



2015 SENATE BILL 96

March 27, 2015 – Introduced by Senators LEMAHIEU and OLSEN, cosponsored by Representatives BALLWEG, ALLEN, BERNIER, BILLINGS, BORN, E. BROOKS, EDMING, KLEEFISCH, KULP, T. LARSON, OHNSTAD, RIPP, SWEARINGEN and TITTL. Referred to Committee on Elections and Local Government.

1 **AN ACT** *to repeal* 9.01 (1) (ag) 1m.; and *to amend* 9.01 (1) (ad), 9.01 (1) (ag) 1.,
2 9.01 (1) (ag) 2., 9.01 (1) (ag) 3. and 9.01 (1) (ag) 3m. of the statutes; **relating to:**
3 fees for election recounts.

Analysis by the Legislative Reference Bureau

Currently, any candidate who receives votes in an election and any elector who votes in a referendum may petition for a recount of the votes cast. The petitioner does not have to pay for the recount if 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 on the referendum question, is less than 10 if 1,000 or fewer votes are cast or not more than 0.5 percent of the total votes cast for the office or on the question if more than 1,000 votes are cast.

Currently, if 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 on the referendum question, is at least 10 if 1,000 or fewer votes are cast or is more than 0.5 percent, but not more than 2 percent if more than 1,000 votes are cast, the petitioner must pay a fee equal to \$5 for each ward for which the petitioner requests a recount.

Finally, if 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 on the referendum question, is more than 2 percent if more than 1,000 votes are cast, the petitioner pays the actual cost of performing the recount.

This bill provides that, if the difference between the votes cast for the leading candidate and those cast for the petitioner, or the difference between the affirmative

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and negative votes cast on the referendum question, is less than 10 if 4,000 or fewer votes are cast or not more than 0.25 percent of the total votes cast for the office or on the question if more than 4,000 votes are cast, the petitioner does not pay for the recount. Under any other circumstance, the petitioner pays the actual cost of performing the recount. However, if the recount overturns the result of the election or referendum, the petitioner receives a refund of the recount fees.

For further information see the *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) (ad) of the statutes is amended to read:

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

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

7 9.01 (1) (ag) 1. If the difference between the votes cast for the leading candidate
8 and those cast for the petitioner or the difference between the affirmative and
9 negative votes cast upon any referendum question is less than 10 if ~~1,000~~ 4,000 or
10 less ~~fewer~~ votes are cast or not more than ~~0.5%~~ 0.25 percent of the total votes cast
11 for the office or on the question if more than ~~1,000~~ 4,000 votes are cast following
12 canvassing of all valid provisional and absentee ballots, the petitioner is not required
13 to pay a fee.

14 **SECTION 3.** 9.01 (1) (ag) 1m. of the statutes is repealed.

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

16 9.01 (1) (ag) 2. If subd. 1 does not apply to the difference between the votes cast
17 for the leading candidate and those cast for the petitioner or the difference between
18 the affirmative and negative votes cast upon any referendum question is ~~more than~~

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1 ~~2% if more than 1,000 votes are cast~~ following canvassing of all valid provisional and
2 absentee ballots, the petitioner shall pay a fee equal to the actual cost of performing
3 the recount in each ward for which the petition requests a recount, or in each
4 municipality for which the petition request requests a recount where no wards exist.

5 **SECTION 5.** 9.01 (1) (ag) 3. of the statutes is amended to read:

6 9.01 (1) (ag) 3. All fees ~~calculated or estimated~~ under par. (ad) shall be prepaid
7 in cash or another form of payment which is acceptable to the officer to whom they
8 are paid. No petition for which a fee is required is valid unless the proper calculated
9 or estimated fee is paid at the time of filing.

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

11 9.01 (1) (ag) 3m. The petitioner shall pay any balance owing toward the fee due
12 under subd. 2. within 30 days after the clerk or body receiving the petition provides
13 the petitioner with a written statement of the amount due. If the petitioner has
14 overpaid the fee due under subd. 2. the clerk or body receiving the petition shall
15 refund the amount overpaid within 30 days after the board of canvassers makes its
16 determination in the recount. If, as a result of the recount, the petitioner is the
17 leading candidate, or the majority of votes cast on the referendum changes from
18 affirmative to negative or from negative to affirmative, the clerk or body receiving
19 the petition shall refund the amount paid within 30 days after the board of
20 canvassers makes its determination in the recount. For purposes of this subdivision,
21 a petitioner has not overpaid the fees due under subd. 2., and is therefore not entitled
22 to a refund under this subdivision, if the recount results in a difference in the votes
23 cast that is below the threshold for paying the fee under subd. 2.

24 **SECTION 7. Initial applicability.**

