



WISCONSIN LEGISLATIVE COUNCIL

ELECTION LAW REVIEW

Legislative Council Conference Room
Madison, Wisconsin

August 4, 2005

9:00 a.m. – 4:23 p.m.

[The following is a summary of the August 4, 2005 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 subsequently determined to be present.

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

COMMITTEE MEMBERS EXCUSED Reps. Stephen Freese and Steve Wieckert; and Public Member Mike Wittenwyler.

COUNCIL STAFF PRESENT: Bob Conlin, Senior Staff Attorney.

Approval of the Minutes of the May 2, 2005 Meeting

The minutes were approved by unanimous consent.

Description of Materials Distributed

Mr. Conlin briefly described the materials that were distributed. Chair Leibham called particular attention to the letters from Mr. Paul Malischke. Mr. Kennedy highlighted items from the reports that he had distributed to committee members. In addition, Senator Leibham distributed a letter concerning an address verification proposal from State Senator Ron Brown to committee members.

Continued Discussion of Preelection, Election Day, and Post-Election Issues Raised by Committee Members and Summarized in Memo Nos. 4, 5, and 6

Chair Leibham suggested that the committee wrap-up its discussion of unresolved issues by addressing the recount issue raised in Memo No. 6. After considerable discussion, the committee agreed to establish a subcommittee to address the issue of requiring clerks responsible for boards of canvassers in multi-district recounts to meet prior to the start of a recount to discuss common procedures to be used in the recount, a consideration of recount standards to be applied in all recounts, and resolution of the “drawdown” discussion. The subcommittee dealing with recounts will consist of Chair Leibham, Mr. Troupis, Ms. Bhend, Ms. Nickolaus, Ms. Hesse, and Kevin Kennedy. In addition, the committee concluded that the statutory 13-day completion period for recounts was legally clear enough but requested that the Elections Board clarify the matter as best they can in their recount manual. Finally, the committee directed staff to prepare a draft requiring that municipal clerks retain unused ballots after an election until the recount period has expired and authorize counties to collect and store such unused ballots for municipalities, if so desired.

Review and Discussion of Draft Legislation

The committee took no formal votes on approval of any of the proposed drafts. However, the committee gave tentative approval to WLC: 0189/1, relating to time for sending address verification cards.

The committee suggested amendment of the following drafts:

- WLC: 0190/1, relating to registration with an out-of-state drivers’ licenses. [Amended to provide that out-of-state drivers’ license numbers would not be subject to inspection by the public and that the check should occur after each election, and other various technical changes.]
- WLC: 0193/1, relating to electioneering at a polling place, the posting or distribution of election-related material, and providing for a penalty. [Amended to make SECTION 1 into three separate paragraphs with a similar amendment to proposed s. 12.035 (3), Stats.]
- WLC: 0195/1, relating to election inspector statements. [Amended to clarify that the municipal clerk is required to make the requisite copies of the statements.]
- WLC: 0202/1, relating to county clerks serving on the board of canvassers. [Amended to apply to the municipal clerk and to clarify that being unopposed includes unopposed by any certified write-in candidate.]
- WLC: 0214/1, relating to establishing a requirement that a petition for the recall of a city, village, town, or school district officer include a statement of the grounds that constitute cause for the recall. [Amended to limit the definition of cause to “official misconduct or malfeasance in office” and eliminate the pre-election court review.]

- WLC: 0101/2, relating to requesting an absentee ballot by electronic mail or facsimile transmission. [Amended to require that a copy of a signature be provided with both a facsimile or an electronic mail request for an absentee ballot.]

The committee decided to temporarily set aside the following drafts:

- WLC: 0194/1, relating to registration of homeless individuals.
- WLC: 0198/1, relating to establishment of satellite offices for absentee voting.

During discussion of WLC: 0198/1:

Representative Schneider moved, seconded by Senator Erpenbach that the draft be amended to allow cities of the 1st Class to establish up to four satellite absentee voting locations and all other municipalities up to three satellite absentee voting locations. The motion failed on a vote of: Ayes, 3 (Sen. Erpenbach; Rep. Schneider; and Public Member Bhend); Noes, 6 (Chair Leibham; and Public Members Buechel, Dunn, Hesse, Nickolaus, and Troupis); Absent, 3 (Reps. Freese and Wieckert; and Public Member Wittenwyler); and Not Voting, 1 (Public Member Kennedy).

- WLC: 0218/1, relating to marking voters with indelible ink.

Presentation by the Honorable Mayor Tom Barrett, Sharon Robinson, Director of the Department of Administration, and Susan Edman, Executive Director, Election Commission, City of Milwaukee, Relating to the City of Milwaukee Election Reform Task Force; and Committee Discussion

Mayor Barrett, Ms. Robinson, and Ms. Edman appeared before the committee. Mayor Barrett described a number of problems encountered by the City of Milwaukee leading up to and including election day 2004. He described the actions he and the city took to address those problems, including the creation of a task force to review the election law. He also described for the committee the recommendations of that task force as embodied in the report distributed to committee members. Mayor Barrett, Ms. Robinson, and Ms. Edman then answered numerous questions from committee members.

Chair Leibham thanked the guests for their presentation and indicated his desire for the committee to work with the city regarding its legislative recommendations.

Discussion of Packaging of Committee Drafts For Introduction and Committee Wrap-Up

The committee continued its discussion and decided that another meeting would be necessary to finish reviewing the drafts and discuss the packaging of the drafts for introduction to the Legislative Council and the Legislature. The Chair indicated that as the Governor has introduced an election reform package and as the City of Milwaukee has made recommendations for election reform, he would like to work with those entities to incorporate as much as possible into the committee's draft so that the Legislature can consider a single election reform package this fall.

Plans for Future Meetings

Chair Leibham indicated that another meeting of the committee would be held, hopefully, in August and that he would advise members of the actual date. He also indicated that the subcommittee dealing with recount issues would meet in the near future to resolve those outstanding issues and report back to the full committee.

Other Business

There was no other business brought before the committee.

Adjournment

The committee adjourned at 4:23 p.m.

RJC:tlu