



RICK GUNDRUM

STATE REPRESENTATIVE • 58TH ASSEMBLY DISTRICT

Testimony on Assembly Bill 360

Assembly Committee on Local Government
Wednesday, October 16, 2019 | Room 412 East

Thank you Chairman Novak and members of the committee for holding a public hearing on Assembly Bill 360 and providing me with the opportunity to testify in favor of this legislation.

AB 360 seeks to provide clarity in our statutes by establishing a fair, impartial, and straightforward procedure for verifying the results of elections for commissioners of lake protection and rehabilitation district boards (“lake districts”), in addition to creating a mechanism for conducting a recount of these elections. The section of our statutes specific to lake district commissioner elections does not speak to anything beyond the requirement that these elections coincide with the annual meeting of the lake district.

In the first annual meeting that followed the enactment of a contentious ordinance by the Big Cedar Lake Protection and Rehabilitation District Board in West Bend, the district’s electors came out in record numbers to cast their ballots in an election for two commissioner seats. One of the two seats would ultimately be decided with a margin of only five votes separating three of the candidates.

In the absence of clear statutory guidance, the Big Cedar Lake PRD decided to honor a recount petition from two of the candidates and proceeded to complete the task over the following weeks with the help of local elections officials. However, a number of residents were left unsatisfied with the process due to the circumstances surrounding the Board’s venturing into unfamiliar territory. Moreover, nothing under state law required the Board to honor the recount request.

In light of the confusion and frustration that surrounded this impassioned course of events, AB 360 seeks to clarify the area of our law pertaining to lake district commissioner elections by laying out a simple procedure for:

- conducting and allowing for observation of the initial count of the ballots;
- establishing a threshold (10 votes) and timeline for requesting a recount (before adjournment of the annual meeting);
- documenting a recount request (in the meeting minutes);
- properly preserving and transferring ballots;
- notifying the candidates of the time and location at which a recount may be observed; and,
- requiring the clerk of the most populous city, village, or town within the lake district to complete a recount and transmit the results to the lake district board secretary within two weeks.

As a final note, Senator Stroebel and I are currently working on an amendment with the municipal clerks to allow a clerk to charge a lake district for the reimbursement of costs associated with performing a recount.

Thank you for your time and consideration of Assembly Bill 360. I would be open to taking any of your questions.



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on Assembly Bill 360

October 16, 2019

Good Morning Chairman Novak and committee members. Thank you for scheduling this Public Hearing today and giving everyone the opportunity to discuss recounts in lake protection and rehabilitation board elections.

In August 2018, there was a hotly contested election for the Big Cedar Lake Protection & Rehabilitation District Board in Washington County. Due to a board action imposing limits on the number of boats allowed to launch on Big Cedar Lake, the election resulted in record turnout and a difference of only several votes between three candidates out of the hundreds that were cast. The manner in which the votes were tabulated, preserved and recounted created confusion and resentment because of the lack of statutory guidance on how to handle these circumstances.

I have constituents on both sides of the underlying issue, a few of whom are hear today to share their experiences. Current law gave no guidance as to how to proceed when a recount was requested. This testimony is not to claim which side of this dispute is correct or attack anyone's actions in the contentious election administration. Rather, I am urge the committee to support AB 360, which provides transparency and a clear process to handle any future close election for a Lake District board seat.

AB 360 requires ballots to be counted and the election results read immediately before the attendees at the annual meeting. Any candidate or designee can observe the counting of the ballots, in addition to requesting a recount prior to the adjournment of the meeting if the difference in votes cast for the top two candidates is fewer than ten.

If a recount is requested, the bill requires the secretary of the district board to note the request in the meeting minutes and enclose the ballots in a sealed, tamper-evident container, which is to be delivered to the clerk of the most populous town, village, or city within the Lake District. The clerk is then required to conduct a recount within two weeks of receiving the ballots and allow a representative of each side to observe the recount. Upon completion, the clerk is required to immediately transmit the results to the secretary of the district board.

After speaking with the municipal clerks, I am drafting an amendment to allow clerks to be reimbursed for their costs by the Lake District requesting the recount.

Thank you again for holding this hearing and I would be happy to address any questions members may have about this bill.

Assembly Bill 360 Relating to: elections to a lake protection and rehabilitation district board of commissioners.

Written testimony from Lisa Tollefson, Rock County Clerk, Vice-Chair WCCA Legislative Committee

October 16, 2019

Committee Members:

This bill gives needed guidance to the election of board commissioners for lake protection and rehabilitation districts in Chapter 33 of the state statutes. Though there are some concerns about the recount process.

If certain criteria are met, recounts would be performed by the municipal clerk of the most populous municipality in the district. No guidance beyond the recount being completed in two weeks and notifying the candidates is included in the bill.

If you look at recounts that are performed following other parts of our state statutes, you will see that recounts are not performed by one individual. They are performed by a Board of Canvassers. The clerk is often a part of that board, but they are not the sole decision maker. The clerk also ensures that the election follow state statutes from start to finish.

In the case of the lake districts the municipal clerk had nothing to do with the election until the ballots to be recounted are delivered to their office. They are being asked to legitimize an election over which they had no control. There is the potential of dumping the blame of the outcome of the election on the municipal clerk.

Some towns use a caucus system to nominate candidates for their spring elections. After the caucus is opened one of the first things done is the nomination of tellers or tabulators. The tellers are approved by a vote. Then nominations of candidates are taken. If there are more candidates nominated than open seats, then a vote is taken by secret ballot. The tabulators do the tallying in the view of everyone present. A similar open process may eliminate the request for a recount.

It is very inviting to have someone else recount the ballots, but having only one person doing a recount in a contentious race is definitely not ideal.



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October 16, 2019

TESTIMONY TO ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT SUPPORTING AB360

Thank you for the opportunity to testify today in favor of AB360. My name is Michael Engleson, and I am the Executive Director of Wisconsin Lakes. Wisconsin Lakes is a statewide non-profit conservation organization of waterfront property owners, lake users, lake associations, and lake districts who in turn represent over 80,000 citizens and property owners. We are the only statewide association of lake associations and districts.

Even without the controversy that gave birth to this bill, some sort of statutory election procedure for lake district commissioners is welcome and I applaud the authors for this effort. Chapter 33 was enacted with with some level of ambiguity built in to allow lake districts to work out some procedures on their own and in the four and a half decades of the statute, controversies have been limited. The actual powers of district commissioners are limited by the statute and it is worth noting that it is the voters of the annual meeting not the commissioners that ultimately vote to impose any taxes on properties in the district. An overly detailed voting procedure to elect commissioners is therefore not necessary, but some guidance would help districts maintain a consistent election process. What is laid out in this bill is a reasonable procedure with limited impact on the district.

The biggest burden this adds to a district is the rare occasion when a recount is requested by the loser in an election. Under the bill, a recount only occurs if the difference between winner and loser is less than 10 votes. This situation may occur more often than one might think. Several of my members reported to me that the annual meetings of their district are often sparsely attended, sometimes with less than 15, and at least in the case of a couple districts, often less than 10 voters. In those cases, the loser would almost always be able to request a recount, even if the vote is, for example, 12-3. Some of my members have suggested that rather than a firm 10 vote threshold, a recount could be requested only if the difference is within a certain percentage (e.g. 10%). We recognize that using percentages can also be problematic and that most vote disputes with a small number of voters would likely be resolved at the annual meeting itself, but did want to raise this issue for the committee's consideration. Wisconsin Lakes would, however, continue to support the bill if the 10 vote threshold remains.

Again, we appreciate the effort to clarify election procedures for districts under Ch. 33, and are pleased to offer support for AB360.

Wisconsin Lakes is a statewide non-profit conservation organization of waterfront property owners, lake users, lake associations, and lake districts who in turn represent over 80,000 citizens and property owners. For over 20 years, Wisconsin Lakes has been a powerful bipartisan advocate for the conservation, protection, and restoration of Wisconsin's lake resources.