

House File 596 - Introduced

HOUSE FILE 596
BY HARRIS

A BILL FOR

- 1 An Act relating to the recounting and contesting of elections,
- 2 and providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

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

3 The Except as provided in paragraph "c", the county board
4 of canvassers shall order a recount of the votes cast for a
5 particular office or nomination in one or more specified each
6 election precincts in that county precinct where a vote was cast
7 for an office if a written request for a recount is made not
8 later than 5:00 p.m. on the third day second Wednesday following
9 the county board's canvass of the election in question and the
10 abstracts prepared pursuant to section 50.24, or section 43.49
11 in the case of a primary election, indicate that the difference
12 between the total number of votes cast for the apparent winner
13 and the total number of votes cast for the candidate requesting
14 the recount is one percent or less. For a city runoff election
15 held pursuant to section 376.9, the written request must be made
16 not later than 5:00 p.m. on the day following the county board's
17 canvass of the city runoff election. The request shall be filed
18 with the commissioner of that county and shall be signed by
19 either of the following:

20 Sec. 2. Section 50.48, subsection 1, Code 2025, is amended by
21 adding the following new paragraphs:

22 NEW PARAGRAPH. c. The state commissioner of elections shall
23 order a recount of the votes cast for the election or nomination
24 of a candidate for a statewide elected office, member of the
25 general assembly, or federal office in each precinct where a vote
26 was cast for the office if a written request for a recount is
27 made not later than 5:00 p.m. on the second Wednesday following
28 the election in question and the abstracts prepared pursuant
29 to section 50.24, or section 43.49 in the case of a primary
30 election, indicate that the difference between the total number
31 of votes cast for the apparent winner and the total number
32 of votes cast for the candidate requesting the recount is one
33 percent or less. Immediately upon receipt of a request for a
34 recount pursuant to this paragraph, the state commissioner of
35 elections shall send a copy of the request to each commissioner

1 of a county where a ballot for the office was cast, who shall
2 conduct a recount as provided by this section and on such date
3 as the state commissioner of elections may direct. The state
4 commissioner of elections shall order the start of a recount
5 pursuant to this paragraph within seven days of receipt by the
6 state commissioner of elections of the request for a recount.
7 A candidate for an office filled by the electors of the entire
8 state shall not be required to pay more than one bond for a
9 recount.

10 NEW PARAGRAPH. d. Immediately upon receipt of a request for
11 a recount for an office filled by the electors of more than
12 one county, other than from the state commissioner of elections
13 pursuant to paragraph "c", the commissioner shall send a copy of
14 the request to each commissioner of a county where a ballot for
15 the office was cast, who shall conduct a recount as provided in
16 this section.

17 Sec. 3. Section 50.48, subsection 2, paragraph a, unnumbered
18 paragraph 1, Code 2025, is amended to read as follows:

19 The candidate requesting a recount under this section shall
20 post a bond, unless the abstracts prepared pursuant to section
21 50.24, or section 43.49 in the case of a primary election,
22 indicate that the difference between the total number of votes
23 cast for the apparent winner and the total number of votes cast
24 for the candidate requesting the recount is ~~less than the greater~~
25 ~~of fifty votes or~~ one-tenth of one percent or less of the total
26 number of votes cast for the office or nomination in question.
27 The candidate requesting the recount shall sign an affidavit
28 affirming that the candidate shall be responsible for the payment
29 of the bond if the candidate's committee does not pay for the
30 bond. If a recount is requested for an office to which more
31 than one person was elected, the vote difference calculations
32 shall be made using the difference between the number of votes
33 received by the person requesting the recount and the number of
34 votes received by the apparent winner who received the fewest
35 votes. Where votes cast for that office or nomination were

1 canvassed in more than one county, the abstracts prepared by
2 the county boards in all of those counties shall be totaled for
3 purposes of this subsection. If a bond is required, it shall be
4 filed with the state commissioner for recounts involving a state
5 office, including a seat in the general assembly, or a seat in
6 the United States Congress, and with the commissioner responsible
7 for conducting the election in all other cases, and shall be in
8 the following amount:

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

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

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

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

18 ~~(3) A person chosen jointly by the members designated under
19 subparagraphs (1) and (2) the commissioner, the commissioner's
20 staff, and any persons employed by the commissioner to tally
21 ballots during the election.~~

22 b. The commissioner shall convene the persons designated
23 under paragraph "a", ~~subparagraphs (1) and (2),~~ not later than
24 9:00 a.m. on the seventh day following the ~~county board's canvass~~
25 receipt of a request for the recount of the election in question.
26 ~~If those two members cannot agree on the third member by
27 8:00 a.m. on the ninth day following the canvass, they shall
28 immediately so notify the chief judge of the judicial district
29 in which the canvass is occurring, who shall appoint the third
30 member not later than 5:00 p.m. on the eleventh day following the
31 canvass.~~

32 c. The candidate requesting the recount and the apparent
33 winning candidate of the office subject to the recount may select
34 not more than five persons to observe the conduct of the recount.
35 The candidates shall submit the names of any observers appointed

1 pursuant to this paragraph to the commissioner prior to the start
 2 of the recount.

3 4. a. When all members of the recount board have been
 4 ~~selected~~ convened, the board shall undertake and complete the
 5 required recount as expeditiously as reasonably possible. The
 6 commissioner or the commissioner's designee shall supervise the
 7 handling of ballots to ensure that the ballots are protected
 8 from alteration or damage. ~~The board shall open only the sealed~~
 9 ~~ballot containers from the precincts specified to be recounted~~
 10 ~~in the request or by the recount board.~~ The board shall
 11 recount ~~only the~~ all ballots which were voted and counted for
 12 the office in question, including any disputed ballots returned
 13 as required in section 50.5. If automatic tabulating equipment
 14 was used to count the ballots, the recount board may request
 15 the commissioner to retabulate the ballots using the automatic
 16 tabulating equipment. The same program used for tabulating
 17 the votes on election day shall be used at the recount unless
 18 the program is believed or known to be flawed. A recount
 19 may be conducted either by hand or by the use of automatic
 20 tabulating equipment, but not both. The commissioner shall make
 21 all pieces of automatic tabulating equipment available for use in
 22 the recount.

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

29 ~~e.~~ b. The ballots shall be resealed by the recount board
 30 before adjournment and shall be preserved as required by section
 31 50.12. At the conclusion of the recount, the recount board
 32 shall make and file with the commissioner a written report of its
 33 findings, which shall be signed by at least ~~two~~ two-thirds of the
 34 members of the recount board. The recount board shall complete
 35 the recount and file its report not later than the eighteenth day

1 following the ~~county board's canvass~~ commissioner's receipt of a
2 request for the recount of the election in question.

3 Sec. 5. Section 50.48, Code 2025, is amended by adding the
4 following new subsection:

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

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

17 Sec. 6. Section 57.7, Code 2025, is amended to read as
18 follows:

19 **57.7 Contest court for contest of public measure — appeal.**

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

35 Sec. 7. Section 58.4, Code 2025, is amended by striking the

1 section and inserting in lieu thereof the following:

2 **58.4 Contest court.**

3 The contest court shall consist of five district court judges,
4 appointed by the chief justice of the supreme court by January 30
5 of each odd-numbered year.

6 Sec. 8. Section 58.5, Code 2025, is amended to read as
7 follows:

8 **58.5 Powers and proceedings.**

9 The members thus ~~drawn~~ selected shall constitute a committee
10 to try and determine the contested election, and for that purpose
11 shall hold their meetings publicly at the place where the general
12 assembly is sitting, at such times as they may designate; and
13 may adjourn from day to day or to a day certain, not more than
14 four days distant, until such trial is determined; shall have
15 power to send for persons and papers, and to take all necessary
16 means to procure testimony, extending like privileges to the
17 contestant and the incumbent; and shall report their judgment
18 to both branches of the general assembly, which report shall be
19 entered on the journals of both houses.

20 Sec. 9. Section 58.7, Code 2025, is amended to read as
21 follows:

22 **58.7 Judgment.**

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

26 Sec. 10. Section 60.1, Code 2025, is amended to read as
27 follows:

28 **60.1 Court of contest.**

29 The court for the trial of contested elections for
30 presidential electors or for the office of senator or
31 representative in Congress shall consist of ~~the chief justice of~~
32 ~~the supreme court, who shall be presiding judge of the court,~~
33 ~~and four~~ five judges of the district court to be selected by
34 the chief justice of the supreme court by January 30 of each
35 odd-numbered year, two three of whom, ~~with the chief justice,~~

1 shall constitute a quorum for the transaction of the business
2 of the court. ~~If the chief justice should for any cause be~~
3 ~~unable to attend at the trial, the judge longest on the supreme~~
4 ~~court bench shall preside in place of the chief justice; and~~
5 ~~any question arising as to the membership of the court shall~~
6 ~~be determined by the members of the court not interested in the~~
7 ~~question~~ The district court judge longest serving shall be the
8 presiding judge of the court.

9 Sec. 11. Section 60.6, Code 2025, is amended to read as
10 follows:

11 **60.6 Judgment — appeal.**

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

19 Sec. 12. Section 61.1, Code 2025, is amended to read as
20 follows:

21 **61.1 Contest court.**

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

26 Sec. 13. Section 61.4, Code 2025, is amended to read as
27 follows:

28 **61.4 Selection of court.**

29 ~~Upon the filing of such statement, the~~ The chief justice of
30 the supreme court shall select the membership of the court ~~to~~
31 ~~try such contest~~ by January 30 of each odd-numbered year, and
32 immediately certify such selection to the clerk of the supreme
33 court. Vacancies shall also be filled by the chief justice.

34 Sec. 14. Section 61.12, Code 2025, is amended to read as
35 follows:

1 **61.12 Judgment filed — execution.**

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

8 Sec. 15. Section 62.1A, Code 2025, is amended to read as
9 follows:

10 **62.1A Contest court established.**

11 The court for the trial of contested county elections shall
12 consist of ~~one member named by the contestant and one member~~
13 ~~named by the incumbent. If the incumbent fails to name a member,~~
14 ~~the chief judge of the judicial district shall be notified of~~
15 ~~the failure to appoint. The chief judge shall designate the~~
16 ~~second member within one week after the chief judge is notified.~~
17 ~~These two members shall meet within three days and select a third~~
18 ~~member to serve as the presiding member of the court. If they~~
19 ~~cannot agree on the third member of the court within three days~~
20 ~~after their initial meeting, the chief judge of the judicial~~
21 ~~district shall be notified of the failure to agree. The chief~~
22 ~~judge shall designate the presiding member within one week after~~
23 the chief judge is notified five district judges, appointed by
24 the chief justice of the supreme court by January 30 of each
25 odd-numbered year.

26 Sec. 16. Section 62.20, Code 2025, is amended to read as
27 follows:

28 **62.20 Appeal.**

29 The party against whom judgment is rendered may appeal within
30 twenty days to the ~~district~~ supreme court, but, if the party
31 be in possession of the office, such appeal will not supersede
32 the execution of the judgment of the court as provided in
33 section 62.19, unless the party gives a bond, with security to
34 be approved by the ~~district judge~~ supreme court in a sum to be
35 fixed by the judge supreme court, and which shall be at least

1 double the probable compensation of such officer for six months,
2 which bond shall be conditioned that the party will prosecute the
3 appeal without delay, and that, if the judgment appealed from be
4 affirmed, the party will pay over to the successful party all
5 compensation received by the party while in possession of said
6 office after the judgment appealed from was rendered. The court
7 shall hear the appeal in equity and determine anew all questions
8 arising in the case.

9 Sec. 17. Section 62.21, Code 2025, is amended to read as
10 follows:

11 **62.21 Judgment.**

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

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to the recounting of elections and election
19 contests. The bill requires an election recount to be conducted
20 in each precinct where a ballot for a given office was cast when
21 a recount is requested for that office. The bill changes the
22 deadline for the receipt of a request for a recount to the second
23 Wednesday following an election and makes conforming changes.
24 The bill requires a person seeking a recount of an election for
25 a statewide elected office, member of the general assembly, or
26 federal office to submit the request to the state commissioner of
27 elections. The difference between the total number of votes cast
28 for the apparent winner and the total number of votes cast for
29 the candidate requesting the recount must be 1 percent or less
30 in order for a recount to be called. The person requesting the
31 recount must pay a bond unless the difference between the total
32 number of votes cast for the apparent winner and the total number
33 of votes cast for the candidate requesting the recount is 0.1
34 percent or less. The bill requires the candidate requesting the
35 recount to affirm that the candidate will be responsible for the

1 payment of the bond if the candidate's committee does not pay for
2 the bond.

3 The bill changes the composition of the election recount board
4 to consist of the county commissioner of elections, the county
5 commissioner of elections' staff, and any persons employed by
6 the county commissioner of elections to tally ballots during the
7 election. The bill allows the apparent winning candidate and
8 the candidate requesting the recount to select not more than five
9 persons each to observe the recount. A recount may be conducted
10 either by hand or by use of automatic tabulating equipment, but
11 not by both. The county commissioner of elections must make
12 all automatic tabulating equipment available for use during the
13 recount. The bill requires the recount board's written report of
14 its findings to be signed by at least two-thirds of the members
15 of the board.

16 The bill requires a county commissioner of elections to comply
17 with all guidance issued by the state commissioner of elections.
18 If the state commissioner of elections believes that a recount is
19 not being conducted as required by law, the bill allows the state
20 commissioner to halt the recount, take custody of all ballots and
21 equipment used in the recount, and appoint staff to conduct the
22 recount. If the state commissioner of elections believes that
23 a county commissioner of elections is purposefully conducting a
24 recount in violation of law, the state commissioner may impose a
25 civil penalty on the county commissioner not to exceed \$25,000,
26 to be deposited in the general fund of the state.

27 The bill changes the membership of contest courts for public
28 measures, governor and lieutenant governor, presidential electors
29 and federal officers, state officers, and county officers to
30 consist of five district court judges, appointed by the chief
31 justice of the supreme court by January 30 of each odd-numbered
32 year. The bill allows the decisions of contest courts for public
33 measures, governor and lieutenant governor, presidential electors
34 and federal officers, state officers, and county officers to be
35 appealed to the supreme court.