


RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 05/15/2019 (Per: MPG)

 **Compile Draft - Appendix K**

- Appendix A ➤ The 2019 drafting file for LRB-0223/P1
- Appendix B ➤ The 2019 drafting file for LRB-0225/P1
- Appendix C ➤ The 2019 drafting file for LRB-0229/P1
- Appendix D ➤ The 2019 drafting file for LRB-0230/P1
- Appendix E ➤ The 2019 drafting file for LRB-0234/P1
- Appendix F ➤ The 2019 drafting file for LRB-0245/P1
- Appendix G ➤ The 2019 drafting file for LRB-0246/P1
- Appendix H ➤ The 2019 drafting file for LRB-0247/P1
- Appendix I ➤ The 2019 drafting file for LRB-0249/P1
- Appendix J ➤ The 2019 drafting file for LRB-0250/P1
- Appendix K ➤ The 2019 drafting file for LRB-0251/P1
- Appendix L ➤ The 2019 drafting file for LRB-0255/P1
- Appendix M ➤ The 2019 drafting file for LRB-0256/P1
- Appendix N ➤ The 2019 drafting file for LRB-0259/P1
- Appendix O ➤ The 2019 drafting file for LRB-0260/P1
- Appendix P ➤ The 2019 drafting file for LRB-0261/P1
- Appendix Q ➤ The 2019 drafting file for LRB-0262/P1
- Appendix R ➤ The 2019 drafting file for LRB-0263/P1
- Appendix S ➤ The 2019 drafting file for LRB-0333/P1

has been copied/added to the drafting file for **2019 LRB-2186**

2019 DRAFTING REQUEST

Bill

For: **Kathleen Bernier (608) 266-9172** Drafter: **mgallagh**
By: **chad** Secondary Drafters:
Date: **9/7/2018** May Contact:

Same as LRB:

Submit via email: **YES**
Requester's email: **Rep.Bernier@legis.wisconsin.gov**
Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**
chad.zuleger@legis.wisconsin.gov
michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Authorize Commission review of procedural disputes during recounts (June 20, 2017 memo, item 9)

Instructions:

§ 5.06(10). This provision prohibits the Commission from reviewing matters arising in connection with recounts under § 9.01. This appears to be intended to avoid conflict with Wis. Stat. § 9.01(6) which directs appeals of recounts to circuit court. However, there are a variety of decisions made by election officials under § 9.01 that could benefit from commission review, e.g., estimates of recount filing fees. A better option may be to phrase this provision such that the Commission may not review the recount result or substantive decisions of the board of canvassers in a recount other than to enforce consistent application of those decisions when multiple boards of canvassers are involved. This authority would permit Commission staff to resolve procedural questions or conflicts more definitively and is supported by the charge of Wis. Stat. § 9.01(10) for the Commission to develop standard forms and procedures for use in recounts.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 9/10/2018	eweiss 9/20/2018			
/P1			lparisi 9/20/2018		State

FE Sent For:

<END>



By Thurs, 9/2 Trucks!

State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-025102
MPG:
emw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

(P)

SA/
XRES/
PWF

Gen.

1 **AN ACT** relating to: review of decisions of election officials during a recount. ✓

Analysis by the Legislative Reference Bureau

Under current law, only courts are authorized to review matters concerning recounts. This bill does not affect that authority but additionally authorizes the Wisconsin Elections Commission to review the decision or other conduct of an elections official with respect to matters concerning a recount in order to determine whether the official's decision or other conduct is contrary to law or constitutes an abuse of discretion. That authority mirrors the commission's authority with respect to other matters arising in the course of elections. Under the bill, the commission may not review a final recount determination that is ripe for appeal in court. ✓

For further information see the *state* 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:

2 SECTION 1. 5.06 (1) of the statutes is renumbered 5.06 (1) (a) and amended to
3 read:

4 5.06 (1) (a) Whenever any elector of a jurisdiction or district served by an
5 election official person authorized under par. (b) to file a complaint believes that a

1 decision or action of ~~the~~ an election official or the failure of the official to act with
2 respect to any matter concerning nominations, qualifications of candidates, voting
3 qualifications, including residence, ward division and numbering, recall, ballot
4 preparation, election administration ~~or~~, conduct of elections, or, subject to par. (b) 2,
5 conduct of a recount, is contrary to law, or the official has abused the discretion vested
6 in him or her by law with respect to any such matter, the elector authorized person
7 may file a written sworn complaint with the commission requesting that the official
8 be required to conform his or her conduct to the law, be restrained from taking any
9 action inconsistent with the law, or be required to correct any action or decision
10 inconsistent with the law or any abuse of the discretion vested in him or her by law.
11 The complaint shall set forth such facts as are within the knowledge of the
12 complainant to show probable cause to believe that a violation of law or abuse of
13 discretion has occurred or will occur. The complaint may be accompanied by relevant
14 supporting documents. The commission may conduct a hearing on the matter in the
15 manner prescribed for treatment of contested cases under ch. 227 if it believes such
16 action to be appropriate.

History: 1983 a. 484; 1985 a. 182 s. 57; 1985 a. 304; 1989 a. 192; 2015 a. 118 s. 266 (10).

17 **SECTION 2.** 5.06 (1) (b) ~~of~~ the statutes is created to read:

18 5.06 (1) (b) The following persons are authorized to file a complaint under this
19 subsection:

20 1. An elector of a jurisdiction or district served by an election official who is a
21 subject of the complaint.

22 2. A candidate voted for at an election who is an aggrieved party, as determined
23 under s. 9.01 (1) (a) 5., or an elector who voted upon a referendum question at an

1 election, with respect to a recount under s. 9.01, except that a recount determination
2 that is ripe for appeal under s. 9.01 (6) is not reviewable under this subsection.

3 **SECTION 3.** 5.06 (4) of the statutes is amended to read:

4 5.06 (4) The commission may, on its own motion, investigate and determine
5 whether any election official, with respect to any matter ~~concerning nominations,~~
6 ~~qualifications of candidates, voting qualifications, including residence, ward~~
7 ~~division and numbering, recall, ballot preparation, election administration or~~
8 ~~conduct of elections specified in sub. (1),~~ has failed to comply with the law or abused
9 the discretion vested in him or her by law or proposes to do so.

History: 1983 a. 484; 1985 a. 182 s. 57; 1985 a. 304; 1989 a. 192; 2015 a. 118 s. 266 (10).

10 **SECTION 4.** 5.06 (10) of the statutes is repealed.

11 **SECTION 5. Initial applicability.**

12 (1) This act first applies to a petition for a recount filed under s. 9.01 (1) (a) on
13 the effective date of this subsection.

14

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0251/P1dn
MPG:..
emw

— Date —

1 Chad Zuleger[^]_∨

2 This draft includes item 9 from the June 20, 2017, Elections Commission memo. Please
3 let me know if you have any questions. ✓

4 Thank you.

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7
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0251/P1dn
MPG:emw

September 20, 2018

Chad Zuleger:

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Thank you.

Michael Gallagher
Senior Legislative Attorney
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State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0251/P1
MPG:emw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 5.06 (10); *to renumber and amend* 5.06 (1); *to amend* 5.06
2 (4); and *to create* 5.06 (1) (b) of the statutes; **relating to:** review of decisions
3 of election officials during a recount.

Analysis by the Legislative Reference Bureau

Under current law, only courts are authorized to review matters concerning recounts. This bill does not affect that authority but additionally authorizes the Wisconsin Elections Commission to review the decision or other conduct of an elections official with respect to matters concerning a recount in order to determine whether the official's decision or other conduct is contrary to law or constitutes an abuse of discretion. That authority mirrors the commission's authority with respect to other matters arising in the course of elections. Under the bill, the commission may not review a final recount determination that is ripe for appeal in court.

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4 respect to any matter concerning nominations, qualifications of candidates, voting
5 qualifications, including residence, ward division and numbering, recall, ballot
6 preparation, election administration ~~or, conduct of elections, or, subject to par. (b) 2.,~~
7 conduct of a recount, is contrary to law, or the official has abused the discretion vested
8 in him or her by law with respect to any such matter, the elector authorized person
9 may file a written sworn complaint with the commission requesting that the official
10 be required to conform his or her conduct to the law, be restrained from taking any
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13 the effective date of this subsection.

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