

FEB 24 2003  
STATE GOVERNMENT

HOUSE FILE 278  
BY JOCHUM

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the procedures for requesting and conducting  
2 recounts of votes cast.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 278

1 Section 1. Section 43.56, unnumbered paragraph 2, Code  
2 2003, is amended by striking the unnumbered paragraph.

3 Sec. 2. Section 50.48, subsections 1, 2, and 3, Code 2003,  
4 are amended by striking the subsections and inserting in lieu  
5 thereof the following:

6 1. a. The county board of canvassers shall order a  
7 recount of the votes cast in all precincts in that county for  
8 a particular office or nomination if a written request for a  
9 recount is filed not later than five p.m. on the third day  
10 following the county board's canvass of the election in  
11 question. For elections for a state or federal office or  
12 nomination, the request shall be filed with the state  
13 commissioner of elections. Immediately upon receipt of a  
14 request for a recount in an election for a state or federal  
15 office or nomination, the state commissioner shall notify the  
16 commissioners of all counties in which votes were cast for the  
17 office or nomination for which a recount is requested. For  
18 county officers, city elections, school elections, and all  
19 other elections, except those for state or federal office, the  
20 request shall be filed with each commissioner of each county  
21 in which votes for that office or nomination were cast, or  
22 with the commissioner responsible for conducting the election  
23 if section 47.2, subsection 2, is applicable.

24 b. A recount may be requested only if the returns prepared  
25 pursuant to section 50.24, or section 43.49 in the case of a  
26 primary election, indicate that a candidate for an office or  
27 nomination was defeated or eliminated by fifty or fewer votes  
28 when fewer than five thousand votes are cast for the office or  
29 nomination or by one percent or less of the votes cast when  
30 five thousand or more votes are cast for the office or  
31 nomination, or that a political party or nonparty political  
32 organization did not retain or attain political party status  
33 by fifty or fewer votes when fewer than five thousand votes  
34 are cast or by one percent or less of the votes required to be  
35 eligible for political party status when five thousand or more

1 votes are cast.

2 c. A recount may be requested by one of the following:

3 (1) A candidate elected or defeated by fifty or fewer  
4 votes when fewer than five thousand votes are cast for the  
5 office or nomination or by one percent or less of the votes  
6 cast when five thousand or more votes are cast for the office  
7 or nomination.

8 (2) A political party or nonparty political organization  
9 that did not retain or attain political party status by fifty  
10 or fewer votes when fewer than five thousand votes are cast or  
11 by one percent or less of the votes required to be eligible  
12 for political party status when five thousand or more votes  
13 are cast. A request by a political party or a political  
14 organization must be signed by an officer of that party or  
15 organization or by the political party or nonparty political  
16 organization candidate for the office of president of the  
17 United States or governor, whichever is applicable.

18 d. If a recount is requested for an office to which more  
19 than one person was elected, the vote difference calculations  
20 shall be made using the difference between the number of votes  
21 received by the person requesting the recount and the number  
22 of votes received by the apparent winner who received the  
23 fewest votes among the apparent winners.

24 2. Immediately upon receipt of a request for a recount,  
25 the state commissioner or the commissioner receiving the  
26 written request, as applicable, shall send a copy of the  
27 request by certified mail to all candidates who received votes  
28 for the particular office or nomination for which a recount is  
29 requested. In addition, the commissioner shall notify the  
30 following persons by first-class mail or by telephone:

31 a. The chairperson of each state political party, if the  
32 office or nomination for which a recount is requested is a  
33 state or federal office.

34 b. The county chairperson of each county political party,  
35 if the office or nomination for which a recount is requested

1 is a county office.

2 c. An officer of any nonparty political organization whose  
3 candidate received votes for the office or nomination for  
4 which a recount is requested.

5 3. a. In each county that a recount has been requested,  
6 the recount shall be conducted by a board which shall consist  
7 of the following:

8 (1) A designee of the candidate who received the highest  
9 number of votes cast for that office or nomination.

10 (2) A designee of the candidate who received the second  
11 highest number of votes cast for that office or nomination.

12 (3) A designee of the candidate who requested the recount,  
13 if such candidate is not otherwise allowed to designate a  
14 board member under subparagraph (1) or (2).

15 (4) A person chosen jointly by the designees under  
16 subparagraphs (1) and (2) if subparagraph (3) does not apply.

17 b. If paragraph "a", subparagraph (3) does not apply, the  
18 commissioner shall convene the persons designated under  
19 paragraph "a", subparagraphs (1) and (2), not later than nine  
20 a.m. on the seventh day following the county board's canvass  
21 of the election in question. If those board members cannot  
22 agree on another member by eight a.m. on the ninth day  
23 following the canvass, they shall immediately so notify the  
24 chief judge of the judicial district in which the canvass is  
25 occurring, who shall appoint the other member not later than  
26 five p.m. on the eleventh day following the canvass.

27 Sec. 3. Section 50.48, subsection 4, unnumbered paragraph  
28 1, Code 2003, is amended to read as follows:

29 When all members of the recount board have been selected,  
30 the board shall undertake and complete the required recount as  
31 expeditiously as reasonably possible. The commissioner or the  
32 commissioner's designee shall supervise the handling of  
33 ballots or voting machine documents to ensure that the ballots  
34 and other documents are protected from alteration or damage.  
35 ~~The board shall open only the sealed ballot containers from~~

1 ~~the-precincts-specified-to-be-recounted-in-the-request-or-by~~  
2 ~~the-recount-board.~~ The board shall recount only the ballots  
3 which were voted and counted for the office in question,  
4 including any disputed ballots returned as required in section  
5 50.5. If an electronic tabulating system was used to count  
6 the ballots, the recount board may request the commissioner to  
7 retabulate the ballots using the electronic tabulating system.  
8 The same program used for tabulating the votes on election day  
9 shall be used at the recount unless the program is believed or  
10 known to be flawed.

11 Sec. 4. Section 50.48, subsection 4, unnumbered paragraph  
12 2, Code 2003, is amended by striking the unnumbered paragraph.

13 Sec. 5. Section 50.48, subsection 5, Code 2003, is amended  
14 to read as follows:

15 5. If the recount ~~board's-report-is~~ board reports that the  
16 abstracts prepared pursuant to the county board's canvass were  
17 incorrect as to the number of votes cast for the candidates  
18 for the office or nomination in question, in that county or  
19 district, the commissioner shall at once so notify the county  
20 board. The county board shall reconvene within three days  
21 after being so notified, and shall correct its previous  
22 proceedings.

23 Sec. 6. Section 50.49, unnumbered paragraph 4, Code 2003,  
24 is amended to read as follows:

25 The petitioners requesting the recount shall post a bond as  
26 ~~required-by-section-50-48,-subsection-2.~~ The amount of the  
27 bond shall be one thousand dollars for a public measure  
28 appearing on the ballot statewide or one hundred dollars for  
29 any other public measure. If the difference between the  
30 affirmative and negative votes cast on the public measure is  
31 less than the greater of fifty votes or one percent of the  
32 total number of votes cast for and against the question, a  
33 bond is not required. If approval by sixty percent of the  
34 votes cast is required for adoption of the public measure, no  
35 bond is required if the difference between sixty percent of

1 the total votes cast for and against the question and the  
2 number of votes cast for the losing side is less than the  
3 greater of fifty votes or one percent of the total number of  
4 votes cast. If votes cast on the question were canvassed in  
5 more than one county, the abstracts prepared by the county  
6 boards in all of those counties shall be totaled for purposes  
7 of this paragraph. If a bond is required, the bond shall be  
8 filed with the commissioner responsible for conducting the  
9 election.

10 Sec. 7. Section 50.49, Code 2003, is amended by adding the  
11 following new unnumbered paragraphs after unnumbered paragraph  
12 5:

13 NEW UNNUMBERED PARAGRAPH. After all recount proceedings on  
14 a public measure are completed and the official canvass of  
15 votes cast on the measure is corrected or completed, if  
16 necessary, any bond posted under this section shall be  
17 returned to the petitioners if the outcome of the election on  
18 the question is different as shown by the corrected or  
19 completed canvass. In all other cases, the bond shall be  
20 deposited in the election fund of the county with whose  
21 commissioner the bond was filed.

22 NEW UNNUMBERED PARAGRAPH. For purposes of this section,  
23 "public measure" includes judicial retention elections held  
24 pursuant to section 46.17.

25 EXPLANATION

26 This bill makes changes relating to procedures for  
27 requesting and conducting recounts of votes cast.

28 The bill provides that a recount may be requested only if a  
29 candidate for an office or nomination was defeated or  
30 eliminated by 50 or fewer votes when less than 5,000 votes are  
31 cast for the office or by 1 percent or less of the votes cast  
32 when 5,000 or more votes are cast for the office or nomination  
33 or if a political party or nonparty political organization did  
34 not retain or attain political party status by 50 or fewer  
35 votes required to be eligible for such status when less than

1 5,000 votes are cast or by 1 percent or less of the votes  
2 required to be eligible for such status when 5,000 or more  
3 votes are cast. A recount may be requested by a candidate  
4 elected or defeated by the required amount of votes or by the  
5 political party or nonparty political organization that failed  
6 to retain or attain political party status by the required  
7 amount of votes. The bill provides that if the recount is  
8 requested for a state or federal office, the request shall be  
9 filed with the state commissioner of elections.

10 The bill provides that the recount shall be for all  
11 precincts in which votes were cast for the office or  
12 nomination for which the recount is requested. The bill  
13 strikes the requirement that a bond be posted by the candidate  
14 requesting the recount. A bond is still required in some  
15 cases for a recount of the vote on a public measure.

16 The bill requires the state or county commissioner of  
17 elections, as applicable, to send a copy of the recount  
18 request to all candidates who received votes for the office or  
19 nomination. The bill requires the commissioner to also  
20 notify, by first-class mail or telephone, the chairperson of  
21 each state political party if the recount is a state or  
22 federal office, the chairperson of each county political party  
23 if the office is a county office, and an officer of a nonparty  
24 political organization whose candidate received votes for the  
25 office.

26 The bill provides that the recount board be composed of one  
27 designee of each of the candidates who received the highest  
28 and next highest number of votes for that office or nomination  
29 and a third designee of the candidate who requested the  
30 recount if the candidate is one who did not receive the  
31 highest or second highest number of votes. If there are only  
32 two designees, they are to jointly choose a third person.

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