2023 South Dakota Legislature

Senate Bill 160

HOUSE STATE AFFAIRS ENGROSSED

Introduced by: ***Senator*** *Wheeler*

An Act to establish post-election audits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 12-17B be amended with a NEW SECTION:

Within fifteen days following the completion of the state canvassing of a primary or general election, the auditor of each county shall conduct a post-election audit of the ballots cast in the election following the procedures listed in this Act. The county auditor shall appoint a county auditing board of sufficient size to promptly complete the audit.

The members of the county auditing board may not all be members of the same political party. A member of the county auditing board must be a registered voter in the county in which the audit takes place. An individual may not serve on the county auditing board if the individual is a candidate for the office that is on the ballot being audited.

The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the oath that each member of a county auditing board must take prior to discharging any duties.

Section 2. That chapter 12-17B be amended with a NEW SECTION:

The office of the secretary of state shall reimburse each county for the cost of any post-election audit required by this Act. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, administering the reimbursement process and defining reimbursable expenses and reimbursement rates for post-election audits.

Section 3. That chapter 12-17B be amended with a NEW SECTION:

The post-election audit must be conducted in five percent of the precincts in the county by manually counting all votes cast in two contests and comparing the results of the manual count to the results for those precincts at the county canvass. The county auditor shall select the precincts for the audit at random without the use of a computer in

public during the meeting of the county canvassing board. If the combined total of all ballots cast in the precincts selected does not exceed one hundred ballots, then additional precincts must be randomly selected until the total of all ballots exceeds one hundred ballots. For the purposes of this section, the term precinct includes vote centers, but does not include any precinct designated as an absentee precinct.

The county auditor shall select the contests for the audit at random without the use of a computer in public during the meeting of the county canvassing board. One contest randomly selected for the audit must be a statewide contest. If there are no statewide contests on the ballot, the auditor randomly shall select another contest on the ballot. If there is only one contest on the ballot, that contest must be audited.

Section 4. That chapter 12-17B be amended with a NEW SECTION:

A post-election audit conducted pursuant to this Act must be open to the public. Members of the public shall keep a reasonable distance so as to not interfere with the audit process. The county auditor shall post notice of the time and place of the audit in the same manner as a public meeting agenda pursuant to § 1-25-1.1 and provide the notice to the county chair of each political party that has a candidate on the ballot.

Section 5. That chapter 12-17B be amended with a NEW SECTION:

The county auditor shall send the results of the post-election audit to the secretary of state and present the results of the audit to the county commission at its next meeting. The results of the audit shall be included in the minutes of the county commission meeting.

The secretary of state shall publish the results of the post-election audit on the secretary of state's website.

Section 6. That chapter 12-17B be amended with a NEW SECTION:

If the results of the post-election audit show a discrepancy in the results greater than the margin by which any contest for elected office on the ballot in the county was decided, the auditor shall notify the candidates for that office. Any candidate who receives a notification from the county auditor shall have an additional seven days from the date from when the auditor sends the notification to file a verified petition requesting a recount of the official returns pursuant to §§ 12-21-10 or 12-21-11. The petition may be filed regardless of the margin by which the contest was decided.

Section 7. That chapter 12-17B be amended with a NEW SECTION:

If a recount of any contest is conducted in a county, the county auditor is not required to conduct a post-election audit pursuant to section 1 of this Act.

Section 8. That chapter 12-17B be amended with a NEW SECTION:

The county auditor shall reseal and retain the ballots upon the completion of a post-election audit pursuant to § 12-20-31.

Section 9. That § 12-1-9 be AMENDED:

12-1-9. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, concerning:

(1) Forms for voter registration and voter file maintenance;

(2) Forms and color of ballots;

(3) Forms for notices;

(4) The uniformity of election procedures;

(5) The operation of the State Board of Elections;

(6) The procedure to accept a petition and verify petition signatures;

(7) Petition forms, including petition size and petition font size;

(8) Envelopes for absentee voting;

(9) Instructions to voters and absentee voters; ~~and~~

(10) Recounts; and

(11) Post-election audits.