

P. O. Box 512  
Montpelier, Vermont 05601  
March 2, 2017

House Committee on Government Operations  
State House  
Montpelier

Re: recounts bill

Dear Committee Member:

These comments are based on the committee's discussion on this draft bill on February 28.

#### The maximum spread for a recount

There was some discussion on the maximum size of the spread for a recount. I believe that Rep. Kitzmiller's point was that if the spread is too small, there will be a number of elections in which the will of the voters is thwarted. The committee was discussing local elections in Rep. Devereux's town of Mount Holly with 500 votes cast. Numbers in the spread of 5%, 2%, and 1% were being discussed by the committee. The will of the voters can be thwarted as follows.

Example A: Let's say that the result in an election was 254 votes for A and 246 votes for B, a spread of eight votes. That would not allow a recount if the spread is set at 1 % (five votes in this case). Yet if only five votes were incorrectly assigned in the initial count of ballots, then the final result should have been 249 votes for A and 251 votes for B, changing the outcome of the election. So if a recount is prohibited, the will of the voters is thwarted, candidate A being seated when candidate B actually received the most votes.

Example B: Let's say that the result in an election was 256 votes for A and 244 votes for B, a spread of 12 votes. That would not allow a recount if the spread is set at either 1 % (five votes) or 2 % (ten votes). Yet if only seven votes were incorrectly assigned in the initial count of ballots, then the final result should have been 249 votes for A and 251 votes for B, changing the outcome of the election. So if a recount is prohibited, the will of the voters is thwarted, candidate A being seated when candidate B actually received the most votes.

The audits of 6 polling districts show differences between the official return of votes and the audited results for some offices and candidates in the size ranges noted above. So it is quite likely that in some close elections, with the spread set at 1 %, or even 2 %, the will of the voters will be thwarted.

I suggest leaving the spreads as they are.

#### Expense of recounts

I do not understand concerns over cost of recounts or the time it takes to do a recount. The time it takes to do a recount and the cost of doing a recount are small compared to the confidence they give us in determining that the correct person is seated.

#### Official in charge of recounts

I think that leaving the recount with the judiciary (instead of the office of a partisan secretary of state) is appropriate.

#### Test ballots for recounts

I think that recounts should be done by people not machines. However, the statutes state otherwise. Given that machines are likely to be used in recounts, they should be tested. I suggest that the test ballots be the first 100 ballots sorted by the recount people. I suggest this as not taking any longer than marking up a few test ballots, counting them, and feeding them through the machine. The people would count the 100 ballots. Then they

would feed them through the machine for counting. Only go ahead with the recount when the tallies between people and machine are identical.

Replacement ballots vs. counting by people

I think that replacement ballots should not be used. That is to eliminate later confusion in case of a second recount. Which replacement ballots go with which originals? Making sure later that both ballots aren't counted.

Thank you for taking the time to read these comments.

Sincerely,

Thomas Weiss