2015 ASSEMBLY BILL 124

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

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

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

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

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

9.01 (1) (ag) 1. 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 upon any referendum question is less than 10 if 1,000 4,000 or
less fewer votes are cast or not more than 0.5% 0.25 percent of the total votes cast
for the office or on the question if more than 1,000 4,000 votes are cast following
 canvassing of all valid provisional and absentee ballots, the petitioner is not required
to pay a fee.

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 of the statutes is repealed.

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 is more than
2% if more than 1,000 votes are cast 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.

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

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

**SECTION 6.** 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. by 30 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 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 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 7. Initial applicability.**
(1) RECOUNTS. This act first applies to petitions filed on the effective date of this subsection.

(END)