

P.L. 2025, CHAPTER 258, *approved January 12, 2026*
Assembly, No. 5037 (*First Reprint*)

1 AN ACT concerning post-election audits and amending section 1 of
2 P.L.2007, c.349.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.2007, c.349 (C.19:61-9) is amended to read
8 as follows:

9 1. a. Notwithstanding any law, rule or regulation to the
10 contrary, the Secretary of State shall appoint each year an
11 independent, professional audit team. It shall oversee, in each
12 county, **[random hand-to-eye counts]** post-election audits of the
13 voter-verifiable paper records that are to be conducted by
14 appropriate county election officials. Post-election audits may be
15 conducted by a hand-to-eye count, or via independent third-party
16 electronic machines that are not in any way associated with the
17 official ballot tabulation system for the election. Audits shall be
18 conducted for each election held for federal or State office,
19 including the offices of Governor, Lieutenant Governor and
20 member of the Legislature, and for county and municipal offices
21 selected by the Secretary of State. In each county, the audit shall be
22 conducted in at least two percent of the election districts in which
23 each audited election appears on the ballot. County and municipal
24 elections held in fewer than 100 election districts are exempt from
25 this requirement. Election districts that are randomly selected for
26 auditing for either the Congressional or State legislative elections in
27 alternating years may be used to audit any other election that
28 appears on the ballot in such districts. Ballot batches, as provided
29 for in subsection c. of this section, shall also be audited subject to
30 the provisions of this section. In the case of a general election,
31 audits shall begin 13 days after the election and shall be completed
32 prior to the certification of the results of that election. Extensions
33 may be provided by the Secretary of State if necessary.

34 b. The membership and composition of the audit team shall be
35 at the discretion of the Secretary of State but shall be not less than
36 four, and at least one member shall have verifiable expertise in the
37 field of statistics and another member shall have verifiable expertise
38 in the field of auditing. No member of the audit team shall include
39 any person who:

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ASL committee amendments adopted December 15, 2025.

1 (1) is serving in any position on any political campaign
2 committee of any candidate for political office in the elections that
3 are subject to the manual audit;

4 (2) is an employee of, or reports to, the Secretary of State; or

5 (3) is serving as an officer or an employee of any entity that
6 designs, manufactures, or services a voting system used in the State.

7 c. ¹~~【The】~~ For hand-to-eye counts, the¹ independent audit team
8 shall oversee, supervise, and require county election officials to
9 conduct an audit of the results of an election in accordance with the
10 following procedures:

11 (1) ~~【Any procedure designed, adopted, and implemented by the~~
12 ~~audit team shall be implemented to ensure with at least 99%~~
13 ~~statistical power that for each federal, gubernatorial or other~~
14 ~~Statewide election held in the State, a 100% manual recount of the~~
15 ~~voter-verifiable paper records would not alter the electoral outcome~~
16 ~~reported by the audit. For each election held for State office, other~~
17 ~~than Governor and Lieutenant Governor, and for county and~~
18 ~~municipal elections held in 100 or more election districts, any~~
19 ~~procedure designed, adopted, and implemented by the audit team~~
20 ~~shall be implemented to ensure with at least 90% statistical power~~
21 ~~that a 100% manual recount of the voter-verifiable paper records~~
22 ~~would not alter the electoral outcome reported by the audit. Such~~
23 ~~procedures designed, adopted, and implemented by the audit team~~
24 ~~to achieve statistical power shall be based upon scientifically~~
25 ~~reasonable assumptions, with respect to each audited election,~~
26 ~~including but not limited to: the possibility that within any election~~
27 ~~district up to 20% of the total votes cast may have been counted for~~
28 ~~a candidate or ballot position other than the one intended by the~~
29 ~~voters; and that the number of votes cast per election district will~~
30 ~~vary. Such】~~ ¹~~【Post-election audit】~~ Any procedure designed,
31 adopted, and implemented by the audit team for a hand-to-eye count
32 shall be implemented to ensure with at least 99 percent statistical
33 power that for each federal, gubernatorial, or other Statewide
34 election held in the State, a 100 percent manual recount of the
35 voter-verifiable paper records would not alter the electoral outcome
36 reported by the audit. For each election held for State office, other
37 than Governor and Lieutenant Governor, and for county and
38 municipal elections held in 100 or more election districts, any
39 procedure designed, adopted, and implemented by the audit team
40 shall be implemented to ensure with at least 90 percent statistical
41 power that a 100 percent manual recount of the voter-verifiable
42 paper records would not alter the electoral outcome reported by the
43 audit. Such procedures designed, adopted, and implemented by the
44 audit team to achieve statistical power shall be based upon
45 scientifically reasonable assumptions, with respect to each audited
46 election, including but not limited to: the possibility that within any

1 election district up to 20 percent of the total votes cast may have
2 been counted for a candidate or ballot position other than the one
3 intended by the voters; and that the number of votes cast per
4 election district will vary. Such¹ procedures and assumptions shall
5 be published prior to any given election, and the public shall have
6 the opportunity to comment thereon.

7 (2) Any procedure designed, adopted, and implemented by the
8 audit team for each county and municipal election held in fewer
9 than 100 election districts, but more than a single election district,
10 shall be conducted in at least two election districts.

11 (3) Within a reasonable period of time after the final vote count
12 after an election, the ¹**【Secretary of State, with the audit team,】**
13 county boards of elections¹ shall determine and then announce
14 publicly the election districts in the State in which audits shall be
15 conducted, and within 24 hours of that announcement, the audit
16 shall be commenced.

17 (4) With respect to votes cast at the election district on the date
18 of an election other than by emergency or provisional ballot, the
19 independent audit team shall oversee and supervise a **【hand-to-eye**
20 **count】** ¹**【post-election audit】** hand-to-eye count¹ of the voter-
21 verifiable paper records and compare those records with the count
22 of such votes announced by the county boards of elections.

23 (5) With respect to the votes cast other than at the election
24 district on the date of the election, or any other votes counted
25 electronically by the county board of elections on or after the date
26 of the election, including votes cast by military service voters and
27 overseas federal election voters, the independent audit team shall
28 oversee and supervise a **【count by hand】** ¹**【post-election audit】**
29 count by hand¹ of the voter-verifiable paper records as follows. To
30 maintain voter privacy, prior to each election, the audit team shall
31 direct the appropriate county election official to divide the ballots
32 into batches, hereinafter referred to as audit units. Each audit unit
33 shall contain approximately the average number of ballots cast in
34 the election districts within the county, or fewer, but shall not be
35 associated with any particular election district. As the ballots
36 comprising each audit unit are counted electronically, each audit
37 unit shall be assigned a unique identification number. Immediately
38 after counting the ballots comprising each audit unit, a cumulative
39 summary vote tally report bearing the audit unit's unique
40 identification number and containing the sum of the vote totals of
41 the audit unit and all previously counted audit units in the election
42 shall be printed and affixed to the audit unit. The reports shall be
43 subject to the same secure chain of custody as the ballots
44 comprising the audit units and shall be used by the audit team to
45 determine the electronic vote tally for each audit unit. The audit
46 team shall first compare the vote tallies in the final cumulative

1 report to the official results announced by the county and resolve
2 any discrepancies, and then include all the audit units from each
3 county in the random selection process and if selected, cause them
4 to be audited in the same manner provided herein for election
5 districts **】, except that the hand-to-eye count shall be compared to**
6 **the electronic vote tally derived from the cumulative reports】¹,**
7 except that the hand-to-eye count shall be compared to the
8 electronic vote tally derived from the cumulative reports¹.

9 (6) The selection of the election districts, audit units, and county
10 and municipal elections to be audited shall be made by the
11 **¹【Secretary of State】 county boards of elections¹** on a random basis
12 by lot, at a public meeting, using a uniform distribution in which all
13 election districts in which an election is held, and county and
14 municipal elections have an equal chance of being selected, in
15 accordance with such procedures as the Secretary of State, upon the
16 recommendation of a majority of the audit team, deems appropriate.
17 Selection of election districts or audit units for county and
18 municipal elections held in less than 100 election districts may be
19 made randomly using a non-uniform distribution to be determined
20 by the Secretary of State, upon the recommendation of a majority of
21 the audit team. Such procedures shall be published prior to use in
22 any given election, and the public shall have the opportunity to
23 comment thereon. Notwithstanding the requirements set forth in
24 this paragraph, the audit team shall have the authority to cause
25 audits to be conducted of any election district or audit unit which
26 has not been randomly selected for auditing in which a majority of
27 the audit team determines from the un-audited election results, past
28 election results, or other data that the votes are likely to have been
29 miscounted. The Secretary of State shall allow members of the
30 public, including but not limited to those permitted to observe
31 recounts, to observe the audits.

32 (7) As soon as practicable after the completion of an audit
33 conducted pursuant to this section, the Secretary of State shall
34 announce publicly and publish the results of the audit and shall
35 include in the announcement a comparison of the results of the
36 election in the districts, as determined by the independent audit
37 team performing the audit, and the final vote count in the districts
38 as announced by the county boards of elections, including a list, by
39 election district and audit unit, of any discrepancies between the
40 initial vote count and **【any subsequent manual】¹【the post-election**
41 **audit】 any subsequent manual¹** counts of the voter-verifiable paper
42 record; explanations for such discrepancies, if any; and tallies of all
43 overvotes, undervotes or their equivalents, blank ballots, spoiled
44 ballots, and cancellations recorded on the voter-verifiable paper
45 record. If the audit under this section results in a change in the
46 number of votes counted for any candidate, the revised vote totals

1 shall be incorporated in the official result from the relevant election
2 districts or audit units.

3 (8) No county shall certify the results of any election that is
4 subject to an audit performed pursuant to this section prior to the
5 completion of the audit and the announcement and publication of
6 the results thereof as required by paragraph (7) of this subsection.
7 The audit and publication of the results thereof shall be completed
8 prior to the time the State shall make a final determination with
9 respect to any controversy or contest concerning the appointment of
10 its electors for President or Vice President of the United States prior
11 to the deadline established in section 6 of Pub.L.80-644 (3
12 U.S.C.s.6).

13 (9) If the Secretary of State, based on a recommendation of a
14 majority of the professional audit team, determines that any of the
15 **【hand-to-eye】** ¹**【post-election audit】** hand-to-eye¹ counts
16 conducted under this section show cause for concern about the
17 accuracy of the results of any election in the State, or in a county or
18 a municipality, or with respect to a particular election, the
19 independent audit team shall oversee, supervise, and cause to be
20 conducted **【hand-to-eye counts】** ¹**【post-election audits】** hand-to-
21 eye counts¹ under this section in such additional election districts or
22 audit units as the Secretary of State considers appropriate to resolve
23 any such concerns. The Secretary of State shall issue previous to
24 any election the criteria to be employed to determine whether the
25 **【hand-to-eye counts】** ¹**【post-election audits】** hand-to-eye
26 counts¹ show concern about the accuracy of the election results in
27 order to trigger further **【hand-to-eye counts】** ¹**【action】** hand-to-eye
28 counts¹. Such criteria shall be published prior to use in any given
29 election, and the public shall have the opportunity to comment
30 thereon. Notwithstanding the requirements previously set forth in
31 this paragraph, additional **【hand-to-eye】** ¹**【post-election audit】**
32 hand-to-eye¹ counts shall be conducted if in the initial audit
33 conducted pursuant to the procedures set forth in this subsection,
34 any discrepancy or discrepancies attributable to the electronic
35 counting system would alter the vote share of any candidate or
36 ballot position by one tenth of one percent or more of the **【hand**
37 **counted】** ¹hand counted¹ votes in the sample. Under such
38 circumstances, the audit of the election shall be expanded using the
39 same number of election districts and when possible, audit units, as
40 the initial audit and shall be conducted under the same procedures
41 used to conduct the initial audit, provided, however, that if the
42 initial audit comprises more than one half the total number of
43 election districts and audit units in the election, the expanded audit
44 shall be a full hand-to-eye count of the remaining un-audited
45 election districts and audit units. Further hand-to-eye counts shall

1 be conducted if any discrepancy or discrepancies attributable to the
2 electronic counting system detected by the initial or subsequent
3 expanded audit indicates a substantial possibility that a complete
4 hand-to-eye recount would alter the outcome of the audited
5 election.

6 (10) If the voter-verifiable paper records in any machine are
7 found to be unusable for an audit for any reason whatsoever,
8 another machine used in the same election shall be selected at
9 random by the audit team to replace the original machine in the
10 audit sample. All such selections shall be made randomly in the
11 presence of those observing the audit using a method approved by
12 the Secretary of State. An investigation to determine the reason the
13 voter-verifiable paper records were compromised and unusable
14 shall begin immediately, and the results of the investigation shall be
15 made public upon completion.

16 d. Nothing in this section shall be construed to prevent a
17 candidate or other applicant from requesting a recount pursuant to
18 R.S.19:28-1 et seq. or any other law. In the event that such a
19 recount is held in any election district that has been audited
20 pursuant to this section, the official result from such election
21 district shall be applied to the recount in lieu of conducting a
22 subsequent hand count of the audited election district unless a court,
23 at the request of a candidate or other applicant who requested the
24 recount, so orders.

25 ¹e. A post-election audit may be conducted via an independent
26 third-party electronic machine, only if such machine has been tested
27 and certified by a National Institute of Standards and Technology
28 certified laboratory or a U.S. Election Assistance Commission
29 accredited voting system test laboratory. The machine shall be
30 tested using the same test decks previously used for pre-election
31 testing of early voting and election day tabulators or scanners. The
32 entity that provides the machine shall be responsible for any fees
33 associated with the testing or certification process. Testing shall
34 occur at least 24 hours prior to the selection of audit units.

35 f. For a post-election audit conducted via an independent
36 electronic third-party machine, the independent audit team shall
37 oversee, supervise, and require county election officials to conduct
38 an audit of the results of an election in accordance with the
39 following procedures:

40 (1) Within a reasonable period of time after the final vote count
41 after an election, the county board of elections shall randomly select
42 at least two percent of the audit units in the county and then
43 announce the audit units publicly. Within 24 hours of that
44 announcement, the audit shall be commenced.

45 (2) Prior to commencing an audit pursuant to this subsection, the
46 county board of elections shall test both the independent electronic

1 third-party machine and the audit software to ascertain that the
2 system will accurately count the votes cast for all offices and on all
3 measures. Public notice of the time and place of the test shall be
4 given at least 48 hours prior thereto by publication once in three or
5 more daily or weekly newspapers published in the county or
6 jurisdiction where such equipment is used, if a newspaper is
7 published therein, otherwise in a newspaper of general circulation
8 therein; said newspapers shall be selected to give the widest
9 possible notice to the voters of said county and one of said
10 newspapers shall be the newspaper or one of the newspapers in
11 which legal notices of the county are required to be published.

12 (3) The independent electronic third-party machine shall produce
13 and print the tally of ballots cast by ballot type, including early
14 voting ballots, vote-by-mail ballots, provisional ballots, and ballots
15 cast on election day, for each election in the audited jurisdiction,
16 and shall be capable of disaggregating ballots on which the voter
17 over-voted, under-voted, or recorded a mark that the machine does
18 not recognize.

19 (4) With respect to votes cast at the election district on the date
20 of an election other than by emergency or provisional ballot, the
21 independent audit team shall oversee and supervise a machine audit
22 of the voter-verifiable paper records and compare those records
23 with the count of such votes announced by the county boards of
24 elections.

25 (5) With respect to the votes cast other than at the election
26 district on the date of the election, or any other votes counted
27 electronically by the county board of elections on or after the date
28 of the election, including votes cast by military service voters and
29 overseas federal election voters, the independent audit team shall
30 oversee and supervise a machine audit of the voter-verifiable paper
31 records as follows. To maintain voter privacy, prior to each
32 election, the audit team shall direct the appropriate county election
33 official to divide the ballots into batches, hereinafter referred to as
34 audit units. Each audit unit shall contain approximately the average
35 number of ballots cast in the election districts within the county, or
36 fewer, but shall not be associated with any particular election
37 district. As the ballots comprising each audit unit are counted
38 electronically, each audit unit shall be assigned a unique
39 identification number. Immediately after counting the ballots
40 comprising each audit unit, a cumulative summary vote tally report
41 bearing the audit unit's unique identification number and containing
42 the sum of the vote totals of the audit unit and all previously
43 counted audit units in the election shall be printed and affixed to the
44 audit unit. The reports shall be subject to the same secure chain of
45 custody as the ballots comprising the audit units and shall be used
46 by the audit team to determine the electronic vote tally for each
47 audit unit. The audit team shall first compare the vote tallies in the

1 final cumulative report to the official results announced by the
2 county and resolve any discrepancies, and then include all the audit
3 units from each county in the random selection process and, if
4 selected, cause them to be audited in the same manner provided
5 herein for election districts, except that the machine audit shall be
6 compared to the electronic vote tally derived from the cumulative
7 reports.

8 (6) The selection of the election districts, audit units, and county
9 and municipal elections to be audited shall be made by the county
10 boards of elections on a random basis by lot, at a public meeting,
11 using a uniform distribution in which all election districts in which
12 an election is held, and county and municipal elections have an
13 equal chance of being selected, in accordance with such procedures
14 as the Secretary of State, upon the recommendation of a majority of
15 the audit team, deems appropriate. Selection of election districts or
16 audit units for county and municipal elections held in less than 100
17 election districts may be made randomly using a non-uniform
18 distribution to be determined by the Secretary of State, upon the
19 recommendation of a majority of the audit team. Such procedures
20 shall be published prior to use in any given election, and the public
21 shall have the opportunity to comment thereon. Notwithstanding
22 the requirements set forth in this paragraph, the audit team shall
23 have the authority to cause audits to be conducted of any election
24 district or audit unit which has not been randomly selected for
25 auditing in which a majority of the audit team determines from the
26 un-audited election results, past election results, or other data that
27 the votes are likely to have been miscounted. The Secretary of
28 State shall allow members of the public, including but not limited to
29 those permitted to observe recounts, to observe the audits.

30 (7) As soon as practicable after the completion of an audit
31 conducted pursuant to this section, the Secretary of State shall
32 announce publicly and publish the results of the audit and shall
33 include in the announcement a comparison of the results of the
34 election in the districts, as determined by the independent audit
35 team performing the audit, and the final vote count in the districts
36 as announced by the county boards of elections, including a list, by
37 election district and audit unit, of any discrepancies between the
38 initial vote count and any subsequent counts of the voter-verifiable
39 paper record; explanations for such discrepancies, if any; and tallies
40 of all overvotes, undervotes or their equivalents, blank ballots,
41 spoiled ballots, and cancellations recorded on the voter-verifiable
42 paper record. If the audit under this section results in a change in
43 the number of votes counted for any candidate, the revised vote
44 totals shall be incorporated in the official result from the relevant
45 election districts or audit units.

46 (8) No county shall certify the results of any election that is
47 subject to an audit performed pursuant to this section prior to the

1 completion of the audit and the announcement and publication of
2 the results thereof as required by paragraph (7) of this subsection.
3 The audit and publication of the results thereof shall be completed
4 prior to the time the State shall make a final determination with
5 respect to any controversy or contest concerning the appointment of
6 its electors for President or Vice President of the United States prior
7 to the deadline established in section 6 of Pub.L.80-644 (3
8 U.S.C.s.6).

9 (9) If the Secretary of State, based on a recommendation of a
10 majority of the professional audit team, determines that any of the
11 counts conducted under this subsection show cause for concern
12 about the accuracy of the results of any election in the State, or in a
13 county or a municipality, or with respect to a particular election, the
14 independent audit team shall oversee, supervise, and cause to be
15 conducted machine counts under this subsection in such additional
16 election districts or audit units as the Secretary of State considers
17 appropriate to resolve any such concerns. The Secretary of State
18 shall issue previous to any election the criteria to be employed to
19 determine whether the machine counts show concern about the
20 accuracy of the election results in order to trigger further machine
21 counts. Such criteria shall be published prior to use in any given
22 election, and the public shall have the opportunity to comment
23 thereon. Notwithstanding the requirements previously set forth in
24 this paragraph, additional machine counts shall be conducted if in
25 the initial audit conducted pursuant to the procedures set forth in
26 this subsection, any discrepancy or discrepancies attributable to the
27 electronic counting system would alter the vote share of any
28 candidate or ballot position by one tenth of one percent or more of
29 the counted votes in the sample. Under such circumstances, the
30 audit of the election shall be expanded using the same number of
31 election districts and when possible, audit units, as the initial audit
32 and shall be conducted under the same procedures used to conduct
33 the initial audit, provided, however, that if the initial audit
34 comprises more than one half the total number of election districts
35 and audit units in the election, the expanded audit shall be a full
36 machine count of the remaining un-audited election districts and
37 audit units. Further machine counts shall be conducted if any
38 discrepancy or discrepancies attributable to the electronic counting
39 system detected by the initial or subsequent expanded audit
40 indicates a substantial possibility that a complete machine recount
41 would alter the outcome of the audited election.

42 (10) If the voter-verifiable paper records in any machine are
43 found to be unusable for an audit for any reason whatsoever,
44 another machine used in the same election shall be selected at
45 random by the audit team to replace the original machine in the
46 audit sample. All such selections shall be made randomly in the
47 presence of those observing the audit using a method approved by

1 the Secretary of State. An investigation to determine the reason the
2 voter-verifiable paper records were compromised and unusable
3 shall begin immediately, and the results of the investigation shall be
4 made public upon completion.¹

5 (cf: P.L.2023, c.124, s.15)

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7 2. This act shall take effect immediately.

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12 Revises procedures governing audits of election results.