STATE OF NEW YORK

7783

2023-2024 Regular Sessions

IN ASSEMBLY

June 15, 2023

Introduced by M. of A. SIMON -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to recounts of election votes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 9-208 of the election law is amended by adding a new subdivision 1-a to read as follows:

1-a. Subsequent to the recount provided for by subdivision one of this section, and prior to the certification of the final vote count of any general, special or primary election, an additional recount of all votes cast in the election shall be conducted by the board of elections or bipartisan committee under any of the following circumstances:

(a) The difference in ballots cast for the candidates for any position is ten or less votes or one-half of one percent of the ballots cast for such position, whichever shall be greater. The board of elections or bipartisan committee shall count all ballots cast for the race in question by hand, including those ballots scanned by a ballot scanner. The cost of the recount shall be paid by the jurisdiction conducting the recount.

(b) A losing candidate requests a recount of the votes cast for the position he or she ran for.

(i) The requesting candidate may provide the county board of elections or bipartisan committee with a list of up to three precincts that are to be recounted first and may waive the balance of the recount after these precincts have been counted.

(ii) The recount shall be completed within five days of the filing of request for recount. If the recount is conducted in two stages, as provided in subparagraph (i) of this paragraph, the recount shall be completed within five days of the second stage. The race under recount shall not be certified until the hand count is completed. The board of elections or bipartisan committee shall count all ballots cast for the race in question by hand, including those ballots scanned by a ballot scanner.

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

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(iii) Such recount shall be conducted at the requesting candidate's expense and the requesting candidate shall file with the jurisdiction conducting the recount a bond, cash, or surety in an amount set by the jurisdiction conducting the recount for the payment of the recount expenses; provided, however, that the cost of the recount shall be paid by the jurisdiction conducting the recount if:

(1) upon the recount any candidate on the ballot other than the winning candidate is found to be the winner of the race; or

(2) the ballot images for the race under recount differ from the machine count on one or more ballot boxes. Ballot images shall be posted on the county board of elections website no later than five days after the election.

(iv) The cost per ballot for the hand count of ballots shall be established and posted by each county board of elections before an election, with a maximum fee of twenty-five cents per ballot. If it is not so posted, the fee charged the candidate shall be twenty-five cents per ballot.

(c) Upon the original recount of the results of a referendum or proposition, and prior to the certification of the final vote count, any voter eligible to vote on the ballot question, in a county, school district or municipal election may initiate a recount of the paper ballots upon either the following conditions:

(i) The difference between the approval votes and the disapproval votes on a question is less than one-half of one percent of the total number of votes cast. Such recount shall be conducted at the expense of the jurisdiction conducting the recount. The board of elections or bipartisan committee shall count all ballots cast for the race in question by hand, including those ballots scanned by a ballot scanner.

(ii) The difference between the approval votes and the disapproval votes on a question is more than one-half of one percent of the total number of votes cast. The requesting voter shall file for a recount by submitting a petition including signatures from twenty-five voters eligible to have voted on the referendum or proposition. Such recount shall be conducted at the expense of the requesting voter and the requesting voter shall file with the jurisdiction conducting the recount a bond, cash, or surety in an amount set by the jurisdiction conducting the recount for the payment of the recount expenses; provided, however, that if upon the recount, the voting results on the referendum or proposition are reversed the cost of the recount shall be paid by the jurisdiction conducting the recount.

(d) A request for a recount pursuant to the terms of this subdivision shall be made within five days of the completion of the original recount.

(e) Recount costs incurred by a jurisdiction shall be reimbursed by the state.

(f) The candidate, the public and the media shall receive advance notice of the recount, and the recount shall be made public.

(g) No person who was a candidate at such election shall participate in or supervise the recount but may be present to observe as provided by existing law.

§ 2. This act shall take effect immediately and shall apply to elections conducted on or after such effective date. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.