



General Assembly

January Session, 2011

Raised Bill No. 940

LCO No. 3047

03047_____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 Section 9-320f of the general statutes is repealed and the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, 2011*):

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 has an office that is subject to
35 recanvass or an election or primary contest pursuant to the general
36 statutes, the Secretary of the State shall select an alternative district,
37 pursuant to the process described in subsection (b) of this section.

38 (d) The [manual] audit described in subsection (a) of this section
39 shall consist of [the] a manual audit or a tabulation of all of the paper
40 ballots cast and counted by each voting [machine] tabulator subject to
41 such audit using an independent machine rather than a tabulator.
42 Once complete, the vote totals established pursuant to the [manual]
43 tabulation conducted in accordance with this subsection shall be
44 compared to the results reported by the voting [machine] tabulator on
45 the day of the election or primary. The results of the [manual]
46 tabulation conducted in accordance with this subsection shall be
47 reported on a form prescribed by the Secretary of the State [which] that
48 shall include the total number of ballots counted, the total votes

49 received by each candidate in question, the total votes received by each
50 candidate in question on ballots that were properly completed by each
51 voter and the total votes received by each candidate in question on
52 ballots that were not properly completed by each voter. Such report
53 shall be filed with the Secretary of the State who shall immediately
54 forward such report to The University of Connecticut for analysis. The
55 University of Connecticut shall file a written report with the Secretary
56 of the State regarding such analysis that describes any discrepancies
57 identified. After receipt of such report, the Secretary of the State shall
58 file such report with the State Elections Enforcement Commission.

59 (e) For the purposes of this section, a ballot that has not been
60 properly completed will be deemed to be a ballot on which (1) votes
61 have been marked by the voter outside the vote targets, (2) votes have
62 been marked by the voter using a manual marking device that cannot
63 be read by the voting [machine] tabulator, or (3) in the judgment of the
64 registrars of voters, the voter marked the ballot in such a manner that
65 the voting [machine] tabulator may not have read the marks as votes
66 cast.

67 (f) Notwithstanding the provisions of section 9-311, the Secretary of
68 the State shall order a discrepancy recanvass of the returns of an
69 election or primary for any office if a discrepancy, as defined in
70 subsection (o) of this section, exists where the margin of victory in the
71 race for such office is less than the amount of the discrepancy
72 multiplied by the total number of voting districts where such race
73 appeared on the ballot, provided in a year in which the Secretary of the
74 State is a candidate for an office on the ballot and that office is subject
75 to an audit as provided by this section, the State Elections Enforcement
76 Commission shall order a discrepancy recanvass if a discrepancy, as
77 defined by subsection (o) of this section, has occurred that could affect
78 the outcome of the election or primary for such office.

79 (g) If The University of Connecticut report described in subsection
80 (d) of this section indicates that a voting [machine] tabulator failed to

81 record votes accurately and in the manner provided by the general
82 statutes, the Secretary of the State shall require that the voting
83 [machine] tabulator be examined and recertified by the Secretary of the
84 State, or the Secretary's designee. Nothing in this subsection shall be
85 construed to prohibit the Secretary of the State from requiring that a
86 voting [machine] tabulator be examined and recertified.

87 (h) The audit report filed pursuant to subsection (d) of this section
88 shall be open to public inspection and may be used as prima facie
89 evidence of a discrepancy in any contest arising pursuant to chapter
90 149 or for any other cause of action arising from such election or
91 primary.

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

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

111 (k) Nothing in this section shall be construed to preclude any
112 candidate or elector from seeking additional remedies pursuant to

113 chapter 149.

114 (l) After an election or primary, any voting [machine] tabulator may
115 be kept locked for a period longer than that prescribed by sections 9-
116 266, 9-310 and 9-447, if such an extended period is ordered by either a
117 court of competent jurisdiction, the Secretary of the State or the State
118 Elections Enforcement Commission. Either the court or the Secretary of
119 the State may order an audit of such voting [machine] tabulator to be
120 conducted by such persons as the court or the Secretary of the State
121 may designate, provided the State Elections Enforcement Commission
122 may order such an audit under the circumstances prescribed in
123 subsection (f) of this section. If the [machine] tabulator utilized in such
124 election or primary is an optical scan voting system, such order to lock
125 such [machine] tabulator shall include the [tabulator,] memory card
126 and all other components and processes utilized in the programming
127 of such [machine] tabulator.

128 (m) The Secretary of the State may adopt regulations, in accordance
129 with the provisions of chapter 54, as may be necessary for the conduct
130 of the [manual] tabulation of the paper ballots described in subsection
131 [(a)] (d) of this section and to establish guidelines for expanded audits
132 when there are differences between the [manual and machine counts]
133 count conducted in accordance with subsection (d) of this section and
134 the primary or election day count.

135 (n) Notwithstanding any provision of the general statutes, the
136 Secretary of the State shall have access to the code in any voting
137 [machine] tabulator whenever any problem is discovered as a result of
138 the audit. [described in subsection (a) of this section.]

139 (o) As used in this section, "discrepancy" means any difference in
140 vote totals between [machine and manual counts] a primary or election
141 day count and a count conducted in accordance with subsection (d) of
142 this section in a voting district that exceeds one-half of one per cent of
143 the lesser amount of the vote totals between [machine and manual
144 counts] the primary or election day count and the count conducted in

145 accordance with subsection (d) of this section where such differences
146 cannot be resolved through an accounting of ballots that were not
147 marked properly in accordance with subsection (e) of this section,
148 "state election" means "state election", as defined in section 9-1, [and]
149 "municipal election" means a municipal election held pursuant to
150 section 9-164 and "primary" means "primary" as defined in section 9-
151 372.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	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.]