

5105

2015-2016 Regular Sessions

I N S E N A T E

May 1, 2015

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to requiring an automatic manual recanvass and audit of votes where the difference between votes cast for two candidates that determines a candidate's nomination or election to office is less than one-half of one percent of total ballots cast

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 IS LESS THAN ONE-HALF OF ONE
8 PERCENT OF THE TOTAL NUMBER OF BALLOTS CAST ON WHICH THE CONTEST
9 APPEARED, THE BOARD OF ELECTIONS OF EACH COUNTY, OR A BIPARTISAN COMMIT-
10 TEE OF OR APPOINTED BY SAID BOARD, SHALL MANUALLY RECOUNT THE VOTES CAST
11 IN EACH ELECTION DISTRICT IN WHICH THE CONTEST APPEARED ON THE BALLOT,
12 INCLUDING ANY OVERVOTES, UNDERVOTES, BLANK VOTES OR THEIR EQUIVALENT.
13 NO PERSON WHO WAS A CANDIDATE AT SUCH ELECTION SHALL BE APPOINTED TO
14 MEMBERSHIP ON THE COMMITTEE.
15 2. SUCH BOARD OF ELECTIONS OR BIPARTISAN COMMITTEE SHALL CONDUCT A
16 COMPLETE MANUAL AUDIT OF VOTER VERIFIABLE PAPER AUDIT RECORDS ON WHICH
17 THE CONTEST APPEARED FROM EVERY VOTING MACHINE OR SYSTEM WITHIN THE
18 JURISDICTION OF SUCH BOARD OR COMMITTEE. SAID BOARD OR COMMITTEE SHALL
19 ALSO MAKE A RECANVASS OF ANY ELECTION DAY PAPER BALLOTS THAT HAVE NOT
20 BEEN SCANNED AND WERE HAND COUNTED PURSUANT TO SUBDIVISION TWO OF
21 SECTION 9-110 OF THIS ARTICLE, AS WELL AS OF ANY ABSENTEE AND MILITARY,
22 SPECIAL FEDERAL, SPECIAL PRESIDENTIAL AND EMERGENCY BALLOTS.

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

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

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

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

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

29 S 2. This act shall take effect immediately.