

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

As Engrossed: S3/24/15 H3/30/15

# A Bill

SENATE BILL 1013

5 By: Senator B. King  
6

## 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.  
13  
14

### Subtitle

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.  
21  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

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 seven (7) 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) a designee of the Secretary of State who is employed in the  
35 Elections Division of the Office of the Secretary of State;

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



1 Arkansas State Police appointed by the Director of the Department of Arkansas  
2 State Police;

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

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

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

11 (d) The Voter Integrity Unit shall:

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

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

16 (i) Conduct a hearing;

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

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

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

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

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

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

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

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

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

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

1                   (A) The prosecuting attorney for the jurisdiction in which  
2 the alleged election law violation occurred; or

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

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

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

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

15                   (3) Date of the complaint;

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

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

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

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

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

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

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

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

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

1 (j) Upon request of a law enforcement agency, the Voter Integrity Unit  
2 shall assist the law enforcement agency in its investigation of criminal acts  
3 concerning elections.

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

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

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

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

15 7-5-319. Recount.

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

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

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

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

24 (C) The Voter Integrity Unit shall designate which of the  
25 entities under subdivision (a)(1)(B) of this section will perform the  
26 recount.

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

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

1           (b) At the time that the petition requesting the recount is presented,  
2 the county board shall provide to the candidate requesting the recount a copy  
3 of the test results on the voting machines and the electronic vote tabulating  
4 devices. Only one (1) recount per candidate per election shall be permitted.  
5 The county board shall certify the results of the last recount. The county  
6 board may upon its own motion conduct a recount of the returns from any or  
7 all precincts.

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

12           (2) ~~The county board of election commissioners~~ entity designated  
13 under subdivision (a)(1)(C) of this section either may:

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

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

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

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

27           (d) For the recount of an election in which paper ballots are used, the  
28 ~~county board~~ entity designated under subdivision (a)(1)(C) of this section  
29 shall open the package containing the ballots and recount the ballots in the  
30 manner prescribed by law for the count to be made by the election officials  
31 in the first instance, or if there is a determination by the county board  
32 that the voting machine or electronic vote tabulating device may be  
33 malfunctioning, it may recount the ballots by any manner prescribed by law.

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

