

**HOUSE . . . . . No. 01980**

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 passage of the accompanying bill:

An Act to provide for audits of election results.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael J. Moran</i>	<i>18th Suffolk</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Russell Holmes</i>	<i>6th Suffolk</i>
<i>Stephen Stat Smith</i>	<i>28th Middlesex</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Brian Ashe</i>	<i>2nd Hampden</i>
<i>Gailanne Cariddi</i>	<i>1st Berkshire</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>John P. Fresolo</i>	<i>16th Worcester</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>

<i>Stanley C. Rosenberg</i>	<i>Hampshire and Franklin</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Daniel Winslow</i>	<i>9th Norfolk</i>
<i>Steven A. Tolman</i>	<i>Second Suffolk and Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>David Vieira,</i>	<i>3rd Barnstable</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Edward Coppinger</i>	<i>10th Suffolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Christopher N. Speranzo</i>	<i>3rd Berkshire</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Elizabeth Poirier</i>	<i>14th Bristol</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Rhonda Nyman</i>	<i>5th Plymouth</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Mark Cusack</i>	<i>5th Norfolk</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>Gale D. Candaras</i>	<i>First Hampden and Hampshire</i>

<i>Jay Kaufman</i>	<i>15th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Bradford Hill</i>	<i>4th Essex</i>

# HOUSE . . . . . No. 01980

By Mr. Moran of Boston, a petition (accompanied by bill, House, No. 1980) of Story and others for legislation to authorize local boards of registrars to perform random audits of election results in precincts Joint Committee on Election Laws.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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 is hereby amended by inserting after section 109 the following
- 2 section:--
- 3 Section 109A. Audits of election results.
- 4 (a) For the purposes of this section the term “audited precinct” means any precinct selected in
- 5 accordance with subsection (c) of this section for the purpose of conducting audits as provided in
- 6 this section.
- 7 (b) Races subject to audit.
- 8 (1) A hand-counted audit shall be conducted in each audited precinct following:
- 9 (i) any state primary preceding a biennial state election;

10 (ii) any presidential primary;

11 (iii) any biennial state election;

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

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

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

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

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

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

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

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

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

43 (e) Analysis of audit results. Upon receipt of the results of the audit, the state secretary shall  
44 calculate the total number of votes for each candidate and ballot question as recorded in the hand  
45 count and shall compare this total to the sum of the originally reported votes for each candidate  
46 and ballot question in the audited precincts. When such comparison reveals a discrepancy  
47 between the hand-counted audit and the originally reported tally of the audited precincts the  
48 discrepancy shall be analyzed to ascertain its cause. The state secretary shall oversee the  
49 analysis and shall publish the findings and make the findings available online, along with the  
50 factual information on which such findings were based, within 180 days.

51 (f) If discrepancies between the hand-counted audits and the originally reported tallies of the  
52 audited precincts cause concern about the accuracy of the election results, the state secretary

53 shall order audits of such additional precincts, offices, initiatives, or questions as shall be  
54 necessary to resolve such concern.

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

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

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

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