

# WISCONSIN ELECTIONS COMMISSION

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**DATE:** December 15, 2017

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

**FROM:** Michael Haas  
Interim Administrator

**SUBJECT:** 2017 Wisconsin Act 120 – Recount Legislation

On December 1, 2017, 2017 Wisconsin Act 120 (“Act 120”) was enacted, making changes to recount statutes contained in Wisconsin Statutes, Chapter 9. Act 120 also increased the per diem payment for Wisconsin Elections and Ethics Commission members from \$27 to \$115 for each day which a member attends a meeting of the commission. Act 120 also allows the Wisconsin Elections Commission (“Commission”) to recoup its costs associated with the recount of an election, whereas previously that was not authorized by the statute.

## Significant Changes to Wis. Stat. § 9.01

*Aggrieved Party.* Act 120 redefines who is entitled to file a petition requesting a recount of election results. Previously, any candidate voted for at any election or any elector who voted upon any referendum question at any election could petition for a recount. Under Act 120, any elector who voted upon any referendum question at any election may still petition for a recount, but only a candidate considered an “aggrieved party” may file a petition for a recount. An “aggrieved party” means any of the following: 1) for an election at which 4,000 or fewer votes are cast for the office that the candidate seeks, a candidate who trails the leading candidate by no more than 40 votes, or 2) for an election at which more than 4,000 votes are cast for the office that the candidate seeks, a candidate who trails the leading candidate by no more than 1 percent of the total votes cast for that office. Act 120 also requires that the candidate include a statement in the recount petition that he or she is in fact an aggrieved party.

*Recount Petition Timing – Election for President.* For an election for President of the United States, Act 120 changes the recount petition filing deadline to 5 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. The petition deadlines for any other elections is not changed by Act 120.

*Recount Fee Calculation and Timing.* In addition to allowing the Commission to recoup the actual recount costs incurred by the agency when recount fees are calculated and presented to the petitioner

for payment, Act 120 extends the period of time to 45 days (previously 30 days) for the recount petitioner to pay outstanding recount fees if they were undercharged and the time for the clerk or other filing officer to refund any overpayments made by the petitioner or leading candidate as a result of the recount.

*Meeting of the County Boards of Canvassers.* Act 120 extends by one day the requirement for a county board of canvassers to convene and begin the recount of results. Previously, an affected county board of canvassers was required to convene no later than 9 a.m. on the second day after receipt of the recount order from the Commission. Act 120 extends this deadline to 9 a.m. the third day after receipt of the recount order.

### Revisions to Recount Manuals

The Commission maintains an “Election Recount Procedures” recount manual, last updated November 2016. Commission staff will update this manual to reflect the statutory changes contained in Act 120 and will repost the manual with a new revision date once that work is complete.

### More Information

For additional information on Act 120, please see the links below:

[2017 Wisconsin Act 120](#)  
[Legislative Council Memo](#)

If you have any questions regarding this legislation, please contact the Elections Help Desk at [elections@wi.gov](mailto:elections@wi.gov).