

HB 1384 - AS INTRODUCED

2024 SESSION

24-2497

08/10

HOUSE BILL ***1384***

AN ACT relative to noncompliance by a town or ward moderator and clerk.

SPONSORS: Rep. Wherry, Hills. 13; Rep. Burnham, Straf. 2; Rep. Wood, Merr. 13; Rep. Panek,
 Hills. 1

COMMITTEE: Election Law

ANALYSIS

 This bill defines and prohibits noncompliance by a town or ward moderator or clerk with respect to elections.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to noncompliance by a town or ward moderator and clerk.

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

1 1 Findings. The general court finds that Article 8 of the New Hampshire state constitution
2 repeatedly calls for an “accountable government” and explicitly states that “the magistrates and
3 officers of the government are...at all times accountable” to the people and further finds that article
4 38 of the New Hampshire state constitution states that because social virtues are “indispensably
5 necessary to preserve the blessings of liberty and good government,” the people have “a right to
6 require of their lawgivers and magistrates, an exact and constant observance of them...in the
7 execution of the laws necessary for the good administration of government.”

8 2 General Noncompliance by Town or Ward Moderator and Clerk. Amend RSA 659:77 to read
9 as follows:

10 659:77 General ~~[Neglect]~~ **Noncompliance** by Town or Ward Moderator and Clerk.

11 I. If any moderator shall ~~[intentionally neglect to]~~ **by noncompliance** cause an ~~[accurate]~~
12 **inaccurate** count to be made of the votes cast as required by law, for which no other penalty is
13 provided, he or she shall be guilty of a violation.

14 II. If any town or ward clerk shall ~~[intentionally neglect]~~ **by noncompliance fail** to make
15 any return of votes required by law, for which ~~[neglect]~~ no other penalty is provided, he or she shall
16 be guilty of a violation.

17 III. If a return of votes is not timely submitted or is submitted with significant defects, if a
18 recount **or subsequent audit** discloses that the election night vote count was significantly
19 inaccurate, or if other significant deficiencies in the conduct of an election are documented **by audit**
20 **or investigation** the secretary of state **shall document the reported facts and circumstances**
21 **of the significant deficiency and** shall report the same to the attorney general. Upon a finding by
22 the attorney general that the late submission, miscount, or other significant deficiency was due to
23 lack of training, **noncompliance**, ~~[lack of established procedures,]~~ negligence, **which shall be**
24 **established by a preponderance of evidence**, or misconduct, **which shall be based on the**
25 **deliberate misbehavior in the execution of their responsibilities**, the secretary of state in
26 consultation with the attorney general shall appoint an election monitor who shall be an individual
27 trained in the conduct of elections and who shall attend portions of the ballot casting and all of the
28 ballot counting to monitor the next election conducted in that town or ward. The finding of the
29 attorney general may be appealed to the ballot law commission.

1 ***III-a. In this section, "noncompliance" means the failure to follow the election***
2 ***procedures established by the secretary of state, the failure to establish the requisite town***
3 ***or ward procedures, or failure to follow established town or ward procedures.***

4 IV. An election monitor appointed under paragraph III shall have full access to the polling
5 place, including authority to directly observe the registration of voters on election day, the checking
6 in of voters by inspectors of elections, assistance to voters with disabilities, the use of the accessible
7 voting system, the receipt of ballots, the processing of absentee ballots, and the counting of ballots,
8 and may handle marked ballots for the purposes of instruction during the counting and tabulating
9 process.

10 V. An election monitor appointed under paragraph III may provide training and guidance to
11 the moderator and clerk who conducts the election. The election monitor shall issue a public written
12 report within 30 days following the election to the voters of the town or ward, the secretary of state,
13 and the attorney general, which shall be posted on the secretary of state's website, documenting the
14 extent to which the town or ward complies with state law and utilizes the best practices set forth in
15 the election procedures manual and the on-line training available on the secretary of state's website
16 in conducting the monitored election.

17 3 Effective Date. This act shall take effect January 1, 2025.