



General Assembly

**Substitute Bill No. 1311**

January Session, 2007

\*       SB01311PD      052407      \*

**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2 repealed and the following is substituted in lieu thereof (*Effective from*  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.*

**APP**      *Joint Favorable*

**PD**        *Joint Favorable*