



House of Representatives

General Assembly

File No. 408

February Session, 2024

Substitute House Bill No. 5310

House of Representatives, April 10, 2024

The Committee on Government Administration and Elections reported through REP. BLUMENTHAL of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PRESIDENTIAL ELECTORS AND THE CERTIFICATION OR DECLARATION OF ELECTION RESULTS.

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

1 Section 1. Section 9-176 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2024*):

3 (a) The presidential electors shall meet at the office of the Secretary of
4 the State at twelve o'clock [,] noon [,] on the first [Monday] Tuesday after
5 the second Wednesday of the December following their election and, as
6 required by the Constitution and laws of the United States, shall cast
7 their ballots for President and Vice President. Each such elector shall
8 cast [his] such elector's ballots for the candidates under whose names
9 [he] such elector ran on the official election ballot, as provided in section
10 9-175. If any such elector is absent or if there is a vacancy in the electoral
11 college for any cause, the electors present shall, before voting for
12 President and Vice President, elect by ballot an elector to fill such
13 vacancy, and the person so chosen shall be a presidential elector, shall

14 perform the duties of such office and shall cast his or her ballots for the
15 candidates to whom the elector that he or she is replacing was pledged.
16 In the case of any such elector who fails to cast such elector's ballots for
17 the candidates under whose names such elector ran on the official
18 election ballot, or who fails to cast such elector's ballots for the
19 candidates to whom the elector that he or she is replacing was pledged,
20 (1) the votes of such elector shall be nullified, (2) such elector shall forfeit
21 such elector's office as presidential elector, causing a vacancy in the
22 electoral college, and (3) the other electors present shall elect by ballot
23 an elector to fill such vacancy, and the person so chosen shall be a
24 presidential elector, shall perform the duties of such office and shall cast
25 his or her ballots for the candidates to whom the elector that he or she is
26 replacing was pledged.

27 (b) Any presidential elector who fails to cast such elector's ballots for
28 the candidates under whose names such elector ran on the official ballot,
29 or who fails to cast such elector's ballots for the candidates to whom the
30 elector that he or she is replacing was pledged, shall be ineligible, upon
31 such failure and thereafter, to the office of presidential elector.

32 (c) If, in accordance with Article IV of the Agreement Among the
33 States to Elect the President by National Popular Vote under section 9-
34 175a, said agreement takes effect generally and the chief executive, as
35 defined in said section, of this state notifies the chief executive of all
36 other states that said agreement has taken effect generally, the
37 provisions of subsections (a) and (b) of this section shall cease to be
38 effective upon such notification.

39 Sec. 2. Section 9-323 of the general statutes is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2024*):

41 Any elector or candidate who claims that he or she is aggrieved by
42 any ruling of any election official in connection with any election for
43 presidential electors and for a senator in Congress and for
44 representative in Congress or any of them, held in his or her town, or
45 that there was a mistake in the count of the votes cast at such election
46 for candidates for such electors, senator in Congress and representative

47 in Congress, or any of them, at any voting district in his or her town, or
48 any candidate for such an office who claims that he or she is aggrieved
49 by a violation of any provision of section 9-355, 9-357 to 9-361, inclusive,
50 9-364, 9-364a or 9-365 in the casting of absentee ballots at such election,
51 may bring his or her complaint to any judge of the Supreme Court, in
52 which he or she shall set out the claimed errors of such election official,
53 the claimed errors in the count or the claimed violations of said sections.
54 In any action brought pursuant to the provisions of this section, the
55 complainant shall file a certification attached to the complaint indicating
56 that a copy of the complaint has been sent by first-class mail or delivered
57 to the State Elections Enforcement Commission. If such complaint is
58 made prior to such election, such judge shall proceed expeditiously to
59 render judgment on the complaint and shall cause notice of the hearing
60 to be given to the Secretary of the State and the State Elections
61 Enforcement Commission. If such complaint is made subsequent to the
62 election, it shall be brought not later than fourteen days after the election
63 or, if such complaint is brought in response to the manual tabulation of
64 paper ballots authorized pursuant to section 9-320f, such complaint
65 shall be brought not later than seven days after the close of any such
66 manual tabulation, and in either such circumstance, the judge shall
67 forthwith order a hearing to be had upon such complaint, upon a day
68 not more than five or less than three days from the making of such order,
69 and shall cause notice of not less than three or more than five days to be
70 given to any candidate or candidates whose election may be affected by
71 the decision upon such hearing, to such election official, to the Secretary
72 of the State, to the State Elections Enforcement Commission and to any
73 other party or parties whom such judge deems proper parties thereto,
74 of the time and place for the hearing upon such complaint. Such judge,
75 with two other judges of the Supreme Court to be designated by the
76 Chief Court Administrator, shall, on the day fixed for such hearing and
77 without unnecessary delay, proceed to hear the parties. If sufficient
78 reason is shown, such judges may order any voting tabulators to be
79 unlocked or any ballot boxes to be opened and a recount of the votes
80 cast, including absentee ballots, to be made. Such judges shall
81 thereupon, in the case they, or any two of them, find any error in the

82 rulings of the election official, any mistake in the count of such votes or
83 any violation of said sections, certify the result of their finding or
84 decision, or the finding or decision of a majority of them, to the Secretary
85 of the State before the first [Monday] Tuesday after the second
86 Wednesday in December. Such judges may order a new election or a
87 change in the existing election schedule, provided such order complies
88 with Section 302 of the Help America Vote Act, P.L. 107-252, as amended
89 from time to time. Such certificate of such judges, or a majority of them,
90 shall be final upon all questions relating to the rulings of such election
91 officials, to the correctness of such count and, for the purposes of this
92 section only, such claimed violations, and shall operate to correct the
93 returns of the moderators or presiding officers so as to conform to such
94 finding or decision.

95 Sec. 3. Section 9-315 of the general statutes is repealed and the
96 following is substituted in lieu thereof (*Effective October 1, 2024*):

97 (a) The votes returned as cast for a senator in Congress,
98 representatives in Congress and presidential electors shall be publicly
99 counted by the Treasurer, Secretary of the State and Comptroller on the
100 last Wednesday of the month in which they were cast, and such votes
101 shall be counted in conformity to any decision rendered by the judges
102 of the Supreme Court as provided in section 9-323, as amended by this
103 act. In accordance with the count so made, they shall, on said day,
104 declare what persons are elected senators in the Congress of the United
105 States or representatives in Congress, and the Secretary of the State shall
106 forthwith notify them by mail of their election; and they shall declare
107 the proper number of persons having the greatest number of votes to be
108 presidential electors and, in case of an equal vote for said electors, shall
109 determine by lot from the persons having such equal number of votes
110 the persons appointed, and the Secretary of the State shall forthwith
111 notify them by mail of their appointment. Except as otherwise provided
112 in this title, any duty under this subsection that is required of the
113 Treasurer, Secretary of the State or Comptroller is ministerial and is not
114 discretionary.

115 (b) If the Treasurer, Secretary of the State or Comptroller fails to carry
116 out any duty required under subsection (a) of this section, any resident
117 of the state may bring an action against said officer, as applicable, in the
118 Supreme Court for a writ of mandamus to compel said officer to carry
119 out such duty. The Supreme Court may refer such action to the Superior
120 Court for proceedings related to the finding of facts, in accordance with
121 rules and procedures adopted by the Supreme Court, for the purpose of
122 assisting the Supreme Court in applying the law to determine whether
123 any such writ should be issued. Any such resident who prevails in such
124 action shall be entitled to recover court costs and reasonable attorney's
125 fees.

126 Sec. 4. Section 9-316 of the general statutes is repealed and the
127 following is substituted in lieu thereof (*Effective October 1, 2024*):

128 (a) The Treasurer, Secretary of the State and Comptroller shall, within
129 thirty days after a vacancy election for a senator in Congress or
130 representative in Congress, subject to the provisions of section 9-323, as
131 amended by this act, publicly count the votes returned, and declare
132 what person is elected, and the Secretary of the State shall forthwith
133 notify [him] such person by mail of [his] such person's election. The
134 Secretary of the State shall enter the returns in tabular form in books
135 kept by [him] the Secretary for that purpose and present a copy of the
136 same, with the name of, and the total number of votes received by, each
137 of the candidates for said office, to the Governor within ten days
138 thereafter. Except as otherwise provided in this title, any duty under this
139 subsection that is required of the Treasurer, Secretary of the State or
140 Comptroller is ministerial and is not discretionary.

141 (b) If the Treasurer, Secretary of the State or Comptroller fails to carry
142 out any duty required under subsection (a) of this section, any resident
143 of the state may bring an action against said officer, as applicable, in the
144 Supreme Court for a writ of mandamus to compel said officer to carry
145 out such duty. The Supreme Court may refer such action to the Superior
146 Court for proceedings related to the finding of facts, in accordance with
147 rules and procedures adopted by the Supreme Court, for the purpose of

148 assisting the Supreme Court in applying the law to determine whether
149 any such writ should be issued. Any such resident who prevails in such
150 action shall be entitled to recover court costs and reasonable attorney's
151 fees.

152 Sec. 5. Section 9-317 of the general statutes is repealed and the
153 following is substituted in lieu thereof (*Effective October 1, 2024*):

154 When any senator in Congress has been elected, the Governor shall
155 certify [his] such election under the seal of the state to the President of
156 the Senate of the United States, which certificate shall be countersigned
157 by the Secretary of the State. Except as otherwise provided in this title,
158 the Governor's duty to so certify and the Secretary's duty to so
159 countersign are ministerial and are not discretionary. If the Governor
160 fails to so certify or the Secretary fails to so countersign, any resident of
161 the state may bring an action against said officer, as applicable, in the
162 Supreme Court for a writ of mandamus to compel said officer to carry
163 out such duty. The Supreme Court may refer such action to the Superior
164 Court for proceedings related to the finding of facts, in accordance with
165 rules and procedures adopted by the Supreme Court, for the purpose of
166 assisting the Supreme Court in applying the law to determine whether
167 any such writ should be issued. Any such resident who prevails in such
168 action shall be entitled to recover court costs and reasonable attorney's
169 fees.

170 Sec. 6. Section 9-318 of the general statutes is repealed and the
171 following is substituted in lieu thereof (*Effective October 1, 2024*):

172 (a) The votes for Governor, Lieutenant Governor, Secretary of the
173 State, Treasurer, Comptroller and Attorney General shall be canvassed
174 by the persons authorized to receive and count the same, within thirty
175 days next after they were cast, unless a complaint under the provisions
176 of section 9-324 is pending, in which case such canvass shall not be made
177 until after the third Monday of December next after they were cast. In
178 making such canvass, the votes upon the returns made by presiding
179 officers shall be counted in conformity to the decision of the judge of the
180 Superior Court or of the Supreme Court, as the case may be, and such

181 canvass shall be in conformity to such decision, and a fair list of such
182 votes made to conform to the original returns of the presiding officers,
183 as corrected or affected by the finding or decision of such judge, with
184 the original returns of the presiding officers and certified copies of the
185 decision of such judge, shall, on the first day of the session, be laid before
186 the General Assembly, which shall declare who are elected to said
187 offices respectively. Except as otherwise provided in this title, any duty
188 under this subsection that is required of the persons authorized to
189 receive and count the votes for Governor, Lieutenant Governor,
190 Secretary of the State, Treasurer, Comptroller or Attorney General, or
191 that is required of the General Assembly, is ministerial and is not
192 discretionary.

193 (b) (1) If any of the persons authorized to receive and count the votes
194 for Governor, Lieutenant Governor, Secretary of the State, Treasurer,
195 Comptroller or Attorney General fail to carry out any duty required
196 under subsection (a) of this section, any resident of the state may bring
197 an action against such person, as applicable, in the Supreme Court for a
198 writ of mandamus to compel such person to carry out such duty. The
199 Supreme Court may refer such action to the Superior Court for
200 proceedings related to the finding of facts, in accordance with rules and
201 procedures adopted by the Supreme Court, for the purpose of assisting
202 the Supreme Court in applying the law to determine whether any such
203 writ should be issued.

204 (2) If the General Assembly fails to declare who is elected to any of
205 said offices, as required under subsection (a) of this section and in
206 accordance with the provisions of section 9-173, any resident of the state
207 may bring an action against the General Assembly in the Supreme Court
208 for a writ of mandamus to compel the General Assembly to carry out
209 such duty. The Supreme Court may refer such action to the Superior
210 Court for proceedings related to the finding of facts, in accordance with
211 rules and procedures adopted by the Supreme Court, for the purpose of
212 assisting the Supreme Court in applying the law to determine whether
213 any such writ should be issued.

214 (3) Any resident of the state who prevails in an action brought under
215 subdivision (1) or (2) of this subsection shall be entitled to recover court
216 costs and reasonable attorney's fees.

217 Sec. 7. Section 9-319 of the general statutes is repealed and the
218 following is substituted in lieu thereof (*Effective October 1, 2024*):

219 (a) The votes for state senators, state representatives and judges of
220 probate, as returned by the moderators, shall be canvassed, during the
221 month in which they are cast, by the Treasurer, Secretary of the State
222 and Comptroller, and they shall declare, except in case of a tie vote, who
223 is elected senator in each senatorial district, representative in each
224 assembly district and judge of probate in each probate district. The
225 Secretary of the State shall, within three days after such declaration, give
226 notice by mail to each person chosen state senator, state representative
227 or judge of probate of [his] such person's election. Except as otherwise
228 provided in this title, any duty under this subsection that is required of
229 the Treasurer, Secretary of the State or Comptroller is ministerial and is
230 not discretionary.

231 (b) If the Treasurer, Secretary of the State or Comptroller fails to carry
232 out any duty required under subsection (a) of this section, any resident
233 of the state may bring an action against said officer, as applicable, in the
234 Supreme Court for a writ of mandamus to compel said officer to carry
235 out such duty. The Supreme Court may refer such action to the Superior
236 Court for proceedings related to the finding of facts, in accordance with
237 rules and procedures adopted by the Supreme Court, for the purpose of
238 assisting the Supreme Court in applying the law to determine whether
239 any such writ should be issued. Any such resident who prevails in such
240 action shall be entitled to recover court costs and reasonable attorney's
241 fees.

242 Sec. 8. Subsections (b) and (c) of section 51-199 of the general statutes
243 are repealed and the following is substituted in lieu thereof (*Effective*
244 *October 1, 2024*):

245 (b) The following matters shall be taken directly to the Supreme

246 Court: (1) Any matter brought pursuant to the original jurisdiction of
 247 the Supreme Court under section 2 of article [sixteen] sixteenth of the
 248 amendments to the Constitution; (2) an appeal in any matter where the
 249 Superior Court declares invalid a state statute or a provision of the state
 250 Constitution; (3) an appeal in any criminal action involving a conviction
 251 for a capital felony under the provisions of section 53a-54b in effect prior
 252 to April 25, 2012, class A felony or any other felony, including any
 253 persistent offender status, for which the maximum sentence which may
 254 be imposed exceeds twenty years; (4) review of a sentence of death
 255 pursuant to section 53a-46b; (5) any election or primary dispute brought
 256 to the Supreme Court pursuant to section 9-323, as amended by this act,
 257 or 9-325, or any action for a writ of mandamus brought to the Supreme
 258 Court pursuant to sections 9-315 to 9-319, inclusive, as amended by this
 259 act; (6) an appeal of any reprimand or censure of a probate judge
 260 pursuant to section 45a-65; (7) any matter regarding judicial removal or
 261 suspension pursuant to section 51-51j; (8) an appeal of any decision of
 262 the Judicial Review Council pursuant to section 51-51r; (9) any matter
 263 brought to the Supreme Court pursuant to section 52-265a; and (10) any
 264 other matter as provided by law.

265 (c) The Supreme Court may transfer to itself a cause in the Appellate
 266 Court. Except for any matter brought pursuant to its original
 267 jurisdiction under section 2 of article [sixteen] sixteenth of the
 268 amendments to the Constitution, the Supreme Court may transfer a
 269 cause or class of causes from itself, including any cause or class of causes
 270 pending on July 1, 1983, to the Appellate Court. The court to which a
 271 cause is transferred has jurisdiction.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	9-176
Sec. 2	<i>October 1, 2024</i>	9-323
Sec. 3	<i>October 1, 2024</i>	9-315
Sec. 4	<i>October 1, 2024</i>	9-316
Sec. 5	<i>October 1, 2024</i>	9-317
Sec. 6	<i>October 1, 2024</i>	9-318

Sec. 7	October 1, 2024	9-319
Sec. 8	October 1, 2024	51-199(b) and (c)

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 25 \$	FY 26 \$
Comptroller - Adjudicated Claims Account	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill creates a mechanism to compel elected officials to carry out their duties, allows for a resident to bring forth a suit on the matter, and results in a potential cost to the adjudicated claims account to the extent that claims against the state are made and are successful. The bill requires repayment of court fees and reasonable attorney's fees to residents of a prevailing action.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to prevailing action and associated costs.

OLR Bill Analysis**sHB 5310*****AN ACT CONCERNING PRESIDENTIAL ELECTORS AND THE CERTIFICATION OR DECLARATION OF ELECTION RESULTS.*****SUMMARY**

This bill creates several practices regarding the certification and election of public officials. Specifically, the bill does the following:

1. establishes procedures for nullifying the vote of, and removing and replacing, a presidential elector who does not vote as pledged (i.e., a faithless elector) (§ 1);
2. bars faithless electors from serving as presidential electors in the future (§ 1);
3. specifies that certain provisions on presidential electors are no longer effective if the National Popular Vote Interstate Compact (NPVIC) takes effect (§ 1);
4. moves, by one day, the date that (a) presidential electors convene and (b) state Supreme Court judges must certify the results of their finding or decision on an election official error or mistake in the vote count, from the first Monday after the second Wednesday in December to the first Tuesday after the second Wednesday in December (§§ 1 & 2);
5. specifies certain election certification duties are ministerial, not discretionary (§§ 3-7); and
6. authorizes any state resident to bring mandamus actions against certain officials charged with certifying election results (§§ 3-8).

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2024

§ 1 — FAITHLESS ELECTORS

Under existing law, when a voter casts a ballot for a presidential candidate, the ballot is cast for a slate of presidential electors who have pledged to vote for that candidate when all state electors convene to choose the president and vice president of the United States (CGS § 9-175). State law currently requires presidential electors to vote for the presidential and vice-presidential candidates under whose names they ran on the official ballot, but it does not impose consequences if they fail to do so.

In the case of a presidential elector who does not vote for the candidates under whose name he or she ran on the ballot, the bill does the following:

1. nullifies the vote;
2. requires the elector to forfeit his or her office as presidential elector, causing a vacancy;
3. requires the other electors present to elect by ballot a replacement elector to fill the vacancy;
4. requires the replacement elector to vote for the candidates to whom the elector being replaced was pledged; and
5. bars future eligibility as an elector.

The bill also applies these provisions to replacement presidential electors who fail to vote for the candidates to whom the elector being replaced was pledged.

Additionally, the bill specifies that the law on presidential electors' casting of ballots, and the bill's related provisions, cease to be effective if the NPVIC (see BACKGROUND) takes effect under existing law (CGS

§ 9-175a).

§§ 3-8 — WRIT OF MANDAMUS

The bill allows any state resident to bring a mandamus action directly to the Connecticut Supreme Court to compel certain officers to comply with laws relating to certification or declaration of election results (see the table below). The bill also establishes the court's jurisdiction to hear these cases and allows them to refer the action to a superior court for fact-finding proceedings to assist the state Supreme Court in determining whether a mandamus should be issued.

Additionally, if a resident prevails in his or her mandamus action, the bill allows the recovery of court costs and reasonable attorney's fees.

A writ of mandamus is a court order that compels a public official or agency to perform a specific duty. However, under Connecticut Supreme Court precedent, a writ is only proper when "(1) the law imposes on the party against whom the writ would run a duty the performance of which is mandatory and not discretionary; (2) the party applying for the writ has a clear legal right to have the duty performed; and (3) there is no other specific adequate remedy" (*Miles v. Foley*, 253 Conn. 381 (2000)).

The bill also specifies that the official's duties regarding the covered offices are ministerial, not discretionary, except as provided elsewhere by state election law.

Table: Covered Offices and Certifying Officials

§	Office to be Certified	Certifying Officials
3	Congressional legislators and presidential electors	Treasurer, secretary of the state (SOTS), and comptroller
4	Vacancy for Congressional seat	Treasurer, SOTS, and comptroller
5	Congressional senator	Governor and SOTS
6	Governor, lieutenant governor, and constitutional officers	People authorized to receive and count the votes and the General Assembly
7	State legislators and probate judges	Treasurer, SOTS, and comptroller

BACKGROUND

Related Case

In 2020, the U.S. Supreme Court affirmed a Washington Supreme Court decision, holding that a state may constitutionally enforce a presidential elector's pledge to support his or her party's nominee, and the state voters' choice, for president (*Chiafalo et al. v. Washington*, 140 S. Ct. 2316 (2020)).

National Popular Vote Interstate Compact

The NPVIC is an interstate agreement that any state party to the agreement will commit its presidential electors to the national popular vote winner if enough jurisdictions have done so to cumulatively possess a majority of the Electoral College votes (currently 270 of 538 votes).

To date, 15 other states (California, Colorado, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington) and Washington, D.C. have adopted the compact. Together with Connecticut, they currently hold 205 electoral votes. (These electoral votes are based on population and the U.S. Census; so, they are current until at least the next decennial census in 2030.)

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 15 Nay 4 (03/22/2024)