



Written by [Bob Adelman](#) on January 19, 2010

Democrat Options in Massachusetts Senate Race: Delay, Dither, and Litigate

With polls predicting a clear win by Scott Brown in the Massachusetts special election for the Senate seat vacated as a result of Senator Ted Kennedy's death last summer, and the Democrats determined to pass Obama's healthcare bill, the White House and Democratic congressional leaders are scrambling to put together Plan B.

As noted [here](#), there are several options under consideration.

The first is to ask House Democrats to accept and approve the Senate version of ObamaCare and send it directly to the President for his signature. This would eliminate any opportunity for the Republicans to filibuster against the bill, and neutralize Brown's promise to vote against it once seated.



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House speaker Nancy Pelosi said, "Let's remove all doubt. We will have health care one way or another." On the other side, House Republican leader John Boehner (R-Ohio) [responded](#), "They are going to try every way, shape and form to shove this bill down the throats of the American people."

However, according to the *New York Times*, "Democratic leaders have essentially ruled that [option] out as a politically perilous option."

A second option is to "act on a bill before Brown is sworn in. Massachusetts allows 10 days before declaring a victor, and that might be [enough time](#) to iron out the differences between the two bills."

A third option would be to find a Republican Senator to "defect," thus cancelling out Brown's vote against the bill. Senator Olympia Snowe, a Republican from Maine, has been mentioned as a possible defector.

A fourth option being considered is to start over and create a new bill that would pass both the House and Senate before going to the President for his signature. This continues to meet [heavy resistance](#) from Pelosi. Going back to the drawing board "is to tear it up and throw it away and shred it and never revisit it. Back to the drawing board means a great big zero for the American people."

ABC News [reported](#) that campaign lawyers in both political parties "had begun cramming for the colossal legal battle that could ensue should Brown pull off [the] upset."

Republican lawyers fear that if Brown wins, Democrats will use stall tactics to delay certification of his victory till after the U.S. Senate casts its final vote on President Obama's healthcare bill. That's because right now the interim senator appointed after Kennedy's death, Paul Kirk, could



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deliver President Obama the key 60th vote on the hotly contested health insurance reform plan.

If the election is close, with a margin of victory of less than one-half of one percent, “recounts are much easier to mount,” according to Massachusetts election rules. And the Democrats have in their arsenal the “big gun” of the Minnesota recount last year that led to Democrat Al Franken’s razor-thin victory over incumbent Republican Norm Coleman.

In that election, “one of the [dirtiest campaigns](#) ever conducted for the U.S. Senate,” Franken finally won the election by 312 votes.

Election expert [John Fund](#) said that “Brown probably has to win by at least 20,000 votes to avoid “the margin of litigation.” Fund expects that “vote stealing will occur” but its impact will be reduced “because ACORN is discredited and adrift and there are serious anti-fraud efforts being mounted.”

Noel Sheppard of Newsbusters.org [said](#), “One of the scary things about the election is that getting the most votes may not be enough to win the race. I think Brown’s going to have to win by a good 3 percent of the vote, or else we’re getting into a Franken-type situation, and we’ll be recounting votes for [who] knows how long. And obviously that benefits the Democrats.”

A former White House and Pentagon official, Douglas MacKinnon wrote, “As has been shown time and again across the nation, Democrats like to lose, misplace, or never count absentee ballots.”

And so, while the election for the Senate seat from Massachusetts may be close to being over, the battle for the seat, and ObamaCare, continues.

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