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

5908

2015-2016 Regular Sessions

I N S E N A T E

June 11, 2015

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

AN ACT to amend the election law, in relation to the audit of voter verifiable audit records

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

Section 1. Section 9-211 of the election law, as added by chapter 181 of the laws of 2005, is amended to read as follows:

S 9-211. Audit of voter verifiable audit records. 1. Within fifteen days after each general or special election, and within seven days after every primary or village election conducted by the board of elections, the board of elections or a bipartisan committee appointed by such board shall [manually] audit the voter verifiable audit records from three percent of voting machines or systems within the jurisdiction of such board. *SUCH AUDITS MAY BE PERFORMED MANUALLY OR VIA THE USE OF ANY AUTOMATED TOOL AUTHORIZED FOR SUCH USE BY THE STATE BOARD OF ELECTIONS WHICH IS INDEPENDENT FROM THE VOTING SYSTEM IT IS BEING USED TO AUDIT.* Voting machines or systems shall be selected for audit through a random, manual process. At least five days prior to the time fixed for such selection process, the board of elections shall send notice by first class mail to each candidate, political party and independent body entitled to have had watchers present at the polls in any election district in such board's jurisdiction. Such notice shall state the time and place fixed for such random selection process. The audit shall be conducted in the same manner, to the extent applicable, as a canvass of paper ballots. Each candidate, political party or independent body entitled to appoint watchers to attend at a polling place shall be entitled to appoint such number of watchers to observe the audit.

2. The [manual] audit tallies for each voting machine or system shall be compared to the tallies recorded by such voting machine or system,

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

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and a report shall be made of such comparison which shall be filed in the office of the state board of elections.

3. The state board of elections shall, in accordance with subdivision four of section 3-100 of this chapter, promulgate regulations establishing a uniform statewide standard to be used by boards of elections to determine when a discrepancy between the [manual] audit tallies and the voting machine or system tallies shall require a further voter verifiable record audit of additional voting machines or systems or a complete [manual] audit of all machines or systems within the jurisdiction of a board of elections. Any board of elections shall be empowered to order that any such audit shall be conducted whenever any such discrepancy exists.

4. If a complete audit shall be conducted, the results of such audit shall be used by the canvassing board in making the statement of canvass and determinations of persons elected and propositions rejected or approved. The results of a partial voter verifiable record audit shall not be used in lieu of voting machine or system tallies.

5. Notwithstanding subdivision four of this section, if a voting machine or system is found to have failed to record votes in a manner indicating an operational failure, the board of canvassers shall use the voter verifiable audit records to determine the votes cast on such machine or system, provided such records were not also impaired by the operational failure of the voting machine or system.

S 2. This act shall take effect immediately.