii) In the case of preliminary relief sought pursuant to subparagraph
382 (F)(i) of this subdivision by a party described in subsection (d) of this
383 section, the superior court for the judicial district of Hartford shall grant
384 such relief if such court determines that (I) such party has shown a
385 substantial likelihood of success on the merits, and (II) it is possible to
386 implement an appropriate remedy that would resolve the violation
387 alleged under this section prior to such election in a manner that will
388 not unduly disrupt such election.

389 Sec. 3. (NEW) (*Effective January 1, 2024*) (a) There is established in the
390 office of the Secretary of the State a state-wide database of information
391 necessary to assist the state and any municipality in (1) evaluating
392 whether and to what extent current laws and practices related to
393 election administration are consistent with the provisions of sections 1
394 to 9, inclusive, of this act, (2) implementing best practices in election
395 administration to further the purposes of said sections, and (3)
396 investigating any potential infringement upon the right to vote.

397 (b) The Secretary of the State shall designate an employee of the office
398 of the Secretary of the State to serve as manager of the state-wide
399 database. Such employee shall possess an advanced degree from an
400 accredited college or university, or equivalent experience, and have
401 expertise in demography, statistical analysis and electoral systems. Such
402 employee shall be responsible for the operation of such state-wide
403 database and shall manage such staff as is necessary to implement and
404 maintain such state-wide database.

405 (c) The state-wide database shall maintain in electronic format the
406 following data and records, at a minimum, for no fewer than the prior
407 twelve years:

408 (1) Estimates of total population, voting age population and citizen
409 voting age population by race, color and language minority group,
410 broken down annually to the voting district level for each municipality,
411 based on information from the United States Census Bureau, including
412 from the American Community Survey, or information of comparable
413 quality collected by a similar governmental agency, and accounting for
414 population adjustments pursuant to section 9-169h of the general
415 statutes, as applicable;

416 (2) Election results at the district level for each state-wide election and
417 each election in each municipality;

418 (3) Regularly updated registry lists, geocoded locations for each
419 elector and elector history files for each election in each municipality;

420 (4) Contemporaneous maps, descriptions of boundaries and other
421 similar items, which shall be provided as shapefiles or in a comparable
422 electronic format if an electronic format is available;

423 (5) Geocoded locations of polling places and absentee ballot drop
424 boxes for each election in each municipality, and a list or description of
425 the voting districts or geographic areas served by each such location;
426 and

427 (6) Any other information the Secretary of the State deems advisable
428 to maintain in furtherance of the purposes of sections 1 to 9, inclusive,
429 of this act.

430 (d) Except for any data, information or estimates that identify
431 individual electors, the data, information or estimates maintained in the
432 state-wide database shall be published on the Internet web site of the
433 office of the Secretary of the State and made publicly available in
434 electronic format at no cost.

435 (e) Any estimates prepared pursuant to this section, including
436 estimates of eligible electors, shall be prepared using the most advanced,
437 peer-reviewed and validated methodologies.

438 (f) At the time the Secretary of the State is prepared to commence
439 administration of the state-wide database established under this section,
440 the Secretary shall submit a report to the joint standing committee of the
441 General Assembly having cognizance of matters relating to elections, in
442 accordance with the provisions of section 11-4a of the general statutes,
443 certifying such fact. Not later than ninety days after such certification,
444 and at least annually thereafter, the Secretary shall publish on the
445 Internet web site of the office of the Secretary of the State (1) a list of each
446 municipality required under section 4 of this act to provide assistance to
447 members of language minority groups, and (2) each language in which
448 such municipalities are so required to provide such assistance. The
449 Secretary shall also distribute such information to each municipality.

450 (g) Upon the certification of election results and the completion of the
451 elector history file after each election, the officials responsible for
452 administering elections in each municipality shall transmit to the
453 Secretary of the State, in electronic format, copies of (1) such election
454 results at the voting district level, (2) updated registry lists, (3) elector
455 history files, (4) maps, descriptions of boundaries and other similar
456 items, and (5) lists of polling place and absentee ballot drop box
457 locations and lists or descriptions of the voting districts or geographic
458 areas served by such locations.

459 (h) At least annually or upon the request by the Secretary of the State,
460 the Criminal Justice Information Systems Governing Board established
461 under section 54-142q of the general statutes, or any other state entity
462 identified by the Secretary as possessing data, statistics or other
463 information that the office of the Secretary of the State requires to carry
464 out its duties and responsibilities under title 9 of the general statutes,
465 shall provide to the Secretary such data, statistics or information.

466 (i) The office of the Secretary of the State may provide nonpartisan
467 technical assistance to municipalities, researchers and members of the
468 public seeking to use the resources of the state-wide database.

469 (j) In each action filed pursuant to section 2 of this act, there shall be
470 a rebuttable presumption that the data, estimates or other information

471 maintained in the state-wide database is valid.

472 Sec. 4. (NEW) (*Effective January 1, 2024*) (a) The Secretary of the State
473 shall designate one or more languages, other than English, for which
474 assistance in voting and elections shall be provided in a municipality if
475 the Secretary finds that a significant and substantial need exists for such
476 assistance.

477 (b) (1) The Secretary of the State shall find that such significant and
478 substantial need exists if, based on the best available data, which may
479 include information from the United States Census Bureau's American
480 Community Survey, or data of comparable quality collected by a
481 governmental entity:

482 (A) More than two per cent of the citizens of voting age of such
483 municipality, but in no instance fewer than one hundred such citizens,
484 speak a language other than English and are limited English proficient
485 individuals;

486 (B) More than four thousand of the citizens of voting age of such
487 municipality speak a language other than English and are limited
488 English proficient individuals; or

489 (C) In the case of a municipality that contains any part of a Native
490 American reservation, more than two per cent of the Native American
491 citizens of voting age within such Native American reservation are
492 proficient in a language other than English and are limited English
493 proficient individuals. As used in this subdivision, "Native American"
494 includes any person recognized by the United States Census Bureau, or
495 this state, as "American Indian".

496 (2) As used in this section, "limited English proficient individual"
497 means an individual who does not speak English as such individual's
498 primary language and who speaks, reads or understands the English
499 language less than "very well", in accordance with United States Census
500 Bureau data or data of comparable quality collected by a governmental
501 entity.

502 (c) Not later than January 15, 2024, and at least annually thereafter,
503 the Secretary of the State shall publish on the Internet web site of the
504 office of the Secretary of the State a list of (1) each municipality in which
505 assistance in voting and elections in a language other than English shall
506 be provided, and (2) each such language in which such assistance shall
507 be provided in each such municipality. The Secretary's determinations
508 under this section shall be effective upon such publication and shall not
509 be subject to review in any court or forum, except as provided in the
510 Constitution of Connecticut. The Secretary shall distribute to each
511 affected municipality the information contained in such list.

512 (d) Each municipality described in subsection (c) of this section shall
513 provide assistance in voting and elections, including related materials,
514 in any language designated by the Secretary of the State under
515 subsection (a) of this section to electors in such municipality who are
516 limited English proficient individuals.

517 (e) Whenever the Secretary of the State determines, pursuant to this
518 section, that language assistance shall be provided in a municipality,
519 such municipality shall provide competent assistance in each
520 designated language and shall provide related materials (1) in English,
521 and (2) in each designated language, including registration or voting
522 notices, forms, instructions, assistance, ballots or other materials or
523 information relating to the electoral process, except that in the case of a
524 language that is oral or unwritten, including historically unwritten as
525 may be the case for some Native Americans, such municipality may
526 provide only oral instructions, assistance or other information relating
527 to the electoral process in such language. All materials provided in a
528 designated language shall be of an equal quality to the corresponding
529 English materials. All provided translations shall convey the intent and
530 essential meaning of the original text or communication and shall not
531 rely solely on any automatic translation service. Whenever available,
532 language assistance shall also include live translation.

533 (f) The Secretary of the State shall adopt regulations, in accordance
534 with the provisions of chapter 54 of the general statutes, to establish a

535 review process under which the Secretary shall determine whether a
536 significant and substantial need exists in a municipality for a language
537 to be designated for the provision of assistance in voting and elections.
538 Such process shall include, at a minimum, (1) an opportunity for any
539 elector, organization whose membership includes or is likely to include
540 electors, organization whose mission would be frustrated by a
541 municipality's failure to provide such language assistance or
542 organization that would expend resources in order to fulfill such
543 organization's mission as a result of such a failure, to request that the
544 Secretary consider so designating a language in a municipality, (2) an
545 opportunity for public comment, and (3) that, upon receipt of any such
546 request and consideration of any such public comment, the Secretary
547 may, in accordance with the process for making such determination, so
548 designate any language in a municipality.

549 (g) Any individual aggrieved by a violation of this section, any
550 organization whose membership includes individuals aggrieved by
551 such a violation or the Secretary of the State may file an action alleging
552 a violation of this section in the superior court for the judicial district of
553 Hartford.

554 Sec. 5. (NEW) (*Effective January 1, 2025*) (a) The enactment or
555 implementation of a covered policy, as described in subsection (b) of this
556 section, by a covered jurisdiction, as described in subsection (c) of this
557 section, shall be subject to preclearance, as described in subsections (e)
558 and (f) of this section, by the Secretary of the State or the superior court
559 for the judicial district of Hartford.

560 (b) A covered policy shall include any new or modified qualification
561 for admission as an elector, prerequisite to voting or ordinance,
562 regulation, standard, practice, procedure or policy concerning:

563 (1) Districting or redistricting, subject to the provisions of subdivision
564 (2) of subsection (c) of this section;

565 (2) Method of election;

566 (3) Form of government;

567 (4) Annexation, incorporation, dissolution, consolidation or division
568 of a municipality;

569 (5) Removal of individuals from registry lists or enrollment lists and
570 other activities concerning any such list;

571 (6) Hours of any polling place, or location or number of polling places
572 or absentee ballot drop boxes;

573 (7) Assignment of voting districts to polling place or absentee ballot
574 drop box locations;

575 (8) Assistance offered to protected class members; or

576 (9) Any additional subject matter the Secretary of the State may
577 identify for inclusion in this subsection, pursuant to a regulation
578 adopted by the Secretary in accordance with the provisions of chapter
579 54 of the general statutes, if the Secretary determines that any
580 qualification for admission as an elector, prerequisite to voting or
581 ordinance, regulation, standard, practice, procedure or policy
582 concerning such subject matter may have the effect of diminishing the
583 right to vote of any protected class member or have the effect of
584 violating the provisions of sections 1 to 9, inclusive, of this act. A
585 decision by the Secretary to so identify or to not so identify any
586 additional subject matter for inclusion in this subsection shall be final
587 and shall not be subject to review in any court or forum, except as
588 provided in the Constitution of Connecticut.

589 (c) (1) A covered jurisdiction includes:

590 (A) Any municipality that, within the prior twenty-five years, has
591 been subject to any court order or government enforcement action based
592 upon a finding of any violation of the provisions of sections 1 to 9,
593 inclusive, of this act, the federal Voting Rights Act, any state or federal
594 civil rights law, the fifteenth amendment to the United States
595 Constitution or the fourteenth amendment to the United States

596 Constitution, which violation concerns the right to vote or a pattern,
597 practice or policy of discrimination against any protected class;

598 (B) Any municipality that, within the three immediately preceding
599 years, has failed to comply with such municipality's obligations to
600 provide data or information to the state-wide database pursuant to
601 section 3 of this act, except that inadvertent or unavoidable delays in
602 such compliance, if communicated to the Secretary of the State and
603 corrected within a reasonable time, shall not constitute such failure;

604 (C) Any municipality (i) that is not a school district, (ii) that contains
605 at least one thousand eligible electors of any protected class, or in which
606 members of any protected class constitute at least ten per cent of the
607 eligible elector population of such municipality, and (iii) in which,
608 during the prior ten years, based on data from criminal justice
609 information systems, as defined in section 54-142q of the general
610 statutes, the combined misdemeanor and felony arrest rate of any
611 protected class exceeds the combined misdemeanor and felony arrest
612 rate of the entire population of such municipality by at least twenty per
613 cent;

614 (D) Any municipality (i) that contains at least one thousand eligible
615 electors of any protected class, or in which members of any protected
616 class constitute at least ten per cent of the eligible elector population of
617 such municipality, and (ii) in which, during the prior ten years, the
618 percentage of electors of any such protected class in such municipality
619 that participated in any general election for any municipal office is at
620 least ten percentage points lower than the percentage of all electors in
621 the municipality that participated in such election; or

622 (E) Any municipality that, during the prior ten years, was found to
623 have enacted or implemented a covered policy without obtaining
624 preclearance for such covered policy pursuant to the process described
625 in subparagraph (G) of subdivision (2) of subsection (e) of this section.

626 (2) A municipality that is a covered jurisdiction under subdivision (1)
627 of this subsection shall be subject to preclearance for a covered policy

628 described in subdivision (1) of subsection (b) of this section if, within the
629 past twenty-five years, such municipality:

630 (A) Has been subject to three or more court orders or government
631 enforcement actions based upon a finding of any violation of the
632 provisions of sections 1 to 9, inclusive, of this act, the federal Voting
633 Rights Act, any state or federal civil rights law, the fifteenth amendment
634 to the United States Constitution or the fourteenth amendment to the
635 United States Constitution, which violation concerns the right to vote or
636 a pattern, practice or policy of discrimination against any protected
637 class; or

638 (B) Has been subject to any such court order or government
639 enforcement action that concerns districting or redistricting or method
640 of election.

641 (d) At least annually, the Secretary of the State shall determine which
642 municipalities are covered jurisdictions pursuant to subsection (c) of
643 this section and publish on the Internet web site of the office of the
644 Secretary of the State a list of such municipalities. A determination of
645 the Secretary as to coverage under this subsection shall be effective upon
646 such publication and may be appealed in accordance with the
647 provisions of chapter 54 of the general statutes, provided any such
648 appeal taken under section 4-183 of the general statutes shall be in the
649 superior court for the judicial district of Hartford. Any such appeal shall
650 be privileged with respect to assignment for trial.

651 (e) (1) If a covered jurisdiction seeks preclearance from the Secretary
652 of the State for the adoption or implementation of any covered policy,
653 such covered jurisdiction shall submit, in writing, such covered policy
654 to the Secretary and may obtain such preclearance in accordance with
655 the provisions of this subsection.

656 (2) When the Secretary of the State receives any such submission of a
657 covered policy:

658 (A) As soon as practicable but not later than ten days after such

659 receipt, the Secretary shall publish on the Internet web site of the office
660 of the Secretary of the State such submission of a covered policy.

661 (B) Members of the public shall have an opportunity to comment on
662 such published submission within the time period set forth in
663 subparagraph (I) of this subdivision. For the purposes of facilitating
664 public comment on any such submission, the Secretary shall allow
665 members of the public to sign up to receive notifications or alerts
666 regarding submissions of covered policies for preclearance.

667 (C) The Secretary shall review such submission and any public
668 comment thereon, and shall, within the time period set forth in
669 subparagraph (I) of this subdivision, provide a report and
670 determination as to whether preclearance of the covered policy should
671 be granted or denied. Such time period shall run concurrently with the
672 time period for public comment.

673 (D) The covered jurisdiction shall bear the burden of proof in any
674 determination as to preclearance of a covered policy. The Secretary may
675 request from a covered jurisdiction, at any time during the Secretary's
676 review, additional information for the purpose of developing the
677 Secretary's report and determination. Failure of such covered
678 jurisdiction to timely comply with reasonable requests for such
679 additional information may constitute grounds for the denial of
680 preclearance. The Secretary shall publish on the Internet web site of the
681 office of the Secretary of the State each such report and determination
682 upon completion thereof.

683 (E) In any such determination, the Secretary shall state in writing
684 whether the Secretary is approving or rejecting the covered policy,
685 provided the Secretary may designate preclearance as "preliminary" and
686 subsequently approve or deny final preclearance not later than ninety
687 days after receipt of submission of such covered policy.

688 (F) (i) The Secretary shall deny preclearance to a submitted covered
689 policy only if the Secretary determines that (I) such covered policy is
690 more likely than not to diminish the opportunity or ability of protected

691 class members to participate in the political process and elect candidates
692 of their choice or otherwise influence the outcome of elections, or (II)
693 such covered policy is more likely than not to violate the provisions of
694 sections 1 to 9, inclusive, of this act.

695 (ii) For any such denial, the Secretary shall interpose objections
696 explaining the Secretary's basis for such denial, and the covered policy
697 shall not be enacted or implemented.

698 (G) If the Secretary grants preclearance to a submitted covered policy,
699 the covered jurisdiction may immediately enact or implement such
700 covered policy. A determination by the Secretary to so grant
701 preclearance shall not be admissible in, or otherwise considered by, a
702 court in any subsequent action challenging such covered policy.

703 (H) If the Secretary fails to deny or grant preclearance to a submitted
704 covered policy within the time period set forth in subparagraph (I) of
705 this subdivision, such covered policy shall be deemed precleared and
706 the covered jurisdiction may enact or implement such covered policy.

707 (I) The time periods for review by the Secretary of the State of any
708 submitted covered policy, for public comment and for any
709 determination of the Secretary to grant or deny preclearance to such
710 covered policy shall be as follows:

711 (i) For any covered policy concerning the location of polling places or
712 absentee ballot drop boxes, (I) the time period for public comment shall
713 be ten business days, and (II) the time period in which the Secretary shall
714 review the covered policy, including any public comment thereon, and
715 make a determination to grant or deny preclearance to such covered
716 policy, shall be not more than thirty days after the receipt of the
717 submission of such covered policy, except that the Secretary may invoke
718 an extension of not more than twenty days to make any determination
719 under subparagraph (I)(i)(II) of this subdivision; and

720 (ii) For any other covered policy, (I) the time period for public
721 comment shall be ten business days, except that, for any covered policy

722 that concerns the implementation of a district-based method of election
723 or an alternative method of election, districting or redistricting plans or
724 a change to a municipality's form of government, such time period shall
725 be twenty business days, and (II) the time period in which the Secretary
726 shall review such other covered policy, including any public comment
727 thereon, and make a determination to grant or deny preclearance to
728 such other covered policy, shall be not more than ninety days after the
729 receipt of the submission of such other covered policy, except that the
730 Secretary may invoke up to two extensions of not more than ninety days
731 apiece to make any determination under subparagraph (I)(ii)(II) of this
732 subdivision.

733 (J) The Secretary of the State may adopt regulations, in accordance
734 with the provisions of chapter 54 of the general statutes, to establish an
735 expedited, emergency preclearance process under which the Secretary
736 may address covered policies that are submitted during or immediately
737 preceding an election as a result of any attack, disaster, emergency or
738 other exigent circumstance. Any preclearance granted pursuant to the
739 regulations adopted under this subparagraph shall be designated
740 "preliminary" and the Secretary may subsequently approve or deny
741 final preclearance not later than ninety days after receipt of submission
742 of such covered policy.

743 (K) Any denial of preclearance under this subdivision may be
744 appealed in accordance with the provisions of chapter 54 of the general
745 statutes, provided any such appeal taken under section 4-183 of the
746 general statutes shall be in the superior court for the judicial district of
747 Hartford. Any such appeal shall be privileged with respect to
748 assignment for trial.

749 (f) (1) If a covered jurisdiction seeks preclearance from the superior
750 court for the judicial district of Hartford for the adoption or
751 implementation of any covered policy, in lieu of seeking such
752 preclearance from the Secretary of the State pursuant to subsection (e)
753 of this section, such covered jurisdiction shall submit, in writing, such
754 covered policy to such court and may obtain such preclearance in

755 accordance with the provisions of this subsection, provided (A) such
756 covered jurisdiction shall also contemporaneously transmit to the
757 Secretary of the State a copy of such submission, and (B) failure to so
758 provide such copy shall result in an automatic denial of such
759 preclearance. Notwithstanding the transmission to the Secretary of a
760 copy of any such submission, the court shall exercise exclusive
761 jurisdiction over such submission. The covered jurisdiction shall bear
762 the burden of proof in the court's determination as to preclearance.

763 (2) The court shall grant or deny preclearance not later than ninety
764 days after the receipt of submission of a covered policy.

765 (3) The court shall deny preclearance to a submitted covered policy
766 only if such court determines that (A) such covered policy is more likely
767 than not to diminish the opportunity or ability of protected class
768 members to participate in the political process and elect candidates of
769 their choice or otherwise influence the outcome of elections, or (B) such
770 covered policy is more likely than not to violate the provisions of
771 sections 1 to 9, inclusive, of this act.

772 (4) If the court grants preclearance to such covered policy, the covered
773 jurisdiction may immediately enact or implement such covered policy.
774 A determination by the court to grant preclearance to a covered policy
775 shall not be admissible in, or otherwise considered by, a court in any
776 subsequent action challenging such covered policy.

777 (5) If the court denies preclearance to a covered policy, or fails to
778 make a determination within ninety days of receipt of submission of
779 such covered policy, such covered policy shall not be enacted or
780 implemented.

781 (6) Any denial of preclearance under this subsection may be appealed
782 in accordance with the ordinary rules of appellate procedure. Any
783 action brought pursuant to this subsection shall be privileged with
784 respect to assignment for trial or appeal, as applicable, including
785 expedited pretrial and other proceedings.

786 (g) If any covered jurisdiction enacts or implements any covered
787 policy without obtaining preclearance for such covered policy in
788 accordance with the provisions of this section, the Secretary of the State
789 or any party described in subsection (d) of section 2 of this act may file
790 an action in the superior court for the judicial district of Hartford to
791 enjoin such enactment or implementation and seek sanctions against
792 such covered jurisdiction for violations of this section.

793 (h) The Secretary of the State may adopt regulations, in accordance
794 with the provisions of chapter 54 of the general statutes, to effectuate the
795 purposes of this section. Any estimates prepared for the purpose of
796 identifying covered jurisdictions under this section, including estimates
797 of eligible electors, shall be prepared using the most advanced, peer-
798 reviewed and validated methodologies.

799 Sec. 6. (NEW) (*Effective July 1, 2023*) (a) Notwithstanding the
800 provisions of chapter 151 of the general statutes, a person, whether
801 acting under color of law or otherwise, shall not engage in acts of
802 intimidation, deception or obstruction that interfere with any elector's
803 right to vote.

804 (b) A violation of subsection (a) of this section includes, but is not
805 limited to, the following:

806 (1) Any person who uses or threatens to use any force, violence,
807 restraint, abduction or duress, who inflicts or threatens to inflict any
808 injury, damage, harm or loss or who by any other conduct practices
809 intimidation that causes or will reasonably have the effect of causing
810 interference with any elector's right to vote;

811 (2) Any person who knowingly uses any deceptive or fraudulent
812 device, contrivance or communication that causes or will reasonably
813 have the effect of causing interference with any elector's right to vote; or

814 (3) Any person who obstructs, impedes or otherwise interferes with
815 access to any polling place or absentee ballot drop box or any office or
816 place of business of an election official or who obstructs, impedes or

817 otherwise interferes with any elector or election official in a manner that
818 causes or will reasonably have the effect of causing interference with
819 any elector's right to vote or any delay in voting or the voting process.

820 (c) (1) Any individual aggrieved by a violation of this section or any
821 organization whose membership includes individuals aggrieved by
822 such a violation may file an action alleging a violation of this section in
823 the superior court for the judicial district of Hartford. Such an action
824 may be filed irrespective of any action that may be filed by the State
825 Elections Enforcement Commission, the Attorney General or the State's
826 Attorney as a result of such a violation.

827 (2) In any action brought pursuant to subdivision (1) of this
828 subsection, the complainant shall file a certification attached to the
829 complaint indicating that (A) a copy of such complaint has been sent by
830 first-class mail or delivered to the State Elections Enforcement
831 Commission, or (B) a copy of such complaint will be so sent or delivered
832 not later than the following business day.

833 (d) (1) Notwithstanding any provision of title 9 of the general statutes
834 and any special act, charter or home rule ordinance, whenever such
835 court finds a violation of any provision of this section, such court shall
836 order appropriate remedies that are tailored to address such violation,
837 including, but not limited to, providing for additional time to vote at an
838 election, primary or referendum.

839 (2) Any person who violates the provisions of this section, or who
840 aids in the violation of any of such provisions, shall be liable for any
841 damages awarded by such court, including, but not limited to, nominal
842 damages for any such violation and compensatory or punitive damages
843 for any such wilful violation.

844 Sec. 7. (NEW) (*Effective July 1, 2023*) Any provision of the general
845 statutes, regulation adopted thereunder, special act, charter, home rule
846 ordinance or other state or municipal enactment relating to the right to
847 vote shall be construed liberally in favor of (1) protecting the right to
848 cast a ballot and make such ballot effective, (2) ensuring that qualified

849 individuals seeking to be admitted as electors are not impaired in being
850 so admitted, (3) ensuring electors are not impaired in voting, including,
851 but not limited to, having their votes counted, (4) making the
852 fundamental right to vote more accessible to qualified individuals, and
853 (5) ensuring equitable access for protected class members to
854 opportunities to be admitted as electors and to vote.

855 Sec. 8. (NEW) (*Effective July 1, 2023*) Nothing in the provisions of
856 sections 1 to 7, inclusive, of this act shall be construed to affect the
857 powers and duties of (1) the State Elections Enforcement Commission to
858 attempt to secure voluntary compliance relating to any election, primary
859 or referendum or pursue any other remedy authorized under sections
860 9-7a and 9-7b of the general statutes, or (2) the Commission on Human
861 Rights and Opportunities, as provided in chapter 814c of the general
862 statutes.

863 Sec. 9. (NEW) (*Effective July 1, 2023*) In any action to enforce the
864 provisions of sections 1 to 7, inclusive, of this act, the court shall award
865 reasonable attorneys' fees and litigation costs, including, but not limited
866 to, expert witness fees and expenses, to the party that filed such action,
867 other than the state or any municipality, and that prevailed in such
868 action. The party that filed such action shall be deemed to have
869 prevailed when, as a result of litigation, the party against whom such
870 action was filed has yielded much or all of the relief sought in such
871 action. In the case of a party against whom such action was filed and
872 who prevailed in such action, the court shall not award such party any
873 costs unless such court finds such action to be frivolous, unreasonable
874 or without foundation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2023*	New section
Sec. 2	*July 1, 2023*	New section
Sec. 3	*January 1, 2024*	New section
Sec. 4	*January 1, 2024*	New section
Sec. 5	*January 1, 2025*	New section

Sec. 6	*July 1, 2023*	New section
Sec. 7	*July 1, 2023*	New section
Sec. 8	*July 1, 2023*	New section
Sec. 9	*July 1, 2023*	New section

Statement of Legislative Commissioners:

In Section 1(a), "other electors" was changed to "electors who are not protected class members" in Subdiv. (10) for clarity, and reference to "special election" was deleted in Subdiv. (11) to eliminate redundant language; in Section (2)(e)(1), "need" was added before "not be limited to" for consistency with standard drafting conventions, and "which was" was added before "in effect" in Subpara. (M) for clarity; in Section 2(f)(2)(A), "district-based method of election or" was added for consistency; in Section 2(g)(2)(C)(i), "any such hearing" was changed to "each such hearing" for consistency; in Section 5(c)(1)(B), "provided" was changed to "except that" for clarity; in Section 5(e)(2), "of this subparagraph" was changed to "of this subdivision" in Subparas. (I)(i) and (I)(ii) for consistency with standard drafting conventions; and in Section 5(f)(5), "sixty" was changed to "ninety" for consistency.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 $	FY 25 $
Secretary of the State	GF - Cost	5,141,119	1,141,119
State Comptroller - Fringe Benefits[1]	GF - Cost	263,822	263,822

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 24 $	FY 25 $
Various Municipalities	Potential Cost	Significant	Significant

Explanation

This bill would result in an estimated total cost to the state of $5,404,941 in FY 24 and $1,404,941 in FY 25. The bill would also result in significant cost to various municipalities across the state. The bill generally codifies into state law several aspects of the federal Voting Rights Act of 1965 which bans discrimination in voting and elections and establishes a mechanism for certain jurisdictions with a history of discrimination against racial and language minorities to seek preapproval before changing their election laws.

The bill, which requires the Secretary of the State (SOTS) to establish and maintain a database containing a range of elections and demographic data, results in a one-time start-up cost for equipment and

[1]The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 42.82% of payroll in FY 24.

software of up to $4,000,000 in FY 24 and up to $500,000 annually thereafter. There is also a cost for two additional staff: 1) one Manager of the statewide database, as required in the bill, with an annual salary of $110,000 and associated fringe of $47,102, and 2) one IT Analyst with an annual salary of $92,372 and associated fringe of $39,554.

The bill also requires SOTS to make determinations of certain municipal plans intended to protect specified classes of electors. This determination process may include various municipalities simultaneously in the years following a redistricting or court litigation. This is estimated to result in an annualized cost to SOTS of $413,747 for four additional staff and associated fringe to the Office of the State Comptroller of $177,166 . The staff are anticipated to be one Deputy Elections Director, two Staff Attorneys, and one Elections Officer.

Additionally, the bill requires a municipality to provide language-related assistance in voting and elections if SOTS determines, based on the American Community Survey results or data of similar quality, that the municipality meets certain criteria. Additional costs to the SOTS will be dependent on the number of municipalities that meet these criteria and may be up to $25,000 annually. Under Federal law, ten municipalities currently meet these criteria as of the most recent census[2]. As the bill expands these criteria, this will likely include more municipalities.

The State Elections Enforcement Commission, The Attorney General and certain parties are allowed under this bill to bring an action in the Superior Court in the district of an alleged violation. This is not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

[2] Federal Register, 2021 Report

OLR Bill Analysis
sSB 1226

AN ACT CONCERNING STATE VOTING RIGHTS IN RECOGNITION OF JOHN R. LEWIS.

SUMMARY

This bill generally codifies into state law several aspects of the federal Voting Rights Act of 1965 ("VRA," see BACKGROUND), which bans discrimination in voting and elections and establishes a mechanism for certain jurisdictions with a history of discrimination against racial and language minorities to seek preapproval before changing their election laws.

The bill prohibits applying or enacting any municipal elector qualifications; voting prerequisites; other election administration ordinances, regulations, or laws; or standards, practices, procedures, or policies that result in impairing a protected class member's right to vote. "Vote" or "voting" under the bill is any action needed to cast a ballot and make the ballot effective in an election or primary. A "protected class" is a class of citizens who are members of a race, color, or language minority group as referenced in the federal VRA (§ 2).

The bill also authorizes the secretary of the state (SOTS) and certain parties aggrieved due to an alleged violation to file a civil action in the Superior Court for the Hartford judicial district (J.D.) (§ 2).

It establishes a statewide information database in the Office of the Secretary of the State to help the state and any municipality (1) evaluate whether, and to what extent, current election laws and practices are consistent with the bill's provisions; (2) implement best practices in election administration to further the bill's purposes; and (3) investigate a potential infringement on the right to vote (§ 3).

Similar to the federal VRA, the bill requires municipalities to provide language-related assistance in voting and elections for limited English proficient individuals if they comprise a minimum threshold of the municipality's voting-age residents (§ 4).

It also subjects certain jurisdictions to preclearance by SOTS or the court before enacting or implementing certain elections policies or requirements (a "covered policy"). The bill authorizes court action to prevent enacting or implementing a covered policy without preclearance and to seek sanctions against the covered jurisdiction involved (§ 5).

Generally, the bill prohibits engaging in intimidating, deceptive, or obstructive acts that affect the right to vote (§ 6).

It specifies that any voting statute, regulation, special act, home rule ordinance, or other state or municipal enactment must be construed liberally in favor of (1) protecting the right to vote and having the vote be valid and counted, (2) ensuring qualified individuals may register to vote, (3) providing voting access to qualified individuals, and (4) ensuring equal access for protected class members (§ 7).

Additionally, nothing in the bill may be construed to limit the powers of the (1) Commission on Human Rights and Opportunities or (2) State Elections Enforcement Commission's (SEEC's) attempts to secure voluntary compliance in remedying election-related violations (§ 8).

Lastly, the bill authorizes the court to award reasonable attorney's fees and litigation costs to a prevailing party, except the state or a municipality, that filed an action to enforce the bill's provisions. The filing is considered to have prevailed if, because of the litigation, the other party yielded much or all the relief sought in the court action. A prevailing party that did not file the action cannot receive any costs unless the court finds the action is frivolous, unreasonable, or without foundation (§ 9).

In general, under existing law, SOTS administers, interprets, and

implements election laws and ensures fair and impartial elections, and SEEC has broad authority to enforce election laws (see BACKGROUND).

EFFECTIVE DATE: July 1, 2023, except that provisions on the statewide elections database and language-related assistance are effective January 1, 2024, and the provisions regarding preclearance are effective January 1, 2025.

§§ 1 & 2 — PROHIBITION ON DENYING OR ABRIDGING THE VOTING RIGHTS OF PROTECTED CLASS MEMBERS

The bill prohibits municipalities from applying or enacting any of the following in a way that impairs a protected class member's right to vote: (1) municipal eligibility qualifications; (2) election methods; (3) ordinances, regulations, or other laws on election administration; or (4) related standards, practices, procedures, or policies. More specifically, the bill makes it a violation if it:

1. results, or will result, in a disparity among protected class members' electoral or political participation or voting access or

2. impairs their ability to participate in the political process, elect their chosen candidates, or otherwise influence an election's outcome, based on the totality of the circumstances (i.e., a legal standard that considers all relevant facts and circumstances rather than specific factors).

Prohibited Election Methods

Additionally, the bill prohibits implementing any election method that has the effect, or is motivated in part, to dilute protected class members' votes and impair their ability or opportunity to participate in the political process, elect their chosen candidates, or otherwise influence the elections' outcome.

More specifically, it makes it a violation if a municipality has:

1. an at-large election method or a district-based or alternative election method (e.g., ranked-choice voting, cumulative voting,

and limited voting), in which protected class electors' preferred candidates or electoral choices would usually be defeated and

2. (a) racially polarized voting by protected class members (i.e., their preferred candidate or electoral choice differs from that of non-protected class members electors) or (b) based on the totality of the circumstances, these electors' ability to participate in the political process, elect their chosen candidates, or otherwise influence election outcomes is impaired.

Under the bill, an "at-large method of election" is a way of electing candidates to the municipal legislative body in which all municipal electors vote upon the candidates. A "district-based method of election" is a way of electing candidates to a municipal legislative body in which, for municipalities divided into districts, a candidate for any district must reside in the district and candidates representing or seeking to represent the district are voted upon by only the electors of that district.

An "alternative method of election" is a way of electing candidates to a municipal legislative body other than an at-large method of election or a district-based method of election. It includes proportional ranked-choice voting, cumulative voting, and limited voting. (It is unclear whether existing law allows a municipality to adopt an alternative method of election, as, for example, CGS § 9-173 provides that, "Unless otherwise provided by law, in all municipal elections a plurality of the votes cast shall be sufficient to elect.")

Under the bill, a "municipality" or "municipal" is any town, city, or borough, whether consolidated or unconsolidated; any local or regional school district; fire district; water district; sewer district; fire and sewer district; lighting district; village, beach, or improvement association; other district wholly within a town that can make appropriations or tax; or any other district authorized under the general statutes. The "legislative body" is a municipality's board of aldermen, council, board of burgesses, representative town meeting, board of education, district committee, association committee, or other similar body, as applicable.

Initiating Court Action

The bill authorizes SOTS, an aggrieved person, or an organization whose membership includes or likely includes aggrieved persons to file actions for violations under the bill with the Superior Court for the Hartford J.D. Members of two or more protected classes may jointly file if they are politically cohesive in the municipality.

Notification Letter Before Filing Action

Before filing a court action against a municipality for an alleged violation, the bill requires an aggrieved party to send a notification letter asserting a violation to the municipality's clerk by certified mail, return receipt requested. The bill prohibits the party from filing an action earlier than 50 days after sending this letter.

Municipal Response to Notice of Violation

Before receiving a notification letter, or within 50 days after a notification letter is sent to a municipality, the municipality's legislative body may pass a resolution to (1) affirm the municipality's intent to enact and implement a remedy for a potential violation, (2) provide specific measures the municipality will take to obtain approval of and implement the remedy, and (3) provide a schedule for enacting and implementing the remedy.

The bill further prohibits an aggrieved party from filing a court action within 90 days after the resolution's passage. Thus, if the municipality does not pass a resolution within 50 days after receiving a notification letter, the aggrieved party may file an action at that time. If the municipality passes a resolution before the 50-day deadline, the aggrieved party must wait until 90 days after the resolution passes to file a court action.

If under state law, town charter, or home rule ordinance, a municipal legislative body lacks authority to enact or implement a remedy identified in any resolution within 90 days after its passage, or if the municipality is a covered jurisdiction under the bill, then its legislative body may hold at least one public hearing on any proposed remedy to

the potential violation. (Under the bill, it is unclear whether the public hearing provision is mandatory or permissive.) Before the hearing, the municipality must conduct public outreach, including to language minority groups, to encourage input. The municipality's legislative body may approve any proposed remedy that complies with the bill and submit it to SOTS for approval (see below).

Agreement Between Municipality and Aggrieved Party

The bill allows a municipality that passed a resolution to enter into an agreement with an aggrieved party who sent a notification letter, so long as the (1) party will not file an action within 90 days after entering into the agreement and (2) municipality will either (a) enact and implement a remedy that complies with the bill's provisions or (b) pass a resolution as described above and submit it to SOTS. If the party declines to enter into an agreement, it may file an action at any time, presumably regardless of the timelines described above.

SOTS Approval

The bill requires SOTS to approve or reject the proposed remedy within 90 days after the municipality submits it. She may make a determination independent of the state's election laws or any special act, charter, or home rule ordinance. But if she does not act on it within this period, the bill prohibits the proposed remedy from being enacted or implemented. The secretary may require the municipalities or any other party to provide additional information on the proposed remedy.

The secretary may only approve the proposed remedy if she concludes that the municipality may be violating the bill's requirements and the proposed remedy (1) would address any potential violation, (2) does not violate the state constitution or federal law, and (3) can be implemented without disrupting an ongoing or imminent election.

If approved, the proposed remedy must be enacted and implemented immediately, unless implementing would disrupt an imminent or ongoing election, in which case it must be implemented as soon as possible. If the municipality is a covered jurisdiction, it does not have to

get the proposed remedy precleared (see below).

If the secretary denies the proposed remedy, it cannot be enacted or implemented. In addition, she must give her reasons for the denial and may recommend another proposed remedy that she would approve.

SOTS's decision to approve, deny, or not act on a remedy is final and not subject to review except as provided in the state constitution.

Cost Reimbursement

Under the bill, if a municipality enacts or implements a remedy or SOTS approves a proposed remedy, then an aggrieved party who sent a notification letter may submit a municipal reimbursement claim for the costs associated with producing and sending a letter. The party must (1) submit this claim in writing within 30 days after the remedy's enactment, implementation, or approval and (2) substantiate it with financial documentation, including a detailed invoice for any demography services or analysis of municipal voting patterns.

Upon receiving a claim, the municipality may ask for additional financial documentation if the provided information is insufficient to substantiate the costs. The bill requires the municipality to reimburse the party for reasonable costs claimed or for an amount to which the party and municipality agree, but it caps the total reimbursement amount to all involved parties (other than SOTS) at $50,000 adjusted to any change in the consumer price index for all urban consumers. If a party and municipality fail to agree to a reimbursement amount, either one may file an action in Superior Court for the Hartford J.D. for a declaratory ruling.

Superior Court Determination

The bill requires the court to consider certain factors as more probative (i.e., tending to prove or disprove a point in issue) than others when determining whether (1) racially polarized voting by protected class electors in a municipality occurs or (2) based on the totality of circumstances, protected class members' ability to participate in the political process or election of their choice candidates is impaired.

Specifically, the court must consider:

1. elections held before the action's filing as more probative than elections conducted afterward,

2. evidence about elections for municipal office as more probative than evidence about elections for other offices, and

3. statistical evidence as more probative than nonstatistical evidence.

The bill prohibits the court from requiring evidence of the (1) electors', elected officials', or municipality's intent to discriminate against protected class electors and (2) causes or reasons for racially polarized voting.

Under the bill, if two or more protected classes bring claims, the court must combine the classes if they are politically cohesive in the municipality. The court cannot require evidence that each class is separately polarized from other electors.

The bill allows the court to consider the following when determining, based on the totality of the circumstances, whether an impairment of protected class members' voting rights, ability to elect their chosen candidates, or otherwise influence elections' outcomes has occurred:

1. the municipality's or state's history of discrimination;

2. the extent to which protected class members were elected to municipal office;

3. the municipality's use of any (a) elector qualification or other voting prerequisite; (b) statute, ordinance, regulation, or other law on election administration; or (c) related standard, practice, procedure, or policy, that may enhance dilutive effects of its election method;

4. any history of unequal access of protected class members or candidates to election administration or campaign finance

processes that determine which candidates will receive ballot access or financial or other support for municipal office;

5. the extent to which protected class members in the municipality or state historically make campaign expenditures at lower rates than other individuals in the municipality or state;

6. the extent to which protected class members in the municipality or state vote at lower rates than other individuals in the municipality or state, as applicable;

7. the extent to which protected class members in the municipality are disadvantaged, or otherwise bear the effects of discrimination in education, employment, health, criminal justice, housing, transportation, land use, environmental protection, or other areas that may hinder their ability to participate effectively in the political process;

8. the use of overt or subtle racial appeals in political campaigns in the municipality, or surrounding the adoption or maintenance of challenged practices;

9. the extent of hostility or barriers faced by protected class members while campaigning;

10. a significant or recurring lack of responsiveness of elected municipal officials to protected class members' needs (responsiveness does not include compliance with a court order); and

11. whether a valid and substantial state interest exists for a particular (a) election method; (b) ordinance, regulation, or other law on election administration; or (c) related standard, practice, procedure, or policy.

No combination or number of factors is required for a determination of impairment.

Court Remedies

Under the bill, the court must order appropriately tailored remedies when it finds a municipal violation of the above-prohibited acts, regardless of the state's election laws or any special act, charter, or home rule ordinance, even if otherwise normally precluded by state law. The remedy must (1) not contravene the state constitution or court ruling on a contested election, (2) ensure protected class members can equitably participate in the political process, (3) not impair protected class members' ability to elect their candidates of choice or otherwise influence the election outcome, (4) be implemented in a way that will not disrupt an imminent or ongoing election, and (5) take into account the ability of election administration officials in the municipality to implement the remedy in an orderly and fiscally sound manner.

These remedies include the following:

1. a district-based or an alternative election method;
2. new or revised districting or redistricting plans;
3. eliminating staggered elections so that legislative body members are simultaneously elected;
4. a reasonable increase in the legislative body's size;
5. additional voting days, voting hours, or polling locations;
6. additional means of voting or opportunities to return ballots;
7. holding special elections;
8. expanded elector admission opportunities;
9. additional elector education; or
10. restoring or adding people to registry lists.

The court may also retain jurisdiction and place a moratorium on implementing any different eligibility qualifications or prerequisites,

voting standards, practices, or procedures. The moratorium must remain in place until the court determines whether the qualification, prerequisite, standard, practice, or procedure does not have the purpose, and will not have the effect, of impairing the right to vote based on protected class membership or violating the bill's provisions. The finding cannot preclude a future cause of action preventing enforcement.

The bill requires the court to consider remedies proposed by any involved party and other interested persons but it prohibits giving deference or priority to a municipality's proposed remedy.

Proposals After Letter or Court Filing

Under the bill, after receiving a notification letter or the filing of a court action alleging a violation of the bill or federal VRA, a municipality must have its legislative body take certain actions on any proposal to enact and implement (1) a new election method to replace an at-large method or (2) a new districting or redistricting plan.

Before drawing a draft districting or redistricting plan, or transitioning to an alternative election method, the bill requires the municipality to hold at least one public hearing to receive input on the draft or proposal. Notice of the hearing must be published at least three weeks before the hearing. The bill also requires the municipality to do public outreach before the hearing, including to language minority groups, to explain the districting or redistricting process and encourage input.

The bill requires the municipality to publish and make available for public dissemination the draft districting or redistricting plans after they are drawn, but at least three weeks before a public hearing. The information must include the potential election sequence if the municipality's legislative body members will be elected to staggered terms under the plan.

The bill requires the municipality to hold at least one public hearing to discuss the draft or proposal. It must also publish and make available

for public dissemination any plan or plans revised at or after the hearings at least two weeks before adopting them.

Preliminary Election Relief

Under the bill, an aggrieved party may seek preliminary relief from the court for an upcoming regular election held in a municipality by filing an action during the 120 days before the election. To do so, the party must also send a notification letter to the municipality before they file. The bill requires the court to grant relief if it determines that the (1) aggrieved party has shown a substantial likelihood of success on the merits and (2) remedy would resolve the alleged violation before the election and not unduly disrupt it.

If the action is withdrawn or dismissed as moot due to the municipality enacting or implementing a remedy or SOTS approving a proposed remedy, then the party may only submit a reimbursement claim for costs associated with the notification letter (see above).

§ 3 — STATEWIDE ELECTIONS INFORMATION DATABASE

The bill establishes a statewide information database in the SOTS office to help the state and any municipality (1) evaluate whether, and to what extent, current election laws and practices meet the bill's provisions; (2) implement best practices in election administration to further the bill's purposes; and (3) investigate potential infringements of voting rights. The database must be published on the secretary's website, excluding any data or information that identifies individual voters.

The bill requires the secretary to designate an employee of her office to serve as the database manager. This employee must hold an advanced degree from an accredited college or university, or have equivalent experience, and have expertise in demography, statistical analysis, and electoral systems. The bill allows (1) the manager to operate the database and manage staff as needed to implement and maintain it and (2) SOTS to give nonpartisan technical assistance to municipalities, researchers, and the public on using the database's resources.

Database Contents

Under the bill, the database must electronically maintain, at minimum, the following data and records from at least the last 12 years:

1. estimates of total population, voting-age population, and citizen voting-age population by race, color, and language minority group, broken down annually to the municipal district level, based on information from the U.S. Census Bureau, including from the American Community Survey (ACS), or information of comparable quality collected by a similar governmental agency, accounting for population adjustments for incarcerated individuals as required under state law (see BACKGROUND);

2. district level election results for each statewide and municipal election;

3. regularly updated registry lists, geocoded locations for each elector, and voter history files for each election in each municipality;

4. contemporaneous maps, boundary descriptions, and similar items in shapefiles or a comparable electronic format if available;

5. geocoded locations for polling places and absentee ballot drop boxes for each election in the municipality, including a list or description of the location's service area; and

6. any other information the secretary deems advisable to further the bill's purposes.

Except for data, information, or estimates that identify individual electors, this information must be made publicly available in electronic format at no cost. Under the bill, any prepared estimate under this section must use the most advanced, peer-reviewed, and validated methodologies. The bill also establishes a rebuttable presumption that the data, estimates, or other information maintained in the database is valid in any action due to the denial or abridgment of protected classes'

voting rights.

The bill requires municipal election administrators to transmit any election-specific information listed above in electronic format to SOTS after certifying election results and completing the post-election voter history file. Additionally, on an annual basis, or as requested by SOTS, the Criminal Justice Information Systems Governing Board and any other state entity identified by SOTS must transmit any data, statistics, or information that the office requires to carry out its duties and responsibilities.

Once the secretary is prepared to administer the database, she must certify this in a report to the Government Administration and Elections Committee. Within 90 days after this certification, and then at least annually, she must publish on the SOTS website (1) a list of municipalities required to help language minority groups (see below) and (2) the languages for which each municipality must do it. The secretary must also distribute this information to each municipality.

§ 4 — LANGUAGE-RELATED ASSISTANCE

Assistance Requirements

The bill requires a municipality to provide language-related assistance in voting and elections if SOTS determines a significant and substantial need exists based on ACS information or data of comparable quality. Under the bill, a need exists if a certain percentage or number of the population are limited English proficient individuals (i.e., someone who does not speak English as his or her primary language and who speaks, reads, or understands the English language less than "very well," in accordance with U.S. Census Bureau data or data of comparable quality collected by a governmental entity).

Under the bill, SOTS must find that a significant need exists if:

1. more than 2% of the municipality's voting-age citizens, but at least 100 people, are limited English proficient individuals;

2. more than 4,000 of the municipality's voting-age citizens are

limited English proficient individuals; or

3. for a municipality with part of a Native American reservation, more than 2% of the reservation's Native American voting-age citizens are limited English proficient individuals ("Native American" includes anyone recognized as "American Indian" by the U.S. Census Bureau or the state of Connecticut).

It is unclear if the thresholds apply cumulatively to all limited English proficient individuals regardless of which language they speak.

Staring by January 15, 2024, SOTS must annually publish on its website a list of municipalities that must provide language assistance and which languages they each must cover. (The bill also requires her to do this within 90 days of certifying that she is ready to administer the statewide elections information database (see above); presumably, both deadlines apply.) SOTS must also give this information to every impacted municipality. The secretary's determinations for placement on this list are final and not subject to review except as provided in the state constitution.

Under the bill, these municipalities must give electors who are limited English proficient individuals voting materials in English and each designated language, including registration or voting notices, forms, instructions, assistance, ballots, or other materials or information about the electoral process. The requirement does not apply for a language minority group whose language is oral or unwritten, allowing the municipality to provide the information orally.

The translated materials must be of equal quality as the English materials and convey the intent and essential meaning of the original text or communication, including live translation whenever available. A municipality may not rely solely on an automatic translation service.

The bill allows aggrieved individuals or an organization that includes them to file an action in the Superior Court for the Hartford J.D. for violations of these provisions.

Review Process

The bill requires SOTS, through regulation, to establish a review process for determining whether a significant or substantial need for language assistance exists. This process must include:

1. accepting requests for SOTS to consider designating a language from (a) electors, (b) organizations that include or likely include electors, (c) organizations whose mission would be frustrated if language assistance was not provided, or (d) organizations that would expend resources to rectify a lack of language assistance;

2. an opportunity for public comment; and

3. allowing SOTS, as part of this determination process, to designate a language-assistance need for any municipality after considering the request and public comment.

(It is unclear whether this review process is distinct from SOTS's determination of need based on the thresholds described above or required as part of all determinations.)

§ 5 — PRECLEARANCE OF COVERED POLICIES BY COVERED JURISDICTIONS

The bill subjects certain jurisdictions (see below) to preclearance by SOTS or the Superior Court for the Hartford J.D. before enacting or implementing certain election- or voting-related actions or policies ("covered policies," see below). Jurisdictions may be covered if subject to court orders or government enforcement actions.

Under the bill, government enforcement actions include (1) any denial of administrative or judicial preclearance by the state or federal government, (2) pending litigation filed by a state or federal entity, (3) final judgment or adjudication, (4) a consent decree, or (5) a similar enforcement action.

A covered jurisdiction is subject to preclearance if, within the past 25 years, it:

1. has had three or more court orders or government enforcement actions for violating the bill's provisions, the federal VRA, a state or federal civil rights law, or the U.S. Constitution's 14th or 15th Amendments, on the right to vote or a pattern, practice, or policy of discrimination against a protected class or

2. has been subject to a court order or government enforcement action on districting, redistricting, or election methods.

SOTS may also adopt regulations to implement these preclearance procedures. The bill also authorizes the secretary or an aggrieved party under the bill to bring an action to the Superior Court for the Hartford J.D. to enjoin enacting or implementing a covered policy without this preclearance and to seek sanctions.

Covered Policies

Under the bill, a "covered policy" includes any municipal eligibility qualifications, election methods, ordinances, regulations, or other laws on election administration, or related standards, practices, procedures, or policies, regarding:

1. districting or redistricting;

2. election method;

3. form of government;

4. annexation, incorporation, dissolution, consolidation, or division of a municipality;

5. removal of individuals from registry or enrollment lists and other activities concerning the lists;

6. polling place hours and the number and location of polling places and absentee ballot drop boxes;

7. district assignment of polling places and absentee ballot drop box locations;

8. assistance offered to protected class members; or

9. any additional subject matter the secretary identifies for inclusion, under a regulation she adopts, if she determines that it may diminish a protected class elector's right to vote or violate the bill's provisions.

The bill specifies that SOTS's decision to include or not include additional subject matter is final and is not subject to review except as provided in the state constitution.

(Municipalities do not have the authority to establish policies and procedures for many of these aspects of elections which are instead outlined in the state constitution or laws or are under SOTS's authority. For example, the qualifications for admission as an elector are outlined in the state constitution and Title 9 and only the General Assembly has authority over the annexation, incorporation, dissolution, or consolidation of a municipality (see BACKGROUND).)

Covered Jurisdictions

The bill requires SOTS, at least annually, to identify and publish a list of "covered jurisdictions" that becomes effective upon publication (it is unclear what effect placement on this list has; covered jurisdictions appear only to be subject to preclearance as described above). A covered jurisdiction is a municipality:

1. that, within the last 25 years, was subject to a court order or government enforcement action based on a finding of a violation of the bill's provisions, the federal VRA, a state or federal civil rights law, or the U.S. Constitution's 14th or 15th Amendments concerning the right to vote or a pattern, practice, or policy of discrimination against a protected class;

2. that, within the last three years, failed to comply with its obligations to provide data or information to the statewide database (see above), excluding inadvertent or unavoidable delays communicated to SOTS and corrected in a reasonable

time;

3. in which protected class members (1) makeup 10% of eligible voters or (2) have at least 1,000 eligible electors, and in which during the last 10 years,

   a. based on data from the state criminal justice information systems, the combined misdemeanor and felony arrest rate for any protected class exceeded the combined arrest rate of the municipality's population by at least 20%, excluding municipalities that are school districts; or

   b. the voter turnout rate of protected class members for general elections was at least 10% lower than the percentage of all voters; or

4. that enacted or implemented a covered policy during the last 10 years without obtaining preclearance under the bill (this appears to include municipalities regardless of whether they were subject to preclearance requirements).

Any estimates prepared to identify a covered jurisdiction must use the most advanced, peer-reviewed, and validated methodologies. Additionally, a determination by SOTS for inclusion as a covered jurisdiction may be appealed under the Uniform Administrative Procedure Act (UAPA) and all appeals to Superior Court must be for the Hartford J.D. and privileged for trial assignment.

SOTS Preclearance

Under the bill, when a municipality submits a policy for preclearance, the covered jurisdiction bears the burden of proof. As soon as practicable, but within 10 days after receiving the submission, SOTS must publish the submitted covered policy on her website.

Preclearance Public Comment and Review Period. Before granting or denying the preclearance, the secretary must allow interested parties to submit written comments on the covered policy and

the subsequent determination. SOTS must provide a means for the public to receive notifications or alerts of preclearance submissions.

The bill also sets a deadline for SOTS to render a decision on a submission. The comment period and SOTS decision period run concurrently, and vary depending on the type of policy submitted, as outlined in the table below.

Table: Preclearance Comment and SOTS Decision Periods

General Policy	*Comment Period*	*SOTS Review and Decision Period*
Location of polling places or absentee ballot drop boxes	10 business days	Within 30 days after submission; may extend up to 20 additional days
District-based election methods, districting or redistricting plans, or a change to the municipality's form of government	20 business days	Within 90 days after submission; may extend up to 90 additional days twice
All other policies	10 business days	Within 90 days after submission; may extend up to 90 additional days twice

During the review period, SOTS may request that the covered jurisdiction provide any additional information necessary for SOTS determination. Failure to provide this information may be grounds for preclearance denial.

Preclearance Determinations. After her review, SOTS must publish a report of her determination on the SOTS website. SOTS must provide one of three responses in her determination: approval, denial, or preliminary preclearance.

If preclearance is approved, the jurisdiction may implement the policy. However, SOTS's determination may not be admitted or considered by a court in an action challenging the policy. A covered policy is precleared if the secretary does not act within the required time.

If preclearance is denied, SOTS must provide the objections serving

as the basis for denial and the covered policy may not be enacted or implemented. The bill only allows SOTS to deny preclearance to a covered policy if she determines that it will more likely than not (1) diminish protected class members' ability to participate in the political process, elect their choice candidates, or otherwise influence the election or (2) violate the bill's provisions. The bill allows a denial to be appealed to the Superior Court for the Hartford J.D. under the UAPA, which must be prioritized for trial assignment.

The secretary may also designate a policy for preliminary preclearance (i.e., subsequently make a final preclearance decision within 90 days after the original submission). (The status of a policy that receives preliminary preclearance is unclear.)

The bill also authorizes SOTS to establish regulations for an expedited, emergency preclearance process for covered policies submitted during or immediately preceding an attack, disaster, emergency, or other exigent circumstance. Any policy submitted under these circumstances may only be designated for preliminary preclearance.

Superior Court Preclearance

Alternatively, the bill allows a covered jurisdiction to seek preclearance of a covered policy from the Superior Court for the Hartford J.D. instead of SOTS. The covered jurisdiction must submit the policy to the court in writing and simultaneously copy the secretary. Failing to provide this copy results in automatic denial. The bill gives the court exclusive jurisdiction over the submission despite the requirement to give SOTS a copy. Just as under the preclearance process with SOTS, the covered jurisdiction bears the burden of proof for any preclearance determination.

Under the bill, the court must grant or deny the preclearance within 90 days after receiving the submission. Granting preclearance has the same effect as if SOTS granted it.

However, the court may deny preclearance only if it determines that

the policy will more likely than not (1) diminish the protected class members' ability to participate in the political process, elect their choice candidates, or otherwise influence the election or (2) violate the bill's provisions.

If the court denies preclearance or does not decide on it within 90 days, the covered policy cannot be enacted or implemented. The bill allows a denial to be appealed under the ordinary rules of appellate procedure, and it must be prioritized for appeal assignment.

§ 6 — ACTS OF INTIMIDATION, DECEPTION, OR OBSTRUCTION

Prohibited Acts

The bill prohibits anyone, whether acting in an official governmental capacity or otherwise, from engaging in intimidating, deceptive, or obstructive acts that affect the right to vote.

Under the bill, these prohibited acts are:

1. using or threatening to use force, violence, restraint, abduction, or duress; inflicting or threatening to inflict injury, damage, harm, or loss; or any other type of intimidation;

2. knowingly using a deceptive or fraudulent device, contrivance, or communication that causes interference; or

3. obstructing, impeding, or otherwise interfering with (a) access to a polling place, absentee ballot drop box, or an election official's office or place of business or (b) an elector or election official.

Court Action

The bill allows (1) SEEC, (2) the attorney general, (3) the state's attorney, (4) an aggrieved individual, or (5) an organization whose membership includes or likely includes aggrieved individuals, to bring an action to the Superior Court for the Hartford J.D. Any complainant must certify they have copied SEEC on the complaint through first-class mail or delivery or will copy SEEC not later than the following business day.

When finding a violation of these provisions, the bill requires the court, regardless of state election laws, any special act, charter, or home rule ordinance, to order appropriately tailored remedies to address the violation, including additional time to vote at an election, primary, or referendum. It makes violators of these provisions, and anyone who helps commit them, liable for court-awarded damages, including nominal damages and compensatory or punitive damages for willful violations.

The bill's prohibition applies regardless of certain state election law provisions that establish prohibited acts and associated criminal penalties. For example, under these existing laws, influencing or attempting to influence an elector to stay away from an election by force or threat, bribery, or corrupt, fraudulent, or deliberately deceitful means is a class D felony, punishable by a fine of up to $5,000, up to five years in prison, or both (CGS § 9-364).

BACKGROUND

Municipal Election Authority

Under longstanding Connecticut Supreme Court precedent, municipalities have no inherent powers (see *Windham Taxpayers Association, et al.* v. *Board of Selectmen, the Town of Windham, et al.* 234 Conn. 513 (1995)). Thus, for elections, municipalities may exercise only the specific powers granted to them by the state constitution's Home Rule provision (Article Tenth) and state law (see CGS §§ 7-148 & 7-187 to 7-194). Included in the statutorily enumerated powers are those implied by the law's express powers and those essential to accomplish the municipality's purpose, but neither give municipalities jurisdiction over conducting elections.

Additionally, the law generally requires municipal elections to be held and conducted like state elections (CGS § 9-228). However, some state laws do give municipalities election-related authority. For example, municipalities can determine whether to elect their officials at-large or by districts, where to have polling places, and whether to change the number of voting precincts (see CGS §§ 9-168 & -169).

SOTS

As the state's commissioner of elections, SOTS is charged with administering, interpreting, and implementing election laws and ensuring fair and impartial elections. Under the National Voter Registration Act of 1993, the secretary has the same responsibility for federal elections. The Connecticut Constitution and general statutes also designate her as the official keeper of many public records and documents, including the state's online voter registration system.

SEEC

SEEC has broad authority to, among other things, investigate possible violations of election laws; refer evidence of violations to the chief state's attorney or the attorney general; levy civil penalties for elections violations; issue advisory opinions; and make recommendations to the General Assembly about revisions to the state's election laws (CGS §§ 9-7a to 9-7c).

Federal VRA

The federal VRA of 1965 (52 U.S.C. § 10301 et seq.) generally prohibits discrimination in voting to enforce rights guaranteed to racial or language minorities by the 14th and 15th Amendments to the U.S. Constitution.

Section 5 of the act is a federal preclearance requirement, which prohibits certain jurisdictions (determined by a formula prescribed in Section 4) from implementing any change affecting voting without receiving preapproval from the U.S. attorney general or the U.S. District Court for the District of Columbia. Another provision requires jurisdictions with significant language minority populations to provide bilingual ballots and other election materials.

The VRA originally scheduled Section 5 to expire after five years. It was applied to jurisdictions with protected class voter registration or turnout rates below 50% in 1964 and "devices," like literacy tests, to discourage them from voting. On renewal, the law used data from 1968 and 1972 and defined a "device" to include English-only ballots in

places where at least 5% of voting-age citizens spoke a single language other than English. Jurisdictions free of voting discrimination for 10 years could be released from coverage by a court, as was the case in Groton, Mansfield, and Southbury, Connecticut.

Additionally, section 3(c), known as the bail-in provision, authorizes federal courts to impose federal preclearance on jurisdictions. If a federal court determines that violations of the 14th and 15th Amendments justifying equitable relief have occurred, the court must retain jurisdiction for a period it deems appropriate. During that period, the jurisdiction cannot change specified voting laws or practices until the court determines that the change neither has the purpose, nor will have the effect, of denying or abridging the right to vote based on race, color, or language minority status.

Shelby County v. Holder

In *Shelby County* v. *Holder*, (570 U.S. 529 (2013)), the U.S. Supreme Court struck down the federal VRA's coverage formula (Section 4), which determined the covered jurisdictions subject to preclearance requirements. (It applied to nine states — Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia — and many counties and municipalities in other states, including Brooklyn, Manhattan, and the Bronx.)

Congress had most recently extended the law in 2006 for 25 years but continued to use data from the 1975 reauthorization to determine covered jurisdictions. The Court found that using this data made the formula no longer responsive to current needs and therefore an impermissible burden on federalism and state sovereignty.

Although the Court did not strike down Section 5, it is unenforceable without Section 4's coverage formula or a separate court order. Thus, changes in voting procedures in jurisdictions previously covered by the VRA are now generally subject only to after-the-fact litigation.

Adjustment of Census Data for Incarcerated Individuals

Under state law, U.S. census population data must be adjusted to

count most prison inmates at their address before incarceration instead of at their prison address. It requires that this adjusted data, as well as the unadjusted data, be the basis for determining state legislative districts and municipal voting districts. Inmate addresses are not adjusted if the inmate is serving a life sentence without the possibility of release.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 12 Nay 6 (03/27/2023)