LEGISLATIVE COMMITTEE MINUTES

SB121

Bill as Introduced

SB 121 - AS INTRODUCED

2023 SESSION

23-0866
08/04

SENATE BILL ***121***

AN ACT relative to the position of ballot clerk.

SPONSORS: Sen. Whitley, Dist 15; Sen. Watters, Dist 4; Sen. Innis, Dist 7; Sen. Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Rep. Hamblet, Rock. 26

COMMITTEE: Election Law and Municipal Affairs

ANALYSIS

This bill separates the position of ballot clerk from inspection of elections.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0866
08/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the position of ballot clerk.

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

1 Appointment of Inspectors of Election. Amend RSA 658:2 to read as follows:

658:2 Appointment. Each state political committee of the 2 political parties which received the largest number of votes cast for governor at the last previous general election is authorized through their respective chairmen to appoint between May 15 and July 15 of each general election year 2 inspectors of election to act at each polling place. If the number of voters qualified to vote at a polling place shall exceed 2,000, said political committees may each appoint for such polling place one additional inspector for each 1,500 qualified voters or fraction thereof in excess of 2,000. By April 15 of each general election year, the secretary of state shall provide a list to the chairman of each such state political committee of the number of inspectors of election that should be appointed for each town or ward. Each such state political committee may also appoint such equal number of additional inspectors as the moderator considers necessary for the efficient conduct of the election. On or before July 15, the chairmen of said political committees shall notify the appointees and the town or ward clerk concerned as to appointments made under this authority. [~~If any such appointments are not made by said political committees and proper notification thereof given on or before July 15, then the appointments shall be made by the selectmen of the town or ward in equal numbers from said 2 political parties.~~]

2 New Subdivision; Ballot Clerks. Amend RSA 658 by inserting after section 8 the following new subdivision:

Ballot Clerks

658:8-a Appointment. The selectmen of each town or ward shall appoint as many ballot clerks as they deem necessary for the efficient operation of elections in the town or ward, for a term of office as determined by the selectmen. Alternatively, the selectmen may delegate appointment authority to the supervisors of the checklist, the clerk, or the moderator. Any person registered to vote in the town or ward shall be eligible to serve as a ballot clerk. Inspectors of election appointed under RSA 658:2 may also be appointed as ballot clerks. The appointing authorities shall use their best efforts to maintain an equal balance among ballot clerks between members of the 2 political parties that received the largest number of votes cast for governor at the last previous general election. Undeclared voters and members of other political parties may also be appointed. If a sufficient number of ballot clerks are not appointed in time for any election, the moderator may appoint as many additional ballot clerks as he or she deems necessary for that election only.

658:8-b Oath. Each ballot clerk shall be sworn to the faithful performance of his or her duties.

658:8-c Duties. Ballot clerks shall have charge of the ballots at the voter check-in station on election day and shall furnish them to the voters in accordance with RSA 659:13. They shall be given a duplicate copy of the checklist by the town or ward clerk.

658:8-d Training. Prior to serving, a ballot clerk shall complete appropriate training provided by the secretary of state or by local election officials.

658:8-e Designation of Ballot Clerks. Prior to each election, the moderator shall designate the ballot clerks who will serve at that election. Subject to availability and qualification by training, the moderator shall designate an equal number of ballot clerks from each of the 2 political parties that received the largest number of votes cast for governor at the last previous general election, and may also designate ballot clerks who are undeclared or members of a different party.

3 Duties of Inspectors of Election. RSA 658:25 is repealed and reenacted to read as follows:

658:25 Duties of Inspectors of Election. Inspectors of election who are not serving as ballot clerks shall be assigned such duties in the polling place as the moderator may determine including, but not limited to, the relief of the ballot clerks and the assistance of voters marking their ballots as provided in RSA 659:20.

4 Repeal. The following are repealed:

I. RSA 658:5, relative to alternate inspectors of election.

II. RSA 658:6, relative to appointment of inspectors of election by the district court.

III. RSA 658:22, relative to inspectors pro tem.

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

Committee Minutes

SENATE CALENDAR NOTICE
Election Law and Municipal Affairs

Sen James Gray, Chair
Sen Keith Murphy, Vice Chair
Sen Daryl Abbas, Member
Sen Donna Soucy, Member
Sen Rebecca Perkins Kwoka, Member

Date: January 25, 2023

HEARINGS

Tuesday	01/31/2023

Election Law and Municipal Affairs	Legislative Office Building 103	9:00 a.m.
(Name of Committee)	(Place)	(Time)

9:00 a.m.	**SB 121**	relative to the position of ballot clerk.
9:15 a.m.	**SB 156-FN**	relative to voter registration and verification of voter identity.
9:30 a.m.	**SB 157-FN**	relative to election audits.
9:45 a.m.	**SB 133-FN**	relative to changing the date of the state primary election and creates runoff election for federal primary election.
10:00 a.m.	**SB 220-FN**	modifying the absentee voter registration process, absentee ballot application, and absentee ballot voting process.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 121			
Sen. Whitley	Sen. Watters	Sen. Innis	Sen. Prentiss
Sen. Perkins Kwoka	Rep. Hamblet		
SB 156-FN			
Sen. Gray	Sen. Birdsell	Sen. Murphy	
SB 157-FN			
Sen. Gray	Sen. Murphy	Sen. Perkins Kwoka	Rep. S. Smith
SB 133-FN			
Sen. Birdsell	Sen. Avard	Sen. Bradley	Sen. Pearl
Rep. Sweeney	Rep. Berry		
SB 220-FN			
Sen. Soucy	Sen. D'Allesandro	Sen. Perkins Kwoka	Sen. Watters
Sen. Prentiss	Sen. Whitley	Sen. Rosenwald	Sen. Chandley
Sen. Fenton	Sen. Altschiller	Rep. Simpson	Rep. Muirhead
Rep. Wilhelm			

Tricia Melillo 271-3077

James P. Gray
Chairman

Senate Election Law and Municipal Affairs Committee

Tricia Melillo 271-3077

SB 121, relative to the position of ballot clerk.

Hearing Date: January 31, 2023

Members of the Committee Present: Senators Gray, Murphy, Abbas, Soucy and Perkins Kwoka

Members of the Committee Absent : None

Bill Analysis: This bill separates the position of ballot clerk from inspection of elections.

Sponsors:

Sen. Whitley	Sen. Watters	Sen. Innis
Sen. Prentiss	Sen. Perkins Kwoka	Rep. Hamblet

Who supports the bill: Senator Whitley, Senator Watters, Senator Innis, Senator Perkins Kwoka, Natch Greyes, Cordell Johnston, Patricia Anastasia, Robin Schnell, Susan Richman, James Verschueren, Judy Strakalaitis, Mary Kelley, Phil Hatcher, Janet Insolia

Who opposes the bill: Hon. Joshua Query, Julie Smith

Summary of testimony presented in support:

Senator Whitley

- This issue was brought to her by a moderator in Henniker and one in Hopkinton.
- She commends all local officials for all of their hard work in running local and state elections.
- This bill seeks to provide more clarity to improve the ability of local election officials to run smooth and secure elections in New Hampshire.
- Currently, state law regarding the appointment of inspectors of election/ballot clerks is a little convoluted.
- This creates confusion for moderators on election day.
- The ballot clerk position is misunderstood
- SB 121 makes great strides towards increased security in elections by requiring ballot clerks to receive training by the Secretary of State or by local election officials.
- This bill also protects the current requirement that there is equal representation of the two major parties.
- Additionally, it expands eligibility by allowing for the appointment of undeclared voters or members of other parties.
- The biggest voting block in NH are the undeclared voters.

Cordell Johnston

- He has been aware of this issue for many years.
- SB 121 tries to fix a process that is flawed and convoluted.

- The job of the Ballot Clerk is to check you in and give you a ballot.
- Currently, the process for appointing ballot clerks is that the state chairs of the two main political parties are supposed to appoint "inspectors of election" to serve at each polling place.
- Only republicans and democrats are eligible.
- On the morning of the election, the moderator selects one inspector from each party to serve as ballot clerks.
- He does not know of any town where it happens that way because they cannot wait until the morning of the election to know who the ballot clerks are going to be.
- He questions why political party chairs determine who can serve a governmental function.
- He also questions why the largest group of voters, independents, are excluded.
- This bill separates the positions of ballot clerk and the inspectors of election so that one does not need to be appointed as an inspector in order to serve as a ballot clerk.
- The office of inspector of election has no defined responsibilities and only serve as a pool for potential ballot clerks.
- The bill still allows the parties to appoint inspectors of election who can be given various tasks by the moderator on election day.
- It allows the selectmen to appoint the ballot clerks with an equal balance between the two parties and also allows undeclared voters to be appointed as ballot clerks.
- The moderator will, by election day, designate the people who will serve as ballot clerks.
- It conforms the law to the existing practice in most towns.
- Currently, the two parties often do not appoint anyone and when they do, the volunteers do not know they will be serving as a ballot clerk.
- Senator Gray stated that RSA 658:7 talks about appointments and specifies that the moderator may appoint other election officials as he/she deems necessary and asked if, in effect, that does exactly what the bill is asking for.
    - Mr. Johnston replied that in theory it would. Part of the problem is that the process varies between towns. In some towns the two parties make appointments and in some they do not. The ones appointed as inspectors of election are the only people that can serve as ballot clerks. If no one is appointed then the moderator can fill the gap but he thinks it is better not to have the gap.
- Senator Gray asked if, in his 30 years as moderator, serving under 658:7, he did anything wrong by appointing anyone he needed as ballot clerk if the parties did not appoint.
    - Mr. Johnston replied that he probably didn't but questioned why they should rely on a backup system and not fix the primary system. Also, under the existing law, the moderator cannot appoint someone that is not a republican or democrat as a ballot clerk.
- Senator Gray stated that he believes the section of statute he mentioned would cover anyone the moderator appoints and if there is a problem executing it at the local level, it is a training issue. He asked if Mr. Johnston would believe that former Secretary of State, William Gardner stated that the reason for inspectors of election was for purity in elections. So that even a place that is 99% republican or democrat has people from the other party there watching what is going on.
    - Mr. Johnston replied that he does believe that and he doesn't disagree with it. The bill does not get rid of inspectors of election it just separates the positions.
- Senator Soucy stated, that it would seem to her, that there is a goal of having balance in the parties in the appointment of these positions. With an unlimited amount couldn't the two parties nominate the designated number of inspectors but the moderator

nominate an unlimited number from one party. She asked if he would believe that in 2016 a study showed that there were some communities where the local party was not nominating people so it was designated a state party function. This was done to ensure the balance that is needed. She asked what doesn't work about the current statute.
    - Mr. Johnston replied that what doesn't work is that under the existing law, unless you use Senator Gray's back up system, the only people who are eligible to serve a ballot clerks are the people who have been appointed by the state party. The state party does not necessarily know who is best to serve as a ballot clerk and those appointed are confused between serving as inspectors of election and ballot clerk.
- Senator Soucy commented that she believes that the state party nominating has only been in place since 2018.
    - Mr. Johnston stated that the parties did not appoint before 2018 and they are still not doing it.

TJM
Date Hearing Report completed: February 1, 2023

Speakers

Senate Election Law and Municipal Affairs Committee
SIGN-IN SHEET

Date: January 31, 2023 **Time:** 9:00 a.m.

SB 121 AN ACT relative to the position of ballot clerk.
PRIME: Senator Whitley

Name/Representing ***(please print neatly)***

Name/Representing		Support	Oppose	Speaking?	Yes	No
Sen. Becky Whitley (Prime)	SD 15	☑	☐		☑	☐
Natch Greyes	NHMA	☒	☐		☐	☒
Cordell Johnston	self	☑	☐		☑	☐
Hon. Joshua Query	self	☐	☒		☐	☒
		☐	☐		☐	☐
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Senate Remote Testify

Election Law and Municipal Affairs Committee Testify List for Bill SB121 on 202

Support: 11 Oppose: 1

Name	Title	Representing	Position
Anastasia, Patricia	A Member of the Public	Myself	Support
Smith, Julie	A Member of the Public	Myself	Oppose
Schnell, Robin	A Member of the Public	Myself	Support
Richman, Susan	A Member of the Public	Myself	Support
Verschueren, James	A Member of the Public	Myself	Support
Strakalaitis, Judy	An Elected Official	Myself	Support
Innis, Senator Dan	An Elected Official	Myself	Support
Watters, Senator David	An Elected Official	Myself	Support
Perkins Kwoka, Senator Rebecca	An Elected Official	Myself	Support
Kelley, Mary	A Member of the Public	Myself	Support
Hatcher, Phil	A Member of the Public	Myself	Support
Insolia, Janet	A Member of the Public	Myself	Support

Testimony

480 Shaker Hill Road
Henniker, NH 03242

January 31, 2023

Hon. James Gray, Chairman
Senate Election Law & Municipal Affairs Committee
Legislative Office Building, Room 103
Concord, New Hampshire

Re: SB 121, relative to the position of ballot clerk

Dear Sen. Gray:

I submit this letter in support of SB 121. I am the moderator for the Town of Henniker, and I am testifying only in my personal capacity as moderator.

This bill amends the process for appointing ballot clerks, who are the people responsible for checking in voters and giving them ballots on election day. The current law is flawed and unwieldy, and SB 121 would make important improvements.

Here is how the current law says ballot clerks should be appointed:

- During each state general election year, the state chairs of each of the two major political parties are supposed to appoint two or more "inspectors of election" to act at each polling place. If they do not appoint inspectors by July 15, the selectmen must appoint inspectors "in equal numbers from said 2 political parties."
- Only Republicans and Democrats are eligible to serve as inspectors of election--no undeclared voters, and no one from any other party.
- Under this law, inspectors of election have no defined job; they serve only as a pool from which ballot clerks are drawn. On election day morning, "two of the inspectors, one from each of the 2 political parties, shall be designated by the moderator at the opening of the polls to act as ballot clerks." The other inspectors "shall be assigned such duties in the polling place as the moderator may determine."

This scheme raises several questions: Why do political party chairs determine who can serve a governmental function? Why is the largest group of voters (independents) excluded? Why would the moderator wait until the polls open to announce who will serve as ballot clerks?

Most towns have found the statutory process difficult or impossible to follow. First, the state parties frequently do not bother to appoint inspectors; when they do, the appointees are

often unaware that they could be assigned to work as ballot clerks, for which they may have no training. Second, it is frequently impossible to get equal numbers of volunteers from each party; meanwhile there are independent voters who are willing to serve but are legally not eligible. Finally, I do not believe any moderator waits until election day to designate the ballot clerks.

Instead, in most towns the selectmen (or sometimes the moderator or the supervisors) simply appoint competent people, who then get the necessary training. Efforts are usually made to have equal numbers of Democrats and Republicans, but this is not always possible. In many towns undeclared voters are included, even though the law does not allow this. Notably, the processes followed by the various towns have worked well, with few or no complaints.

SB 121 essentially makes the law consistent with existing practices. It does the following:

- Preserves the existing process for appointment of inspectors of election by the political parties, but eliminates the requirement that the selectmen appoint them if the parties fail to do so.
- Separates the positions of ballot clerk and inspector, so that one need not be appointed as an inspector to be eligible to serve as a ballot clerk.
- Provides that ballot clerks will be appointed by the selectmen (who may delegate that authority).
- Requires the selectmen to use best efforts to ensure equal balance between the two major parties, but also allows them to appoint undeclared voters or members of other parties.
- Requires ballot clerks to receive adequate training either by the SOS (which is free) or by local election officials.
- Provides that the moderator will designate which ballot clerks will serve at each election and again requires equal balance between the two major parties, but "subject to availability and qualification by training."

I believe this is a significant improvement on existing law, and the moderators I have spoken to have agreed. I hope you will hear from some of them, and I doubt that you will hear from any who are opposed.

I ask you to support SB 121, and I would be happy to answer any questions you may have. Thank you very much for your consideration.

Sincerely,

Cordell A. Johnston

cc: committee members

Voting Sheets

Senate Election Law
& Municipal Affairs Committee
EXECUTIVE SESSION RECORD
2023 Session

Bill SB 121

Hearing date: 1/31/23

Executive Session date: 1/31/23

Motion of: ITL **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	✓		✓	
Sen. Murphy, Vice Chair	X			✓	
Sen. Abbas	X		✓	✓	
Sen. Soucy	X			✓	
Sen. Perkins Kwoka	X			✓	

Motion of: Consent **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X			✓	
Sen. Murphy, Vice Chair	X		✓	✓	
Sen. Abbas	X			✓	
Sen. Soucy	X	✓		✓	
Sen. Perkins Kwoka	X			✓	

Motion of: _____ **Vote:** _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X				
Sen. Murphy, Vice Chair	X				
Sen. Abbas	X				
Sen. Soucy	X				
Sen. Perkins Kwoka	X				

Reported out by: Sen. GRAY

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Tuesday, January 31, 2023

THE COMMITTEE ON Election Law and Municipal Affairs

to which was referred **SB 121**

AN ACT relative to the position of ballot clerk.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 5-0

Senator James Gray
For the Committee

This bill would modify the duties of the inspectors of elections and how ballot clerks are selected. After a discussion of the options provided in the current statutes, the Committee agreed that this legislation, rather than solve a problem, would add confusion.

Tricia Melillo 271-3077

General Court of New Hampshire - Bill Status System

Docket of SB121

Docket Abbreviations

Bill Title: relative to the position of ballot clerk.

Official Docket of **SB121.**:

Date	Body	Description
1/19/2023	S	**Introduced** 01/05/2023 and Referred to Election Law and Municipal Affairs; **SJ 4**
1/25/2023	S	**Hearing:** 01/31/2023, Room 103, LOB, 09:00 am; **SC 8**
2/1/2023	S	Committee Report: Inexpedient to Legislate; Vote 5-0; CC; 02/09/2023; **SC 9**
2/9/2023	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===; 02/09/2023; **SJ 6**

NH House	NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 121 **Senate Committee:** ELMA

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

✓ Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

✓ Bill version as it came to the committee

✓ All Calendar Notices

✓ Hearing Sign-up sheet(s)

✓ Prepared testimony, presentations, & other submissions handed in at the public hearing

✓ Hearing Report

N/A Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment #_____ ___ - amendment #_____

___ - amendment #_____ ___ - amendment #_____

✓ Executive Session Sheet

✓ Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment #_____ ___ - amendment #_____

___ - amendment #_____ ___ - amendment #_____

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Patricia Mello 7/7/23

Committee Aide **Date**

Senate Clerk's Office ___