1 State of Arkansas
2 90th General Assembly
A Bill
3 Regular Session, 2015   SENATE BILL 885
4
5 By: Senator B. King
6
7   **For An Act To Be Entitled**
8   TO AMEND THE ELECTION LAW CONCERNING RECOUNTS; TO
9   ALLOW A CANDIDATE TO CHOOSE AN ENTITY BESIDES THE
10   COUNTY BOARD OF ELECTION COMMISSIONERS TO PERFORM A
11   RECOUNT; AND FOR OTHER PURPOSES.
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14   **Subtitle**
15   TO AMEND THE ELECTION LAW CONCERNING
16   RECOUNTS; AND TO ALLOW A CANDIDATE TO
17   CHOOSE AN ENTITY BESIDES THE COUNTY BOARD
18   OF ELECTION COMMISSIONERS TO PERFORM A
19   RECOUNT.
20
21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23
24   SECTION 1. Arkansas Code § 7-5-319 is amended to read as follows:
25   7-5-319. Recount.
26   (a)(1)(A) Any candidate voted for who may be dissatisfied with the
27 returns from any precinct shall have a recount of the votes cast therein upon
28 the candidate's presenting the county board of election commissioners with a
29 petition requesting the recount.
30   (B) Upon request of the candidate, the recount may be
31 performed by:
32   (i) The county board of election commissioners;
33   (ii) At least three (3) employees of the Department
34 of Information Systems that meet the requirements of subdivision (j)(1) of
35 this section; or
36   (iii) At least three (3) designees of the company
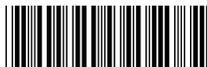
1   providing the electronic voting machine under § 7-5-504 that meet the

2   requirements of subdivision (j)(1) of this section, including without

3   limitation Election Systems Software.

4   (2) When the number of outstanding absentee ballots of overseas

5   voters is not sufficient to change the results of the election, the candidate

6   must present the petition no later than two (2) days after the county board

7   declares preliminary and unofficial results of the election, including a

8   statement of the number of outstanding absentee ballots of overseas voters.

9   (3) When the number of outstanding absentee ballots of overseas

10   voters is sufficient to potentially change the results of the election, the

11   candidate must present the petition at any time before the county board

12   finally completes the canvass of the returns of the election and certifies

13   the result.

14   (b) At the time that the petition requesting the recount is presented,

15   the county board shall provide to the candidate requesting the recount a copy

16   of the test results on the voting machines and the electronic vote tabulating

17   devices. Only one (1) recount per candidate per election shall be permitted.

18   The county board shall certify the results of the last recount. The county

19   board may upon its own motion conduct a recount of the returns from any or

20   all precincts.

21   (c)(1) For any recount of an election in which ballots are cast using a

22   direct recording electronic voting machine with a voter-verified paper audit

23   trail, the voter-verified paper audit trail shall serve as the official

24   ballot to be recounted.

25   (2) The ~~county board of election commissioners either~~ entity

26   conducting the recount may:

27   (A) Manually sum the total votes for each candidate

28   involved in the recount that is printed on the voter-verified paper audit

29   trail; or

30   (B) Count by hand the votes for each candidate involved in

31   the recount as shown on the voter-verified paper audit trail.

32   (3) If the voter-verified paper audit trail is damaged or for

33   some other reason is incapable of being used for a recount, the paper record

34   produced by the machine for manual audit shall be the official ballot to be

35   recounted.

36   (4) If the voting machine is exempt from the requirement to have

1 a voter-verified paper audit trail and does not have one, the paper record
2 produced by the machine for manual audit shall be the official ballot to be
3 recounted.

4   (d) For the recount of an election in which paper ballots are used, the
5 ~~county board~~ entity conducting the recount shall open the package containing
6 the ballots and recount the ballots in the manner prescribed by law for the
7 count to be made by the election officials in the first instance, or if there
8 is a determination by the county board that the voting machine or electronic
9 vote tabulating device may be malfunctioning, it may recount the ballots by
10 any manner prescribed by law.

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

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

16   (g)(1) The costs for any recount must be borne by the candidate
17 petitioning for it, and payment of the costs must be made to the county board
18 prior to the recount in an amount determined by the county board.

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

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

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

30   (j) If the entity conducting the recount is the Department of
31 Information Systems or a company providing the electronic voting machine
32 under § 7-5-504, the designees of the entity that perform the recount shall:
33   (1) Have attended election training under § 7-4-109 within
34 twelve (12) months before the election; and
35   (2) Perform the recount in the presence of the county board of
36 election commissioners.

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