



DEVIN LEMAHIEU

STATE SENATOR

Testimony on SB96 – Fees for Recounts

Members of the Committee, thank you for listening to my testimony on SB 96, modifying the fee structure for recounts in the State of Wisconsin.

I'm happy to assist Representative Ballweg with this proposed legislation and believe the bill strikes the proper balance between guaranteeing access to the recount process, while ensuring only those recounts with some chance of succeeding are free to the challenger.

Success reversing the results of an election through a recount is very unlikely. Kevin Kennedy from the GAB previously testified to just three instances since 1979 where the results of a statewide election were changed via recount. The legislature heard testimony last session that the greatest difference where the outcome changed was .12%. Senate Bill 96 more than doubles that and creates a .25% threshold for free recounts.

This bill provides two scenarios for when a recount is available free of charge, based on the number of votes cast for the office or referendum question at issue. If 4,000 or fewer votes are cast for the office or referendum question **and** the difference is less than 10 votes, then the recount is **free**. If more than 4,000 votes are cast **and** the difference is less than .25% of the total votes cast, then the recount is a **free**. In all other scenarios, the petitioner pays the actual cost of conducting the recount.

If, however, the recount overturns the result of the election or referendum the petitioner receives a refund of the recount fees.

We also had some questions about whether the initial count or the recount determines the margin for whether the candidate pays a fee. We determined that the initial count was the appropriate trigger because it provides more certainty and is the margin the challenger is considering when determining whether or not to request and pay for a recount.

Thank you again for your time.



JOAN BALLWEG

WISCONSIN STATE REPRESENTATIVE

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41ST ASSEMBLY DISTRICT

SB 96: Fees for Election Recounts
Testimony of State Representative Joan Ballweg
Senate Committee on Elections and Local Government
April 9, 2015

Thank you, Chair LeMahieu, and members of the Committee on Elections and Local Government for holding this public hearing.

Senate Bill 96 will update election statutes regarding the cost of recounts. Since these laws were last visited, technology used to conduct elections has become more reliable. A recount is a useful tool for candidates in cases where the margin between victory and defeat is narrow. Our current statutes on recounts do not reflect our improved technology nor the cost a county incurs when an unplanned, and unbudgeted, recount is requested.

This legislation will simplify the election recount statute. Our bill will bring the margin to obtain a free recount in line with state and national statistics, making it a more realistic measure of the potential success of a recount.

It is not our intent to discourage recounts. In the event that a paid recount does in fact overturn an election, the petitioner would receive full reimbursement.

Last session I brought similar legislation forward on behalf of one of my County Clerks. She had recount requests made in races where the margin was well above even the current thresholds for a free, or subsidized, recount. Because her wards fell under the 1,000 voter category, we discovered that candidates could request recounts and pay \$5 a ward, even when the votes cast were 60 percent to 40 percent. Her example was an abuse of the recount intent, and highlighted a loophole we'd like to close.

SB 96 restructures the current recount process, and lowers the threshold for a free recount from a difference of 0.5 percent to a difference of 0.25 percent. Between 2000 and 2009, nation-wide, only three of a total 18 statewide election recounts resulted in a reversal of the election. Those three elections had margins of 0.014 percent, 0.018 percent, and 0.107 percent. Information from the National Conference of State Legislatures (NCSL) shows that not all states offer recounts (43 states do). Other states also recognize changes are needed; triggers for recounts are moving down, as low as 0.1 percent. Based on recent recount results, we feel confident that a threshold of 0.25 percent is a reasonable trigger margin for a free recount.

I appreciate your consideration of this important legislation. We have testimony today from County Clerks in support of SB 96, and the Wisconsin County Clerks Association does support reforming our current recount fee structure.

Thank you and I'm happy to answer any questions.



GREEN LAKE COUNTY OFFICE OF THE COUNTY CLERK

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County Clerk

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April 9, 2015

Rep. Joan Ballweg
State Capitol Madison WI 53708

Support of AB 124 & SB 96

Dear Representative Ballweg,

On Thursday, April 12, 2012 a recount of votes was held in Green Lake County at the petition of four candidates who ran in the April 3, 2012 election for Green Lake County Board of Supervisors.

Four candidates filed a petition amidst concerns of flaws in the electronic tabulating voting machines used in Green Lake County for the election of Green Lake County Supervisor.

The recount took approximately five hours to complete. The recount was completed under the oversight of the Green Lake County Canvass Board and five tabulators assisted in the recount. The tapes from the Edge (touch screen) machine which contain the printed ballots were reviewed. Each district supervisor's name in the recount was read while two tabulators kept count on a tally sheet of the votes cast. The hand count was verified to the total from the Edge voting machine on election night. No discrepancy was found.

Each paper (mark sense) ballot was looked at, absentee ballots reconciled and all ballots were hand counted. After the hand count was verified by a second person the ballots were fed into the Eagle voting machine, and the machine count and hand count were verified. The recount revealed 3 discrepancies, all initiated by human error; one ballot did not have the arrow connected on the ballot, but voter intent was determined, one write-in vote was given to the wrong person, and one ballot not initialed by poll workers was not counted.

All four petitioners were present for the recount and encouraged to view all the proceedings of the recount. The only restriction was not to touch anything and all questions were to be directed to me, the County Clerk, rather than the tabulators. Petitioners were encouraged to watch and count along when tallying took place.

Over 1,000 total votes were counted. Although the petitioners paid \$5 for each of the nine wards for a total of \$45, the total cost to the County for staff time, attorney costs, and per diems to tabulators and canvass board was just over \$2000. These costs do not include the cost of the four municipal clerks to gather and provide the town clerk's information needed for the recount.

The result of the recount showed only slight changes in the totals for three candidates. There were no discrepancies found in the voting machines used in the election.

	Candidates	Original Vote Tally	Recount Tally	Final percentage
District 9	David Richter (incumbent)	219	220	88%
	Jan Londowski (write-in)	30	29	12%
District 10	Sue Wendt (newcomer)	193	192	69%
	Lauree Renaud (newcomer)	88	No change	31%
District 11	Harley Reabe (challenger)	197	No change	63%
	Sue McConnell (incumbent)	115	No change	37%
District 13	Nicolas Toney (challenger)	173	No change	65%
	Tom Traxler (incumbent)	92	No change	35%

I support this Bill because it allows County Clerks like me, to recoup more of the actual costs of recounts. Costs that are not covered by the petitioners are paid for by tax levy dollars.

Sincerely,

Margaret R. Bostelmann
County Clerk

To: Senate Committee on Elections and Local Government
Date: April 9, 2015
From: Paul Malischke, malischke@yahoo.com
Subject: **SB-96, fees for election recounts**

This bill represents a drastic cost shifting for recounts. In my opinion, the net effect will be to reduce the number of recounts, as candidates will have difficulty paying the cost.

Recounts have tremendous value as an audit. Recounts should not be judged solely by whether they overturn the results of the election.

During a recount, many aspects of the election are checked.

Were the ballots secured properly? Were absentee ballots processed correctly, or were some improperly rejected or accepted? Were there excessive overvotes or undervotes, perhaps caused by poor ballot design? Were the ballots being counted correctly by the tabulators? Was all required information being properly recorded in the poll books? Were the paper tapes from the touchscreens working correctly? Recent recounts have exposed problems with many of these items.

I agree that the current charge of \$5 per ward is out of date. But we do not have to make such a drastic change as outlined in SB-96. I propose a more moderate change, as described in the table.

How much does a candidate pay for a recount?

Margin	Current law > 1000 total ballots	SB-96 >4000 total ballots	Moderate Proposal > 1000 total ballots
< 0.25%	No cost to candidate	No cost to candidate	No cost to candidate
0.25% to 0.5 %	No cost to candidate	All costs borne by candidate	\$25 per ward
0.5% to 1%	\$5 per ward	All costs borne by candidate	\$25 per ward
1% to 2%	\$5 per ward	All costs borne by candidate	All costs borne by candidate
> 2%	All costs borne by candidate	All costs borne by candidate	All costs borne by candidate

A moderate proposal when total ballots are less than or equal to 1000: margin <10 ballots, no cost to candidate; margin 10 to 25 ballots, \$25 per ward; margin >25 ballots, all costs borne by candidate.

Let's not put into law the drastic change outlined in SB-96. Quality control is not something you do rarely or do once. Quality control needs to be a frequent and ongoing process, and recounts are the best quality control technique we have.