

2013 -- S 0453

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO ELECTIONS - CONDUCT OF ELECTIONS AND VOTING EQUIPMENT
AND SUPPLIES

Introduced By: Senators McCaffrey, Lynch, and Lombardo

Date Introduced: February 28, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 17-19-37.1 of the General Laws in Chapter 17-19 entitled "Conduct
2 of Election and Voting Equipment, and Supplies" is hereby amended to read as follows:

3 **17-19-37.1. Recount eligibility -- Candidates for public office. --** A candidate for
4 election or nomination for election to public office shall be eligible to request a recount of the
5 votes cast in his or her race pursuant to the following:

6 (1) In those races in which a single candidate is elected a candidate who trails the
7 winning candidate may request a recount of the votes cast at each precinct by a manual re-feeding
8 of the computer ballots cast in said race into the optical scan voting equipment provided that the
9 candidate shall trail the winning candidate by less than the following number of votes:

10 (a) In those races where the number of votes cast is less than or equal to twenty thousand
11 (20,000) the candidate requesting the recount shall trail the winning candidate by two percent
12 (2%) or two hundred (200) votes, whichever is less; in those races where the number of votes cast
13 is between twenty thousand one (20,001) and one hundred thousand (100,000) the candidate
14 requesting the recount shall trail the winning candidate by one percent (1%) or five hundred (500)
15 votes, whichever is less; and, in those races where more than one hundred thousand (100,000)
16 votes are cast the candidate requesting the recount shall trail the winning candidate by one-half of
17 one percent (1/2%) or one thousand five hundred (1,500) votes, whichever is less.

18 (b) For the purpose of determining recount eligibility, as prescribed in subsections (1)(a)

1 and (3) of this section, the number of votes cast in a race shall include the votes cast for
2 candidates and irregular ballots cast pursuant to section 17-19-31.

3 (2) In those races in which more than one candidate is elected a candidate who trails the
4 winning candidate may request a recount of the votes cast at each precinct by a manual re-feeding
5 of the computer ballots cast in said race into the optical scan voting equipment provided that the
6 candidate shall trail the winning candidate by less than the following number of votes:

7 (a) In those races where the number of votes cast is less than or equal to five thousand
8 (5,000) the candidate requesting the recount shall trail the winning candidate by two percent (2%)
9 or fifty (50) votes, whichever is less; in those races where the number of votes cast is between
10 five thousand one (5,001) and twenty thousand (20,000) the candidate requesting the recount
11 shall trail the winning candidate by one percent (1%) or one hundred (100) votes, whichever is
12 less; and in those races where more than twenty thousand (20,000) votes are cast the candidate
13 requesting the recount shall trail the winning candidate by one-half of one percent (1/2%) or one
14 hundred fifty (150) votes, whichever is less.

15 (b) For the purpose of determining recount eligibility, as prescribed in subsections (2)(a)
16 and (3) of this section, the total number of votes cast in a race shall be determined by dividing the
17 total number of votes eligible to be cast in the race by the number of candidates for whom each
18 voter was eligible to cast votes.

19 (3) Notwithstanding the requirements of subsections (1)(a) and (2)(a) of this section, a
20 candidate who trails the winning candidate by five percent (5%) or less, but more than the
21 minimum percentage or number of votes as required in subsections (1)(a) or (2)(a) of this section,
22 as applicable, may petition the state board to conduct a recount of the votes cast at each precinct
23 by re-reading the programmed memory device or devices and comparing the results and totals
24 obtained at such recount with the results and totals obtained on election night. If, after said
25 recount, a candidate shall trail the winning candidate by less than the number of votes prescribed
26 in subsection (1)(a) or (2)(a) of this section, as the case may be, the candidate may request a
27 recount of the votes cast at each precinct to subsection (1)(a) or (2)(a) of this section, as is
28 applicable.

29 Mail ballots counted by the board of elections shall not be recounted except where
30 competent evidence of irregularities would support an order by the board of elections. No
31 precinct cast ballot may be reviewed for voter intent by the board of elections except in a case
32 where competent evidence would support an order by the board of elections.

33 The state board shall have the authority to adopt rules and regulations to implement and
34 administer the provisions of this section.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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- 1 This act would allow recount of mail ballots and precinct cast ballots only where there is
- 2 competent evidence of irregularities.
- 3 This act would take effect upon passage.

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