



Senate

General Assembly

File No. 484

January Session, 2013

Substitute Senate Bill No. 901

Senate, April 15, 2013

The Committee on Government Administration and Elections reported through SEN. MUSTO of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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 Section 9-320f of the general statutes is repealed and the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, 2013*):

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 clerk for any municipal
7 election or primary, the registrars of voters shall conduct [a manual] an
8 audit of the votes recorded in not less than [ten] five per cent of the
9 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] is wholly or partially in a municipality in which
37 three districts that are wholly or partially in such municipality have
38 already been selected for audit under subsection (b) of this section for a
39 single election or primary, the Secretary of the State shall select an
40 alternative district, pursuant to the process described in subsection (b)
41 of this section.

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

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

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

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

82 defined by subsection (o) of this section, has occurred that could affect
83 the outcome of the election or primary for such office.

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

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

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

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

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

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

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

138 (n) Notwithstanding any provision of the general statutes, the
139 Secretary of the State shall have access to the code in any voting
140 machine whenever any problem is discovered as a result of the audit
141 described in subsection (a) of this section.

142 (o) As used in this section, "discrepancy" means any difference in
143 vote totals between tabulator and [manual] audit counts in a voting
144 district that exceeds one-half of one per cent of the lesser amount of the
145 vote totals between the tabulator used for the primary or election day
146 tabulation and [manual] audit counts where such differences cannot be
147 resolved through an accounting of ballots that were not marked

148 properly in accordance with subsection (e) of this section, "state
 149 election" means "state election", as defined in section 9-1, and
 150 "municipal election" means a municipal election held pursuant to
 151 section 9-164.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2013	9-320f

Statement of Legislative Commissioners:

Changed municipal clerk back to the existing language, town clerk, for consistency with the general statutes.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 14 \$	FY 15 \$
Various Municipalities	Potential Savings	Less than 10,000 each	Less than 10,000 each

Explanation

The bill reduces the number of audits of votes recorded that registrars of voters must conduct, limits the number of districts that can be audited in a single municipality, and makes procedural changes to the manner in which such audits are conducted. As the audits are performed by municipalities, there is no fiscal impact to the state arising from the provisions of the bill.

Reducing the number of audits conducted both statewide and within a single municipality may result in a potential savings of less than \$10,000 for various municipalities. These savings are associated with the costs of hiring ballot counters and moderators to conduct an audit.

Reducing the audit rate to 5% of voting districts, from 10%, lessens the likelihood that a municipal district will be selected for audit in a given year. To the extent that a municipality is less likely to be audited under the bill, it may potentially save the costs associated with conducting an audit.

In addition, the provision in the bill limiting the number of districts that can be audited in a single municipality may potentially save a

municipality costs if it otherwise would have been selected for more than the proposed maximum number of audits.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 901*****AN ACT CONCERNING POST-ELECTION AUDITS.*****SUMMARY:**

The law requires registrars of voters to audit the state's voting districts, selected through random drawing, after a regular federal, state, or municipal election or primary. This bill:

1. eliminates the requirement that registrars conduct the audits manually, instead requiring them to use a voting tabulator;
2. reduces, from 10% to 5%, the minimum percentage of voting districts in the state, municipality, or district, whichever applies, that must be audited;
3. eliminates a provision under which only certain elective offices are subject to the audit;
4. lifts the ban on auditing districts where an office is subject to a recanvass (recount) or an election or primary contest; and
5. prohibits more than three districts in a municipality (whether wholly or partially in the municipality) from being audited.

The bill requires that the tabulator registrars use for the audit be different than the one used for the election or primary, whichever applies.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2013

BACKGROUND***Offices Subject to the Audit***

The offices currently subject to the audit in the selected districts are:

1. in a presidential or gubernatorial election, all offices required to be audited by federal law, plus one additional office selected in a random drawing by the secretary of the state, but in no case fewer than three offices;
2. in a municipal election, three offices or 20% of the offices on the ballot, whichever is greater, selected at random by the town clerk; and
3. in a primary election, all offices required to be audited by federal law, plus one additional office, if any, but at least 20% of the offices on the ballot, selected at random by the town clerk.

Conducting the Audit

The audit consists of a tally of the ballots that each audited voting machine casts and counts. Registrars must compare their results to those that the audited machine shows and report the results to the secretary of the state, who forwards them to UConn for analysis. UConn describes any discrepancies it finds in a written report to the secretary.

The secretary must have an audited machine examined and recertified if the (1) UConn report indicates that a system failed to record votes accurately and in the manner provided by law or (2) registrars are unable to reconcile any discrepancies between their count and the audited machine counts.

In addition, the secretary (or the State Elections Enforcement Commission when the secretary's office is being audited) must order a recount if there is a (1) discrepancy in the votes for a federal, state, or local office that could affect the outcome of the election or primary and (2) difference between the audited machine and registrars' counts greater than 0.5% that cannot be resolved by adding or subtracting ballots that were improperly marked.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 14 Nay 0 (03/27/2013)