



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 120
[2017 Assembly Bill 153]

**Election Recounts; Per Diem for
Elections and Ethics Commissions**

2017 Wisconsin Act 120 makes several changes relating to recounts of elections. The Act: (1) limits which candidates may request a recount by requiring a candidate to be within a specified vote margin of a leading candidate in order to request a recount; (2) shortens the deadline for requesting a recount in presidential elections by two business days; (3) allows costs incurred by the Elections Commission to be calculated into the recount fee; (4) extends the time period for a petitioner to pay any outstanding recount fee balance owed and the time period for a clerk or body to refund any recount fee overpayment; and (5) provides county boards of canvassers with an additional day to convene and begin a recount. In addition, the Act increases the per diem amount for members of the Elections Commission and the Ethics Commission.

RECOUNT PETITIONER

Background

Under state law, a candidate voted for at any election or any elector who voted on any referendum question may petition for a recount.

The Act

Under the Act, a candidate must be an “aggrieved party” to petition for a recount. An “aggrieved party” means any of the following: (1) 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 by no more than 40 votes; or (2) 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 by no more than 1% of the total votes cast for that office. In addition, if a candidate requests a recount, the candidate must state in the recount petition that he or she is an aggrieved party.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

PETITION DEADLINE

Background

Under state law, a petitioner generally must file a petition for a recount by 5 p.m. on the **third** business day following: (1) the last meeting day of the municipal or county board of canvassers determining the election for that office or on that referendum question; or (2) if the Elections Commission makes the determination for the office or referendum question, the day on which the Commission receives the last statement from a county board of canvassers for the election or referendum.

The Act

The Act provides that with regard to an **election for president**, a petitioner must file a recount petition by 5 p.m. on the **first** business day following the day on which the Elections Commission receives the last statement from a county board of canvassers for the election. The Act does not change the petition deadline for other elections.

RECOUNT FEE

Background

Under state law, the recount fee is equal to the actual cost of performing the recount in each ward, or in each municipality where no wards exist, for which the petition requests a recount.

In addition, prior law required a petitioner to pay any outstanding recount fee balance within **30 days** after the clerk or body receiving the petition provided the petitioner with a written statement of the amount due. If the petitioner overpaid the fee, the clerk or body had to refund the amount overpaid within **30 days** after the board of canvassers made its determination in the recount.

The Act

Under the Act, the actual cost incurred by the Elections Commission to provide services for performing the recount is also calculated into the recount fee paid by a petitioner.

In addition, the Act extends the time period for a petitioner to pay any outstanding recount fee balance owed and the time for a clerk or body to refund any recount fee overpayment to **45 days**.

COUNTY BOARDS OF CANVASSERS

Background

Under prior law, county boards of canvassers were required to convene no later than 9 a.m. on the **second** day after receipt of a recount order from the Elections Commission.

The Act

The Act requires county boards of canvassers to convene no later than 9 a.m. on the **third** day after receipt of a recount order.

PER DIEMS

Background

Under prior law, a member of the Elections Commission or the Ethics Commission received a per diem of \$27 for each day on which the member attended or participated by audio or video conference call in a meeting of the member's commission.

The Act

The Act increases the per diem to \$115.

Effective date: December 2, 2017

Prepared by: Jessica Karls-Ruplinger, Deputy Director

December 4, 2017

JKR:mcm;ksm