

House File 928 - Enrolled

House File 928

AN ACT

RELATING TO THE RECOUNTING AND CONTESTING OF ELECTIONS, AND
PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 43.49, subsection 1, unnumbered paragraph 1, Code 2025, is amended to read as follows:

On the ~~Monday~~ or Tuesday following the primary election, the board of supervisors shall meet, open, and canvass the returns from each voting precinct in the county, and make abstracts thereof, stating the following:

Sec. 2. Section 43.56, subsection 2, Code 2025, is amended by striking the subsection.

Sec. 3. Section 46.24, subsection 1, Code 2025, is amended to read as follows:

1. A judge of the supreme court, court of appeals, or district court including a district associate judge, full-time associate juvenile judge, or full-time associate probate judge, or a clerk of the district court must receive more affirmative than negative votes to be retained in office. When the poll is closed, the election judges shall publicly canvass the vote forthwith. The board of supervisors shall canvass the returns on the ~~Monday~~ or Tuesday after the election, and shall promptly certify the number of affirmative and negative votes on each judge or clerk to the state commissioner of elections.

Sec. 4. Section 50.21, subsection 1, Code 2025, is amended to read as follows:

1. The commissioner shall reconvene the election board of the

special precinct established by section 53.20 not earlier than noon on the second day following each election which is required by law to be canvassed on the ~~Monday~~ or Tuesday following the election. If the second day following such an election is a legal holiday the special precinct election board may be convened at noon on the day following the election, and if the canvass of the election is scheduled at any time earlier than the ~~Monday~~ Tuesday following the election, the special precinct election board shall be reconvened at noon on the day following the election.

Sec. 5. Section 50.24, subsections 1 and 4, Code 2025, are amended to read as follows:

1. The county board of supervisors shall meet to canvass the vote on the first ~~Monday~~ or Tuesday after the day of each election to which this chapter is applicable, unless the law authorizing the election specifies another date for the canvass. If that ~~Monday~~ or Tuesday is a public holiday, section 4.1, subsection 34, controls.

4. For a regular or special city election or a city runoff election, if the city is located in more than one county, the controlling commissioner for that city under section 47.2 shall conduct a second canvass on the second ~~Monday~~ or Tuesday after the day of the election. However, if a recount is requested pursuant to section 50.48, the controlling commissioner shall conduct the second canvass within two business days after the conclusion of the recount proceedings. Each commissioner conducting a canvass for the city pursuant to subsection 1 shall transmit abstracts for the offices and public measures of that city to the controlling commissioner for that city, along with individual tallies for each write-in candidate. At the second canvass, the county board of supervisors of the county of the controlling commissioner shall canvass the abstracts received pursuant to this subsection and shall prepare a combined city abstract stating the number of votes cast in the city for each office and on each question on the ballot for the city election. The combined city abstract shall further indicate the name of each person who received votes for each office on the ballot, the number of votes each person named received for that office, and the number of votes for and against each question submitted to the voters at the election. The votes of all write-in candidates

who each received less than five percent of the total votes cast in the city for an office shall be reported collectively under the heading "scattering".

Sec. 6. Section 50.24, subsection 5, paragraph a, Code 2025, is amended to read as follows:

a. For a regular or special school election, if the school district is located in more than one county, the controlling commissioner for that school district under section 47.2 shall conduct a second canvass on the second ~~Monday~~ or Tuesday after the day of election. However, if a recount is requested pursuant to section 50.48, the controlling commissioner shall conduct the second canvass within two business days after the conclusion of the recount proceedings. Each commissioner conducting a canvass for the school district pursuant to subsection 1 shall transmit abstracts for the offices and public measures of that school district to the controlling commissioner for that school district, along with individual tallies for each write-in candidate. At the second canvass the county board of supervisors of the controlling county shall canvass the abstracts received pursuant to this subsection and shall prepare a combined school district abstract stating the number of votes cast in the school district for each office and on each question on the ballot for the school election. The combined school district abstract shall further indicate the name of each person who received votes for each office on the ballot, the number of votes each person named received for that office, and the number of votes for and against each question submitted to the voters at the election. The votes of all write-in candidates who each received less than five percent of the total votes cast in the school district for an office shall be reported collectively under the heading "scattering".

Sec. 7. Section 50.48, subsection 1, paragraph a, unnumbered paragraph 1, Code 2025, is amended to read as follows:

The Except as provided in paragraph "c", the county board of canvassers shall order a recount of the votes cast for a particular office or nomination in one or more specified each election precincts in that county precinct where a vote was cast for an office if a written request for a recount is made not later than 5:00 p.m. on the third day following the county board's canvass of the election in question and the abstracts

prepared pursuant to section 50.24, or section 43.49 in the case of a primary election, indicate that the difference between the total number of votes cast for the apparent winner and the total number of votes cast for the candidate requesting the recount is less than either one percent or fifty votes, whichever is lesser. For a city runoff election held pursuant to section 376.9, the written request must be made not later than 5:00 p.m. on the day following the county board's canvass of the city runoff election. The request shall be filed with the commissioner of that county and shall be signed by either of the following:

Sec. 8. Section 50.48, subsection 1, Code 2025, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. The state commissioner of elections shall order a recount of the votes cast for the election or nomination of a candidate for a statewide elected office, member of the general assembly, or federal office in each precinct where a vote was cast for the office if a written request for a recount is made not later than 5:00 p.m. on the day following the county board's canvass of the election in question and the abstracts prepared pursuant to section 50.24, or section 43.49 in the case of a primary election, indicate that the difference between the total number of votes cast for the apparent winner and the total number of votes cast for the candidate requesting the recount is less than fifteen hundredths of one percent for the election or nomination of a candidate for a statewide elected office or federal office, or less than either one percent or fifty votes, whichever is lesser, for all other elections or nominations. Immediately upon receipt of a request for a recount pursuant to this paragraph, the state commissioner of elections shall send a copy of the request to each commissioner of a county where a ballot for the office was cast, who shall conduct a recount as provided by this section and on such date as the state commissioner of elections may direct. The state commissioner of elections shall order the start of a recount pursuant to this paragraph within seven days of receipt by the state commissioner of elections of the request for a recount. A candidate for an office filled by the electors of the entire state shall not be required to pay more than one bond for a recount.

NEW PARAGRAPH. d. Immediately upon receipt of a request for a recount for an office filled by the electors of more than

one county, other than from the state commissioner of elections pursuant to paragraph "c", the commissioner shall send a copy of the request to each commissioner of a county where a ballot for the office was cast, who shall conduct a recount as provided in this section.

Sec. 9. Section 50.48, subsection 2, Code 2025, is amended by striking the subsection.

Sec. 10. Section 50.48, subsections 3 and 4, Code 2025, are amended to read as follows:

3. a. The recount shall be conducted by a board which shall consist of+

~~(1) A designee of the candidate requesting the recount, who shall be named in the written request when it is filed.~~

~~(2) A designee of the apparent winning candidate, who shall be named by that candidate at or before the time the board is required to convene.~~

~~(3) A person chosen jointly by the members designated under subparagraphs (1) and (2)~~ the commissioner and the commissioner's staff. The commissioner may assign persons employed by the commissioner to tally ballots during the election as members of the recount board. If the commissioner assigns persons employed by the commissioner to tally ballots during the election as members of the recount board to recount an election for a partisan office, the commissioner shall assign an equal number of persons from each political party.

~~b. The commissioner shall convene the persons designated under paragraph "a", subparagraphs (1) and (2), not later than 9:00 a.m. on the seventh day following the county board's canvass receipt of a request for the recount of the election in question. If those two members cannot agree on the third member by 8:00 a.m. on the ninth day following the canvass, they shall immediately so notify the chief judge of the judicial district in which the canvass is occurring, who shall appoint the third member not later than 5:00 p.m. on the eleventh day following the canvass.~~

c. The candidate requesting the recount and the apparent winning candidate of the office subject to the recount may select not more than five persons to observe the conduct of the recount in each county where the recount is being conducted. A candidate may replace an observer appointed by the candidate at any time.

4. a. When all members of the recount board have been selected convened, the board shall undertake and complete the required recount as expeditiously as reasonably possible. The commissioner or the commissioner's designee shall supervise the handling of ballots to ensure that the ballots are protected from alteration or damage. ~~The board shall open only the sealed ballot containers from the precincts specified to be recounted in the request or by the recount board.~~ The board shall recount ~~only the~~ all ballots which were voted and counted for the office in question, including any disputed ballots returned as required in section 50.5. ~~If automatic tabulating equipment was used to count the ballots, the recount board may request the commissioner to retabulate the ballots using the automatic tabulating equipment.~~ The same program used for tabulating the votes on election day shall be used at the recount unless the program is believed or known to be flawed. A recount shall be conducted by the use of automatic tabulating equipment, except that the state commissioner, for an election for a member of the general assembly, or commissioner, for a local elective office, may direct that an election be conducted by hand due to extraordinary circumstances. The same method of conducting the recount shall be used in each precinct where the recount is conducted. The commissioner shall make all pieces of automatic tabulating equipment available for use in the recount. For purposes of this paragraph, "extraordinary circumstances" includes but is not limited to a machine failure during an initial recount, a discrepancy between the results of the initial count and the results of the initial recount, and the number of overvotes for an office exceeding the difference between the number of votes received by the apparent winning candidate for that office and the votes received by the candidate who received the second highest number of votes for that office.

~~b. Any member of the recount board may at any time during the recount proceedings extend the recount of votes cast for the office or nomination in question to any other precinct or precincts in the same county, or from which the returns were reported to the commissioner responsible for conducting the election, without the necessity of posting additional bond.~~

~~c.~~ b. The ballots shall be resealed by the recount board before adjournment and shall be preserved as required by section

50.12. At the conclusion of the recount, the recount board shall make and file with the commissioner a written report of its findings, which shall be signed by at least ~~two~~ two-thirds of the members of the recount board. The recount board shall complete the recount and file its report not later than the eighteenth day following the ~~county board's canvass~~ commissioner's receipt of a request for the recount of the election in question.

Sec. 11. Section 50.48, Code 2025, is amended by adding the following new subsections:

NEW SUBSECTION. 9. a. The recount board shall comply with all guidance issued by the state commissioner of elections pursuant to section 47.1 during the conduct of a recount. The state commissioner may halt a recount in a county, take custody of all ballots and equipment used in the recount, and appoint staff to conduct a recount if the state commissioner believes that a recount is not being conducted as required by law.

b. If the state commissioner believes that a commissioner is purposefully conducting a recount in violation of law, the state commissioner may impose a civil penalty on the commissioner not to exceed twenty-five thousand dollars, to be deposited in the general fund of the state.

NEW SUBSECTION. 10. Before a recount board has issued its final report, the candidate or person who requested the recount may reach an agreement with the apparent winner to accept the results of the original canvass by submitting the agreement in writing to each recount board that is conducting the recount. Upon receipt of the agreement, the recount boards shall cease their work and report to each county commissioner in a county where the recount is being conducted that the results of the original canvass are the official results.

Sec. 12. Section 50.49, subsection 1, Code 2025, is amended to read as follows:

1. A recount for any public measure shall be ordered by the board of canvassers if a petition requesting a recount is filed with the state commissioner for a public measure voted on by the electors of the entire state, or the county commissioner for all other public measures, not later than three days after the completion of the canvass of votes for the election at which the question appeared on the ballot and the abstracts prepared pursuant to section 50.24 indicate that the difference between

the affirmative and negative votes cast on the public measure is less than fifteen hundredths of one percent for a public measure voted on by the electors of the entire state, or less than either one percent or fifty votes, whichever is lesser, for all other public measures. The petition shall be signed by the greater of not less than ten eligible electors or a number of eligible electors equaling one percent of the total number of votes cast upon the public measure. Each petitioner must be a person who was entitled to vote on the public measure in question or would have been so entitled if registered to vote.

Sec. 13. Section 50.49, subsection 4, Code 2025, is amended by striking the subsection.

Sec. 14. Section 50.50, Code 2025, is amended to read as follows:

50.50 Administrative ~~reeounts~~ audits.

1. The commissioner who was responsible for conducting an election may request an administrative ~~reeount~~ audit when the commissioner is informed or suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election, or if the precinct election officials report counting errors to the commissioner after the conclusion of the canvass of votes in the precinct. An administrative ~~reeount~~ audit shall be conducted by the board of the special precinct established by section 53.23. ~~Bond shall not be required for an administrative recount.~~ The state commissioner may adopt rules for administrative ~~reeounts~~ audits.

2. ~~If the recount board finds that there is an error in the programming of any voting equipment which may have affected the outcome of the election for any office or public measure on the ballot, the recount board shall describe the errors in its report to the commissioner. The commissioner shall notify the board of supervisors. The supervisors shall determine whether to order an administrative recount for any or all of the offices and public measures on the ballot. Each political party, as defined in section 43.2, may appoint up to five observers to witness an audit conducted pursuant to this section. The observers shall be appointed by the county chairperson or, if the county chairperson fails to make an appointment, by the state chairperson. However, if either or both political parties fail to appoint an observer, the board may continue with the proceedings.~~

Sec. 15. Section 57.7, Code 2025, is amended to read as follows:

57.7 Contest court for contest of public measure — appeal.

The court for the trial of a contested election on a public measure shall consist of ~~one person designated by the petitioners who are contesting the election, who shall be designated in writing by the petitioners at the time the contest is filed, one person designated by the county commissioner of elections to represent the interests adverse to those of the petitioners, and a third person who shall be chosen jointly by the designees of the petitioners and of the commissioner. If the persons selected by the petitioners and the county commissioner of elections cannot agree on a third person, the chief judge of the judicial district in which the contest is filed shall appoint a third person to serve~~ five district court judges, appointed by the chief justice of the supreme court by January 30 of each odd-numbered year. The decision of the contest court may be appealed to the supreme court.

Sec. 16. Section 58.7, Code 2025, is amended to read as follows:

58.7 Judgment.

The judgment of the committee pronounced in the final decision on the election shall be ~~conclusive~~ may be appealed to the supreme court.

Sec. 17. Section 60.1, Code 2025, is amended to read as follows:

60.1 Court of contest.

The court for the trial of contested elections for presidential electors or for the office of senator or representative in Congress shall consist of ~~the chief justice of the supreme court, who shall be presiding judge of the court, and four~~ five judges of the district court to be selected by the chief justice of the supreme court by January 30 of each odd-numbered year, two three of whom, with the chief justice, shall constitute a quorum for the transaction of the business of the court. ~~If the chief justice should for any cause be unable to attend at the trial, the judge longest on the supreme court bench shall preside in place of the chief justice; and any question arising as to the membership of the court shall be determined by the members of the court not interested in the~~

~~question~~ The district court judge longest serving shall be the presiding judge of the court.

Sec. 18. Section 60.2, Code 2025, is amended to read as follows:

60.2 Clerk.

~~The secretary of state~~ clerk of the supreme court shall be the clerk of the court, ~~or, in the secretary of state's absence or inability to act, the clerk of the supreme court.~~

Sec. 19. Section 60.6, Code 2025, is amended to read as follows:

60.6 Judgment — appeal.

The judgment of the court shall determine which of the parties to the action is entitled to hold the office and shall be authenticated by the presiding judge and clerk of the court and filed with the secretary of state; and the judgment so rendered ~~shall constitute a final determination of the title to the office~~ may be appealed to the supreme court, and a certificate of appointment shall be issued to the successful party.

Sec. 20. Section 61.1, Code 2025, is amended to read as follows:

61.1 Contest court.

The court for the trial of contested state offices, except that of governor and lieutenant governor, shall consist of ~~three~~ five district judges, not interested, who shall be selected by the chief justice of the supreme court.

Sec. 21. Section 61.2, Code 2025, is amended to read as follows:

61.2 Clerk.

~~The secretary of state~~ clerk of the supreme court shall be the clerk of this court; ~~but if the person holding that office is a party to the contest, the clerk of the supreme court, or, in case of that person's absence or inability, the auditor of state shall be clerk.~~

Sec. 22. Section 61.4, Code 2025, is amended to read as follows:

61.4 Selection of court.

~~Upon the filing of such statement, the~~ The chief justice of the supreme court shall select the membership of the court ~~to try such contest~~ by January 30 of each odd-numbered year, and immediately certify such selection to the clerk of the supreme

court. Vacancies shall also be filled by the chief justice.

Sec. 23. Section 61.12, Code 2025, is amended to read as follows:

61.12 Judgment filed — execution.

A transcript of the judgment rendered by such court, filed in the office of the clerk of the supreme court, shall have the force and effect of a judgment of the supreme court, except that the judgment of the court may be appealed to the supreme court, and execution may issue therefrom in the first instance against the party's property generally.

Sec. 24. Section 62.1A, Code 2025, is amended to read as follows:

62.1A Contest court established.

~~The court for the trial of contested county elections shall consist of one member named by the contestant and one member named by the incumbent. If the incumbent fails to name a member, the chief judge of the judicial district shall be notified of the failure to appoint. The chief judge shall designate the second member within one week after the chief judge is notified. These two members shall meet within three days and select a third member to serve as the presiding member of the court. If they cannot agree on the third member of the court within three days after their initial meeting, the chief judge of the judicial district shall be notified of the failure to agree. The chief judge shall designate the presiding member within one week after the chief judge is notified~~ a district court judge from the judicial district where the county election is being contested, appointed by the chief justice of the supreme court by January 30 of each odd-numbered year.

Sec. 25. Section 62.20, Code 2025, is amended to read as follows:

62.20 Appeal.

The party against whom judgment is rendered may appeal within twenty days to the ~~district~~ supreme court, but, if the party be in possession of the office, such appeal will not supersede the execution of the judgment of the court as provided in section 62.19, unless the party gives a bond, with security to be approved by the ~~district judge~~ supreme court in a sum to be fixed by the ~~judge~~ supreme court, and which shall be at least double the probable compensation of such officer for six months,

which bond shall be conditioned that the party will prosecute the appeal without delay, and that, if the judgment appealed from be affirmed, the party will pay over to the successful party all compensation received by the party while in possession of said office after the judgment appealed from was rendered. The court shall hear the appeal in equity and determine anew all questions arising in the case.

Sec. 26. Section 62.21, Code 2025, is amended to read as follows:

62.21 Judgment.

If, upon appeal, the judgment is affirmed, the ~~district~~ supreme court may render judgment upon the bond for the amount of damages, against the appellant and the sureties thereon.

Sec. 27. Section 260C.15, subsection 5, Code 2025, is amended to read as follows:

5. The votes cast in the election shall be canvassed and abstracts of the votes cast shall be certified as required by section 277.20. In each county whose commissioner of elections is the controlling commissioner for a merged area under section 47.2, the county board of supervisors shall convene on the second ~~Monday~~ ~~or~~ Tuesday after the day of the election to canvass the abstracts of votes cast from each county in the merged area, and declare the results of the voting. The commissioner shall at once issue certificates of election to each person declared elected, and shall certify to the merged area board in substantially the manner prescribed by section 50.27 the result of the voting on any public question submitted to the voters of the merged area. Members elected to the board of directors of a merged area shall qualify by taking the oath of office prescribed in section 277.28.

PAT GRASSLEY
Speaker of the House

AMY SINCLAIR
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 928, Ninety-first General Assembly.

MEGHAN NELSON
Chief Clerk of the House

Approved _____, 2025

KIM REYNOLDS
Governor

unofficial