

Assembly Bill No. 2023

CHAPTER 122

An act to amend Sections 15620, 15621, 16401, and 16421 of, and to add Chapter 8.5 (commencing with Section 15560) to Division 15 of, the Elections Code, relating to elections.

[Approved by Governor July 19, 2010. Filed with
Secretary of State July 19, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2023, Saldana. Election results.

Existing law requires that, after an election, each county conduct an official canvass of the ballots cast in the election and report the final results to the relevant governing board and the Secretary of State.

This bill would authorize the Secretary of State to establish a postcanvass risk-limiting audit pilot program in 5 or more voluntarily participating counties for the purpose of verifying the accuracy of election results. Under the program, a participating county would conduct an audit of one or more contests in each election after the tabulation of the unofficial final results, as defined, or after completion of the official canvass for the election. The bill would require that the audit be conducted in public view and by manual tally, and would further require the Secretary of State to report to the Legislature on or before March 1, 2012, on the effectiveness and efficiency of these audits.

The people of the State of California do enact as follows:

SECTION 1. Chapter 8.5 (commencing with Section 15560) is added to Division 15 of the Elections Code, to read:

CHAPTER 8.5. POSTCANVASS RISK-LIMITING AUDIT PILOT PROGRAM

15560. (a) The Secretary of State is authorized to establish a postcanvass risk-limiting audit pilot program in five or more counties to improve the accuracy of, and public confidence in, election results. The Secretary of State is encouraged to include urban and rural counties; counties from northern, central, and southern California; and counties with various different voting systems.

(b) The pilot program described in subdivision (a) shall be conducted as follows:

(1) During the year 2011, each county that chooses to participate in the pilot program shall conduct a postcanvass risk-limiting audit of one or more contests after each election in that county.

(2) An elections official conducting an audit pursuant to this section shall do all of the following:

(A) Provide at least a five-day public notice of the time and place of the random selection of the audit units to be manually tallied and of the time and place of the audit.

(B) Make available to the public a report of the vote tabulating device results for the contest, including the results for each audit unit in the contest, prior to the random selection of audit units to be manually tallied and prior to the commencement of the audit.

(C) Conduct the audit upon tabulation of the unofficial final results or upon completion of the official canvass for the election.

(D) Conduct the audit in public view by hand without the use of electronic scanning equipment using the tally procedures established by Section 15360 for conducting a manual tally.

(3) On or before March 1, 2012, the Secretary of State shall report to the Legislature on the effectiveness and efficiency of postcanvass risk-limiting audits conducted pursuant to this section. The report shall include an analysis of the efficiency of postcanvass risk-limiting audits, including the costs of performing the audits, as compared to the 1-percent manual tallies conducted in the same election pursuant to Section 15360.

(c) An audit shall not be conducted pursuant to this section with respect to a state or multijurisdictional contest unless all of the counties involved in the contest choose to participate in the pilot program authorized by this section.

(d) For purposes of this section, the following terms have the following meanings:

(1) "Audit unit" means a precinct, a set of ballots, or a single ballot. A precinct, a set of ballots, or a single ballot may be used as an audit unit for purposes of this section only if all of the following conditions are satisfied:

(A) The relevant vote tabulating device is able to produce a report of the votes cast in the precinct, set of ballots, or single ballot.

(B) The elections official is able to match the report described in subparagraph (A) with the ballots corresponding to the report for purposes of conducting an audit pursuant to this section.

(C) Each ballot is assigned to not more than one audit unit.

(2) "Contest" means an election for an office or for a measure. "Contest" shall not include either of the following:

(A) An election for a political party central committee, as provided in Division 7 (commencing with Section 7000).

(B) An advisory election, as provided in Section 9603.

(3) "Risk-limiting audit" means a manual tally employing a statistical method that ensures a large, predetermined minimum chance of requiring a full manual tally whenever a full manual tally would show an electoral outcome that differs from the outcome reported by the vote tabulating device

for the audited contest. A risk-limiting audit shall begin with a hand tally of the votes in one or more audit units and shall continue to hand tally votes in additional audit units until there is strong statistical evidence that the electoral outcome is correct. In the event that counting additional audit units does not provide strong statistical evidence that the electoral outcome is correct, the audit shall continue until there has been a full manual tally to determine the correct electoral outcome of the audited contest.

(4) “Unofficial final results” means election results tabulated pursuant to an official canvass conducted pursuant to Chapter 4 (commencing with Section 15300) but not yet reported to the governing board or the Secretary of State pursuant to subdivision (h) of Section 15302.

SEC. 2. Section 15620 of the Elections Code is amended to read:

15620. Following completion of the official canvass and again following completion of any postcanvass risk-limiting audit conducted pursuant to Section 15560, any voter may, within five days thereafter, file with the elections official responsible for conducting an election in the county wherein the recount is sought a written request for a recount of the votes cast for candidates for any office, for slates of presidential electors, or for or against any measure, provided the office, slate, or measure is not voted on statewide. The request shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed.

If an election is conducted in more than one county, the request for the recount may be filed by any voter within five days, beginning on the 29th day after the election, with the elections official of, and the recount may be conducted within, any or all of the affected counties.

For the purposes of this section, “completion of the canvass” shall be presumed to be that time when the elections official signs the certified statement of the results of the election except that, in the case of a city election, if a city council canvasses the returns itself and does not order the elections official to conduct the canvass, “completion of the canvass” shall be presumed to be that time when the governing body declares the persons elected or the measures approved or defeated.

SEC. 3. Section 15621 of the Elections Code is amended to read:

15621. Following completion of the official canvass any voter may, within five days beginning on the 29th day after a statewide election, file with the Secretary of State a written request for a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide. Additionally, any voter may file with the Secretary of State a written request for a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide within five days following completion of any postcanvass risk-limiting audit conducted pursuant to Section 15560. A request filed pursuant to this section shall specify in which county or counties the recount is sought and shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed.

The Secretary of State shall forthwith send by registered mail one copy of the request to the elections official of each county in which a recount of the votes is sought.

All the other provisions of this article shall apply to recounts conducted under this section.

SEC. 4. Section 16401 of the Elections Code is amended to read:

16401. The contestant shall verify the statement of contest, as provided by Section 446 of the Code of Civil Procedure, and shall file it within the following times after either the declaration of the result of the election or the declaration of the results of any postcanvass risk-limiting audit conducted pursuant to Section 15560 by the body canvassing the returns thereof:

- (a) In cases other than cases of a tie, where the contest is brought on any of the grounds mentioned in subdivision (c) of Section 16100, six months.
- (b) In all cases of tie, 20 days.
- (c) In cases involving presidential electors, 10 days.
- (d) In all other cases, 30 days.

SEC. 5. Section 16421 of the Elections Code is amended to read:

16421. The affidavit shall be filed in the office of the clerk of the superior court having jurisdiction within five days after either the completion of the official canvass or the completion of any postcanvass risk-limiting audit conducted pursuant to Section 15560 by the county last making the declaration. In the case of an office for which candidates are certified for the ballot by the Secretary of State, or in the case of a statewide ballot measure, the superior court having jurisdiction shall be the Superior Court for the County of Sacramento.