HB 1605-FN – AS INTRODUCED

2014 SESSION

 $14-2568 \\ 03/05$

HOUSE BILL **1605-FN**

AN ACT relative to audit recounts.

SPONSORS:Rep. Till, Rock 6; Rep. Levesque, Hills 26; Rep. Whittemore, Rock 5;
Rep. Horrigan, Straf 6; Rep. Massimilla, Graf 1; Rep. M. Mann, Rock 32;
Rep. Perry, Straf 3; Sen. Soucy, Dist 18; Sen. Gilmour, Dist 12

COMMITTEE: Election Law

ANALYSIS

This bill requires the secretary of state to perform audit recounts of towns and wards representing 5 percent of the votes cast after each general election.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [in brackets and struckthrough.]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1605-FN – AS INTRODUCED

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to audit recounts.

Be it Enacted by the Senate and House of Representatives in General Court convened:

2	chapter:
3	CHAPTER 660-A
4	AUDIT RECOUNTS
5	660-A:1 Application. The secretary of state shall publicly choose a random process to select
6	towns and wards using optical scan equipment to count votes that equal at least 5 percent of the
7	votes cast in the most recent primary or general election for the purpose of an audit recount. For
8	each town or ward selected, the office to be recounted shall be publicly and randomly selected from
9	the offices of president, United States senator, representative to Congress, governor, executive
10	councilor, state senator, and all constitutional questions on the ballot. As used in this chapter,
11	"audit recount" means a recount of ballots counted by an optical scan machine or other ballot
12	counting device pursuant to this chapter, and does not serve as a recount of any particular office or
13	ballot question under RSA 660, in that only those ballots that were counted by the machine being
14	audited are included in an audit recount.
15	660-A:2 Time and Notice. The secretary of state shall begin the process of audit recounts on the
16	Monday following the deadline for requesting a recount. If a recount is requested for the same town
17	and office chosen for an audit recount, additional towns and wards shall be chosen consistent with
18	RSA 660-A:1 to replace those also chosen for a recount. A recount shall take place at any suitable
19	state facility in the city of Concord as may be designated by the secretary of state. The secretary of
20	state shall give notice thereof to each of the candidates involved in an audit recount and post notice
21	of time and place and offices to be audited on the website of the secretary of state at least at least 48
22	hours before the audit recount begin. The secretary of state shall also prepare and distribute to each
23	of the candidates the rules and procedures governing the audit recount at the time and place of the
24	recount.
25	660-A:3 Conduct of Audit Recount. Audit recounts shall be conducted in a manner consistent
26	with RSA 660:5 except, however, candidates involved with the audit recount may not protest ballots
27	being counted.
28	660-A:4 Posting Results. Results of the audit recounts shall be announced following the recount
29	and made available to the public. Any candidate involved in an audit may, notwithstanding
30	RSA 660, request a formal recount of the candidate's entire district within 48 hours of the announced
31	outcome of the audit if the results vary significantly from the declared results. Fees for a requested

HB 1605-FN – AS INTRODUCED - Page 2 -

1 recount under this provision shall be the same as in RSA 660:2.

2 660-A:5 Discrepancies. Any discrepancy between the audit recount and the optical scan count 3 shall be accompanied by the secretary of state's analysis of the reason for the discrepancy. For any 4 unexplained discrepancy in excess of 0.5 percent, the memory card from the optical scan equipment 5 involved shall be forwarded to the secretary of state, following procedures described in RSA 660:5, 6 for examination and testing.

660-A:6 Resolution of Discrepancies. The secretary of state shall investigate all unexplained discrepancies in excess of 0.5 percent, compile the reasons for all discrepancies, summarize findings, and make recommendations regarding how to correct or improve the accuracy of the optical scan equipment and software or audit recount process in a written report to be provided to the ballot law commission and to the house standing committee with jurisdiction over election law within 3 months of the election. The secretary of state shall simultaneously publish the report on the website of the secretary of state.

14 660-A:7 Recounts by Moderator. Because the moderator is legally responsible for insuring the 15 accuracy of the vote count from his or her polling place under RSA 659:77, the moderator may, at his 16 or her discretion, conduct of audit recount of the machine-counted ballots for races on the ballot in 17 his or her polling place. Under no circumstances shall the moderator conduct an audit recount at the 18 request of any candidate on the ballot. Such candidates shall request a recount in accordance with 19 RSA 660.

20 2 Effective Date. This act shall take effect September 1, 2014.

LBAO 14-2568 12/13/13

1605-FN - FISCAL NOTE

AN ACT relative to audit recounts.

FISCAL IMPACT:

The Department of State states this bill, <u>as introduced</u>, will increase state general fund expenditures by \$98,227 in FY 2015, \$83,913 in FY 2016, \$104,790 in FY 2017, and \$91,744 in FY 2018. There will be no impact on county and local expenditures, or state, county, and local revenue.

METHODOLOGY:

The Department of State states this bill requires it to conduct "audit recounts" following state primary and general elections in randomly selected towns and wards that use optical scan equipment for vote counting. The Department states that in order to execute this bill, it will need to hire part-time ballot counting staff every even-numbered election year, incurring the following costs totaling \$8,530 per election:

- Five counting teams of two counters each, for three days at eight hours per day, at a rate of \$12 per hour = \$2,880;
- Multiple administrative staff at a combined total of approximately \$100 per hour, for 30 hours = \$3,000;
- A van with two drivers at \$100 per hour, for 20 hours = \$2,000; and
- Retrieving memory cards from cities and towns in the event of unexplained discrepancies between election results and audit recount results will necessitate renting/hiring a car and driver for 10 hours at \$65 per hour, totaling \$650.

The above costs will be incurred for each election, therefore since the bill contemplates an audit recount for primary elections as well as general elections, these costs will total \$17,060 each even-numbered election year. In addition to part-time costs, the Department anticipates it will need to hire one full-time Program Specialist IV (LG 25) to train local election officials on uniform standards necessary to conduct recounts. The position will also be responsible for overseeing the investigations and reports required by the bill. The Department projects the bill's total fiscal impact will be as follows:

	FY 2015	FY 2016	FY 2017	FY 2018
Expenditures:				
Program Specialist IV (LG 25, with	\$46,980	\$49,582	\$51,764	\$54,047

annual steps)				
Benefits	\$26,687	\$28,331	\$29,966	\$31,697
Current Expenses	\$5,000	\$5,000	\$5,000	\$5,000
Other (equipment, travel, etc.)	\$2,500	\$1,000	\$1,000	\$1,000
Total Full-time Position Costs:	\$81,167	\$83,913	\$87,729	\$91,744
Part-time costs, primary election	\$8,530		\$8,530	
Part-time costs, general election	\$8,530		\$8,530	
Total Cost to State:	\$98,227	\$83,913	\$104,789	\$91,744

The New Hampshire Municipal Association states that the bill authorizes, but does not require, moderators to conduct audit recounts of machine-counted ballots. If a moderator chooses to conduct such a recount, and if election workers are paid on an hourly basis, there may be a small increase in municipal expenditures, incurred at the moderator's discretion.