



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 36
[2015 Senate Bill 96]

Fees for Election Recounts

2015 Wisconsin Act 36 relates to fees that must be paid by a candidate or elector requesting the recount of an election.

BACKGROUND

Any candidate may petition for a recount of his or her election and any elector who voted on a referendum question may petition for a recount of that referendum. The candidate or elector requesting the recount (hereinafter, “the requester”) may be required to pay a fee for each ward that is recounted, or where no wards exist, for each municipality that is recounted. Whether or not a requester must pay a fee when petitioning for a recount depends upon the vote margins between candidates or referendum positions.

PRIOR LAW

Prior law established applicable recount fees based on vote margin and whether at least 1,000 electors voted in the election. Prior law established three possible recount fee scenarios: (1) a requester could receive a free recount; (2) a requester could be required to pay \$5 per ward or municipality; or (3) a requester could be required to pay the actual cost of the recount.

In a smaller election, where 1,000 or fewer electors voted, a requester either received a free recount or was required to pay \$5 per ward or municipality. If the vote margin was fewer than 10 votes, then the recount was free. If the vote margin was 10 votes or more, then the recount fee was \$5 per ward or municipality. The requester was never required to pay the actual cost of the recount in these smaller elections.

In a larger election, where more than 1,000 electors voted, a requester could receive a free recount or could be charged either a \$5 fee per ward or municipality or the actual cost of the recount. If the vote margin was less than 0.5%, then the requester received a free recount. If the

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>.

vote margin was between 0.5% and 2.0%, then the requester was required to pay \$5 per ward or municipality. Finally, if the vote margin was greater than 2.0%, then the requester was required to pay the actual cost of the recount.

2015 WISCONSIN ACT 36

Act 36 makes several changes relating to vote margins for recount fees and the fee amount charged for a recount. Under the Act, there are two possible recount fee scenarios: (1) a requester may receive a free recount; or (2) a requester may be required to pay a fee equal to the actual cost of the recount. The Act lowers the vote margin at which a requester receives a free recount, eliminates the \$5 per ward or municipality fee; and requires a fee refund if the recount alters the outcome of the election.

Free Recount

Act 36 provides that in smaller elections, where 4,000 or fewer votes are cast, the requester is not required to pay a fee for a recount if the vote margin is less than 10 votes. The Act increases the threshold for these smaller elections from 1,000 to 4,000 votes.

In larger elections, where more than 4,000 votes are cast, the requester receives a free recount if the vote margin is 0.25% or less. The Act lowers the vote margin from 0.5% to 0.25%.

Actual Cost of the Recount

Act 36 provides that in smaller elections, where 4,000 or fewer votes are cast, the requester must pay the actual cost of the recount if the vote margin is 10 or more votes. As noted above, the Act increases the threshold for smaller elections from 1,000 to 4,000 votes.

In larger elections, where more than 4,000 votes are cast, the requester must pay the actual cost of the recount if the vote margin is greater than 0.25%. The Act eliminates the \$5 per ward or municipality fee that applied to vote margins between 0.5% and 2.0% under prior law, and lowers the vote margin requiring payment of a recount fee from 0.5% to 0.25%.

Required Refund of Recount Fee

Act 36 provides that a requester must receive a fee refund if the result of the recount alters the outcome of the election. Specifically, the Act requires a clerk or body receiving a recount petition to refund the recount fee within 30 days after the board of canvassers makes its determination in the recount if, as a result of the recount, the candidate requesting the recount becomes the leading candidate or the majority vote in a referendum changes from affirmative to negative or from negative to affirmative.

A requester is not entitled to a refund of the recount fee, however, if the recount results in a vote margin below 0.25% or 10 votes, but fails to change the outcome of the election.

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