

1999 ASSEMBLY BILL 337

May 11, 1999 - Introduced by Representatives JENSEN, LADWIG, BRANDEMUEHL, STASKUNAS, HAHN, HANDRICK, FREESE, GUNDRUM, PORTER, OWENS, GARD, SYKORA, AINSWORTH, MUSSER, ALBERS, GOETSCH, GROTHMAN, KESTELL, KELSO, WARD, WALKER, SUDER, MONTGOMERY and VRAKAS, cosponsored by Senators WELCH, DARLING and FARROW. Referred to Committee on Campaigns and Elections.

1 **AN ACT** *to amend* 9.01 (1) (a), 9.01 (1) (ag) 1., 9.01 (1) (ag) 2., 9.01 (1) (ag) 3. and
2 9.01 (1) (ar) 3.; and *to create* 9.01 (1) (ad), 9.01 (1) (ag) 1m. and 9.01 (1) (ag) 3m.
3 of the statutes; **relating to:** payment and amounts of fees for recounts of
4 elections.

Analysis by the Legislative Reference Bureau

Under current law, a petitioner requesting a recount of an election generally must pay a fee of five dollars for each ward for which a recount is requested and five dollars for each municipality where no wards exist. However, current law does not require a fee if the difference between the leading candidate and the petitioner or the affirmative and negative vote on a referendum was less than ten votes, if 1,000 or less votes were cast, or less than 0.5% of the total votes cast, if greater than 1,000 votes were cast. A petitioner must pay any fee in full at the time he or she files the petition.

This bill retains the current fees and the current exemptions for any election where 1,000 or less votes are cast or where greater than 1,000 votes are cast and the difference in votes cast between the leading candidate and the petitioner or the affirmative and negative vote on a referendum is 0.5% or less. However, this bill changes the fees for other elections, depending upon the difference in votes between the leading candidate and the petitioner or the affirmative and negative vote on a referendum. If greater than 1,000 votes are cast in the election and the difference in votes is more than 0.5% but not more than two percent of the total votes cast, the fee under this bill is five dollars per ward and five dollars per municipality where no wards exist. If greater than 1,000 votes are cast and the difference in votes is more

ASSEMBLY BILL 337

than two percent of the total votes cast, the fee under this bill is the actual cost of performing the recount. In addition, this bill requires a petitioner to pay a reasonable estimate of the fee at the time of filing and any balance within 30 days after the filing officer notifies the petitioner of the amount due.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 9.01 **(1)** (a) Any candidate voted for at any election or any elector who voted
3 upon any referendum question at any election may request a recount. The petitioner
4 shall file a verified petition or petitions ~~accompanied by the fee prescribed in par.~~
5 ~~(ag), if any,~~ with the proper clerk or body under par. (ar) not earlier than the time of
6 completion of the canvass and not later than 5 p.m. on the 3rd business day following
7 the last meeting day of the municipal or county board of canvassers determining the
8 election for that office or on that referendum question or, if more than one board of
9 canvassers makes the determination not later than 5 p.m. on the 3rd business day
10 following the last meeting day of the last board of canvassers which makes a
11 determination. If the chairperson of the board makes the determination for the office
12 or the referendum question, the petitioner shall file the petition not earlier than the
13 last meeting day of the last county board of canvassers to make a statement in the
14 election or referendum and not later than 5 p.m. on the 3rd business day following
15 the day on which the elections board receives the last statement from a county board
16 of canvassers for the election or referendum. Each verified petition shall state that
17 at the election the petitioner was a candidate for the office in question or that he or
18 she voted on the referendum question in issue; that the petitioner is informed and
19 believes that a mistake or fraud has been committed in a specified ward or

ASSEMBLY BILL 337

1 municipality in the counting and return of the votes cast for the office or upon the
2 question; or shall specify any other defect, irregularity or illegality in the conduct of
3 the election. The petition shall specify each ward, or each municipality where no
4 wards exist, in which a recount is desired. If a recount is requested for all wards
5 within a jurisdiction, each ward need not be specified. The petition may be amended
6 to include information discovered as a result of the investigation of the board of
7 canvassers or chairperson of the board after the filing of the petition, if the petitioner
8 moves to amend the petition as soon as possible after the petitioner discovered or
9 reasonably should have discovered the information which is the subject of the
10 amendment and the petitioner was unable to include information in the original
11 petition.

12 **SECTION 2.** 9.01 (1) (ad) of the statutes is created to read:

13 9.01 (1) (ad) Upon receiving a petition for a recount, the clerk or body receiving
14 the petition shall calculate any fee due under par. (ag) 1m. or reasonably estimate
15 any fee due under par. (ag) 2. The clerk or body shall provide the petitioner promptly
16 with the total due or estimate.

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

18 9.01 (1) (ag) 1. ~~Each petition for a recount shall be accompanied by the fee~~
19 ~~prescribed in this paragraph.~~ If the difference between the votes cast for the leading
20 candidate and those cast for the petitioner or the difference between the affirmative
21 and negative votes cast upon any referendum question is less than 10 if 1,000 or less
22 votes are cast or ~~less~~ not more than ~~.5%~~ 0.5% of the total votes cast for the office or
23 on the question if more than 1,000 votes are cast, the petitioner is not required to pay
24 a fee.

25 **SECTION 4.** 9.01 (1) (ag) 1m. of the statutes is created to read:

ASSEMBLY BILL 337

1 9.01 (1) (ag) 1m. If the difference between the votes cast for the leading
2 candidate and those cast for the petitioner or the difference between the affirmative
3 and negative votes cast upon any referendum question is at least 10 if 1,000 or less
4 votes are cast or is more than 0.5% but not more than 2% if more than 1,000 votes
5 are cast, the petitioner shall pay a fee of \$5 for each ward for which the petition
6 requests a ballot recount, or \$5 for each municipality for which the petition requests
7 a recount where no wards exist.

8 **SECTION 5.** 9.01 (1) (ag) 2. of the statutes is amended to read:

9 9.01 (1) (ag) 2. If the difference between the votes cast for the leading candidate
10 and those cast for the petitioner or the difference between the affirmative and
11 negative votes cast upon any referendum question is ~~at least 10 if 1,000 or less votes~~
12 ~~are cast or at least .5%~~ more than 2% if more than 1,000 votes are cast, the petitioner
13 shall pay a fee of \$5 for equal to the actual cost of performing the recount in each ward
14 for which the petition requests a ballot recount, or \$5 for in each municipality for
15 which the petition request a recount where no wards exist.

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

17 9.01 (1) (ag) 3. All fees calculated or estimated under par. (ad) shall be prepaid
18 in cash or another form of payment which is acceptable to the officer to whom they
19 are paid. No petition for which a fee is required is valid unless the proper calculated
20 or estimated fee is paid at the time of filing.

21 **SECTION 7.** 9.01 (1) (ag) 3m. of the statutes is created to read:

22 9.01 (1) (ag) 3m. The petitioner shall pay any balance owing toward the fee due
23 under subd. 2. within 30 days after the clerk or body receiving the petition provides
24 the petitioner with a written statement of the amount due. If the petitioner has
25 overpaid the fee due under subd. 2. the clerk or body receiving the petition shall

ASSEMBLY BILL 337

1 refund the amount overpaid within 30 days after the board of canvassers makes its
2 determination in the recount.

3 **SECTION 8.** 9.01 (1) (ar) 3. of the statutes is amended to read:

4 9.01 (1) (ar) 3. ~~Upon receipt of~~ Whenever a clerk receives a valid petition and
5 any payment under par. (ag) 3., the clerk shall thereupon notify the proper board of
6 canvassers. ~~Upon receipt of~~ Whenever the board receives a valid petition ~~by the~~
7 ~~board~~ and any payment under par. (ag) 3., the board shall promptly by certified mail
8 or other expeditious means order the proper county boards of canvassers to
9 commence the recount. County boards of canvassers shall convene no later than 9
10 a.m. on the second day ~~following~~ after receipt of an order and may adjourn for not
11 more than one day at a time until the recount is completed in the county, except that
12 the board may permit extension of the time for adjournment. Returns from a recount
13 ordered by the board shall be transmitted to the office of the board as soon as possible,
14 but in no case later than 13 days from the date of the order of the board directing the
15 recount. The chairperson of the board may not make a determination in any election
16 if a recount is pending before any county board of canvassers in that election. The
17 chairperson of the board need not recount actual ballots, but shall verify the returns
18 of the county boards of canvassers in making his or her determinations.

19 **SECTION 9. Initial applicability.**

20 (1) This act first applies to petitions for recounts filed on the effective date of
21 this subsection.

22 (END)