S T A T E O F N E W Y O R K

2778--B

2013-2014 Regular Sessions

I N A S S E M B L Y

January 18, 2013

Introduced by M. of A. KELLNER, QUART, JAFFEE, BENEDETTO, STECK, ROBERTS, COOK, MOYA, MILLMAN, COLTON -- Multi-Sponsored by -- M. of A. BRENNAN, GABRYSZAK, RIVERA, WEISENBERG -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to requiring an automatic manual recanvass and audit of votes in certain cases where the difference between votes cast for two candidates, or for and against a proposition, determines a candidate's nomination or election to office, or a proposition's approval by the voters

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The election law is amended by adding a new section 9-207 to read as follows:

S 9-207. AUTOMATIC MANUAL RECANVASS AND AUDIT OF VOTES. 1. WITHIN FIFTEEN DAYS AFTER EACH GENERAL, SPECIAL OR PRIMARY ELECTION, AND WITHIN SEVEN DAYS AFTER EVERY VILLAGE ELECTION, WHERE THE DIFFERENCE BETWEEN THE VOTES CAST FOR TWO CANDIDATES FOR NOMINATION OR ELECTION TO OFFICE THAT DETERMINES THE NOMINATION OR ELECTION; OR WHERE THE DIFFERENCE BETWEEN THE VOTES CAST FOR AND AGAINST A PROPOSITION IS:

(A) IN THE CASE OF AN ELECTION OTHER THAN A STATEWIDE ELECTION, LESS THAN ONE-HALF OF ONE PERCENT OF THE TOTAL NUMBER OF BALLOTS CAST ON WHICH THE CONTEST APPEARED; OR

(B) IN THE CASE OF A STATEWIDE ELECTION, LESS THAN ONE-FOURTH OF ONE PERCENT OF THE TOTAL NUMBER OF BALLOTS CAST ON WHICH THE CONTEST APPEARED; OR

(C) TEN VOTES OR LESS,

THE BOARD OF ELECTIONS OF EACH COUNTY, OR A BIPARTISAN COMMITTEE OF OR APPOINTED BY SAID BOARD, SHALL MANUALLY RECOUNT THE VOTES CAST IN EACH

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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ELECTION DISTRICT IN WHICH THE CONTEST APPEARED ON THE BALLOT, INCLUDING ANY OVERVOTES, UNDERVOTES, BLANK VOTES OR THEIR EQUIVALENT. NO PERSON WHO WAS A CANDIDATE AT SUCH ELECTION SHALL BE APPOINTED TO MEMBERSHIP ON THE COMMITTEE.

2. SUCH BOARD OF ELECTIONS OR BIPARTISAN COMMITTEE SHALL CONDUCT A COMPLETE MANUAL AUDIT OF VOTER VERIFIABLE PAPER AUDIT RECORDS ON WHICH THE CONTEST APPEARED FROM EVERY VOTING MACHINE OR SYSTEM WITHIN THE JURISDICTION OF SUCH BOARD OR COMMITTEE. SAID BOARD OR COMMITTEE SHALL ALSO MAKE A RECANVASS OF ANY ELECTION DAY PAPER BALLOTS THAT HAVE NOT BEEN SCANNED AND WERE HAND COUNTED PURSUANT TO SUBDIVISION TWO OF SECTION 9-110 OF THIS ARTICLE, AS WELL AS OF ANY ABSENTEE AND MILITARY, SPECIAL FEDERAL, SPECIAL PRESIDENTIAL AND EMERGENCY BALLOTS.

3. BEFORE MAKING SUCH RECANVASS AND AUDIT, THE BOARD OF ELECTIONS, WITH RESPECT TO EACH ELECTION DISTRICT TO BE RECANVASSED AND AUDITED, SHALL GIVE NOTICE IN WRITING TO THE VOTING MACHINE CUSTODIAN THEREOF, TO THE STATE AND COUNTY CHAIR OF EACH PARTY OR INDEPENDENT BODY WHICH SHALL HAVE NOMINATED CANDIDATES FOR THE SAID GENERAL OR SPECIAL ELECTION OR NOMINATED OR ELECTED CANDIDATES AT THE SAID PRIMARY ELECTION AND TO EACH INDIVIDUAL CANDIDATE WHOSE NAME APPEARS ON THE OFFICE BALLOT, OF THE TIME AND PLACE WHERE SUCH CANVASS AND AUDIT IS TO BE MADE; AND THE STATE AND COUNTY CHAIR OF EACH SUCH PARTY OR INDEPENDENT BODY AND EACH SUCH INDIVIDUAL CANDIDATE MAY SEND A REPRESENTATIVE TO BE PRESENT AT SUCH RECANVASS AND AUDIT.

4. IF UPON SUCH RECANVASS AND AUDIT CONDUCTED PURSUANT TO THIS SECTION, IT SHALL BE FOUND THAT THE ORIGINAL CANVASS OF THE RETURNS OF AN ELECTION DISTRICT HAS BEEN INCORRECTLY MADE, A STATEMENT IN WRITING SHALL BE PREPARED GIVING THE DETAILS FOR ANY CORRECTIONS MADE FOR SUCH ELECTION DISTRICT. THE RESULT OF THE RECANVASS AND AUDIT AND SUCH STATEMENT SHALL BE WITNESSED BY THE PERSONS REQUIRED TO BE PRESENT AND SHALL BE FILED WITH THE BOARD OF ELECTIONS. SUCH RECANVASS AND AUDIT OF VOTES MADE PURSUANT HERETO SHALL THEREUPON SUPERSEDE THE RETURNS FILED BY THE INSPECTORS OF ELECTION OF THE ELECTION DISTRICT IN WHICH THE CANVASS WAS MADE.

5. A CANDIDATE FOR NOMINATION OR ELECTION TO AN OFFICE FOR WHICH THE RECANVASS AND AUDIT IS CONDUCTED PURSUANT TO THIS SECTION MAY CONCEDE AND WAIVE HIS OR HER RIGHT TO THE RECANVASS AND AUDIT BY FILING A WRITTEN NOTICE OF WAIVER WITH THE BOARD OF ELECTIONS.

6. WHERE A RECANVASS AND AUDIT IS CONDUCTED PURSUANT TO THIS SECTION, NO RECANVASS OR AUDIT OF THE SAME CONTEST SHALL BE REQUIRED PURSUANT TO ANY OTHER SECTION OF THIS TITLE.

S 2. This act shall take effect immediately.