

# Senate Election Law and Municipal Affairs Committee

*Jessica Bourque 271-2104*

**SB 44**, relative to hand counts of ballots in elections.

**Hearing Date:** January 21, 2025

**Time Opened:** 9:31 a.m. **Time Closed:** 10:01 a.m.

**Members of the Committee Present:** Senators Gray, Perkins Kwoka and Long

**Members of the Committee Absent :** Senators Lang and Rochefort

**Bill Analysis:** This bill requires a hand recount on the request of 100 registered voters in one city, town, or municipality using electronic ballot counting machines.

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**Sponsors:**  
Sen. Avard

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**Who supports the bill:** David Nelson, Al Fulchero

**Who opposes the bill:** David Scanlan, Liz Tentarelli, Kate Horigan, Margaret Byrnes, Linda Bundy, Olivia Zink, Andrew Harman

**Who is neutral on the bill:** Dan Healey, Joan Dargie

## **Summary of testimony presented in support:**

### **Senator Avard, Prime Sponsor**

- This is a constituent request.
- Would require a hand count for cities and towns that use electronic counting machines upon the request of one hundred registered voters in a town or city.

Senator Gray asked if Senator Avard wanted to speak to the accuracy of hand count vs. machine counting.

- Senator Avard said he can only speak to his experience. One year a hand count was requested by his opponent and both Senator Avard and his opponent each gained 52 votes.
- People want the ability to double-check for accuracy and transparency.

Senator Long asked if the language “that election” on line 5 of the bill references the municipality.

- Senator Avard said it did.

Senator Long said the City of Manchester has 12 wards and asked if 100 people in Manchester could ask for a hand count for the whole city.

- Senator Avard said he is amenable. He thinks it might be a good idea to have a higher number of individuals required for larger municipalities like Manchester.

Senator Gray said that the 15-day period to request a recount seems to be a problem, especially in a primary. Another issue Senator Gray can see is that depending on the percentage of the difference of votes, there are varying fees contingent on whether it is a State election or municipal election.

- Senator Avard said if they had signatures prior to the date that might help with the period to request.
- Senator Avard said he thought he put in that municipalities would pay.

Sen. Gray said that if it is a State election, the municipality wouldn't be responsible for that recount. He believes there needs to be modifications to the language to address that.

#### **Al Fulchino, Hollis**

- The 15-day language was not originally in the bill and he agrees that it should probably be changed.
- Does not believe that training hand counters is difficult.
- The coding of NH's counting machines was partially outsourced to a foreign country.
- Believes that recounts should be done for the sake of transparency.
- Confident we can keep authority over elections.
- Questioned why a machine count town can't decide to do a hand count at their own expense.
- Our elections need full transparency.

#### **Dave Nelson, Derry Town Moderator**

- Questioned the section of the law this bill would change. As it is now, this only applies to the section of law that applies to State elections. A municipal election or a school board election recount request wouldn't necessarily go to the Secretary of State, but instead would go to the town clerk or school district clerk.
- Believes that the 15-day deadline as it applies to the primaries would be difficult and some modifications of the language might needed.

#### **Summary of testimony presented in opposition:**

#### **David Scanlan, NH Secretary of State**

- Individual municipalities decide whether to use counting devices or not.
- Law says when a town decides to use a counting device then that is the method that is to be used.
- This would require cities and towns to conduct a recount upon the signatures of 100 registered voters in that town or city.
  - That is problematic because the authority of the State grants the Secretary of State as the only individual who can conduct recounts in the State; this would give that authority to towns in addition to the Secretary of State.
- The bill does not contain any standards for a town or city to conduct a recount
  - When the Secretary of State conducts recounts they use uniform procedures. Recounts are conducted in a controlled environment with trained individuals so that every recount is conducted under the same conditions.
- Believes there is plenty of opportunity to request a recount through the Secretary of State.
- The time frame could interfere with the preparation of ballots for the next election or interfere with elected officials taking office on Organization Day.
- This could affect the integrity of the ballots if dual recounts were requested by both the candidates and the voters in the town.

### **Linda Bundy, Antrim**

- Causes confusion and delays.
- Law already outlines recount procedures.
- The bill doesn't have provisions for the percent difference between the number of votes cast for individual candidates.
- This bill doesn't assign responsibility for payment of fees for the recount.
- Places undue burden on election officials and likely would make recruiting volunteers difficult.

### **Olivia Zink, Open Democracy**

- Candidates should be the only ones to request a recount which is the current law.
- The 15-day request period would cause problems, including certification and preparing ballots for the next election.
- Would like to see clarification of the language on lines 4 and 5. Currently, it could be interpreted as 100 voters from any town could request a recount. The language should be clear that it is 100 voters from the town or city where the election was held can request a recount if that is the intent.
- This bill is putting this in RSA 652:42 which is the Ballot Law Commission's rules on approving electronic ballot counting devices. She believes it should go in recount procedures which is RSA 660 instead.
- Concerned about voters having to wait 15 days to know the outcome of an election and believes voters would question the integrity of those elections.

Liz Tantarelli, League of Women Voters

- The Secretary of State's Special Committee on Voter Confidence listened to months of testimony from voters and experts and they decided that the current system of doing random audits is satisfactory.
- We know that a machine will consider a filled-out oval that is crossed out as an overvote, while in a hand count the intent of the voter will be considered.

Senator Perkins Kwoka asked if Ms. Tantarelli would like to speak to the studies about accuracy.

- Ms. Tantarelli said that one study by a Harvard professor found hand count ballots are about 8% off, and ballot counting machines were found to be about 0.5%.

### **Neutral Information Presented:**

**Dan Healey, Nashua City Clerk and NH City and Town Clerks Association**

- Many of the points he wanted to bring up have already been brought up by the speakers before him.
- 15 days to request a recount is too long.
- Local recount requests don't go to the Secretary of State, they go to the clerks of the town.
- The 100 voter language should be clarified as to which 100 voters.