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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/08

SPONSOR Mora LAST UPDATED 2/14/08 HB 237/aSfI#1

SHORT TITLE Automatic Election Recounts SB \_\_\_\_\_

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB113

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Association of County Clerks (ACC)

Secretary of State (SOS)

Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Senate Floor Amendment

The Senate Floor amendment adds primary elections to the automatic recount provisions of the bill.

#### Synopsis of Bill

House Bill 237 provides for automatic recounts of certain elections; provides for recount and recheck procedures; amending, repealing and enacting sections of the election code.

Specifically, an automatic recount will occur if the top two finishers in federal or state offices in a general election are separated by less than one-half of one percent of the total votes cast for that office. If this occurs the Secretary of State, within five days of completing the state canvass, shall notify the State Canvassing Board that an automatic recount is required. It defines state office as: Governor, Lt. Governor, State Auditor, State Treasurer, Attorney General, Secretary of State, Supreme Court Justice, Court of Appeals Judge, District Judge, Magistrate Judge, PRC Commissioner, Commissioner of Public Lands, State Senator, and State Representative.

The appropriate canvassing board shall issue an order to the appropriate county clerk to convene the absent voter precinct board within no more than 10 days. The county clerk shall send notice by registered mail of the date of the recount or recheck to the district judge for the county, the absent voter precinct board members and the county chair of the political parties. The county clerk, district judge and absent voter precinct board shall meet and conduct the recount or recheck in the presence of the county clerk, district judge and any other person who may desire to be present. The absent voter precinct board shall certify the results of the recount or recheck to the Secretary of State. The term “absent voter” is added to modify the term “precinct boards” in Section 1-14-18.

### **FISCAL IMPLICATIONS**

The Secretary of State explains that since there is no funding with this bill, it will need to seek emergency funding from the Board of Finance, if there is a close election.

The Association of County Clerks points out that in Section 2. – Expenses, it does not define rate of pay, mileage to be paid, nor does it outline any forms or method of cost recovery between the counties and secretary of state.

The bill repeals two key items in the existing law that may lower costs for the recount process: (a) the appropriate canvassing board issues an order for the recount (as opposed to the current process of issuing summons—which requires hiring sheriffs to serve the summons) and (b) this order instructs only the absent voter precinct board (as opposed to the current process of all precinct workers) to handle the recount.

### **SIGNIFICANT ISSUES**

The Association of County Clerks notes that since the bill requires notification by registered letter, the board may not be fully available and the bill does not address the procedure if the absent voter precinct board is not available in its entirety. It also expresses concern that the bill opens recounts to anyone interested in attending but locations may not be able to accommodate large audiences.

The AGO adds that it is unclear whether the absent voter precinct board alone has enough staff to handle a recount. Similarly, the Association of County Clerks raises concern that the language allowing anyone to attend may be problematic as the notices sent do not account for the number of participants so location may not be adequate.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 113 is identical except it appropriates money to the “Recount Fund.”

### **TECHNICAL ISSUES**

The bill, according to the Attorney General’s Office, defines magistrate judge as a state officer even though they have traditionally been viewed a county or local political subdivision officer.

**POSSIBLE QUESTIONS**

Since this notification is by registered letter, this board may not be fully available. If the absent voter precinct board is not available in its entirety, how to proceed?

EO/mt