



General Assembly

January Session, 2015

Raised Bill No. 1041

LCO No. 4295



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT CONCERNING POST-ELECTION AUDIT INTEGRITY AND
EFFICIENCY.***

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 Section 9-320f of the general statutes is repealed and the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, 2015*):

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] five per
9 cent of the voting districts [in the state, district or municipality,
10 whichever is applicable. Such manual audit shall be noticed in advance
11 and be] and central counting locations for absentee and election day
12 registration ballots in such election or primary, as identified by
13 moderators' returns required by subsection (c) of section 9-314, as
14 amended by this act, and certifications required by section 9-228a, as

15 amended by this act. Any errors, omissions or ambiguities in such
16 returns or certifications shall be resolved by auditing all districts
17 omitted from such returns or certifications and auditing the largest set
18 of ballots or districts ambiguously identified. Such audit shall be (1)
19 noticed, not later than three days prior to such audit, to the public and
20 via electronic mail or telephone to any elector requesting such
21 notification after the random selection, and (2) open to public
22 observation. Any election official who participates in the
23 administration and conduct of an audit pursuant to this section shall
24 be compensated by the municipality at the standard rate of pay
25 established by such municipality for elections or primaries, as the case
26 may be.

27 (b) The voting districts subject to the audit described in subsection
28 (a) of this section shall be selected in a random drawing by the
29 Secretary of the State and such selection process shall be open to the
30 public. At such drawing, the Secretary shall further randomly select
31 five per cent of the municipalities in the election for audit of central
32 counting locations for absentee and election day registration ballots, if
33 any in such selected municipalities. The offices and questions subject
34 to the audit pursuant to this section shall be, (1) in the case of an
35 election, [where the office of presidential elector is on the ballot, all
36 offices required to be audited by federal law, plus one additional office
37 selected in a random drawing by the Secretary of the State, but in no
38 case less than three offices, (2) in the case of an election where the
39 office of Governor is on the ballot, all offices required to be audited by
40 federal law, plus one additional office selected in a random drawing
41 by the Secretary of the State, but in no case less than three offices, (3) in
42 the case of a municipal election, three offices or twenty per cent of the
43 number of offices on the ballot, whichever is greater, selected at
44 random] three contested offices or questions selected in a public
45 random drawing, separately for each district, by the municipal clerk [,
46 and (4) in the case of a primary election, all offices required to be
47 audited by federal law, plus one additional office, if any, but in no

48 event less than twenty per cent of the offices on the ballot,] or
49 registrars of voters prior to the conduct of the audit, and (2) in the case
50 of a primary election, one office selected in a public random drawing,
51 separately for each district and party holding a primary, by the
52 municipal clerk or registrars of voters prior to the conduct of the audit.
53 In the case of such central counting locations selected for audit, one
54 voting district shall be selected in a public random drawing by the
55 municipal clerk or registrars of voters prior to the conduct of the audit.

56 (c) If a selected voting district has an office that is subject to
57 recanvass or an election or primary contest pursuant to the general
58 statutes, or if such voting district would be the fourth voting district in
59 a municipality selected for audit, the Secretary shall select an
60 alternative district, pursuant to the process described in subsection (b)
61 of this section.

62 (d) (1) The [manual] audit described in subsection (a) of this section
63 shall, as set forth in subdivision (2) or (3) of this subsection, consist of
64 the [manual] tabulation of the paper ballots cast and counted by each
65 voting tabulator subject to such audit [. Once complete, the vote totals
66 established pursuant to the manual tabulation shall be compared to the
67 results reported by the voting tabulator on the day of the election or
68 primary. The results of the manual tabulation shall be reported on a
69 form prescribed by the Secretary of the State which shall include the
70 total number of ballots counted, the total votes received by each
71 candidate in question, the total votes received by each candidate in
72 question on ballots that were properly completed by each voter and
73 the total votes received by each candidate in question on ballots that
74 were not properly completed by each voter. Such report] and,
75 separately, all ballots initially counted by hand if there are twenty or
76 more in the voting district. The report of such audit, produced as set
77 forth in subdivision (2) or (3) of this subsection, shall be immediately
78 filed with the Secretary of the State who shall immediately forward
79 such report to The University of Connecticut for analysis. The
80 University of Connecticut shall file a written report with the Secretary

81 of the State, not later than one hundred eighty days after the day of the
82 election or primary, regarding such analysis that describes any
83 discrepancies identified. After receipt of such report, the Secretary of
84 the State shall immediately file such report with the State Elections
85 Enforcement Commission.

86 (2) The audit may consist of the manual tabulation of all the paper
87 ballots. Once complete, the vote totals established pursuant to the
88 manual tabulation shall be compared to the results reported by the
89 voting machine on the day of the election or primary. The results of the
90 manual tabulation shall be reported on a form prescribed by the
91 Secretary of the State that shall include the total number of ballots
92 counted, the total votes received by each candidate for the office so
93 audited or in favor of each question so audited, the total votes received
94 by each such candidate or in favor of such question on ballots
95 containing markings that should have been accepted by the tabulator
96 as properly marked and the total votes received by each such
97 candidate or in favor of such question on ballots containing markings
98 that may or may not have been accepted by the tabulator as properly
99 marked.

100 (3) The audit may be accomplished by means of an independent
101 tabulation process, established prior to the election or primary, that
102 retabulates all the paper ballots for all offices and questions in the
103 election or primary. Such process shall utilize hardware and software
104 approved by the Secretary of the State and shall be conducted by
105 election officials following procedures established by the Secretary.
106 Such process shall produce a cast vote record for each ballot by
107 recording each vote assigned by the retabulation on each ballot and
108 with a means of associating the ballot with the cast vote record either
109 by the sequence in which the ballot was scanned or by a unique
110 identifier added to each ballot. Such process shall result in the export,
111 to a standard computer-readable format, of all cast vote records that
112 shall be made available for review by members of the public who may
113 observe such audit and thereafter transmitted in such format to the

114 Secretary. Immediately following such export and cast vote record
115 availability, the registrars of voters shall conduct a manual audit of the
116 retabulation by randomly selecting original ballots and comparing the
117 manual interpretations of the markings on such ballots to the
118 associated cast vote records. The registrars of voters shall record, for
119 each ballot selected, any difference between the manual interpretation
120 of such ballot and the associated cast vote record and identify the
121 circumstances, if any, accounting for such difference including, but not
122 limited to, an improperly marked ballot. The number of ballots
123 randomly selected for such manual audit shall be twenty ballots plus
124 two per cent of all ballots retabulated for all districts audited in the
125 municipality, provided the total number of ballots randomly selected
126 for such manual audit shall not exceed sixty. The results of the
127 retabulation shall be reported on a form prescribed by the Secretary of
128 the State that shall include the total number of ballots counted, the
129 total votes received by each candidate for the office so audited or in
130 favor of each question so audited, a printed record from the
131 retabulation machine, a copy of the printed record from the original
132 election or primary tabulator and a record of the manual comparison
133 of randomly selected ballots identifying any difference between the
134 manual interpretations and the retabulation interpretations of the
135 markings on such ballots.

136 (e) For the purposes of this section, a ballot that has not been
137 properly completed will be deemed to be a ballot on which [(1) votes
138 have been marked by the voter outside the vote targets, (2)] votes have
139 been marked by the voter using a manual marking device that cannot
140 be read by the voting tabulator, [, or (3) in the judgment of the
141 registrars of voters, the voter marked the ballot in such a manner that
142 the voting tabulator may not have read the marks as votes cast.]

143 (f) Notwithstanding the provisions of section 9-311, the Secretary of
144 the State shall order a complete audit or manual count discrepancy
145 recanvass of the returns of an election or primary for any office or
146 question if a discrepancy, as defined in subsection (o) of this section,

147 exists where the margin of victory [in the race] for such office or the
148 margin of victory or defeat for such question is less than the amount of
149 the discrepancy multiplied by the total number of voting districts
150 where such [race] office or question appeared on the ballot, provided
151 in a year in which the Secretary of the State is a candidate for an office
152 on the ballot and that office is subject to an audit as provided by this
153 section, the State Elections Enforcement Commission shall order a
154 complete audit or manual count discrepancy recanvass if a
155 discrepancy, as defined by subsection (o) of this section, has occurred
156 that could affect the outcome of the election or primary for such office.

157 (g) If The University of Connecticut report described in subsection
158 (d) of this section indicates that a voting tabulator or retabulator failed
159 to record votes accurately and in the manner provided by the general
160 statutes, the Secretary of the State shall require that the voting
161 tabulator or retabulator be examined and recertified by the Secretary of
162 the State, or the Secretary's designee. Nothing in this subsection shall
163 be construed to prohibit the Secretary of the State from requiring that a
164 voting tabulator be examined and recertified.

165 (h) [The audit report] The municipal audit reports filed pursuant to
166 subsection (d) of this section shall be open to public inspection for not
167 more than thirty days after such filing and may be used as prima facie
168 evidence of a discrepancy in any contest arising pursuant to chapter
169 149 or for any other cause of action arising from such election or
170 primary.

171 (i) If the audit officials are unable to reconcile the [manual] audit
172 count conducted pursuant to subsection (d) of this section with the
173 electronic vote tabulation of the count recorded on the day of the
174 election or primary and discrepancies, the Secretary of the State shall
175 conduct such further investigation of the voting tabulator, retabulator
176 or retabulator software malfunction as may be necessary for the
177 purpose of reviewing whether or not to decertify the voting tabulator
178 or tabulators in question or to order the voting tabulator to be

179 examined and recertified pursuant to subsection (g) of this section.
180 Any report produced by the Secretary of the State as a result of such
181 investigation shall be filed with the State Elections Enforcement
182 Commission and the commission may initiate such further
183 investigation in accordance with subdivision (1) of subsection (a) of
184 section 9-7b as may be required to determine if any violations of the
185 general statutes concerning election law have been committed.

186 (j) The individual paper ballots used at an election or primary shall
187 be carefully preserved and returned in their designated receptacle in
188 accordance with the requirements of section 9-266 or 9-310, as
189 amended by this act, whichever is applicable.

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

193 (l) After an election or primary, any voting tabulator may be kept
194 locked for a period longer than that prescribed by sections 9-266, 9-310,
195 as amended by this act, and 9-447, if such an extended period is
196 ordered by either a court of competent jurisdiction, the Secretary of the
197 State or the State Elections Enforcement Commission. Either the court
198 or the Secretary of the State may order an audit of such voting
199 tabulator to be conducted by such persons as the court or the Secretary
200 of the State may designate, provided the State Elections Enforcement
201 Commission may order such an audit under the circumstances
202 prescribed in subsection (f) of this section. If the machine utilized in
203 such election or primary is an optical scan voting system, such order to
204 lock such machine shall include the tabulator, memory card and all
205 other components and processes utilized in the programming of such
206 machine.

207 (m) The Secretary of the State may adopt regulations, in accordance
208 with the provisions of chapter 54, as may be necessary for the conduct
209 of the [manual] tabulation of the paper ballots described in subsection

210 [(a)] (d) of this section and to establish guidelines for expanded audits
211 when there are differences between the [manual and tabulator counts]
212 audit count and the electronic vote tabulation of the count recorded on
213 the day of the election or primary.

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

218 (o) As used in this section, (1) "discrepancy" means any difference in
219 vote totals between [tabulator and manual counts] the electronic vote
220 tabulation of the count recorded on the day of the election or primary
221 and the audit count in a voting district that exceeds one-half of one per
222 cent of the lesser amount of the vote totals between [tabulator and
223 manual counts] the electronic vote tabulation of the count recorded on
224 the day of the election or primary and the audit count where such
225 differences cannot be resolved through an accounting of ballots that
226 were not marked properly in accordance with subsection (e) of this
227 section, (2) "state election" means "state election", as defined in section
228 9-1, and (3) "municipal election" means a municipal election held
229 pursuant to section 9-164.

230 Sec. 2. Section 9-265 of the general statutes is repealed and the
231 following is substituted in lieu thereof (*Effective July 1, 2015*):

232 (a) A write-in vote for an office, cast for a person who has registered
233 as a write-in candidate for the office pursuant to subsection (b) of
234 section 9-175 or section 9-373a, shall be counted and recorded. Except
235 as otherwise provided in this section, a write-in vote cast for a person
236 who has not registered shall not be counted or recorded.

237 (b) Except as otherwise provided in this section, in the case of an
238 office for which an elector may vote for only one candidate, a write-in
239 vote cast for a person nominated for that office by a major or minor
240 party or by nominating petition shall be counted and recorded. In the

241 case of an office for which an elector may vote for more than one
242 candidate, a write-in vote cast for a person nominated for that office by
243 a major or minor party or by nominating petition shall be counted and
244 recorded if it can be determined which candidate such vote should be
245 attributed to.

246 (c) A write-in vote for the office of Governor or Lieutenant
247 Governor, cast for a person nominated for either of those offices by a
248 major or minor party or by nominating petition, in conjunction with a
249 write-in vote for the other such office cast for a person nominated for
250 either office by a different party or petition, shall not be counted or
251 recorded for either office.

252 (d) Except as hereinafter provided, a write-in vote for the office of
253 President or Vice-President cast for a person nominated for such office
254 by a major or minor party or by nominating petition shall be counted
255 and recorded and deemed to be a vote for each of the duly-nominated
256 candidates for the office of presidential elector represented by such
257 candidate for President or Vice-President. A write-in vote for the office
258 of President or Vice-President, cast for a person nominated for either of
259 such offices by a major or minor party or by nominating petition, in
260 conjunction with a write-in vote for the other such office cast for a
261 person nominated for either office by a different party or petition, shall
262 not be counted or recorded for either office.

263 (e) If the name of a person is written in for the office of Governor or
264 Lieutenant Governor, or President or Vice-President, as the case may
265 be, and no name is written in for the other office, such write-in vote
266 shall be counted and recorded if it meets the other requirements of this
267 section.

268 (f) A write-in vote shall be cast in its appropriate place on the ballot.
269 A write-in vote for Governor and Lieutenant Governor, or for
270 President and Vice-President, as the case may be, shall be written in a
271 single space, provided that if only one name is written in the space it

272 shall be deemed to be a vote for Governor, or for President, as the case
273 may be, unless otherwise indicated. A write-in vote shall be written
274 upon the ballot.

275 (g) A write-in vote which is not cast as provided in this section shall
276 not be counted or recorded as a vote for any candidate.

277 (h) In the case of a write-in vote cast or counted by a tabulator, the
278 total number of write-in bubbles filled in per race will be counted and
279 recorded. Such total number will be compared to and balanced with
280 the write-in count for each race as reported by such tabulator.

281 Sec. 3. Section 9-310 of the general statutes is repealed and the
282 following is substituted in lieu thereof (*Effective July 1, 2015*):

283 (a) As soon as the count is completed and the moderator's return
284 required under the provisions of section 9-259 has been executed, the
285 moderator shall place the sealed tabulator in the tabulator bag, and so
286 seal the bag, and the tabulator shall remain so sealed against voting or
287 being tampered with for a period of [fourteen days] either sixty days
288 or thirty days prior to the use of such tabulator at a subsequent
289 election, primary or referendum, whichever is less, except as provided
290 in section 9-311 or pursuant to an order issued by the State Elections
291 Enforcement Commission.

292 (b) The moderator shall place all cast ballots in a container approved
293 by the Secretary of the State, or as many such containers as may be
294 necessary, and affix a numbered and tamper-evident seal approved by
295 the Secretary of the State, or as many such seals as may be necessary,
296 upon such container or containers. The moderator shall record such
297 seal number or numbers in the moderator's return and the ballots shall
298 remain so sealed against being tampered with for a period of thirty
299 days after The University of Connecticut post-election audit report
300 required by subsection (d) of section 9-320f, as amended this act, is
301 filed with the State Elections Enforcement Commission, except as
302 provided in section 9-311 or other applicable laws or pursuant to an

303 order issued by the State Elections Enforcement Commission.

304 (c) If it is determined that a recanvass is required pursuant to
305 section 9-311 or 9-311a, immediately upon such determination the
306 tabulators, [write-in] all ballots, absentee ballots [,] and moderators'
307 returns and all other notes, worksheets or written materials used at the
308 election shall be impounded at the direction of the Secretary of the
309 State. Such package shall be preserved for one hundred eighty days
310 after such election and may be opened and its contents examined in
311 accordance with section 9-311 or upon an order of a court of competent
312 jurisdiction. At the end of one hundred eighty days, unless otherwise
313 ordered by the court, such package and its contents may be destroyed.
314 Any person who unlocks the voting or operating mechanism of the
315 tabulator or the counting compartment after it has been locked as
316 above directed or breaks or destroys or tampers with the seal after it
317 has been affixed as above directed or changes the indication of the
318 counters on any voting tabulator within fourteen days after the
319 election or within any longer period during which the tabulator is kept
320 locked as ordered by a court of competent jurisdiction or by the State
321 Elections Enforcement Commission in any special case, except as
322 provided in section 9-311, shall be imprisoned for not more than five
323 years. Any tabulator may be released in less than fourteen days, for
324 use in another election, by order of a court, if there is no disagreement
325 as to the returns from such machine and no order directing
326 impoundment has been issued by the State Elections Enforcement
327 Commission.

328 Sec. 4. Section 9-314 of the general statutes is amended by adding
329 subsection (c) as follows (*Effective July 1, 2015*):

330 (NEW) (c) Not later than three o'clock p.m. of the day after the
331 election, the moderator shall either (1) transmit to the Secretary of the
332 State by facsimile machine or other electronic means prescribed by the
333 Secretary complete copies of all district, central count absentee and
334 central count election day registration moderator's returns, or (2)

335 submit equivalent information electronically via a system maintained
336 and specified by the Secretary of the State. Not later than twenty-four
337 hours after receipt of such moderator's returns or equivalent electronic
338 information, the Secretary shall make all such information available to
339 the public, organized by town and district on the Internet web site of
340 the Office of the Secretary of the State. Such information shall include
341 votes by municipality broken down by tabulator counts, manual
342 counts and write-in counts for each district and polling place, absentee
343 counts and election day registration counts, moderator's returns and
344 total number of voters checked in for each district.

345 Sec. 5. Subsection (m) of section 9-150a of the general statutes is
346 repealed and the following is substituted in lieu thereof (*Effective July*
347 *1, 2015*):

348 (m) After the absentee and election day registration ballots have
349 been so counted, they shall be placed by the counters, separately by
350 voting district, in depository envelopes prescribed by the Secretary of
351 the State and provided by the municipal clerk. Any notes, worksheets,
352 or other written materials used by the counters in counting such
353 ballots shall be endorsed by them with their names, the date and the
354 time of the count and shall also be placed in such depository envelopes
355 together with the ballots, and with the separate record of the number
356 of votes cast on such ballots for each candidate as required by section
357 9-150b, as amended by this act. Such depository envelopes shall then
358 be sealed, endorsed and delivered to the moderator by the counters in
359 the same manner as provided in subsection (f) of this section. At the
360 close of absentee and election day registration vote counting, voting
361 tabulators, ballots and inner and outer envelopes shall be placed in
362 containers approved by the Secretary of the State, which shall be
363 affixed with numbered and tamper-evident seals approved by the
364 Secretary, returned to the registrars of voters and retained in the same
365 manner as polling place tabulators and ballots as provided in section 9-
366 310, as amended by this act.

367 Sec. 6. Subsections (e) and (f) of section 9-150b of the general statutes
368 are repealed and the following is substituted in lieu thereof (*Effective*
369 *July 1, 2015*):

370 (e) The sealed depository envelopes required by subsections (f) and
371 (m) of section 9-150a, as amended by this act, shall be returned by the
372 moderator to the [municipal clerk] registrars of voters as soon as
373 practicable on or before the day following the election, primary or
374 referendum.

375 (f) The [municipal clerk] registrar of voters shall preserve for sixty
376 days after the election, primary or referendum the depository
377 envelopes containing opened envelopes and rejected ballots required
378 by subsection (f) of section 9-150a, and shall so preserve for one
379 hundred eighty days the depository envelopes containing counted
380 ballots and related materials required by subsection (m) of section 9-
381 150a, as amended by this act.

382 Sec. 7. Subsection (a) of section 9-228a of the general statutes is
383 repealed and the following is substituted in lieu thereof (*Effective July*
384 *1, 2015*):

385 (a) The registrars of voters of each municipality shall, not later than
386 thirty-one days prior to each municipal, state or federal election or
387 primary, certify to the Secretary of the State, in writing, the location of
388 each polling place and each location for central counting of absentee
389 ballots that will be used for such election or primary. Such certification
390 shall detail the name, address, relevant contact information and
391 corresponding federal, state and municipal districts associated with
392 each polling place used for such election or primary.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	9-320f
Sec. 2	<i>July 1, 2015</i>	9-265

Sec. 3	<i>July 1, 2015</i>	9-310
Sec. 4	<i>July 1, 2015</i>	9-314
Sec. 5	<i>July 1, 2015</i>	9-150a(m)
Sec. 6	<i>July 1, 2015</i>	9-150b(e) and (f)
Sec. 7	<i>July 1, 2015</i>	9-228a(a)

Statement of Purpose:

To (1) enhance the coverage, accuracy and transparency of post-election audits while reducing cost and effort required for local election officials, (2) provide for timely notification of public events and filing of mandatory reports, (3) provide sufficient security of materials and equipment required for audits and follow-up investigations, and (4) make technical revisions to statutes to recognize that polling place voting includes paper ballots that must be secured.

[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.]