

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S3/24/15

A Bill

SENATE BILL 1013

5 By: Senator B. King
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For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR COMPREHENSIVE INVESTIGATIONS OF
9 ELECTION MISCONDUCT; TO CREATE A VOTER INTEGRITY UNIT
10 ADMINISTERED BY THE SECRETARY OF STATE; TO ALLOW THE
11 VOTER INTEGRITY UNIT TO PERFORM RECOUNTS; AND FOR
12 OTHER PURPOSES.

Subtitle

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15 TO PROVIDE FOR COMPREHENSIVE
16 INVESTIGATIONS OF ELECTION MISCONDUCT; TO
17 CREATE A VOTER INTEGRITY UNIT
18 ADMINISTERED BY THE SECRETARY OF STATE;
19 AND TO ALLOW THE VOTER INTEGRITY UNIT TO
20 PERFORM RECOUNTS.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code Title 7, Chapter 1, is amended to add an
27 additional section to read as follows:

28 7-1-114. Voter Integrity Unit – Creation.

29 (a) There is created a Voter Integrity Unit.

30 (b) The Voter Integrity Unit shall be composed of four (4) members,

31 including:

32 (1) The Secretary of State or his or her designee, to serve as

33 Chair of the Voter Integrity Unit;

34 (2) The Attorney General or his or her designee;

35 (3) A certified investigator employed by the Department of

36 Arkansas State Police appointed by the Director of the Department of Arkansas



1 State Police;

2 (4) Two (2) members who are not members of the State Board of
3 Election Commissioners, to be appointed by the Republican Party of Arkansas;
4 and

5 (5) Two (2) members who are not members of the State Board of
6 Election Commissioners, to be appointed by the Arkansas Democratic Party.

7 (c) The Voter Integrity Unit shall investigate any complaint of
8 election irregularity or alleged violation of election law that has been
9 filed with the State Board of Election Commissioners.

10 (d) The Voter Integrity Unit shall:

11 (1)(A) Conduct an investigation of each complaint of election
12 irregularity or alleged violation of election law.

13 (B) In the course of an investigation, the Voter Integrity
14 Unit may:

15 (i) Conduct a hearing;

16 (ii) Use the power of subpoena to compel the:

17 (a) Attendance and testimony of a witness; and

18 (b) Production of evidence, including without
19 limitation books, records, or other documents; and

20 (iii) Administer an oath for the purpose of taking
21 sworn testimony; and

22 (2) Render a report on the result of the investigation to the
23 Secretary of State.

24 (e) Within thirty (30) calendar days of receiving the report, the
25 Secretary of State shall present the results of the report to a meeting of
26 the State Board of Election Commissioners.

27 (f) The State Board of Election Commissioners shall receive the report
28 and within thirty (30) calendar days from receipt of the report determine an
29 official response from the board, including without limitation:

30 (1) Dismissal of the complaint of election irregularity or
31 violation of election law;

32 (2) Issuance of a letter of caution to individuals or entities
33 responsible for election irregularity; or

34 (3) Referral of the instance of alleged election law violation
35 to:

36 (A) The prosecuting attorney for the jurisdiction in which

1 the alleged election law violation occurred; or

2 (B) The United States Attorney for the jurisdiction in
3 which the alleged election law violation occurred.

4 (g) Within sixty (60) calendar days of determining the official
5 response of the State Board of Election Commissioners to the instance of
6 election irregularity or alleged violation of election law, the State Board
7 of Election Commissioners shall submit to the House Committee on State
8 Agencies and Governmental Affairs and the Senate Committee on State Agencies
9 and Governmental Affairs of the Arkansas General Assembly a report that
10 includes without limitation the:

11 (1) Name of the complainant or entity filing the complaint of
12 election irregularity or alleged election law violation;

13 (2) Date the incident is alleged to have occurred;

14 (3) Date of the complaint;

15 (4) Location in which it is alleged that the incident occurred;

16 (5) Detailed explanation of the complaint of election
17 irregularity or alleged election law violation;

18 (6) Report of the Voter Integrity Unit to the Secretary of
19 State; and

20 (7) Resolution report of the State Board of Election
21 Commissioners, including:

22 (A) Minutes of the meeting of the State Board of Election
23 Commissioners on the report of the Voter Integrity Unit;

24 (B) Determination of the State Board of Election
25 Commissioners regarding disposition of the complaint of election irregularity
26 or alleged election law violation; and

27 (C) Copies of any referrals to prosecutors or United
28 States Attorneys.

29 (h) The State Board of Election Commissioners shall immediately submit
30 a copy of a complaint filed with the State Board of Election Commissioners to
31 the Voter Integrity Unit.

32 (i) The Voter Integrity Unit shall file a quarterly report with the
33 Senate Committee on State Agencies and Governmental Affairs and the House
34 Committee on State Agencies and Governmental Affairs concerning the status of
35 the cases under investigation by the Voter Integrity Unit.

36 (j) Upon request of a law enforcement agency, the Voter Integrity Unit

1 shall assist the law enforcement agency in its investigation of criminal acts
2 concerning elections.

3 (k) A county board of election commissioners or county clerk shall
4 cooperate with requests of the Voter Integrity Unit for information,
5 testimony, evidence, or other requests necessary for an investigation by the
6 Voter Integrity Unit.

7 (l) The Voter Integrity Unit or its designee may perform a recount as
8 provided under § 7-5-319.

9 (m) The investigative file of the Voter Integrity Unit shall be exempt
10 from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et
11 seq., until the investigation is closed by the Voter Integrity Unit.

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13 SECTION 2. Arkansas Code § 7-5-319 is amended to read as follows:
14 7-5-319. Recount.

15 (a)(1)(A) Any candidate voted for who may be dissatisfied with the
16 returns from any precinct shall have a recount of the votes cast therein upon
17 the candidate's presenting the county board of election commissioners with a
18 petition requesting the recount.

19 (B) Upon request of the candidate, the recount may be
20 performed by:

21 (i) The county board of election commissioners; or

22 (ii) The Voter Integrity Unit or its designee.

23 (2) When the number of outstanding absentee ballots of overseas
24 voters is not sufficient to change the results of the election, the candidate
25 must present the petition no later than two (2) days after the county board
26 declares preliminary and unofficial results of the election, including a
27 statement of the number of outstanding absentee ballots of overseas voters.

28 (3) When the number of outstanding absentee ballots of overseas
29 voters is sufficient to potentially change the results of the election, the
30 candidate must present the petition at any time before the county board
31 finally completes the canvass of the returns of the election and certifies
32 the result.

33 (b) At the time that the petition requesting the recount is presented,
34 the county board shall provide to the candidate requesting the recount a copy
35 of the test results on the voting machines and the electronic vote tabulating
36 devices. Only one (1) recount per candidate per election shall be permitted.

1 The county board shall certify the results of the last recount. The county
2 board may upon its own motion conduct a recount of the returns from any or
3 all precincts.

4 (c)(1) For any recount of an election in which ballots are cast using a
5 direct recording electronic voting machine with a voter-verified paper audit
6 trail, the voter-verified paper audit trail shall serve as the official
7 ballot to be recounted.

8 (2) The county board of election commissioners or the Voter
9 Integrity Unit or its designee either may:

10 (A) Manually sum the total votes for each candidate
11 involved in the recount that is printed on the voter-verified paper audit
12 trail; or

13 (B) Count by hand the votes for each candidate involved in
14 the recount as shown on the voter-verified paper audit trail.

15 (3) If the voter-verified paper audit trail is damaged or for
16 some other reason is incapable of being used for a recount, the paper record
17 produced by the machine for manual audit shall be the official ballot to be
18 recounted.

19 (4) If the voting machine is exempt from the requirement to have
20 a voter-verified paper audit trail and does not have one, the paper record
21 produced by the machine for manual audit shall be the official ballot to be
22 recounted.

23 (d) For the recount of an election in which paper ballots are used, the
24 county board or the Voter Integrity Unit or its designee shall open the
25 package containing the ballots and recount the ballots in the manner
26 prescribed by law for the count to be made by the election officials in the
27 first instance, or if there is a determination by the county board that the
28 voting machine or electronic vote tabulating device may be malfunctioning, it
29 may recount the ballots by any manner prescribed by law.

30 (e) The result as found upon the recount, if it differs from that
31 certified by the election officials, shall be included in the canvass as the
32 vote for the particular precinct for which the recount was ordered and made.

33 (f) After the recount is completed, the ballots shall again be sealed
34 and kept as provided by law.

35 (g)(1) The costs for any recount must be borne by the candidate
36 petitioning for it, and payment of the costs must be made to the county board

1 prior to the recount in an amount determined by the county board.

2 (2) In the event that the outcome of the election is altered by
3 recount, the costs of the recount shall be refunded to the candidate who
4 petitioned for the recount.

5 (h) The costs of any recount shall be based on the actual costs
6 incurred to conduct the recount, but in no instance shall the amount charged
7 to conduct a recount exceed the rate of twenty-five cents (25¢) per vote cast
8 in the precincts where the recount is requested or a total of two thousand
9 five hundred dollars (\$2,500) for the entire county, whichever is less.

10 (i) Within forty-eight (48) hours after a petition for recount is
11 filed, the county board of election commissioners shall notify all candidates
12 whose election could be affected by the outcome of the recount.

13 (j)(1) The Voter Integrity Unit may designate one (1) or more people
14 who have attended election training under § 7-4-109 within twelve (12) months
15 before the election to perform a recount under this section.

16 (2) If the Voter Integrity Unit or its designee performs the
17 recount, the recount shall be performed in the presence of the county board
18 of election commissioners.

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20 /s/B. King
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