

HOUSE No. 1300

By Mr. Harrington of Everett, petition of John F. Cahill for legislation to provide for the count of unused ballots in cases of recounts at certain elections. Election Laws.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Nine.

AN ACT PROVIDING FOR THE COUNTING OF UNUSED BALLOTS IN CASES OF RECOUNTS AT CERTAIN ELECTIONS.

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. The first paragraph of section one
2 hundred and thirty-five of chapter fifty-four of the
3 General Laws, as appearing in section one of chapter
4 two hundred and fifty of the acts of nineteen hundred
5 and thirty-eight, is hereby amended by inserting be-
6 fore the word "ballots" in the twenty-fourth and
7 twenty-seventh lines, respectively, the words: — used
8 and unused, — so that said paragraph will read as
9 follows: — If, on or before five o'clock in the after-
10 noon on the third day following an election in a ward
11 of a city or in a town, ten or more voters of such
12 ward or town, except Boston, and in Boston fifty or
13 more voters of a ward, shall sign in person, adding
14 thereto their respective residences on the preceding
15 January first, and cause to be filed with the city or

16 town clerk a statement, bearing a certificate by the
17 registrars of voters of the number of names of sub-
18 sscribers which are names of registered voters in such
19 ward or town, and sworn to by one of the subscribers,
20 that they have reason to believe and do believe that
21 the records, or copies of records, made by the election
22 officers of certain precincts in such ward or town, or,
23 in case of a town not voting by precincts, by the elec-
24 tion officers of such town, are erroneous, specifying
25 wherein they deem such records or copies thereof to
26 be in error, or that challenged votes were cast by per-
27 sons not entitled to vote therein, and that they
28 believe a recount of the ballots cast in such precincts
29 or town will affect the election of one or more candi-
30 dates voted for at such election, specifying the candi-
31 dates, or will affect the decision of a question voted
32 upon at such election, specifying the question, the
33 city or town clerk shall forthwith transmit such state-
34 ment and the envelope containing the used and
35 unused ballots, sealed, to the registrars of voters,
36 who shall, without unnecessary delay, but not before
37 the last hour for filing requests for recounts as afore-
38 said, open the envelopes, recount the used and unused
39 ballots and determine the questions raised, and shall
40 examine all ballots cast by or for challenged voters
41 and reject any such ballots cast by or for a person
42 found not to have been entitled to vote. They shall
43 endorse on the back of every ballot so rejected the
44 reason for such rejection and said statement shall be
45 signed by a majority of said registrars. Upon a re-
46 count of votes for town officers in a town where the
47 selectmen are members of the board of registrars of
48 voters, the recount shall be made by the moderator,
49 who shall have all the powers and perform all the

50 duties conferred or imposed by this section upon
51 registrars of voters.

1 SECTION 2. Section one hundred and thirty-five
2 of said chapter fifty-four is hereby amended by strik-
3 ing out the third paragraph, appearing as the second
4 paragraph in chapter two hundred and seventy of the
5 acts of nineteen hundred and thirty-three, and in-
6 serting in place thereof the following: —

7 State-wide recounts in cases of offices to be filled
8 or questions to be voted upon at the state election by
9 all the voters of the commonwealth may be requested
10 as provided in the foregoing provisions of this section
11 so far as applicable, except that any petition therefor
12 shall be on a form approved and furnished by the
13 state secretary, shall be signed in the aggregate by
14 at least one thousand voters, not less than two hun-
15 dred and fifty to be from each of four different coun-
16 ties, and shall be submitted on or before five o'clock
17 in the afternoon of the tenth day following such elec-
18 tion to the registrars of voters of the city or town in
19 which the signers appear to be voters, who shall forth-
20 with certify thereon the number of signatures which
21 are names of registered voters in said city or town,
22 and except that such petitions for recount shall be
23 filed with the state secretary on or before five o'clock
24 in the afternoon of the fifteenth day following such
25 election. He shall hold such petitions for recount
26 until after the official tabulation of votes by the gov-
27 ernor and council and if it then appears that the dif-
28 ference in the number of votes cast for the two leading
29 candidates for the office, or in the number of affirma-
30 tive and negative votes on a question, for which the
31 recount is desired, is more than one per cent of the

32 total number of votes cast for such office or on such
33 question, the petitions for recount shall be void. If
34 such difference in the votes so cast appears to be one
35 per cent or less of the total votes cast for such office
36 or on such question, he shall forthwith order the clerk
37 of each city and town of the commonwealth to trans-
38 mit forthwith, and said clerk shall so transmit, the
39 envelopes containing the used and unused ballots,
40 sealed except in the case of those containing ballots
41 which have already been recounted in respect to said
42 office or question under authority of the preceding
43 paragraph, to the registrars of the city or town who
44 shall, without unnecessary delay, open the envelopes,
45 recount the used and unused ballots cast or furnished
46 for said office or on said question and determine the
47 questions raised. If a state-wide recount is petitioned
48 for, all used and unused ballots cast at or furnished
49 for a state election shall be held, except as otherwise
50 provided herein, by the city and town clerks until
51 the expiration of sixty days after said election.