

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H4/1/19
A Bill

SENATE BILL 524

By: Senator B. Ballinger
By: Representative Dotson

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING ELECTRONIC VOTING EQUIPMENT; AND TO AUTHORIZE THE STATE BOARD OF ELECTION COMMISSIONERS TO PERFORM POST ELECTION AUDITS OF VOTES TABULATED ELECTRONICALLY.

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

SECTION 1. Arkansas Code § 7-4-101(f), concerning powers and duties of the State Board of Election Commissioners, is amended to add additional subsections to read as follows:

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

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

7-4-121. Election audits.

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



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

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

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

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

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

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

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

(ii) The report filed under this subdivision

(a)(2)(E):

(a) Is not a recount;

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

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

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

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

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

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

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

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

SECTION 3. Arkansas Code § 7-5-702(a), concerning preservation of ballots, stubs, certificates, and other election materials, is amended to add an additional subdivision to read as follows:

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

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

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

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

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

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

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

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

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

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

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

initial audit of the results of the general election under this act after the 2020 general election as a pilot program.

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

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

(B) Conduct an audit of at least four (4) counties with a population of less than one hundred thousand (100,000) people; and

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

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

/s/B. Ballinger

APPROVED: 4/11/19