



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5392/1
JK:cjs

2023 SENATE BILL 852

December 26, 2023 - Introduced by Senators FEYEN and QUINN, cosponsored by Representatives MAXEY, MICHALSKI, O'CONNOR and SCHMIDT. Referred to Committee on Shared Revenue, Elections and Consumer Protection.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 7.70 (3) (a), 7.70 (3) (c), 7.70 (5) (b), 7.75 (1), 9.01 (1) (ar) 3., 9.01
2 (6) (a), 9.01 (7) (b), 9.01 (9) (a) and 9.01 (9) (c) of the statutes; **relating to:**
3 compliance with the federal Electoral Count Reform Act.

Analysis by the Legislative Reference Bureau

This bill makes the following changes to Wisconsin election laws in order to comply with deadlines established by the federal Electoral Count Reform Act for selecting presidential electors and transmitting election results to Congress:

1. Under current law, following a presidential election, the governor must sign a certificate of the election results and deliver six duplicate originals of that certificate to one of the state's presidential electors on or before the first Monday after the second Wednesday in December. The bill changes the deadline for delivering the certificate to the first Tuesday after the second Wednesday in December.

2. Current law requires the electors for president and vice president to meet at the state capitol at noon on the first Monday after the second Wednesday in December. The bill requires the electors to meet on the first Tuesday after the second Wednesday in December.

3. Current law requires the Elections Commission chairperson to complete the state canvass of election results within 10 days from the day on which it commences. The bill requires that commission chairperson to complete the state canvass no later than one day after it commences.

4. Under current law, when the Elections Commission receives a valid petition for a recount it must promptly order the proper county board of canvassers to

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commence the recount. The order must be sent by certified mail or by “other expeditious means” and the county board of canvassers must commence the recount no later than 9 a.m. on the third day after receiving the order. The bill requires that the order be sent immediately, on the same day on which the commission receives the petition, and by email or other electronic transmission. In addition, the board of canvassers must commence the recount no later than 9 a.m. on the second day after receiving the order and may not adjourn until the recount is complete in the county, except to the extent permitted by the commission. Under current law, returns from a recount ordered by the commission must be transmitted to the commission as soon as possible, but not later than 13 days from the date of the order. The bill shortens that 13-day period to 10 days.

5. Under current law, a candidate may file an appeal of the recount results with the circuit court within five business days after the recount is completed. The bill shortens that deadline to two days. The bill also requires the court to make a determination on the appeal no later than two days after the day on which the appeal is filed rather than “as expeditiously as possible,” as provided under current law.

6. Current law allows a candidate aggrieved by an order of the circuit court to file an appeal with the court of appeals within 30 days after the circuit court’s order. The bill allows a candidate to file an appeal with the court of appeals no later than two days after the circuit court’s order. The bill also requires the court of appeals to make its determination no later than two days after the appeal is filed.

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

1 **SECTION 1.** 7.70 (3) (a) of the statutes is amended to read:

2 7.70 (3) (a) The chairperson of the commission or a designee of the chairperson
3 appointed by the chairperson to canvass a specific election shall publicly canvass the
4 returns and make his or her certifications and determinations on or before the 2nd
5 Tuesday following a spring primary; the 15th day of May following a spring election;,
6 the 3rd Wednesday following a partisan primary, ~~the first day of December; no later~~
7 than 24 days following a general election; the 2nd Thursday following a special
8 primary; or within 18 days after any special election.

9 **SECTION 2.** 7.70 (3) (c) of the statutes is amended to read:

SENATE BILL 852**SECTION 2**

1 7.70 (3) (c) The chairperson of the commission or the chairperson's designee
2 shall conclude the state canvass ~~within 10 days~~ no later than one day after its
3 commencement.

4 **SECTION 3.** 7.70 (5) (b) of the statutes is amended to read:

5 7.70 (5) (b) For presidential electors, the commission shall prepare a certificate
6 showing the determination of the results of the canvass and the names of the persons
7 elected, and the governor shall sign, affix the great seal of the state, and transmit the
8 certificate by ~~registered mail~~ the most secure and expeditious method available to
9 the U.S. ~~administrator of general services~~ archivist of the United States. Before
10 transmitting the certificate, the certificate shall be countersigned by the secretary
11 of state no later than 4 hours after the governor signs the certificate. The governor
12 shall also prepare 6 duplicate originals of such certificate and deliver them to one of
13 the presidential electors on or before the first ~~Monday~~ Tuesday after the 2nd
14 Wednesday in December. The governor shall transmit the certificate described
15 under this paragraph no later than 6 days after the commission prepares the
16 certificate, except that in the case of a recount under s. 9.01 the commission shall
17 prepare, and the governor shall transmit, the certificate no later than 36 days
18 following the general election.

19 **SECTION 4.** 7.75 (1) of the statutes is amended to read:

20 7.75 (1) The electors for president and vice president shall meet at the state
21 capitol following the presidential election at 12:00 noon the first ~~Monday~~ Tuesday
22 after the 2nd Wednesday in December. If there is a vacancy in the office of an elector
23 due to death, refusal to act, failure to attend or other cause, the electors present shall
24 immediately proceed to fill by ballot, by a plurality of votes, the electoral college

SENATE BILL 852**SECTION 4**

1 vacancy. When all electors are present, or the vacancies filled, they shall perform
2 their required duties under the constitution and laws of the United States.

3 **SECTION 5.** 9.01 (1) (ar) 3. of the statutes is amended to read:

4 9.01 (1) (ar) 3. Whenever a clerk receives a valid petition and any payment
5 under par. (ag) 3., the clerk shall thereupon notify the proper board of canvassers.
6 Whenever the commission receives a valid petition and any payment under par. (ag)
7 3., the commission shall ~~promptly by certified mail or other expeditious means~~
8 immediately, on the same day on which the commission receives the petition and any
9 payment under par. (ag) 3., order the proper county boards of canvassers to
10 commence the recount. The commission shall send the order by email or other
11 electronic transmission. County boards of canvassers shall convene no later than 9
12 a.m. on the 3rd 2nd day after receipt of an order and may not adjourn ~~for not more~~
13 ~~than one day at a time~~ until the recount is completed in the county, except ~~that the~~
14 to the extent permitted by the commission may permit extension of the time for
15 adjournment. Returns from a recount ordered by the commission shall be
16 transmitted to the office of the commission as soon as possible, but in no case later
17 than ~~13~~ 10 days from the date of the order of the commission directing the recount.
18 The commission chairperson or the chairperson's designee may not make a
19 determination in any election if a recount is pending before any county board of
20 canvassers in that election. The commission chairperson or the chairperson's
21 designee need not recount actual ballots, but shall verify the returns of the county
22 boards of canvassers in making his or her determinations.

23 **SECTION 6.** 9.01 (6) (a) of the statutes is amended to read:

24 9.01 (6) (a) Within ~~5~~ business 2 days after completion of the recount
25 determination by the board of canvassers in all counties concerned, or within ~~5~~

SENATE BILL 852**SECTION 6**

1 business 2 days after completion of the recount determination by the commission
2 chairperson or the chairperson's designee whenever a determination is made by the
3 chairperson or designee, any candidate, or any elector when for a referendum,
4 aggrieved by the recount may appeal to circuit court. The appeal shall commence by
5 serving a written notice of appeal on the other candidates and persons who filed a
6 written notice of appearance before each board of canvassers whose decision is
7 appealed, or in the case of a statewide recount, before the commission chairperson
8 or the chairperson's designee. The appellant shall also serve notice on the
9 commission if the commission chairperson or the chairperson's designee is
10 responsible for determining the election. The appellant shall serve the notice by
11 certified mail or in person. The appellant shall file the notice with the clerk of circuit
12 court together with an undertaking and surety in the amount approved by the court,
13 conditioned upon the payment of all costs taxed against the appellant.

14 **SECTION 7.** 9.01 (7) (b) of the statutes is amended to read:

15 9.01 (7) (b) The appeal shall be heard by a judge without a jury. Promptly
16 following the filing of an appeal, the court shall hold a scheduling conference for the
17 purpose of adopting procedures that will permit the court to determine the matter
18 as expeditiously as possible no later than 2 days after the day on which the appeal
19 is filed. Within the time ordered by the court, the appellant shall file a complaint
20 enumerating with specificity every alleged irregularity, defect, mistake or fraud
21 committed during the recount. The appellant shall file a copy of the complaint with
22 each person who is entitled to receive a copy of the order under par. (a). Within the
23 time ordered by the court, the other parties to the appeal shall file an answer. Within
24 the time ordered by the court, the parties to the appeal shall provide the court with
25 any other information ordered by the court. At the time and place ordered by the

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1 court, the matter shall be summarily heard and determined and costs shall be taxed
2 as in other civil actions. Those provisions of chs. 801 to 806 which are inconsistent
3 with a prompt and expeditious hearing do not apply to appeals under this section.

4 **SECTION 8.** 9.01 (9) (a) of the statutes is amended to read:

5 9.01 (9) (a) ~~Within 30 days~~ No later than one day after entry of the order of the
6 circuit court, a party aggrieved by the order may appeal to the court of appeals.

7 **SECTION 9.** 9.01 (9) (c) of the statutes is amended to read:

8 9.01 (9) (c) The court of appeals shall ~~give precedence to the appeal over other~~
9 ~~matters not accorded similar precedence by law~~ make a determination of the issues
10 on appeal as soon as possible, but no later than 2 days after the day on which the
11 appeal is filed.

12 **SECTION 10. Initial applicability.**

13 (1) ELECTORAL COUNT REFORM ACT. This act first applies to the 2024 general
14 election.

15 (END)