

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1423

5 By: Representatives Painter, Wing  
6 By: Senators Dees, K. Hammer  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE RECOUNT OF  
10 BALLOTS; TO AMEND ELECTION PROCEDURES; AND FOR OTHER  
11 PURPOSES.  
12  
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## Subtitle

15 TO AMEND THE LAW CONCERNING THE RECOUNT  
16 OF BALLOTS; AND TO AMEND ELECTION  
17 PROCEDURES.  
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

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

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

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

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



1 result; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36                                   **APPROVED: 3/21/23**