1999 DRAFTING REQUEST

Bill

Received: **02/12/99**

Wanted: **As time permits**

For: **Robert Welch (608) 266-0751**

This file may be shown to any legislator: **NO**

May Contact:

Subject: **Elections - miscellaneous**

Received By: **kuesejt**

Identical to LRB:

By/Representing: **Les Wakefield**

Drafter: **rmarchan**

Alt. Drafters: **kuesejt**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Recount fees and security

Instructions:

(See attached)

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	rmarchan 03/16/99	wjackson 03/17/99		_____ _____			S&L
/1			jfrantze 03/19/99	_____ _____	lrb_docadmin 03/19/99		S&L
/2	rmarchan 03/30/99	wjackson 03/30/99	ismith 03/31/99	_____ _____	lrb_docadmin 03/31/99		S&L
/3	rmarchan 04/7/99 rmarchan	wjackson 04/7/99 wjackson	jfrantze 04/8/99	_____ _____	lrb_docadmin 04/8/99		S&L

Vers.	Drafted	Reviewed	Typist	Proofed	Submitted	Jacketed	Required
	04/22/99	04/22/99		....			
/4			hhagen 04/23/99	_____	lrb_docadmin 04/23/99	lrb_docadmin 04/29/99	

FE Sent For: **5/25/99**

<END>

LRB-2228

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/3	rmarchan 04/7/99 rmarchan	wjackson 04/7/99 wjackson	jfrantze 04/8/99	_____ _____	lrb_docadmin 04/8/99		S&L

Vers.	Drafted	Reviewed	Typist	Proofed	Submitted	Jacketed	Required
	04/22/99	04/22/99		_____			
/4			hhagen 04/23/99	_____	lrb_docadmin 04/23/99		

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Drafter: **rmarchan**

May Contact:

Alt. Drafters: **kuesejt**

Subject: **Elections - miscellaneous**

Extra Copies: *Chad Taylor in Rep. Jensens office*

Pre Topic:

No specific pre topic given

Topic:

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Instructions:

(See attached)

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/3	rmarchan 04/7/99	wjackson 04/7/99	jfrantze 04/8/99	_____	lrb_docadmin 04/8/99		

/4 wlj 4|22   4|22   4|23

1999 DRAFTING REQUEST

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For: **Robert Welch (608) 266-0751**   By/Representing: **Les Wakefield**

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May Contact: Alt. Drafters: **kuesejt**

Subject: **Elections - miscellaneous**   Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Recount fees and security

Instructions:

(See attached)

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/?	rmarchan 03/16/99	wjackson 03/17/99		_____ _____			S&L
/1			jfrantze 03/19/99	_____ _____	lrb_docadmin 03/19/99		S&L
/2	rmarchan 03/30/99	wjackson 03/30/99	ismith 03/31/99	_____ _____	lrb_docadmin 03/31/99		

/3 4|7 wLj

FE Sent For: _____

1999 DRAFTING REQUEST

Bill

Received: **02/12/99**

Wanted: **As time permits**

For: **Robert Welch (608) 266-0751**

This file may be shown to any legislator: **NO**

May Contact:

Subject: **Elections - miscellaneous**

Received By: **kuesejt**

Identical to LRB:

By/Representing: **Les Wakefield**

Drafter: **rmarchan**

Alt. Drafters: **kuesejt**

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Instructions:

(See attached)

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/?	rmarchan 03/16/99	wjackson 03/17/99		_____ _____			S&L
/1			jfrantze 03/19/99 *IS 3/31/99*	_____ _____ *IS/CHH 3/21/99*	lrb_docadmin 03/19/99		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **02/12/99**   Received By: **kuesejt**

Wanted: **As time permits**   Identical to LRB:

For: **Welch (608) 266-0751**   By/Representing: **Les Wakefield**

This file may be shown to any legislator: **NO**   Drafter: **rmarchan**

May Contact: Alt. Drafters: **kuesejt**

Subject: **Elections - miscellaneous**   Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Recount fees and security

Instructions:

(See attached)

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	rmarchan	/1 wlj 3/17					
		/1 jtg 3/17	3/19		3/19		

FE Sent For:

<END>

Amend Chapter 9, Wisconsin Statutes, 9.01 (1) to read as follows:

9.01 Recount. (1) (a-g)

2. If the difference between the votes cast for the leading candidate and those cast for the petitioner or the difference between the affirmative and negative votes cast upon any referendum questions is at least 10 if 1,000 or less votes are cast or at least .5% if more than 1,000 votes are cast, **the petitioner shall pay all actual and attributable recount costs (as determined by the state elections board and the county or municipal clerk) for each ward for which the petition requests a ballot recount, or the actual and attributable recount costs for each municipality (as determined by the state elections board and municipal clerk) where no wards exist.**

3. **A deposit or bond equal to 50% of the anticipated recount costs shall be paid to the state elections board or the county or municipal clerk, or all** fees shall be prepaid in cash or another form of payment which is acceptable to the officer to whom they are paid. No petition for which a fee is required is valid unless the proper fee is paid **or deposit on bond posted at the time of filing. If a deposit or bond is posted to initiate a recount, the balance or remainder of applicable costs shall be due and payable by the petitioner within thirty (30) days of notification of the amount due by the state elections board or the county or municipal clerk.**

Jeff –

Senator Robert Welch would like to have this language drafted into a Senate Bill. If you have any questions, call her Wakefield 266-0751 in Room 404 –

Preliminary Draft – Not Ready For Introduction

1   AN ACT ..; **relating to:** payment and amount of fees for recount of elections.

Analysis by the Legislative Reference Bureau

Under current law, a person requesting a recount of an election generally must pay a fee of $5 for each ward for which a recount is requested and $5 for each municipality where no wards exist. However, current law does not require a fee if the difference between the leading candidate and the petitioner or the affirmative and negative referendum questions was less than 10 votes, if 1,000 or less votes were cast, or less than 0.5% of the total votes cast, if greater than 1,000 votes were cast. A petitioner must pay any fee in full at the time he or she files the petition.

This bill changes the amount of this fee to equal the actual cost of performing the recount. In addition, this bill changes the procedure for paying this fee, allowing a petitioner 5 days after filing the petition to either pay the entire estimated fee in full or post a bond equal to 50% of the estimated fee. This bill retains the current fee exemption for certain close elections and creates a similar exemption from the bonding requirements.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:*

2   SECTION 1. 9.01 (1) (a) of the statutes is amended to read:

1   9.01 **(1)** (a) Any candidate voted for at any election or any elector who voted

2   upon any referendum question at any election may request a recount. The petitioner

3   shall file a verified petition or petitions ~~accompanied by the fee prescribed in par.~~

4   ~~(ag), if any,~~ with the proper clerk or body under par. (ar) not earlier than the time of

5   completion of the canvass and not later than 5 p.m. on the 3rd business day following

6   the last meeting day of the municipal or county board of canvassers determining the

7   election for that office or on that referendum question or, if more than one board of

8   canvassers makes the determination not later than 5 p.m. on the 3rd business day

9   following the last meeting day of the last board of canvassers which makes a

10   determination. If the chairperson of the board makes the determination for the office

11   or the referendum question, the petitioner shall file the petition not earlier than the

12   last meeting day of the last county board of canvassers to make a statement in the

13   election or referendum and not later than 5 p.m. on the 3rd business day following

14   the day on which the elections board receives the last statement from a county board

15   of canvassers for the election or referendum. Each verified petition shall state that

16   at the election the petitioner was a candidate for the office in question or that he or

17   she voted on the referendum question in issue; that the petitioner is informed and

18   believes that a mistake or fraud has been committed in a specified ward or

19   municipality in the counting and return of the votes cast for the office or upon the

20   question; or shall specify any other defect, irregularity or illegality in the conduct of

21   the election. The petition shall specify each ward, or each municipality where no

22   wards exist, in which a recount is desired. If a recount is requested for all wards

23   within a jurisdiction, each ward need not be specified. The petition may be amended

24   to include information discovered as a result of the investigation of the board of

25   canvassers or chairperson of the board after the filing of the petition, if the petitioner

1   moves to amend the petition as soon as possible after the petitioner discovered or

2   reasonably should have discovered the information which is the subject of the

3   amendment and the petitioner was unable to include information in the original

4   petition.

5   SECTION 2. 9.01 (1) (ad) of the statutes is created to read:

6   9.01 **(1)** (ad) Upon receiving a petition for a recount, the clerk or body receiving

7   the petition shall reasonably estimate ~~the~~ any fee due under par. (ag). The clerk or body

8   shall provide the petitioner with the estimate ~~before the 3rd business day after the~~

9   ~~filing of the petition~~ promptly.

10   SECTION 3. 9.01 (1) (ag) 1. of the statutes is amended to read:

11   9.01 **(1)** (ag) 1. ~~Each petition for a recount shall be accompanied by the fee~~

12 ~~prescribed in this paragraph.~~ If the difference between the votes cast for the leading

13 candidate and those cast for the petitioner or the difference between the affirmative

14 and negative votes cast upon any referendum question is less than 10 if 1,000 or less

15 votes are cast or less than ~~.5%~~ 0.5% of the total votes cast for the office or on the

16 question if more than 1,000 votes are cast, the petitioner is not required to pay a fee.

17   SECTION 4. 9.01 (1) (ag) 2. of the statutes is amended to read:

18   9.01 **(1)** (ag) 2. If the difference between the votes cast for the leading candidate

19 and those cast for the petitioner or the difference between the affirmative and

20 negative votes cast upon any referendum question is at least 10 if 1,000 or less votes

21 are cast or at least ~~.5%~~ 0.5% if more than 1,000 votes are cast, the petitioner shall

22 pay a fee ~~of $5 for~~ equal to the actual cost of performing the recount in each ward for

23 which the petition requests a ballot recount, or ~~$5 for~~ equal to the actual cost of

24 performing the recount in each municipality where no wards exist. The clerk or body

25 receiving the petition shall determine the fee due under this subdivision. underscore period

1   **SECTION 5.** 9.01 (1) (ag) 2m. of the statutes is created to read:

2   9.01 **(1)** (ag) 2m. Except as provided under subd. *[2s.]*, the petitioner shall provide

3   the clerk or body receiving the petition with a bond furnished by a surety company

4   authorized to do business in this state. The bond *[or a deposit]* shall be equal to 50% of the fee

5   estimated under par. (ad). The petitioner shall provide the bond *[or deposit]* ~~before the 6th~~

6   *[upon]* ~~business day after~~ filing the petition. *[letter]*

7   **SECTION 6.** 9.01 (1) (ag) ~~2~~ *[2s.]* of the statutes is ~~amended~~ *[created]* to read:

8   9.01 **(1)** (ag) ~~2.~~ *[2s.]* ~~All fees shall be prepaid.~~ Subdivision 2m. does not apply if the

9   petitioner ~~...~~ pays the fee estimated

10   under par. (ad) ~~or if there is no estimated fee. A payment under this subdivision shall~~

11   ~~be in cash or another form of payment which is acceptable to the officer to whom the~~ *[payment]*

12   ~~the estimated fee is paid. No petition for which a fee is required is valid unless~~

13   ~~the proper fee is paid at the time of filing.~~

14   **SECTION 7.** 9.01 (1) (ag) 3m. of the statutes is created to read:

15   9.01 **(1)** (ag) 3m. The petitioner shall pay any balance owing toward the fee due

16   under subd. 2. within 30 days after the clerk or body receiving the petition ~~notifies~~ *[provides]*

17   the petitioner *[with a written statement]* of the amount due.

18   **SECTION 8.** 9.01 (1) (ar) 3. of the statutes is amended to read:

19   9.01 **(1)** (ar) 3. Upon receipt of a valid petition and any ~~minimum~~ bond *[or deposit]*

20   required under ~~...~~ *[par. (ag) 2m. or payment under par. (ag) 2s.]* the clerk shall thereupon notify the proper board of

21   canvassers. ~~Upon receipt of~~ *[Whenever the board receives]* a valid petition and any ~~minimum~~ bond *[or deposit]* required under par. (ag) 2m.

22   ~~required under ... the board~~ the board shall promptly by certified mail or other expeditious

23   means order the proper county boards of canvassers to commence the recount.

24   County boards of canvassers shall convene no later than 9 a.m. on the day following

25   receipt of an order and may adjourn for not more than one day at a time until the

1   recount is completed in the county, except that the board may permit extension of the

2   time for adjournment. Returns from a recount ordered by the board shall be

3   transmitted to the office of the board as soon as possible, but in no case later than

4   13 days from the date of the order of the board directing the recount. The chairperson

5   of the board may not make a determination in any election if a recount is pending

6   before any county board of canvassers in that election. The chairperson of the board

7   need not recount actual ballots, but shall verify the returns of the county boards of

8   canvassers in making his or her determinations.

History: 1971 c. 251; 1971 c. 304 s. 29 (2); 1971 c. 336; 1973 c. 313; 1973 c. 334 ss. 23 to 26, 57; 1975 c. 41, 422; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 200; 1979 c. 260 ss. 66 to 68, 93; 1979 c. 311, 355; 1983 a. 183; 1983 a. 484 s. 172 (2); 1983 a. 538; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1991 a. 213; 1997 a. ...

9   **SECTION 9. Initial applicability.**

10   (1) This act first applies to petitions for recounts filed on the effective date of

11   this subsection.

12   **(END)**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–2228/1dn
RJM:/.....

WLJ
+
Jg

prompty

deposit or

1. Under this draft, the recount fee is unknown at the time of filing because the fee is the actual cost of the recount. Thus, under the proposed s. 9.01 (1) (ad), the appropriate clerk or body must provide a petitioner with a reasonable estimate of this fee within 30 days after the petition is filed. Then, within 5 days after filing the petition, the candidate or elector must either pay the estimated fee in full or post a bond equal to 50% of the estimated fee. Please review the timeline for this procedure and let me know if the procedure is inconsistent with your intent.

2. It was not clear to me whether you intended to require a petitioner to post a bond at the time of filing or intended to allow a petitioner to make a deposit, instead? This draft allows a petitioner to post a bond but not a deposit. Please let me know if I have misunderstood your intent.

2. The bond allowed under this draft is equal to 50% of the estimated fee. This bond would not ensure that the fee is paid in full, if the petitioner fails to pay. In effect, the petitioner would be receiving unsecured credit equal to 50% of the estimated recount fee. Please let me know if you would like any changes to this bond requirement.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261–4454
E–mail: Robert.Marchant@legis.state.wi.us

λ AM; 9.01(1)(ag)3.

RULINGS.

Insert 4-13

A payment under this paragraph shall be

9.01 (1) (ag)3. All fees shall be prepaid in cash or another form of payment which is acceptable to the officer to whom they are paid. No petition for which a fee is required is valid unless the proper fee is paid at the time of filing.

the payment is

March 18, 1999

1. Under this draft, the recount fee is unknown at the time of filing because the fee is the actual cost of the recount. Thus, under the proposed s. 9.01 (1) (ad), the appropriate clerk or body must promptly provide a petitioner with a reasonable estimate of this fee after the petition is filed. Then, the candidate or elector must either pay the estimated fee in full or post a deposit or bond equal to 50% of the estimated fee. Please review the timeline for this procedure and let me know if the procedure is inconsistent with your intent.

2. The deposit or bond allowed under this draft is equal to 50% of the estimated fee. This bond would not ensure that the fee is paid in full, if the petitioner fails to pay. In effect, the petitioner would be receiving unsecured credit equal to 50% of the estimated recount fee. Please let me know if you would like any changes to this bond requirement.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261–4454
E–mail: Robert.Marchant@legis.state.wi.us

Marchant, Robert

From:	Wakefield, Les
Sent:	Friday, March 26, 1999 4:49 PM
To:	Marchant, Robert; Taylor, Chad
Subject:	LRB 2228 Recount Fees and Security

I have just spoken with the Speaker's Office regarding this draft. I want to make sure that the following percentages are used in a "tiered" manner to direct costs for a recount;

    A) Within .025% -- free
    B) Up to 1% --- $5 per ward
    C) Over 1% --- the actual cost of the recount.

I am not sure if this staggering occurs in the bill as currently drafted; if not could you incorporate the language changes necessary for this to be included in the draft.

1999   BILL

1   AN ACT *to amend* 9.01 (1) (a), 9.01 (1) (ag) 1., 9.01 (1) (ag) 2., 9.01 (1) (ag) 3. and

2   9.01 (1) (ar) 3.; and *to create* 9.01 (1) (ad), 9.01 (1) (ag) 2m., 9.01 (1) (ag) 2s. and

3   9.01 (1) (ag) 3m. of the statutes; **relating to:** payment and amount of fees for

4   recounts of elections.

Analysis by the Legislative Reference Bureau

Under current law, a person requesting a recount of an election generally must pay a fee of $5 for each ward for which a recount is requested and $5 for each municipality where no wards exist. However, current law does not require a fee if the difference between the leading candidate and the petitioner or the affirmative and negative vote on a referendum was less than ten votes, if 1,000 or less votes were cast, or less than 0.5% of the total votes cast, if greater than 1,000 votes were cast. A petitioner must pay any fee in full at the time he or she files the petition.

This bill changes the amount of this fee to equal the actual cost of performing the recount. In addition, this bill changes the procedure for paying this fee, allowing a petitioner five days after filing the petition to either pay the entire estimated fee in full or post a deposit or bond equal to 50% of the estimated fee. This bill does not require a deposit or bond in the circumstances where no fee is required currently.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1   **SECTION 1.** 9.01 (1) (a) of the statutes is amended to read:

2   9.01 **(1)** (a) Any candidate voted for at any election or any elector who voted

3   upon any referendum question at any election may request a recount. The petitioner

4   shall file a verified petition or petitions ~~accompanied by the fee prescribed in par.~~

5   ~~(ag), if any,~~ with the proper clerk or body under par. (ar) not earlier than the time of

6   completion of the canvass and not later than 5 p.m. on the 3rd business day following

7   the last meeting day of the municipal or county board of canvassers determining the

8   election *for that office or on that referendum question or, if more than one board of*

9   canvassers makes the determination not later than 5 p.m. on the 3rd business day

10   following the last meeting day of the last board of canvassers which makes a

11   determination. If the chairperson of the board makes the determination for the office

12   or the referendum question, the petitioner shall file the petition not earlier than the

13   last meeting day of the last county board of canvassers to make a statement in the

14   election or referendum and not later than 5 p.m. on the 3rd business day following

15   the day on which the elections board receives the last statement from a county board

16   of canvassers for the election or referendum. Each verified petition shall state that

17   at the election the petitioner was a candidate for the office in question or that he or

18   she voted on the referendum question in issue; that the petitioner is informed and

19   believes that a mistake or fraud has been committed in a specified ward or

20   municipality in the counting and return of the votes cast for the office or upon the

21   question; or shall specify any other defect, irregularity or illegality in the conduct of

1999 – 2000 Legislature   – 3 –   LRB–2228/1
RJM&JTK:wlj&jlg:jf
BILL   SECTION 1

1   the election. The petition shall specify each ward, or each municipality where no

2   wards exist, in which a recount is desired. If a recount is requested for all wards

3   within a jurisdiction, each ward need not be specified. The petition may be amended

4   to include information discovered as a result of the investigation of the board of

5   canvassers or chairperson of the board after the filing of the petition, if the petitioner

6   moves to amend the petition as soon as possible after the petitioner discovered or

7   reasonably should have discovered the information which is the subject of the

8   amendment and the petitioner was unable to include information in the original

9   petition.

10   SECTION 2. 9.01 (1) (ad) of the statutes is created to read:

11   9.01 **(1)** (ad) Upon receiving a petition for a recount, the clerk or body receiving

12   the petition shall reasonably estimate any fee due under par. (ag). The clerk or body

13   shall provide the petitioner promptly with the estimate.

14   SECTION 3. 9.01 (1) (ag) 1. of the statutes is amended to read:

15   9.01 **(1)** (ag) 1. ~~Each petition for a recount shall be accompanied by the fee~~

16   ~~prescribed in this paragraph.~~ If the difference between the votes cast for the leading

17   candidate and those cast for the petitioner or the difference between the affirmative

18   and negative votes cast upon any referendum question is ~~less than 10 if 1,000 or less~~

       not more   *0.025%*

19   ~~votes are cast or less~~ than .5% ~~.25%~~ of the total votes cast for the office or on the

20   question ~~if more than 1,000 votes are cast~~, the petitioner is not required to pay a fee.

21   SECTION 4. 9.01 (1) (ag) 2. of the statutes is amended to read:

22   9.01 **(1)** (ag) 2. If the difference between the votes cast for the leading candidate

23   and those cast for the petitioner or the difference between the affirmative and

24   negative votes cast upon any referendum question is ~~at least 10 if 1,000 or less votes~~

25   ~~are cast or at least .5% .25%~~ ~~if more than 1,000 votes are cast~~, the petitioner shall

           1%

           more than ONE PERCENT

INSERT 3-21

1   pay a fee ~~of $5 for~~ equal to the actual cost of performing the recount in each ward for

2   which the petition requests a ballot recount, or ~~$5 for~~ equal to the actual cost of

3   performing the recount in each municipality where no wards exist. The clerk or body

4   receiving the petition shall determine the fee due under this subdivision.

5   **SECTION 5.** 9.01 (1) (ag) 2m. of the statutes is created to read:

6   9.01 **(1)** (ag) 2m. Except as provided under subd. 2s., if the petitioner is required

⑦   to pay a fee under subd. 2., the petitioner shall provide the clerk or body receiving

8   the petition with a bond furnished by a surety company authorized to do business in

9   this state or a deposit. The bond or deposit shall be equal to 50% of the fee estimated

10   under par. (ad). The petitioner shall provide the bond or deposit upon filing the

11   petition.

12   **SECTION 6.** 9.01 (1) (ag) 2s. of the statutes is created to read:

13   9.01 **(1)** (ag) 2s. Subdivision 2m. does not apply if the petitioner pays any fee

14   estimated under par. (ad).

15   **SECTION 7.** 9.01 (1) (ag) 3. of the statutes is amended to read:

16   9.01 **(1)** (ag) 3. ~~All fees shall be prepaid~~ A payment under this paragraph shall

17   be in cash or another form of payment which is acceptable to the officer to whom ~~they~~

18   ~~are~~ the payment is paid. ~~No petition for which a fee is required is valid unless the~~

19   ~~proper fee is paid at the time of filing.~~

20   **SECTION 8.** 9.01 (1) (ag) 3m. of the statutes is created to read:

21   9.01 **(1)** (ag) 3m. The petitioner shall pay any balance owing toward the fee due

㉒   under subd. 2. within 30 days after the clerk or body receiving the petition provides

23   the petitioner with a written statement of the amount due.

24   **SECTION 9.** 9.01 (1) (ar) 3. of the statutes is amended to read:

Whenever a clerk receives

1   9.01 (1) (ar) 3. ~~Upon receipt of~~ a valid petition and any bond or deposit required

2   under par. (ag) 2m. or payment under par. (ag) 2s., the clerk shall thereupon notify

3   the proper board of canvassers. ~~Upon receipt of~~ Whenever the board receives a valid

4   petition ~~by the board~~ and any bond or deposit required under par. (ag) 2m. or

5   payment under par. (ag) 2s., the board shall promptly by certified mail or other

6   expeditious means order the proper county boards of canvassers to commence the

7   recount. County boards of canvassers shall convene no later than 9 a.m. on the day

8   following receipt of an order and may adjourn for not more than one day at a time

9   until the recount is completed in the county, except that the board may permit

10   extension of the time for adjournment. Returns from a recount ordered by the board

11   shall be transmitted to the office of the board as soon as possible, but in no case later

12   than 13 days from the date of the order of the board directing the recount. The

13   chairperson of the board may not make a determination in any election if a recount

14   is pending before any county board of canvassers in that election. The chairperson

15   of the board need not recount actual ballots, but shall verify the returns of the county

16   boards of canvassers in making his or her determinations.

17   **SECTION 10. Initial applicability.**

18   (1) This act first applies to petitions for recounts filed on the effective date of

19   this subsection.

20   **(END)**

ANALYSIS

This bill changes the amount of this fee, depending upon the difference in votes between the leading candidate and the petitioner or the affirmative and negative vote on a referendum. This bill does not require a fee, if the difference in votes is 0.025% or less. If the difference in votes is more than 0.025% but not more than *1%*, the fee under this bill is $5 per ward and $5 per municipality where no wards exist. If the difference in votes is greater than *1%*, the fee under this bill is the actual cost of performing the recount.

In addition, this bill changes the procedure for paying this fee, allowing a petitioner five days after filing the petition, to either pay the entire estimated fee in full or post a deposit or bond equal to 50% of the estimated fee. This bill does not require a deposit or bond in the circumstances where no fee is required.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

3-21

Section 1. 9.01 (1) (ag) 1m. of the statutes is created to read:

9.01 (1) (ag) 1m. If the difference between the votes cast for the leading candidate and those cast for the petitioner or the difference between the affirmative and negative votes cast upon any referendum question is more than 0.025% but not more than 1%, the petitioner shall pay a fee of $5 for each ward for which the petition requests a ballot recount, or $5 for each municipality where no wards exist. The clerk or body receiving the petition shall determine the fee due under this subdivision.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–2228/2dn
RJM&JTK:*l*:...

wlj

Attached is the requested redraft of LRB–2228/1, creating a three–tiered fee schedule for election recounts. Please note that under current law no fee is required for elections where the difference in votes is less than ~~10~~ *ten* and 1,000 or less votes are cast. By eliminating this fee exemption and by requiring a fee whenever the difference in votes is greater than 0.025% of the total votes cast, this bill effectively requires a fee in every election where less than 4,000 votes are cast. Under this bill, a free recount of an election where less than 4,000 votes are cast is only possible if less than ~~1~~ *one* vote separates the winner and the petitioner. If this result is not consistent with your intent, please contact me.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261–4454
E–mail: Robert.Marchant@legis.state.wi.us

March 31, 1999

Attached is the requested redraft of LRB–2228/1, creating a three–tiered fee schedule for election recounts. Please note that under current law no fee is required for elections where the difference in votes is less than ten and 1,000 or less votes are cast. By eliminating this fee exemption and by requiring a fee whenever the difference in votes is greater than 0.025% of the total votes cast, this bill effectively requires a fee in every election where less than 4,000 votes are cast. Under this bill, a free recount of an election where less than 4,000 votes are cast is only possible if less than one vote separates the winner and the petitioner. If this result is not consistent with your intent, please contact me.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261–4454
E–mail: Robert.Marchant@legis.state.wi.us

3

~~Soon~~

1999 BILL

~~RMR~~

re-gen. cat

1   AN ACT ~~Regen~~ *to amend* 9.01 (1) (a), 9.01 (1) (ag) 1., 9.01 (1) (ag) 2., 9.01 (1) (ag) 3. and

2   9.01 (1) (ar) 3.; and *to create* 9.01 (1) (ad), 9.01 (1) (ag) 1m., 9.01 (1) (ag) 2e., 9.01

3   (1) (ag) 2m., 9.01 (1) (ag) 2s. and 9.01 (1) (ag) 3m. of the statutes; **relating to:**

4   payment and amounts of fees for recounts of elections.

Analysis by the Legislative Reference Bureau

Under current law, a petitioner requesting a recount of an election generally must pay a fee of five dollars for each ward for which a recount is requested and five dollars for each municipality where no wards exist. However, current law does not require a fee if the difference between the leading candidate and the petitioner or the affirmative and negative vote on a referendum was less than ten votes, if 1,000 or less votes were cast, or less than 0.5% of the total votes cast, if greater than 1,000 votes were cast. A petitioner must pay any fee in full at the time he or she files the petition.

INSERT ANALYSIS

~~This bill changes the amount of this fee, depending upon the difference in votes between the leading candidate and the petitioner or the affirmative and negative vote on a referendum.~~ This bill does not require a fee if the difference in votes is 0.025% or less. If the difference in votes is more than 0.025% but not more than 1%, the fee under this bill is five dollars per ward and five dollars per municipality where no wards exist. If the difference in votes is greater than 1%, the fee under this bill is the actual cost of performing the recount.

In addition, this bill changes the procedure for paying this fee, allowing a petitioner, upon filing a petition, to either pay the entire estimated fee in full or post

BILL

a deposit or bond equal to 50% of the estimated fee. This bill does not require a deposit or bond in the circumstances where no fee is required.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1   **SECTION 1.** 9.01 (1) (a) of the statutes is amended to read:

2   9.01 **(1)** (a) Any candidate voted for at any election or any elector who voted

3 upon any referendum question at any election may request a recount. The petitioner

4 shall file a verified petition or petitions ~~accompanied by the fee prescribed in par.~~

5 ~~(ag), if any,~~ with the proper clerk or body under par. (ar) not earlier than the time of

6 completion of the canvass and not later than 5 p.m. on the 3rd business day following

7 the last meeting day of the municipal or county board of canvassers determining the

8 election for that office or on that referendum question or, if more than one board of

9 canvassers makes the determination not later than 5 p.m. on the 3rd business day

10 following the last meeting day of the last board of canvassers which makes a

11 determination. If the chairperson of the board makes the determination for the office

12 or the referendum question, the petitioner shall file the petition not earlier than the

13 last meeting day of the last county board of canvassers to make a statement in the

14 election or referendum and not later than 5 p.m. on the 3rd business day following

15 the day on which the elections board receives the last statement from a county board

16 of canvassers for the election or referendum. Each verified petition shall state that

17 at the election the petitioner was a candidate for the office in question or that he or

18 she voted on the referendum question in issue; that the petitioner is informed and

19 believes that a mistake or fraud has been committed in a specified ward or

20 municipality in the counting and return of the votes cast for the office or upon the

1   question; or shall specify any other defect, irregularity or illegality in the conduct of

2   the election. The petition shall specify each ward, or each municipality where no

3   wards exist, in which a recount is desired. If a recount is requested for all wards

4   within a jurisdiction, each ward need not be specified. The petition may be amended

5   to include information discovered as a result of the investigation of the board of

6   canvassers or chairperson of the board after the filing of the petition, if the petitioner

7   moves to amend the petition as soon as possible after the petitioner discovered or

8   reasonably should have discovered the information which is the subject of the

9   amendment and the petitioner was unable to include information in the original

10   petition.   *Calculate any fee due under par. (ag) 1m. or*

11   **SECTION 2.** 9.01 (1) (ad) of the statutes is created to read: *a*

12   9.01 **(1)** (ad) Upon receiving a petition for a recount, the clerk or body receiving

13   the petition shall reasonably estimate any fee due under par. (ag). The clerk or body

14   shall provide the petitioner promptly with the *total due or* estimate.

15   **SECTION 3.** 9.01 (1) (ag) 1. of the statutes is amended to read:

16   9.01 **(1)** (ag) 1. ~~Each petition for a recount shall be accompanied by the fee~~

17   ~~prescribed in this paragraph.~~ If the difference between the votes cast for the leading

18   candidate and those cast for the petitioner or the difference between the affirmative

19   and negative votes cast upon any referendum question is less than 10 if 1,000 or less

20   ~~votes are cast or~~ less *not more* than ~~.5%~~ *0.25%* of the total votes cast for the office

21   or on the question if more than 1,000 votes are cast, the petitioner is not required to

22   pay a fee.

23   **SECTION 4.** 9.01 (1) (ag) 1m. of the statutes is created to read:

24   9.01 **(1)** (ag) 1m. If the difference between the votes cast for the leading

25   candidate and those cast for the petitioner or the difference between the affirmative

1999 – 2000 Legislature   – 4 –   LRB–2228/2
RJM&JTK:wlj:ijs
BILL   **SECTION 4**

[handwritten: if more than 1,000 votes are cast]

[handwritten: at least 10, if 1,000 or less votes are cast, or is]

[handwritten: 0.25%]

1   and negative votes cast upon any referendum question is more than ~~0.025%~~ but not

2   more than 1%, the petitioner shall pay a fee of $5 for each ward for which the petition

3   requests a ballot recount, or $5 for each municipality where no wards exist.

4   **SECTION 5.** 9.01 (1) (ag) 2. of the statutes is amended to read:

5   9.01 **(1)** (ag) 2. If the difference between the votes cast for the leading candidate

6   and those cast for the petitioner or the difference between the affirmative and

7   negative votes cast upon any referendum question is ~~at least 10 if 1,000 or less votes~~

8   ~~are cast or at least .5%~~ ~~if more than 1,000 votes are cast~~ *[handwritten: shall plain]* more than 1% the petitioner

9   shall pay a fee ~~of $5 for~~ equal to the actual cost of performing the recount in each ward

10   for which the petition requests a ballot recount, or ~~$5 for~~ equal to the actual cost of

11   performing the recount in each municipality where no wards exist.

12   **SECTION 6.** 9.01 (1) (ag) 2e. of the statutes is ~~created~~ to read:

13   9.01 **(1)** (ag) 2e. ~~The clerk or body receiving the petition shall determine~~ the fee

14   ~~due under~~ this subdivision.

15   **SECTION 7.** 9.01 (1) (ag) 2m. of the statutes is created to read:

16   9.01 **(1)** (ag) 2m. Except as provided under subd. 2s., if the petitioner is required

17   to pay a fee under subd. 1m. or 2., the petitioner shall provide the clerk or body

18   receiving the petition with a bond furnished by a surety company authorized to do

19   business in this state or a deposit. The bond or deposit shall be equal to 50% of the

20   fee estimated under par. (ad). The petitioner shall provide the bond or deposit upon

21   filing the petition.

22   **SECTION 8.** 9.01 (1) (ag) 2s. of the statutes is created to read:

23   9.01 **(1)** (ag) 2s. Subdivision 2m. does not apply if the petitioner pays any fee

24   estimated under par. (ad).

25   **SECTION 9.** 9.01 (1) (ag) 3. of the statutes is amended to read:

[handwritten: INSERT 4–25 ✓]

1   ~~9.01 **(1)** (ag) 3. All fees shall be prepaid~~ A payment under this paragraph shall

2   be in cash or another form of payment ~~which is~~ acceptable to the officer to whom ~~they~~

3   ~~are~~ the payment is paid. ~~No petition for which a fee is required is valid unless the~~

4   ~~proper fee is paid at the time of filing.~~

5   **SECTION 10.** 9.01 (1) (ag) 3m. of the statutes is created to read:

6   9.01 **(1)** (ag) 3m. The petitioner shall pay any balance owing toward the fee due

7   under subd. 2. within 30 days after the clerk or body receiving the petition

8   provides the petitioner with a written statement of the amount due. *If the petitioner has overpaid the fee due under subd. 2, the clerk or body receiving the petition shall refund the amount overpaid within 30 days after the board of canvassers makes its determination in the recount.*

9   **SECTION 11.** 9.01 (1) (ar) 3. of the statutes is amended to read:

10   9.01 **(1)** (ar) 3. ~~Upon receipt of~~ Whenever a clerk receives a valid petition and

11   any ~~bond or deposit required under par. (ag) 2m. or~~ payment under par. (ag) 3., the

12   clerk shall thereupon notify the proper board of canvassers. ~~Upon receipt of~~

13   Whenever the board receives a valid petition ~~by the board~~ and any ~~bond or deposit~~

14   ~~required under par. (ag) 2m. or~~ payment under par. (ag) 3., the board shall promptly

15   by certified mail or other expeditious means order the proper county boards of

16   canvassers to commence the recount. County boards of canvassers shall convene no

17   later than 9 a.m. on the day following receipt of an order and may adjourn for not

18   more than one day at a time until the recount is completed in the county, except that

19   the board may permit extension of the time for adjournment. Returns from a recount

20   ordered by the board shall be transmitted to the office of the board as soon as possible,

21   but in no case later than 13 days from the date of the order of the board directing the

22   recount. The chairperson of the board may not make a determination in any election

23   if a recount is pending before any county board of canvassers in that election. The

24   chairperson of the board need not recount actual ballots, but shall verify the returns

25   of the county boards of canvassers in making his or her determinations.

1   **SECTION 12. Initial applicability.**

2   (1) This act first applies to petitions for recounts filed on the effective date of

3   this subsection.

                       (END)

4

[Insert Analysis]

This bill retains the current fees for an election where 1,000 or less votes are cast. However, this bill changes the fees for other elections, depending upon the difference in votes between the leading candidate and the petitioner or the affirmative and negative vote on a referendum. If greater than 1,000 votes are cast in the election and the difference in votes is 0.25% of the total votes cast or less, this bill does not require a fee. If greater than 1,000 votes are cast in the election and the difference in votes is more than 0.25% but not more than 1% of the total votes cast, one percent the fee under this bill is five dollars per ward and five dollars per municipality where no wards exist. If greater than 1,000 votes are cast and the difference in votes is more than 1% of the total votes cast, the fee under this bill is the actual cost of performing one percent the recount. In addition, this bill requires a petitioner to pay a reasonable estimate of the fee at the time of filing and any balance within 30 days after the filing officer notifies the petitioner of the amount due.

(JWS 4-25)

SECTION 1. 9.01 (1) (ag) 3. of the statutes is amended to read:

9.01 **(1)** (ag) 3. All fees calculated or estimated under par. (ad) shall be prepaid in cash or

another form of payment which is acceptable to the officer to whom they are paid.

No petition for which a fee is required is valid unless the proper fee is paid at the time

of filing. Calculated or estimated

State of Wisconsin
1999 – 2000 LEGISLATURE

2228/4

LRB-~~2228~~

RJM&JTK:wlj:jf

(handwritten) Mon. 4-26

(handwritten) RmNR

1999 BILL

(handwritten box: Reger)

1   AN ACT *to amend* 9.01 (1) (a), 9.01 (1) (ag) 1., 9.01 (1) (ag) 2., 9.01 (1) (ag) 3. and

2   9.01 (1) (ar) 3.; and *to create* 9.01 (1) (ad), 9.01 (1) (ag) 1m. and 9.01 (1) (ag) 3m.

3   of the statutes; **relating to:** payment and amounts of fees for recounts of

4   elections. *(handwritten: and the current exemptions)*

Analysis by the Legislative Reference Bureau

Under current law, a petitioner requesting a recount of an election generally must pay a fee of five dollars for each ward for which a recount is requested and five dollars for each municipality where no wards exist. However, current law does not require a fee if the difference between the leading candidate and the petitioner or the affirmative and negative vote on a referendum was less than ten votes, if 1,000 or less votes were cast, or less than 0.5% of the total votes cast, if greater than 1,000 votes were cast. A petitioner must pay any fee in full at the time he or she files the petition.

This bill retains the current fees for *(handwritten: any)* election where 1,000 or less votes are cast. However, this bill changes the fees for other elections, depending upon the difference in votes between the leading candidate and the petitioner or the affirmative and negative vote on a referendum. ~~If greater than 1,000 votes are cast in the election and the difference in votes is 0.25% of the total votes cast or less, this bill does not require a fee.~~ If greater than 1,000 votes are cast in the election and the difference in votes is more than ~~0.25%~~ *(two)* but not more than ~~one~~ *(0.5%)* percent of the total votes cast, the fee under this bill is five dollars per ward and five dollars per municipality where no wards exist. If greater than 1,000 votes are cast and the difference in votes is more than ~~one~~ *(two)* percent of the total votes cast, the fee under this bill is the actual

(handwritten margin note: or where greater than 1,000 votes are cast and the difference in votes cast between the leading candidate and the petitioner and the affirmative or the negative vote on a referendum is 0.5% or less)

cost of performing the recount. In addition, this bill requires a petitioner to pay a reasonable estimate of the fee at the time of filing and any balance within 30 days after the filing officer notifies the petitioner of the amount due.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1   SECTION 1. 9.01 (1) (a) of the statutes is amended to read:

2   9.01 **(1)** (a) Any candidate voted for at any election or any elector who voted

3   upon any referendum question at any election may request a recount. The petitioner

4   shall file a verified petition or petitions ~~accompanied by the fee prescribed in par.~~

5   ~~(ag), if any,~~ with the proper clerk or body under par. (ar) not earlier than the time of

6   completion of the canvass and not later than 5 p.m. on the 3rd business day following

7   the last meeting day of the municipal or county board of canvassers determining the

8   election for that office or on that referendum question or, if more than one board of

9   canvassers makes the determination not later than 5 p.m. on the 3rd business day

10   following the last meeting day of the last board of canvassers which makes a

11   determination. If the chairperson of the board makes the determination for the office

12   or the referendum question, the petitioner shall file the petition not earlier than the

13   last meeting day of the last county board of canvassers to make a statement in the

14   election or referendum and not later than 5 p.m. on the 3rd business day following

15   the day on which the elections board receives the last statement from a county board

16   of canvassers for the election or referendum. Each verified petition shall state that

17   at the election the petitioner was a candidate for the office in question or that he or

18   she voted on the referendum question in issue; that the petitioner is informed and

19   believes that a mistake or fraud has been committed in a specified ward or

1   municipality in the counting and return of the votes cast for the office or upon the

2   question; or shall specify any other defect, irregularity or illegality in the conduct of

3   the election. The petition shall specify each ward, or each municipality where no

4   wards exist, in which a recount is desired. If a recount is requested for all wards

5   within a jurisdiction, each ward need not be specified. The petition may be amended

6   to include information discovered as a result of the investigation of the board of

7   canvassers or chairperson of the board after the filing of the petition, if the petitioner

8   moves to amend the petition as soon as possible after the petitioner discovered or

9   reasonably should have discovered the information which is the subject of the

10   amendment and the petitioner was unable to include information in the original

11   petition.

12   **SECTION 2.** 9.01 (1) (ad) of the statutes is created to read:

13   9.01 **(1)** (ad) Upon receiving a petition for a recount, the clerk or body receiving

14   the petition shall calculate any fee due under par. (ag) 1m. or reasonably estimate

15   any fee due under par. (ag) 2. The clerk or body shall provide the petitioner promptly

16   with the total due or estimate.

17   **SECTION 3.** 9.01 (1) (ag) 1. of the statutes is amended to read:

18   9.01 **(1)** (ag) 1. ~~Each petition for a recount shall be accompanied by the fee~~

19   ~~prescribed in this paragraph.~~ If the difference between the votes cast for the leading

20   candidate and those cast for the petitioner or the difference between the affirmative

21   and negative votes cast upon any referendum question is less than 10 if 1,000 or less

22   votes are cast or less <u>not more</u> than .5% ~~0.25%~~ 0.5% of the total votes cast for the office or

23   on the question if more than 1,000 votes are cast, the petitioner is not required to pay

24   a fee.

25   **SECTION 4.** 9.01 (1) (ag) 1m. of the statutes is created to read:

1   9.01 **(1)** (ag) 1m. If the difference between the votes cast for the leading

2   candidate and those cast for the petitioner or the difference between the affirmative

3   and negative votes cast upon any referendum question is at least 10 if 1,000 or less

(4)   votes are cast or is more than ~~0.5%~~ *0.5%* but not more than *2*% if more than 1,000 votes

5   are cast, the petitioner shall pay a fee of $5 for each ward for which the petition

(6)   requests a ballot recount, or $5 for each municipality *for which the petition requests a recount* where no wards exist.

7   **SECTION 5.** 9.01 (1) (ag) 2. of the statutes is amended to read:

8   9.01 **(1)** (ag) 2. If the difference between the votes cast for the leading candidate

9   and those cast for the petitioner or the difference between the affirmative and

10   negative votes cast upon any referendum question is ~~at least 10 if 1,000 or less votes~~

11   ~~are cast or at least .5%~~ more than *2*% if more than 1,000 votes are cast, the petitioner

12   shall pay a fee ~~of $5 for~~ equal to the actual cost of performing the recount in each ward

(13)   for which the petition requests a ~~ballot~~ recount, or ~~$5 for equal to the actual cost of~~

(14)   ~~performing the recount~~ in each municipality *for which the petition requests a recount* where no wards exist.

15   **SECTION 6.** 9.01 (1) (ag) 3. of the statutes is amended to read:

16   9.01 **(1)** (ag) 3. All fees calculated or estimated under par. (ad) shall be prepaid

17   in cash or another form of payment which is acceptable to the officer to whom they

18   are paid. No petition for which a fee is required is valid unless the proper calculated

19   or estimated fee is paid at the time of filing.

20   **SECTION 7.** 9.01 (1) (ag) 3m. of the statutes is created to read:

21   9.01 **(1)** (ag) 3m. The petitioner shall pay any balance owing toward the fee due

22   under subd. 2. within 30 days after the clerk or body receiving the petition provides

23   the petitioner with a written statement of the amount due. If the petitioner has

24   overpaid the fee due under subd. 2. the clerk or body receiving the petition shall

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RJM&JTK:wlj:jf
BILL   SECTION 7

1   refund the amount overpaid within 30 days after the board of canvassers makes its

2   determination in the recount.

3   **SECTION 8.** 9.01 (1) (ar) 3. of the statutes is amended to read:

4   9.01 **(1)** (ar) 3. ~~Upon receipt of~~ <u>Whenever a clerk receives</u> a valid petition <u>and</u>

5   <u>any payment under par. (ag) 3.</u>, the clerk shall thereupon notify the proper board of

6   canvassers. ~~Upon receipt of~~ <u>Whenever the board receives</u> a valid petition ~~by the~~

7   ~~board~~ <u>and any payment under par. (ag) 3.</u>, the board shall promptly by certified mail

8   or other expeditious means order the proper county boards of canvassers to

9   commence the recount. County boards of canvassers shall convene no later than 9

10   a.m. on the <u>second</u> day ~~following~~ <u>after</u> receipt of an order and may adjourn for not more than one

11   day at a time until the recount is completed in the county, except that the board may

12   permit extension of the time for adjournment. Returns from a recount ordered by the

13   board shall be transmitted to the office of the board as soon as possible, but in no case

14   later than 13 days from the date of the order of the board directing the recount. The

15   chairperson of the board may not make a determination in any election if a recount

16   is pending before any county board of canvassers in that election. The chairperson

17   of the board need not recount actual ballots, but shall verify the returns of the county

18   boards of canvassers in making his or her determinations.

19   **SECTION 9. Initial applicability.**

20   (1) This act first applies to petitions for recounts filed on the effective date of

21   this subsection.

22   **(END)**

SUBMITTAL FORM	LEGISLATIVE REFERENCE BUREAU
	Legal Section Telephone: 266-3561
	5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

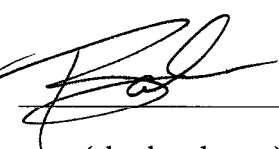**Date:** 4/23/99   **To:** Senator Welch

Relating to LRB drafting number: LRB-2228

Topic
Recount fees and security

Subject(s)
Elections - miscellaneous

1. **JACKET** the draft for introduction _____

   in the **Senate** ____ or the **Assembly** __✓__ (check only one). Only the requester under whose name the

   drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please

   allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

   A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW.** prior to introduction _____.

   If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or

   increases or decreases existing appropriations or state or general local government fiscal liability or

   revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to

   introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon

   introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to

   introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions

relating to the attached draft, please feel free to call me.

Robert J. Marchant, Legislative Attorney
Telephone: (608) 261-4454