

**Missouri Secretary of State  
Constitutional Amendment 1 - August 5, 2014 Election  
Official Recount Procedures and Timeline**

The recount of the August 5, 2014 election on Constitutional Amendment 1 will be conducted under the following timeline and procedures established by the Missouri Secretary of State's Office in accordance with Section 115.601, RSMo.

This comprehensive recount is designed to ensure that the final results are complete, accurate and reflect the intent of every voter. To do this, every ballot should be manually reviewed as set forth in these procedures. You will note that these recount procedures provide for a combination of human review, electronic counting, and hand tallying to ensure the most accurate, efficient, and fair recount possible.

Visit the Secretary of State's office's web site, [www.sos.mo.gov/elections/amendment1](http://www.sos.mo.gov/elections/amendment1), for regular updates about this recount.

**Timeline**

<u>Activity</u>	<u>Deadline</u>
SOS notifies and sends procedures to LEAs and the concerned parties (Constitutional Amendment 1 proponent and opponent)	8/26
LEAs FAX recount date, time, and place to SOS	8/28 by 10:00 AM
SOS notifies the concerned parties of the LEAs' scheduled recount date, time, and place and provides the relevant recount information on <a href="http://www.sos.mo.gov/elections/amendment1">www.sos.mo.gov/elections/amendment1</a>	8/28
Concerned parties provide disinterested person lists to SOS	8/26 – 9/2
SOS sends lists of disinterested persons to LEAs	9/3
Recount begins (LEAs must choose disinterested persons at least one day before recount)	9/4
LEA deadline for return of certified findings to SOS	9/11
SOS certifies recount results	No later than 9/15

**Procedures**

**Step 1: Recount Request**

If a recount request is received prior to certification, such recount will be considered to be effective the day the election results are certified in accordance with Chapter 115, RSMo. Section 115.601, RSMo., requires all recount requests to be filed no later than seven days after certification of the election. If a request is received before the deadline, the recount can begin immediately after certification.

**Step 2: Selection of Concerned Parties**

If more than one recount request is received on the day the election is certified, an obviously identifiable opponent and proponent will be selected as the concerned parties. If there is no identifiable opponent, then the person who submitted the first request will be considered the concerned party.

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**Step 3: Selection and notification of disinterested persons**

Disinterested persons are defined in Section 115.601, RSMo. The concerned parties provide to the Secretary of State a list of individuals to observe the recount. Missouri law requires these individuals to be a disinterested person and a registered voter of the area where the contested election was held. A disinterested person may only observe the recount taking place in the jurisdiction in which he or she is registered to vote.

The Secretary of State's office delivers each party's list to the LEA. The LEA will work with the concerned parties to use the list provided by the SOS to ensure that only two of the named individuals from each party's list serves as disinterested persons. LEAs must choose disinterested persons at least one day before their recount begins. Participating disinterested persons observe the recount and sign the LEA's Report of Findings. Concerned parties are not required to provide disinterested persons in every or any jurisdiction.

**Step 4: Administration of Recount**

1. Only LEA, LEA staff, bipartisan teams of election judges, the appointed disinterested persons (four total), the concerned parties (or their attorneys), and representatives from the Secretary of State's Office may be present during the recount.
2. The LEA must swear in, using the form provided, each participant identified in #1 above.
3. All election judges and disinterested persons must receive the same pay as an election judge in the jurisdiction where the person is registered.
4. No documents or copies of documents, other than the Report of Findings to the Secretary of State's Office, can be released to anyone present at the recount, although the concerned parties and disinterested persons may receive copies of the oaths they execute. (Section 115.601.4, RSMo.)
5. The LEA shall make arrangements for media, if requested, to be allowed to view the recount procedures. Although state law does not allow media to be present in the room where the recount is occurring, the LEA's recount process should be as transparent as practical. For example, the recount process could be conducted in a conference room that contains windows and conducted in a manner where the media could observe the process overall but not the identifiable information and/or marked ballots.

**Step 5: Ballot Counting**

For the purpose of these procedures, a recount is one additional counting of all votes counted in the August 5, 2014 election.

**Ballot counting – optical scan**

*Only the LEA, LEA staff, and the bipartisan teams of election judges can conduct the recount; no additional assistance can be provided by other parties. Concerned parties and disinterested persons may observe, but may not handle the ballots. Representatives from the Secretary of State's Office are not permitted to make a determination on how a ballot should or should not be counted.*

1. After all participants have taken their oath, the LEA will conduct a test of the voting equipment to be used in the recount. The test deck must consist of all ballots styles (Democratic, Republican, Libertarian, Constitution, and Nonpartisan) marked as follows:

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- 4 “yes” votes on Constitutional Amendment 1
- 3 “no” votes on Constitutional Amendment 1
- 2 with no “yes” or “no” votes on Constitutional Amendment 1 (undervoted)
- 1 with a “yes” and a “no” vote on Constitutional Amendment 1 (overvoted)

*Refer to 15 CSR 30-10.040 and 15 CSR 30-10.140 (copy enclosed).*

2. The LEA breaks the seal on ballots.
3. All ballots with “yes” or “no” votes on Constitutional Amendment 1 can be counted. The bipartisan team of election judges must sort the ballots as below. The team must follow the current Counting Standards (15 CSR 30-9.020). See also *Dolan v. Powers*, 260 S.W.3d 376 (Mo. App. W.D. 2008). Ballots containing marks in or around Amendment 1 constitute a distinguishing mark.

The bipartisan team of election judges must sort the ballots as below.

- Group A: Democratic ballots with distinguishing marks in the designated area for Constitutional Amendment 1 (this does not include undervotes or overvotes).
  - Group B: Republican ballots with distinguishing marks in the designated area for Constitutional Amendment 1 (this does not include undervotes or overvotes).
  - Group C: Libertarian ballots with distinguishing marks in the designated area for Constitutional Amendment 1 (this does not include undervotes or overvotes).
  - Group D: Constitution ballots with distinguishing marks in the designated area for Constitutional Amendment 1 (this does not include undervotes or overvotes).
  - Group E: Non-Partisan ballots with distinguishing marks in the designated area for Constitutional Amendment 1 (this does not include undervotes or overvotes).
  - Group F: All ballots without distinguishing marks or with marks outside the designated area for Constitutional Amendment 1 (this does include undervotes and overvotes).
4. For the Group A, B, C, D, and E ballots, perform the following:
    - a. Prepare for counting these ballots through the LEA’s optical scan tabulating machine.
    - b. During this process, participants will also be watching for any distinguishing mark of voter intent in accordance with the current counting standards (15 CSR 30-9.020 and *Dolan v. Powers*, 260 S.W.3d 376 (Mo. App. W.D. 2008)), a copy of which is enclosed. If any are identified, follow step 5 below.
    - c. The bipartisan team of election judges, under the observation of the disinterested persons, feeds the Groups A, B, C, D, and E ballots *face up* into the counting machine(s).
    - d. The bipartisan team of election judges will record the total votes on the LEA’s tally summary sheet (form provided) and incorporate these into the Report of Findings.

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5. For the Group F ballots perform the following:
  - a. The bipartisan teams of election judges, observed by the disinterested persons will review the ballots again to determine if there is any distinguishing mark of voter intent, following the current Counting Standards (15 CSR 30-9.020). See also *Dolan v. Powers*, 260 S.W.3d 376 (Mo. App. W.D. 2008). Ballots containing marks in or around Amendment 1 constitute a distinguishing mark.
  - b. For those ballots determined to show voter intent, the bipartisan team of election judges will record those total votes on the LEA's tally summary sheet (form provided) and incorporate these into the Report of Findings.
6. After the electronic recount is completed, the LEA must run a post test of the voting equipment using the test deck used in Step 1.

**Ballot counting – DREs**

*Only the LEA, LEA staff, and the bipartisan teams of election judges can conduct the recount; no additional assistance can be provided by other parties. Concerned parties and disinterested persons may observe, but may not handle the paper trails, containers, and DREs. Representatives from the Secretary of State's Office are not permitted to make a determination on how a ballot should or should not be counted.*

1. The LEA breaks the seal on the DRE component that contains the voter verified paper audit trail and retrieves the paper trail.
2. The bipartisan team of election judges examines the voter verified paper trail and hand tallies the votes for and against Constitutional Amendment 1. These total votes must be recorded on the LEA's tally summary sheet (form provided) and incorporated into the Report of Findings.
3. If the voter verified paper trail is not usable for the recount, the LEA will use the audit trail\* from each DRE that was created contemporaneously with the voter verified paper trail (\*as defined in 15 CSR 30-10.010), and proceed with the hand tally process described above. The LEA must then separately seal and secure the DRE component for possible further inspection.

**Step 6: Report of Findings**

1. The bipartisan team of election judges records the total result from the tally summary sheet onto the Report of Findings.
2. The disinterested persons present must sign the Report of Findings, along with the LEA. If disinterested persons are not present for the recount, the LEA is the only signer of the Report of Findings.

**Step 7: Transmit to SOS**

The LEA must return the following forms to the SOS no later than September 11, 2014.

1. Report of Findings (enclosed)
2. Administered oaths (enclosed)

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3. Tally summary sheet (enclosed)

The LEA must also keep copies of all originals and copies of these documents in their office.

**Exception to Procedures**

The above procedures apply except as otherwise agreed to by the concerned parties and approved by the LEA and the SOS. Any proposed exceptions to these procedures must be signed by each concerned party and submitted to the SOS in writing no later than 5:00 p.m. on September 2, 2014.