

Assembly Bill No. 985

Passed the Assembly May 2, 2011

Chief Clerk of the Assembly

Passed the Senate June 11, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 15360 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL’S DIGEST

AB 985, Williams. Elections: official canvass: manual tally.

Existing law requires, during the official canvass of an election in which a voting system is used, the elections official conducting the election to conduct a public manual tally of the ballots tabulated by those devices, including vote by mail voters’ ballots, cast in 1% of the precincts chosen at random by the elections official.

This bill would, during the official canvass of an election in which a voting system is used, authorize the elections official conducting the election to conduct a public manual tally by alternative means than those described above. Specifically, this bill would permit the elections official conducting the election to conduct a manual tally of the ballots cast in 1% of the precincts chosen at random by the elections official and a separate manual tally of not less than 1% of the vote by mail ballots cast in the election.

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

SECTION 1. Section 15360 of the Elections Code is amended to read:

15360. (a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including vote by mail ballots, using either of the following methods:

(1) (A) A public manual tally of the ballots, including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts is less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections official.

(B) (i) In addition to the 1 percent manual tally, the elections official shall, for each race not included in the initial group of

precincts, count one additional precinct. The manual tally shall apply only to the race not previously counted.

(ii) Additional precincts for the manual tally may be selected at the discretion of the elections official.

(2) A two-part public manual tally, which includes both of the following:

(A) A public manual tally of the ballots, not including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official and conducted pursuant to paragraph (1).

(B) (i) A public manual tally of not less than 1 percent of the vote by mail ballots cast in the election. Batches of vote by mail ballots shall be chosen at random by the elections official.

(ii) For the purposes of this section, a “batch” means a set of ballots tabulated by the voting system devices, for which the voting system can produce a report of the votes cast.

(iii) (I) In addition to the 1 percent manual tally of the vote by mail ballots, the elections official shall, for each race not included in the initial 1 percent manual tally of vote by mail ballots, count one additional batch of vote by mail ballots. The manual tally shall apply only to the race not previously counted.

(II) Additional batches for the manual tally may be selected at the discretion of the elections official.

(b) If vote by mail ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to paragraph (1) or (2) of subdivision (a) or conduct a public manual tally of those ballots cast on no fewer than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official.

(c) The elections official shall use either a random number generator or other method specified in regulations that shall be adopted by the Secretary of State to randomly choose the initial precincts, batches of vote by mail ballots, or direct recording electronic voting machines subject to the public manual tally.

(d) The manual tally shall be a public process, with the official conducting the election providing at least a five-day public notice of the time and place of the manual tally and of the time and place of the selection of the precincts, batches, or direct recording

electronic voting machines subject to the public manual tally prior to conducting the selection and tally.

(e) The official conducting the election shall include a report on the results of the 1 percent manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.

Approved _____, 2011

Governor