

2778--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 18, 2013

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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:

1     Section 1. The election law is amended by adding a new section 9-207  
2     to read as follows:  
3     S 9-207. AUTOMATIC MANUAL RECANVASS AND AUDIT OF VOTES. 1. WITHIN  
4     FIFTEEN DAYS AFTER EACH GENERAL, SPECIAL OR PRIMARY ELECTION, AND WITHIN  
5     SEVEN DAYS AFTER EVERY VILLAGE ELECTION, WHERE THE DIFFERENCE BETWEEN  
6     THE VOTES CAST FOR TWO CANDIDATES FOR NOMINATION OR ELECTION TO OFFICE  
7     THAT DETERMINES THE NOMINATION OR ELECTION; OR WHERE THE DIFFERENCE  
8     BETWEEN THE VOTES CAST FOR AND AGAINST A PROPOSITION IS:  
9     (A) IN THE CASE OF AN ELECTION OTHER THAN A STATEWIDE ELECTION, LESS  
10    THAN ONE-HALF OF ONE PERCENT OF THE TOTAL NUMBER OF BALLOTS CAST ON  
11    WHICH THE CONTEST APPEARED; OR  
12    (B) IN THE CASE OF A STATEWIDE ELECTION, LESS THAN ONE-FOURTH OF ONE  
13    PERCENT OF THE TOTAL NUMBER OF BALLOTS CAST ON WHICH THE CONTEST  
14    APPEARED; OR  
15    (C) TEN VOTES OR LESS,  
16    THE BOARD OF ELECTIONS OF EACH COUNTY, OR A BIPARTISAN COMMITTEE OF OR  
17    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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1 ELECTION DISTRICT IN WHICH THE CONTEST APPEARED ON THE BALLOT, INCLUDING  
2 ANY OVERVOTES, UNDERVOTES, BLANK VOTES OR THEIR EQUIVALENT. NO PERSON  
3 WHO WAS A CANDIDATE AT SUCH ELECTION SHALL BE APPOINTED TO MEMBERSHIP ON  
4 THE COMMITTEE.

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

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

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

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

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

41 S 2. This act shall take effect immediately.