

House File 682 - Reprinted

HOUSE FILE _____
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 396)

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

A BILL FOR

1 An Act requiring a postelection audit after each general election
2 and including effective and applicability date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2125HV 83
5 sc/nh/8

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1 1 Section 1. Section 49.53, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. The commissioner shall not less than four nor more than
1 4 twenty days before the day of each election, except those for
1 5 which different publication requirements are prescribed by
1 6 law, publish notice of the election. The notice shall contain
1 7 a facsimile of the portion of the ballot containing the first
1 8 rotation as prescribed by section 49.31, subsection 2, and
1 9 shall show the names of all candidates or nominees and the
1 10 office each seeks, and all public questions, to be voted upon
1 11 at the election. The sample ballot published as a part of the
1 12 notice may at the discretion of the commissioner be reduced in
1 13 size relative to the actual ballot but such reduction shall
1 14 not cause upper case letters appearing in candidates' names or
1 15 in summaries of public measures on the published sample ballot
1 16 to be less than ninety percent of the size of such upper case
1 17 letters appearing on the actual ballot. The notice shall also
1 18 state the date of the election, the hours the polls will be
1 19 open, the location of each polling place at which voting is to
1 20 occur in the election, the location of the polling places
1 21 designated as early ballot pick-up sites, and the names of the
1 22 precincts voting at each polling place, but the statement need
1 23 not set forth any fact which is apparent from the portion of
1 24 the ballot appearing as a part of the same notice. The notice
1 25 shall include the full text of all public measures to be voted
1 26 upon at the election. For the general election, the notice
1 27 shall also include notice of the time and place of the
1 28 postelection audit required in section 50.51.

1 29 Sec. 2. Section 50.12, Code 2009, is amended to read as
1 30 follows:

1 31 50.12 RETURN AND PRESERVATION OF BALLOTS.

1 32 Immediately after making the proclamation, and before
1 33 separating, the board members of each precinct in which votes
1 34 have been received by paper ballot shall enclose in an
1 35 envelope or other container all ballots which have been
2 1 counted by them, except those endorsed "Rejected as double",
2 2 "Defective", or "Objected to", and securely seal the envelope.
2 3 The signatures of all board members of the precinct shall be
2 4 placed across the seal or the opening of the container so that
2 5 it cannot be opened without breaking the seal. The precinct
2 6 election officials shall return all the ballots to the
2 7 commissioner, who shall carefully preserve them for six
2 8 months. Ballots from elections for federal offices shall be
2 9 preserved for twenty-two months. The sealed packages
2 10 containing voted ballots shall be opened only for an official
2 11 recount authorized by section 50.48, 50.49, or 50.50, for an
2 12 election contest held pursuant to chapters 57 through 62, for
2 13 a postelection audit required by section 50.51, or to destroy
2 14 the ballots pursuant to section 50.19.

2 15 Sec. 3. Section 50.48, subsection 1, paragraph a,
2 16 unnumbered paragraph 1, Code 2009, is amended to read as
2 17 follows:

2 18 The county board of canvassers shall order a recount of the

2 19 votes cast for a particular office or nomination in one or
2 20 more specified election precincts in that county if a written
2 21 request therefor for a recount is made not later than 5:00
2 22 p.m. on the third day following the county board's canvass of
2 23 the election in question. However, if a postelection audit is
2 24 expanded pursuant to section 50.51, subsection 6, paragraph
2 25 "d", the request for a recount shall be made not later than
2 26 5:00 p.m. on the first business day following completion of
2 27 the audit. The request shall be filed with the commissioner
2 28 of that county, or with the commissioner responsible for
2 29 conducting the election if section 47.2, subsection 2, is
2 30 applicable, and shall be signed by either of the following:
2 31 Sec. 4. Section 50.49, subsection 1, Code 2009, is amended
2 32 to read as follows:

2 33 1. A recount for any public measure shall be ordered by
2 34 the board of canvassers if a petition requesting a recount is
2 35 filed with the county commissioner not later than three days
3 1 after the completion of the canvass of votes for the election
3 2 at which the question appeared on the ballot. However, if a
3 3 postelection audit is expanded to additional precincts
3 4 pursuant to section 50.51, subsection 6, paragraph "d", the
3 5 request for a recount shall be made not later than 5:00 p.m.
3 6 on the first business day following completion of the audit.
3 7 The petition shall be signed by the greater of not less than
3 8 ten eligible electors or a number of eligible electors
3 9 equaling one percent of the total number of votes cast upon
3 10 the public measure. Each petitioner must be a person who was
3 11 entitled to vote on the public measure in question or would
3 12 have been so entitled if registered to vote.

3 13 Sec. 5. NEW SECTION. 50.51 POSTELECTION AUDIT.

3 14 1. a. After each general election, a postelection audit
3 15 of voting systems shall be conducted as provided in this
3 16 section.

3 17 b. A postelection audit conducted pursuant to this section
3 18 shall not affect a person's right to request a recount under
3 19 section 50.48 or the right of electors to request a recount of
3 20 a public measure under section 50.49 or the commissioner's
3 21 right to request an administrative recount under section
3 22 50.50. If a request for a recount is filed under section
3 23 50.48 or 50.49, a postelection audit of the office or public
3 24 measure for which the recount was requested shall not be
3 25 conducted or shall be terminated, as the case may be.

3 26 2. The commissioner shall include notice of the time and
3 27 place of the postelection audit in the notice of the election
3 28 published pursuant to section 49.53. The commissioner shall
3 29 also notify the county chairperson of each political party
3 30 referred to in section 49.13, subsection 2, of the time and
3 31 place of the postelection audit.

3 32 3. a. The postelection audit shall be conducted for the
3 33 offices of president of the United States and governor and an
3 34 additional office listed in paragraph "b" or "c", and the
3 35 offices listed in paragraph "d", if applicable.

4 1 b. When the office of president of the United States
4 2 appears on the ballot, the votes cast for one of the following
4 3 contested offices shall be audited:

- 4 4 (1) United States senator.
- 4 5 (2) United States representative.
- 4 6 (3) Senator in the general assembly.
- 4 7 (4) Representative in the general assembly.

4 8 c. When the office of governor appears on the ballot, the
4 9 votes cast for one of the following contested offices shall be
4 10 audited:

- 4 11 (1) United States senator.
- 4 12 (2) United States representative.
- 4 13 (3) Senator in the general assembly.
- 4 14 (4) Representative in the general assembly.
- 4 15 (5) Secretary of state.
- 4 16 (6) Auditor of state.
- 4 17 (7) Treasurer of state.
- 4 18 (8) Attorney general.
- 4 19 (9) Secretary of agriculture.

4 20 d. The additional office to be audited under paragraph "b"
4 21 or "c" shall be chosen by lot at the same time and in the same
4 22 manner that precincts to be audited are chosen pursuant to
4 23 subsection 4. If in the election to be audited, none of the
4 24 offices listed in paragraph "b" were contested races, the
4 25 offices of county supervisor, county auditor, and county
4 26 sheriff shall be entered in the lot, and if none of the
4 27 offices listed in paragraph "c" were contested races, the
4 28 offices of county supervisor, county attorney, county
4 29 treasurer, and county recorder shall be entered in the lot.

4 30 e. In addition to the offices listed in this subsection as
4 31 being subject to the postelection audit, the commissioner may
4 32 choose to include any other office or public measure that
4 33 appeared on the ballot in those precincts chosen for the
4 34 postelection audit.

4 35 4. a. The precincts for which a postelection audit shall
5 1 be conducted shall be chosen by lot by the chairperson of the
5 2 county board of canvassers on the day the canvass of the
5 3 general election is conducted. After the precincts have been
5 4 chosen, the additional office to be audited, as provided in
5 5 subsection 3, shall be chosen by lot by the chairperson. The
5 6 selection proceedings shall be open to the public and to
5 7 observers from the political parties.

5 8 b. The number of precincts chosen shall be as follows:
5 9 (1) In counties with fifty thousand or fewer registered
5 10 voters, two precincts.
5 11 (2) In counties with more than fifty thousand registered
5 12 voters up to and including one hundred thousand registered
5 13 voters, three precincts.
5 14 (3) In counties with more than one hundred thousand
5 15 registered voters, four precincts.

5 16 c. Notwithstanding paragraph "b", in counties with seven
5 17 or fewer precincts, one precinct shall be chosen for the
5 18 postelection audit.

5 19 d. The absentee and special voters precinct established in
5 20 section 53.20 shall be considered a precinct for purposes of a
5 21 postelection audit. If the absentee and special voters
5 22 precinct is chosen by lot to be audited or chosen by the
5 23 commissioner pursuant to paragraph "f", a number of ballots
5 24 equal to five percent of the absentee ballots cast in the
5 25 election shall be audited.

5 26 e. When a precinct other than the absentee and special
5 27 voters precinct is chosen in which one thousand five hundred
5 28 or more ballots were cast in the election, the chairperson
5 29 shall, for each such precinct, choose one less precinct than
5 30 the number required by paragraph "b". If such a precinct is
5 31 chosen last among the number of precincts required by
5 32 paragraph "b", then that precinct shall be audited, and the
5 33 first precinct drawn that was not the absentee and special
5 34 voters precinct shall not be audited.

5 35 f. The commissioner may choose to include in the audit
6 1 additional precincts not chosen by lot under this subsection.

6 2 g. For purposes of paragraph "b", "registered voters"
6 3 means those persons registered to vote as of the close of
6 4 registration for the general election pursuant to section
6 5 48A.9, subsection 1.

6 6 h. The county board of canvassers shall not use a
6 7 computerized process of randomization as the method of
6 8 selecting by lot the precincts and offices to be audited.

6 9 5. The commissioner shall appoint the members of the
6 10 postelection audit board. The postelection audit board shall
6 11 be comprised of members affiliated with the political parties
6 12 as provided for regular elections boards in section 49.12.

6 13 6. a. When all members of the postelection audit board
6 14 have been selected and the canvass is completed, the board
6 15 shall undertake the required audit. The audit shall be
6 16 completed no later than two business days following the
6 17 canvass. The audit shall be open to the public and to
6 18 observers from the political parties.

6 19 b. The ballots in each precinct chosen shall be counted by
6 20 hand. The commissioner or the commissioner's designee shall
6 21 supervise the handling of ballots, tally lists, and the
6 22 printed reports from the automatic tabulating equipment to
6 23 ensure that the ballots, tally lists, and printed reports are
6 24 protected from alteration or damage. The board shall open
6 25 only the sealed ballot containers from the precincts chosen to
6 26 be audited. The board shall recount only the ballots which
6 27 were voted and counted for the office or public measure that
6 28 is the subject of the audit. Only votes marked in accordance
6 29 with the instructions that are printed on the ballot in a
6 30 precinct being audited shall be counted in the audit.

6 31 c. Immediately following the conclusion of the audit, the
6 32 postelection audit board shall make and file with the
6 33 commissioner a written report of its findings, which report
6 34 shall be signed by the chairperson of the postelection audit
6 35 board and one other member of the board who is affiliated with
7 1 a political party different than that of the chairperson.

7 2 d. (1) If the postelection audit of an office or public
7 3 measure reveals a difference greater than one-half of one
7 4 percent, but no fewer than two votes, from the results on the
7 5 printed report from the automatic tabulating equipment, the

7 6 postelection audit board shall, within two days, conduct an
7 7 audit of the offices or public measures for which such
7 8 difference was found in at least two additional precincts
7 9 chosen in the same manner the original precincts were chosen
7 10 and shall immediately report the results to the commissioner.
7 11 (2) If the second audit also indicates a difference in the
7 12 vote totals that is greater than one-half of one percent, but
7 13 no fewer than two votes, from the results on the printed
7 14 report from the automatic tabulating equipment, the
7 15 commissioner shall immediately notify the state commissioner
7 16 of elections.
7 17 (3) The state commissioner of elections may direct the
7 18 commissioner, or any other commissioner of a county where the
7 19 office or public measure appeared on the ballot, to conduct an
7 20 additional audit of the office or public measure in a number
7 21 of precincts determined by the state commissioner.
7 22 7. All reports pertaining to a postelection audit shall be
7 23 filed with the state commissioner of elections, and the state
7 24 commissioner shall make public the results of the postelection
7 25 audit in each county as those reports are received.
7 26 8. The state commissioner of elections shall adopt rules
7 27 to implement this section including but not limited to rules
7 28 establishing criteria for the state commissioner to utilize
7 29 when evaluating the results of postelection audits.
7 30 Sec. 6. EFFECTIVE AND APPLICABILITY DATES. This Act takes
7 31 effect July 1, 2010, and applies to the general election held
7 32 in 2010 and all subsequent general elections.
7 33 HF 682
7 34 sc/cm/25