HOUSE DOCKET, NO. 1025 FILED ON: 1/15/2013

# HOUSE . . . . . No. 618

## The Commonwealth of Massachusetts

PRESENTED BY:

***Michael J. Moran***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to provide for audits of election results.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| *Michael J. Moran* | *18th Suffolk* | *1/15/2013* |
| *Ruth B. Balser* | *12th Middlesex* | *1/15/2013* |
| *Thomas P. Conroy* | *13th Middlesex* | *1/15/2013* |
| *Sal N. DiDomenico* | *Middlesex and Suffolk* | *1/15/2013* |
| *Kay Khan* | *11th Middlesex* | *1/15/2013* |
| *Jason M. Lewis* | *Fifth Middlesex* | *1/15/2013* |
| *Kevin J. Murphy* | *18th Middlesex* | *1/15/2013* |
| *Chris Walsh* | *6th Middlesex* | *1/15/2013* |
| *Martha M. Walz* | *8th Suffolk* | *1/15/2013* |

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# HOUSE . . . . . No. 618

By Mr. Moran of Boston, a petition (accompanied by bill, House, No. 618) of Michael J. Moran and others for legislation to authorize local boards of registrars to perform random audits of election results in precincts. Election Laws.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1980* OF 2011-2012.]

## The Commonwealth of Massachusetts

**In the Year Two Thousand Thirteen**

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:*

Chapter 54 of the General Laws is hereby amended by inserting after section 109 the following section:--

Section 109A. Audits of election results.

(a) For the purposes of this section the term "audited precinct" means any precinct selected in accordance with subsection (c) of this section for the purpose of conducting audits as provided in this section.

(b) Races subject to audit.

(1) A hand-counted audit shall be conducted in each audited precinct following:

(i) any state primary preceding a biennial state election;

(ii) any presidential primary;

(iii) any biennial state election;

(iv) any special general election for senator in congress or representative in congress.

(2) In each audited precinct, the following races shall be subject to the hand-counted audit:

(i) each race appearing on the ballot in that audited precinct; and

(ii) any statewide ballot question appearing on the ballot in that audited precinct.

Provided, however, that races in which only one candidate's name appears on the ballot shall not be audited. If a valid petition for a recount is made pursuant to section 135 of chapter 54 of the General Laws for a race subject to audit by this section, then the votes for that race shall not be audited in any audited precinct named in the petition. The audit of the race in question shall proceed in any audited precinct not included in the petition for a recount.

(c) Selection of precincts. The audited precincts shall be chosen in a random, publicly verifiable, non-computerized drawing supervised by the state secretary following publication of unofficial election results from each precinct where any race subject to audit appeared on the ballot. The number of audited precincts selected in this drawing shall be equal to one per cent of all precincts in the Commonwealth, unless the audit is prompted by a special general election for representative in congress in which case the number of audited precincts selected in this drawing shall be equal to one per cent of all precincts subject to that special election.

The time and place of the drawing shall be announced at least 48 hours in advance and be open to representatives of each political party and to the public. The audited precincts selected in this manner shall be used to audit any races subject to audit by this section.

(d) Procedure for conducting audits. The board of registrars in each municipality where one or more audited precincts are located shall conduct the audit. The board of registrars may employ tally clerks for the purpose of counting the ballots. Audits shall commence not later than 24 hours following the random drawing of precincts supervised by the state secretary and shall continue on each successive business day or other day at the discretion of the board of registrars in each municipality. The time and place of the audits in each municipality where one or more audited precincts are located shall be publicly announced in advance. The audits shall be performed in full public view and conducted pursuant to the procedures for hand counts of ballots in Section 105 of Chapter 54.

If there is a discrepancy between the results reached pursuant to an audit and originally reported tallies, the hand count of the official paper ballots conducted pursuant to the audit shall be the official vote of record.

(e) Analysis of audit results. Upon receipt of the results of the audit, the state secretary shall calculate the total number of votes for each candidate and ballot question as recorded in the hand count and shall compare this total to the sum of the originally reported votes for each candidate and ballot question in the audited precincts. When such comparison reveals a

discrepancy between the hand-counted audit and the originally reported tally of the audited precincts the discrepancy shall be analyzed to ascertain its cause. The state secretary shall oversee the analysis and shall publish the findings and make the findings available online, along with the factual information on which such findings were based, within 180 days.

(f) If discrepancies between the hand-counted audits and the originally reported tallies of the audited precincts cause concern about the accuracy of the election results, the state secretary shall order audits of such additional precincts, offices, initiatives, or questions as shall be necessary to resolve such concern.

(g) Public availability of audit results. The results of audits, as well as the corresponding data for the originally reported tallies, shall be made publicly available on a precinct-by-precinct basis both in paper and electronic file format.

The audit and publication of the results thereof shall be completed prior to the time the State shall make a final determination concerning the appointment of its electors for President and Vice President of the United States as established in federal law.

(h) Funding. Costs incurred under this section shall be paid by the state using funds available to Massachusetts pursuant to sections 251-258 of the Help America Vote Act of 2002.

(i) Implementation of regulations. The state secretary shall adopt regulations to implement the requirements of this section, and shall hold public hearings both before and after issuing draft regulations. The state secretary shall consult one or more persons with expertise in statistics and election auditing prior to issuing draft regulations implementing subsections (c) and (f) of this section. Final regulations implementing the requirements of this section shall be published at least 60 days before the date of the election.