

The county board of elections would then compare the tallies of voters to the tallies of cast ballots and, if they match, certify the results as the official election result. If they don't match, the county board of elections shall:

1. File a report of the discrepancy with the local grand jury; and
2. Keep all tally sheets, papers, or notes; and
3. Recommend the State Board of Elections certify the election in net result only if the difference in tallied votes exceeds the number of discrepancy within a contest or if the contest is unopposed, or to request resources for further investigation by the board.
4. When the tally sheets have been certified the clerk shall announce the results and shall furnish a certified copy of the results, on request, to any candidate or any person present.

Section 3 also requires that no voting system be left physically unattended between the close of an election and certification of the results.

Section 4:

Expands the requirements regarding opening ballot boxes to include allowing the county board of elections to open ballot boxes during the certification process.

Section 5:

Provides that after the polls are closed, a risk-limiting audit shall be performed. If the tallies match, the election may be certified. If the tallies do not match, then a full recount shall be conducted.

The State Board of Elections shall pay for any risk-limiting audit. The vendor of any machine requiring a recount will be billed for the cost of the recount.

SB 23 would have a significant negative fiscal impact on county clerks and county boards of elections.

Hand counting of ballots would require considerably more personnel, money, and other resources, depending on the number of precincts, voters in a precinct, number of races on a ballot, and number of candidates in a race.

Staffing for ballot counts by hand would be difficult and a significant expense to counties. Counties currently have a difficult time finding enough people to staff the polls during an election. Finding enough people to count paper ballots after the polls close would likely be even more difficult.

A 2019 recount occurring in Daviess County involving one race, 2 candidates, and 39 precincts, the Daviess County Board of Elections hired 19 people at \$20/hour. The hand count took a minimum of 9 hours and a maximum of 13 hours per worker at a cost of \$7,178, including \$654.98 to feed the workers. There must be enough counters hired to complete the count and certification by the deadline. In Kentucky, an election must be

certified by the county board of elections by the second Monday following the election, or, in a county containing a first-class city, by the 30th of December following the election.

SB 23 also requires that no voting system be left physically unattended between close of an election and certification of the results. Finding storage space to temporarily house the voting machines and accommodate counters during a hand count would be difficult, especially in rural counties with few warehouses or other appropriate facility. Providing 24/7 security to comply with Section 5 (16) would be a significant expense to counties. Security provided by the sheriff's office is estimated to cost \$50-\$60/hour. Many smaller counties do not have enough local law enforcement personnel to provide 24/7 security so those counties might have to hire private security or deputize additional personnel.

There was a 2018 study done by the publishers of the Election Law Journal regarding two statewide recounts in Wisconsin – the 2011 Supreme Court election and the 2016 presidential election. It was found that paper ballots originally counted with optical scanners were counted more accurately than ballots originally counted by hand.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II refers to SB 23 as introduced. There are no prior versions.

Data Source(s): LRC Staff,
Kentucky County Clerks Association,
Richard D. House, Daviess County Clerk (2019)
liebertpub.com; Election Law Journal, Learning from Recounts, June 2018

Preparer: WB (JB) **Reviewer:** KHC **Date:** 3/8/23