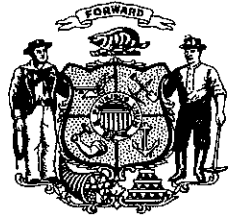


State of Wisconsin

SENATE CHAIR
Alberta Darling

317 East, State Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: (608) 266-5830



ASSEMBLY CHAIR
John Nygren

308 East, State Capitol
P.O. Box 8593
Madison, WI 53708-8953
Phone: (608) 266-2343

Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative John Nygren

Date: November 20, 2020

Re: s. 16.515/16.505(2), Stats. Request

Attached is a copy of a request from the Department of Administration, received November 20, 2020, pursuant to s. 16.515/16.505(2), Stats., on behalf of the Wisconsin Election Commission.

Please review the material and notify **Senator Darling** or **Representative Nygren** no later than **Thursday, December 10, 2020**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

AD:JN;jm



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary

Date: November 20, 2020

To: The Honorable Alberta Darling, Co-Chair
Joint Committee on Finance

The Honorable John Nygren, Co-Chair
Joint Committee on Finance

From: Joel T. Brennan, Secretary *JTB*
Department of Administration

NOV 20 2020
J. Finance

Subject: s. 16.515/16.505(2) Request(s)

Enclosed are request(s) that have been approved by this department under the authority granted in s. 16.515 and s. 16.505(2). The explanation for each request is included in the attached materials. Listed below is a summary of each item:

AGENCY	DESCRIPTION	2019-20		2020-21	
		AMOUNT	FTE	AMOUNT	FTE
Elections 20.510(1)(g)	Recount fees	\$0	0.0	\$3,000,000	0.0

As provided in s. 16.515, the request(s) will be approved on December 14, 2020, unless we are notified prior to that time that the Joint Committee on Finance wishes to meet in formal session about any of the requests.

Please contact Kirsten Grinde at 266-1353, or the analyst who reviewed the request in the Division of Executive Budget and Finance, if you have any additional questions.

Attachments



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary
Brian Pahnke, Administrator

Date: November 19, 2020

To: Joel Brennan, Secretary
Department of Administration

From: Matthew Bork
Executive Policy and Budget Analyst

Subject: Request under s. 16.515 from the Wisconsin Elections Commission to reimburse Dane and Milwaukee counties for a recount of the presidential election.

Request:

The Wisconsin Elections Commission requests an increase in expenditure authority to reimburse county clerks or county boards of election commissioners for the Dane County and Milwaukee County recount in the amount of \$3.0 million in fiscal year 2020-21 from the agency's recount fees appropriation under s. 20.510(1)(g).

Revenue Source for Appropriation:

The revenue to support the increase in expenditure authority in the recount fees appropriation under s. 20.510(1)(g) comes from the Donald Trump campaign, which requested a recount of all ballots in Dane County and Milwaukee County pursuant to s. 9.01, Wisconsin Statutes. On November 17, the Wisconsin Elections Commission received the required prepay bank wire transfer in the amount of \$3,000,000.

Background:

Section 9.01, Wis. Stats., states that any candidate voted for at any election may petition for a recount if the candidate meets several qualifications. As it pertains to an election, such as this presidential election, the petitioner must have been a candidate; believe a mistake, fraud or another specified defect has occurred in the counting and return of votes cast in a specified ward or municipality; and trail the leading candidate by no more than 1 percent of the total votes cast for the office. The qualifying petitioner must specify the jurisdiction, ward or municipality in which a recount is desired. In the case of a presidential election, the petitioner must file a verified petition no later than 5:00 p.m. on the first business day following the day on which the commission receives the last statement from a county board of canvassers for the election following canvassing of all valid provisional ballots.

In an election with more than 4,000 votes, the petitioner is not required to pay a fee for the recount if the petitioner trails the leading candidate by not more than 0.25 percent of the total votes cast for the office. If the petitioner trails the leading candidate by more

Joel Brennan, Secretary
Page 2
November 19, 2020

than 0.25 percent of the total votes cast, 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, plus the actual cost incurred by the commission to provide services for performing the recount. The estimated fee must be prepaid at the time of filing the petition. The commission must deposit all moneys received by it into the appropriation under s. 20.510(1)(g) and shall pay the fees required for the recount to the county clerks of the counties in which the recount is held. The commission calculated its estimate and set the prepayment amount to \$3.0 million for Dane County and Milwaukee County. The petitioner's campaign has paid this amount.

On Wednesday, November 18, Wisconsin Elections Commission staff received a recount petition filed by Donald Trump, candidate for the office of President of the United States at the General Election held on November 3, 2020. Under federal law, there is a "safe harbor" provision that requires any election dispute involving a presidential election to be settled within 35 days of Election Day, which is December 1, 2020. On Thursday, November 19, 2020, the Wisconsin Elections Commission issued a recount order, which requires the boards of canvassers in Dane County and Milwaukee County to recount the ballots cast for the Office of President of the United States. The order set the recount to begin at 9:00 a.m. on Thursday, November 19, 2020.

Analysis:

The unofficial results show that the petitioning candidate, Donald Trump, trails the leading candidate, Joe Biden, by approximately 20,470 votes, or approximately 0.62 percent of the total votes cast. As such, Donald Trump does qualify to petition for a recount as he is within 1 percent of the leading candidate. However, because Donald Trump does not trail the leading candidate by 0.25 percent or less, he is responsible for paying the cost of the recount as estimated by the Wisconsin Elections Commission.

The total actual cost of the recount will not be known until after it has been completed. The Wisconsin Elections Commission consulted with county clerks to estimate the cost of a recount. Based on information from county clerks, the commission estimated that a statewide recount would cost \$7.9 million, or \$3.0 million for a recount in Dane and Milwaukee counties alone. The estimate was provided to Donald Trump's campaign, and Donald Trump petitioned for a recount in Dane and Milwaukee counties. On November 17, the Wisconsin Elections Commission received the required prepayment of \$3.0 million from the petitioner's campaign.

The Wisconsin Elections Commission is required to reimburse local units of government for the costs of conducting the recount out of the appropriation under s. 20.510(1)(g) and the fees paid by the petitioner are required to be deposited into that appropriation. Current statutes also permit recount fees to be used for reimbursement of state costs incurred by the Wisconsin Elections Commission. As such, the requested expenditure authority would be included on the salary, fringe benefits, supplies and services, and aids to local governments accounting lines. The appropriation currently has no budget authority, meaning the commission cannot reimburse the counties with the fees provided by the petitioner's campaign until the Joint Committee on Finance has provided approval under s. 16.515.

Joel Brennan, Secretary
Page 3
November 19, 2020

Pursuant to Wisconsin Statutes, any additional costs must be paid within 45 days after the commission provides the Trump campaign with a written statement of the amount due. If the original estimate exceeds the total actual costs, the commission is required to refund the amount overpaid within 45 days after the recount is complete. The commission will examine statements of total costs submitted by county clerks to determine whether any additional fee must be paid or refund to be issued. Therefore, all funds deposited into the recount fees appropriation will be spent either as reimbursement to counties conducting the recount, or as a refund to the Trump campaign.

Recommendation:

Approve the request.

Prepared by: Matthew Bork
266-2288

Date: November 19, 2020
To: Brian Pahnke
From: Matthew Bork
Executive Policy and Budget Analyst
Subject: Section 16.515 Request

Attached is a s. 16.515 request analysis for your approval and processing. Listed below is a summary of each item:

DOA RECOMMENDATION:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2019-20</u>		<u>2020-21</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
Elections 20.510(1)(g)	Recount fees			\$3,000,000	

AGENCY REQUEST:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2019-20</u>		<u>2020-21</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
Elections 20.510(1)(g)	Recount fees			\$3,000,000	

BP APPROVAL



(FORWARD TO GAIL TAPPEN)



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: November 19, 2020

TO: Brian D. Pahnke, Administrator
Division of Executive Budget and Finance
Department of Administration

FROM: Meagan Wolfe, Administrator
Wisconsin Elections Commission

SUBJECT: 16.515 Request for Increase in Expenditure Authority to Reimburse Dane and Milwaukee Counties for Recount of the Presidential Elections Expenses

Request

The Wisconsin Elections Commission (WEC) requests an increase in expenditure authority to reimburse county clerks or county board of election commissioners for the Dane County and Milwaukee County recount in the amount of up to \$3.0 million in FY21 from the agency's recount fees appropriation under s. 20.510 (1)(g), salary line, fringe line, supplies and services line and aids to municipalities line, using funds received from Petitioners, Donald J. Trump and Michael R. Pence.

Revenue Source

The revenue to support the increase in expenditure authority comes from the Donald Trump campaign, which requested a recount of all ballots in Dane County and Milwaukee County pursuant to Wis. Stat. s.9.01. On November 17, WEC received the required prepay bank wire transfer in the amount of \$3,000,000.

Background

On Wednesday, November 18, WEC staff received a recount petition filed by Donald Trump, candidate for the office of President of the United States at the General Election held on November 3, 2020. Under federal law, there is a "safe harbor" provision which requires any election dispute involving a presidential election to be settled within 35 days of Election Day, which is December 1, 2020. The federal prescribed Electoral College procedures put a premium on states resolving post-election disputes by the safe harbor date.

On Thursday, November 19, 2020, the WEC issued the Recount order, which requires all County Board of Canvassers in Dane County and Milwaukee County to recount the ballots cast for the Office of President of the United States. The order set the recount to begin at 9:00 a.m. on Thursday, November 19, 2020.

Wisconsin Elections Commissioners

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Cost Projections and Funding

The total cost of the recount is unknown at this time. Pursuant to Wis. Stat. s. 9.01(1)(ag), the Commission was required to provide an estimate of the total cost of the recount to Donald Trump's campaign, which is responsible for full payment of those costs because the difference between the votes for the leading candidate and the votes for the petitioner exceeds 0.25% of the total votes cast for President. The Commission calculated its estimate based on input submitted by Wisconsin county clerks. Donald Trump's campaign is responsible for payment of any actual costs of the recount which exceed the estimate of approximately \$3.0 million for Dane County and Milwaukee County which was provided to, and paid by, the campaign.

Pursuant to Wis. Stat. s. 9.01(1)(ag)3m., any additional costs must be paid within 45 days after the Commission provides the Trump campaign with a written statement of the amount due. If the original estimate exceeds the total actual costs, the Commission is required to refund the amount overpaid within 45 days after the recount is complete. The Commission will examine statements of total costs submitted by county clerks to determine whether any additional fee must be paid or refund to be issued. Therefore, all funds deposited into the recount fees appropriation will be spent either as reimbursement to counties conducting the recount, or as a refund to the Trump campaign.

Current statute also permits recount fees to be used for reimbursement of State costs.

Conclusion

The Trump campaign submitted a request for a recount for all of Dane County and Milwaukee County and paid the required estimated cost of the recount. The funds cover the entire amount of the Recount fees appropriation under s. 20.510 (1)(g). The funds will be used to reimburse the two counties for conducting the recount and for the Wisconsin Elections Commission costs. Any unused funds will be returned to the Trump campaign. The recount is an unplanned expense for Wisconsin counties, and timely reimbursement of their significant costs, as contemplated by Wis. Stat. s. 9.01 is imperative.

Please let me know if we can provide additional information. I may be contacted at 266-8175 or at Meagan.Wolfe@wi.gov. If I am not available, you may contact Sharrie Hauge at 266-0404.

Thank you.

cc: Richard Rydecki, Deputy Administrator
Wisconsin Elections Commission

Sharrie Hauge, Chief Administrative Officer
Wisconsin Elections Commission

Matthew Bork, Budget Analyst
Department of Administration