



General Assembly

January Session, 2019

House Resolution No. 36

LCO No. 11047



Referred to Committee on No Committee

Introduced by:

REP. D'AGOSTINO, 91st Dist.
REP. HADDAD, 54th Dist.
REP. CANDELORA, 86th Dist.

**RESOLUTION CONCERNING THE CONTESTED ELECTION IN THE
120TH ASSEMBLY DISTRICT.**

Resolved by this House:

1 WHEREAS, the committee on contested elections, established
2 pursuant to House Resolution No. 4 of the January 2019 session,
3 received an election challenge complaint from Jim Feehan, a candidate
4 for the office of state representative for the 120th Assembly District,
5 alleging that during the general election held for said office on
6 November 6, 2018, approximately seventy-six voters were given
7 incorrect ballots and not given an opportunity to vote in a race that
8 was decided by thirteen votes; and

9 WHEREAS, through witness testimony and evidence, the
10 committee on contested elections verified and stated in its report that
11 seventy-five voters at the Bunnell High School polling place received
12 the wrong ballot and were unable to vote for the office of state
13 representative in the 120th Assembly District, if they intended to do so;
14 and

15 WHEREAS, this House acts in a judicial character in the exercise of
16 its role as the final judge of contested House of Representatives
17 elections pursuant to article third, section 7 of the Constitution of the
18 state, which provides that "Each house shall be the final judge of the
19 election returns and qualifications of its own members"; and

20 WHEREAS, this House concludes that an election should be
21 ordered if: There were substantial errors in the rulings of an election
22 official or officials, or substantial mistakes in the count of the votes; as
23 a result of those errors or mistakes, the reliability of the result of the
24 election is seriously in doubt; and there is verifiable evidence before
25 the House that demonstrates, to a reasonable certainty, that a different
26 electoral result would have occurred, but for the substantial
27 irregularity, mistake or error; and

28 WHEREAS, when ordering an election, this House must balance the
29 interests of: The electors who properly cast their votes in having such
30 votes counted; the candidates for whom votes have been cast in having
31 such votes properly recorded; and electors who received an incorrect
32 ballot in having their votes counted; and

33 WHEREAS, when the substantial errors in the rulings of an election
34 official or officials or substantial mistakes in the count of the votes can
35 be isolated to a single polling place, an election may be ordered for
36 only such polling place, therefore minimizing the potential
37 disenfranchisement of votes properly cast on November 6, 2018; and

38 WHEREAS, Philip Young, the candidate for the 120th Assembly
39 District with the greatest number of votes pursuant to the election
40 results certified by the Secretary of the State, was sworn in as a
41 member of the House of Representatives on January 9, 2019; and

42 WHEREAS, the Connecticut general statutes do not provide for an
43 election based on these findings.

44 NOW, THEREFORE, BE IT RESOLVED, the Connecticut House of
45 Representatives hereby orders an election to be held in District 90-1 of

46 the 120th Assembly District, located at Bunnell High School, for the
47 office of state representative on July 2, 2019, in accordance with the
48 following:

49 (1) Only candidates for the office of state representative for the
50 120th Assembly District who appeared on the ballot on November 6,
51 2018, shall be qualified to appear on the ballot in the July 2, 2019,
52 election; and

53 (2) On or after June 10, 2019, the State Elections Enforcement
54 Commission shall provide a grant from the Citizens' Election Fund in
55 the amount of seven thousand dollars to each candidate committee
56 that qualified for a grant for the November 6, 2018, election without
57 requiring any additional qualifying contributions of such candidate
58 committees. For purposes of the Citizens' Election Program, such grant
59 shall be administered as an adjourned election grant pursuant to
60 subdivision (3) of subsection (f) of section 9-705 of the general statutes.
61 No such candidate committee shall make any expenditure or incur any
62 expense prior to June 10, 2019. The provisions of chapters 155 to 157,
63 inclusive, of the general statutes and any regulations relating to
64 campaign finance including, but not limited to, the schedule for filing
65 financial disclosure statements of independent expenditures, shall
66 apply to the July 2, 2019, election, except the amount of the Citizens'
67 Election Fund grant, the limits on organization expenditures and the
68 schedule for filing candidate committee campaign finance statements
69 shall be as set forth in this resolution and the provisions of subdivision
70 (1) of subsection (d) of section 9-610 of the general statutes shall not
71 apply; and

72 (3) No committee other than a town committee, legislative caucus
73 committee or legislative leadership committee shall make an
74 organization expenditure for the benefit of a candidate, or the
75 candidate committee of a candidate, for the office of state
76 representative in the July 2, 2019, election ordered under this
77 resolution. No town committee, legislative caucus committee or
78 legislative leadership committee shall make an organization

79 expenditure for the benefit of a participating candidate or the
80 candidate committee of a participating candidate under the Citizens'
81 Election Program for the office of state representative in the election
82 ordered under this resolution in an amount exceeding two thousand
83 dollars in the aggregate. Organization expenditures made by any such
84 committee for the benefit of a candidate or candidate committee in the
85 November 6, 2018, general election shall not be counted toward such
86 aggregate amount; and

87 (4) No candidate committee shall be permitted to use moneys
88 remaining from the November 6, 2018, election cycle for the benefit of
89 a candidate in the election ordered under this resolution; and

90 (5) The treasurer of each candidate committee shall file two weekly
91 supplemental campaign finance statements with the State Elections
92 Enforcement Commission, in accordance with section 9-712 of the
93 general statutes, on June 18, 2019, and June 25, 2019. Each statement
94 shall be complete as of eleven fifty-nine o'clock p.m. of the second day
95 immediately preceding the required filing day, and shall cover the
96 period beginning with the first day not included in the last filed
97 statement; and

98 (6) Any member of the General Assembly who is a candidate for
99 reelection at the election ordered under this resolution shall not send
100 any unsolicited mailing paid for with public funds to an individual
101 residing in such member's district during the period commencing on
102 June 17, 2019, and ending on July 2, 2019; and

103 (7) The town clerk of the town of Stratford shall publish notice of
104 the July 2, 2019, election ordered under this resolution to the public in
105 accordance with the provisions of section 9-225 of the general statutes
106 on or before June 17, 2019; and

107 (8) The registrars of voters of the town of Stratford shall appoint
108 election officials to serve in the polling place of the election ordered
109 under this resolution not later than June 18, 2019; and

110 (9) The registrars of voters of the town of Stratford shall use the
111 same official voter list at the July 2, 2019, election ordered under this
112 resolution that was used by municipal election officials at the
113 November 6, 2018, election. Only those electors whose names
114 appeared on the official voter list for District 90-1 of the 120th
115 Assembly District on November 6, 2018, or whose names were
116 properly added by municipal election officials to said list on
117 November 6, 2018, shall be permitted to vote in the July 2, 2019,
118 election; and

119 (10) Given that the errors that occurred at the Bunnell High School
120 polling place in District 90-1 of the 120th Assembly District were
121 confined to tabulator ballots, electors who voted either by absentee
122 ballot or by an election day registration ballot in the November 6, 2018,
123 general election shall have their original votes as cast at said general
124 election counted for purposes of the election ordered under this
125 resolution and shall not be permitted to vote in the July 2, 2019,
126 election; and

127 (11) The town clerk of the town of Stratford shall file a printed
128 absentee ballot and an affidavit certifying the number of absentee
129 ballots being printed for the July 2, 2019, election with the Secretary of
130 the State not less than ten days before July 2, 2019; and

131 (12) Not less than ten days before the July 2, 2019, election, the
132 registrars of voters of the town of Stratford shall (A) file with the
133 Secretary of the State, a sample ballot identical to those to be provided
134 for the District 90-1 polling place located at Bunnell High School, and
135 (B) jointly with the town clerk certify in writing to the Secretary of the
136 State the number of ballots that have been ordered for such polling
137 place; and

138 (13) The town clerk and registrars of voters of the town of Stratford
139 shall order ballots to be printed for the July 2, 2019, election as soon as
140 practicable, but not later than Tuesday, June 11, 2019; and

141 (14) Absentee ballot applications for the July 2, 2019, election shall

142 be made available by the town clerk beginning June 10, 2019; and

143 (15) The town clerk of the town of Stratford shall make absentee
144 ballots available on or before June 17, 2019; and

145 (16) In order to permit officials to issue absentee ballots beginning
146 on June 17, 2019, said town clerk may use as absentee ballots in the
147 election proofs of the paper ballot that will be prepared by the printing
148 vendor, and received by officials electronically. The town clerk may
149 use such proofs as absentee ballots only until such time as the town
150 clerk receives official printed ballots for the election from the printing
151 vendor; and

152 (17) Said town clerk shall use available absentee ballot envelopes,
153 with serial numbers, for all absentee ballots and shall maintain a log of
154 each absentee ballot issued to each absentee ballot applicant in the July
155 2, 2019, election in the same manner as otherwise required by chapter
156 145 of the general statutes; and

157 (18) Absentee ballots may be hand counted by municipal election
158 officials if a proof of the paper ballot was voted upon by an elector and
159 the municipal election officials determine that hand counting of the
160 ballot is required; and

161 (19) Said town clerk shall issue absentee ballots in accordance with
162 sections 9-153d to 9-153f, inclusive, of the general statutes, for the July
163 2, 2019, election beginning June 17, 2019; and

164 (20) Any paper ballots to be voted upon at the polling place for the
165 election ordered under this resolution shall be received by municipal
166 election officials on or before Tuesday, June 25, 2019, and made
167 available for public inspection on that date; and

168 (21) Any supervised absentee voting conducted in accordance with
169 section 9-159q of the general statutes shall occur on or before Friday,
170 June 28, 2019; and

171 (22) Each voting tabulator memory card to be used at the election

172 ordered under this resolution shall be programmed for the election by
173 Friday, June 28, 2019; and

174 (23) Any candidate opting to appoint unofficial checkers in the
175 election ordered under this resolution shall submit to the registrar of
176 voters a list of unofficial checkers not later than five o'clock p.m.,
177 Friday, June 28, 2019; and

178 (24) The testing of each voting tabulator to be used at the election
179 shall be performed not later than twelve o'clock noon, Monday, July 1,
180 2019; and

181 (25) At least one designee of the Secretary of the State shall be
182 present and available to advise election officials at the polling place
183 located at Bunnell High School during all hours of voting on July 2,
184 2019, and during the canvass and any applicable recanvass to monitor
185 the election, canvass and recanvass; and

186 (26) The canvass of the results of the July 2, 2019, election shall be
187 limited to the District 90-1 polling place and shall be conducted
188 immediately after the close of the polls on Tuesday, July 2, 2019, in the
189 manner required by chapter 148 of the general statutes, and such
190 results shall be aggregated with the certified results of the recanvass
191 which took place on November 13th and 14th of 2018, excluding only
192 the tabulator ballots from the District 90-1 polling place located at
193 Bunnell High School, cast in the November 6, 2018, election for the
194 office of state representative. Such certified results of such recanvass,
195 excluding such tabulator ballots from District 90-1, are as follows: (A)
196 Philip Young, 4,614 votes; (B) Jim Feehan, 4,350 votes; and (C) Prez
197 Palmer, 49 votes; and

198 (27) No recanvass of the results of the election ordered under this
199 resolution shall be required unless the canvass of the results of said
200 election, when aggregated with the certified results of the recanvass
201 conducted on November 13th and November 14th of 2018, excluding
202 the tabulator ballots from District 90-1 cast in the November 6, 2018,
203 election, in accordance with subdivision (26) of this resolution, results

204 in a close vote, as described in section 9-311a of the general statutes, or
205 a tie vote as described in section 9-311b of the general statutes. If
206 applicable, any required canvass of the results of the election under
207 chapter 148 of the general statutes shall be limited to the votes cast on
208 July 2, 2019. If such canvass is required, the results of the canvass
209 of the July 2, 2019, election shall be aggregated with the certified
210 results of the canvass which took place on November 13th and 14th
211 of 2018, excluding the tabulator ballots from District 90-1 cast in the
212 November 6, 2018, election, in accordance with subdivision (26) of this
213 resolution. If such canvass is required, the canvass shall commence
214 at nine o'clock a.m., on Wednesday, July 3, 2019; and

215 (28) The municipal election officials of the town of Stratford shall
216 certify the result of the election ordered under this resolution on or
217 before five o'clock p.m., Wednesday, July 3, 2019, and shall provide
218 such certification to the Secretary of the State via electronic mail or
219 facsimile within one hour of their certification; and

220 (29) Not later than three days after the election, the Secretary of the
221 State, Treasurer and State Comptroller shall, pursuant to section 9-319
222 of the general statutes, canvass the votes and declare who has been
223 elected state representative for the 120th Assembly District; and

224 BE IT FURTHER RESOLVED, that the clerk of the House of
225 Representatives cause a copy of this resolution to be sent to the town
226 clerk and registrars of voters of the town of Stratford.