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STATE SENATOR • 29TH SENATE DISTRICT

Testimony – **SB 736**

Senate Committee on Shared Revenue, Elections and Consumer Protection
Tuesday, December 19, 2023

In October of 2021, the non-partisan Legislative Audit Bureau (LAB) released an audit of elections procedures and practices in the state of Wisconsin. Among the challenges observed by LAB was that some clerks, specifically the City of Madison, believed that LAB could not directly handle ballots following the completion of the election due to the definition of chain of custody.

Despite this challenge, LAB was still able to issue a 168 page report outlining what elections staff did well, what administrative processes can be improved, and what this body should consider addressing in statutory changes.

Audits, like the one performed in 2021, are a critical part of ensuring transparency and identifying areas for improvement in both the public and private sectors. Clear and randomized audits build confidence not only in our institutions, but also in those that serve in them. SB 736 recognizes the great, non-partisan work performed by the LAB and requires a performance audit of the elections processes following each general election.

Under this legislation, LAB shall randomly select four counties, with one city and one village from each of those counties, to review in each audit. The bill also specifies that one of these counties must be from one of the ten most populous counties in the state. This mix of municipally governance and population size will provide a broad overview of the different challenges and opportunities for growth in elections administration.

Under SB 736, LAB will work with the Wisconsin Elections Commission and local units of government in conducting the audit and are explicitly authorized to handle and examine all original elections materials. This ensures that clerks do not feel there is any legal violation regarding chain of custody authority.

This legislation was drafted with input from the LAB to ensure the bill provided appropriate flexibility for the agency to perform its work at the highest levels.



SCOTT ALLEN

REPRESENTATIVE • 97TH ASSEMBLY DISTRICT

19 December 2023

Testimony on SB 736 by Rep. Scott E. Allen

To Chairman Knodl and Members of the Senate Committee on Shared Revenue, Elections, and Consumer Protection:

Thank you for allowing me to submit my testimony today on SB 736, relating to regular, random, post-election audits. I would also like to thank Sen. Tomczyk for leading the senate version of this bill.

Perception is not reality, but perception has the force of reality. This common sense truth is important for us to consider when it comes to elections. Our democracy depends on citizens believing that our elections are fair. Without this belief, the legitimacy of government is threatened.

There were questions of legitimacy following both the 2016 and 2020 presidential elections. Repeated and continued questions regarding the veracity of elections will erode public trust and potentially reduce electoral participation. Policies and practices which build trust are inherently non-partisan and beneficial for democracy.

The Center for Democracy and Technology has stated, “Post-election auditing is the strongest way to generate public evidence that an election was conducted properly and that the outcome was correct. Post-election audits assess various qualities of the election, such as whether cast ballots were counted properly and whether election processes have been properly followed...As we begin the 2024 cycle, we must prepare for the possibility of a repeat scenario in which losing candidates cast doubt on election procedures. Election officials, state legislators, standards-making bodies, and civil society must ensure that post-election audits are widespread and conducted with care, transparency, and integrity. Good communication about election procedures and audits is also key for ensuring that elections are trusted by the public.”

SB 736 is a bill that would require a regular, random, post-election audit after every general election. As stated by the Center for Democracy and Technology, post-election audits are a key tool in building trust in the election process.

We have all been in a situation where you know that your work will be examined by a boss or auditor. Though you have been working hard at your job, the news of a possible inspection leads you to make sure that all that your work is not just done, but done well. Good workers have

nothing to fear from inspections, and still the awareness helps them work harder. Sloppy workers do fear, and audits lead them to better performance.

If this is true in any job, it should certainly be true in one of the most important jobs in our political system – running free and fair elections. Instead of waiting until someone thinks a wrong occurred in an election, we should have regular, random audits. This would remove partisanship from the equation as audits would be routine instead of called for when one side believes that foul play has occurred.

Already, 34 states have some form of post-election audit so this is not abnormal. Having the non-partisan, independent Legislative Audit Bureau perform the audit would also build trust in the election process due to their audit experience and training, their professional work, and their non-partisan mission.

The Legislative Audit Bureau was frequently consulted in the drafting of this bill. They have stated that their office could handle this audit within their current budget as the audit randomly selects 4 counties and only 1 city and 1 village from each county to audit.

The bill also clarifies that the Legislative Audit Bureau can physically handle the materials but cannot remove them and thus their inspection would not constitute a change of possession. This concern was raised in the audit of the 2020 election and has been addressed accordingly.

This audit procedure would help assure the people of Wisconsin that our elections are fair. They need to have confidence that there is accountability in the process. SB 736 provides accountability, which is important to the people of Wisconsin, and accountability should be important to us.