

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2333

By Committee on Elections

2-9

1 AN ACT concerning elections; relating to audits; amending K.S.A. 2016
2 Supp. 25-3104, 25-4403 and 25-4406 and repealing the existing
3 sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) After an election and prior to the meeting of the
7 county board of canvassers to certify the official election results for any
8 election in which the canvassers certify the results, the county election
9 officer shall conduct a manual audit or tally of each vote cast, regardless of
10 the method of voting, in 1% of all precincts, with a minimum of one
11 precinct located within the county. The precinct or precincts shall be
12 randomly selected and the selection shall take place after the election.

13 (b) The audit shall be performed manually and shall review all paper
14 ballots selected pursuant to subsection (a). The audit shall be performed by
15 a sworn election board consisting of bipartisan trained board members.
16 The county election officer will determine the members of the sworn
17 election board who will conduct the audit. The audit will review ~~one office~~
18 ~~that appears on each ballot within the precinct~~ **all races except: (1) Races**
19 **involving judges; (2) uncontested races; and (3) races where the**
20 **margin was more than 30%. Only one local race shall be selected for**
21 **audit in even-numbered year elections.** ~~The office offices~~ will be
22 randomly selected and the selection shall take place after the election.

23 (c) At least five days prior to the audit, notice of the time and location
24 of the audit shall be provided to the public on the official county website.
25 The audit shall be conducted in a public setting. Any candidate or entity
26 who is authorized to appoint a poll agent may appoint a poll agent for the
27 audit.

28 (d) The results of the audit shall be compared to the unofficial
29 election night returns and a report shall be submitted to the county election
30 office and to the secretary of state's office prior to the meeting of the
31 county board of canvassers. If a discrepancy is reported between the audit
32 and the unofficial returns and cannot be resolved, the county election
33 officer or the secretary of state may require audits of additional precincts.
34 Once the audit has been completed, the results of the audit shall be used by
35 the county board of canvassers when certifying the official election results.

36 (e) The secretary of state shall adopt rules and regulations governing

1 the conduct and procedure of the audit, including the random selection of
2 the precincts and offices involved in the audit.

3 (f) The provisions of this section shall apply to all counties for
4 elections that take place after January 1, 2018.

5 Sec. 2. K.S.A. 2016 Supp. 25-3104 is hereby amended to read as
6 follows: 25-3104. The original canvass of every election shall be
7 performed by the election boards at the voting places. The county election
8 officer shall present the original returns, together with the ballots, books
9 and any other records of the election, for the purpose of canvass, to the
10 county board of canvassers at any time between 8 a.m. and 10 a.m. on the
11 Monday next following any election held on a Tuesday, except that the
12 county election officer may move the canvass to ~~the second Thursday~~
13 ~~following the election if notice is published prior to the canvass in a~~
14 ~~newspaper with general circulation in the county any business day not~~
15 ~~later than 13 days following any election. Notice of the time and place of~~
16 ~~the canvass shall be published in a newspaper of general circulation in the~~
17 ~~county prior to the canvass.~~ For elections not held on a Tuesday, the
18 canvass by the county board of canvassers shall be held on a day and hour
19 designated by it, and not later than the ~~fifth~~ 13th day following the day of
20 such election.

21 Sec. 3. K.S.A. 2016 Supp. 25-4403 is hereby amended to read as
22 follows: 25-4403. (a) The board of county commissioners and the county
23 election officer of any county may provide an electronic or
24 electromechanical voting system to be used at voting places, or for
25 advance voting in the county at national, state, county, township, city and
26 school primary and general elections and in question submitted elections.

27 (b) The board of county commissioners of any county in which the
28 board of county commissioners and county election officer have
29 determined that an electronic or electromechanical voting system shall be
30 used may issue bonds to finance and pay for purchase, lease or rental of
31 such a system.

32 (c) The board of county commissioners and the county election
33 officer of any county may adopt, experiment with or abandon any
34 electronic or electromechanical system herein authorized and approved for
35 use in the state and may use such a system in all or any part of the voting
36 areas within the county or in combination with an optical scanning voting
37 system or with regular paper ballots. Whenever the secretary of state
38 rescinds approval of any voting system, the board of county
39 commissioners and the county election officer shall abandon ~~such~~ the
40 system until changes therein required by the secretary of state have been
41 made, or if the secretary of state advises that acceptable changes cannot be
42 made therein, ~~such~~ the abandonment shall be permanent.

43 (d) *On and after the effective date of this act, no board of county*

1 *commissioners in any county may purchase, lease or rent any direct*
2 *recording electronic system, as defined in K.S.A. 25-4401(d), and*
3 *amendments thereto. On and after the effective date of this act, no board*
4 *of county commissioners in any county may purchase, lease or rent any*
5 *electronic or electromechanical voting system, unless such system:*

6 (1) *Provides a paper record of each vote cast, produced at the time*
7 *the vote is cast; and*

8 (2) *has the ability to be tested both before an election and prior to the*
9 *date of canvass. Such test shall include the ability to match the paper*
10 *record of the machine to the vote total contained in the machine.*

11 Sec. 4. K.S.A. 2016 Supp. 25-4406 is hereby amended to read as
12 follows: 25-4406. Electronic or electromechanical voting systems
13 approved by the secretary of state:

14 (a) Shall provide for voting for the candidates for nomination or
15 election of all political parties officially recognized pursuant to K.S.A. 25-
16 302a, and amendments thereto;

17 (b) shall permit a voter to vote for any independent candidate for any
18 office;

19 (c) shall provide for voting on constitutional amendments or other
20 questions submitted;

21 (d) shall be so constructed that, as to primaries where candidates are
22 nominated by political parties, the voter can vote only for the candidates
23 for whom the voter is qualified to vote according to articles 2 and 33 of
24 chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

25 (e) shall afford the voter an opportunity to vote for any or all
26 candidates for an office for whom the voter is by law entitled to vote and
27 no more, and at the same time shall prevent the voter from voting for the
28 same candidate twice for the same office;

29 (f) shall be so constructed that in presidential elections the
30 presidential electors of any political party may be voted for by one action;

31 (g) shall provide for "write-in" votes;

32 (h) shall provide for voting in absolute secrecy, except as to persons
33 who request assistance due to temporary illness or disability or a lack of
34 proficiency in reading the English language;

35 (i) shall reject all votes for an office or upon a question submitted
36 when the voter has cast more votes for such office or upon such question
37 than the voter is entitled to cast;

38 (j) shall provide for instruction of voters on the operation of voting
39 machines, illustrating the manner of voting by the use of such systems.
40 The instruction may include printed materials or demonstration by election
41 board workers; ~~and~~

42 (k) *shall provide a paper record of each vote cast, produced at the*
43 *time the vote is cast;*

1 *(l) shall have the ability to be tested both before an election and prior*
2 *to the date of canvass. The test shall include the ability to match the paper*
3 *records of such machines to the vote totals contained in the machines; and*

4 *(m) shall meet the requirements of the help America vote act of 2002*
5 *and other federal statutes and regulations governing voting equipment.*

6 Sec. 5. K.S.A. 2016 Supp. 25-3104, 25-4403 and 25-4406 are hereby
7 repealed.

8 Sec. 6. This act shall take effect and be in force from and after its
9 publication in the statute book.