



General Assembly

February Session, 2010

Raised Bill No. 364

LCO No. 1704

01704_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING POST-ELECTION AUDITS.

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

1 Section 1. Section 9-320f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2010*):

3 (a) Not earlier than the fifteenth day after any election or primary
4 and not later than two business days before the canvass of votes by the
5 Secretary of the State, Treasurer and Comptroller, for any federal or
6 state election or primary, or by the [town] municipal clerk for any
7 municipal election or primary, the registrars of voters shall conduct [a
8 manual] an audit of the votes recorded in not less than ten per cent of
9 the voting districts in the state, district or municipality, whichever is
10 applicable. Such [manual] audit shall be noticed in advance and be
11 open to public observation. Any election official who participates in
12 the administration and conduct of an audit pursuant to this section
13 shall be compensated by the municipality at the standard rate of pay
14 established by such municipality for elections or primaries, as the case
15 may be.

16 (b) The voting districts subject to the audit described in subsection
17 (a) of this section shall be selected in a random drawing by the
18 Secretary of the State and such selection process shall be open to the
19 public. [The offices subject to the audit pursuant to this section shall
20 be, (1) in the case of an election where the office of presidential elector
21 is on the ballot, all offices required to be audited by federal law, plus
22 one additional office selected in a random drawing by the Secretary of
23 the State, but in no case less than three offices, (2) in the case of an
24 election where the office of Governor is on the ballot, all offices
25 required to be audited by federal law, plus one additional office
26 selected in a random drawing by the Secretary of the State, but in no
27 case less than three offices, (3) in the case of a municipal election, three
28 offices or twenty per cent of the number of offices on the ballot,
29 whichever is greater, selected at random by the municipal clerk, and
30 (4) in the case of a primary election, all offices required to be audited
31 by federal law, plus one additional office, if any, but in no event less
32 than twenty per cent of the offices on the ballot, selected in a random
33 drawing by the municipal clerk.]

34 (c) If a selected voting district (1) has an office that is subject to
35 recanvass or an election or primary contest pursuant to the general
36 statutes, or (2) is in a municipality in which three districts have already
37 been selected for audit under subsection (b) of this section for a single
38 election or primary, the Secretary of the State shall select an alternative
39 district, pursuant to the process described in subsection (b) of this
40 section.

41 (d) The [manual] audit [described in subsection (a) of this section]
42 shall consist of the [manual] tabulation of all of the paper ballots cast
43 and counted by each voting [machine] tabulator subject to such audit.
44 Such tabulation of such paper ballots shall be on a voting tabulator
45 that is different from the voting tabulator used for the primary or
46 election day tabulation of such ballots. The memory card in the voting
47 tabulator used for the purpose of the audit shall be a different memory
48 card than the memory card used for the primary or election day

49 tabulation of such ballots. Once complete, the vote totals established
50 pursuant to the [manual] tabulation conducted in accordance with this
51 subsection shall be compared to the results reported by the voting
52 [machine] tabulator on the day of the election or primary. The results
53 of the [manual] tabulation conducted in accordance with this
54 subsection shall be reported on a form prescribed by the Secretary of
55 the State [which] that shall include the total number of ballots counted,
56 the total votes received by each candidate in question, the total votes
57 received by each candidate in question on ballots that were properly
58 completed by each voter and the total votes received by each candidate
59 in question on ballots that were not properly completed by each voter.
60 Such report shall be filed with the Secretary of the State who shall
61 immediately forward such report to The University of Connecticut for
62 analysis. The University of Connecticut shall file a written report with
63 the Secretary of the State regarding such analysis that describes any
64 discrepancies identified. After receipt of such report, the Secretary of
65 the State shall file such report with the State Elections Enforcement
66 Commission.

67 (e) For the purposes of this section, a ballot that has not been
68 properly completed will be deemed to be a ballot on which (1) votes
69 have been marked by the voter outside the vote targets, (2) votes have
70 been marked by the voter using a manual marking device that cannot
71 be read by the voting [machine] tabulator, or (3) in the judgment of the
72 registrars of voters, the voter marked the ballot in such a manner that
73 the voting [machine] tabulator may not have read the marks as votes
74 cast.

75 (f) Notwithstanding the provisions of section 9-311, the Secretary of
76 the State shall order a discrepancy recanvass of the returns of an
77 election or primary for any office if a discrepancy, as defined in
78 subsection (o) of this section, exists where the margin of victory in the
79 race for such office is less than the amount of the discrepancy
80 multiplied by the total number of voting districts where such race
81 appeared on the ballot, provided in a year in which the Secretary of the

82 State is a candidate for an office on the ballot and that office is subject
83 to an audit as provided by this section, the State Elections Enforcement
84 Commission shall order a discrepancy recanvass if a discrepancy, as
85 defined by subsection (o) of this section, has occurred that could affect
86 the outcome of the election or primary for such office.

87 (g) If The University of Connecticut report described in subsection
88 (d) of this section indicates that a voting [machine] tabulator failed to
89 record votes accurately and in the manner provided by the general
90 statutes, the Secretary of the State shall require that the voting
91 [machine] tabulator be examined and recertified by the Secretary of the
92 State, or the Secretary's designee. Nothing in this subsection shall be
93 construed to prohibit the Secretary of the State from requiring that a
94 voting [machine] tabulator be examined and recertified.

95 (h) The audit report filed pursuant to subsection (d) of this section
96 shall be open to public inspection and may be used as prima facie
97 evidence of a discrepancy in any contest arising pursuant to chapter
98 149 or for any other cause of action arising from such election or
99 primary.

100 (i) If the audit officials are unable to reconcile the [manual] count
101 conducted in accordance with subsection (d) of this section with the
102 electronic vote tabulation of the primary or election day count and
103 discrepancies, the Secretary of the State shall conduct such further
104 investigation of the voting [machine or] tabulator malfunction as may
105 be necessary for the purpose of reviewing whether or not to decertify
106 the voting [machine or machines] tabulator in question or to order the
107 voting [machine] tabulator to be examined and recertified pursuant to
108 subsection (g) of this section. Any report produced by the Secretary of
109 the State as a result of such investigation shall be filed with the State
110 Elections Enforcement Commission and the commission may initiate
111 such further investigation in accordance with subdivision (1) of
112 subsection (a) of section 9-7b as may be required to determine if any
113 violations of the general statutes concerning election law have been

114 committed.

115 (j) The individual paper ballots used at an election or primary shall
116 be carefully preserved and returned in their designated receptacle in
117 accordance with the requirements of section 9-266, 9-302 or 9-310,
118 whichever is applicable.

119 (k) Nothing in this section shall be construed to preclude any
120 candidate or elector from seeking additional remedies pursuant to
121 chapter 149.

122 (l) After an election or primary, any voting [machine] tabulator may
123 be kept locked for a period longer than that prescribed by sections 9-
124 266, 9-310 and 9-447, if such an extended period is ordered by either a
125 court of competent jurisdiction, the Secretary of the State or the State
126 Elections Enforcement Commission. Either the court or the Secretary of
127 the State may order an audit of such voting [machine] tabulator to be
128 conducted by such persons as the court or the Secretary of the State
129 may designate, provided the State Elections Enforcement Commission
130 may order such an audit under the circumstances prescribed in
131 subsection (f) of this section. If the [machine] tabulator utilized in such
132 election or primary is an optical scan voting system, such order to lock
133 such [machine] tabulator shall include the [tabulator,] memory card
134 and all other components and processes utilized in the programming
135 of such [machine] tabulator.

136 (m) The Secretary of the State may adopt regulations, in accordance
137 with the provisions of chapter 54, as may be necessary for the conduct
138 of the [manual] tabulation of the paper ballots described in subsection
139 [(a)] (d) of this section and to establish guidelines for expanded audits
140 when there are differences between the [manual and machine counts]
141 count conducted in accordance with subsection (d) of this section and
142 the primary or election day count.

143 (n) Notwithstanding any provision of the general statutes, the
144 Secretary of the State shall have access to the code in any voting

145 [machine] tabulator whenever any problem is discovered as a result of
146 the audit. [described in subsection (a) of this section.]

147 (o) As used in this section, "discrepancy" means any difference in
148 vote totals between [machine and manual counts] a primary or election
149 day count and a count conducted in accordance with subsection (d) of
150 this section in a voting district that exceeds one-half of one per cent of
151 the lesser amount of the vote totals between [machine and manual
152 counts] the primary or election day count and the count conducted in
153 accordance with subsection (d) of this section where such differences
154 cannot be resolved through an accounting of ballots that were not
155 marked properly in accordance with subsection (e) of this section,
156 "state election" means "state election", as defined in section 9-1, and
157 "municipal election" means a municipal election held pursuant to
158 section 9-164.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2010	9-320f

Statement of Purpose:

To streamline the post-election audit process.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]