

House File 2206 - Introduced

HOUSE FILE _____
BY GASKILL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to postelection audits of voting systems.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 5935HH 82
4 sc/nh/24

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1 1 Section 1. NEW SECTION. 47.10 ELECTION AUDIT BOARD.

1 2 1. The state commissioner of elections shall appoint a
1 3 three-member election audit board.

1 4 2. The election audit board shall receive reports of the
1 5 postelection audits required in section 50.51 and filed by
1 6 each county commissioner of elections.

1 7 3. The election audit board shall, after each general
1 8 election, conduct a review of no more than five counties
1 9 selected by lot. The board shall review the county
1 10 commissioner's conduct of the general election to determine
1 11 whether the county commissioner's conduct of the election
1 12 conformed to Iowa law. The review shall include a review of
1 13 the procedures followed for absentee voting.

1 14 Sec. 2. Section 50.12, Code 2007, is amended to read as
1 15 follows:

1 16 50.12 RETURN AND PRESERVATION OF BALLOTS.

1 17 Immediately after making the proclamation, and before
1 18 separating, the board members of each precinct in which votes
1 19 have been received by paper ballot shall enclose in an
1 20 envelope or other container all ballots which have been
1 21 counted by them, except those endorsed "Rejected as double",
1 22 "Defective", or "Objected to", and securely seal the envelope.
1 23 The signatures of all board members of the precinct shall be
1 24 placed across the seal or the opening of the container so that
1 25 it cannot be opened without breaking the seal. The precinct
1 26 election officials shall return all the ballots to the
1 27 commissioner, who shall carefully preserve them for six
1 28 months. Ballots from elections for federal offices shall be
1 29 preserved for twenty-two months. The sealed packages
1 30 containing voted ballots shall be opened only for an official
1 31 recount authorized by section 50.48, 50.49, or 50.50, for an
1 32 election contest held pursuant to chapters 57 through 62, for
1 33 a postelection audit required by section 50.51, or to destroy
1 34 the ballots pursuant to section 50.19.

1 35 Sec. 3. Section 50.48, subsection 1, unnumbered paragraph
2 1 1, Code Supplement 2007, is amended to read as follows:

2 2 The county board of canvassers shall order a recount of the
2 3 votes cast for a particular office or nomination in one or
2 4 more specified election precincts in that county if a written
2 5 request ~~therefor~~ for a recount is made not later than five
2 6 ~~o'clock~~ p.m. on the third day following the county board's
2 7 canvass of the election in question or not later than five
2 8 p.m. on the third day following conclusion of a postelection
2 9 audit if the audit necessitates a correction to the official
2 10 canvass resulting in the apparent winner being other than the
2 11 apparent winner declared after the canvass of votes. The

2 12 request shall be filed with the commissioner of that county,
2 13 or with the commissioner responsible for conducting the
2 14 election if section 47.2, subsection 2 is applicable, and
2 15 shall be signed by either of the following:

2 16 Sec. 4. Section 50.49, unnumbered paragraph 1, Code 2007,
2 17 is amended to read as follows:

2 18 A recount for any public measure shall be ordered by the
2 19 board of canvassers if a petition requesting a recount is
2 20 filed with the county commissioner not later than ~~three days~~
2 21 after five p.m. on the third day following the completion of

2 22 the canvass of votes for the election at which the question
2 23 appeared on the ballot or not later than five p.m. on the
2 24 third day following conclusion of a postelection audit if the
2 25 audit necessitates a correction to the official canvass
2 26 causing a different result to be declared on the public
2 27 measure. The petition shall be signed by the greater of not
2 28 less than ten eligible electors or a number of eligible
2 29 electors equaling one percent of the total number of votes
2 30 cast upon the public measure. Each petitioner must be a
2 31 person who was entitled to vote on the public measure in
2 32 question or would have been so entitled if registered to vote.

2 33 Sec. 5. NEW SECTION. 50.51 POSTELECTION AUDIT OF VOTING
2 34 SYSTEMS.

2 35 1. After each general election, a postelection audit of
3 1 voting systems shall be conducted as provided in this section.
3 2 However, if a request for recount is filed under section
3 3 50.48, 50.49, or 50.50 prior to or during the postelection
3 4 audit, an audit of the office or measure in question for which
3 5 the recount was requested shall not be conducted or shall be
3 6 terminated, as the case may be.

3 7 2. At the canvass of the primary election, the board of
3 8 supervisors shall set the date, time, and place for the
3 9 postelection audit required by this section.

3 10 3. a. A packet of absentee ballots described in section
3 11 53.23, subsection 5, shall be considered a precinct for
3 12 purposes of a postelection audit and in all cases shall be
3 13 included in the postelection audit. If there is more than one
3 14 packet containing at least five hundred absentee ballots, the
3 15 packet to be audited shall be chosen by lot. If there are no
3 16 packets containing at least five hundred absentee ballots, the
3 17 packet containing the largest number of absentee ballots shall
3 18 be included in the postelection audit.

3 19 The remaining precincts for which a postelection audit
3 20 shall be conducted shall be chosen by lot by the chairperson
3 21 of the board of supervisors, or another supervisor designated
3 22 by the chairperson if the chairperson is unavailable,
3 23 immediately prior to commencement of the postelection audit.
3 24 The selection proceedings shall be open to the public and to
3 25 observers from both political parties. The proceedings shall
3 26 be videotaped, and the videotape shall be considered a report
3 27 of the postelection audit and shall be filed as provided in
3 28 subsection 8.

3 29 b. The number of precincts chosen shall be as follows:

3 30 (1) In counties with fifty thousand or fewer registered
3 31 voters, two precincts or a number equal to five percent of all
3 32 the precincts in the county, whichever is greater.

3 33 (2) In counties with more than fifty thousand registered
3 34 voters but fewer than one hundred thousand registered voters,
3 35 three precincts or a number equal to five percent of all the
4 1 precincts in the county, whichever is greater.

4 2 (3) In counties with one hundred thousand or more
4 3 registered voters, four precincts or a number equal to five
4 4 percent of all precincts in the county, whichever is greater.

4 5 c. The county commissioner of elections shall publish
4 6 notice of the date, time, and place of the postelection audit.
4 7 The commissioner shall also notify, in writing, the county
4 8 chairperson of each political party referred to in section
4 9 49.13 so that they may be present, or have a representative
4 10 present.

4 11 4. The postelection audit shall be conducted for elections
4 12 for the offices of president of the United States or governor,
4 13 United States senator, United States representative, and at
4 14 least a total of two additional partisan offices or public
4 15 measures on the ballot, which shall be chosen by lot at the
4 16 same time, and in the same manner, the precincts are chosen.

4 17 5. For each precinct to be audited, the county
4 18 commissioner of elections shall appoint three to seven members
4 19 of a postelection audit board to conduct the postelection
4 20 audit. The members shall be chosen from the election board
4 21 panel drawn up as provided in section 49.15, except that the
4 22 chairperson of the precinct board of each precinct drawn by
4 23 lot shall be designated the chairperson of the postelection
4 24 audit board for that precinct. The ballots in each precinct
4 25 chosen shall be counted by hand. In precincts where a voting
4 26 machine was used, the ballot images produced from the internal
4 27 audit log shall be the official record used in the
4 28 postelection audit.

4 29 6. a. When all members of the postelection audit board
4 30 have been selected, the board shall undertake and complete the
4 31 required audit as expeditiously as reasonably possible. The
4 32 county commissioner of elections or the commissioner's

4 33 designee shall supervise the handling of ballots or voting
4 34 machine documents to ensure that the ballots and other
4 35 documents are protected from alteration or damage. The board
5 1 shall open only the sealed ballot containers from the
5 2 precincts specified to be audited. The board shall recount
5 3 only the ballots which were voted and counted for the office
5 4 in question, including any disputed ballots returned as
5 5 required in section 50.5.

5 6 b. The ballots or voting machine documents shall be
5 7 resealed by the postelection audit board before adjournment
5 8 and shall be preserved as required by section 50.12. At the
5 9 conclusion of the audit, the postelection audit board shall
5 10 make and file with the county commissioner of elections a
5 11 written report of its findings, which shall be signed by the
5 12 chairperson and at least one other member of the postelection
5 13 audit board. The postelection audit board shall complete the
5 14 audit and file its report not later than the fourth day
5 15 following the election.

5 16 c. If the postelection audit reveals a difference greater
5 17 than one-half of one percent from the results on the tally
5 18 list, the postelection audit board shall, within two days,
5 19 conduct an additional audit of at least three precincts and
5 20 shall report the results immediately to the county
5 21 commissioner of elections. If the second audit also indicates
5 22 a difference in the vote totals that is greater than one-half
5 23 of one percent from the results on the tally list, the county
5 24 commissioner shall conduct an audit of the remaining precincts
5 25 in the county for those same offices and public measures.
5 26 This audit shall be completed no later than six weeks
5 27 following the general election.

5 28 7. a. If the report from the final postelection audit
5 29 reveals that the abstracts prepared pursuant to the county
5 30 canvassing board's canvass were incorrect as to the number of
5 31 votes cast for any of the offices or public measures audited,
5 32 the county commissioner of elections shall at once so notify
5 33 the county canvassing board. The county canvassing board
5 34 shall reconvene within three days after being so notified, and
5 35 shall correct its previous proceedings.

6 1 b. The county commissioner of elections shall promptly
6 2 notify the state commissioner of any recount of votes for an
6 3 office to which section 50.30 is applicable. If necessary,
6 4 the state canvass required by section 50.38 shall be delayed
6 5 with respect to the office to which the recount pertains. The
6 6 county commissioner of elections shall subsequently inform the
6 7 state commissioner at the earliest possible time whether any
6 8 change in the outcome of the election in that county or
6 9 district resulted from the recount.

6 10 8. All reports pertaining to a postelection audit shall be
6 11 sent to the election audit board created in section 47.10 and
6 12 filed in the office of the state commissioner.

6 13 Sec. 6. Section 53.23, subsection 5, Code Supplement 2007,
6 14 is amended to read as follows:

6 15 5. The special precinct election board shall preserve the
6 16 secrecy of all absentee and provisional ballots. After the
6 17 affidavits on the envelopes have been reviewed and the
6 18 qualifications of the persons casting the ballots have been
6 19 determined, those that have been accepted for counting shall
6 20 be opened. The ballots shall be removed from the affidavit
6 21 envelopes without being unfolded or examined, and then shall
6 22 be thoroughly intermingled, after which they shall be unfolded
6 23 and tabulated. If secrecy folders or envelopes are used with
6 24 provisional paper ballots, the ballots shall be removed from
6 25 the secrecy folders after the ballots have been intermingled.
6 26 Tabulated ballots shall be placed in packets. The packets
6 27 shall contain ballots equal in number to the greater of five
6 28 hundred or five percent of the total number of absentee
6 29 ballots tabulated.

6 30 EXPLANATION

6 31 This bill requires a postelection audit of voting systems
6 32 after each general election. The postelection audit is a hand
6 33 count of the ballots cast in selected precincts. The
6 34 precincts are to be selected publicly by lot by the county
6 35 board of supervisors, and the proceedings are to be
7 1 videotaped. However, at least one of the precincts to be
7 2 audited shall be a precinct comprised of absentee ballots.
7 3 The bill provides that the number of precincts to be audited
7 4 is as follows:

7 5 (1) In counties with fewer than 50,000 registered voters,
7 6 two precincts or a number equal to 5 percent of all the
7 7 precincts in the county, whichever is greater;

7 8 (2) In counties with 50,000 or more registered voters but

7 9 fewer than 100,000, three precincts or a number equal to 5
7 10 percent of all the precincts in the county, whichever is
7 11 greater; and

7 12 (3) In counties with 100,000 or more registered voters,
7 13 four precincts or a number equal to 5 percent of all precincts
7 14 in the county, whichever is greater.

7 15 The bill provides that the postelection audit is to be
7 16 conducted for elections for the offices of president of the
7 17 United States or governor, United States senator, United
7 18 States representative, and at least two additional partisan
7 19 offices or public measures chosen by lot. The bill provides
7 20 that if the postelection audit reveals a difference greater
7 21 than one-half of 1 percent from the tally list for the
7 22 precinct, the postelection audit board shall conduct an
7 23 additional audit of three precincts in the county. The bill
7 24 provides that this procedure is to be completed before the
7 25 county board of supervisors convenes to canvass the votes from
7 26 the election. If the second audit reveals the same
7 27 difference, then the county commissioner of elections shall
7 28 conduct an audit of the ballots cast for the same offices or
7 29 public measures in the remaining precincts in the county.
7 30 This final audit is to be completed no later than six weeks
7 31 following the general election.

7 32 The bill provides that if a recount is requested, the
7 33 postelection audit shall not be conducted or shall be
7 34 terminated, as the case may be. If a postelection audit
7 35 results in a correction to the official canvass that changes
8 1 the outcome of an election, a recount may be requested no
8 2 later than the third day following the conclusion of the
8 3 postelection audit.

8 4 The bill creates an election audit board which shall
8 5 receive reports of postelection audits filed by county
8 6 commissioners of elections. The board shall also, after each
8 7 general election, conduct a review in no more than five
8 8 counties of the conduct of the election, including absentee
8 9 voting procedures. The members of the election audit board
8 10 are appointed by the state commissioner of elections.

8 11 LSB 5935HH 82

8 12 sc/nh/24.2