Bill as Introduced

HB 779 - AS INTRODUCED

2003 SESSION

03-0553
03/09

HOUSE BILL ***779***

AN ACT relative to appeals from recounts of legislative elections.

SPONSORS: Rep. Giuda, Graf 13; Rep. Kennedy, Merr 34; Rep. Tahir, Hills 50; Rep. Weyler, Rock 79; Sen. Clegg, Dist 14; Sen. Boyce, Dist 4

COMMITTEE: Election Law

ANALYSIS

This bill establishes standing committees in the senate and house of representatives to hear appeals from recounts in state legislative 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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 779 – AS INTRODUCED

03-0553
03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to appeals from recounts of legislative elections.

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

1 Certificates of Election. Amend the introductory paragraph of RSA 659:84 to read as follows:

When the time for any recount or appeal to the ballot law commission, ***legislative recount committee,*** or superior court has expired or when all candidates for an office whose names were placed on the official state general election ballot have waived in writing a recount and an appeal, whichever is first:

2 Number of Recounts. Amend RSA 660:3 to read as follows:

660:3 Number of Recounts. Any candidate for whom a vote was cast for any office at a state general election shall be entitled to apply for only one recount under this chapter, and the declaration made by the secretary of state under RSA 660:6 shall be final, subject to a change in the result following an appeal to the ballot law commission, as provided in RSA 665:6, II, ***or to the legislative recount committee, as provided in RSA 660:32, II(b).***

3 Declaration; Certificate. Amend RSA 660:6, I to read as follows:

I. If the recount shall show that some candidate other than the one declared elected upon the original canvass of votes has the greatest number of votes cast for the office, the secretary of state shall declare said candidate to be elected; and, unless the result is changed upon an appeal taken to the ballot law commission, as provided in RSA 665:6, II, ***or to the legislative recount committee, as provided in RSA 660:32, II(b)***, such candidate shall be entitled to a certificate of election.

4 Declaration of Result, State Primary. Amend RSA 660:9 to read as follows:

660:9 Declaration of Result, State Primary. If the recount after a state primary election shall show that some candidate other than the one declared nominated upon the original canvass of votes has the greatest number of votes cast for the nomination, such candidate shall be declared nominated and shall be placed upon the official ballot at the following election unless appeal is taken to the ballot law commission in accordance with RSA 665:4, I ***or to the legislative recount committee in accordance with RSA 660:32, II(a)***. If the person who applied for the recount was thereby shown to be the one chosen as the candidate of his ***or her*** party, [~~he~~] ***the person*** shall also have any fee paid returned.

5 New Subdivision; Appeals from Recounts of Legislative Elections. Amend RSA 660 by inserting after section 31 the following new subdivision:

Appeals from Recounts of Legislative Elections

660:32 Appeals from Recounts of Legislative Elections.

I.(a) The senate and house of representatives shall each maintain standing committees to hear appeals from recounts in state legislative elections.

(b) The senate recount appeal committee shall consist of at least 3 but no more than 7 members appointed by the senate president, and shall have jurisdiction over appeals from recounts by state senate candidates.

(c) The house recount appeal committee shall consist of at least 3 but no more than 7 members appointed by the speaker of the house of representatives, and shall have jurisdiction over appeals from recounts by state house of representative candidates.

II. The recount appeal committees shall hear and determine appeals from recounts in the following cases:

(a) In case of a primary recount as provided in RSA 660:7-660:9, any person voted for upon the ballot of any party who, by declaration of the secretary of state upon recount, was not chosen as the candidate of such party for state legislative office may, within 3 days after the declaration, appeal therefrom to the appropriate recount appeal committee by filing a written appeal with the secretary of state. The secretary of state shall forthwith notify the recount appeal committee of the filing. The recount appeal committee shall meet on the fourth Friday of September in order to hear and decide the appeal and shall, on the appeal, consider and review all the rulings of the secretary of state on ballots protested during the recount. If, after the review, it shall appear that the appellant was nominated, the committee shall change the declaration of the secretary of state and issue a certificate of nomination to the appellant. The decision of the recount appeal committee in such cases shall be final as to questions both of law and fact, and no court shall have jurisdiction to review such decision. The jurisdiction vested in the committee under this subparagraph shall be exclusive of all other remedies.

(b) In case of an election recount as provided in RSA 660:1-6, any candidate who, by declaration of the secretary of state upon recount, did not have the greatest number of votes for a state legislative office may, within 3 days after said declaration, appeal therefrom to the appropriate recount appeal committee by filing a written appeal with the secretary of state. The recount appeal committee shall forthwith meet, hear, and decide such appeal and shall, on such appeal, consider and review all the rulings of the secretary of state on ballots protested during the recount. If, after such review, it shall appear that the appellant had the greatest number of votes, the committee shall change the declaration of the secretary of state and issue a certificate of such changed declaration to the appellant. The decision of the recount appeal committee under this subparagraph shall be subject to appeal to the appropriate house of the general court. The jurisdiction vested in the committee under this subparagraph shall be exclusive of all other remedies.

6 Complaints. Amend RSA 664:18, II(a) to read as follows:

(a) Issue an order requiring the violator to cease and desist from his ***or her*** violation. If the attorney general's order is not obeyed [~~and no petition for review has been filed with the ballot law commission pursuant to RSA 665:7 within 3 days~~], the attorney general or [~~his~~] designee may petition the superior court of the county in which the violation occurred for an order of enforcement.

7 Appeals from Recounts. Amend RSA 665:6 to read as follows:

665:6 Appeals from Recounts. The ballot law commission shall hear and determine appeals from recounts in the following cases:

I. In case of a primary recount as provided in RSA 660:7-9-a, any person ***other than a candidate for state legislative office*** voted for upon the ballot of any party who, by declaration of the secretary of state upon recount, was not chosen as the candidate of such party may, within 3 days after said declaration, appeal therefrom to the ballot law commission by filing [~~his~~] ***a*** written appeal with the secretary of state. The secretary of state shall forthwith notify the ballot law commission of the filing. The ballot law commission shall then meet as provided in RSA 665:6-a in order to hear and decide the appeal and shall, on the appeal, consider and review all the rulings of the secretary of state on ballots protested during the recount. If, after the review, it shall appear that the appellant was nominated, the commission shall change the declaration of the secretary of state and issue a certificate of nomination to the appellant. The decision of the ballot law commission in such cases shall be final as to questions both of law and fact, and no court shall have jurisdiction to review such decision. The jurisdiction vested in the commission under this paragraph shall be exclusive of all other remedies.

II. In case of an election recount as provided in RSA 660:1-6, any candidate ***other than a candidate for state legislative office*** who, by declaration of the secretary of state upon recount, did not have the greatest number of votes may, within 3 days after said declaration, appeal therefrom to the ballot law commission by filing [~~his~~] ***a*** written appeal with the secretary of state. The ballot law commission shall forthwith meet, hear, and decide such appeal and shall, on such appeal, consider and review all the rulings of the secretary of state on ballots protested during the recount. If, after such review, it shall appear that the appellant had the greatest number of votes, the commission shall change the declaration of the secretary of state and issue a certificate of such changed declaration to the appellant. The decision of the ballot law commission under this paragraph shall be subject to appeal as provided in RSA 665:14. The jurisdiction vested in the commission under this paragraph shall be exclusive of all other remedies. [~~Nothing contained in this paragraph shall be construed to bar any person from recourse to the superior court on other questions, within the jurisdiction of such court, relating to the legality or regularity of general elections or the results thereof.~~]

8 Repeal. RSA 665:7, relative to additional jurisdiction of the ballot law commission, is repealed.

9 Effective Date. This act shall take effect January 1, 2004.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 779 Date 03/05/03

Committee Election Law

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Claire Ebel	18 Low Av Conc	225-3080	NHCLU		X
Rep Dan Itse	20 Kelsey Dr Fremont	6429403	Rock 80	X	

Hearing Minutes

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 779

BILL TITLE: relative to appeals from recounts of legislative elections.

DATE: March 05, 2003

LOB ROOM: 308 **Time Public Hearing Called to Order:** 10:30am

Time Adjourned: 10:36am

(please circle if present)

Committee Members: Reps. Stritch, Dickinson, Flanagan, Reeves, Kennedy, Drisko, Dionne, Whalley, Vaillancourt, Luebkert, Flayhan, Cady, Derby, Dorsett, Infantine, Clemons, Buckley, D. Cote, Konys, Splaine and Weed.

Bill Sponsors: Rep. Guida, Rep. Kennedy, Rep. Tahir, Rep. Weyler, Sen. Clegg, Sen. Boyce

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Giuda, prime sponsor, spoke in support. He read Part 1, Article 7; Part 2, Article 22; Park 2, Article 35. He stated that this bill establishes standing committees in the House and Senate to hear appeals from recounts in state legislative elections. Rep. Giuda feels that this legislation just corrects the language.

Respectfully submitted,

Kimberley O M Dionne, Clerk

Voting Sheets

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 779

BILL TITLE: **relative to appeals from recounts of legislative elections.**

DATE: March 18, 2003

LOB ROOM: 308

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Cady

Seconded by Rep. Vaillancourt

Vote: 19-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 19-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Kimberley O. M. Dionne, Clerk

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on 779

BILL TITLE:

DATE: 3/18/03

LOB ROOM: 308

Amendments:

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Motions: OTP, OTP/A, (ITL), Interim Study (Please circle one.)

Moved by Rep. Cady

Seconded by Rep. VaillancourT

Vote: 19-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. _____

Seconded by Rep. _____

Vote: _____ (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 19-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

~~Rep. Jean-Guy J. Bergeron~~, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

ELECTION LAW

Bill #: 779 **Title:** Relative to appeal from Recounts of Legislative Elections

PH Date: ___/___/___ **Exec Session Date:** 3/18/03

Motion: ITL **Amendment #:**

MEMBER	YEAS	NAYS
Stritch. C Donald. Chairman	1	
Dickinson. Howard C. V Chairman	1	
Flanagan. Natalie S	Absent	
Reeves. Sandra J	1	
Kennedy. Richard E	Absent	
Drisko. Richard B	1	
Dionne. Kimberley O M	1	
Whalley. Michael D	1	
Vaillancourt. Steve	1	
Luebkert. Bernard J	1	
Flynhan. Mary Lou	1	
Cady. Harriet E	1	
Derby. Mark S	1	
Dorsett. Andrew L	1	
Infantine. William J	1	
Clemons. Jane A	1	
Buckley. Raymond	1	
Cote. David E	1	
Konys. Christine M	1	
Splaine. James R	1	
Weed. Charles F	1	
TOTAL VOTE:	19	0

Printed: 1/6/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Election Law**

BILL NUMBER: **HB 779**

TITLE: relative to appeals from recounts of legislative elections.

DATE: March 18, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The legislative committee already has authority to do a recount of representative and senate races and another bill addresses the sponsors concerns. The committee does not believe we need duplication of laws.

Vote 19-0.

Rep. Harriet E. Cady
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Election Law

HB 779, relative to appeals from recounts of legislative elections. **INEXPEDIENT TO LEGISLATE**

Rep. Harriet E. Cady for Election Law: The legislative committee already has authority to do a recount of representative and senate races and another bill addresses the sponsors concerns. The committee does not believe we need duplication of laws. **Vote 19-0.**

COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: HB 779

TITLE: Relative to Appeals from Recounts of Legislative Elections

DATE: March 18, 2003 CONSENT CALENDAR: YES ☑ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS W/ AMENDMENT

☑ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

The Legislative Committee already has authority to do a recount of Representative and Senate races, and another bill addresses the spouses concerns. The committee does not believe we need duplication of laws.

COMMITTEE VOTE: 19-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Hamit E Carey
For the Committee

Rev. 07/30/99