



General Assembly

Substitute Bill No. 1311

January Session, 2007

* SB01311GAE__033007__ *

AN ACT CONCERNING THE INTEGRITY AND SECURITY OF THE VOTING PROCESS.

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

1 Section 1. Subsection (b) of section 9-238 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (b) Upon the purchase or lease of a voting machine for use in any
5 municipality, the officials of such municipality purchasing or leasing
6 the same shall forthwith send notification in writing to the Secretary of
7 the State of the name or make of such machine, the name of the person
8 who manufactured the same, the name of the person from whom it
9 was purchased or leased, the date on which it was purchased or leased
10 and its serial number. After October 1, 1970, no voting machine
11 manufactured prior to January 1, 1927, shall be used at any election in
12 this state and no voting machine manufactured after said date shall be
13 used in an election, which voting machine, in the opinion of the
14 Secretary of the State, does not conform to the requirements of law,
15 [or] is unsuitable for use in such election or does not comply with the
16 voluntary performance and test standards for voting systems adopted
17 by the Election Assistance Commission pursuant to the Help America
18 Vote Act, P.L. 107-252, 42 USC 15481, as amended from time to time.
19 When in any municipality the use of a voting machine at elections is

20 discontinued because of its age or condition or because it is sold, or for
21 any other reason, such officials shall send written notification to said
22 secretary of the discontinuance of such machine, of the time of and
23 reason for such discontinuance and of the information required in
24 connection with notification of original purchasing or leasing.

25 Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding the
26 provisions of section 9-311 of the general statutes, the Secretary of the
27 State shall order a discrepancy recanvass of the returns of an election
28 or primary for any office if a discrepancy, as defined in subsection (o)
29 of this section, exists where the margin of victory in the race for such
30 office is less than the amount of the discrepancy multiplied by the total
31 number of voting districts where such race appeared on the ballot,
32 provided in a year in which the Secretary of the State is a candidate for
33 an office on the ballot and that office is subject to an audit as provided
34 by this section, the State Elections Enforcement Commission shall
35 order a discrepancy recanvass if a discrepancy, as defined by
36 subsection (o) of this section, has occurred that could affect the
37 outcome of the election or primary for such office.

38 (b) Not earlier than the fifteenth day after any election or primary
39 and not later than two business days before the canvass of votes by the
40 Secretary of the State, Treasurer and Comptroller, for any federal or
41 state election or primary, or by the town clerk for any municipal
42 election or primary, the registrars of voters shall conduct a manual
43 audit of the votes recorded in not less than ten per cent of the voting
44 districts in the state. Such manual audit shall be noticed in advance
45 and be open to public observation. Any election official who
46 participates in the administration and conduct of an audit pursuant to
47 this section shall be compensated by the municipality at the standard
48 rate of pay established by such municipality for elections or primaries,
49 as the case may be.

50 (c) The voting districts subject to the audit described in subsection
51 (b) of this section shall be selected in a random drawing by the
52 Secretary of the State and such selection process shall be open to the

53 public. The offices subject to the audit pursuant to this section shall be,
54 (1) in the case of an election where the office of presidential elector is
55 on the ballot, all offices required to be audited by federal law, plus one
56 additional office selected in a random drawing by the Secretary of the
57 State, but in no case less than three offices, (2) in the case of an election
58 where the office of Governor is on the ballot, all offices required to be
59 audited by federal law, plus one additional office selected in a random
60 drawing by the Secretary of the State, but in no case less than three
61 offices, (3) in the case of a municipal election, three offices or twenty
62 per cent of the number of offices on the ballot, whichever is greater,
63 selected at random by the municipal clerk, and (4) in the case of a
64 primary election, all offices required to be audited by federal law, plus
65 one additional office, if any, but in no event less than twenty per cent
66 of the offices on the ballot, selected in a random drawing by the
67 municipal clerk.

68 (d) If a selected voting district has an office that is subject to
69 recanvass or an election or primary contest pursuant to the general
70 statutes, the Secretary shall select an alternative district.

71 (e) The manual audit described in subsection (b) of this section shall
72 consist of the manual tabulation of the paper ballots cast and counted
73 by each voting machine subject to such audit. Once complete, the vote
74 totals established pursuant to the manual tabulation shall be compared
75 to the results reported by the voting machine on the day of the election
76 or primary. The results of the manual tabulation shall be reported on a
77 form prescribed by the Secretary of the State which shall include the
78 total number of ballots counted, the total votes received by each
79 candidate in question, the total votes received by each candidate in
80 question on ballots that were properly completed by each voter and
81 the total votes received by each candidate in question on ballots that
82 were not properly completed by each voter. Such report shall be filed
83 with the Secretary of the State who shall immediately forward such
84 report to The University of Connecticut for analysis. The University of
85 Connecticut shall file a written report with the Secretary of the State
86 regarding such analysis that describes any discrepancies identified.

87 After receipt of such report, the Secretary of the State shall file such
88 report with the State Elections Enforcement Commission.

89 (f) For the purposes of this section, a ballot that has not been
90 properly completed will be deemed to be a ballot on which (1) votes
91 have been marked by the voter outside the vote targets, (2) votes have
92 been marked by the voter using a manual marking device that cannot
93 be read by the voting system, or (3) in the judgment of the registrars of
94 voters, the voter marked the ballot in such a manner that the voting
95 machine may not have read the marks as votes cast.

96 (g) If in the opinion of the Secretary of the State a voting system is
97 found to have failed to record votes accurately and in the manner
98 provided by the general statutes, the Secretary of the State may require
99 that the voting system be examined and recertified by the Secretary of
100 the State, or the secretary's designee.

101 (h) The audit report filed pursuant to subsection (e) of this section
102 shall be open to public inspection and may be used as prima facie
103 evidence of a discrepancy in any contest arising pursuant to chapter
104 149 of the general statutes or for any other cause of action arising from
105 such election or primary.

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

119 (j) The individual paper ballots used at an election or primary shall
120 be carefully preserved and returned in their designated receptacle in
121 accordance with the requirements of section 9-266, 9-302 or 9-310 of the
122 general statutes, whichever is applicable.

123 (k) Nothing in this section shall be construed to preclude any
124 candidate or elector from seeking additional remedies pursuant to
125 chapter 149 of the general statutes.

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

140 (m) The Secretary of the State may adopt regulations, in accordance
141 with the provisions of chapter 54 of the general statutes, as may be
142 necessary for the conduct of the manual tabulation of the paper ballots
143 described in subsection (b) of this section and to establish guidelines
144 for expanded audits when there are differences between the manual
145 and machine counts.

146 (n) Notwithstanding any provision of the general statutes, the
147 Secretary of the State shall have access to the code in any voting
148 machine whenever any problem is discovered as a result of the audit
149 described in subsection (b) of this section.

150 (o) As used in this section, "discrepancy" means any difference in

151 vote totals between machine and hand counts that exceeds one-half of
152 one per cent where such differences cannot be resolved through an
153 accounting of ballots that were not marked properly in accordance
154 with subsection (f) of this section, "state election" means "state
155 election", as defined in section 9-1 of the general statutes, and
156 "municipal election" means a municipal election held pursuant to
157 section 9-164 of the general statutes.

158 Sec. 3. Section 9-323 of the general statutes is repealed and the
159 following is substituted in lieu thereof (*Effective from passage*):

160 Any elector or candidate who claims that he is aggrieved by any
161 ruling of any election official in connection with any election for
162 presidential electors and for a senator in Congress and for
163 representative in Congress or any of them, held in his town, or that
164 there was a mistake in the count of the votes cast at such election for
165 candidates for such electors, senator in Congress and representative in
166 Congress, or any of them, at any voting district in his town, or any
167 candidate for such an office who claims that he is aggrieved by a
168 violation of any provision of section 9-355, 9-357 to 9-361, inclusive, 9-
169 364, 9-364a or 9-365 in the casting of absentee ballots at such election,
170 may bring his complaint to any judge of the Supreme Court, in which
171 he shall set out the claimed errors of such election official, the claimed
172 errors in the count or the claimed violations of said sections. In any
173 action brought pursuant to the provisions of this section, the
174 complainant shall send a copy of the complaint by first-class mail, or
175 deliver a copy of the complaint by hand, to the State Elections
176 Enforcement Commission. If such complaint is made prior to such
177 election, such judge shall proceed expeditiously to render judgment on
178 the complaint and shall cause notice of the hearing to be given to the
179 Secretary of the State and the State Elections Enforcement Commission.
180 If such complaint is made subsequent to the election, it shall be
181 brought [within] not later than fourteen days [of] after the election or,
182 if such complaint is brought in response to the manual tabulation of
183 paper ballots authorized pursuant to section 2 of this act, such
184 complaint shall be brought not later than seven days after the close of

185 any such manual tabulation, and in either such circumstance, the judge
186 shall forthwith order a hearing to be had upon such complaint, upon a
187 day not more than five or less than three days from the making of such
188 order, and shall cause notice of not less than three or more than five
189 days to be given to any candidate or candidates whose election may be
190 affected by the decision upon such hearing, to such election official, to
191 the Secretary of the State, to the State Elections Enforcement
192 Commission and to any other party or parties whom such judge deems
193 proper parties thereto, of the time and place for the hearing upon such
194 complaint. Such judge, with two other judges of the Supreme Court to
195 be designated by the Chief Court Administrator, shall, on the day fixed
196 for such hearing and without unnecessary delay, proceed to hear the
197 parties. If sufficient reason is shown, such judges may order any voting
198 machines to be unlocked or any ballot boxes to be opened and a
199 recount of the votes cast, including absentee ballots, to be made. Such
200 judges shall thereupon, in the case they, or any two of them, find any
201 error in the rulings of the election official, any mistake in the count of
202 such votes or any violation of said sections, certify the result of their
203 finding or decision, or the finding or decision of a majority of them, to
204 the Secretary of the State before the first Monday after the second
205 Wednesday in December. Such judges may order a new election or a
206 change in the existing election schedule, provided such order complies
207 with Section 302 of the Help America Vote Act, P.L. 107-252, as
208 amended from time to time. Such certificate of such judges, or a
209 majority of them, shall be final upon all questions relating to the
210 rulings of such election officials, to the correctness of such count and,
211 for the purposes of this section only, such claimed violations, and shall
212 operate to correct the returns of the moderators or presiding officers so
213 as to conform to such finding or decision.

214 Sec. 4. Section 9-324 of the general statutes is repealed and the
215 following is substituted in lieu thereof (*Effective from passage*):

216 Any elector or candidate who claims that such elector or candidate
217 is aggrieved by any ruling of any election official in connection with
218 any election for Governor, Lieutenant Governor, Secretary of the State,

219 State Treasurer, Attorney General, State Comptroller or judge of
220 probate, held in such elector's or candidate's town, or that there has
221 been a mistake in the count of the votes cast at such election for
222 candidates for said offices or any of them, at any voting district in such
223 elector's or candidate's town, or any candidate for such an office who
224 claims that such candidate is aggrieved by a violation of any provision
225 of section 9-355, 9-357 to 9-361, inclusive, 9-364, 9-364a or 9-365 in the
226 casting of absentee ballots at such election or any candidate for the
227 office of Governor, Lieutenant Governor, Secretary of the State, State
228 Treasurer, Attorney General or State Comptroller, who claims that
229 such candidate is aggrieved by a violation of any provision of sections
230 9-700 to 9-716, inclusive, may bring such elector's or candidate's
231 complaint to any judge of the Superior Court, in which such elector or
232 candidate shall set out the claimed errors of such election official, the
233 claimed errors in the count or the claimed violations of said sections. In
234 any action brought pursuant to the provisions of this section, the
235 complainant shall send a copy of the complaint by first-class mail, or
236 deliver a copy of the complaint by hand, to the State Elections
237 Enforcement Commission. If such complaint is made prior to such
238 election, such judge shall proceed expeditiously to render judgment on
239 the complaint and shall cause notice of the hearing to be given to the
240 Secretary of the State and the State Elections Enforcement Commission.
241 If such complaint is made subsequent to the election, it shall be
242 brought not later than fourteen days after the election or, if such
243 complaint is brought in response to the manual tabulation of paper
244 ballots authorized pursuant to section 2 of this act, such complaint
245 shall be brought not later than seven days after the close of any such
246 manual tabulation and, in either such circumstance, such judge shall
247 forthwith order a hearing to be had upon such complaint, upon a day
248 not more than five nor less than three days from the making of such
249 order, and shall cause notice of not less than three nor more than five
250 days to be given to any candidate or candidates whose election may be
251 affected by the decision upon such hearing, to such election official, the
252 Secretary of the State, the State Elections Enforcement Commission and
253 to any other party or parties whom such judge deems proper parties

254 thereto, of the time and place for the hearing upon such complaint.
255 Such judge shall, on the day fixed for such hearing and without
256 unnecessary delay, proceed to hear the parties. If sufficient reason is
257 shown, such judge may order any voting machines to be unlocked or
258 any ballot boxes to be opened and a recount of the votes cast, including
259 absentee ballots, to be made. Such judge shall thereupon, in case such
260 judge finds any error in the rulings of the election official, any mistake
261 in the count of the votes or any violation of said sections, certify the
262 result of such judge's finding or decision to the Secretary of the State
263 before the fifteenth day of the next succeeding December. Such judge
264 may order a new election or a change in the existing election schedule.
265 Such certificate of such judge of such judge's finding or decision shall
266 be final and conclusive upon all questions relating to errors in the
267 rulings of such election officials, to the correctness of such count, and,
268 for the purposes of this section only, such claimed violations, and shall
269 operate to correct the returns of the moderators or presiding officers,
270 so as to conform to such finding or decision, unless the same is
271 appealed from as provided in section 9-325.

272 Sec. 5. Subsection (a) of section 9-329a of the general statutes is
273 repealed and the following is substituted in lieu thereof (*Effective from*
274 *passage*):

275 (a) Any (1) elector or candidate aggrieved by a ruling of an election
276 official in connection with any primary held pursuant to (A) section 9-
277 423, 9-425 or 9-464, or (B) a special act, (2) elector or candidate who
278 alleges that there has been a mistake in the count of the votes cast at
279 such primary, or (3) candidate in such a primary who alleges that he is
280 aggrieved by a violation of any provision of sections 9-355, 9-357 to 9-
281 361, inclusive, 9-364, 9-364a or 9-365 in the casting of absentee ballots
282 at such primary, may bring his complaint to any judge of the Superior
283 Court for appropriate action. In any action brought pursuant to the
284 provisions of this section, the complainant shall send a copy of the
285 complaint by first-class mail, or deliver a copy of the complaint by
286 hand, to the State Elections Enforcement Commission. If such
287 complaint is made prior to such primary such judge shall proceed

288 expeditiously to render judgment on the complaint and shall cause
289 notice of the hearing to be given to the Secretary of the State and the
290 State Elections Enforcement Commission. If such complaint is made
291 subsequent to such primary it shall be brought, [within] not later than
292 fourteen days after such primary, or if such complaint is brought in
293 response to the manual tabulation of paper ballots, described in section
294 2 of this act, such complaint shall be brought, not later than seven days
295 after the close of any such manual tabulation, to any judge of the
296 Superior Court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	9-238(b)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	9-323
Sec. 4	<i>from passage</i>	9-324
Sec. 5	<i>from passage</i>	9-329a(a)

GAE *Joint Favorable Subst.*