



State Senator
Rick Gudex

District 18

February 26, 2013

To: The Assembly Committee on Campaigns and Elections
From: Sen. Rick Gudex
Re: Assembly Bill 24

Madam Chair, members of the committee, thank you for bringing this bill up for hearing and for allowing me to speak on its behalf.

Under Wisconsin's election laws, when an election is conducted using automatic tabulating machines, the machines must also be used during a recount. Most of the time, that's going to be just fine. For many election districts, the machines make life faster and easier for the people who have to count the ballots.

Sometimes, however, that is not the case. Conversations with the Winnebago, Fond du Lac, and Dodge County clerks have shown me that the machines can sometimes make recounts slower and more expensive:

- Hand counting ballots can be faster than machine counting, particularly when very few ballots were cast or when there was only one election on the ballot;
- Some municipalities rent, rather than own their own tabulating machines, creating an extra expense;
- Even districts which own their own machines must purchase new memory packs for each election and recount, creating extra expense.

Just as an example, if my recent and relatively close election had resulted in a recount, the County of Fond du Lac would have been forced to spend between \$11,000 and \$14,000 on new memory packs. It may be that county-wide, machine counting was the right way to go, but perhaps the county could have saved some of those taxpayer dollars if they'd been allowed to make a rational choice based on local circumstances.

Assembly Bill 24 and its companion in the Senate will give them that chance. AB 24 gives a Board of Canvassers the option of choosing hand recounts over tabulating machines if it makes sense for them to do so, unless a court has ordered otherwise. Giving our local election officials this flexibility will allow them to save our local governments both time and money. I urge your support, and am happy to answer questions.

REVISED

Assembly

PUBLIC HEARING

Committee on Campaigns and Elections

The committee will hold a public hearing on the following items at the time specified below:

Tuesday, February 26, 2013

11:00 AM

328 Northwest

Assembly Bill 18

Relating to: appointment and residency of election officials.

By Representatives Pridemore, Murphy and Weatherston.

Assembly Bill 24

Relating to: the method of recounting votes cast with automatic tabulating equipment.

By Representatives Thiesfeldt, Bernier, LeMahieu, Ripp, Sinicki, Petryk, Kleefisch, T. Larson, Knodl, Berceau, Schraa, Kahl and Marklein; cosponsored by Senators Gudex, Petrowski and Grothman.

02/18

02/22

Lori Stottler

County Clerk, CERA, CPM



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OFFICE OF THE
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51 S. Main Street
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Proud member of:

ELECTION CENTER
Wisconsin Municipal Clerks Association

ns to be heard.

Representative Kathleen Bernier
Chair

Due to the 2-19-13 County Board of Canvass,
I cannot be there in person. Please
consider the expertise of these clerks

Sincerely,
Lori Stottler

AB24/SB14 - Relating to the method of recounting votes cast with automatic tabulating equipment.

County	Support, Neutral, or Oppose	In 150 words or less, express your opinion on this Bill.
Barron	Support	<p>Makes perfect sense to let the Board of Canvass determine how ballots are recounted. It is very expensive to acquire new cartridges to recount a small amount of ballots, which is usually the case here. For the state wide recount, it cost Barron County over \$6,000 to get cartridges to conduct the recount. Some municipalities had only a handful of ballots cast on the Insight. Counties with older equipment weren't required to get new cartridges because they weren't available but since we had newer equipment, it ended up costing us a bundle.</p>
Brown	Support	
Dane	Support	
Dodge	Support	<p>I would like the Board of Canvassers to be able to use both hand counting and machine counting at the same recount; not be limited to either hand counting or machine counting.</p>
Fond du Lac	Support	
Jackson	Support	
Kenosha	Support	
Kewaunee	Support	
La Crosse	Support	<p>Board of Canvass would have the best knowledge of efficiency and cost control on the recount method and they should have the determination on what method to use unless court ordered.</p>

Manitowoc	Support	This one is a home run. Most recounts deal with low turnout affairs, like school board races, county board, city council, etc. Why go through the time and expense of reprogramming tabulators when there's only a few votes to count? As I understand the proposal, the option to program or not program lies with the board of canvassers, and they can make a cost effective decision based on the facts of each recount.
Marinette	Neutral	
Marquette		
Milwaukee	Neutral	
Oconto	Support	
Outagamie	Oppose	Outagamie County's Finance Committee approved February 18, 2013, to draft a resolution in opposition of this change. Recount candidates and/or citizens (referendum) should expect an accurate recount of the election. Size of election should not matter, nor should costs be a deciding factor with establishing procedures. Placing this decision in the hands of board of canvassers (especially local BOC's) could end up with decisions based upon cost and not the outcome of a fair and accurate recount. As automated tabulating election equipment has been certified at both the federal and state levels, equipment is publicly tested with each election and again tested in a recount, those requesting recount have opportunity to challenge individual ballots to be hand-counted, and because Outagamie County has experienced fairness and accuracy with the current recount process, the County Clerk opposes this bill and expects that the County Board will approve the same opposition.



Rock	Support	Absolutely the right thing to do. Local control. Financially responsible.
Rusk	Oppose	This would just be additional work that would take more time if a recount of scanned ballots had to be counted by hand instead of running them through a voting machine to count.
Sauk	Support	
Sheboygan	Neutral	
Vernon	Support	
Washburn	Support	This bill would give the canvassing board more authority and leeway in determining how the ballots should best be re-counted.
Waupaca	Support	

Waushara	Support	<p>This isn't a huge concern in my county as we only have two municipalities with optical scan/automatic tabulating equipment. But again, let's give board of canvassers the flexibility to decide how to recount votes, without mandating the expense of reprogramming equipment.</p>
Wood	Support.	<p>1) To amend §5.90 regarding recounts. Yes. Since this was changed several years ago, I've thought that requiring ballots to be recounted electronically was ridiculous. Sometimes, the costs are just too much for a small local race and recounting by hand is a more efficient way of doing it. Leaving the decision to the board of canvassers in charge makes sense.</p>



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MEMORANDUM

TO: Honorable Members of the Assembly Committee on Campaigns and Elections

FROM: David Callender, Legislative Associate *DC*

DATE: February 26, 2013

SUBJECT: Support for Assembly Bill 24

The Wisconsin Counties Association supports Assembly Bill 24, which would give local boards of canvass the option to conduct a recount by hand or by automatic tabulating equipment.

Recounts are often a lengthy and expensive process for county officials, and providing an alternative means of conducting the recount would give counties greater flexibility in determining which is the most cost-effective means under the circumstances.

In some cases, for example, counties or other local governments must either rent or purchase additional tabulating equipment in order to conduct a machine recount. These costs would be avoided if local boards of canvass had the option to conduct the recount by hand. This flexibility would be particularly useful during small elections when only a few ballots are involved.

WCA respectfully requests that the Committee support AB 24.

Please feel free to contact WCA if you need additional information.

To: Assembly Committee on Campaigns and Elections

Date: February 26, 2013

From: Paul Malischke, malischke@yahoo.com

Subject: AB – 24, Method of Recounting Ballots

Please support this bill, which gives the Board of Canvassers the option for a manual recount or a machine recount. In many situations, a hand count for one contest will be simpler and quicker than a machine count. In addition, hand counts will improve transparency and promote confidence in the accuracy of the count.

Transparency – Under current law, recounts of optical scan ballots are conducted by repeating the tabulation by electronic tabulators. This is not transparent. The source code is not generally available for inspection, and even if it were, few could understand it. By contrast, this bill would allow transparent hand counts.

Accuracy – Tabulators can be programmed incorrectly. One example happened in Medford Wisconsin, in 2004, where 1,500 votes for federal offices were not counted. This was not discovered until four months after the election, when a private company was gathering data for its database. This situation was missed by the City Clerk, County Clerk, Board of Canvassers, and the State Election Board. After the State Elections Board was informed of it by a newspaper reporter, they investigated it thoroughly, and I have attached their report.

Some people believe hand count is the most accurate, and some believe machine count is best. But all will be satisfied if the election night machine count agrees with a hand count done as a part of a recount.

Uniformity – One for the reasons for the current statute was uniformity. However, the statute makes uniformity of recounting impossible for many jurisdictions. Many municipalities have both optical scan tabulators, and Direct Recording Electronic machines. The current statute requires that the optical scan ballots be recounted by re-inserting them into the tabulator, but DRE paper records cannot be tabulated this way. They must be counted by hand. Therefore, currently some ballots are recounted by machine and some by hand.

State of Wisconsin \ Elections Board

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JOHN C. SCHOBBER
Chairperson

KEVIN J. KENNEDY
Executive Director

DATE: May 10, 2005
TO: Kevin J. Kennedy and State Elections Board
FROM: D. Richard Rasmussen, Elections Specialist
SUBJECT: ES&S M100 Tabulation Error in the City of Medford: November 2004

Background

In early March 2005 a representative from local media alerted the State Elections Board staff to an abnormally high under vote rate for the office of president in the election results of the City of Medford, Taylor County. Upon contacting the City and ES&S it was determined that the M100 optical scan tabulator may have been mis-programmed omitting any votes cast by a voter selecting the 'straight party vote' option. According to ES&S this is a known bug with the M100 firmware version installed in the machine in Medford and has a workaround to compensate for the problem. However prior to this occurrence ES&S had not informed either the State Elections Board or the City of Medford about the bug and the workaround. Currently Taylor County has a contract with ES&S to program all voting equipment for each election. The M100 in Medford is the only machine of that type in use in Wisconsin.

Resolution

Diane Lowe of the State Elections Board staff observed a re-tabulation of the ballots using the ES&S Central Count 150 and confirmed that ballots marked with the 'straight party vote' option were not counted by the M100 tabulator the night of the election. The difference resulted in almost 1,500 additional votes for federal offices (attachment 1). The addition of these previously uncounted votes did not change the results of any of the races on the ballot. A re-tabulation was also completed for the 2002 General Election but no discrepancy was found. Upon identification of the error, ES&S reimbursed Taylor County for the M100 programming of the 2004 General Election.

Solutions

- The State Elections Board does not require counties to report the total number of ballots cast or the total number of voters as part of the Statewide canvass. This abnormality should have been identified as part of either the municipal or county canvass procedures. In addition, the City of Medford used a test deck developed by ES&S that did not test for the possibility of a voter selecting the 'straight party vote' option. Had the municipal clerk used a test deck developed independently this programming error may have been caught prior to the election.

- Neither the State Elections Board at the time of approval nor the municipality at the time of purchase were made aware of the known bug in the firmware. Although ES&S has a workaround for the problem, in this case the workaround was not implemented. Had either the municipality or the SEB been made aware of the problem appropriate procedures may have been put in place to prevent this from happening.
- In future elections the workaround will be more clearly identified to the ES&S technicians (attachment 3). In addition, ES&S has completed federal qualification for a newer version of the M100 firmware that addresses this bug. Once ES&S applies for and receives State approval the City of Medford/Taylor County will be able to purchase the upgrade and prevent this same problem from occurring.

Attachments:

1. City of Medford Tabulation Comparison (.xls)
2. ES&S Trouble Ticket from 3/8/2005
3. ES&S Optical Mark Reader Coding Job Ticket for Fall 2006 election