

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 21-0416.01 Megan Waples x4348

**HOUSE BILL 21-1053**

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**HOUSE SPONSORSHIP**

**Williams,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

State, Civic, Military and Veterans Affairs

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING ELECTION RECOUNTS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill adds a registered elector to the list of people who can request a recount when one is not otherwise required. An interested party or registered elector who requests a recount can also specify that the requested recount be conducted as a manual recount of the voter-verified paper records in the election, in which case, the election official is required to conduct the recount in accordance with that request.

An interested party or registered elector can also request that a recount that is required by law be conducted as a manual recount of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

voter-verified paper records. A person making this request must pay for the additional costs, if any, of conducting the recount manually. If the person makes the payment required, the election official must conduct the recount manually.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 1-10.5-101, **amend**  
3 (2) as follows:

4 **1-10.5-101. Recounts required - expenses.** (2) Except as  
5 provided in ~~section~~ SECTIONS 1-10.5-106 AND 1-10.5-106.5, any expenses  
6 incurred in conducting a recount in any political subdivision shall be paid  
7 by the entity that certified the candidate, ballot question, or ballot issue  
8 for the ballot. Members of the canvass board who assist in any recount  
9 shall receive the same fees authorized for counting judges in section  
10 1-6-115.

11 **SECTION 2.** In Colorado Revised Statutes, 1-10.5-102, **amend**  
12 (2) and (3)(a) introductory portion; and **add** (4) as follows:

13 **1-10.5-102. Recounts for congressional, state, and district**  
14 **offices, state ballot questions, and state ballot issues.** (2) The secretary  
15 of state shall notify the county clerk and recorder of each county involved  
16 of a public recount to be conducted in the county at a place prescribed by  
17 the secretary of state. EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS  
18 SECTION, the recount ~~shall~~ **MUST** be completed no later than the thirty-fifth  
19 day after any election. The secretary of state shall promulgate and provide  
20 each county clerk and recorder with the necessary rules to conduct the  
21 recount in a fair, impartial, and uniform manner, including provisions for  
22 watchers during the recount. Any rule concerning the conduct of a  
23 recount must take into account the type of voting system and equipment

1 used by the county in which the recount is to be conducted.

2 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,  
3 prior to any recount, the canvass board shall choose at random and test  
4 voting devices used in the candidate race, ballot issue, or ballot question  
5 that is the subject of the recount. The board shall use the voting devices  
6 it has selected to conduct a comparison of the machine count of the  
7 ballots counted on each such voting device for the candidate race, ballot  
8 issue, or ballot question to the corresponding manual count of:

9 (4) IF AN INTERESTED PARTY OR REGISTERED ELECTOR FILES A  
10 REQUEST THAT A REQUIRED RECOUNT BE CONDUCTED AS A MANUAL  
11 RECOUNT AND MAKES ANY PAYMENT REQUIRED BY SECTION 1-10.5-106.5,  
12 THE RECOUNT MUST BE CONDUCTED AS A MANUAL RECOUNT OF THE  
13 VOTER-VERIFIED PAPER RECORDS. A MANUAL RECOUNT CONDUCTED IN  
14 ACCORDANCE WITH THIS SUBSECTION (4) MUST BE COMPLETED NO LATER  
15 THAN THE THIRTY-EIGHTH DAY AFTER ANY ELECTION.

16 **SECTION 3.** In Colorado Revised Statutes, **amend** 1-10.5-103  
17 as follows:

18 **1-10.5-103. Recount for other offices, ballot issues, and ballot**  
19 **questions in an election coordinated by county clerk and recorder.**

20 (1) In any election coordinated by the county clerk and recorder, if it  
21 appears, as evidenced by the official abstract of votes cast, that a recount  
22 is required for any office, ballot question, or ballot issue not included in  
23 section 1-10.5-102, the county clerk and recorder shall order a recount of  
24 the votes cast for the office, ballot question, or ballot issue. EXCEPT AS  
25 PROVIDED IN SUBSECTION (2) OF THIS SECTION, any recount of the votes  
26 ~~shall~~ MUST be completed no later than the thirty-fifth day after the  
27 election. A political subdivision that referred a ballot issue or ballot

1 question to the electors may waive the automatic recount provisions of  
2 this section if the ballot issue or ballot question fails by giving written  
3 notice to the county clerk and recorder within twenty-three days after any  
4 election.

5 (2) IF AN INTERESTED PARTY OR REGISTERED ELECTOR FILES A  
6 REQUEST THAT A REQUIRED RECOUNT BE CONDUCTED AS A MANUAL  
7 RECOUNT AND MAKES ANY PAYMENT REQUIRED BY SECTION 1-10.5-106.5,  
8 THE RECOUNT MUST BE CONDUCTED AS A MANUAL RECOUNT OF THE  
9 VOTER-VERIFIED PAPER RECORDS. A MANUAL RECOUNT CONDUCTED IN  
10 ACCORDANCE WITH THIS SUBSECTION (2) MUST BE COMPLETED NO LATER  
11 THAN THE THIRTY-EIGHTH DAY AFTER THE ELECTION.

12 **SECTION 4.** In Colorado Revised Statutes, **amend** 1-10.5-104  
13 as follows:

14 **1-10.5-104. Recount for nonpartisan elections not coordinated**  
15 **by county clerk and recorder.** (1) If it appears, as evidenced by the  
16 abstract of votes cast that a recount is required for any office, ballot  
17 question, or ballot issue, the designated election official shall order a  
18 recount of the votes cast for the office, the ballot issue, or ballot question  
19 no later than the twenty-fifth day after the election. EXCEPT AS PROVIDED  
20 IN SUBSECTION (2) OF THIS SECTION, any recount under this section shall  
21 be completed no later than the fortieth day after the election.

22 (2) IF AN INTERESTED PARTY OR REGISTERED ELECTOR FILES A  
23 REQUEST THAT A REQUIRED RECOUNT BE CONDUCTED AS A MANUAL  
24 RECOUNT AND MAKES ANY PAYMENT REQUIRED BY SECTION 1-10.5-106.5,  
25 THE RECOUNT MUST BE CONDUCTED AS A MANUAL RECOUNT OF THE  
26 VOTER-VERIFIED PAPER RECORDS. A MANUAL RECOUNT CONDUCTED IN  
27 ACCORDANCE WITH THIS SUBSECTION (2) MUST BE COMPLETED NO LATER

1 THAN THE FORTY-THIRD DAY AFTER THE ELECTION.

2 **SECTION 5.** In Colorado Revised Statutes, **amend** 1-10.5-106  
3 as follows:

4 **1-10.5-106. Request for recount - definitions.** (1) As used in  
5 this ~~section~~ PART 1, "interested party" means the candidate who lost the  
6 election, the political party or political organization of such candidate,  
7 any petition representative identified pursuant to section 1-40-113 for a  
8 ballot issue or ballot question that did not pass at the election, the  
9 governing body that referred a ballot question or ballot issue to the  
10 electorate if such ballot question or ballot issue did not pass at the  
11 election, or the agent of an issue committee that is required to report  
12 contributions pursuant to the "Fair Campaign Practices Act", article 45 of  
13 this ~~title~~ TITLE 1, that either supported a ballot question or ballot issue that  
14 did not pass at the election or opposed a ballot question or ballot issue  
15 that passed at the election.

16 (2) (a) Whenever a recount is not required, an interested party OR  
17 REGISTERED ELECTOR may submit a notarized written request for a  
18 recount at the expense of the interested party OR REGISTERED ELECTOR  
19 making the request. THE INTERESTED PARTY OR REGISTERED ELECTOR  
20 MAY SPECIFY THAT THE RECOUNT IS TO BE CONDUCTED AS A MANUAL  
21 RECOUNT OF THE VOTER-VERIFIED PAPER RECORDS, IN WHICH CASE THE  
22 ELECTION OFFICIAL SHALL CONDUCT THE RECOUNT AS A MANUAL  
23 RECOUNT IN ACCORDANCE WITH THE REQUEST.

24 (b) ~~This~~ A request ~~shall~~ UNDER THIS SECTION MUST be filed with  
25 the secretary of state, the county clerk and recorder, the designated  
26 election official, or other governing body that originally certified the  
27 candidate, ballot question, or ballot issue for the ballot within

1 twenty-eight days after any primary, general, or coordinated election.  
2 Such election official shall notify the political subdivision within which  
3 the election was held no later than the day following receipt of the  
4 request.

5 (3) Before conducting the recount, the election official who will  
6 conduct the recount shall determine the cost of the recount within one day  
7 of receiving the request to recount, notify the interested party OR  
8 REGISTERED ELECTOR that requested the recount of the cost, and collect  
9 the costs of conducting the recount. If the request is filed with the  
10 secretary of state, the secretary of state shall determine the cost of the  
11 recount by adding the individual amounts determined by the political  
12 subdivisions conducting the recount IN ACCORDANCE WITH THE REQUEST.  
13 The interested party OR REGISTERED ELECTOR that requested the recount  
14 shall pay the cost of the recount by certified funds to the election official  
15 with whom the request for a recount was filed within one day of receiving  
16 the election official's cost determination. The funds shall be placed in  
17 escrow for payment of all expenses incurred in the recount.

18 (4) If, after the recount, the result of the election is reversed ~~in~~  
19 ~~favor of the interested party that requested the recount~~ or if the amended  
20 election count is such that a recount otherwise would have been required,  
21 the payment for expenses shall be refunded to the interested party OR  
22 REGISTERED ELECTOR that requested the recount. Any escrow amounts not  
23 refunded to the interested party OR REGISTERED ELECTOR that requested  
24 the recount shall be paid to the election officials who conducted the  
25 recount.

26 (5) Any recount of votes pursuant to this section ~~shall~~ MUST be  
27 completed no later than the ~~thirty-seventh~~ THIRTY-EIGHTH day after any

1 primary, general, or coordinated election.

2           **SECTION 6.** In Colorado Revised Statutes, **add** 1-10.5-106.5 as  
3 follows:

4           **1-10.5-106.5. Request that required recount be conducted as**  
5 **a manual recount - costs.** (1) WHENEVER A RECOUNT IS REQUIRED  
6 UNDER SECTION 1-10.5-101, AN INTERESTED PARTY OR REGISTERED  
7 ELECTOR MAY REQUEST THAT THE RECOUNT BE CONDUCTED AS A MANUAL  
8 RECOUNT OF THE VOTER-VERIFIED PAPER RECORDS. A REQUEST FOR A  
9 MANUAL RECOUNT MUST BE FILED WITH THE SECRETARY OF STATE, THE  
10 COUNTY CLERK AND RECORDER, THE DESIGNATED ELECTION OFFICIAL, OR  
11 OTHER GOVERNING BODY THAT ORDERS THE RECOUNT WITHIN ONE DAY OF  
12 THE ELECTION OFFICIAL ORDERING THE RECOUNT. SUCH ELECTION  
13 OFFICIAL SHALL NOTIFY THE POLITICAL SUBDIVISION WITHIN WHICH THE  
14 ELECTION WAS HELD OF THE REQUEST NO LATER THAN THE DAY  
15 FOLLOWING RECEIPT OF THE REQUEST.

16           (2) AN INTERESTED PARTY OR REGISTERED ELECTOR THAT FILES A  
17 REQUEST UNDER THIS SECTION MUST PAY THE ADDITIONAL COST, IF ANY,  
18 OF CONDUCTING THE RECOUNT AS A MANUAL RECOUNT OF THE  
19 VOTER-VERIFIED PAPER RECORDS. BEFORE CONDUCTING THE RECOUNT,  
20 THE ELECTION OFFICIAL WHO WILL CONDUCT THE RECOUNT SHALL  
21 DETERMINE THE COST TO CONDUCT THE REQUIRED RECOUNT AS A MANUAL  
22 RECOUNT, NOTIFY THE INTERESTED PARTY OR REGISTERED ELECTOR THAT  
23 MADE THE REQUEST OF THE ADDITIONAL COST, AND COLLECT THE  
24 ADDITIONAL COSTS OF CONDUCTING A MANUAL RECOUNT FROM THE  
25 REQUESTER. IF THE REQUEST IS FILED WITH THE SECRETARY OF STATE, THE  
26 SECRETARY OF STATE SHALL DETERMINE THE AMOUNT THE REQUESTER  
27 MUST PAY BY ADDING THE INDIVIDUAL AMOUNTS DETERMINED BY THE

1 POLITICAL SUBDIVISIONS CONDUCTING THE RECOUNT FOR THE ADDITIONAL  
2 COSTS OF CONDUCTING A MANUAL RECOUNT. THE INTERESTED PARTY OR  
3 REGISTERED ELECTOR MAKING THE REQUEST SHALL PAY THE COST BY  
4 CERTIFIED FUNDS TO THE ELECTION OFFICIAL WITH WHOM THE REQUEST  
5 WAS FILED WITHIN ONE DAY OF RECEIVING THE ELECTION OFFICIAL'S COST  
6 DETERMINATION. THE FUNDS SHALL BE PLACED IN ESCROW FOR PAYMENT  
7 OF ADDITIONAL EXPENSES INCURRED IN THE RECOUNT.

8 (3) IF, AFTER THE RECOUNT, THE RESULT OF THE ELECTION IS  
9 REVERSED, THE PAYMENT FOR EXPENSES SHALL BE REFUNDED TO THE  
10 INTERESTED PARTY OR REGISTERED ELECTOR THAT FILED A REQUEST  
11 PURSUANT TO THIS SECTION. ANY ESCROW AMOUNTS NOT REFUNDED TO  
12 THE INTERESTED PARTY OR REGISTERED ELECTOR SHALL BE PAID TO THE  
13 ELECTION OFFICIALS WHO CONDUCTED THE RECOUNT.

14 **SECTION 7.** In Colorado Revised Statutes, 1-10.5-109, **amend**  
15 (1) as follows:

16 **1-10.5-109. Challenge of recount.** (1) (a) Any interested party  
17 OR REGISTERED ELECTOR that requested a recount of a county, state,  
18 national, or district office of state concern or any party to such recount  
19 that has reasonable grounds to believe that the recount is not being  
20 conducted in a fair, impartial, and uniform manner may apply to the  
21 district court of the city and county of Denver for an order requiring the  
22 county clerk and recorder to stop the recount and to give the secretary of  
23 state access to all pertinent election records used in conducting the  
24 recount, and requiring the secretary of state to conduct the recount. The  
25 county clerk and recorder shall be an official observer during any recount  
26 conducted by the secretary of state.

27 (b) Any interested party OR REGISTERED ELECTOR that requested



1 a recount of any other local office, ballot question, or ballot issue or any  
2 party to such recount that has reasonable grounds to believe that the  
3 designated election official is not conducting the recount in a fair,  
4 impartial, and uniform manner may apply to the district court for the  
5 political subdivision for an order requiring the designated election official  
6 to stop the recount and to give the appropriate official who will take over  
7 conducting the recount access to all pertinent election records, and  
8 requiring the appropriate official to conduct the recount. If the county  
9 clerk and recorder is not the designated election official, then the county  
10 clerk and recorder is the appropriate official to conduct the recount. If the  
11 county clerk and recorder is the designated election official, then the  
12 secretary of state is the appropriate official to conduct the recount. The  
13 designated election official shall be an official observer during any  
14 recount conducted pursuant to this subsection (1).

15 **SECTION 8. Act subject to petition - effective date -**  
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
17 the expiration of the ninety-day period after final adjournment of the  
18 general assembly; except that, if a referendum petition is filed pursuant  
19 to section 1 (3) of article V of the state constitution against this act or an  
20 item, section, or part of this act within such period, then the act, item,  
21 section, or part will not take effect unless approved by the people at the  
22 general election to be held in November 2022 and, in such case, will take  
23 effect on the date of the official declaration of the vote thereon by the  
24 governor.

25 (2) This act applies to elections conducted on or after the  
26 applicable effective date of this act.