

# Recount possibility looms in California controllers race after canvass

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By Jim Miller

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- Recount history

Out of 4,100 statewide elections nationwide from 2000 to 2013, there have only been 23 recounts. Among the more notable ones, with total votes cast, post-recount margin of victory, and whether the recount changed the election result:

Washington governor 2004 (2,810,053): 133 votes. Election day outcome changed? Yes

Minnesota U.S. Senate seat 2008 (2,424,637): 225 votes. Outcome changed? Yes

Virginia attorney general 2013 (2,209,275): 957 votes. Outcome changed? No

They've been counting votes for three weeks in the race for California controller, and Democrat Betty Yee has gone from second place to third place, to fourth place and back to third.

As of Tuesday afternoon, she was again clinging to second place, ahead of former Assembly Speaker John A. Pérez by a mere 865 votes. Whoever survives gets a spot in the Nov. 4 runoff against Republican Ashley Swearingin.

I get text messages from people who've been following this much more closely than I am, said Yee, a member of the state Board of Equalization, downplaying any anxiety as officials finish processing more than a million vote-by-mail, provisional and damaged ballots by next Tuesday's canvassing deadline.

But even then, the vote count could continue well into the summer. The razor-thin margin separating Yee and Pérez representing just .02% of the more than 4 million votes cast in the controllers contest could

prompt one or both candidates to launch a statewide recount the first in the modern era that could cost millions and upend preparations for the Nov. 4 general election.

Rob Richie, executive director of the Center for Voting and Democracy who has studied statewide recounts around the country, said the California controllers race is among the closest finishes he has ever seen.

Most times when people ask for a recount, its not going to matter, Richie said. This is exactly where a recount matters. It could definitely change the result.

Experts, though, cautioned that recounts at any level of an election are filled with uncertainty, are potentially very expensive, and often lead to court challenges.

Jimmy Camp, a veteran California political consultant who has advised mostly Republican candidates on district-level ballot counts, called the process a crap-shoot.

It really comes down to the likelihood that there was human error in our favor vs. human error in their favor, Camp said. I would tell them, dont waste your money unless there is some problem with the (voting) machines.

Election lawyer Fredric D. Woocher called the controllers race extraordinarily close. But the cost of doing hand recounts in the states 58 counties and the imminence of the November election overseas and military ballots go out in 12 weeks are pretty daunting.

The fight for second place in the controllers contest ranks among the closest finishes of more than 4,100 statewide elections in the United States since 2000. In last years race for Virginias attorney general, which triggered a recount, Democrat Mark R. Herring ended up defeating Republican Mark Obenshain by 957 votes out of more than 2.2 million ballots.

California has had recounts in local, legislative and congressional races, but there are no records of a large-scale statewide recount. After Proposition 29 narrowly failed in June 2012, a supporter of the tobacco tax measure paid to start a recount, but quickly abandoned it.

Under California law, any voter can request a recount in any county within five days of the completion of the official canvass. The person making the request can specify the order of precincts in the recount.

People requesting the recount have to front the money to pay for each days work, but they get the money back if the recount changes the final outcome. The law, though, does not speak to whether candidates have to pay to count every precinct in a county, or if they can stop after obtaining the lead.

People could request a machine recount of the controllers votes, which involves double-checking election officials math and is much cheaper than a ballot-by-ballot hand recount. Counties set their own recount rates and a hand recount of any scope would quickly add up.

In Los Angeles County, for example, the cost of a hand recount starts at \$5,054 a day to pay for one recount board to observe the process, or \$21,158 for eight boards. A hand recount of the entire county would cost an estimated \$1 million. In Sacramento County, recount costs include \$173 per hour for staff and supervisors, \$58 per hour for a two-person accuracy board, and other charges.

There are some strategies you can employ without committing to a full recount, said political attorney Tom Hiltachk. Referring to Pérez, Hiltachk said, He will be able to do a little research and pick those places where he thinks he has the best shot.

Under state law, though, another California voter can then request a recount of their own. You can do one county and whoever is behind after that gets 24 hours to add counties. Its difficult to believe that people

wouldnt just continue to keep adding counties until youre done, Woocher said.

Parke Skelton, Yees consultant, suggested that the Yee campaign will follow Pérezs lead. While Perez did best in Los Angeles, Imperial and other counties, Yee had large margins in several Northern California counties.

Theyll be challenging in their best areas. It would be in our best interests to challenge in our best areas, Skelton said. Pérezs campaign declined to comment on a possible recount.

If there is a recount, the Pérez campaign would start with much more financial wherewithal. Pérez had \$1.8 million in his controllers account as of May 17, and \$1.2 million more in other campaign accounts. Yee had \$116,000 in her controller committee.

A supporter of either candidate also could pay for a recount. But there could be no coordination with the candidates campaigns, which would amount to an illegal campaign contribution.

Odds would come into play for both candidates in a recount, Woocher said. For every recounted ballot that helps one candidate, its likely there is another vote helping another candidate. Moreover, more than one-half of the ballots in the controllers contest were cast for candidates other than Yee or Pérez, a pattern that would continue in any recount, he said.

The irony is that the larger the number of ballots youre looking at it, the law of averages tells you they will congregate around the median. Which means a net change of zero, Woocher said.

The recount in Minnesotas November 2008 race for U.S. Senate dragged into the following spring. California law sets no time limit for recounts, but election officials have to start mailing out overseas ballots for the November election in only 12 weeks.

But before any decisions are made on a possible recount, there are about 6,000 ballots to count in Lake County, where Pérez outpolled Yee by about seven percentage points in election day results. Diane Fridley, the Lake County registrar, said Tuesday that the office plans to process 5,263 vote-by-mail ballots Thursday morning and will sometime later deal with 743 provisional and 47 damaged ballots. The office will finish its work no later than next Tuesdays deadline, said Fridley, who is on light duty following surgery and has only a skeleton staff to help with the ballot work.

Fridley said its the first time in her 36 years at the office that any statewide race could come down to Lake County. Both campaigns have been in touch and plan to have representatives in her Lakeport office on Thursday.

Were working as fast as we can, she said.

### **Controller's race vote totals**

Totals are updated on [the state elections webpage](#). As of Tuesday:

Ashley Swearengin 1,000,608 24.8%

Betty Yee 877,244 21.7%

John A. Pérez 876,379 21.7%

David Evans 848,878 21.0%

Laura Wells 230,745 5.7%

Tammy Blair 200,212 5.0%

The reporter can be reached at (916) 326-5521, [jmiller@sacbee.com](mailto:jmiller@sacbee.com) or [@jimmiller2](https://twitter.com/jimmiller2) on Twitter.