

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 524

5 By: Senator B. Ballinger
6 By: Representative Dotson
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING ELECTRONIC VOTING
10 EQUIPMENT; TO AUTHORIZE THE STATE BOARD OF ELECTION
11 COMMISSIONERS TO PERFORM POST ELECTION AUDITS OF
12 VOTES TABULATED ELECTRONICALLY; AND FOR OTHER
13 PURPOSES.
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Subtitle

16 TO AMEND THE LAW CONCERNING ELECTRONIC
17 VOTING EQUIPMENT; AND TO AUTHORIZE THE
18 STATE BOARD OF ELECTION COMMISSIONERS TO
19 PERFORM POST ELECTION AUDITS OF VOTES
20 TABULATED ELECTRONICALLY.
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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 § 7-4-101(f), concerning powers and duties of
27 the State Board of Election Commissioners, is amended to add additional
28 subsections to read as follows:

29 (12) Conduct post-election audits under § 7-4-121; and
30 (13) Formulate, adopt, and promulgate rules to establish
31 procedures for post-election audits conducted under § 7-4-121.
32

33 SECTION 2. Arkansas Code Title 7, Chapter 4, Subchapter 1, is amended
34 to add an additional section to read as follows:

35 7-4-121. Election audits.

36 (a)(1) The State Board of Election Commissioners shall audit the



1 results of each general election to ensure the integrity and accuracy of the
2 voting process.

3 (2) When conducting a post-election audit of the election
4 results the State Board of Election Commissioners shall:

5 (A) Select by lot the counties, polling sites, early voting
6 locations, and vote centers to be audited;

7 (B) Select a sufficient number of early voting locations,
8 polling sites, and vote centers to obtain a meaningful sample;

9 (C) Select the counties to be audited no less than sixty
10 (60) days following the date of the general election;

11 (D) Conduct the audit by using the voter verified paper
12 audit trail;

13 (E)(i) Compile a report detailing the findings of this
14 audit.

15 (ii) The report filed under this subdivision

16 (a)(2)(E):

17 (a) Is not a recount;

18 (b) Has no legal effect on the outcome of any
19 election subject to the audit; and

20 (c) Shall be made public and disseminated to
21 any person upon request; and

22 (F) Securely maintain any county election records obtained
23 for the purpose of conducting an audit.

24 (3) The Secretary of State may, at his or her discretion, provide
25 additional staff to assist in conducting any audit under this subsection.

26 (b)(1) The State Board of Election Commissioners may conduct an audit
27 of a county's election procedures if, upon review of information obtained
28 through the State Board of Election Commissioners complaint process or
29 obtained by an election monitor, the board finds by majority vote that:

30 (A) A high probability exists that election laws were
31 violated; and

32 (B) There is a substantial likelihood that additional
33 violations have occurred, but that the present information available to the
34 board is insufficient to discover those violations.

35 (2) An audit of a county's election process shall be conducted in
36 accordance with the following:

1 (A) The State Board of Election Commissioners shall notify
2 the county board of election commissioners and the county clerk that an audit
3 under this section will be conducted no more than one hundred eighty (180)
4 days after the election to be audited;

5 (B) The audit shall conclude no later than ninety (90) days
6 after notice is given under subdivision (b)(2)(A) of this section;

7 (C) The State Board of Election Commissioners shall not
8 audit more than three (3) counties for each election; and

9 (D) Following the audit, the State Board of Election
10 Commissioners shall compile a report detailing the findings of the audit.

11 (3) If the State Board of Election Commissioners finds a
12 substantial failure to comply with election law while conducting the audit,
13 the State Board of Election Commissioners:

14 (A) May require the election officers for the audited
15 county to attend supplemental election training; and

16 (B) Shall report any violation of criminal law or financial
17 discrepancies discovered in this course and furtherance of the audit to
18 proper authorities.

19 (c)(1) The county clerk, county board or election commissioners, or
20 other county election official for a county that is audited under this
21 section shall provide documents, records, or access to election equipment
22 requested by the State Board of Election Commissioners to the State Board of
23 Election Commissioners upon request.

24 (2) If the county clerk, county board of election commissioners,
25 or other county election official of the county willfully fails to comply
26 with a requests made under subdivision (c)(1) of this section, and the State
27 Board of Election Commissioners is not able to obtain the requested
28 information through other means, the State Board of Election Commissioners
29 may:

30 (A) Find that the county in violation of subdivision
31 (c)(1) of this section has forfeited reimbursement of state funded election
32 expenses for a period of up to two (2) years; and

33 (B) Elect to withhold reimbursement of state funded
34 election expenses to the county for a period of up to two (2) years.

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36 SECTION 3. Arkansas Code § 7-5-702(a), concerning preservation of

1 ballots, stubs, certificates, and other election materials, is amended to add
2 an additional subdivision to read as follows:

3 (3) The results of the election will be audited by the State Board of
4 Election Commissioners under § 7-4-121.

5 SECTION 4. Arkansas Code § 7-5-702(c) and (d), concerning preservation
6 of ballots, stubs, certificates, and other election materials, are amended to
7 read as follows:

8 (c) During the time the ballots may be retained or stored, the package
9 containing them shall not be opened by anyone unless ~~directed~~:

10 (1) Directed to do so by some competent tribunal before which an
11 election contest or prosecution is pending in which the ballots are to be
12 used as evidence; or

13 (2) Upon written instruction signed by the Director of the State
14 Board of Election Commissioners under § 7-4-121.

15 (d) For twenty (20) days, the county ~~treasurer~~ board of election
16 commissioners shall retain the custody of ballot stubs in an appropriately
17 marked, sealed container delivered to ~~him or her~~ the county board of election
18 commissioners from the several precincts, after which time they shall be
19 stored in a secure location in the county courthouse or other county storage
20 facility unless ~~an~~:

21 (1) An election contest has been filed ~~or a~~;

22 (2) A criminal prosecution has been initiated in connection with
23 the election; or

24 (3) Upon written instruction signed by the Director of the State
25 Board of Election Commissioners under § 7-4-121.

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27 SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY. Application.

28 (a)(1) The State Board of Election Commissioners shall conduct the
29 initial audit of the results of the general election under this act after the
30 2020 general election as a pilot program.

31 (2) For each election system utilizing a ballot marking device
32 and tabulator in operation for the 2020 election, the State Board of Election
33 Commissioners shall:

34 (A) Conduct an audit of at least one (1) county with a
35 population of more than one hundred thousand (100,000) people;

36 (B) Conduct an audit of at least four (4) counties with a

1 population of less than one hundred thousand (100,000) people; and

2 (C) Conduct the audits in a manner that effectuates at
3 least one (1) audit from a county in each of the congressional districts of
4 this state.

5 (b) The State Board of Election Commissioners shall develop a
6 comprehensive plan to audit the state's election equipment based on the
7 experience gained through this pilot program.

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