

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:

1 Section 1. Section 9-211 of the election law, as added by chapter 181
2 of the laws of 2005, is amended to read as follows:
3 S 9-211. Audit of voter verifiable audit records. 1. Within fifteen
4 days after each general or special election, and within seven days after
5 every primary or village election conducted by the board of elections,
6 the board of elections or a bipartisan committee appointed by such board
7 shall [manually] audit the voter verifiable audit records from three
8 percent of voting machines or systems within the jurisdiction of such
9 board. SUCH AUDITS MAY BE PERFORMED MANUALLY OR VIA THE USE OF ANY
10 AUTOMATED TOOL AUTHORIZED FOR SUCH USE BY THE STATE BOARD OF ELECTIONS
11 WHICH IS INDEPENDENT FROM THE VOTING SYSTEM IT IS BEING USED TO AUDIT.
12 Voting machines or systems shall be selected for audit through a random,
13 manual process. At least five days prior to the time fixed for such
14 selection process, the board of elections shall send notice by first
15 class mail to each candidate, political party and independent body enti-
16 tled to have had watchers present at the polls in any election district
17 in such board's jurisdiction. Such notice shall state the time and place
18 fixed for such random selection process. The audit shall be conducted in
19 the same manner, to the extent applicable, as a canvass of paper
20 ballots. Each candidate, political party or independent body entitled to
21 appoint watchers to attend at a polling place shall be entitled to
22 appoint such number of watchers to observe the audit.
23 2. The [manual] audit tallies for each voting machine or system shall
24 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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1 and a report shall be made of such comparison which shall be filed in
2 the office of the state board of elections.

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

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

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

24 S 2. This act shall take effect immediately.