

No. 240, A.]

[Published July 28, 1961.

**CHAPTER 300**

AN ACT to amend 6.66 of the statutes, relating to recount proceedings.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

6.66 of the statutes is amended to read:

6.66 (1) Whenever any candidate, or any elector who voted upon any constitutional amendment or upon any proposition, voted for at any election, within 3 days after the last day of the meeting of the board of county canvassers, or in the case of an annual, regular, special, or referendum election in any city, town or village, within 3 days after the last meeting of the city, town or village board of canvassers, as the case may be, \* \* \* *files not later than 5 p.m. on the third day after the last day of such meeting* with the county clerk or with the city, town or village clerk or *secretary of the board of election commissioners*, as the case may be, a verified petition setting forth that he was a candidate for a specified office or that he voted upon any such constitutional amendment or proposition at said election, and that he is informed and believes that a mistake or fraud has been committed in specified precincts in the counting and return of the votes cast for the office for which he was a candidate, or upon the matter voted upon, or specifying any other defect, irregularity or illegality in the conduct of said election, said county, city, town or village board of canvassers, as the case may be, shall reconvene on the day following the filing of such petition and proceed to ascertain and determine the facts alleged in said petition and make correction accordingly and recount the ballots in every precinct specified in accordance therewith. Notification of the intent to file such petition, in the case of a candidate for a specified office, shall first be sent by registered mail to *or served in the manner provided for service of a summons in the circuit court* on each opposing candidate, addressed to the address specified on his nomination papers. Such petition, together with the sender's receipt for each said registered letter *or an affidavit of service if served as herein provided*, shall be filed with \* \* \* *said clerk or secretary of the board of election commissioners*, together with a fee of \$2 for each precinct in which a recount of the ballots is demanded in such petition. The petitioner and all opposing candidates or persons interested therein shall be entitled to be present in person and by counsel and observe the proceedings. County clerks shall immediately

notify the secretary of state upon commencement of recount proceedings affecting candidates in districts comprised of more than one county.

(1a) Whenever a petition for a recount of part of the precincts within an election district has been filed as provided in sub. (1), the opposing candidate or in case of a constitutional amendment or other proposition, any elector, under like provisions and in like manner, may file a petition within 5 days after the last day of the regular meeting of the board of canvassers for a further recount of the votes cast in any or all of the balance of the precincts in such election district, and the proper board of canvassers shall reconvene on the day following the filing of such petition and proceed to ascertain the facts alleged in said petition and make correction accordingly and recount the ballots in every precinct so specified in accordance therewith.

(2) Each member of said board of canvassers, for the purposes mentioned in this section, \* \* \* *may* administer oaths, certify to official acts and issue subpoenas. The fees of witnesses shall be paid by the county.

(3) Within 5 days after the *recount* determination of said board, any candidate, or any elector who voted upon such constitutional amendment or proposition, as the case may be, aggrieved thereby may appeal therefrom to the circuit court of said county, by serving a notice in writing to that effect upon such other candidates or persons who filed written notices of appearances with said board. Such notice shall be filed with the clerk of the circuit court, together with an undertaking by the appellant, with surety and in an amount to be approved by the clerk of said court or the judge thereof, conditioned for the payment of all costs taxed against said appellant. The circuit judge shall forthwith issue an order directing the clerk of said county, or of said city, town or village *or the secretary of the board of election commissioners*, to transmit to the clerk of said court forthwith all ballots, papers and records affecting such appeal and fixing a time and place for hearing thereon, in open court or at chambers, or before a referee, not later than 5 days from the making of such order. Such order shall be served upon the county clerk, or the city, town or village clerk, *or secretary of the board of election commissioners*, as the case may be, and all such other candidates or persons who have appeared before said board. A reference may be ordered upon any or all questions. At the time and place so fixed the matter shall be summarily heard and determined and the costs taxed as in other civil actions.

(4) Nothing in this section shall be construed to abrogate any right or remedy that any candidate may now have affecting the trying of title to office.

Approved July 21, 1961.

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