

State of Wisconsin \ Government Accountability Board

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MEMORANDUM

DATE: July 16, 2015

TO: Wisconsin Municipal Clerks
Wisconsin County Clerks
City of Milwaukee Election Commission
Milwaukee County Election Commission

FROM: Michael Haas, Elections Division Administrator
Marianne Griffin, Elections Specialist

SUBJECT: 2015-2016 Legislative Session Enacted Legislation

This memorandum provides an overview of legislation enacted to date during the 2015-2016 session of the Wisconsin Legislature that affects election administration.

1. *2015 Wisconsin Act 36 (Senate Bill 96):* fees for election recounts.

This Act changes the formulas for calculating recount fees. The Act 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.

No recount in Wisconsin history has changed the outcome of a contest when the original margin was more than 0.125 percent. Therefore, the 0.25 percent threshold for a free recount is double the largest original margin in Wisconsin history of a successful recount.

2. *2015 Wisconsin Act 37 (Senate Bill 121):* various election law changes.

This Act makes several changes to election laws and addresses several concerns identified by the Wisconsin County Clerks Association in their 2015-2016 Legislative Objectives:

- The Act requires that a write-in candidate must file a registration statement no later than noon on the Friday before the election to be a registered write-in candidate.
- The Act provides that the board of canvassers need not reconvene if the municipal clerk certifies that he or she has received no provisional or absentee ballots from the time that the board of canvassers completed the initial canvass and 4 p.m. on the Friday after the election.
- The Act establishes a deadline for a common council or village board to schedule a direct legislation referendum of at least 70 days before the referendum election date. The 70-day deadline is now consistent with the deadline prescribed in Wis. Stat. s. 8.37 for other referendum petitions.
- The Act removes language related to an elector affixing a sticker to a ballot.
- Under current law, if a school board election is held in conjunction with a state, county, municipal, or judicial election, the school board election must take place at the same polling place, and the municipal election hours apply. This Act provides that a school board referendum held in conjunction with a state, county, municipal or judicial election is subject to the same procedures.

3. *2015 Wisconsin Act 39 (Senate Bill 71): allowing municipal clerks to register voters on Election Day.*

Under current law, election inspectors may register electors to vote at a polling place on Election Day. In addition, a municipality may provide, by adopting a resolution, that an inspector's registration duties may be performed by special registration deputies appointed by the municipal clerk or board of election commissioners.

Under this Act, an inspector's registration duties may be performed by the municipal clerk, if the clerk is not a candidate listed on the ballot, or by special registration deputies appointed by the municipal clerk or board of election commissioners, without the municipality first adopting a resolution to allow the procedure.

The G.A.B. manuals will be updated to reflect these changes later this year in order to prepare for the Spring Primary and Spring Election. Clerks administering any special elections in the meantime should keep these legislative changes in mind.

If you have any questions regarding implementing this new legislation, please contact the G.A.B. Help Desk at gabhhelpdesk@wi.gov or (608) 261-2028. Thank you.