



SENATE BILL 88: Various Elections Changes.

2023-2024 General Assembly

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Analysis of:	Second Edition		Staff Attorneys

OVERVIEW: *Senate Bill 88 would do the following:*

- *Require county boards of elections to challenge any ballot cast during early voting or by absentee ballot if records indicate that the voter was not eligible to cast a ballot on Election Day due to death or felony conviction.*
- *Require disclosure for certain misleading uses of generative artificial intelligence for advertisements in print media, on radio, or on television produced using generative artificial intelligence.*
- *Require the State Board of Elections (State Board) to continue the pilot program for signature verification on executed absentee ballots in the 2024 primary and general election, and report findings and recommendations to the General Assembly by January 29, 2025.*
- *Require county boards of elections to use signature verification software to check the signatures of voters on executed absentee ballots before those ballots are accepted by the county board, beginning July 1, 2025.*
- *Provide that, if the General Assembly has enacted a local act altering a county or city's form of government, the county or city affected by that local act may only alter its form of government if that alteration becomes effective with the election subsequent to the return of the next federal decennial census conducted after the effective date of the local act.*

Challenges to Certain Ballots Cast:

CURRENT LAW: The county boards of elections meet at 11:00 A.M. on the tenth day after every election to complete the canvass of votes cast. At this meeting, the county boards of elections determine whether votes have been counted and tabulated correctly.

Any registered voter residing in the same county as an absentee voter can challenge that voter's absentee ballot. Absentee ballots received by a county board by 7:30 P.M. on election day must be challenged no later than 5:00 P.M. on the fifth business day after the election.

BILL ANALYSIS: *Section 1* would require, before 5:00 P.M. on the third business day before the canvass meeting, each county board to review information from DHHS on the names of deceased residents of the State and information on all individuals against whom a final judgment of conviction of a felony

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has been entered. The county board would compare this information to the records of voters who cast a ballot during early voting and who cast absentee ballots in that county. If it is determined that any voter casting a ballot during early voting or by absentee ballot was not eligible to vote on the day of the Election due to death or felony conviction, the county director of elections (or designee) would be required to challenge the ballot.

Use of Artificial Intelligence in Political Ads:

CURRENT LAW: Part 1A of Article 22A of Chapter 163 of the General Statutes governs disclosure requirements for media advertisements. Advertisements include any message appearing in print media, on television, or on radio that constitutes a contribution or expenditure.

To sponsor a media advertisement in print media, radio, or television that constitutes a contribution, expenditure, or electioneering communication, the media advertisement must meet all of the following requirements:

- Contain a legend or statement with the name of who paid for the advertisement. If it is a television advertisement, the legend must be visual.
- Contain the name of who paid for the advertisement as it appears on the sponsor's statement of organization.
- In a print media advertisement supporting or opposing the nomination or election of candidates, contain information on whether it is authorized by a candidate in a visual legend. This does not apply if the sponsor of the advertisement is the candidate the advertisement supports or that candidate's campaign committee.
- In a print media advertisement identifying a candidate the sponsor is opposing, disclose the name of the candidate who is intended to benefit from the advertisement. This only applies when the sponsor coordinates or consults about the advertisement with the candidate who the advertisement is intended to benefit.

If the advertisement is jointly sponsored, any of the above disclosure statements must name all sponsors.

Any required disclosure statement for print media advertisements must comply with size requirements. Any required disclosure statement for television advertisements must comply with visual legend requirements. Any required disclosure statement for radio advertisements must comply with timing requirements.

Any sponsor who misrepresents the sponsorship or authorization of an advertisement that must comply with the disclosure requirements is guilty of a Class 1 misdemeanor.

BILL ANALYSIS: Effective July 1, 2024, and applicable to offenses committed on or after that date, **Section 2** would require any advertisement in print media, on radio, or on television constituting an expenditure, independent expenditure, electioneering communication, or contribution that was created in whole or in part with the use of generative artificial intelligence to disclose the use of that generative artificial intelligence if any of the following apply:

- The generated content appears to depict a real person performing an action that did not actually occur.
- The generated content was created to injure a candidate or deceive regarding a ballot issue.
- The generated content provides false or misleading information to a voter.

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A violation of this provision would be a Class 1 misdemeanor.

Signature Verification for Absentee Ballots:

CURRENT LAW: When completing an absentee ballot, the application must be completed and signed by the voter personally, the ballots marked and sealed in the container-return envelope, and the certificate completed. The voter must complete the absentee ballot in the presence of two voters who are at least 18 and not a candidate or employee of certain adult care homes, or in front of a notary public. Both individuals must sign the absentee application and certificate as witnesses and indicate their addresses. If a near relative or legal guardian assisted the voter, that individual's name and address must also be listed. Currently, there is no signature matching process required for executed absentee ballots.

S.L. 2023-140 required the State Board to select ten counties in the State in which to conduct a pilot program during the 2024 primary for signature verification on executed absentee ballots. The counties were required to be diverse in population size, regional location, and demographic composition. The State Board was to select software that would be used for the signature verification. All absentee ballots that were otherwise eligible to be counted during the primary were to be counted, regardless of any rejection by the signature verification software.

The county boards of elections for the selected counties were to report to the State Board their findings during the 2024 primary. The State Board was to then compile the reports from the county boards and deliver its findings and recommendations to the General Assembly by May 1, 2024.

BILL ANALYSIS: *Section 4* would require the pilot program to be extended to the general election in 2024, using the same ten counties selected by the State Board for the 2024 primary.

For the 2024 primary, the ten selected county boards of elections would be required to conduct the signature matching after the fact for all absentee ballots that were counted by the county board during that primary. For the 2024 general election, the ten county boards of elections would be required to conduct signature matching, in real time, for all absentee ballots as the applications are approved by the county boards.

The selected county boards of elections would report to the State Board its findings from the 2024 primary and general election. The State Board would compile the reports from the county boards and deliver its findings and recommendations to the General Assembly by January 29, 2025.

Section 3, effective July 1, 2025, would require the State Board to require county boards of elections to use signature verification software to check the signatures of voters on an executed absentee ballot before the absentee ballot is accepted by the county board.

Limits on Alterations to Form of Government:

CURRENT LAW:

Counties: Part 4 of Article 4 of Chapter 153A of the General Statutes authorizes the county boards of commissioners to initiate a referendum to be submitted to the voters in that county on whether to make any of the following changes to the structure of the board:

- The number of board members.
- The length and staggering of terms of office.
- The mode of election (at-large, residency, or electoral districts).
- The method of selecting a chair.

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To initiate these types of alterations, the county board of commissioners must adopt a resolution describing the proposal, setting forth the method of board transition, defining any electoral districts, and calling for a referendum. If a majority of the votes are not in favor of the proposition, the resolution is void. If a majority of the votes are in favor of the proposition, the alterations become effective with the first primary and general election for county offices conducted after the referendum.

Cities: Part 4 of Article 5 of Chapter 160A authorizes a city to change its form of government. This process can be initiated by either the city council or by petition of the voters of the city. To do this, the citizens must submit a petition, containing an explanation of the proposed change, to the city council with a specified number of signatures and resident addresses of qualified voters. If the council receives a valid petition, then the council must call a special election on the question of adopting the charter amendment. If a majority of the votes cast in the special election are in favor of the proposed changes, the council must adopt an ordinance amending the charter to put them into effect.

BILL ANALYSIS: Section 5 would provide that, if the General Assembly has enacted a local act altering a county or city's form of government, the county or city affected by that local act may only alter its form of government if that alteration becomes effective with the election subsequent to the return of the next federal decennial census conducted after the effective date of the local act.

EFFECTIVE DATE: Except as otherwise provided, effective when it becomes law.