
Wisconsin Legislative Council

AMENDMENT MEMO



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2023 Senate Bill 852

**Senate Substitute
Amendment 1**

2023 SENATE BILL 852

Senate Bill 852 makes several changes to election-related statutes, including those relating to canvassing and reporting election results, requesting a recount, appealing the results of a recount, and certifying and meeting as designated presidential electors. The bill's provisions are largely intended to ensure that our state laws comport with the federal Electoral Count Reform Act.

The bill includes the following changes:

- Shortens the time periods for election canvassing procedures to commence and be completed at the municipal, county, and state level.
- Changes the deadline for the Governor to deliver the official, signed, certificate of presidential electors to the selected electors from the first Monday after the second Wednesday in December to the first Tuesday after the second Wednesday in December.
- Requires the presidential electors to meet on the first Tuesday after the second Wednesday in December, rather than on the first Monday after the second Wednesday in December.
- Requires the Elections Commission (the commission) chairperson to complete the state canvass of election results no later than one day after it commences the canvass. Under current law, the chairperson must complete the canvass no later than 10 days from the day on which it commences.
- Requires the commission, upon receiving a valid petition for a recount and the appropriate fees, to immediately send an order for a recount to the affected counties. In addition, under the bill, the board of canvassers conducting the recount must commence the recount no later than 9 a.m. on the second day after receiving the order, may not adjourn until the recount is complete in the county, except to the extent permitted by the commission, and must transmit returns from the recount to the commission not later than 10 days after the order for a recount is issued. Current law requires a county board of canvassers to commence the recount by 9 a.m. on the third day after it receives the order and requires the returns to be transmitted to the commission as soon as possible, but not later than 13 days from the date of the order.
- Shortens the deadline for a candidate to file an appeal of recount results with the circuit court from five business days to two days and requires the court to make a determination on the appeal no later than two days after the day on which the appeal is filed. Current law requires the Court of Appeals to act “expeditiously” but does not define the term.
- Shortens the time allowed for a candidate to file an appeal with the Court of Appeals from 30 days to two days after entry of the circuit court’s order. The bill also requires the Court of Appeals to make its determination no later than two days after the appeal is filed.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 generally retains current deadlines and procedures for elections that are not presidential elections, requires additional security features for a certificate of ascertainment in a presidential election, and establishes an expedited recount and appeal procedure to challenge the results of a presidential election.

The substitute amendment does the following:

- Requires municipal clerks to deliver provisional ballots and amended election statements, tallies, envelopes, and other election materials to county clerks no later than 4 p.m. on the Friday after the presidential election. The current deadline of 4 p.m. the Monday after the election remains the same for other elections.
- Requires canvassers to reconvene to count provisional ballots, and municipalities that have more than one polling place to begin their canvass, no later than 4 p.m. on the Friday after the presidential election. The current start time of 9 a.m. the Monday after the election remains the same for other elections.
- Requires county boards of canvassers to open and examine returns no later than noon on the Saturday after a presidential election; for all other elections, the current deadline of 9 a.m. on the Tuesday after the election remains the same.
- Requires the county clerk to deliver its certified canvass statement to the commission no later than six days after a presidential election; for all other elections, the current deadlines, ranging from nine days to 14 days, depending on the election, apply.
- Requires the commission to send out messengers to counties that fail to return deadlines by the seventh day after a presidential election; the substitute amendment retains the current deadlines for all other elections.
- Retains the dates on which the commission concludes its canvass except for presidential elections.
- Requires the commission to prepare a “certificate of ascertainment” that states the designated presidential electors and requires the certificate to have at least one security feature that is exempt from public disclosure.
- Requires the Governor to transmit the certificate of ascertainment to the archivist of the United States no later than 36 days after the general election.
- Retains the current deadlines to request a recount except for presidential elections. For presidential election recounts, the substitute amendment makes the same changes to deadlines as the bill had made to all recounts, except that the substitute amendment requires returns from a presidential recount to be transmitted to the commission no later than five days after the recount order.
- Retains the current deadline of five days after certification of a recount to appeal to circuit court for all elections except presidential elections. For presidential elections, the substitute amendment requires an appeal to be made within one business day.
- Requires the Chief Justice of the Supreme Court to appoint a circuit court judge in November of every presidential election year to hear appeals of recounts.
- Retains current deadlines for recount appeals to be decided in the circuit court for all elections except presidential elections. For presidential elections, the substitute amendment establishes a 10-day deadline for determinations by the circuit court.

- Retains current deadlines for appeals to the Court of Appeals for all elections other than presidential elections.
- Bypasses the Court of Appeals for appeals of recount determinations in circuit court and establishes that a party may appeal to the Supreme Court exclusively within one day after the entry of the circuit court decision.
- Requires the Supreme Court to decide appeals relating to presidential elections as soon as possible. Under the substitute amendment, if the Supreme Court determines that a new certificate of ascertainment needs to be issued, the Governor must do so before the date on which electors convene.

BILL HISTORY

Senate Substitute Amendment 1 was offered by Senator Feyen on February 9, 2024. On February 15, 2024, the Senate Committee on Shared Revenue, Elections, and Consumer Protection adopted the substitute amendment and passed the bill, as amended, on votes of Ayes, 4; Noes, 1.

For a full history of the bill, visit the Legislature's [bill history page](#).

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