

**Acts****2014****Chapter 111** AN ACT RELATIVE TO ELECTION LAWS

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to expand and improve forthwith access to voting, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

SECTION 1. Subsection (c) of [section 4 of chapter 51 of the General Laws](#), as appearing in the 2012 Official Edition, is hereby amended by inserting after the word “mailing”, in line 35, the following words:- for 2 consecutive years.

SECTION 2. Said [chapter 51](#) is hereby further amended by inserting after section 17 the following section:-

Section 17A. In each municipality, the city or town clerk and a registrar or election commissioner, as designated by the board of registrars or the board of election commissioners, shall attend an annual training conducted by the office of the state secretary, and offered at no cost to the municipality or to the individual, on the applicable state and federal election laws and regulations. Upon completion of the training, the clerk, registrar or commissioner shall inform the board of registrars and election commissioners.

SECTION 3. Said [chapter 51](#) is hereby further amended by inserting after section 33 the following section:-

Section 33A. The state secretary shall create and maintain a secure online portal allowing a person to complete an affidavit of registration online. The registration shall be transmitted by the state secretary to the appropriate local registrar. The online affidavit shall use the person’s signature from the registry of motor vehicles records and the registrar of motor vehicles shall make appropriate provisions to facilitate the electronic transfer of the image of the signature to the central voter registry. If the person’s signature cannot be found using the online affidavit of registration form, the person shall be so informed and given the option to print the affidavit of registration, append the person’s signature and mail or hand deliver the signed affidavit directly to the appropriate registrar of voters. The registrars shall certify the receipt of each completed affidavit of registration and shall notify the person of the disposition of the affidavit. Nothing in this section shall be construed to change any registration deadline or qualification of voting.

SECTION 4. [Section 37A of said chapter 51](#), as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 2, the word “thirty-seven” and inserting in place thereof the following words:- 37 for 2 consecutive years and who during that time fails to vote in any election.

SECTION 5. [Section 42 of said chapter 51](#), as so appearing, is hereby amended by inserting

after the word “chapter”, in line 2, the following words:- by any person at least 16 years of age or older.

SECTION 6. [Section 42H of said chapter 51](#), as so appearing, is hereby amended by inserting after the word “mail”, in line 4, the following words:- , through the online portal.

SECTION 7. Said [chapter 51](#) is hereby further amended by striking out section 47A, as so appearing, and inserting in place thereof the following section:-

Section 47A. If, after examination of an affidavit of registration, it appears to the registrars that the person has all the qualifications to be registered as a voter except that of age and the person has obtained the age of 16, then they shall enter the person’s name in the current annual register of voters with the designation “pre-registrant” or other term or code as specified by the state secretary. The designation shall be removed when the person, on or before the day of the next preliminary, primary, special or general election or town meeting, attains full age. No pre-registrant shall be allowed to vote until the pre-registrant obtains full age unless otherwise permitted by law.

SECTION 8. Said [chapter 51](#) is hereby further amended by adding the following section:-

Section 64. The state secretary shall create and maintain an online portal through which a person, including those who have pre-registered pursuant to [section 47A](#), may check to determine whether that person is registered or pre-registered to vote. The portal shall allow a person to enter the person’s name, date of birth and residential zip code. The portal shall subsequently display whether a voter with that name, date of birth and residential zip code is registered or pre-registered to vote, whether the registration of the voter is active or inactive pursuant to [section 37A](#), the polling location for the voter and state and federal elected officials who represent the voter. The portal shall not display any other biographical information about the voter except the information provided by the user of the site. If there is no voter in the central registry of voters matching the information submitted to the portal or if the voter’s registration is inactive, the website shall inform the user how the user may obtain a voter registration form or restore the user’s registration to active status.

SECTION 9. [Section 38 of chapter 53 of the General Laws](#), as appearing in the 2012 Official Edition, is hereby amended by inserting after the word “primary”, in line 19, the following words:- ; provided further, that a voter registered in a political designation that is not a political party as defined in [section 1 of chapter 50](#) shall be considered unenrolled for the purpose of the primary and shall be eligible to receive a ballot of a political party of the voter’s choosing.

SECTION 10. [Section 11 of chapter 54 of the General Laws](#), as so appearing, is hereby amended by inserting after the figure “11B”, in line 8, the following words:- ; provided, however, that the state secretary shall establish a waiver system to allow a city to request permission to appoint fewer election officers than specified in this paragraph.

SECTION 11. The first paragraph of [section 12 of said chapter 54](#), as so appearing, is hereby amended by adding the following sentence:- The state secretary shall establish a waiver system to allow a town to request to appoint fewer election officers than specified in this paragraph.

SECTION 12. Said [chapter 54](#) is hereby further amended by inserting after section 25A the following section:-

Section 25B. (a) The election officers and registrars of every city or town shall allow any qualified voter, as defined in [section 1 of chapter 51](#), to cast a ballot for any biennial state election

during the early voting period as set forth in this section including, but not limited to, any city or town election held at the same time.

(b) Any qualified voter wanting to early vote by mail may file with his or her local election official an application for an early voting ballot. Any form of written communication evidencing a desire to have an early voting ballot be sent for use for voting at an election shall be given the same effect as an application made in the form prescribed by the state secretary. No application shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters before noon on the last day of the early voting period as prescribed in subsection (c).

(c) The voting period for early voting shall run from the eleventh business day preceding the general election until the close of business on the business day preceding the business day before the election; provided, however, that if the eleventh business day before the election falls on a legal holiday the early voting period shall begin on the first business day prior to the legal holiday.

(d) Early voting shall be conducted during the usual business hours of each city or town clerk. A city or town may, in its discretion, provide for additional early voting hours beyond the hours required by this subsection, including weekend hours.

(e) All early voting ballots voted by mail shall be received by the city or town clerk before the hour fixed for closing the polls.

(f) Each city and town shall establish an early voting site that shall include the election office for the city or town; provided, however, that if the city or town determines that the office is unavailable or unsuitable for early voting, the registrars of each city or town shall identify and provide for an alternative centrally-located, suitable and convenient public building within each city or town as an early voting site. A city or town may also provide for additional early voting sites at the discretion of the registrars for that city or town. Each early voting site shall be accessible to persons with disabilities.

(g) The designation of an early voting site shall be made not less than 14 days prior to the beginning of the voting period established in subsection (b). Not less than 7 days prior to the beginning of the early voting period and at least once during the voting period, the registrars for each city or town shall publish the location of the early voting sites as well as the applicable dates and hours. Notice shall be published in every newspaper listed for the city or town in the New England Newspaper & Press Association and shall also be conspicuously posted in the office of the city clerk or on the principal official bulletin board of each city or town, on any other public building considered necessary, on the city or town's website, if any, and on the website of the state secretary.

(h) At least 21 days prior to each biennial state election, the state secretary shall deliver to each city or town, in quantities as the state secretary determines necessary, the following papers: (1) official early voting ballots, similar to the official ballot to be used at the election; and (2) envelopes of sufficient size to contain the ballots specified in clause (1) bearing on their reverse the voter's affidavit in compliance with the requirements of subsection (j).

(i) An early voting ballot along with an envelope shall be provided to each qualified voter who participates in early voting.

(j) A qualified voter casting a ballot at an early voting site shall complete an affidavit under the

regulations promulgated pursuant to this chapter, which shall include a notice of penalties under section 26 of chapter 56.

(k) Prior to the beginning of early voting, the registrars for each city or town shall prepare a list for the early voting sites, containing the names and residences of all persons qualified to vote at each voting site, as the names and residences appear upon the annual register, and shall reasonably transmit the applicable list to the election officers at each early voting site designated by the registrars.

(l) The registrar or presiding official at the early voting site shall cause to be placed on the voting lists opposite the name of a qualified voter who participates in early voting the letters "EV" designating an early voter.

(m) The registrars shall prepare lists of all voters casting ballots during the early voting period and update the voter list in a manner prescribed by the state secretary.

(n) The counting of early voting ballots including, but not limited to, informing election officers and any challengers present under section 85A shall be set by regulations promulgated under this chapter. All envelopes referred to in this section shall be retained with the ballots cast at the election and shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.

(o) The state secretary shall promulgate regulations to implement this section including, but not limited to, a process for establishing additional early voting locations and a process for applying for, receiving, separating, compiling, recording and securing early voter ballots.

(p) Section 72 shall not apply to this section; provided, however, that a city or town may opt to detail a sufficient number of police officers or constables for each early voting site at the expense of the city or town to preserve order, protect the election officers and supervisors from any interference with their duties and aid in enforcing the laws relating to elections.

SECTION 13. [Section 33 of said chapter 54](#), as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 10, the words ", registering and cancelling" and inserting in place thereof the following words:- and registering.

SECTION 14. [Section 72 of said chapter 54](#), as so appearing, is hereby amended by inserting after the word "elections", in line 6, the following words:- ; provided, however, that this section may apply to section 25B at the discretion of the election officers and registrars for a city or town.

SECTION 15. Said [chapter 54](#) is hereby further amended by inserting after section 109 the following section:-

Section 109A. (a) For the purposes of this section, "audited precinct" shall mean any precinct selected under subsection (c) to conduct audits as provided in this section.

(b) An audit shall be conducted pursuant to this section following any presidential general election.

(1) Each precinct selected pursuant to subsection (c) shall conduct a hand-counted audit of votes cast on the day of election of: (i) races in which more than 1 candidate's name appears on the ballot for president and vice president, representative in congress, senator in congress, representative in the general court and senator in the general court; and (ii) 1 statewide ballot question, if any appear on the ballot, chosen by random drawing.

(2) If a valid petition for a recount is made pursuant to section 135 for a race subject to audit by this section, then the votes for that race shall not be audited in any precinct named in the petition; provided, however, that if an audit has commenced in a precinct where the valid petition for a recount is made, the audit in the precinct shall be suspended. The audit of the race in question shall proceed in any precinct selected pursuant to subsection (c) not included in the petition for a recount.

(3) Any random drawing required by this subsection shall be conducted by the state secretary. The drawing shall occur at the same time and place as the drawing required by subsection (c).

(c) The precincts to be audited shall be chosen in a random, publicly verifiable, non-computerized drawing supervised by the state secretary within 48 hours after polls are closed. The drawing shall be fully observable to the public and representatives of each political party and shall use a procedure that can be easily understood to be random by members of the public. Notice of the time and place of the drawing shall be given at least 10 days before the election on the electronic website of the state secretary. The number of precincts selected to be audited in this drawing shall be equal to 3 per cent of all precincts in the commonwealth, rounded up to the next highest whole number.

(d) (1) The board of registrars or election commission in a municipality where 1 or more precincts selected to be audited are located shall conduct the audit. The board of registrars or election commission may employ tally clerks to count the ballots. Audits shall begin not later than 2 business days following the random drawing of precincts supervised by the state secretary and shall continue on each successive business day or other day at the discretion of the board or commission in each municipality. The time and place of the audits in a municipality where 1 or more precincts selected to be audited are located shall be publicly announced in advance. The audits shall be performed in full public view and conducted pursuant to the procedures for hand counts of ballots in sections 135 and 135A.

(2) The state secretary shall issue uniform written training materials for audit personnel to each municipality at least 10 days prior to any election to be audited pursuant to this section.

(3) Notwithstanding any general or special law to the contrary, to conduct the audit the board or commission shall unseal the envelopes or containers containing the ballots. The board or commission shall, when the audit is complete, enclose all the ballots in their proper envelopes or containers, seal each envelope or container with a seal provided and certify upon each envelope or container that it has been opened and again sealed in conformity to law.

(4) Voter intent shall be the standard for counting votes. Individuals charged with tabulating votes during the audit shall disregard the omission or inaccuracy of initials, the omission, inaccuracy or misspelling of given names and the misspelling of surnames if the intent of the voter to express a preference for any particular individual can be ascertained. The statements of voters shall be counted, tabulated and entered, together with any other votes cast, on official audit report forms provided by the state secretary.

(e) Upon completion of the audit in each municipality, the board of registrars or election commission shall record each race audited in each precinct on a separate audit report form provided by the state secretary. The registrars shall submit the completed audit report forms to the state secretary not later than 14 days following the election. An audit report form shall provide for the

entry of:

- (i) the number of votes for each candidate or each yes and no vote and the blank votes and over-votes as recorded in the audit hand count;
 - (ii) the election night tallies reported for each candidate or each yes and no vote, the blank votes and over-votes for the same ballots that were counted in the audit;
 - (iii) the differences between the audit hand count results and the election night tallies for each candidate, yes and no question and blank votes;
 - (iv) the number of votes for each contest for which voter intent is discernible but that are not marked by the voter according to the instructions provided to the voters under section 48 and any explanatory notes related thereto; and
 - (v) any additional notes on perceived causes of discrepancies.
- (f) Upon receipt of the results of the audit, the state secretary shall calculate the total number of votes for each candidate and ballot question as recorded in the audit hand count and shall compare this total to the sum of the originally reported votes for each candidate and ballot question in the audited precincts. When the comparison reveals a discrepancy between the hand-counted audit and the originally reported tally of the audited precincts the discrepancy shall be analyzed to ascertain its cause. The state secretary shall oversee the analysis and shall publish the findings and make the findings available online, along with the factual information on which such findings were based, within 180 days of beginning the analysis.
- (g) If there is a discrepancy between the results reached pursuant to an audit and originally reported tallies, the hand count of the official paper ballots conducted pursuant to the audit shall be the official vote of record and the board of registrars or election commission shall amend each precinct tally sheet, official return book and check list delivered to the office of the registrars.
- (h) If there is a discrepancy between the results reached in a precinct pursuant to an audit and the originally reported tallies in that precinct in any audited race or any audited ballot question that reasonably leads to doubt about the outcome of the election or systemic failure to accurately count ballots, the state secretary may order audits of additional precincts, offices or ballot questions as shall be necessary to ensure that the outcome of the election is accurate and that the cause of the systemic failure is identified.
- (i) (1) Upon receipt of the results of the audit, the state secretary shall make information in the audit reports publicly available on a precinct-by-precinct basis as soon as practicable, but not later than 10 days after receipt of the audit report form, in both human and machine readable formats, such as a spreadsheet or comma-separated-value file. This information shall also be posted on the electronic website of the state secretary.
- (2) The state secretary shall publish the results of the audit in the report required by section 133 or in some other document in which the results of the audit may easily be compared with the number of votes received by each candidate for nomination and for election for a state and federal office.
- (3) The audit and publication of the results shall be completed prior to the time the commonwealth shall make a final determination concerning the appointment of its presidential electors.
- (j) The state secretary shall promulgate rules and regulations to implement the requirements of

this section.

SECTION 16. (a) There shall be an elections task force. The task force shall undertake a study of election issues which shall include, but not be limited to: (i) the state and local costs of providing early voting under [section 25B of chapter 54 of the General Laws](#); (ii) the administrative requirements of implementing and providing early voting, including their impact on municipal clerks offices during the early voting period; (iii) violations of laws prohibiting fraudulent voting or voter impersonation; (iv) reductions in the length of lines, waiting in lines and congestion at polling places on election day; (v) the feasibility of requiring additional early voting sites and hours based on population size or the number of registered voters; (vi) processes for early voting in other states; (vii) voter turnout; (viii) the efficacy of checking names at early voting sites under [section 67 of said chapter 54](#), notwithstanding the use of voting machines in that city or town; (ix) the feasibility and administrative impacts of allowing municipalities the option of offering early voting for elections not held in conjunction with state elections; (x) expanding the use of technology including, but not limited to, employing election day mobile alerts, computer automated auditing, electronic transferring of absentee ballots and online voting or so-called "e-voting"; and (xi) more accessible voter registration, including, but not limited to, same-day registration.

(b) The task force shall consist of the house of representatives and senate chairs of the joint committee on election laws or their designees, who shall serve as co-chairs; the minority leader of the house of representatives or a designee; the minority leader of the senate or a designee; the state secretary or a designee; a representative of the Massachusetts Town Clerks' Association; a representative of the Massachusetts City Clerks' Association; and a representative of the election laws advocacy community designated by the house and senate chairs of the joint committee on election laws.

(c) The task force shall submit its report and recommendations, together with drafts of legislation to carry its recommendations into effect, with the clerks of the house and senate on or before August 1, 2017.

SECTION 17. Notwithstanding any general or special law to the contrary, the state secretary shall conduct a study to review existing laws with regard to residency requirements for purposes of voting. The state secretary shall make any recommendations to strengthen and clarify residency requirements as they pertain to eligibility for voting in municipal, state and federal elections and participation in town meetings, so as to ensure for the maximum extent possible that the requirements are clear, easily understood and enforceable in an efficient manner. The state secretary shall submit the study and recommendations to the clerks of the senate and the house of representatives and to the joint committee on election laws on or before August 1, 2015.

SECTION 18. The first training session under [section 17A of chapter 51 of the General Laws](#) shall occur not later than August 1, 2015.

SECTION 19. The online portal established under [section 33A of said chapter 51](#) shall be accessible not later than August 1, 2015.

SECTION 20. The online portal established under [section 64 of said chapter 51](#) shall be accessible not later than August 1, 2015.

SECTION 21. The state secretary shall promulgate regulations under [section 25B of chapter 54](#)

of the General Laws not later than the date of the 2016 biennial state election.

SECTION 22. The first audit under [section 109A of said chapter 54](#) shall be implemented for the 2016 presidential election.

SECTION 23. Sections 5 and 7 shall take effect August 1, 2016.

SECTION 24. Section 9 shall take effect August 1, 2015.

SECTION 25. The state secretary shall establish the waiver system required by sections 10 and 11 by August 1, 2015.

SECTION 26. Section 12 shall take effect on and shall be implemented for the 2016 biennial state election.

Approved, May 22, 2014.