

REGULAR CALENDAR

April 14, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Election Law to which was referred SB 242,

AN ACT relative to the disqualification of certain persons from performing the duties of an election official. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Peter Torosian

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Election Law
Bill Number:	SB 242
Title:	relative to the disqualification of certain persons from performing the duties of an election official.
Date:	April 14, 2022
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2022-1353h

STATEMENT OF INTENT

This bill as amended makes a change to election officials' duties at the polling place when that person is a candidate on the ballot. The bill provides that the election official who is on the ballot shall not be allowed to remain in the area designated for the counting of votes within the guardrail during the counting of votes for an office for which he or she is a candidate. Additionally, the bill specifically provides that the effected official who cannot go in the area where votes are being tabulated, may be assigned to other duties by the moderator. This issue is one that comes before the committee nearly every session because of the perceived advantage to a candidate who can be at the polls all day. The majority finds this change is a step towards leveling the rules for all candidates. It ensures that an individual on the ballot will not be involved in the counting process, but will still be able to perform, delegate, or appoint a sworn assistant to complete their tasks.

Vote 11-9.

Rep. Peter Torosian
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Election Law

SB 242, relative to the disqualification of certain persons from performing the duties of an election official. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Peter Torosian for the **Majority** of Election Law. This bill as amended makes a change to election officials' duties at the polling place when that person is a candidate on the ballot. The bill provides that the election official who is on the ballot shall not be allowed to remain in the area designated for the counting of votes within the guardrail during the counting of votes for an office for which he or she is a candidate. Additionally, the bill specifically provides that the effected official who cannot go in the area where votes are being tabulated, may be assigned to other duties by the moderator. This issue is one that comes before the committee nearly every session because of the perceived advantage to a candidate who can be at the polls all day. The majority finds this change is a step towards leveling the rules for all candidates. It ensures that an individual on the ballot will not be involved in the counting process, but will still be able to perform, delegate, or appoint a sworn assistant to complete their tasks. **Vote 11-9.**

Original: House Clerk

Cc: Committee Bill File

REGULAR CALENDAR

April 14, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Minority of the Committee on Election Law to
which was referred SB 242,**

**AN ACT relative to the disqualification of certain
persons from performing the duties of an election
official. Having considered the same, and being unable
to agree with the Majority, report with the following
resolution: RESOLVED, that it is INEXPEDIENT TO
LEGISLATE.**

Rep. Paul Bergeron

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Election Law
Bill Number:	SB 242
Title:	relative to the disqualification of certain persons from performing the duties of an election official.
Date:	April 14, 2022
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill attempts to address the appearance of conflict presented when certain election officials (including moderators and selectmen) perform election day duties for elections in which they also appear on the ballot for another office. It proposes to do so by disqualifying said officials from remaining inside the guardrail during the counting of votes. This bill is in conflict with Part 2, Article 32, of the NH Constitution which provides that elections shall be “governed by a moderator, who shall, in the presence of the selectmen (whose duty it shall be to attend)... receive the votes of all the inhabitants of such towns and wards...” Existing statutes require that the moderator assist in processing absentee ballots, oversee the counting of write-ins, rule on challenges of a person’s right to vote, and sign closing paperwork and ballot box seals. By banning these election officials from “the area designated for the handling of marked ballots and for the counting of votes within the guardrail,” the bill essentially bans these election officials from the polling place. Existing law which prohibits election officials who appear on a ballot from handling marked ballots sufficiently protects the integrity of elections while allowing certain election officials to fulfill the election responsibilities that they were elected to perform and are required to perform by the NH Constitution.

Rep. Paul Bergeron
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Election Law

SB 242, relative to the disqualification of certain persons from performing the duties of an election official. **INEXPEDIENT TO LEGISLATE.**

Rep. Paul Bergeron for the **Minority** of Election Law. This bill attempts to address the appearance of conflict presented when certain election officials (including moderators and selectmen) perform election day duties for elections in which they also appear on the ballot for another office. It proposes to do so by disqualifying said officials from remaining inside the guardrail during the counting of votes. This bill is in conflict with Part 2, Article 32, of the NH Constitution which provides that elections shall be “governed by a moderator, who shall, in the presence of the selectmen (whose duty it shall be to attend)... receive the votes of all the inhabitants of such towns and wards...” Existing statutes require that the moderator assist in processing absentee ballots, oversee the counting of write-ins, rule on challenges of a person’s right to vote, and sign closing paperwork and ballot box seals. By banning these election officials from “the area designated for the handling of marked ballots and for the counting of votes within the guardrail,” the bill essentially bans these election officials from the polling place. Existing law which prohibits election officials who appear on a ballot from handling marked ballots sufficiently protects the integrity of elections while allowing certain election officials to fulfill the election responsibilities that they were elected to perform and are required to perform by the NH Constitution.

Original: House Clerk

Cc: Committee Bill File

Amendment to SB 242

1 Amend the bill by replacing section 2 with the following:

2

3 2 Election Procedure; Counting of Votes; Disqualification of Officials. Amend RSA 659:58 to
4 read as follows:

5 659:58 Disqualification of Officials. Any election official~~[, other than the moderator,]~~ who is also
6 a candidate for office, ***other than a position of an election official***, shall not be allowed to remain
7 ***in the area designated for the counting of votes*** within the guardrail during the counting of
8 votes for an office for which he is a candidate. Such official shall disqualify himself from election
9 duties relating to the tabulation of votes; and the moderator shall appoint an assistant who shall
10 take the same oath as, serve in the same capacity as, and have all the powers of the election official
11 who is disqualified until such official may properly return. ***The moderator may assign any***
12 ***election official disqualified pursuant to this section to other duties not related to the***
13 ***tabulation of votes.***

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on SB 242

BILL TITLE: relative to the disqualification of certain persons from performing the duties of an election official.

DATE: April 13, 2022

LOB ROOM: 306 - 308

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Torosian Seconded by Rep. Qualey AM Vote: 11-9

Amendment # 2022-1353h

Moved by Rep. Torosian Seconded by Rep. Qualey Vote: 11-9

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Natalie Wells, Clerk

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on Bill # SB 242

BILL TITLE: Relative to the Disqualification of Certain Persons from Performing the Duties of an Elected Official.
DATE: 4-13-22

LOB ROOM: 306

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # 2022-1353h.
(if offered)
- Interim Study (2nd year)

Moved by Rep. Trosian Seconded by Rep. Qualey Vote: 11:9

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. Trosian Seconded by Rep. Qualey Vote: 11:9

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: _____ YES _____ NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: Rep. Natalie Wells Clerk
Rep Natalie Wells, Clerk



2021 SESSION

Election Law

Bill #: SB242 Motion: OTP/A AM #: 2022-1353h Exec Session Date: 4-13-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Griffin, Barbara J. Chairman	✓		
MacDonald, Wayne D. Vice Chairman	✓		
Prudhomme-O'Brien, Katherine J.	✓		
Sweeney, Joe	✓		
Hayward, Peter T. Bob Healey	✓		
Mooney, Maureen C. Alexander	✓		
Torosian, Peter E.	✓		
Berry, Ross	✓		
Green, Fenton Matthew Simon	✓		
Qualey, James R.	✓		
Wells, Natalie J. Clerk	✓		
Cote, David E. Bill Marsh		✓	
Ward, Gerald W.R.		✓	
Bergeron, Paul R.		✓	
Sandler, Catt		✓	
Hamer, Heidi M. Perez, Hamer		✓	
Lane, Connie B.		✓	
Freitas, Mary C.		✓	
Hamblet, Joan L.		✓	
Murhead, Russell Gary Merchant		✓	
TOTAL VOTE:	11	9	



2021 SESSION

Election Law

Bill #: SB242 Motion: OTP AM #: 2022-1353h Exec Session Date: 4-13-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Griffin, Barbara J. Chairman	✓		
MacDonald, Wayne D. Vice Chairman	✓		
Prudhomme-O'Brien, Katherine J.	✓		
Sweeney, Joe	✓		
Hayward, Peter T. <u>Bob Healey</u>	✓		
Mooney, Maureen C. <u>Alexander</u>	✓		
Torosian, Peter E.	✓		
Berry, Ross	✓		
Green, Fenton <u>Matthew Simon</u>	✓		
Qualey, James R.	✓		
Wells, Natalie J. Clerk	✓		
Cote, David E. <u>Bul Marsh</u>		✓	
Ward, Gerald W.R.		✓	
- Bergeron, Paul R.		✓	
Sandler, Catt		✓	
Hamer, Heidi M. <u>Perez</u> HAMER		✓	
Lane, Connie B.		✓	
Freitas, Mary C.		✓	
Hamblet, Joan L.		✓	
Muirhead, Russell <u>Gary Merchant</u>		✓	
TOTAL VOTE:	11	9	

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON SB 242

BILL TITLE: relative to the disqualification of certain persons from performing the duties of an election official.

DATE: April 6, 2022

LOB ROOM: 306 **Time Public Hearing Called to Order:** 9:30am

Time Adjourned: 9:40am

Committee Members: Reps. B. Griffin, W. MacDonald, Wells, Prudhomme-O'Brien, Sweeney, Hayward, Torosian, Berry, Groen, Qualey, Alexander Jr., Cote, Ward, Bergeron, Sandler, Hamer, Lane, Freitas, Hamblet and Muirhead

Bill Sponsors:

Sen. Gray

Sen. Ward

Sen. Birdsell

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Senator Gray

- Representing Dist. 6, Rochester, Alton, Gilmenton
- This bill changes RSA 658:24 659:28 about who can and cannot work at Elections.

Rep. Bergeron:

- Question: In your conversation, processing AB ballots and conversation with SOS, Can town quarter off an area behind check list to do AB Ballots?
Answer: Fully agree, moderator should designate delegate. The AB Ballots, defer to someone else.

Rep. Bergeron

- Question: Then am I correct, the moderator (should) not be behind check list?
- Answer: He's not being quartered off - just cannot touch ballot. Moderator should be observing lines. Lots (of) things moderator can do without touching ballot.

Respectfully submitted,

Rep. Natalie Wells, Clerk

House Remote Testify

Election Law Committee Testify List for Bill SB242 on 2022-04-06

Support: 3 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Ward, Senator Ruth	Stoddard, NH ruth.ward@leg.state.nh.us	An Elected Official	Senate District 8	Support	No	No	3/30/2022 4:21 PM
Birdsell, Senator Regina	Hampstead, NH regina.birdsell@leg.state.nh.us	An Elected Official	Senate District 19	Support	No	No	3/31/2022 8:09 AM
Gray, James	Rochester, NH James.Gray@leg.state.nh.us	An Elected Official	Sen. James Gray SD 6	Support	No	No	4/4/2022 2:15 PM

SB 242 - AS INTRODUCED

2022 SESSION

22-2894

04/05

SENATE BILL **242**

AN ACT relative to the disqualification of certain persons from performing the duties of an election official.

SPONSORS: Sen. Gray, Dist 6; Sen. Ward, Dist 8; Sen. Birdsell, Dist 19

COMMITTEE: Election Law and Municipal Affairs

ANALYSIS

This bill revises the circumstances under which certain persons are disqualified from performing certain duties of an election official.

.....

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the disqualification of certain persons from performing the duties of an election official.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Pre-Election Procedure; Disqualification of Certain Persons. Amend RSA 658:24 to read as
2 follows:

3 658:24 Disqualification of Certain Persons. Any person, other than a moderator, clerk,
4 selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an
5 elective position, other than a position of an election official, shall be disqualified from performing
6 duties as an election official in that election. A moderator, clerk, selectman, inspector of election, or
7 supervisor of the checklist whose name appears on a ballot for an elective position, other than the
8 position of an election official, shall be disqualified from the handling of marked ballots and the
9 counting of votes ***pursuant to RSA 659:58.***

10 2 Election Procedure; Counting of Votes; Disqualification of Officials. Amend RSA 659:58 to
11 read as follows:

12 659:58 Disqualification of Officials. Any election official~~[, other than the moderator,]~~ who is also
13 a candidate for office, ***other than a position of an election official,*** shall not be allowed to remain
14 ***in the area designated for the handling of marked ballots and for the counting of votes***
15 within the guardrail during the counting of votes for an office for which he is a candidate. Such
16 official shall disqualify himself from election duties relating to the tabulation of votes; and the
17 moderator shall appoint an assistant who shall take the same oath as, serve in the same capacity as,
18 and have all the powers of the election official who is disqualified until such official may properly
19 return. ***The moderator may assign any election official disqualified pursuant to this***
20 ***section to other duties not related to the tabulation of votes.***

21 3 Effective Date. This act shall take effect 60 days after its passage.