**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3304**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Alexander, Clyburn, Kirby, Jefferson and Henegan

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Companion/Similar bill(s): 374, 3616, 4293, 4725

Introduced in the House on January 8, 2019

Currently residing in the House Committee on **Judiciary**

Summary: Voting machines

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/18/2018 House Prefiled

12/18/2018 House Referred to Committee on **Judiciary**

1/8/2019 House Introduced and read first time ([House Journal‑page 165](file:///h:\hj\20190108.docx))

1/8/2019 House Referred to Committee on **Judiciary** ([House Journal‑page 165](file:///h:\hj\20190108.docx))

1/9/2019 House Member(s) request name added as sponsor: Kirby

1/23/2019 House Member(s) request name added as sponsor: Jefferson

2/5/2019 House Member(s) request name added as sponsor: Henegan

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**VERSIONS OF THIS BILL**

[12/18/2018](file:///p:\pprever\2019-20\3304_20181218.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 7‑13‑1625 SO AS TO PROVIDE THAT BEGINNING WITH THE 2022 GENERAL ELECTION CYCLE, ALL VOTING MACHINES USED IN SOUTH CAROLINA SHALL UTILIZE A NONPROPRIETARY, PUBLICLY OWNED PAPER‑BASED SYSTEM THAT USES THE PAPER BALLOT AS THE BALLOT OF RECORD, PRODUCE AN INDIVIDUAL VOTER‑VERIFIED PERMANENT PAPER RECORD FOR EACH VOTE CAST, AND IS CAPABLE OF BEING TESTED BOTH BEFORE AN ELECTION AND PRIOR TO THE DATE OF CANVASS; AND BY ADDING SECTION 7‑13‑1635 SO AS TO PROVIDE THAT BEGINNING WITH THE 2022 GENERAL ELECTION CYCLE, THE STATE ELECTION COMMISSIONIN CONJUNCTION WITH THE COUNTY BOARDS OF VOTER REGISTRATION AND ELECTIONS, AS NECESSARY, SHALL CONDUCT POSTELECTION RISK‑LIMITING AUDITS FOR ALL STATEWIDE PRIMARY, GENERAL, AND SPECIAL ELECTIONS, INCLUDING STATEWIDE RUNOFF ELECTIONS, TO DEFINE RELEVANT TERMS, TO ESTABLISH PROCEDURES DETAILING HOW THE RISK‑LIMITING AUDIT MUST BE CONDUCTED, AND TO AUTHORIZE THE STATE ELECTION COMMISSION TO PROMULGATE REGULATIONS REGARDING THE PROCEDURES, MANDATORY TIMELINES, AND USE OF RISK‑LIMITING AUDITS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 15, Chapter 13, Title 7 of the 1976 Code is amended by adding:

“Section 7‑13‑1625. (A)(1) Notwithstanding another provision of law, beginning with the 2022 general election cycle, all voting machines used in South Carolina shall produce an individual voter‑verified permanent paper record for each vote cast, which must be made available for inspection and verification by the voter at the time the vote is cast. Each voter‑verified paper record must be preserved for later use in a manual audit.

(2) After the effective date of this act, the State of South Carolina or any state agency, board, commission, council, or authority may not purchase, lease, rent, or upgrade for use of direct recording electronic system voting machines unless the system:

(a) utilizes a nonproprietary, publicly owned paper‑based system that uses the paper ballot as the ballot of record;

(b) provides a paper record of each vote cast, produced at the time the vote is cast; and

(c) is able to be tested both before an election and prior to the date of canvass. The test shall include the ability to match the paper record of the machine to the vote total contained in the machine.

(B) The provisions of this section are suspended until the:

(1) State Election Commission certifies in writing that sufficient funds have been provided by the federal government and received by the State to offset the entire cost of ensuring that each voting machine used in this State meets the requirements specified in subsection (A);

(2) annual appropriation act contains an appropriation of sufficient unreserved funds to ensure that each voting machine used in this State meets the requirements specified in subsection (A); or

(3) State Election Commission and the State Treasurer certify in writing that sufficient funds have been provided by the federal government and received by the State, and the annual appropriation act contains an appropriation of sufficient unreserved funds, to ensure, when these funds are combined, that each voting machine used in this State meets the requirements specified in subsection (A).”

SECTION 2. Article 15, Chapter 13, Title 7 of the 1976 Code is amended by adding:

“Section 7‑13‑1635. (A) The General Assembly finds the auditing of election results is necessary to ensure effective election administration and public confidence in the election results. Further, risk‑limiting audits provide a more effective manner of conducting audits than traditional audit methods in that risk‑limiting audit methods typically require only limited resources for election contests with wide margins of victory while investing greater resources in close contests.

(B) For purposes of this section:

(1) ‘Audit unit’ means a precinct, a set of ballots (such as all the ballots tabulated on one vote tabulating device or a batch of ballots), or a single ballot. A precinct, a set of ballots, or a single ballot may be used as an audit unit for purposes of this section only if both of the following conditions are satisfied:

(a) the relevant vote tabulating device is able to produce a report of the votes cast in the precinct, set of ballots, or single ballot; and

(b) each ballot is assigned to not more than one audit unit.

(2) ‘Contest’ means a primary or runoff primary, an election or runoff election for an office or for a measure.

(3) ‘Commission’ means the State Election Commission.

(4) ‘Risk‑limiting audit’ means a manual tally employing a statistical method that ensures a large, predetermined minimum chance of requiring a full manual tally whenever a full manual tally would show an electoral outcome that differs from the outcome reported by the vote tabulating system for the audited contest. A risk‑limiting audit shall begin with a manual tally of the votes in one or more audit units and shall continue to manually tally votes in additional audit units until there is strong statistical evidence that the electoral outcome is correct. In the event that counting additional audit units does not provide strong statistical evidence that the electoral outcome is correct, the audit shall continue until there has been a full manual tally to determine the correct electoral outcome of the audited contest.

(5) ‘Tabulation audits’ means verifying that the votes on voter‑verified paper ballots made available for the audit are counted and tabulated accurately enough to determine the correct outcome.

(6) ‘Unofficial final results’ means election results tabulated.

(C) Beginning with the 2022 general election cycle, the commissionin conjunction with the county boards of voter registration and elections, as necessary, shall conduct postelection risk‑limiting audits pursuant to the provisions of this section and commission regulations for all statewide primary, general, and special elections, including statewide runoff elections.

(D) The commission shall promulgate regulations regarding the procedures, mandatory timelines, and use of risk‑limiting audits. The number of voter‑verifiable audit records selected for audits must be determined pursuant to these regulations and shall utilize statistical methods designed to limit the risk of certifying an incorrect outcome.

(E) The risk‑limiting audit must be conducted as follows:

(1) For each contest election being audited, the commissionin conjunction with the county boards of voter registration and elections, as necessary, shall establish both the appropriate risk limit as well as the projected minimum chance of detecting and correcting a result where the outcome of the original tabulation is inconsistent with the election outcome obtained by conducting a full recount. Additionally, the commission shall:

(a) provide notice of the time and place of the random selection of the audit units to be manually tallied and of the times and places of the audits;

(b) make available to the public a report of the unofficial final tabulated vote results for the contest, including the results for each audit unit in the contest, prior to the random selection of audit units to be manually tallied and prior to the commencement of the audit;

(c) make available to the public the statistical basis for the size of the random samples so that the public can review the process;

(d) conduct the audit upon tabulation of the unofficial final results in conjunction with the county boards of voter registration and elections;

(e) conduct the audit in public view by manually interpreting the actual ballots that the voters themselves verified, not an image or a duplicated ballot or a barcode associated with the ballot in conjunction with the county boards of voter registration and elections; and

(f) ensure that all ballots, whether cast in person, by absentee ballot, early voting, provisional ballot, or otherwise, are subject to audit.

(2) The audit must be completed prior to the final certification of the results of the contest.

(3) If a risk‑limiting audit of a contest leads to a full manual tally of the ballots cast using the voting system, the vote counts according to that manual tally shall replace the vote counts reported for the purpose of determining the official contest results.

(4) The results of audits conducted pursuant to this section must be published on the commission’s website within twenty‑four hours of the completion of the audit. If the audit involved a manual tally of one or more entire precincts, then the names and numbers of all precincts audited and a comparison of the vote‑tabulator results with the manual tally for each precinct must be published with the audit results on the website. Similarly, if the audit units are sets of ballots or single ballots, a comparison of the unofficial final results and the audit results must be published on the website.

(5) An audit required pursuant to this section may not commence for an election subject to a recount until the recount has been completed.

(6) In connection with the promulgation of these rules, regulations, and procedures, the commission shall consult with recognized statistical experts, including statistical experts with experience in election auditing, equipment vendors, and local election administrators, and shall consider the best practices for conducting these risk‑limiting audits.”

SECTION 3. This act takes effect upon approval by the Governor.

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