

HOUSE No. 1137

By Mr. Doyle of Worcester (by request), petition of R. Dexter Tolman for legislation to provide for counting of votes at elections at central counting places and not at polling places. Election Laws.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Eight.

AN ACT PROVIDING FOR THE COUNTING OF VOTES AT ELECTIONS AT CENTRAL COUNTING PLACES AND NOT AT THE POLLING PLACES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section eleven of chapter fifty-four of
2 the General Laws, as most recently amended by chap-
3 ter twenty-seven of the acts of nineteen hundred and
4 thirty-seven, is hereby further amended by striking out,
5 in the eleventh and twelfth lines, the words “, and
6 such additional inspectors to count and tabulate
7 the votes as he may deem necessary,” and also by
8 striking out the next to the last sentence so as to read
9 as follows: — *Section 11.* The mayor of every city,
10 except where city charters provide otherwise and ex-
11 cept as provided in section eleven A, shall annually not
12 earlier than June fifteenth nor later than August
13 fifteenth appoint as election officers for each voting
14 precinct, one warden, one deputy warden, one clerk,

15 one deputy clerk, four inspectors and four deputy
16 inspectors, who shall, at the time of their appointment,
17 be enrolled voters in the ward of which such precinct
18 forms a part. He may, in like manner, appoint two
19 inspectors and two deputy inspectors in addition.
20 Every such appointment shall be filed in the office of
21 the city clerk of such city within forty-eight hours
22 after it is made, and shall be acted on by the aldermen
23 not less than three days after the filing of such appoint-
24 ment and on or before September first following. Any
25 appointment made under authority of this section
26 shall be open to public inspection.

1 SECTION 2. Section sixteen of said chapter fifty-
2 four, as appearing in the Tercentenary Edition, is
3 hereby amended by striking out, in the ninth and
4 tenth lines, the words “,or during the counting of the
5 votes”, — so that the first paragraph will read as
6 follows: — If a warden, clerk or inspector is absent
7 at the opening of the polls or subsequently on the day
8 of election, or if the office is vacant, the deputy of such
9 officer shall act for that election in his place. If the
10 warden and deputy warden, clerk and deputy clerk,
11 or an inspector and his deputy, shall be absent, the
12 voters of the precinct on nomination and by hand vote
13 shall fill the vacancy, and the officer so elected shall
14 act during the remainder of the election; but other-
15 wise no deputy officer shall act in an official capacity
16 or be admitted to the space reserved for election
17 officers while the polls are open.

1 SECTION 3. Section twenty-one of said chapter
2 fifty-four, as most recently amended by section five of
3 chapter one hundred and fifty-eight of the acts of nine-

4 teen hundred and thirty-four, is hereby further
5 amended by inserting after the word "and" in the
6 fifth line the words: — in towns where official ballots
7 are not used, to assist, — so that the first sentence will
8 read as follows: — Selectmen of towns shall, at least
9 five days before a state or town election, appoint voters
10 as tellers to assist at the ballot box and in checking
11 the names of voters upon the voting lists, and in towns
12 where official ballots are not used, to assist in canvass-
13 ing and counting the votes.

1 SECTION 4. Section twenty-six of said chapter
2 fifty-four, as appearing in the Tercentenary Edition,
3 is hereby amended by striking out, in the fourth line,
4 the words "and counting apparatus", — so as to read
5 as follows: — *Section 26.* Except where voting ma-
6 chines are used as provided in section thirty-four, the
7 state secretary shall, at the expense of the common-
8 wealth, provide every city and town for use at every
9 polling place therein with a state ballot box approved
10 by the board of voting machine examiners as provided
11 in section thirty-two. Ballot boxes shall be purchased
12 by the secretary at a price not exceeding seventy dol-
13 lars each.

1 SECTION 5. Section thirty of said chapter fifty-
2 four, as so appearing, is hereby amended by striking
3 out, in the sixth and seventh lines, the words " , with
4 the records of the precinct and other official documents
5 in his custody," — so as to read as follows: — *Sec-*
6 *tion 30.* The clerk of every city and of every town
7 divided into voting precincts shall furnish to the clerk
8 of each voting precinct a seal of suitable device, with a
9 designation thereon of such precinct; and such seal

10 shall be used in sealing all envelopes required by law
11 to be used at elections. The clerk, of the precinct shall
12 retain custody of the seal, and shall, at the end of his
13 term of office, deliver it to the city or town clerk.

1 SECTION 6. Section thirty-one of said chapter
2 fifty-four, as so appearing, is hereby amended by strik-
3 ing out, in the last line, the words "and counting", —
4 so as to read as follows: — *Section 31.* Every city and
5 town clerk shall send to the election officers at each
6 polling place, before the opening of the polls on the day
7 of an election or meeting at which the same are required
8 to be used, the ballot box, blank forms and other
9 apparatus.

1 SECTION 7. Section seventy-one of said chapter
2 fifty-four, as so appearing, is hereby amended by strik-
3 ing out, in the third line, the words "and the counting
4 of the ballots after the close of the polls," — so as to
5 read as follows: — *Section 71.* The presiding officer
6 at each polling place shall enforce the performance by
7 election officers of their duties. During an election
8 he shall have authority to maintain order and to en-
9 force obedience to his lawful commands, in and about
10 the polling place and to keep the access thereto open
11 and unobstructed, and he may require any police
12 officer, constable or other person to communicate his
13 orders and directions and assist in their enforcement.

1 SECTION 8. Said chapter fifty-four is hereby fur-
2 ther amended by striking out section one hundred and
3 four, as most recently amended by section six of chap-
4 ter thirty-nine of the acts of nineteen hundred and
5 thirty-four, and inserting in place thereof the follow-
6 ing: —

7 *Section 104.* Previous to every state or city elec-
8 tion or town election in a town where official ballots
9 are used the city or town clerk shall designate a central
10 counting place where ballots used in elections shall be
11 brought together and counted publicly, appoint a
12 competent person to act as director of the count,
13 employ a sufficient staff of assistants, and make suit-
14 able arrangements for the counting of the ballots.
15 The city or town clerk shall furnish the director of the
16 count with a seal of suitable device with a designation
17 thereon of such central counting place and such seal
18 shall be used in sealing all envelopes required by law
19 to be sealed at said central counting place. The di-
20 rector of the count shall retain custody of the seal and
21 shall after the election is at an end deliver it with the
22 records of the central counting place to the city or town
23 clerk. The director of the count and each of his
24 assistants, before entering upon the performance of
25 his official duties, shall be sworn before the city or
26 town clerk, the director of the count, or any officer
27 qualified to administer oaths, and a record thereof
28 shall be made. The director of the count and his
29 assistants shall receive such compensation for each
30 day's actual service as the city council or the select-
31 men respectively may determine. During the absence
32 or disability of the director of the count one of his
33 assistants shall be designated by the city or town clerk
34 to perform his duties. The blank forms and apparatus
35 provided by the state secretary shall be used in ascer-
36 taining the result of the election or vote in state elec-
37 tions in cities and towns, in city elections, in elections
38 of town officers in towns where official ballots are used,
39 and also in taking the vote upon any proposed amend-
40 ment to the constitution, upon any law or proposed
41 law submitted to the voters by referendum or initia-

42 tive petition, and upon any other question submitted
43 by statute to the voters of any senatorial or represent-
44 ative district, or of any city or town in which official
45 ballots are used. If it is impossible to use such blank
46 forms or apparatus, the canvass of the votes shall be
47 made as the director of the count shall direct; and
48 the clerk of the central counting place shall record the
49 facts relating to the failure to use such blank forms or
50 apparatus, and shall enclose an attested copy of such
51 record in the envelope with the ballots cast.

1 SECTION 9. Said chapter fifty-four is hereby fur-
2 ther amended by striking out section one hundred and
3 five, as appearing in the Tercentenary Edition, and
4 inserting in place thereof the following: —

5 *Section 105.* The presiding officer shall as soon as
6 the polls have closed seal the ballot box. He shall
7 cause the voting lists, a copy of the record of the ballot
8 box register and a record of the number of ballots
9 issued to voters and of the number of ballots spoiled
10 and returned by the voters for cancellation to be
11 publicly enclosed in an envelope and sealed up with
12 the seal provided therefor and the private seal of any
13 election officer who may desire to affix the same and
14 shall certify on the envelope the polling place, the
15 election and the date and the contents thereof. He
16 shall also enclose in an envelope the spoiled and un-
17 used ballots and cause the same to be sealed up and
18 identified in like manner. He shall then personally
19 deliver to the central counting place or transmit by
20 the police officer or constable in attendance at the
21 election the ballot box containing the ballots cast and
22 the envelopes containing the ballots not cast and the
23 voting lists and records and copies of records afore-

24 said. Proper receipts shall be required in connection
25 with the transportation of ballot boxes, records and
26 supplies. The ballot receptacles shall be assembled by
27 polling places for counting at the central counting place
28 in an order of polling places determined by the city
29 or town clerk by lot. The director of the count in
30 open meeting shall publicly announce the result of the
31 vote and cause to be entered in the records of the
32 central counting place the words at length, the total
33 number of names of voters checked on the voting lists,
34 the total number of ballots cast, the names of all per-
35 sons voted for, the number of votes for each person and
36 the title of the office for which he was a candidate, the
37 number of blank ballots for each office, and the num-
38 ber of affirmative and negative votes in answer to any
39 question submitted to the voters, and shall forthwith
40 make a copy of such record, certify and seal up the
41 same and deliver it to the city or town clerk, who shall
42 forthwith enter it in his records. The canvass and
43 counting of votes shall be public and in open view of
44 the voters and shall not commence until the morning
45 after the day of the election and such recesses shall
46 be taken as may be prescribed by the director of the
47 count.

1 SECTION 10. Said chapter fifty-four is hereby fur-
2 ther amended by striking out section one hundred and
3 seven, as so appearing, and inserting in place thereof
4 the following: —

5 *Section 107.* The director of the count shall, after
6 the record of the counting has been made, cause the
7 records of the central counting place to be enclosed in
8 an envelope and sealed with the seal of the central
9 counting place. He shall cause all ballots to be publicly

10 enclosed in said envelopes and sealed up as aforesaid
11 and shall endorse upon such envelope the election and
12 the date, and also a certificate that none other than
13 ballots cast by the voters of the city or town are con-
14 tained therein. He shall cause the various voting
15 lists and records, copy of records at the polling places
16 which shall or may have been turned over to him to be
17 enclosed in an envelope and sealed up as aforesaid and
18 shall certify thereon the identity of the voting lists
19 and records, and copy of records enclosed. He shall
20 forthwith personally deliver to the city or town clerk
21 or transmit to him, through the police officer in attend-
22 ance at the central counting place, the records of the
23 central counting place, the unused ballots used at the
24 central counting place and the ballot box.