



WISCONSIN LEGISLATIVE COUNCIL

ELECTION LAW REVIEW

Legislative Council Conference Room
Madison, Wisconsin

December 15, 2004
10:00 a.m. – 2:00 p.m.

[The following is a summary of the December 15, 2004 meeting of the Special Committee on Election Law Review. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc/2004studies.htm>.]

Call to Order and Roll Call

Chair Leibham called the meeting to order. The roll was called and a quorum was determined to be present.

COMMITTEE MEMBERS PRESENT: Sen. Joseph Leibham, Chair; Sen. Jon Erpenbach; Reps. Stephen Freese and Marlin Schneider; and Public Members Marilyn Bhend, Joyce Buechel, Janice Dunn, Cindi Hesse, Kevin Kennedy, Kathy Nickolaus, James Troupis, and Mike Wittenwyler.

COMMITTEE MEMBER EXCUSED Rep. Steve Wieckert.

COUNCIL STAFF PRESENT: Bob Conlin, Senior Staff Attorney; and Nick Zavos, Staff Attorney.

Approval of the Minutes of the November 17, 2004 Meeting

A motion was made by Representative Freese, seconded by Senator Leibham, to approve the minutes of the November 17, 2004 meeting. The minutes were approved without objection.

Description of Materials Distributed

Bob Conlin gave a brief description of the materials distributed. Chair Leibham asked committee members if there were any issues that should be added to the comprehensive list in Memo No. 3. The committee members suggested adding the issues of providing compensation for poll workers, harmonizing the state and Help American Vote Act (HAVA) requirements for provisional ballots, and examining the residency requirements for poll workers.

Discussion of Election Recount Process

Chair Leibham gave a brief description of his experience with the recount in the 9th Senate District in 2002. He explained how surprised he was by the fact that different municipalities within the same legislative district could conduct their recount differently. He suggested that requiring all the clerks involved to meet to discuss common procedures would be helpful. Public Member Troupis noted that it would be impossible to have consistent recount processes when there are different voting systems involved. Mr. Troupis also stressed that there will always be human error when votes are counted by hand.

Chair Leibham suggested creating standards that would vary depending on the type of voting technology. Public members Hesse and Bhend both commented that whatever guidelines were created should not be too strict. The guidelines would have to be flexible enough to be able to take account of unique situations that inevitably arise. Public member Kennedy noted that the election process is decentralized, so that if the committee created standards, it would also have to address the consequences for not complying. Senator Erpenbach suggested having the Elections Board conduct recounts.

The committee had a discussion of whether to remain a “voter intent” state and the consensus was that the state should remain so.

Chair Leibham questioned the 13-day completion period for recounts. Public member Kennedy suggested that 13 days was selected because it dovetails with the other statutory deadlines.

Chair Leibham raised the issue of the draw-down process. Public member Troupis questioned whether the current process violates the Equal Protection Clause of the U.S. Constitution. He also stressed that voting by absentee is a privilege and suggested putting a serial number on absentee ballots and envelopes to better facilitate identifying improperly voted absentee ballots. Chair Leibham suggested drawing equally from each candidate. Public member Bhend suggested drawing the ballots from the whole pool of ballots. Senator Erpenbach suggested having a check-off that would allow a voter to waive the secrecy of his or her ballot in case of a problem.

Chair Leibham suggested examining the rules that govern what happens to unused ballots after the election.

Staff will prepare information for the committee on the recount issues in time for discussion of “post-election issues.”

Discussion of Memo No. 4

The committee discussed the possibility of early voting, and the current system of no excuse absentee voting. After discussion the committee came to the consensus that the current system should be modified to encourage absentee voting at the clerk's office. The committee requested that staff create a draft that maintains no excuse absentee voting at the clerk's office, that requires an excuse to have an absentee ballot mailed out, and that requires the voter to provide postage for an absentee ballot voted by mail.

The committee requested that staff create the following additional drafts:

- ◆ A draft that would allow requests for absentee ballots to be faxed or emailed.
- ◆ A draft that requires absentee ballots to be mailed only to an elector's permanent or temporary address.
- ◆ A draft that requires absentee ballots to be either returned to the clerk by mail or returned to the clerk in person.
- ◆ A draft that requires witnesses for absentee ballots to be adult U.S. citizens.

Plans for Future Meetings

The next meeting of the Special Committee was scheduled for *Wednesday, January 5, 2005, at 10:00 a.m., in the Legislative Council Conference Room.*

Other Business

There was no other business brought before the committee.

Adjournment

The committee adjourned at 2:00 p.m.

NZ:tlu