

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1423

By: Representatives Painter, Wing

By: Senators Dees, K. Hammer

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE RECOUNT OF  
BALLOTS; TO AMEND ELECTION PROCEDURES; AND FOR OTHER  
PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING THE RECOUNT  
OF BALLOTS; AND TO AMEND ELECTION  
PROCEDURES.

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

SECTION 1. Arkansas Code § 7-5-319(a)(2) and (3), concerning election recount procedures, are amended to read as follows:

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

(3) When the number of outstanding absentee ballots of overseas voters combined with the number of uncanvassed provisional ballots is sufficient to potentially change the results of the election, the candidate must present the petition at any time before:

(A) ~~the~~ The county board of election commissioners finally completes the canvass of the returns of the election and certifies the



result; or

(B) Twelve noon on the seventh day following the election.

SECTION 2. Arkansas Code § 7-5-319(c)-(i), concerning election recount procedures, are amended to read as follows:

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

~~(2) The county board of election commissioners either may:~~

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

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

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

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

~~(5) If the county board of election commissioners counts by hand the votes for each candidate involved in the recount, the county board of election commissioners may check the back of the ballot to see if the ballot has been initialed by an election official.~~

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

(2) When conducting a recount, the county board of election commissioners shall:

(A) Recount each precinct or other grouping of ballots necessary to recount all ballots cast in the race of the candidate requesting the recount;

(B) Review any ballots which were duplicated due to damage or defect to ensure that the selections on each duplicated ballot match exactly to an original ballot for which a duplicate ballot had been created;

(C) Ensure each affected candidate has been notified of the recount prior to conducting the recount;

(D) Create a certified results tape for each batch of ballots recounted; and

(E) Manually compile countywide totals from the certified return records and verify that they match the electronically derived totals from the devices used to collect votes from each tabulator if the tabulators are used in the recount.

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

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

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

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

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

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

**APPROVED: 3/21/23**