

HOUSE No. 671

By Mr. Kaufman of Lexington, petition of Jay R. Kaufman and others to provide for audits of election results. Election Laws.

The Commonwealth of Massachusetts

PETITION OF:

Jay R. Kaufman	Susan C. Fargo
Cory Atkins	Frank I. Smizik
Denise Provost	Carl M. Sciortino, Jr.
Jarrett T. Barrios	Kay Khan
Lewis G. Evangelidis	James B. Eldridge
Martha M. Walz	Stephen Kulik

In the Year Two Thousand and Seven.

AN ACT TO PROVIDE FOR AUDITS OF ELECTION RESULTS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Chapter 54 of the General Laws, as appearing in the 2004 Official
- 2 Edition, is hereby amended by inserting after section 109 the
- 3 following section:—
- 4 Section 109A. Audits of election results.
- 5 Following each primary, general or special election, a random,
- 6 manual hand-count audit of the votes for each federal office, state-
- 7 wide ballot question and state-wide office shall be conducted in not
- 8 less than five percent of the precincts in the Commonwealth.
- 9 The precincts to be audited shall be chosen at random using a
- 10 manual, non-computerized drawing, supervised by the state secre-
- 11 tary. The time and place of the drawing shall be announced in
- 12 advance. The drawing shall be open to representatives of each polit-
- 13 ical party and to the public. The drawing shall take place not more
- 14 than twenty-four hours after the close of the polls.
- 15 The time and place of the audits in each precinct to be audited
- 16 shall be publicly announced in advance and the audits shall be per-
- 17 formed in full public view. The audit shall be conducted pursuant to

18 the procedures for hand-counts of ballots in Section 105 of Chapter
19 54, except for the following provisions:—

20 1.) audit teams shall be trained to conduct the audits in the
21 precincts,

22 2.) a number of audit teams sufficient to complete the audit in five
23 days shall be trained and ready for deployment around the state on
24 the first through the fifth day after the election,

25 3.) these teams shall consist of four members:— one member
26 shall read votes, one member shall observe the reader of the votes,
27 one member shall record votes on an official sheet, and one member
28 shall observe the recorder,

29 4.) the team shall include members of different parties,

30 5.) team members may switch tasks as long as the observers are
31 of a different party than the person they are observing at any given
32 time,

33 6.) two additional observers-at-large of different parties shall also
34 be present at each precinct, and

35 7.) each precinct audit will be presided over by the city or town
36 clerk, or his designee, who shall record the tallies from each packet
37 of ballots on an official master tally sheet when the counting of that
38 packet is completed, observed by the two observers-at-large.

39 For each audited precinct, the tallies of the votes for each candi-
40 date and ballot question as determined in the audit shall be recorded
41 and reported to the state secretary within five days after the election.
42 The state secretary shall make these results available to the Legisla-
43 ture's Committee on Election Laws with sufficient time for a
44 statewide audit to be conducted, as provided for in this section.
45 Each precinct shall also report to the state secretary the model of the
46 electronic or mechanical voting or counting device, if any, used to
47 determine the original vote tally.

48 Upon receipt of the results of the manual audit count from the
49 audited precincts, the state secretary shall calculate the total number
50 of votes for each candidate and ballot question as recorded in the
51 manual audit count and shall compare this total to the sum of the
52 originally reported votes for each candidate and ballot question in
53 the audited precincts.

54 Whenever the vote total obtained from the manual count:—

55 1.) Differs by more than one percent from the originally reported
56 vote tally for any given candidate or ballot question, or

57 2.) Indicates a different prevailing candidate or outcome, either
58 passage or defeat, of one or more ballot questions than the originally
59 reported tally,

60 the following actions shall take place:—

61 1.) a statewide hand-counted audit shall be conducted for that
62 contest, to be completed and reported within sufficient time to meet
63 state and federal election deadlines for performing recounts and cer-
64 tification,

65 2.) the discrepancy between the hand-counted audit and the orig-
66 inal vote tally shall be analyzed to ascertain the cause of the discrep-
67 ancy. The state secretary shall oversee the analysis and shall publish
68 and make available online the findings within 180 days.

69 When a manual count is conducted, the sum of the votes from
70 each audited precinct for each candidate and ballot question shall be
71 calculated for each model of electronic or mechanical voting or
72 counting device and compared to the sum of the originally reported
73 tallies from those machines in the audited precincts. Whenever the
74 difference between the hand-counted audit and the originally
75 reported tally is more than one percent for any particular machine
76 model, the discrepancy between the hand-counted audit and the orig-
77 inal vote tally shall be analyzed to ascertain the cause of the discrep-
78 ancy. The state secretary shall oversee the analysis and shall publish
79 and make available online the findings within 180 days.

80 Whenever the difference between the vote total obtained from the
81 manual count in any given precinct differs by more than 3 percent
82 from the vote count originally reported by that precinct, the
83 following actions shall take place:—

84 1) a full hand-count shall be conducted in the city or town where
85 the said precinct is located, and

86 2) the discrepancy between the hand-counted audit and the orig-
87 inal vote tally shall be analyzed to ascertain the cause of the discrep-
88 ancy. The state secretary shall oversee the analysis and shall publish
89 and make available online the findings within 180 days.

90 If there is a discrepancy between a manual count and originally
91 reported tallies, where the original results were obtained using elec-
92 tronic equipment, the manual count of the official paper ballots shall
93 be the official vote of record.

94 The results of audits and hand-counts, as well as the corre-
95 sponding data for the originally reported tallies, shall be made

96 publicly available on a precinct-by-precinct basis both in hardcopy
97 and in electronic file format.