

State of Wisconsin



2017 Assembly Bill 153

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2017 WISCONSIN ACT 120

AN ACT *to amend* 9.01 (1) (a) 1., 9.01 (1) (ag) 2., 9.01 (1) (ag) 3m., 9.01 (1) (ag) 4., 9.01 (1) (ar) 3., 9.01 (1) (b) (intro.), 15.06 (10) and 20.510 (1) (g); and *to create* 9.01 (1) (a) 2. c. and 9.01 (1) (a) 5. of the statutes; **relating to:** aggrieved parties petitioning for a recount and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 9.01 (1) (a) 1. of the statutes is amended to read:

9.01 (1) (a) 1. Any candidate voted for at any election who is an aggrieved party, as determined under subd. 5., or any elector who voted upon any referendum question at any election may petition for a recount. The petitioner shall file a verified petition or petitions with the proper clerk or body under par. (ar) not earlier than the time of completion of the canvass following canvassing of any valid provisional ballots under s. 6.97 (4) and, except as provided in this subdivision, not later than 5 p.m. on the 3rd business day following the last meeting day of the municipal or county board of canvassers determining the election for that office or on that referendum question following canvassing of all valid provisional ballots or, if more than one board of canvassers makes the determination, not later than 5 p.m. on the 3rd business day following the last meeting day of the last board of canvassers which makes a determination following canvassing of all valid provisional ballots. If the commission chairperson or chairperson's designee makes the determination for the office or the referendum question, the petitioner shall file the petition not earlier than the last meeting day of the last county board of canvassers to make a statement in the

election or referendum following canvassing of all valid provisional ballots and not later than 5 p.m. on the 3rd business day following the day on which the commission receives the last statement from a county board of canvassers for the election or referendum following canvassing of all valid provisional ballots. With regard to an election for president, the petitioner shall file the petition not later than 5 p.m. on the first business day following the day on which the commission receives the last statement from a county board of canvassers for the election following canvassing of all valid provisional ballots.

SECTION 2. 9.01 (1) (a) 2. c. of the statutes is created to read:

9.01 (1) (a) 2. c. If the petitioner is a candidate voted for at the election for which the petitioner seeks a recount, that the petitioner is an aggrieved party.

SECTION 3. 9.01 (1) (a) 5. of the statutes is created to read:

9.01 (1) (a) 5. In this paragraph, "aggrieved party" means any of the following:

a. For an election at which 4,000 or fewer votes are cast for the office that the candidate seeks, a candidate who trails the leading candidate, as defined under par. (ag) 5., by no more than 40 votes, as determined under par. (ag) 5.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

b. For an election at which more than 4,000 votes are cast for the office that the candidate seeks, a candidate who trails the leading candidate, as defined under par. (ag) 5., by no more than 1 percent of the total votes cast for that office, as determined under par. (ag) 5.

SECTION 4. 9.01 (1) (ag) 2. of the statutes is amended to read:

9.01 (1) (ag) 2. If subd. 1 does not apply to the difference between the votes cast for the leading candidate and those cast for the petitioner or the difference between the affirmative and negative votes cast upon any referendum question following canvassing of all valid provisional and absentee ballots, the petitioner shall pay a fee equal to the actual cost of performing the recount in each ward for which the petition requests a recount, or in each municipality for which the petition requests a recount where no wards exist, plus the actual cost incurred by the commission to provide services for performing the recount.

SECTION 4m. 9.01 (1) (ag) 3m. of the statutes is amended to read:

9.01 (1) (ag) 3m. The petitioner shall pay any balance owing toward the fee due under subd. 2. within ~~30~~ 45 days after the clerk or body receiving the petition provides the petitioner with a written statement of the amount due. If the petitioner has overpaid the fee due under subd. 2., the clerk or body receiving the petition shall refund the amount overpaid within ~~30~~ 45 days after the board of canvassers makes its determination in the recount. If, as a result of the recount, the petitioner is the leading candidate, or the majority of votes cast on the referendum changes from affirmative to negative or from negative to affirmative, the clerk or body receiving the petition shall refund the amount paid within ~~30~~ 45 days after the board of canvassers makes its determination in the recount. For purposes of this subdivision, a petitioner has not overpaid the fees due under subd. 2., and is therefore not entitled to a refund under this subdivision, if the recount results in a difference in the votes cast that is below the threshold for paying the fee under subd. 2.

SECTION 5. 9.01 (1) (ag) 4. of the statutes is amended to read:

9.01 (1) (ag) 4. The commission shall deposit all moneys received by it into the account under s. 20.510 (1) (g), and shall pay the fees required for each recount to the county clerks of the counties in which the recount is to be held and shall retain the amount necessary to pay for the actual cost incurred by the commission to provide services for performing the recount. The county clerk shall deposit fees received by him or her with the county treasurer. The municipal clerk shall deposit fees received by him or her with the municipal treasurer.

SECTION 6. 9.01 (1) (ar) 3. of the statutes is amended to read:

9.01 (1) (ar) 3. Whenever a clerk receives a valid petition and any payment under par. (ag) 3., the clerk shall thereupon notify the proper board of canvassers. Whenever the commission receives a valid petition and any payment under par. (ag) 3., the commission shall promptly by certified mail or other expeditious means order the proper county boards of canvassers to commence the recount. County boards of canvassers shall convene no later than 9 a.m. on the ~~second~~ 3rd day after receipt of an order and may adjourn for not more than one day at a time until the recount is completed in the county, except that the commission may permit extension of the time for adjournment. Returns from a recount ordered by the commission shall be transmitted to the office of the commission as soon as possible, but in no case later than 13 days from the date of the order of the commission directing the recount. The commission chairperson or the chairperson's designee may not make a determination in any election if a recount is pending before any county board of canvassers in that election. The commission chairperson or the chairperson's designee need not recount actual ballots, but shall verify the returns of the county boards of canvassers in making his or her determinations.

SECTION 6d. 9.01 (1) (b) (intro.) of the statutes is amended to read:

9.01 (1) (b) (intro.) The ~~Except as provided under par. (ar) 3.,~~ the proper board of canvassers shall reconvene no earlier than 9 a.m. on the day following delivery of notice to all candidates under sub. (2) and no later than 9 a.m. on the day following the last day for filing of a petition. The board of canvassers shall then proceed to recount the ballots in the wards or municipalities specified and to review the allegations of fact contained in the petition or petitions. The recount shall proceed for each ward or municipality as follows:

SECTION 6m. 15.06 (10) of the statutes, as affected by [2017 Wisconsin Act 59](#), is amended to read:

15.06 (10) COMPENSATION. A member of the elections commission and a member of the ethics commission shall receive a per diem of ~~\$27~~ \$115 for each day on which the member attends or participates by audio or video conference call in a meeting of the member's commission.

SECTION 7. 20.510 (1) (g) of the statutes is amended to read:

20.510 (1) (g) *Recount fees.* The amounts in the schedule to be apportioned to the commission and the county clerks or county board of election commissioners as prescribed in s. 9.01 (1) (ag). All moneys received on account of recount petitions filed with the commission shall be credited to this appropriation account.