

Contested Elections and Recounts 2

A Summary of State
Procedures for
Resolving Disputed
Federal Elections



Contested Elections and Recounts 2: A Summary of State Procedures for Resolving Disputed Federal Elections

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Introduction by the Clearinghouse

It is essential in a democracy to maintain public confidence in the election process and to ensure that election outcomes are valid and accurate. It is therefore necessary to provide legal mechanisms for contesting or recounting election results in order to resolve any legitimate doubts about them that may arise.

A contested election is, strictly speaking, a formal challenge to the outcome of an election—a charge that the declared winner is, for any of several possible reasons, not the true winner. A recount is one possible resolution to a contested election, normally employed when the challenge alleges improprieties in the tabulation of the votes. But because recounts can sometimes be requested short of formally contesting the election, and because of their frequency and importance, recounts warrant special attention.

It would be comforting to think that contested elections and recounts are a rare exception in the United States and that such cases as may arise are expeditiously resolved. And, in fact, contested elections in federal races are the exception. Ninety-nine percent of all races for federal office are decided firmly and finally on election day. The remaining one percent, however, have included three contested presidential elections, over 500 contests for House seats, and about two dozen contested Senate races since the direct election of Senators in 1913. This works out to a frequency of about five House seats every two years, one Senate race every four years, and one in every sixteen presidential elections. It would be a mistake to conclude, however, that their fairly steady occurrence has led to anything like a standard, routine, and expeditious way of resolving them.

All too often, contested election and recount procedures come into question only when there is a crisis involving them—with the result that new laws and procedures are hastily adopted according to the chemistry of the moment rather than according to any overall rational scheme. Worse still, contests and recounts can delay other critical deadlines in the election process (such as ballot preparation and absentee voting in subsequent general elections) or delay the installation of members of Congress.

It is axiomatic in the election community that the best laws and procedures are carefully and deliberately designed to prevent crises rather than hastily contrived to resolve them. This report is therefore directed primarily to policy makers at the State level in an effort to assist them in conducting a comprehensive, dispassionate, step-by-step review of their own contested election and recount laws and procedures.

This report describes State methods for processing challenges to federal elections and addresses the major policy issues and alternatives involved. An examination of so fundamental a set of laws and procedures would seem, at first glance, to be a fairly straightforward task. Yet for many reasons, contested election and recount rules in the United States are enormously complex. They vary, for example,

- by State
- by type of election
- by type of criteria and procedures, and
- over time.

In an effort to convey such a complex body of information, we have divided the report into two volumes:

Contested Elections and Recounts 1: Issues and Options in Resolving Disputed Federal Elections provides a Constitutional, statutory, and judicial background. It also offers readers a step-by-step guide through contested election and recount procedures examining at each point alternative procedures.

Contested Elections and Recounts 2: A Summary of State Procedures for Resolving Disputed Federal Elections describes the processes employed by each State with regard to standing, grounds, filing forms, requisite conditions, forums, scope of review, costs, and types of relief available.

THESE DOCUMENTS ARE INTENDED ONLY AS GENERAL REFERENCE TOOLS. CANDIDATES OR OTHER PARTIES INTERESTED IN FILING A CONTEST OR REQUESTING A RECOUNT SHOULD IN ALL CASES REFER TO THE APPROPRIATE STATE ELECTION CODE OR STATE ELECTION AUTHORITY.

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[REDACTED]

Alabama

Alabama statutes regarding contested elections and recounts do not apply to elections for federal office.



Alaska

Introduction

Structure for the administration of the election process

For purposes of election administration, the State is divided into four regions—Juneau, Anchorage, Fairbanks and Nome. In each the Lieutenant Governor appoints an election supervisor, who is an agent of the State and who is responsible for the conduct of federal elections and for counting the votes. Aggregation of the vote from the four regions is done by the State Election Division, and the Director of the State Election Division in Juneau certifies the results.

Security process for election materials

Ballots, data processing materials, tally sheets, etc., are brought from the regions to the State Capitol, where they are in custody of the Director of the State Election Division. They are kept in locked jail cells, and may be used for reference by the State Review Board during the period of validation of the vote.

Miscellaneous notes

All federal elections in Alaska are statewide.

Government Initiated Validation of Election Results

Verifications of the vote count

A punchcard voting system is used in approximately 78% of the state; a logic and accuracy test, in which a preaudited group of ballots is processed, is performed prior to, during, and after the vote tabulation, before certifying results. In addition, the State Review Board—an eight-member bi-partisan body appointed by the State Election Division Director, does an exhaustive, precinct-by-precinct audit of all reports from the regions. If an error in vote tabulation is discovered, this Board has the authority to make the correction. If deemed appropriate this Board may, after consultation with the State Director, open a sealed ballot box and recount the ballots. The Director of Elections also may make corrections in election returns.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

A defeated candidate or ten qualified voters may petition for a recount.

Grounds

The petitioner must allege a mistake made by an election official or by the district absentee or question review board in counting votes.

Filing deadlines

The application must be filed within five days after the completion of the state review with the Director of the Division of Elections in Juneau.

Form and its content

There is no specific form.

Costs of the recount

If the difference between votes for winner and loser was twenty or less, or 0.5 percent or less of the total vote, no bond or deposit is required and the state bears the cost. If the margin is more than 0.5 percent, a

\$10,000.00 bond or cash deposit must be made by the requester. For a statewide recount, it costs \$750. This is returned if: (1) the recount shows requester to be the winner, or (2) if an error greater than 4 percent from the original count is found.

Procedures involved in recount

The Director of the Division of Elections sets the date of the recount which must be within five days of receipt of the request, and conducts the recount in his office or at another site in Juneau. All ballots (punch-card) are recounted by hand. The Director also reviews all absentee and “questioned” ballots to determine whether or not they should be included in the count.

Scope of materials used

The requester may specify the precincts to be recounted.

Observers

Observers are permitted and the number is unlimited. A candidate or petitioner may designate observers. The Director prefers that the number of observers be limited to one per candidate at each table.

Methods used based on type of voting equipment

All ballots are hand counted. Individual votes are tallied and totals are tabulated.

Procedure for invalidating ballots

Written standards are established and available to the parties before the recount starts. Those conducting the recount or an observer may initiate the process for invalidation. Invalidations may be challenged by the observers.

Security of and access to materials

The Director has custody of ballots and all other relevant election materials. Inquiries regarding the access to or security of such materials should be directed to the Director of Elections the State Election Division.

Deadlines

The recount must start within five days of the request and be completed within ten days after it is started.

Privately Initiated Contests

The following apply to both primary and general elections unless otherwise noted.

Standing

A defeated candidate or ten qualified voters may contest.

Grounds

Grounds to contest include: (1) malconduct (2) fraud (3) corruption.

Filing deadlines

The action must be filed within ten days after the completion of the state review.

Form and its content

Petition, which must state the grounds.

Forum for filing and hearing

Superior Court of any region.

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Costs of the contest

The court determines who bears the cost of the contest.

Deadlines

No provision.

Relief available

The State has had no experience with the process, so there is no precedent.

The court makes its findings and provides them to the Director of the Division of Elections, along with its directive. If the court finds that the original winner is confirmed, the Director is directed to recertify. The court could recommend a recount, which the Director would conduct and report the result to the court. If the new count produces a different winner, the court would make the decision on whether to designate a new winner or to void the election and order a new one.

Appeal

The decision may be appealed to the State Supreme Court.

Arkansas

Introduction

Structure for the administration of the election process

The County Board of Election Commissioners conducts general elections, counts votes, and certifies results to the Secretary of State. The County Clerk is responsible for absentee voting. If votes from more than one jurisdiction are aggregated to determine the total vote for a federal office, the Secretary of State is responsible for that tabulation. The Secretary of State and the Governor are responsible for certifying the results of general elections for federal office.

Political parties are wholly responsible for primary elections, including notifying the Secretary of State of their nominees, which information is then relayed to the counties so they can print the general election ballots. County party committees conduct party elections, and if votes from more than one jurisdiction must be aggregated to determine the total vote for a federal office, the appropriate state party organization does that. Parties fund their own primaries. In conduct of elections, they are subject to the provisions of the state code.

Security process for election materials

In general elections, the County Board of Election Commissioners has custody over all ballots and certificates (the records of the vote tabulation) and the County Clerk has responsibility for absentee ballots. In primary elections, the county party committee has custody of all materials. Voting machines may be impounded.

Government Initiated Validation of Election Results

Verifications of the vote count

For all electronic systems—punchcard and marksense—a logic and accuracy test is performed on the system following the vote tabulation but before certification. A preaudited group of ballots is processed.

If an error in vote tabulation is discovered before the results are tabulated, the County Board of Election Commissioners has the authority to make corrections in general elections. In primary elections, the political party organization is empowered to make such corrections.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any dissatisfied candidate has standing to obtain a recount of a federal election.

Grounds

The candidate must show reasonable grounds for believing that the return is incorrect.

Filing deadlines

In general elections, a recount request must be filed with the County Board of Election Commissioners before the Board completes the canvass and declares the result. In primary elections, a recount request must be filed with the party committee before the committee completes the canvass and declares the result. A separate request is required for each county.

Form and its content

No special form is needed; petition must show reasonable grounds for recount.

Costs of the recount

In both primary and general elections, costs are borne by the petitioner, regardless of the outcome of the recount. No bond, deposit or other fee is required at the time of filing.

Procedures involved in recount

Requester of recount may specify extent of the recount, i.e. a complete or selective recount of votes.

Scope of materials used

In both primary and general elections, the recount is limited to retabulation of ballots/votes. If further examination is sought, the party must use the contest process.

Observers

Observers are permitted at recounts. A candidate or his representative must obtain designation from the Secretary of State or the County Board of Elections. The number of observers is not limited in law, although the County Board of Elections may limit observers to ensure order.

Methods used based on type of voting equipment

In general elections, for computer-counted ballots, mechanical lever machines, and DRE machines, methods used to recount ballots are at the discretion of the County Board of Elections. For paper ballots, all individual votes are tallied and totals are retabulated. In primary elections methods are at the discretion of the appropriate party committee.

Procedure for invalidating ballots

Any candidate or his representative may challenge the ballot of any voter. The County Board of Election Commissioners (general election) or the county party committee (primary election) will determine the issue. Invalidation decisions may be challenged, but the final determination is made by the County Board of Elections or the county party committee.

Security of and access to materials

Questions regarding the security of or access to such materials should be directed to the County Board of Election Commissioners (general elections) or the county party committee (primary elections).

Deadlines

General election: The recount must be completed before the statutory deadline by which certification must be made to the Secretary of State.

Privately Initiated Contests

Standing

Any candidate has standing to contest the result of a federal election.

Grounds

A federal election may be contested on the grounds of illegal or fraudulent votes.

Filing deadlines

In both primary and general elections, an action contesting a federal election result must be filed before 20 days after the certification of election results.

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Form and its content

No special form is required; petition must be made to the circuit court. The form must include allegations and state grounds for contest.

Forum for filing and hearing

Contest is filed in the Pulaski County Circuit Court when a U.S. Senate office is involved. For an election to the House of Representatives the circuit court in any county in the Congressional District is used.

Costs of the contest

No provision.

Deadlines

No provision.

Provisions for preserving evidence

In general elections, the County Board of Election Commissioners has custody over all ballots and certificates (the records of the vote tabulation) and the County Clerk has responsibility for absentee ballots. In primary elections, the county party committee has custody of all materials. Voting machines may be impounded.

Relief available

Nothing specific is provided in state code. The court could void the result and order a new election.

Appeal

Decisions may be appealed to the Supreme Court.

Arkansas

Arizona

Introduction

Structure for the administration of the election process

The Board of Supervisors in each county is responsible for conducting the federal election and counting the votes. The Secretary of State tabulates the votes when more than one jurisdiction is involved, and also certifies the results.

Security process for election materials

Ballots and tally lists remain under the personal charge and keeping of the election officers and are not allowed to pass from their hands. Ballots are processed in public, sealed into a ballot transfer box, and delivered to a central receiving facility, then sealed in the County Treasurer's vault. Inquiries regarding the security of or access to election materials should be directed to the county Board of Supervisors.

Government Initiated Validation of Election Results

Verifications of the vote count

All voting in Arizona is done on computer-based systems. At the completion of the vote count, the county officials perform a logic and accuracy test on the system before the results are certified. Detail of the testing is included in the state Procedures Manual for elections.

The canvass process itself is considered routine verification of an election. If an error is discovered before certification, correction is made either by the election officials or by the court, depending on the nature of the error.

State required automatic recounts

An automatic recount is conducted before certification when the margin of votes between the two highest candidates is not more than 0.1 percent of the number of votes cast for both the winning and losing candidate, or 200 votes.

The Secretary of State is responsible for conduct of the recount. When he determines that the margin is so small that an automatic recount must be conducted, he certifies the facts to the Superior Court of Maricopa County. The court then orders the recount. If votes were cast on or tabulated by electronic voting equipment, the Secretary of State is ordered to direct that the ballots be recounted "on an automatic tabulating system to be furnished and programmed by the Secretary of State" and "the programs used in the recount of votes...shall differ from the programs...used in the initial tabulation of the votes." The code further provides that the Secretary of State may designate a county Board of Supervisors to perform duties required of him for carrying out the recount.

Observers are permitted; their number is limited only by available space.

The standards for invalidating a ballot are the same as those used in the original count. (See Procedures Manual.)

Privately Initiated Recounts

Arizona permits no privately initiated recount. An individual who is dissatisfied with the election certification, which may have been preceded by an automatic recount, could file a contest action as a result of which the court could possibly order a recount.

Privately Initiated Contests

The following are applicable to both primary and general elections.

Standing

Any elector may contest.

Grounds

The grounds to contest include (1) misconduct; (2) ineligibility; (3) bribery; (4) illegalities; (5) errors.

Filing deadlines

A petition for contest must be filed within five days after the completion of the canvass.

Form and its content

There is no specific form. The petitioner must contest on applicable grounds.

Forum for filing and hearing

The petition shall be filed with the Superior Court of the county in which the person contesting resides, or the Superior Court of Maricopa county. The contest is heard where it was filed.

Costs of the contest

A bond of \$300 is needed for an inspection of ballots and the party requesting the inspection must agree to pay inspection expenses if the party does not prevail in the contest. Though it is not in the code, a judge may waive the costs.

Deadlines

The hearing will be scheduled no later than ten days after the date on which the contest was filed.

Provisions for preserving evidence

No provision.

Relief available

The court may grant full or selective recount, void the results and order a new election, or change the result and designate a new winner. Conditions for the voiding of an election are not codified.

Appeal

The decision of the Superior Court may be appealed to the Arizona Appeals court.

California

Introduction

Structure for the administration of the election process

The County Clerk, or Registrar of Voters in those counties in which the latter office has been established, is responsible for conducting the federal election, and counting the votes. The Secretary of State is responsible for certifying the results.

Security process for election materials

If an elections contest is commenced, the election official is required to preserve all evidence.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed before and after the vote tabulation on computer-based vote tabulation systems. Vote count programs are deposited with the Secretary of State seven days before the election and are held for six months if needed to verify results. The source code for the ballot tally software must be placed in an approved escrow facility prior to its use in counting ballots.

As part of the canvass and before certifying results in both primary and general elections, the state requires that, for ballots cast on automatic devices, the ballots of one percent of the precincts, which are selected at random by the county election official, must be manually recounted. For mechanical lever machines, the machine counters are reread but not retabulated.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

The election official, voters or the district attorney at the request of the board of supervisors or the grand jury, may request a recount.

Grounds

If a voter requests the recount, grounds need not be stated.

If the clerk orders the recount, petition must show reasonable cause to believe the ballots in the precinct have been miscounted and clerk has examined, under oath, the precinct board members or counting board members and they are unable to explain the returns.

If the board of supervisors or the grand jury requests the recount, petition must show misconduct sufficient to make it likely that the result of the election was affected and/or errors or failures in the safekeeping, handling, tallying, counting, recording, or certification of the ballots or votes cast sufficient to make it likely that the result of the election was affected as to successful candidates, or sufficient to cast substantial doubt on the accuracy of the results.

Filing deadlines

For voter-requested recounts, within five days of the official canvass. The code is silent on filing deadlines for clerk-ordered recounts. For board of supervisors or grand jury requested, within twenty-five days of the election.

Form and its content

Voter-requested recounts:

- (1) For offices and slates not voted on statewide, a written request for a recount of the votes cast for candidates or slate of presidential electors is filed with the county elections official.
- (2) For statewide offices, a written request for a recount of the votes cast for candidates is filed with the Secretary of State.

Clerk-ordered recounts: None specified

Board of supervisors or grand jury requested recounts: At the request of the board of supervisors or the grand jury, the district attorney petitions the superior court for an order directing a public recount stating grounds for recount.

Costs of the recount

Voter-requested: The voter filing the request pays unless the candidate or slate of presidential electors for whom the recount was requested receives a plurality of votes cast which it had not received according to the official canvass. A deposit must be left with the clerk daily to cover the cost of the recount for that day.

Clerk-ordered: Who bears cost not specified

Board of supervisors or grand jury requested: The court may order payment from any person or public agency, or both, who petitions for recount.

Procedures involved in recount

In voter-requested, request may specify that the recount be manual. The recount begins within seven days following receipt of the request, and is conducted at the election official's office by special recount boards under the supervision of the clerk.

Scope of materials used

Requester may specify the order in which precincts shall be counted. All ballots, whether voted or not, and any other relevant material may be examined as part of the recount.

Observers

The recount shall be conducted publicly.

Methods used based on type of voting equipment

A voter who files a request may select whether the recount shall be conducted manually or by means of the voting system used originally, or both.

Procedure for invalidating ballots

A ballot may be challenged for incompleteness, ambiguity, or other defect. The process may be initiated by the clerk, those persons requesting the recount, public observers, the Secretary of State, and other candidates or their representatives.

Security of and access to materials

Elections materials are retained and preserved in a secured area. Inquiries regarding the security of or access to such materials should be directed to the county election official and/or the Secretary of State.

California

Deadlines

Recount continues until completed.

Privately Initiated Contests

Standing

In a primary election, any candidate may contest the right of another candidate to nomination to the same office. In a general election any elector may contest the results of an election.

Grounds

Primary Election:

- a) Person declared nominated is not eligible to the office in dispute.
- b) Person declared nominated has committed any offense against the elective franchise.
- c) A sufficient number of votes were illegal, fraudulent, forged, or otherwise improper and had such votes not been counted the person declared nominated would not have been nominated.
- d) Due to mistake, error, or misconduct, votes in any precinct were incorrectly counted to change the result.

General Election:

- a) Precinct board guilty of malconduct.
- b) Person declared elected was not eligible to that office.
- c) Person declared elected has given to or offered to give to any elector or member of a precinct board any bribe or reward.
- d) Person declared elected has committed any other offense against elective franchise.
- e) Illegal votes were cast.
- f) Error in the vote count program.

Filing deadlines

Primary Election: Action must be filed within five days after the completion of the official canvass.

General Election: When the contest is brought on the grounds that the candidate has given to any elector or member of a precinct board any bribe or reward, a six-month deadline applies. In case of a tie, twenty days after completion of official canvass. In cases involving presidential electors, ten days. In all other cases, thirty days after completion of official canvass.

Form and its content

To contest the result of a primary election, a candidate files an affidavit. The form must include:

- a) The name of the person declared nominated;
- b) The precinct in which irregularity or improper conduct took place;
- c) The nature of the mistake, error, misconduct, or other cause of the contest; and
- d) The date of the official canvass.

To contest the result of a general election, a verified written statement is required. The form must include:

- a) The name of the contestant and that he is an elector of the district in which the contest was held;
- b) The name of the defendant;
- c) The office in question;
- d) The particular grounds of the contest and the section of the code under which the statement is filed; and
- e) The date of declaration of the results of the election.

Forum for filing and hearing

Primary election contest involving simple recount: File affidavit with the superior court of that county in

which is located the precinct in which the contestant demands a recount.

Primary election contest other than contests involving simple recounts: File affidavit with the superior court of any county in which votes were cast for the office.

General election contest: File statement with county clerk; contest is heard by the superior court.

Costs of the contest

In both primary and general elections, the contestant pays in advance each day funds sufficient to pay all expenses for the day. A judge determines the sufficient amount. If the contest is dismissed for insufficiency or for want of prosecution or the election is confirmed by the court, the contestant pays. If the election is annulled or set aside on grounds of election official error, the election official pays. If the election is annulled or set aside on any other ground, the person declared elected or nominated pays.

Deadlines

No provision.

Provisions for preserving evidence

If an election is contested, the elections official is required to preserve evidence.

Relief available

The court may grant a full or selective recount or change the result and designate a new winner. When a successful nominee cannot be determined, results could be voided, and a new election ordered.

Appeal

- (1) Primary elections
 - a. Contest other than contests involving a simple recount: either party may appeal to the district court of appeal of the district where the contest is brought.
 - b. Contests involving a simple recount: judgment is final.
- (2) General elections: Any party aggrieved by the judgment of the court may appeal therefrom to the court of appeal, as in other cases of appeal thereto from the superior court.

Colorado

Introduction

Structure for the administration of the election process

The County Clerk is responsible for conducting federal elections. The county Board of Canvassers, a three-member board composed of the County Clerk, a Democratic member and a Republican member, is responsible for counting the votes. The Secretary of State tabulates vote totals from the various jurisdictions and is responsible for certifying the results.

Security process for election materials

Voting machines are locked and sealed. Ballots and all election documentation (ballot boxes, keys, paper tapes, registration books, poll books, tally sheets, spoiled and unused ballots, ballot stubs, oaths, affidavits, and other election supplies) are locked, sealed and stored in a vault. This also includes memory packs and programs. This is the responsibility of the county clerk.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed on a computer-based vote tabulating system following vote tabulation but before certification. A preaudited group of ballots is processed. No other verification of the vote count is done routinely after the federal election.

The county Board of Canvassers has the authority to make corrections if an error in vote tabulation is discovered before the results are certified.

State required automatic recounts

Colorado provides for automatic recount of federal elections before certification of the results. Applies to both primary and general elections and is mandatory if a candidate loses the primary by two percent or less of the highest vote cast for a candidate in the race, one percent or less in a general election. This automatic recount cannot be waived. All votes for the office are recounted.

For all voting systems, the original count is repeated, starting de novo and following the same procedures as for the first count. For computer tabulated ballots, a logic and accuracy test, in which a preaudited group of ballots is tabulated, is performed both before and after the recount. The recount also involves re-examination of all invalidated ballots, spoiled ballots, and absentee ballot applications. The recount is conducted by county officials, and governed by rules promulgated by the Secretary of State. Observers are permitted. The decision for automatic recount is made no later than 20 days after the general election or 10 days after a primary election, and must be completed no later than 30 days after the general election or 15 days after the primary election.

The county Board of Canvassers, functioning as county Recount Board, is responsible for conducting the recount, with the state officials monitoring the process. Observers are permitted but are limited in each recount location to one representative per candidate and one representative for each political party. The public and press are kept outside the door of recount locations.

In all other respects, automatic recounts are conducted in the same manner as are privately initiated recounts.

Privately Initiated Recounts

Standing

Any candidate who loses by more than two percent of the vote for the highest candidate in the race in a pri-

mary election, or one percent in a general election, has standing to obtain a recount.

Grounds

No grounds required. Losing candidate may request a recount even if there has previously been an automatic recount triggered by a close margin.

Filing deadlines

A request for a recount must be filed with the Secretary of State prior to the 30th day after the close of a general election or prior to the 15th day after the close of a primary election.

Form and its content

A notarized, written request must be submitted.

Costs of the recount

The Secretary of State sets the cost of the recount, funds to cover which must be deposited with the State Treasurer by the requesting candidate. If that candidate is found to be the winner, or even if the original winner is confirmed but his margin is reduced so that it is less than the trigger for an automatic recount (two percent of highest vote in a primary election race; one percent in a general election race), his deposit is refunded.

Procedures involved in recount

The county Board of Canvassers, functioning as the county recount board, is responsible for conducting the recount, with state officials monitoring the process. Recount is performed as soon as possible in the county involved.

For all voting systems, the original count is repeated, starting de novo and following same procedures as for the first count.

Scope of materials used

All votes cast for the office are recounted. For computer tabulated ballots, a logic and accuracy test, in which a preaudited group of ballots is tabulated, is performed both before and after the recount. Also re-examined: invalidated ballots, all spoiled ballots, and all absentee ballot applications.

Observers

Observers are permitted at the recount, but are limited at each recount place to one per candidate and one per political party. The public and press are kept outside the door of recount location.

Methods used based on type of voting equipment

For computer counted ballots, recount is done by same computer used in original count. For mechanical lever machines, machine counters are reread and totals are retabulated. For Direct Recording Electronic (DRE) machines, the results produced on the paper results tape are verified against the results stored elsewhere in the machine and totals are retabulated using the method used for original count. Paper ballots are individually retallied and totals are retabulated.

Procedure for invalidating ballots

Ballots are invalidated when intent of voter is unclear. Those conducting the recount and observers may initiate this process but the final decision is made by the county recount board. Appeal may be made to the federal court.

Security of and access to materials

Voting machines are locked and sealed. Ballots and all election documentation (ballot boxes, keys, paper tapes, registration books, poll books, tally sheets, spoiled and unused ballots, ballot stubs, oaths, affidavits

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and other election supplies) are locked, sealed and stored in a vault. This also includes memory packs and programs. This is the responsibility of the county clerk.

Questions regarding the security of or access to such materials should be directed to the county clerk.

Deadlines

No provision.

Other applicable provisions

The Office of Secretary of State monitors all recounts and supplies instructions to county election officials on the process of conducting recounts.

Moreover, Colorado law provides that any candidate who is a party to a recount and believes that it is not being conducted in a fair, impartial and uniform manner, may apply to the District Court of the City and County of Denver for an order requiring the Secretary of State to take over and proceed with the conduct of the recount and to mandate that the county officials provide access to relevant materials to the Secretary of State. If the court orders such a transfer of responsibility, the entire cost of the recount is borne by county and state government.

Privately Initiaed Contests

Under Colorado law, only a Presidential Elector election can be contested. Provisions do not apply to U.S. Senate or U.S. House of Representatives.

Standing

Any qualified elector may contest the election of a Presidential Elector.

Grounds

Ineligibility, illegality, error, mistake, malconduct, fraud, or corruption constitute grounds for contest.

Filing deadlines

No provision.

Form and its content

No provision.

Forum for filing and hearing

Contest is filed and heard in Supreme Court of Colorado.

Costs of the contest

No provision.

Deadlines

No provision.

Provisions for preserving evidence

Voting machines are locked and sealed. Ballots and all election documentation (includes ballot boxes, keys, paper tapes, registration books, poll books, tally sheets, spoiled and unused ballots, ballot stubs, oaths, affidavits, and other election supplies) are locked, sealed and stored in a vault. This also includes programs and memory packs. Responsibility for securing such material rests with the county clerk. Impoundment is not used.

Relief available

No provision.

Appeal

Decision of Colorado Supreme Court may be appealed to federal court.

Connecticut

Introduction

Structure for the administration of the election process

Local election duties are performed by the Registrar of Voters and the Town Clerks. A moderator in each polling place and a head moderator in towns divided into voting districts is responsible for counting the votes in a federal election. The Secretary of State tabulates vote totals from the various jurisdictions and certifies the results of federal elections.

Security process for election materials

Voting machines are secured for 10 days after the election. Federal ballots are secured for 22 months after the election.

Government Initiated Validation of Election Results

Verifications of the vote count

No provision.

State required automatic recounts

Connecticut provides for an automatic recount in case of close vote of both primary (except for the presidential preference primary) and general federal elections before the results are certified. It is triggered if: 1) the margin of votes between the winning and losing candidates is less than 0.5 percent of the total vote cast for the office but not more than 2000 votes in a general election or 1000 votes in a primary election or 2) less than 20 votes. Automatic recounts involve a recanvass of the returns of the voting machine(s) and absentee ballots. The recount may be waived by the losing candidate.

The head moderator is responsible for conducting the automatic recount; he gives notice to the appropriate officials as to when and where the recount will be conducted. All recanvass/recount procedures are open to the public and the number of observers is not limited.

If there is a tie vote, there shall be a recanvass of the returns unless one of the candidates receiving an equal number of votes dies, withdraws his name, or becomes disqualified to hold office. A close vote or tie vote recanvass is conducted according to the same procedure as a discrepancy canvass. (see below)

Privately Initiated Recounts

In Connecticut, a unique procedure is followed called a “discrepancy recount”, which we have classified in the privately initiated recount section. The moderator (or head moderator in towns divided into voting districts) may call for a recanvass of the voting machines and/or absentee ballots and/or written ballots if he determines there is a discrepancy in the returns of any voting district in an election or primary.

The moderator, within 3 days after the election or primary must summon recanvass officials and notify town chairmen. Immediately after it is determined that a discrepancy recanvass is to be held, the town clerk must impound the voting machines, write-in materials, absentee ballot materials, moderator’s returns and all other notes, worksheets or written materials used. The state sets out detailed methods of impoundment in their recanvass manual.

All recanvass procedures are open to public observation. The moderator and at least two of the recanvass officials from different political parties must record the votes cast on each voting machine on tally sheets. All absentee ballots must be checked and recorded on tally sheets. Write-in votes are recanvassed.

Upon completion of the recanvass, machines are locked and ballots are resealed. A recanvass return shall be filed with the Secretary of State and one copy with the town clerk not later than ten days after the election or primary. This recanvass return is substituted for the original return.

Privately Initiated Contests

Standing

Any elector or defeated candidate in the election of Presidential electors, U.S. Senator or U.S. Representative has standing to contest. Applies to both primary and general elections.

Grounds

The elector or candidate may contest if he is aggrieved by the ruling of an election official or if he alleges that there was a mistake in the count of votes.

Filing deadlines

For elections and primaries, file within ten days after the election or primary.

Form and its content

Complaint must state the alleged errors or violations.

Forum for filing and hearing

For general elections, the contest is filed with the Connecticut Supreme Court. The contest is heard at the Supreme Court by three judges: the judge who is first assigned the case, along with two judges to be designated by the chief court administrator. For primary elections, the contest is filed with the Superior Court.

Costs of the contest

For both general and primary elections, the contestant must give a "good and sufficient" bond for payment of costs. The court will decide who pays for the contest.

Deadlines

For a general election, the result of the judges' decision must be given to the Secretary of State before the first Monday after the second Wednesday in December. For a primary election, no deadline is specified.

Provisions for preserving evidence

Machines are locked for ten days after the primary. Write-in ballots, absentee ballots and other notes, worksheets or written materials are sealed for 22 months after election. Impoundment is used in automatic recanvass and discrepancy recounts.

Relief available

A full recount can be granted, or the election result can be voided and a new election ordered.

Appeal

In a primary election contest, an aggrieved party may appeal to the Connecticut Supreme Court.

District of Columbia

Introduction

Structure for the administration of the election process

The District of Columbia Board of Elections and Ethics (BOEE) is responsible for conducting the federal election and counting the votes. They also tabulate and certify the results.

Security process for election materials

All voting is by punchcard ballot. Ballots and all other election materials are kept in locked storage by BOEE.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed after vote tabulation and before certification. For this test, a pre-audited group of ballots is processed through the vote counting system. Also before certification, the system logs are scrutinized and each precinct voter count is verified.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any qualified candidate at the election may petition for a recount.

Grounds

No specific grounds are required.

Filing deadlines

The petition must be filed within seven days after the Board certifies the results.

Form and its content

There is no specific form. Petition is filed with the BOEE.

Costs of the recount

If margin between petitioner and certified winner is less than one percent of the vote cast for both candidates, or less than 350, the District bears the cost. For a greater margin, petitioner must deposit \$50 for each precinct to be recounted, which will be refunded if the recount results in a new winner.

Procedures involved in recount

The requester must specify the extent of the recount. The recount includes a retabulation of votes, a visual inspection of each ballot cast, a hand counting of valid votes on machine non-readable ballots, and an electronic tabulation of all machine readable valid ballots. BOEE is responsible for conducting the recount at a location it deems practical.

Scope of materials used

See "Procedures", above.

Observers

Observers are permitted in numbers determined by the Board. The number may be limited depending upon

District of Columbia

the space available.

Methods used based on type of voting equipment

Machine non-readable ballots are counted by hand. Machine readable ballots are electronically tabulated by Neutron, by the same machine used for the original count.

Procedure for invalidating ballots

Invalidation may be initiated by those conducting the recount (Board and its staff) or by an observer. Grounds for invalidation are (1) indentifying mark on ballot; (2) voter intent is unclear; and (3) challenged ballot is mistakenly not sealed or segregated in an envelope.

Security of and access to materials

All relevant election materials are kept under guard or locked in secured areas from the completion of the vote-count until the expiration of the challenge period. All inquiries regarding the security of or access to such materials should be directed to the BOEE.

Deadlines

No provision.

Privately Initiated Contests

The following pertain to both primary and general elections.

Standing

Any person who voted in the election may contest.

Grounds

The grounds to contest include: (1) fraud (2) mistake (3) violation of the Campaign Finance, Reform and Conflict of Interest Act (4) other notable defects.

Filing deadlines

The action must be filed within seven days after the Board certifies the results.

Form and its content

No special form. Petition must include grounds.

Forum for filing and hearing

The petition shall be filed and heard at the District of Columbia Court of Appeals.

Costs of the contest

The court determines cost.

Deadlines

No provision.

Provisions for preserving evidence

The BOEE is required to maintain ballots for two years.

Relief available

The forum hearing the contest may grant full or selective recount, or void the result and declare a vacancy. It may also change the result and designate a new winner.

District of Columbia

Appeal

The Court's decision may not be appealed.

Other applicable provisions

If the court voids an election, it may order a special election in a manner prescribed by the BOEE.

District of Columbia

Delaware

Introduction

Structure for the administration of the election process

The county Election Board in each of Delaware's three counties is responsible for conducting federal elections. The county Board of Canvass, consisting of two Judges of the Superior Court in each county, is responsible for counting the votes and certifying the results in each county. The Governor is responsible for tabulating the results of the certificates from each county and certifies the statewide results of the election.

Security process for election materials

After the close of election, all certificates, poll lists, oaths, voter signature cards, tally sheets, and other election records shall be delivered to the Prothonotary of the Superior Court of each county. These election materials shall be filed in the County Department of Elections for no less than one year following the election and are admissible as evidence.

Government Initiated Validation of Election Results

Verifications of the vote count

No provision.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any candidate for U.S. Senate or House of Representatives in a general election may apply to the Superior Court of the county in question for a recount.

Grounds

A candidate may request a recount if the number of votes separating the requesting candidate from the officially designated elected candidate is less than 1,000 votes or less than 0.5 of one percent of all votes cast for the two candidates, whichever amount is less.

Filing deadlines

Request for a recount must be made before the adjournment of the Board of Canvass for the election in question.

Form and its content

No provision.

Costs of the recount

Recount to be conducted by the court at state expense.

Procedures involved in recount

Recount involves a retallying of all votes cast for the two candidates.

Scope of materials used

No provision.

Observers

No provision.

Methods used based on type of voting equipment

No provision.

Procedure for invalidating ballots

No provision.

Security of and access to materials

After the close of election, all certificates, poll lists, oaths, voter signature cards, tally sheets, and other election records shall be delivered to the Prothonotary of the Superior Court of each county. These election materials shall be filed in the County Department of Elections for no less than one year following the election and are admissible as evidence.

Questions regarding the security of or access to such materials should be directed toward the Prothonotary of the Superior Court of the county in question.

Deadlines

No provision.

Privately Initiated Contests

Delaware election code includes provisions for contest of elections for Presidential Electors, but no provision for contesting election to U.S. Senate or House of Representatives.

Standing

Any person may contest a Presidential Elector's election.

Grounds

The results of a Presidential Elector election may be contested on the grounds of illegal votes for the person declared to have been elected.

Filing deadlines

Contest must be filed with the Governor within 10 days following declaration of election result by the Governor.

Form and its content

The written notice of contest must be verified by affidavit and state that the contestant believes the grounds of the contest to be true.

Forum for filing and hearing

Governor delivers the notice to the Superior Court for Kent County, which is declared a special board of canvass.

Costs of the contest

No provision in code for costs of contesting election for Presidential Elector.

Deadlines

Court shall commence hearing no later than the 20th day of December following the day of the election. No provision for deadline by which the contest must be decided.

Provisions for preserving evidence

After the close of election, all certificates, poll lists, oaths, voter signature cards, tally sheets, and other election records shall be delivered to the Prothonotary of the Superior Court of each county. These election

Delaware

materials shall be filed in the County Department of Elections for no less than one year following the election and are admissible as evidence.

Relief available

A new winner is designated if the contest results in a change of result.

Appeal

None

Delaware

Florida

Introduction

Structure for the administration of the election process

The Supervisor of Elections in each county is responsible for conducting the federal election. The County Canvassing Board counts the votes. The Division of Elections, within the Department of State, is responsible for tabulating the votes when more than one jurisdiction is involved. The Elections Canvassing Commission certifies the results.

Security process for election materials.

The County Supervisor of Elections is responsible for securing all relevant election materials except for marked absentee ballots which are in custody of the County Canvassing Board. Inquiries regarding security of or access to election materials should be directed to the County Canvassing Board.

Government Initiated Validation of Election Results

Verifications of the vote count

For computer tabulated ballots, a logic and accuracy test is performed after the vote count but before certification. A preaudited group of ballots is tabulated by the same system on which the vote counting was done.

State required automatic recounts

In both primary and general elections, the State provides for an automatic recount before certifying the result. This action is mandatory, but can be waived by the losing candidate. The automatic recount is triggered if the difference in votes is not more than 0.5 percent of the total votes cast for that office. It is conducted at the county level. There is no specified deadline set for the completion of the automatic recount.

The recount is open to the public and the number of observers is unlimited.

For computer counted ballots the recount is done by the same computer on which the original count was made. For mechanical lever machines, machine counters are reread and totals are retabulated. For paper ballots all votes are retallied and retabulated.

An elector or candidate may, at any time before an absentee ballot is removed from the envelope, file with the canvassing board a protest, specifying the precinct, the ballot, and the reason the ballot is believed illegal.

Privately Initiated Recounts

Standing

An elector or a candidate may make a demand for a recount.

Grounds

Error or fraud must be the stated grounds for the recount.

Filing deadlines

A protest must be filed within five days of the election, or a contest must be filed within ten days of the election.

Form and its content

The same state form used for protests is used here. See 102.167 and 102.168. The request for recount should be directed to the County Canvassing Board (protest) or the Circuit Court (contest).

Costs of the recount

Only the regular filing fee is required if filing in the Circuit Court. The county bears the cost of the recount unless the judge orders otherwise.

Procedures involved in recount

The judge or County Canvassing Board determines the procedures involved in the recount.

Scope of materials used

Whatever the County Canvassing Board or judge deems necessary.

Observers

The County Canvassing Board is responsible for conducting the privately initiated recount. Recounts are open to the public.

Methods used based on type of voting equipment

Same as in government initiated recount.

Procedure for invalidating ballots

No provisions.

Security of and access to materials

Same as in the introduction.

Deadlines

Protest recounts must be completed in five days. Contest recounts must be completed in ten days.

Privately Initiated Contests**Standing**

Any taxpayer or unsuccessful candidate may contest a federal election.

Grounds

Florida has two procedures: Contest and Protest. Contest is filed in circuit court on the grounds that an unsuccessful candidate has a legal right to the office. Protest is filed with County Canvassing Board if error is alleged; with circuit court if fraud is alleged.

Filing deadlines

Protest: within 5 days of election.

Contest: within 10 days of election.

Form and its content

For a copy of the form see 102.167 and 102.168.

Contest: Complaint will set forth the grounds on which the contestant intends to establish his right to office.

Protest: Written request to County Canvassing Board stating allegations of error, or petition to Circuit Court stating allegations of fraud. Protest requires a separate filing for each county where the election is to be protested.

Forum for filing and hearing

A contest shall be filed with the circuit court clerk no later than 10 days after the last county canvassing -

Florida

board adjourns. If more than one county is involved, the contest is filed in Leon County. The contest is heard by the circuit court where the filing took place.

A protest must be filed with the canvassing board prior to time the board adjourns or within 10 days after midnight of the date the election is held, whichever occurs last.

Costs of the contest

The contestant or protestor bears the cost.

Deadlines

No provision.

Provisions for preserving evidence

The Supervisor of Elections acts as custodian and must keep election records for 22 months.

Relief available

The forum hearing the contest may grant full or selective recount, or void the result and order a new election. Additionally, the results can be changed, and a new winner can be designated.

Appeal

The decision of a circuit court can be appealed to the District Court of Appeals.

Florida



Georgia

Introduction

Structure for the administration of the election process

The County Election Superintendent (CES) is responsible for conducting federal elections and counting the votes. In large counties and in some small ones, the County Board of Elections serves as the CES. In all other counties, the Judge of the Probate Court serves as the CES. Georgia allows substantial local latitude as to the structuring of election administration in the counties.

The Secretary of State is responsible for the tabulation of votes when more than one jurisdiction is involved, and certifies the results of federal elections.

Security process for election materials

Voting machines are sealed and locked for 10 days after election. Other materials are sealed and stored in the office of the CES until the election process is complete. Such materials are then transferred to the Clerk of Superior Court where they remain sealed for two years.

Miscellaneous notes

The run-off election is deemed to be an extension of the primary. In this summary, accordingly, provisions that apply to primary elections also apply to run-off elections.

Georgia law requires that resolution of an election dispute must be an open process and must give due concern to the convenience of the parties. In a contested election, a judge from a circuit other than the one in which the action was brought is called in to hear the case.

Government Initiated Validation of Election Results

Verifications of the vote count

For computer counted ballots, a logic and accuracy test is performed following tabulation but before certification. A verified test deck is processed. No other verification measures are taken. If an error in vote tabulation is discovered at the county level, the CES has authority to make corrections. If an error is not discovered until it reaches the Secretary of State, correction is made there after consultation with appropriate CES.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Close margin (1 percent or less): Losing candidate on request or CES at his own discretion.

Other (margin greater than 1 percent): For paper ballots or electronic voting systems, candidate, political party, or CES at his own discretion. For mechanical voting machines, 3 electors of each precinct to be recounted, or CES at his own discretion.

Grounds

Close margin: no grounds required.

Other: Allege discrepancy or error in returns; must be specific.

Filing deadlines

Close margin: within five days following certification.

Other: request must be filed before returns are certified. Requester must act on basis of unofficial returns.

Form, content and place of filing

No special form; written request or petition required, which must be sworn if it applies to voting machines. If margin greater than 1 percent, requester must state grounds specifically.

For multi-county race, file with Secretary of State.

For single-county race, file with CES if the county has not yet sent their results to Secretary of State, otherwise file request with Secretary of State.

Decision on whether to grant recount when it is not a close margin is made by official to whom the request is directed, Secretary of State or CES, based on content of the petition. If it is granted, the recount is done at county expense. If not granted, the requester can then initiate a contest.

Costs of the recount

No cost to requester, if granted.

Procedures involved in recount

Recount is conducted as soon as possible in the county, and in the same manner and using the same equipment as was used election night.

Scope of materials used

Close margin: all votes for the office recounted. Other: requester may specify extent of recount.

Recount is usually only retabulation of ballots/votes, but could extend to include examination of other materials if such action is indicated by allegations in the request.

Observers

Observers are permitted; the recount is open to the public. If there are a large number of observers, the candidates involved, or their representatives, get the preferred positions.

Methods used based on type of voting equipment

In counties using precinct ballot tabulators, all ballots are reprocessed through those tabulators. Computer counted ballots are always recounted by computer; no hand counting is permitted. For lever machines, counters are reread and totals retabulated. Paper ballots are retallied and totals retabulated.

Procedure for invalidating ballots

Ballots can be invalidated by an identifying mark or if the intent of the voter is not clear. Those conducting the recount initiate the invalidation process, but observers can comment, raise questions and participate in discussion leading up to the decision. The invalidation may be challenged only by following the contested election route.

Security of and access to materials

Voting machines are sealed and locked for ten days after election. Other materials are sealed and stored in office of CES until the election process is complete, then transferred to Clerk of Superior Court where they remain sealed for two years. Inquiries regarding security of or access to materials should be directed to CES.

Georgia

Deadlines

No provision.

Privately Initiated Contests

Standing

Any person who was a candidate or any aggrieved elector entitled to vote may contest the result of a federal election.

Grounds

Misconduct, fraud, irregularity, ineligibility or illegality.

Filing deadlines

For both primary and general elections, contest action must be filed within five days of the consolidation of the returns or recount returns.

Form and its content

Petition to the court, containing the contestant's qualifications to institute the contest, name of the office which was on the ballot, name of the defendant (could be either the winning candidate or CES), names of all candidates in the race, grounds for contest, date of the official declaration of result in dispute, what relief is sought, and such other facts as petitioner deems relevant.

Forum for filing and hearing

Petition is filed with the Clerk of the Superior Court having jurisdiction over the county where said defendant resides. Contest is heard in same superior court, although the judge is brought in from a different circuit. Jury trial if defendant requests.

Costs of the contest

Parties are responsible for the costs of providing their own witnesses. The petitioner pays costs of the contest if the result of the election is affirmed or if the case is dismissed. At the discretion of the court, the defendant pays if the election is set aside or if the judgment is against the defendant.

Deadlines

No provision.

Provisions for preserving evidence

Evidence must be sealed and stored first in the CES office, then transferred to the Clerk of Superior Court. Impoundment is rarely used, but judge may order the counters (and sometimes also the face of the machine) photographed before the machine is released.

Relief Available

A full or selective recount can be granted, the result can be voided and a new election ordered, or the result can be changed and a new winner designated.

Appeal

A party may appeal to the Supreme Court or to the Court of Appeals within 10 days of the lower court's judgment. If the appeal relates to a constitutional issue, it is made directly to the Supreme Court. If related to a nonconstitutional issue, appeal is first to the Court of Appeals and then to the Supreme Court.

Georgia

Hawaii

Introduction

Structure for the administration of the election process

The Lieutenant Governor (state's Chief Election Officer) is responsible for the conduct of federal elections, for counting the vote, for aggregating the vote in a multi-jurisdictional race, and for certifying the results.

Security process for election materials

Voted ballots are secured by the Lieutenant Governor.

Government Initiated Validation of Election Results

Verifications of the vote count

An accuracy test is performed on computer tabulated ballots following the vote count but before certification. In addition, a Manual Audit Team in each of four counting centers statewide conducts a manual recount of randomly selected precincts and contests. The Lieutenant Governor is authorized to correct any errors discovered before certification.

State required automatic recounts

None required.

Privately Initiated Recounts

Hawaii law does not expressly provide for privately initiated recounts. However, it is possible that a party contesting an election could request a recount as part of the remedy, and that it could be granted by the court.

Privately Initiated Contests

The following apply to both primary and general elections unless otherwise specified.

Standing

Any candidate, any qualified political party directly interested, or any 30 voters of any election district has standing to contest a federal election.

Grounds

Any cause(s) such as, but not limited to, provable fraud, overages or underages that could cause a difference in the election results.

Filing deadlines

Primary: Not later than 4:30 p.m. on the 6th day after the election.

General: Not later than 4:30 p.m. on the 20th day after the election.

Form and its content

Complaint, which must set forth any cause or causes such as, but not limited to, provable fraud, overages or underages that could cause a difference in the election results. Also must set forth any reasons for reversing, correcting, or changing decisions of officials counting the ballots.

Forum for filing and hearing

Contest is filed with office of the clerk of the Supreme Court of Hawaii, and heard by that court.

Costs of the contest

Deposit for costs of court, in amount determined by the Supreme Court, must accompany the complaint. Assessment of the cost is made by the court.

Deadlines

Primary: Contest must be heard not later than 4:30 p.m. on the fourth day after the return.

General: No specific deadline, but the contest must be heard as soon as reasonably possible.

Provisions for preserving evidence

Voted ballots are kept secured in sealed containers by the Lieutenant Governor.

Relief available

The court could order a recount. In a general election, the court could adjudge the election invalid, thereby causing the Governor to call a new election within 60 days. Finally, the court could decide which candidate was nominated or elected, thereby changing the election result and designating a new winner.

Appeal

No appeal is possible. The Supreme Court is the final arbiter.

Idaho

Introduction

Structure for the administration of the election process

The County Clerk is responsible for conducting federal elections. The County Board of Commissioners, serving as the County Board of Canvassers, is responsible for counting the votes. The County Clerk is secretary to the Board of Canvassers.

The State Board of Canvassers, composed of the Secretary of State, the State Auditor, and the State Treasurer, tabulates vote totals from the various jurisdictions. The Secretary of State certifies the results.

Security process for election materials

If the Attorney General orders a recount, the sheriff of each county involved impounds all election materials. Almost all documents and equipment relating to elections are included.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed on a computer-based vote tabulating system following vote tabulation but before certification. No other verification of the vote count is routinely performed after federal elections. The County Board of Canvassers has the authority to make corrections if an error in vote tabulation is discovered before results are certified.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any candidate for the office in question has standing to request a recount.

Grounds

No grounds required.

Filing deadlines

Request for recount must be filed with the Attorney General within 20 days of state canvass, which must be completed by 15 days after election.

Form and its content

No special form is required. Application must specify precinct or precincts to be recounted. If the election result is close (defined as a winning margin of no more than 0.1 percent of all votes cast for the office), all precincts are recounted.

Costs of the recount

Deposit required. Close result, none. Other than close result, deposit of \$100 per precinct to be recounted is required of the applicant. Minimum number of precincts for which recount will be granted is 20, so minimum deposit is \$2,000.

Assessing costs: Close result, State pays. Other than close result, applicant pays if results are not changed. County or State pays if a recount of a minimum number of precincts indicates that the result of the election would be changed if all precincts were recounted. In such instance, all votes in the race are recounted and State pays the cost.

Procedures involved in recount

For a close result, all votes/ballots are recounted. Otherwise, the applicant may specify precincts to be recounted, with a minimum of 20 precincts and at least 5,000 total votes.

Scope of materials used

Law provides for review of ballots/votes only. However, on request of party or parties to the recount, any and all other materials will be examined. County election officials are responsible for conducting recounts. Time for the recount is specified by the Attorney General in his Order for Recount. A copy of the Order is mailed to each candidate for the office to be recounted. Recount conducted in each county involved.

Observers

Observers are permitted and are designated by candidates. Number is not limited.

Methods used based on type of voting equipment

For computer counted ballots, recount is done by the same computer used for the original count. For mechanical lever machines, machine counters are reread and totals are retabulated. Paper ballots are individually retallied and totals are retabulated.

Procedure for invalidating ballots

Ballots are invalidated when the intent of the voter is unclear. Those conducting the recount, observers and the Attorney General may request that ballots be invalidated, but only the Attorney General has the authority to invalidate. Invalidation may be appealed to the District Court of Ada County within 24 hours of recount.

Security of and access to materials

If the Attorney General orders a recount, the sheriff of each county involved impounds all election materials. Almost all documents and equipment relating to elections are included.

Questions regarding the security of or access to election materials should be directed to the Secretary of State.

Deadlines

No provision

Other applicable provisions

Attorney General's office and Secretary of State's Election Deputy monitor all recounts, on site, in the counties.

Privately Initiated Contests

It is the position of the Secretary of State's office that the Idaho contested election law does not apply to elections for federal office. This position has not been tested in court.

Illinois

Illinois statutes do not include provisions for contesting or recounting elections for federal office. Moreover, in *Young vs. Mikva* 363 N.E. 2d 851, 66 Ill. 2d 579 (1977), the Supreme Court of Illinois determined that Illinois circuit courts have no jurisdiction to hear and determine contests of elections of members of the U.S. Congress.

Illinois



Indiana

Introduction

Structure for the administration of the election process

The County Election Board is responsible for conducting federal elections. This board serves as the County Canvassing Board and counts votes in federal elections. The Secretary of State tabulates vote totals of the various jurisdictions for primary elections and general elections.

Security process for election materials

Security of materials is the responsibility of the State Recount Commission, a 3-member body composed of the Secretary of State as Chairman, and a designee of the State Chairman of each of the major political parties.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is not performed on a computer-based vote tabulating system following vote tabulation. Confirmation of the correctness of the count by the County Election Board is performed if requested by a major party chairman of a county using a ballot card (punchcard) voting system. Review involves recount of five percent of votes cast, or five precincts, whichever greater.

State required automatic recounts

Indiana does not provide for automatic recount of a federal election before certifying the result.

Privately Initiated Recounts

Standing

Any candidate for the office has standing to obtain a recount.

Grounds

Petitioner believes in good faith that votes were incorrectly counted.

Filing deadlines

Petitioner must file by noon of the seventh day after the election.

Form and its content

No special form; a verified petition is required. Petition is directed to Secretary of State, who then notifies the opposing party. Winning candidate may file a cross-petition.

Costs of the recount

Petitioner must furnish a cash deposit of \$100 minimum plus \$10 for each precinct to be recounted in excess of ten precincts. If a cross-petition is filed by the official winning candidate, the cross-petitioner must furnish a cash deposit equal to ten dollars multiplied by the number of precincts that the cross-petitioner seeks to have recounted.

Procedures involved in recount

Petitioner/Cross Petitioner may specify extent of recount. The State Recount Commission may add other precincts.

Scope of materials used

Includes review of voting machines, electronic voting systems, tally sheets, and poll lists of persons who

voted as well as a recount of all ballots/votes. The State Recount Commission is responsible for conducting the recount, and specifies when and where it is conducted.

Observers

Observers are permitted at the recount.

Methods used based on type of voting equipment

For computer counted ballots, recount is done by computer (not specified which computer) but can be hand-counted if petitioner or cross-petitioner so requests. Information regarding recounts involving mechanical lever machines, direct recording electronic (DRE) machines and paper ballots was not provided by state officials.

Procedure for invalidating ballots

No provision.

Security of and access to materials

The State Recount Commission may order the impoundment and provide for the protection of all ballots, voting machines and electronic voting systems used at the election for casting ballots; all tally sheets relating to the votes cast; and all poll lists of persons registered by the poll clerks as having voted for the office.

Questions regarding the security of or access to such materials should be directed to the State Recount Commission.

Deadlines

No provision

Privately Initiated Contests

Under Indiana Election Statute 3-12-11-1, any candidate for a federal, state or legislative office is entitled to have the votes cast for that office recounted, but there is no provision for contesting the election.

Introduction

Structure for the administration of the election process

The County Auditor is responsible for conducting the federal election. The County Board of Supervisors counts the votes. When more than one jurisdiction must be tabulated to determine the total vote count, the Secretary of State sends the results to the Iowa Executive Council for tabulation. The Governor certifies results.

Security process for election materials

The County Auditor is responsible for security of materials.

Government Initiated Validation of Election Results

Verifications of the vote count

For computer tabulated ballots, a logic and accuracy test is performed following vote tabulation but before certification. A preaudited group of punched or marked ballots are processed. If an error is discovered before results are certified the State Board of canvassers has the authority to make the correction.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any candidate whose name was written on the ballot for that office or nomination, or any other person who receives votes for that office or nomination, may request a recount.

Grounds

No provision.

Filing deadlines

The request for recount must be made before 5:00 p.m. on the third day following the county board's canvass.

Form and its content

There is no specific form. A signed request must be submitted by the person seeking the recount.

Costs of the recount

A candidate requesting a recount must post a bond if the difference between the total number of votes cast for such candidate and the total amount of votes cast for the apparent winner is less than the greater of fifty votes or one percent of the total number of votes cast for the nomination or office in question. The bond shall be in the following amount: a) for Presidential Electors and U.S. Senate, \$1,000; b) for House of Representatives \$500. If the contestant prevails, the county bears the cost of the recount.

Procedures involved in recount

The request must be filed with the county commissioner responsible for conducting the election. The recount is conducted by a board consisting of a designee of the requester, a designee of the apparent winning candidate, and a person chosen jointly by the other two designees. The recount will be undertaken as expeditiously as reasonably possible.

Scope of materials used

The requester may specify the extent of the recount.

Observers

Recount is open to the public.

Methods used based on type of voting equipment

No provision.

Procedure for invalidating ballots.

No provision.

Security of and access to materials

Questions relating to the access to and security of all relevant election materials should be directed to the County Auditor.

Deadlines

The recount must be completed before or on the eighteenth day following the county board's canvass of the election.

Privately Initiated Contests

The following apply to both primary and general elections unless otherwise noted.

Standing

Any eligible person who received votes for the office may contest.

Grounds

Grounds to contest include: (1) misconduct; (2) fraud; (3) corruption; (4) ineligibility; (5) bribery; (6) illegality; (7) situation where incumbent had been convicted of a felony prior to the election; (8) errors by canvassers.

Filing deadlines

An action to contest must be filed within ten days of the state canvass.

Form and its content

There is no specific form.

Forum for filing and hearing

The contestant must file with the Secretary of State and serve a copy on the incumbent. The contest is heard by a panel made up by the Chief Justice of the Supreme Court and four judges of the District Court.

The parties to any contested election shall have the right, in open session of the court or tribunal trying the contest and in the presence of the officer having them in custody, to have the ballots opened and all errors of the precinct election officials in counting or refusing to count ballots corrected by such court or tribunal.

Costs of the Contest

A bond is required, the amount of which is determined by the court. If the contestant prevails, the county bears the cost. If he does not, the bond is forfeited.

Iowa

Deadlines

The judgment of the contest must be given six days before the first Monday after the second Wednesday in December.

Provisions for preserving evidence

If a contest is pending, the County Auditor is responsible for the preservation and security of all relevant election materials.

Relief available

The results may be changed, and a new winner may be designated. Other relief is available, but is not stated specifically in the code.

Appeal

The decision may not be appealed.

Iowa



Kansas

Introduction

Structure for the administration of the election process

The County Election Officer, an appointee of the Secretary of State, is responsible for conducting the federal election and counting the votes. In the four large counties—Johnson, Sedgewick, Shawnee, Wyandotte—this officer is the County Election Commissioner; in the other 101 counties, it is the County Clerk. The Secretary of State aggregates the vote when an office is filled by the voters of more than one county, and the State Board of Canvassers, composed of the Governor, Secretary of State and Attorney General, certifies results of federal elections.

Security process for election materials

The County Election Officer is responsible for security of election materials. Ballots and supplies are sealed; voting machines and vote recorders are locked and sealed; data processing materials are secured. It has not been the practice to use impoundment. Inquiries should be directed to the appropriate County Election Officer.

Government Initiated Validation of Election Results

Verifications of the vote count

For computer tabulated ballots, a logic and accuracy test is performed after the vote count but before certification. A preaudited group of ballots is processed by the same system on which the vote count was made.

With Direct Recording Electronic (DRE) machines, the results on the paper tape are compared with those stored elsewhere in the machine.

If an error in vote tabulation is discovered before the results are certified, correction is made by the County Board of Canvassers.

State required automatic recounts

None required.

Privately Initiated Recounts

The following apply to both primary and general elections.

Standing

(1) The majority of the members of the County Board of Canvassers; or (2) any candidate.

Grounds

- (1) Board: Majority must determine that there are manifest errors which might make a difference in the election result.
- (2) Candidate: No grounds necessary.

Filing deadlines

The request must be submitted in writing no later than 12:00 p.m. on the Monday following election.

Form and its content

Written request by candidate, directed to the County Board of Canvassers or to the County Election Officer; no special form. In a multi-jurisdictional election, this could require up to 105 separate filings. Requester may specify the extent of the recount.

Costs of the recount

Candidate requesting recount must file a bond with the county election officer, who sets the amount of the bond based on estimated costs. If the requester is declared the winner of the recount, the county will bear the costs; otherwise, the bond is forfeited.

Procedures involved in recount

The recount is conducted by a Special Election Board, which is appointed and directed by the County Election Officer.

Scope of materials used

The recount involves only retabulation of ballots or votes. For any other review/reexamination of the election result, the requester must file a contest.

Observers

Observers are permitted; no limit to number. Credentials are issued by the County Election Officer.

Methods used based on type of voting equipment

Computer tabulated ballots: Hand count or by the same computer used for the original count, at choice of requestor.

Mechanical lever machines: The machine counters are reread and the totals retabulated.

DRE machines: Results on paper tape are verified against the results stored elsewhere in the machine; totals are retabulated by the same method used for the original count.

Paper ballots: Individual votes are retallied and totals retabulated.

Procedure for invalidating ballots

Criteria for invalidation: identifying mark; defacement, mutilation or tear; voter intent unclear. The invalidation process can be initiated by those conducting the recount or by an observer. Decision is made by majority vote of County Board of Canvassers, and may not be challenged.

Security of and access to materials

The County Election Officer is responsible for security of election materials. Ballots and supplies are sealed; voting machines and vote recorders are locked and sealed; data processing materials are secured. It has not been the practice to use impoundment.

Inquiries should be directed to the appropriate County Election Officer.

Deadlines

The recount is started the Tuesday after election and must be completed by the following Friday, 5 p.m.

Privately Initiated

The following apply to both primary and general elections.

Standing

Any registered voter.

Grounds

Ineligibility, illegality, error, fraud, bribery.

Kansas

Filing deadlines

Notice must be filed within 5 days after certification of the election or nomination.

Form and its content

Written notice filed with the court must specify the grounds.

Forum for filing and hearing

U. S. Senate: Clerk of District Court of Shawnee County.

House of Representatives: Clerk of District Court in county where person whose election is contested resides.

Costs of the contest

No bond, fee, or deposit is required. If the contestant loses, he pays the costs of the contest.

Deadlines

Hearing is held in the court where notice is filed, within 20 days after the filing of the notice. No deadline is specified by which the contest must be decided.

Provisions for preserving evidence

The County Election Officer is responsible for preserving evidence.

Either party may request that ballots and voting machines be inspected before preparing for trial. Request is made to the court, where decision is made on whether to grant access. Access to other sealed election records also can be obtained by court order.

Relief available

The court could order a full or selective recount, or could change the result of the election and designate a new winner. On grounds of “ineligibility, illegality, or bribery”, the court could void the result and order a new election.

Appeal

The decision can be appealed to the Supreme Court.

Kansas

Kentucky

Kentucky statutes regarding contested elections and recounts do not apply to elections for federal office.

Kentucky

Louisiana

Introduction

Structure for the administration of the election process

Responsibility for administration of elections in Louisiana is divided among a number of public officials. At the local (parish) level, the Clerk of Court is the ex officio local level custodian of voting machines, and is responsible for conducting federal elections. The votes are counted by the Parish Board of Election Supervisors (PBES), composed of the Clerk of Court, Registrar of Voters, the parish Republican committee chairman or his designee, the parish Democratic committee chairman or his designee, and an appointee of the Governor. Orleans PBES has a sixth member, the Civil Sheriff. The Registrar of Voters conducts absentee voting. At the state level, the state owns and maintains, and the Commissioner of Elections has custody of, all vote-counting equipment—lever machines, Direct Recording Electronic (DRE) machines, and computers used for counting absentee ballots. The Secretary of State aggregates the votes when more than one jurisdiction is involved in an election, and certifies the results of federal elections.

Security process for election materials

Responsibility is divided among the Registrar of Voters and Clerk of Court in the parishes, and the Secretary of State and Commissioner of Elections at the state level.

Some access to election materials is permitted without conditions; other access is available upon decision of the appropriate court. Louisiana has a Freedom of Information Act which applies to an election contest, except for those documents required by law to be kept inviolate until the expiration of the contest period or until ordered otherwise by the court if a suit is filed. (See also “Provisions for Preserving Evidence” in Contests section.)

Miscellaneous notes

Any privately initiated action for review of the vote count—whether an election contest or a recount—is filed with and resolved by the appropriate court. It is impossible to request such review of the election result directly to election authorities.

Government Initiated Validation of Election Results

Verifications of the vote count

For absentee ballots, all of which are computer tabulated punchcards, a logic and accuracy test is performed before the vote count in which a preaudited group of ballots is processed. The test is not repeated at the end of the vote count. Within a few days following the election, the Clerk of Court, in the presence of other members of the PBES, opens the lever voting machines, records and checks the vote totals, and makes corrections if there is error in the original record. Machines are then resealed until the election contest period has expired, after which they are officially released.

State required automatic recounts

None required.

Privately Initiated Recounts

Unless otherwise indicated, the following apply to both primary and general elections.

Standing

An elector or candidate in the election may request a recount.

Grounds

Absentee ballots: Requester must allege an error in the counting of absentee ballots which would have changed the election outcome.

Lever machines: Mechanical problems with machines.

Filing deadlines

Absentee ballots: Recount must be done prior to the trial of the election contest to which it is tied. Deadline for filing the contest petition is within 9 days after the date of the election.

Lever machines: During course of trial (see note under “Other Provisions”, end of this section).

Form and its content

Petition to the appropriate court (see Contest section) which includes the request for recount and grounds for that request (see “Grounds”, in this section). The request must be made along with a contested election petition; it cannot be simply a request that ballots be recounted.

Costs of the recount

No bond, fee or deposit required. Absentee ballots: If the Court determines the original count was correct or error would not have changed the result, the costs are assessed against the party who requested the recount. If result of election is changed by correction of error made in original count, the cost is not assessed against any party.

Procedures involved in recount

Not specified in code; will be directed by Court.

Scope of materials used

Recount of absentee ballots: all such ballots cast in the election are recounted. The Court appoints counters, and sets time and place. Judge can order a recount of voting machines, and the procedures for such a recount will be directed by the Court.

Observers

Parties to the suit or their representatives may be observers; number is not limited.
Methods used based on type of voting equipment

Absentee (computer counted) ballots: Method of recount is by direction of the Court; the custom has been for courts to order hand counts.

In the event of a Court ordered recount of lever machines, counters could be reread and totals retabulated if specified in the order. In the event of a Court ordered recount of DRE machines, the results on the paper tape could be verified against results stored elsewhere in the machine, and the totals retabulated, if specified in the order.

Procedure for invalidating ballots

Criteria: distinguishing mark; challenged ballot rejected; lack of notarization or other problem with absentee affidavit envelope; ballot received too late to be counted.

Security of and access to materials

Absentee ballots are in custody of the Registrar of Voters. Computer hardware and software are in custody of the State Commissioner of Elections. Inquiries about access to materials should be directed to the Court which has jurisdiction in the case.

Louisiana

Also see Introduction section.

Deadlines

No deadline is specified for completion of the recount, but it must be requested as a petition for contest, which must be heard starting the 4th day after filing and judgment rendered within 24 hours of start of hearing.

Other applicable provisions

A petition for recount applies only to absentee ballots and must be made as a petition to contest an election. A party desiring a recount of votes cast in the polling places (i. e., a rereading and retabulation of voting machine results) has to go the route of the contested election. In such instance, the court could order the machines recounted.

Louisiana uses mechanical lever machines in the polling places of all parishes except one; in that one, East Baton Rouge Parish, DRE machines are used.

Privately Initiated Contests

Unless otherwise indicated, the following apply to both primary and general elections.

Standing

A candidate in the election, or the Board of Ethics for Elected Officials based upon investigations of complaints filed by the general public.

Grounds

Irregularities, error or fraud which occurred in conduct of election and which resulted in the apparent qualification for general election or apparent election of candidate not entitled to be qualified or elected.

Filing deadlines

Effective 1/1/90, pending preclearance of Act 179 of the 1989 Regular Session of the legislature, filing deadline is on or before the 9th day after the date of election.

Form and its content

The petition must set forth (1) the facts upon which the contest is based, and (2) the alleged fraud, error, or unlawful activities.

Forum for filing and hearing

Statewide federal office: District Court for the parish where the state capitol is situated.

Other federal office: District Court for any parish included in the election.

Costs of the contest

No bond, fee or deposit is required at time of filing. In rendering the decision, the Court will determine the costs to be paid and the party responsible for paying such costs.

Deadlines

Pre-trial investigation is limited by deadline for filing suit; trial discovery is limited because of expedited hearing.

Hearing begins in the court where petition was filed at 10 a.m. on the 4th day after filing. The Court's judgment is given within 24 hours after the case was submitted to the judge.

Provisions for preserving evidence

The Registrar of Voters, the Clerk of Court, the Secretary of State and the Commissioner of Elections all share responsibility for custody of election materials. Absentee ballots, following tabulation, are sealed and kept inviolate until expiration of time for filing contest or until otherwise ordered by the Court or judgment becomes definitive. Ballots are kept in custody of the Registrar. Clerk of Court keeps inviolate certain records from election day; provisions for release are the same as for absentee ballots. Records received by the Secretary of State are not kept inviolate. Impoundment is not usually used; the Commissioner of Elections has custody of voting machines and does not clear the vote totals on the voting machines until officially authorized.

Relief available

The Court can order a full or selective recount, or can change the result and designate a new winner. The Court also can void the result and order a new election held in the following instances: (1) the Court has been unable to determine the result; (2) the number of voters denied the right to vote was sufficient to change the result of election; (3) the number of unqualified voters who were allowed to vote was sufficient to change the result.

Appeal

The decision can be appealed to the Court of Appeals.

Maine

Introduction

Structure for the administration of the election process

The town clerk is responsible for conducting the federal election and counting the votes. The Secretary of State is responsible for tabulating the votes when more than one jurisdiction is involved, and also certifies the results.

Security process for election materials

The Town Clerk keeps all election materials in locked storage. In the event of a recount, they are later forwarded to the Secretary of State, who keeps them secure. Inquiries about security should be directed to the Secretary of State.

Government Initiated Validation of Election Results

Verifications of the vote count

If an error in vote tabulation is discovered before the results are certified, the Secretary of State has the authority to make the correction.

State required automatic recounts

None required.

Privately Initiated Recounts

Maine law permits a candidate to request an inspection of ballots, in writing, within seven days after the election. The inspection, if granted, is conducted at the local level, as soon as possible after receipt of the request. Purpose of the inspection must be to provide a factual basis for a request for recount, to determine whether ballots were counted in a proper and lawful manner. Other parties are notified. A deposit may be required if the percentage difference in the vote between the winning and losing candidate is greater than the schedule for recount deposit requirements. The deposit is refunded if the inspection is followed by a recount which reverses the result of the election.

Standing

A losing candidate may apply for a recount.

Grounds

No specific grounds are required.

Filing deadlines

The request must be submitted within ten days after the tabulation of the vote has been submitted to the Governor.

Form and its content

No specific form. A written request for recount should be directed to the Secretary of State.

Costs of the recount

DEPOSIT REQUIREMENTS:

<u>Total vote for winner & loser</u>	<u>No deposit if difference in vote is</u>	<u>Deposit if difference is greater</u>
1,000 or less	10% or less	\$ 150
1,001 - 5,000	5% or less	200
5,001 - 10,000	4% or less	250
10,000 - 50,000	3% or less	300
50,001 - 100,000	1% or less	500
100,001 or more	0.5% or less	1,000

(Recounts for federal office will usually fall in one of the last two ranges.)

All deposits for recount are in addition to the deposit required for inspection conducted before the recount application, if applicable.

If the applicant does not win as a result of the recount, the deposit is forfeited.

Procedures involved in recount

All paper ballots must be included in the recount. The requester may specify the extent of the recount, aside from the counting of paper ballots. The Secretary of State is responsible for conduct of the recount. It will be held as soon as possible, and at a place that affords the candidates an opportunity to be present, usually the State House.

Scope of materials used

Any and all election materials may be required.

Observers

Observers are permitted and their number is unlimited. The recount is open to the public.

Methods used based on type of voting equipment

For computer counted ballots, the recount is done by hand or the ballots are processed through the same computer used for the original count. For mechanical lever machines, machine counters are reread, but totals are not retabulated. For hand counted paper ballots, individual votes are retallied, but totals are not retabulated unless a change is detected.

Procedure for invalidating ballots

A candidate or his attorney may initiate the process for invalidating ballots. Disputed ballots go to the Commission on Government Ethics and Election Practices for a final determination.

Security of and access to materials

The Town Clerk keeps all relevant election materials until the Secretary of State requests them. Inquiries regarding the security of or access to such materials should be directed to the Secretary of State.

Deadlines

None specified

Maine

Privately Initiated Contests

The following apply to both primary and general elections unless otherwise noted.

Standing

Following a recount, a candidate still dissatisfied because of challenged or disputed ballots, or both, which affect the result, may appeal to the Commission on Governmental Ethics and Election Practices (“Commission”).

Grounds

The grounds for the appeal must be set forth in detail in the written appeal, and must relate to the disputed ballots.

For charges of fraud, the proceeding must be filed with a court.

Filing deadlines

The appeal must be filed with the Commission or court within five days after the completion of the recount.

Form and its content

There is no specific form. Grounds for the appeal must be stated in detail.

Forum for filing and hearing

The appeal is investigated by the Commission, which makes findings of fact and opinion on the validity of the ballots involved. The State Auditor and the Secretary of State assist the Commission. The Attorney General is counsel for the Commission and may examine any witnesses before the Commission.

Costs of the contest

No provision

Deadlines

After receiving written appeal, the Commission notifies the opposing candidate and sets time, date and place for the hearing, which must be held within fifteen days after the appeal is received.

Provisions for preserving evidence

None

Relief available

Not specified

Appeal

An appeal from the decision of the Commission may be taken to the Supreme Judicial Court on questions of law; deadline for appeal is within three days of the final determination by the Commission. The court does not recount ballots, but does determine questions of law, and “shall allow costs to the prevailing party as justice may require.”

Maine

Maryland

Introduction

Structure for the administration of the election process

The county Board of Supervisors of Elections is responsible for conducting the federal election and counting the votes. (The City of Baltimore, which is not part of any county, is for purposes of election law considered a county. It has a city Board of Supervisors of Elections.) The Board of State Canvassers tabulates the votes when more than one jurisdiction is involved, and certifies results of federal elections. State Administrator of Elections, in the State Administrative Board of Election Laws, serves as secretary to the Board of State Canvassers.

Security process for election materials

County Board of Supervisors of Elections has responsibility for security of election materials, although a court could take custody in the event of a contest under Sec. 19. Inquiries should be directed to the appropriate county board. Voting machines are closed, locked, and sealed until released by the State Administrator following resolution of any election disputes.

Miscellaneous notes

Maryland election law (Art. 33 of Code) includes a section on contested elections (Sec. 19) which applies to all elections, primary and general, including federal. Petition is to the court and the court can order any relief it sees fit, which could include (and has included) a recount. No cost to petitioner, regardless of outcome of the contest.

The Code also includes a recount section, Sec. 13, which applies only to primary elections. Petition is to the county Board of Supervisors of Elections. Petitioner posts bond to cover cost and it is refunded if the recount changes the winner of the election or if the petitioner's vote count increases by at least two percent; if neither of these occurs, the bond is forfeited.

The state also has Regulations governing conduct of a recount, either one reached directly by petition to the Board of Supervisors of Elections under Sec. 13 or one ordered by a court after a hearing on an election contest brought under Sec. 19. See Code of Maryland Regulations (COMAR) 14.02.12.

Government Initiated Validation of Election Results

Verifications of the vote count

For computer tabulated ballots, a logic and accuracy test is performed after the vote count, but before certification. A preaudited group of ballots is tabulated by the same system on which the vote counting was done. In addition, a portion of the ballots must be recounted on another computer system or by hand; if the recount differs from the original count, the county board must report that result to the State Administrative Board of Election Laws.

With mechanical lever voting machines, all machine counter readings are verified, from printed record or directly from the machine, as part of the official canvass.

If an error in vote tabulation is discovered before results are certified, correction is made by the county Board of Supervisors of Elections if the error is in the counting they did, and by the State Administrative Board of Election Laws if the error occurred in the aggregation of results of a multi-jurisdictional election.

State required automatic recounts

None required.

Privately Initiated Recounts

The following apply only to primary elections.

Standing

A defeated candidate in a primary election may obtain a recount.

Grounds

Grounds for obtaining a recount are (1) acts of fraud, mistake, error or irregularity in vote count by pollworkers, or (2) ambiguity, error, fraud or mistake or miscalculation by pollworkers.

Filing deadlines

The petition must be filed within ten days of the primary election, or within two days of official declaration of result of that election.

Form and its content

The petition (no special form), filed with the county Board of Supervisors of Elections, must include affidavit or affidavits, made by officers of election, watchers, challengers or other persons, setting forth the grounds. Petitioner may specify which precincts are to be recounted. County Board gives notice to all candidates, State Board and political parties of time and place. After completion of a recount in which only a portion of the precincts were recounted and the result of the election is changed thereby, the opposing candidate may counterappeal for a recount of all remaining precincts. In a multi-county election, separate petition must be made to each Board of Supervisors of Elections, a total of 24 petitions for an office elected statewide.

Costs of the recount

The petitioner must post a bond, sufficient to cover the cost of the recount, amount of which is set by a Judge of the Circuit Court for the county.

The county bears the cost of the recount if the result of the election is changed, or if the petitioner's vote count is increased by at least two percent as a result of the recount. The petitioner bears the cost if the result of the election is not changed and the petitioner's vote count does not increase by at least two percent.

Procedures involved in recount

The petitioner may specify the precincts to be recounted. After completion of a recount in which only a portion of the precincts were recounted and the result of the election is changed thereby, the opposing candidate may counterappeal for recount of all remaining precincts.

The following are mandatory steps in the recount:

Verify that correct ballot was used in all instances.

Mechanical lever machines: Verify number of voters on protective counter and public counter; verify that machine operated correctly.

Electronic systems: Logic and accuracy test performed before and after the count, if the recount is done by computer.

Scope of materials used

Recount includes "examination of machines, ballots, and any and all documentation of the election necessary for establishing the accuracy of the vote count". (COMAR 14.02.12)

Maryland

Observers

Observers are permitted; no limit on number: candidates, their representatives, press, and general public. Board sets standards and guidelines for observers so as to ensure orderly atmosphere and accurate count.

Methods used based on type of voting equipment

Computer counted ballots: Petitioner may choose hand count, or computer count, the latter by the same computer used for the original count or by a different computer, if such is available.

Mechanical lever machines: Counters are reread and totals retabulated.

Paper ballots: All individual votes for the office involved are retallied and totals retabulated.

Procedure for invalidating ballots

A ballot is invalidated if the intent of the voter is not clear.

Security of and access to materials

County election board has responsibility for security of materials. Voting machines are closed, locked, and sealed. Consult county board regarding access to materials.

Deadlines

No deadline for completion of recount is specified. It must start within 48 hours of receipt of petition and “continue daily until completion”, eight hours per day, six days per week.

Other applicable provisions

State regulations govern recounts. They require that the county board conducting the recount develop written procedures for conducting it, and that the entire process be fully documented. Obtain copy of the regulations from State Administrative Board of Election Laws, Annapolis MD.

Privately Initiated Contests

The following apply to both primary and general elections.

Standing

Any registered voter.

Grounds

Grounds for contesting an election are acts or omissions relating to the election which are inconsistent with law and which may change the outcome of the election.

Filing deadlines

A petition for contest must be filed within 20 days after the earliest of the following: (1) the date of the act or omission or, if later, the date the act of omission became known to the petitioner; or (2) the date the results of the canvass for that election are declared official.

Form and its content

The petition to the court must state the grounds for the contest.

Forum for filing and hearing

The petition is filed with and heard by the Circuit Court in each county in which the election result is being contested. (For a statewide election, that could be a maximum of 24 separate filings and hearings.)

Costs of the contest

No bond, fee or deposit is required. The state bears the cost of the contest.

Deadlines

No deadline is specified by which the contest must be decided by the Circuit Court.

Provisions for preserving evidence

County Board of Supervisors of Elections is responsible for preserving evidence, although the court could take jurisdiction. Impoundment could be ordered by the court.

Relief available

The Court could order a full or selective recount, could void the result of the election and order a new election, or grant “any other relief that will provide an adequate remedy”. Relief is granted by the Court “...upon a finding that the act or omission involved materially affected the rights of interested parties or the purity of the elections process, and might have changed the outcome of the election.”(19.5)

If the relief granted by the Court includes a recount of the votes, conduct of that recount is governed by regulations. References to those regulations are included in the previous section, “Privately Initiated Recounts”

Appeal

The decision of the circuit court can be appealed directly to the Court of Appeals, bypassing the intermediate appellate court.

Other applicable provisions

The law provides that the Circuit Court hear and decide a contest “as expeditiously as the circumstances require”, and on appeal it shall again be heard and decided “as expeditiously as the circumstances require.”

Massachusetts

Introduction

Structure for the administration of the election process

The clerk of each city or town, or in some cities and towns the Board of Election Commissioners, is responsible for conducting federal elections. Votes are counted by election officers appointed by the local executive body in each city or town. For primaries the Secretary of State, and for general elections the Governor and the Executive Council, are responsible for tabulating the total vote from the various jurisdictions, and also certify the results.

Security process for election materials

The presiding officer at each polling place places all ballots in a container sealed with a seal of durable material. All materials are then transmitted to the city or town clerk by the police officer at the election. They are stored in a secure, locked facility. City and town clerks or election commissioners retain custody over containers of ballots, without examining them or permitting them to be examined.

Inquiries regarding the security of or access to such materials should be directed to city or town clerks or election commissioners.

Government Initiated Validation of Election Results

Verifications of the vote count

For computer counted punchcard ballots, a logic and accuracy test is performed on the system following the vote tabulation but before certification, by running a test deck of fifty ballots marked in such a way as to demonstrate rejection of over-voted ballots and to test the accuracy of the count.

If an error in vote tabulation is discovered before the results are certified, the error is corrected by the certifying officials (the Secretary of State for primaries, the Governor and Executive Council for general elections).

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Only the federal candidates involved in the election have standing to obtain a recount.

Grounds

The recount petition must allege that the records of the election are erroneous, must specify why the records are believed to be erroneous, and must allege that the recount will affect the election result.

Filing deadlines

The petition must be filed before 5 p.m. on the sixth day following a primary or the tenth day following a general election. If a district-wide or state-wide recount is requested after a state primary or election (margin of victory must be within 0.5 percent for the Secretary of State to order a district-wide or state-wide recount) the petition must be filed with the Secretary of State no later than 5 p.m. of the seventh day after the primary, or no later than the 15th day after the general election.

Form and its content

A recount petition form prepared by the Secretary of State is used and can be obtained from the city or town clerk's office or from the Secretary of State's office. The petition contains a written request for recount

Massachusetts

signed by the candidate as well as by a certain number of voters within the district (C. 54, Sect. 135). The petition shall be directed to the local Registrars of Voters in each city or town of the district, or the Secretary of State for district-wide or state-wide recounts.

Costs of the recount

No bond, fee or deposit is required at the time of filing a petition for recount. The city or town performing the recount bears the cost of the recount.

Procedures involved in recount

The Registrars of Voters in each city or town where a recount is requested conduct the recount. They designate the time and place.

Scope of materials used

The requester may specify the extent of the recount. Materials involved include ballots, voting machines, electronic voting systems, tally sheets, spoiled and unused ballots, voting lists, and absentee voting documentation.

Observers

Observers are permitted. There is no limit to the number of observers permitted. Observers within the recount area itself are limited to candidate agents, one for each election official recounting ballots.

Methods used based on type of voting equipment

For computer counted ballots, the recount is performed by the same computer unless a hand recount is specifically requested. For mechanical lever machines, machine counters are reread and totals are retabulated. Paper ballots are entirely retallied unless the candidate requests only a partial recount.

Procedure for invalidating ballots

There are no standards for invalidating a ballot during a recount. However, election officers may not count a ballot containing any mark clearly designed to let election officers know that a certain person voted in a certain way. All votes are counted for the persons for whom they are intended, if the intent can be determined, otherwise as blank votes. A ballot may be protested by a candidate or his attorney.

The Board of Registrars will rule on any protested ballot. Their decision may be appealed to Superior Court by a candidate in the race.

Security of and access to materials

City and town clerks or election commissioners retain custody of containers containing ballots, which are stored in a secure, locked facility. Inquiries regarding the security of or access to election materials should be directed to city or town clerks or election commissioners.

Deadlines

The recount must be completed no later than six days after the last day to file a petition for a primary, and no later than ten days after the last day to file a petition for a general election.

Privately Initiated Contests

The following apply only to elections for Presidential Electors.

Standing

Any person who appears to have received no less than one-fifth of the number of votes cast for Presidential Electors.

Massachusetts

Grounds

Not specified.

Filing deadlines

For Presidential Elector, the contest must be filed seven days after the date of the proclamation by the Governor.

Form and its content

The petition must state the name of every person whose election is contested and the grounds for the contest.

Forum for filing and hearing

Petition is filed in the Supreme Judicial Court for Suffolk County, which also hears the case.

Costs of the contest

Before any proceedings begin, the court will order sureties to pay for all costs. If petitioner prevails, the costs will be paid by the State.

Deadlines

The court shall fix a day for a hearing by the full court, which shall be not less than three nor more than seven days after the date of the filing of the petition. No deadline specified by which the case must be decided.

Provisions for preserving evidence

No provision.

Relief available

The court shall issue its decision to the Governor, who shall then issue certificates of election in accordance therewith.

Appeal

The decision of the Supreme Judicial Court cannot be appealed.

Massachusetts

Michigan

Introduction

Structure for the administration of the election process

The Board of County Election Commissioners (Judge of Probate Court, President; County Clerk, Secretary; County Treasurer) is responsible for printing ballots. All other aspects of the conduct of the election are the responsibility of city and township clerks and election inspectors who are appointed by city and township election commissions.

The four member bipartisan Board of County Canvassers, appointed by the County Commissioners from names submitted by political parties, with County Clerk serving as Secretary, canvasses the votes.

When votes from more than one jurisdiction must be aggregated to obtain the total vote for a federal office, the Board of State Canvassers performs that function. This is a bipartisan body appointed by the Governor from names submitted by the political parties.

Certification of results: Presidential Electors canvassed by the Board of State Canvassers and certified to Washington by the Governor. U.S. Senator and House of Representatives from multi-county districts, by the Board of State Canvassers. House members from districts wholly within one county, by the Board of County Canvassers.

Security process for election materials

All ballots are under seal until ten days after the election results are certified, unless a recount is conducted. For punchcard ballots, the sealing period is 30 days. Impoundment is used only if ordered by a court.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed after the vote tabulation, but before certification, for computer-based vote tabulation systems. A preaudited group of ballot cards with a predetermined number of votes for each candidate are processed. If an error is discovered before the results are certified, the Board of County Canvassers has the authority to make the correction.

State required automatic recounts

For the office of U.S. Senate, the state provides for an automatic recount after certifying the results. It is triggered when the difference between votes cast for the two leading candidates is 2,000 votes or less. The action is mandatory and may not be waived. This automatic recount involves all votes cast and is not limited to the recount of ballots/votes only, but also can include examination of equipment, documents, containers, and anything else deemed relevant. The Board of County Canvassers, under the direction of the State Board of Canvassers, is responsible for conducting the recount. It is conducted in the county involved. Observers are permitted.

For the computer counted ballots, the recount may be done by hand, by the same computer used for the original count, or by a different computer. For mechanical lever machines, machine counters are reread and totals are retabulated. For paper ballots, the votes for the office being recounted are retallied and totals retabulated.

The standards/criteria for invalidating any ballot are detailed extensively in the rules. The Board of County Canvassers makes decisions regarding ballot invalidation which may be appealed to the Board of State Canvassers in recounts under their jurisdiction.

Privately Initiated Recounts

Michigan requires that before a recount can start, a determination must be made as to whether the votes can be recounted. The determination is based on whether it can be demonstrated that the requirements of law have been complied with which ensure that security of voting documents and records have been preserved, and the voting equipment and ballots have remained under seal since the close of the polls. If examination of the materials indicates that any of these “safeguard” requirements were not met, then those votes affected by that noncompliance may not be recounted.

These provisions are detailed in rules issued by the State Board of Canvassers. Detailed and specific instructions are provided by the State Board for the benefit of recounting officials as to the conduct of the “pre-recount review” which will determine whether or not the votes are “recountable”.

The following apply to recounts conducted following a determination that the votes are recountable.

Standing

Any candidate may request a recount.

Grounds

Grounds for a recount include: (1) fraud (2) mistake in canvass or returns.

Filing deadlines

For single-county race, a request for recount is filed with the county clerk within six days after the Board of County Canvassers completes the canvass. Counter petitions are required to be filed within 48 hours after the original petition is filed.

For multi-county race, a request for recount must be filed with the Secretary of State within 48 hours of the completion of the canvass. A counter petition may be filed in the same manner as the original petition, not later than 4 p.m. on the seventh day after the first petition is filed.

Form and its content

There is no specific form. A petition must be signed and sworn. It must include the nature and character of the fraud or mistake. It must also include the counties, cities, townships, and precincts in which the violations occurred and the recount is requested.

Costs of the recount

A fee of \$10.00 per precinct is required for a recount. If the petitioner prevails, the state bears the cost of the recount. If the petitioner does not prevail, he forfeits the deposit.

Procedures involved in recount

For federal offices in multi-county districts, the Board of County Canvassers, under the direction, supervision, and control of the State Board of Canvassers is responsible for conducting the recount. It is conducted in the specified county. The time and place is prescribed by the Board of State Canvassers. (See rules 168.889.)

In single-county districts the recount is under the control of the County Board of Canvassers.

Scope of materials used

The requester must specify the extent of the recount. The recount is not limited to a retabulation of votes only. It may also involve the review of any other relevant election materials which are directly related to the counting of ballots.

Michigan

Observers

Observers are permitted. The number is limited and each must receive written identification from the candidate they represent. With voting machines, two representatives and an attorney or candidate are allowed at each machine. With ballots, two watchers and two talliers may be present at each table.

Methods used based on type of voting equipment

For computer counted ballots, the recount may be done by hand count, by the same computer used for the original count, or by a different computer, as the Board of Canvassers determines. For mechanical lever machines, machine counters are reread and totals are retabulated. For paper ballots, all individual votes are retallied and totals are retabulated.

Procedure for invalidating ballots

Same as in automatic recount.

Security of and access to materials

Same as in automatic recount.

Deadlines

In a primary election, the recount must be completed within 20 days after the last day a counter petition may be filed. In a general election, the recount must be completed within 30 days after the last day a counter petition may be filed.

Other applicable provisions

Michigan has extensive and detailed rules governing all aspects of the recount.

Privately Initiated Contests

The following apply to both primary and general elections unless otherwise noted.

Standing

Any candidate for the office may contest.

Grounds

Grounds to contest include a defect in the ballot or a malfunction in the equipment.

Filing deadlines

An action contesting a federal election must be filed with the Clerk of the Board of County Canvassers within ten days after the election.

Form and its content

There is no specific form. A typed/printed statement must be provided alleging the circumstances that made it impossible to cast a valid vote for a candidate. The statement must identify the city and the precinct. It must also be signed and certified.

Forum for filing and hearing

The contest is filed with the Clerk of the County Board of Canvassers, and heard by the State Board of Canvassers.

Costs of the contest

No bond or deposit is required; cost is borne by government.

Deadlines

No provision.

Provisions for preserving evidence

There is a substantial amount of law regarding contested elections for the United States Senate and House of Representatives in Chapters VII and VII, which refer to preservation of evidence in the event an election for one of these offices is contested before the Senate or House. For U.S. Senate see 168.109-120; for House see 168.150-155.

Relief available

The results may be voided in particular precinct(s), and a new election may be ordered for them. Such an election would be by mail ballot. The Board would take such action if the following was ascertained:

- a) An elector could not cast a valid vote in a precinct for a petitioning candidate because of a defect or mechanical malfunction and;
- b) based on the available canvass, the number of electors who could not cast valid votes because of the defect or malfunction is greater than the number of votes separating the candidates getting the most and the second most number of votes.

Appeal

Any appeal can be filed with appropriate state court.

Minnesota

Introduction

Structure for the administration of the election process

The County Auditor is responsible for conducting the federal election. The County Canvassing Board certifies the results when only one county is involved. When more than one county is involved, the State Canvassing Board and Election Division of the Secretary of State's office aggregate the votes and the State Canvassing Board certifies the results.

Security process for election materials

Ballots, prom packs, etc., are sealed and kept in locked storage by the local custodian of the ballots— County Auditor or City Clerk. A candidate may guard the ballots until the expiration of the time for instituting contests. In the event of an election contest, parties may appoint up to two guards of their own. Inquiries regarding security should be directed to the County Auditor.

Government Initiated Validation of Election Results

Verifications of the vote count

If an obvious error is discovered before the results are certified, the appropriate County Canvassing Board has the authority to make the correction.

State required automatic recounts

None required.

Privately Initiated Recounts

Minnesota has no provision for an administrative recount of a federal election. The only recourse is to contest the election and obtain a recount as a remedy granted by the court (see section on Privately Initiated Contests). If the court orders a recount, it also details the process by which it is to be conducted. For the 1986 recount of a House of Representatives race between Collin Peterson and Arlan Stangeland, the court issued detailed procedures, which are available for reference from the Secretary of State.

Privately Initiated Contests

The following apply to both primary and general elections unless otherwise noted.

Standing

Any eligible voter, including a candidate, may contest.

Grounds

The contest may be brought over an irregularity in the conduct of an election or canvass of votes, over the question of who received the largest number of votes legally cast, or on the grounds of deliberate, serious, and material violations of the Minnesota election law.

Filing deadlines

Primary: Notice of contest must be served and filed within five days after the canvass.

General: Notice of contest must be served and filed within seven days after the canvass.

Form and its content

The law specifies no form. Contestants use the forms for a civil suit to file such a contest. The notice must specify the grounds on which the contest is based.

Forum for filing and hearing

U. S. Senate: Ramsey County District Court (St. Paul).

House of Representatives: State district court in the county where the contestee lives.

A copy of the notice must be served on contestee, a copy must be sent to contestee's last known address by certified mail, and a copy must be furnished to the official authorized to issue the certificate of election.

Costs of the contest

No bond or deposit is required unless either party applies for inspection of the ballots, in which case the party applying for inspection must file a \$250 bond if the contest is in a single county. In other cases, the bond is a sum set by the court. The losing party pays the costs of the contest. If the contestee loses because of errors in counting or canvassing returns or any other irregularity in the election procedure, in the discretion of the judge the election jurisdictions responsible for errors pay the costs of the contest.

Deadlines

No provision.

Provisions for preserving evidence

The local "custodian of the ballots" (County Auditor or City Clerk) is responsible for the safety of election materials. Candidates may guard ballots and in the event of a contest, the parties each may appoint up to two guards of their own. Impoundment is not used.

Relief available

A full or selective recount may be granted.

Appeal

U. S. Senate: Minnesota Supreme Court.

House of Representatives: State Court of Appeals.

The judge may take evidence regarding other points beyond recount of ballots, but cannot make findings or conclusions of law. This evidence is to be sealed and forwarded to the President of the U.S. Senate or the Speaker of the House of Representative, as appropriate, for the election contested.

Mississippi

Introduction

Structure for the administration of the election process

The county political party conducts the primary election and counts the votes; the state party executive committee aggregates the vote for multi-county elections and certifies nominees.

The county Election Commission conducts the general election and counts the votes; the Secretary of State is responsible for aggregating the vote in multi-county elections, and also certifies the results.

Security process for election materials

The Circuit Court clerk acts as custodian and keeps all sealed ballots.

Miscellaneous notes

Political parties play a big role in the conduct of primary elections, but State law governs much of their activity.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed for punchcard systems after completion of the count. A preaudited group of ballots is read and tabulated. There is no such provision for optically read ballots.

State required automatic recounts

None required.

Privately Initiated Recounts

There is no provision for a recount in Mississippi, although the code permits examination of ballot boxes. The petition to examine boxes must be served on opposing candidates; deadline for filing such petition is 12 days after the canvass. Examination takes place in the office of the County Circuit Clerk, and in his presence. The Clerk has custody of the sealed boxes, which are kept in locked storage in his office.

Privately Initiated Contests

Mississippi law has no provision for contesting a federal general election. The following apply only to primary elections.

Standing

“A person” may contest.

Grounds

No specific grounds are stated.

Filing deadlines

The petition must be filed within 20 days of the primary election.

Form and its content

There is no specific form. The petition must include allegations of irregularities.

Mississippi

Forum for filing and hearing

The petition shall be filed with the chairman of the political party state executive committee or the Hinds County Circuit Court if the committee fails to act or give full relief. The contest is heard by the state party executive committee or the Hinds County Circuit Court.

Costs of the contest

A filing fee is required if the contest is filed in the circuit court. The contester, or whomever the court directs, shall bear the cost of the contest.

Deadlines

No provision.

Provisions for preserving evidence

The Circuit Court clerk acts as custodian and keeps all sealed ballots.

Relief available

There is no specific provision regarding granting a recount as remedy, or voiding the result and ordering a new election. However, the committee or court could change the result and designate a new winner.

Appeal

The decision of the State Party Executive Committee may be appealed to the circuit court for Hinds County.

Missouri

Introduction

Structure for the administration of the election process

The local election authority is responsible for conducting the election and counting the votes. In most counties, the local election authority is the County Clerk; in five cities and counties, this authority is a four-member bipartisan Board of Election Commissioners.

The Secretary of State's office is responsible for aggregating the votes from the various jurisdictions. The Board of State Canvassers, which is composed of the Secretary of State and two judges of the Supreme Court, is responsible for certifying the results of federal elections.

Security process for election materials

All materials are sealed and locked. Bipartisan handling of all materials at all steps of the process, from their transport from the polling place to a central office, is standard procedure. Inquiries regarding the security of or access to such materials should be directed to the local election authority, directly or through the Secretary of State.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed on the computer-based vote tabulating system following tabulation but before certification. In addition, all lever machines are reread. If an error in vote tabulation is discovered before the results are certified, the local Board of Verification has authority to make correction. This board consists in most counties of the County Clerk plus two party representatives, although in the five cities and counties previously mentioned, the Board of Election Commissioners serves as the Board of Verification.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any candidate may request a recount of a federal election. In addition, the local election authority may petition the Circuit Court for a recount if it believes there have been errors in the count.

Grounds

Any candidate may request a recount for a primary or general election if the candidate was defeated by less than one percent of the total votes cast for an office.

If the margin was less than one percent, a recount is granted. If the margin was greater than one percent, the grounds for a recount must be stated in the petition, and it is then up to the court to determine if they are sufficient to order a recount.

Filing deadlines

A recount request must be filed with the circuit court within five days after the primary election, and within 30 days after the general election.

Form and its content

A petition to the court is required. No special form.

Costs of the recount

The court may order the unsuccessful party to pay costs, and may require a bond or deposit at the time of filing.

Procedures involved in recount

The local election authority conducts the recount. The court appoints persons, from names submitted by the parties, to assist the election authority in the recount. These individuals monitor and occasionally participate in the recount.

Scope of materials used

A court order sets the terms of the recount.

Observers

Observers are permitted at recounts of federal elections, but the number is limited by court determination. Among observers are the parties, their attorneys, and the court appointees.

Methods used based on type of voting equipment

For computer counted ballots, the ballots may be counted automatically or by hand. The petitioner may request a hand or machine count, but the decision is made by the court. For mechanical lever machines, machine counters are reread and totals retabulated. Paper ballots are retallied and totals retabulated.

Procedure for invalidating ballots

Criteria for invalidating a ballot are set by the court separately for each case. Generally, if the intent of voters is unclear, the ballot is invalidated.

Security of and access to materials

All materials are sealed and locked. Bipartisan handling of all materials at all steps of the process, from their transport from the polling place to a central office, is standard procedure. Inquiries regarding the security of or access to such materials should be directed to the local election authority, directly or through the Secretary of State.

Deadlines

For primary election recounts, the deadline is prior to the general election. For general election recounts, no deadline specified. To ensure prompt completion of the recount, preference in order of court hearing is given.

Privately Initiated Contests

Standing

Any candidate in either the primary or general election has standing to contest.

Grounds

No specific grounds are required.

Filing deadlines

An action contesting primary election results must be filed within five days after the official announcement of the results. An action contesting general election results must be filed within 30 days of the official announcement of the results.

Form and its content

A verified petition to the court is required. This petition must set forth the grounds of the contest and the facts supporting the contest.

Missouri

Forum for filing and hearing

The contest is filed with the Clerk of the Circuit Court of any circuit in which all or part of the election was held and in which any of the alleged irregularity occurred. In a multi-jurisdiction election, one filing is sufficient. The contest is heard in the circuit court where the petition is filed.

Costs of the contest

The court may require a bond at the time of filing. The unsuccessful party may be required by the the court to pay the costs of the contest.

Deadlines

The contest of primary election results must be decided prior to the general election. No deadline is specified for general election contests.

Provisions for preserving evidence

The local election authority retains all voted ballots, ballot cards, write-in forms, applications, statements, certificates, affidavits, and computer programs for 22 months after the date of the election. Said materials are sealed and can be opened only by the order of the court or grand jury.

Relief available

Either a full or selective recount can be granted by the circuit court. In addition, the results can be voided and a new election ordered. If the new election results in a change of result, a new winner will be designated.

Appeal

A party may appeal the court's judgment to the Court of Appeals of the appropriate jurisdiction.

Missouri

Montana

Introduction

Structure for the administration of the election process

The County Election Administrator is responsible for conducting federal elections. The County Board of Canvassers is responsible for counting the votes in federal elections.

The Secretary of State is responsible for aggregating the votes from the various jurisdictions. The State Board of Canvassers (composed of the Attorney General, State Auditor, and Superintendent of Public Instruction) is responsible for certifying the results. The Secretary of State, who serves as Secretary to the State Board of Canvassers, attests to the results from his/her tabulation.

Security process for election materials.

No provision.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test performed on a computer-based vote tabulating system following vote tabulation but before certification is an option left to the counties. Any other verification measures routinely done after federal elections are county options as well. The County Board of Canvassers has the authority to make corrections if an error in vote tabulation is discovered.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

The unsuccessful candidate has standing to obtain a recount of a federal election.

Grounds

If the candidate was defeated by a margin of 0.25 percent of the total vote in the race or less, petitioner must state that he believes that the recount will change the result. If the candidate was defeated by a margin in excess of 0.25 percent, he must state the grounds.

Filing deadlines

A recount must be requested within five days after the official canvass.

Form and its content

A verified petition must be used to request a recount. No special form is required, although the Secretary of State has a suggested specimen.

Petition must be addressed to Secretary of State if margin is 0.5 percent or less. If margin is 0.5 percent or more, then petitioner must file with district court in county where he resides.

Costs of the recount

If the certified margin of victory is 0.25 percent or less, no deposit or bond is required, and no cost will be passed on to the applicant regardless of outcome of the recount. If certified margin is between 0.25 and 0.5 percent, a bond is required, which is forfeited if the recount does not change the winner. If the margin is greater than 0.5 percent, a deposit in cash is required. If the petitioner does not win the recount, he must pay costs. If he is elected, the deposit is returned.

Procedures involved in recount

In each county, the County Recount Board (appointed by the local governing authority) is responsible for conducting the recount. The Election Administrator serves as secretary to the recount board. The recount is conducted in each of the counties involved and must start no later than five days after notification by the Secretary of State or court that a recount must be conducted.

Scope of materials used

The ballots/votes are retabulated; no other materials involved.

Observers

Observers are permitted and may include news media, candidates and the public. The number of observers may be limited to prevent interference with the procedure.

Methods used based on type of voting equipment

For computer counted ballots, the recount may be done by hand or by computer and is at the discretion of the local election administrator. Paper ballots are individually retallied and their totals retabulated.

Procedure for invalidating ballots

Ballots are invalidated when the intent of the voter is unclear. Those conducting the recount and the local election administrator may invalidate ballots. No code provisions exist for challenging invalidations of ballots.

Security of and access to materials

No code provisions exist for securing all relevant election materials from the closing of the polls through the recount. Ballots are sealed and locked in boxes. The Election Administrator has custody of the boxes and the voting devices.

Questions regarding the security of or access to such materials should be directed to the County Election Administrator.

Deadlines

No provision.

Privately Initiated Contests

Standing

Any elector may contest the result of a federal election.

Grounds

Fraud, error, illegality, ineligibility of the incumbent, or a violation of the election law.

Filing deadlines

The action must be filed within five days after the certification of the nomination in a primary election, or within one year after the day of election in a general election.

Form and its content

A suggested format is in Montana Election Code 13-36-203. The Secretary of State also has a special form which may be used. The petition must state the cause of the contest.

Forum for filing and hearing

The petition is filed and heard in the District Court of the county in which the contestee resides.

Montana

Costs of the contest

The petitioner must file a bond with at least two sureties. Bond is set by the District Court, but must not exceed \$2,000. If the contestant loses the contest, he is liable for the costs in an amount set by the court. The prevailing party may recover costs.

Deadlines

The court decides deadline.

Provisions for preserving evidence

The court issues provisions for preserving evidence. Impoundment has not been used so far in Montana.

Relief available

A full or selective recount may be ordered. The result of the election can be voided and a new election ordered. If the contestee was guilty of any corrupt practice or illegal act, he will be deprived of office and a new election will be held.

Appeal

The decision of the court may be appealed to the federal court, Ninth Circuit, San Francisco, California.

Montana

Nebraska

Introduction

Structure for the administration of the election process

The Secretary of State is responsible for conducting the federal election. The county Election Commission or the County Clerk is responsible for counting the votes. The Secretary of State, and the State Canvass Board are responsible for tabulating the votes when more than one jurisdiction is involved; they also certify the results.

Security Process for election materials

At the completion of the canvass all books, election supplies, absentee ballots, and sealed packages of precinct ballots will be kept for 22 months by the County Clerk or the County Election Commissioner.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed before and after the election, but prior to certification. A preaudited group of ballots is processed. The county Canvassing Board checks for overvotes, write-ins, and absentee ballots. If an error is discovered before the results are certified, the State Canvassing Board has the authority to make the correction.

State required automatic recounts

In both general and primary elections, the state provides for an automatic recount, triggered if a candidate is defeated by a margin of one percent or less of the votes received by the candidate with the highest number of votes when more than 500 total votes were cast. If fewer than 500 votes were cast, an automatic recount is triggered if a candidate is defeated by a margin of two percent or less. The action is mandatory, but may be waived by the losing candidate. It involves all votes cast. In addition, ballot applications and other election materials may be reviewed.

The County Clerks and Election Commissioners conduct the automatic recount, held as soon as possible after the adjournment of the County Canvassing Board or the State Canvassing Board at their respective county courthouses. Each candidate is allowed one observer per county.

With computer-based voting systems, the ballots are recounted by the same computer used for the original count. If a discrepancy is detected, a recount is then done by hand. For paper ballots, all individual votes are retallied and totals are retabulated.

A ballot can be invalidated if it is damaged such that the voter intent can not be determined. The County Attorney or the Secretary of State may initiate the process for invalidation. Any person may contest the invalidation of a ballot.

Inquiries regarding the security of and access to election materials should be directed to the County Clerk or the Election Commissioner.

Privately Initiated Recounts

Standing

A losing candidate may request a recount.

Grounds

Margin of votes between losing and winning candidate is in excess of one percent of the total votes cast for the winning candidate.

Filing deadlines

The request for recount must be filed within 10 days after the county or state canvassing board convenes.

Form and its content

There is no specific form.

Costs of the recount

Requesting candidate must deposit funds to cover estimated cost of the recount. If recount determines the contestant to be the winner, all costs which he has paid are refunded.

Procedures involved in recount

The requestor may specify the extent of the recount. The request is filed with the same office the candidate used to file for the election. The County Clerk, the Election Commission, or the Secretary of State is responsible for conducting the privately initiated recount.

Scope of materials used

The recount may include any and all election materials.

Observers

The candidate involved or his/her agent may observe the recount.

Methods used based on type of voting equipment

Same as for the government initiated recount.

Procedure for invalidating ballots

Same as for the government initiated recount.

Security of and access to materials

Questions regarding the security of or access to such materials should be directed to the County Clerk or the Election Commissioner, or their respective County Attorney.

Deadlines

No provision.

Privately Initiated Contests

Standing

Any losing candidate has standing to contest a federal election.

Grounds

Grounds to contest include: (1) misconduct (2) fraud (3) corruption (4) ineligibility (5) bribery (6) illegalities (7) the incumbent's default, or (8) when the incumbent has been convicted of a felony.

Filing deadlines

Action to contest a federal election must begin no later than 20 days following the official canvass.

Nebraska

Form and its content

A notice of contest must be filed specifying the grounds for the action.

Forum for filing and hearing

The notice is filed with the District Court where the contest will be heard, normally the contestant's county of residence. The notice is also delivered to the contestee. If the contestee cannot be found, the notice must be posted in the office of the clerk in the court where the contest will be heard.

Costs of the contest

A bond is required within 10 days after the filing of a complaint. If the contestant prevails, the county or state bears the cost of the contest.

Deadlines

No deadlines are stated; contest actions are given priority and heard expeditiously.

Provisions for preserving evidence

All poll books, election supplies, absentee ballots, and sealed packages of precinct ballots will be kept for 22 months by the County Clerk or the Election Commissioner.

Relief available

A full or selective recount of all votes may be granted. In cases of misconduct, the results may be voided, and a new election ordered.

Appeal

Contest actions follow the same appeal process as a ordinary civil actions. A new bond will be required.

Nebraska

Nevada

Introduction

Structure for the administration of the election process

The Registrar of Voters in Clark and Washoe county and the County Clerks in other counties are responsible for conducting federal elections. The County Clerk, the Board of County Commissioners, and the Registrar of Voters are responsible for counting the votes. The Secretary of State is responsible for tabulating the votes when more than one jurisdiction is involved, and also certifies the results.

Security process for election materials

Election materials are secured and stored in the vaults of the County Clerk or Registrar of Voters.

Government Initiated Validation of Election Results

Verifications of the vote count

For computer-based systems, a logic and accuracy test is performed after the vote tabulation but before certification. A preaudited group of test ballots is processed. If an error in vote tabulation is discovered before the results are certified, the Board of County Commissioners has the authority to make the correction.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

A losing candidate has standing to obtain a recount.

Grounds

No specific grounds are required.

Filing deadlines

A recount must be requested within five days after the completion of the canvass. Direct request to Secretary of State for U.S.Senate and multi-county Congressional District. For single-county Congressional District, to County Clerk.

Form and its content

No specific form; file written "demand" for recount.

Costs of the recount

A deposit equal to the estimated costs of the recount is required. Applicant bears the cost of the recount if he does not prevail. County bears cost if applicant prevails.

Procedures involved in recount

The requester may specify the extent of the recount.

Scope of materials used

The recount is limited to the retabulation of ballots. It is conducted in the county election office by a Recount Board.

Observers

A candidate or his authorized representative may be an observer.

Methods used based on type of voting equipment

For computer counted ballots, a five percent sample is recounted by the computer. If the recount of this sample produces a one percent or greater discrepancy from the original count, then all ballots are recounted by hand.

Procedure for invalidating ballots

The Recount Board can initiate the process for invalidation. Standards used to in invalidate a ballot relate to clarity of voter intent or revealed identity.

Security of and access to materials

Questions regarding the security of or access to such materials should be directed to the County clerk or Registrar of Voters.

Deadlines

A recount must be completed within five days after it begins.

Privately Initiated Contests

Only an election for Presidential Electors may be contested, by any candidate or registered voter. Election to U. S. Senate or House of Representatives cannot the contested.

Standing

Candidate or a registered voter.

Grounds

Grounds to contest include: (1) malfeasance by election officials; (2) illegal votes sufficient to affect the results; (3) election board errors; and (4) possible malfunction of voting equipment or counting device.

Filing deadlines

Within five days after recount has been completed, or no later than 14 days after election if there is no recount.

Form and its content

A Statement of Contest must be filed. It must include the grounds, and also the name of defendant, office, date result declared, and canvassing body. Statement must be verified, as for pleadings in civil actions. All materials must be filed in triplicate.

Forum for filing and hearing

The contest is filed with the Clerk of the District Court. Contest is heard by that court, or may be referred to a special master.

Costs of the contest

No provision for bond or deposit. Contestant bears the cost if the action is dismissed or election is confirmed; state or political subdivision, if election is voided because of election officials' malfeasance or errors; defendant, if election is voided on ground other than election officials malfeasance or errors.

Deadlines

A hearing is held five to ten days after filing of the contest.

Provisions for preserving evidence

All election documents, including ballots, are sealed and stored in vaults of the County Clerk.

Nevada

Relief available

Either full or selective recount may be ordered. The court may also void the result and leave the office vacated.

Appeal

No provision.

Other applicable provisions

Election contests take precedence over other business of the court.

Nevada

New Hampshire

Introduction

Structure for the administration of the election process

The Town or City Clerk is responsible for conducting the federal election. A moderator is responsible for counting the votes. The Secretary of State is responsible for tabulating the vote when more than one jurisdiction is involved, and also certifies the results.

Security process for election materials

No provision.

Government Initiated Validation of Election Results

Verifications of the vote count

If an error is discovered before the votes are certified, the Secretary of State has the authority to make the correction.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any person for whom a vote was cast may apply for a recount.

Grounds

There are no specific grounds in the code.

Filing deadlines

The petition for recount must be filed with the Secretary of State within five days after the election.

Form and its content

Letter with candidate's name, district and office to be filed with the fee.

Costs of the recount

Fee required as follows: for a candidate for President or U.S. Senator, \$500; for U.S. Representative, \$250. If the difference between the votes cast for the applying candidate and a candidate declared elected is greater than one percent of the total vote cast for that office, the applicant shall agree to pay the cost of a full recount. If such applicant is declared elected by reason of recount, the fee is refunded.

Procedures involved in recount

Rules and procedures set by Secretary of State.

Scope of materials used

Scope of materials set by Secretary of State.

Observers

No provision.

Methods used based on type of voting equipment

Procedure set by Secretary of State.

New Hampshire

Procedure for invalidating ballots

Each candidate or counsel may initiate the process for invalidation and they have the right to protest the counting of a ballot. The Secretary of State will rule on the validity of the ballot.

Security of and access to materials

If ordered by the Secretary of State, the state police collect all ballots from the Town or City Clerks and deliver them to the public facility designated by the Secretary of State. Direct questions about security of election materials to the Secretary of State.

Deadlines

Recounts shall be held not later than 21 days after receipt of application.

Privately Initiated Contests

New Hampshire has no provision for contesting the result of a federal election.

New Jersey

Introduction

Structure for the administration of the election process

The County Clerks, the county Election Boards and the district Election Board share the responsibility for conducting the federal elections. The county Board of Elections is responsible for counting the votes, the Secretary of State for tabulating the votes when more than one jurisdiction is involved, and the Board of State Canvassers for certifying the results.

Security process for election materials

County Clerk has custody of all materials.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed after the vote tabulation, but before certification. A preaudited group of ballots is tabulated. If an error is discovered before results are certified, the County Clerk and the county Board of Elections have the authority to make the correction.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any candidate may request a recount.

Grounds

The candidate must state that there is reason to believe that an error has been made in counting or declaring the vote.

Filing deadlines

The request for recount must be filed by the second Saturday after the election, with the judge of the Superior Court assigned to the county.

Form and its content

There is no special form. A written request must state that the requester believes an error has been made, and wants a recount. No specific evidence is required.

Costs of the recount

A bond of no more than \$25.00 per district is required. If the recount alters the vote by more than ten votes, or ten percent of the total vote in the district, whichever is greater, the state will bear the costs.

Procedures involved in recount

The county Board of Elections conducts the recount in each county, and sets the time and place.

Scope of materials used

The requester may specify the materials to be included in the recount.

Observers

Observers are permitted, and their number is unlimited as long as the process is kept orderly.

Methods used based on type of voting equipment

For computer counted ballots the requester may specify whether the recount is done by hand or computer. For mechanical lever machines, machine counters are reread and totals are retabulated. For hand counted paper ballots, all individual votes are retallied and retabulated.

Procedure for invalidating ballots

The county board sets the standards for invalidating a ballot.

Security of and access to materials

The County Clerk has custody of all election materials for five years after the election. Inquiries regarding access to these materials should be directed to the County Clerk.

Deadlines

No provision.

Privately Initiated Contests

Unless stated otherwise, the following apply to both primary and general elections.

Standing

Any voter may contest.

Grounds

The grounds to contest include: (1) malconduct; (2) fraud; (3) corruption; (4) ineligibility; (5) bribery; (6) error; (7) illegality.

Filing deadlines

The petition to contest a primary nomination shall be filed not later than ten days after election. The petition contesting a general election shall be filed not later than 30 days after election. If the grounds of action are discovered from the statements, deposit slips or vouchers filed subsequent to election, petition may be filed ten (primary) or 30 days (general) after such statements, deposit slips or vouchers are filed.

Form and its content

No specific form exists. A petition must be written and signed by at least twenty-five voters of the state. It must also be verified by the candidate or two of the petitioners. The petition must include: (1) the number of illegal votes allowed or disallowed (2) the names of those voters and (3) the district in which each voted.

Forum for filing and hearing

The petition shall be filed with the clerk of the Superior Court. The contest is heard by any judge of the Superior Court assigned by the Chief Justice of the Supreme Court.

Costs of the contest

The petition must be accompanied by a bond to the state with at least two sureties in the sum of \$500. The contestant pays the costs if the state prevails.

Deadlines

The hearing shall be held between 15 and 30 days after the filing of the petition.

Provisions for preserving evidence

The County Clerk keeps the ballots and all other relevant election materials for five years after the election.

New Jersey

Relief available

The result may be changed, and a new winner designated.

Appeal

The decision may be appealed to the Appellate Division of the Superior Court.

New Jersey

New Mexico

Introduction

Structure for the administration of the election process

The local Board of Commissioners is responsible for conducting federal elections as well as counting votes. The State Canvassing Board tabulates total votes from the districts and certifies the results.

Security process for election materials

No provision.

Government Initiated Validation of Election Results

Verifications of the vote count

A manual check of every printer pack, tally sheet or tape from every voting machine is verified against the canvass by the County Commissioners.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any candidate has standing to obtain a recount of a federal election.

Grounds

A recount must be based on the grounds of error or fraud.

Filing deadlines

The recount must be requested within six days after the completion of the canvass.

Form and its content

No special form. Application must be filed with Secretary of State.

Costs of the recount

The applicant must deposit \$50 in cash or security bond for each precinct to be recounted. If sufficient error is established, the state will bear the cost of recount. If not, the applicant pays the costs.

Procedures involved in recount

The applicant may specify the extent of the recount.

Scope of materials used

The ballot boxes or voting machines of the precincts involved in the recount will be opened. The emergency ballots and absentee ballots will be recounted and retallied.

Observers

Observers are allowed, including any individual that deserves to be present.

Methods used based on type of voting equipment

Mechanical lever machines are reread and retabulated. Paper ballots are retallied and retabulated.

Procedure for invalidating ballots

No provision.

Security of and access to materials

Questions regarding security of or access to such materials should be directed to the District Judge or the County Clerk.

Deadlines

No provision.

Privately Initiated Contests

Standing

Any candidate has standing to contest the result of a federal election.

Grounds

No specific grounds are required.

Filing deadlines

An action must be filed no later than 30 days from issuance of the nomination or issuance of certification to the successful candidate.

Form and its content

A verified complaint is required, stating the grounds.

Forum for filing and hearing

The complaint must be filed in the District Court of the county where either of the parties resides. The contest is heard in the same District Court.

Costs of the contest

A deposit of \$25 per precinct is required. The petitioner bears the cost unless the election result is overturned.

Deadlines

No provision.

Provisions for preserving evidence

A candidate may request from the County Clerk that the election ballots be preserved for the precincts named in the notice of contest. The candidate may also petition the District Court for an order impounding the ballots.

Relief available

A full or selective recount may be allowed. The court may decide to change the result and designate a new winner.

Appeal

A party may appeal to the Supreme Court of New Mexico.

New York

Introduction

Structure for the administration of the election process

Outside New York City, the Board of Election Commissioners (two members, one Democratic and one Republican) in each county is responsible for conducting the federal election, and counting the vote. In New York City there is such a Board of Election Commissioners for each of the five boroughs, and the ten Commissioners from the boroughs make up the Board of Election Commissioners for New York City. The borough offices conduct the election and count the vote, and the City office aggregates the citywide vote from the totals submitted by the five boroughs. For elections in which more than one county is involved, the State Board of Elections aggregates the vote; the State Board also certifies the winners of federal elections.

Security process for election materials

The county or borough Board of Election Commissioners is responsible for the security of all election documents. Voting machines are locked and sealed. Inquiries regarding security of and access to election materials should be directed to the county or borough board.

Government Initiated Validation of Election Results

Verifications of the vote count

So far, there has been only trial use of computer tabulated ballots, for absentee voters. Several such systems have now been certified, and may be introduced soon, for absentee voting, by local jurisdictions in the state. Regulations of the State Board of Elections will govern their use, and these require logic and accuracy testing, following the count but before certification, for the punchcard ballots.

State required automatic recounts

The automatic recount described here is done after all elections, by the county, borough, city, and State boards, before the results are certified. It is mandatory and cannot be waived. In the process the boards perform a complete repetition of the original canvass.

All voting machine (mechanical lever type) counters are reread, either from the printed record made at the time the polls closed or directly from the machine counters. In addition, all paper ballots are recanvassed — absentee, affidavit, standby.

The recount must be completed within 15 days of the election. Observers are permitted, limited to one representative of each candidate and one representative of each political party.

A ballot can be invalidated in a recount if the voter's intent is not clear, or if the ballot has an identifying mark. Both those conducting the recount and observers can initiate the process for invalidation, decision on which is made by the county election commissioners and a unanimous vote is required to invalidate.

Privately Initiated Recounts

New York does not permit a privately initiated recount. The state takes the position that the recount has already been done (see provisions for the automatic recount, preceding) and was open to the public and candidates. Once the results are certified, the only route to a recount for one who disputes the vote count would be to petition the court in a contest action (for a primary election) or the Attorney General under quo warranto (for a general election).

Privately Initiated Contests

The provisions described in this section relate only to primary elections.

The only way a general election could be contested would be by petition to the Attorney General through a process of quo warranto. If the Attorney General deems the argument made by the petitioner to be compelling, he could go to court representing the people of the State and challenge the right of the winner to hold office. This has been attempted by disappointed candidates many times but, the Attorney General, at least in the last 30 years, has never filed an action to displace an apparent winner.

Standing

Either a political party chairman or a candidate has standing to contest the primary election.

Grounds

No grounds for a contest are specified.

Filing deadlines

Deadline for filing a contest is 30 days after the election.

Form and its content

The contest is filed by petition to the State Supreme Court. The law is silent on the content for such a petition.

Forum for filing and hearing

The contest is filed with and heard by the State Supreme Court, the court of lowest jurisdiction in the State system.

Costs of the contest

No bond, fee, or deposit is required at time of filing. The law is silent on who bears the cost.

Deadlines

No deadline is specified for decision in the contest.

Provisions for preserving evidence

Preservation of evidence and access to election materials are matters for determination by the court. The state has a Freedom of Information Act, and its provisions apply to election contests.

Relief available

The court can grant a full or selective recount, can void the result and order a new election, or can change the result and designate a new winner.

Appeal

The decision can be appealed to the State Appellate Court.

North Carolina

Introduction

Structure for the administration of the election process

The 3-member bipartisan County Board of Elections, appointed by the State Board of Elections, is responsible for conducting federal elections and for counting the vote. The 5-member bipartisan State Board of Elections, appointed by the Governor, aggregates the vote totals from the counties and certifies the results. County boards serve two-year terms; State board members serve four-year terms.

Security process for election materials

Ballots and poll books are sealed and locked, and remain in the custody of the County Board of Elections, to whom inquiry should be directed regarding access.

Miscellaneous notes

North Carolina has an elaborate administrative process for resolving disputed elections. The County and State Boards of Elections bear primary responsibility since a challenger must use these administrative remedies before going to court. "The County Board of Elections shall have power to judicially pass upon all facts relevant to the primary or election, to make or to order such recounts as it deems necessary, and to judicially determine the result of the primary or election. The board shall also have the power to send for papers or person and to examine them, and to pass on the legality of any disputed ballots transmitted to it by any precinct official." (N.C. Gen. Stat., Sec. 163-175)

The process of resolution follows these steps: (1) candidate takes grievance to appropriate county election board; (2) board conducts hearings, makes findings of fact and conclusions of law; (3) candidate may appeal to State Board; (4) candidate may appeal to Superior Court.

Government Initiated Validation of Election Results

Verifications of the vote count

For computerized precinct ballot tabulators, the county board tests 10 percent of them for accuracy. Certain units also are sent to the vendor, in California, for post-election accuracy testing.

In addition, the county board in the course of its canvass and the State Board in performing its canvass both do substantial auditing of the vote count. For such purpose, either board may have access to the impounded ballot boxes and poll books, and to any other relevant election records it deems necessary to its activity. If an error is discovered at either the county or the State level, the appropriate board has authority to correct it. Moreover, either the county or State board may on its own initiative make or order a recount, in whole or in part, of an election before certifying results.

State required automatic recounts

No provision.

Privately Initiated Recounts

Standing

A candidate, his representative or any registered voter may request recount of a federal election.

Grounds

Allegations of (1) errors in tabulation of votes, or (2) illegal votes cast, in a number sufficient to change the election result—in which case the unqualified voters must be identified by name.

North Carolina

For federal elections where the margin of the winner over the loser is 0.5 percent of the total vote, or less, a request to the State Board of Elections by the losing candidate must be granted.

Filing deadlines

For challenge to a precinct count, written request must be filed with the county board during the course of its canvass (which begins at 11 a.m. on the second day after election) or with good cause by 6 p.m. of the second day after the completion of the canvass. For a challenge to a count other than that of the precinct, petition must be filed before 6 p.m. on the second day after completion of the canvass. After hearing, county board makes decision on whether to grant recount.

Form and its content

The petition must be in writing; a specimen form is available from county board. It must provide specifics on contestor and grounds, and may include a request for specific relief to be ordered.

Costs of the recount

State, county or other government agency bears cost.

Procedures involved in recount

County Board of Elections is responsible for conducting the recount and makes decision on the time and place of recount.

All ballots/votes are recounted. Any and all relevant documents, equipment and materials can be examined as part of the recount.

Scope of materials used

All ballots/votes are counted. Any and all relevant documents, equipment and materials can be examined as part of the recount.

Observers

Observers are permitted at the recount. The number of observers is not limited.

Methods used based on type of voting equipment

For computer counted ballots, recount is performed on the same computer used in the original count, although in extraordinary circumstances the recount will be done by hand. For mechanical lever machines, machine counters are reread and totals are retabulated. For DRE machines, the results produced on the paper results tape are verified against the results stored elsewhere in the machine, and totals are retabulated. Paper ballots are individually retallied and totals are retabulated.

Procedure for invalidating ballots

Ballots are invalidated when voter's intent is unclear. A candidate, observer or member of the public may request that a ballot be invalidated. An invalidation may be challenged by either party.

Security of and access to materials

Ballots and the poll books are impounded. Questions regarding the security of or access to such materials should be directed to the county Board of Elections.

Deadlines

No provision

North Carolina

PRIVATELY INITIATED CONTESTS

Standing

Same as for privately initiated recounts.

Grounds

Same as for privately initiated recounts.

Filing deadlines

Same as for privately initiated recounts.

Form and its content

Same as for privately initiated recounts.

Forum for filing and hearing

A contest of the results of a federal election in a single county must be filed with the county Board of Elections. A contest of the results of a federal statewide election must be filed with the State Board of Elections. Contest is heard by the board with which it is filed.

Costs of the contest

Contestant does not pay if board deems the contest justified.

Deadlines

If contest is filed before canvass, it must be resolved before the completion of the canvass.

Provisions for preserving evidence

The evidence is protected by order of the county board or State Board. The FBI may take the evidence into custody. Impoundment may be used.

Relief available

A full or selective recount may be granted. Results may be voided and a new election ordered, if the results of the election could have been different.

Appeal

Decision of County Board of Elections may be appealed to State Board of Elections. Decision of the State Board of Elections may be appealed to the Superior Court.

North Carolina

North Dakota

Introduction

Structure for the administration of the election process

The County Auditor is the chief election officer at the local level. The County Canvassing Board is responsible for counting the votes in federal elections. The Secretary of State is responsible for tabulating the votes when more than one jurisdiction is involved, and also certifies the results.

Security process for election materials

All ballots are returned to the County Auditor who then delivers them to the county judge. The County Auditor retains all other relevant election material. Inquiries regarding security of or access to election materials should be directed to the County Auditor.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed after vote tabulation, but before certification, on computer-based vote tabulating systems. The test involves the processing of a group of preaudited ballots. If an error is discovered before the results are certified, the county canvassing board has the authority to make the correction.

State required automatic recounts

In both primary and general elections, the State provides for an automatic recount before certifying the result. This action is mandatory, and cannot be waived. In a primary election an automatic recount is triggered when a candidate loses by one percent or less of the highest vote cast for a candidate of the party for the office sought. In a general election, the recount is triggered when a candidate loses by 0.5 percent or less of the highest vote cast for a candidate for that office.

The County Auditor directs the recount which includes review of all paper, machine, electronic voting system, and absentee ballots. It is conducted by the County Canvassing Board in the county court house at a time chosen by the County Auditor. Membership of the County Canvassing Board includes: Clerk of the District Court, County Auditor, Chairman of the Board of County Commissioners, and representatives of the two major political parties.

Observers are permitted, and are unlimited in number. The candidates involved, or their representatives may observe.

For computer counted ballots, recount is done by the same computer used for the original count. Some counties conduct a recount by hand. For mechanical lever machines, machine counters are reread, and totals are retabulated. For direct recording electronic (DRE) machines, the results produced on the paper results tape are verified against the results stored elsewhere in the machine and totals are retabulated. For hand counted paper ballots, all individual votes are retallied and totals retabulated.

Privately Initiated Recounts

Standing

A defeated candidate may obtain a recount if his margin of loss was between one and two percent (primary) or between 0.5 and two percent (general election).

Grounds

No grounds other than the specified margin.

North Dakota

Filing deadlines

A demand for recount must be filed with the Secretary of State within three days after the canvass by the State Canvassing Board.

Form and its content

No specified form is required, but the written demand must state grounds for the recount.

Costs of the recount

Bond is required, and amount is set by the County Auditor, sufficient to cover the cost of the recount.

Procedures involved in recount

The County Auditor is responsible for conducting the recount and the Secretary of State will set the date within seven days after giving notice that the Auditor must conduct the recount.

Scope of materials used

The recount involves all votes cast and all equipment used.

Observers

Observers are allowed; and any citizen can watch the recount.

Methods used based on type of voting equipment

When conducting the recount, the same computer is used for computer counted ballots as was used in original count. For mechanical lever machines, the machine counters are reread and totals retabulated. The results produced on the DRE paper tapes are verified against the results stored elsewhere in the machine. Paper ballots are retallied and totals retabulated.

Procedure for invalidating ballots

Any observer (candidate or representative) may challenge the acceptance or exclusion of a ballot. The challenger must state the reason for the challenge. The County Auditor submits all challenged ballots to the Recount Board for decision at the end of the recount.

Security of and access to materials

All ballots are returned to the County Auditor and are delivered to the county judge. The County Auditor keeps the other election materials.

Deadlines

No provision.

Privately Initiated Contests

Standing

A defeated candidate or ten qualified voters may bring a contest.

Grounds

A federal election may be contested on grounds of ineligibility, error, fraud or illegality.

Filing deadlines

The action must be filed within five days after the final certification of the recount, or within four days after the certification by the Canvassing Board.

Form and its content

No specific form is required.

North Dakota

Forum for filing and hearing

Contest is filed and heard in the District Court of the contestant's county of residence.

Costs of the contest

A bond that will cover the cost of the recount is required. If the contestant prevails, the state will bear the cost. If the contestant loses, judgment for costs is against the contestant.

Deadlines

The District Court will set the hearing no more than ten days after the filing of the contest.

Provisions for preserving evidence

Responsibility of county judge.

Relief available

Not specified.

Appeal

Not specified.

North Dakota

Ohio

Introduction

Structure for the administration of the election process

The county Board of Elections is responsible for conducting the federal election and counting the votes. For House of Representatives, district within one county, county Board also tabulates the votes and certifies the results; for multi-county district, each county in the district tabulates the votes and certifies results to the most populous county, which county certifies the total for the district to the Secretary of State. For U.S. Senate, each county tabulates the votes and declares the results to the Secretary of State, who is responsible for certifying the winner.

Security process for election materials

All voting machines are locked and sealed. Ballots are locked in boxes that are stored in a room, cabinet or closet requiring two keys to access.

Government Initiated Validation of Election Results

Verifications of the vote count

For computer counted ballots, an accuracy test is performed following vote tabulation but before certification; for this purpose a preaudited group of ballots is tabulated. In addition, all punchcard ballots are recounted starting eleven days after the election.

If an error is discovered before the results are certified, the county Board of Elections has the authority to make the correction.

State required automatic recounts

The state provides for an automatic recount. This action is mandatory but may be waived by the declared losing candidate. Such a recount is triggered for a House of Representatives seat when the difference between the winning candidate and the losing candidate is 0.5 percent or less, for a U. S. Senate seat when the margin is 0.25 percent or less. The recount involves all votes cast, and includes a review of all poll books and tally sheets. An accuracy test is performed on a computer-based voting system before and after tabulation. Memory packs are retallied, lever machines are reread.

The county Board of Elections is responsible for conducting the automatic recount. The Secretary of State decides when a multi-county or statewide recount will begin, then observes and supervises the process, which starts within ten days of the official declaration of the results.

Observers appointed by the candidates are permitted, but limited to one per counting team or tabulating unit. The media may be present in the office but cannot enter the counting rooms.

All computer counted ballots are recounted by the same computer used to conduct the original count, and three percent of these ballots are counted by hand. If this count disagrees with the computer count, all ballots are then hand counted. For mechanical lever machines, machine counters are reread and totals are retabulated. For paper ballots, all individual votes are retallied and totals are retabulated.

A ballot is invalidated if the intent of the voter cannot be determined. The county Board of Elections makes the decision by majority vote.

Questions regarding the security of or access to election materials should be directed to the county Board of Elections.

Privately Initiated Recounts

Standing

Any defeated candidate has standing to obtain a recount.

Grounds

No specific grounds are cited.

Filing deadlines

A request for recount must be filed within five days after the Board of Elections or the Secretary of State declares a result. For U. S. Senate, file request with Secretary of State. For House of Representatives, district wholly within one county, file with the county Board of Elections; for multi-county district, file with the county Board of Elections of the most populous county.

Form and its content

A written application listing the precincts to be recounted is required.

Costs of the recount

A deposit of \$10 per precinct is required at the time of filing. The county Board of Elections determines the final cost. Funds are returned if vote for applicant increases 4 percent or if he is declared the winner.

Procedures involved in recount

The requester may specify the extent of the recount and may request recount be halted before completion. The county Board of Elections is responsible for conducting the privately initiated recount.

Scope of materials used

Same as for government initiated recount.

Observers

Same as for government initiated recount.

Methods used based on type of voting equipment

Same as for government initiated recount.

Procedure for invalidating ballots

Same as for government initiated recount.

Security of and access to materials

Same as for government initiated recount.

Deadlines

Recount must begin no later than ten days after request is filed.

Privately Initiated Contests

Standing

A group of at least twenty-five qualified voters who voted in the election or the defeated candidate has standing to contest.

Ohio

Grounds

No specific grounds are cited.

Filing deadlines

An action to contest must be filed within fifteen days after the result of the election or within ten days after the result of the recount, if any.

Form and its content

There is no special form. A petition must be signed under oath citing grounds for the action.

Forum for filing and hearing

The action is filed and heard in the State Supreme Court.

Costs of the contest

A bond is required for all costs as estimated by the Clerk of the Supreme Court. If the contestant prevails, the state bears the cost of the contest. If not, bond is forfeited.

Deadlines

Deadlines are under the control and discretion of the court.

Provisions for preserving evidence

Provisions for preserving evidence are at the discretion of the court.

Relief available

A full or selective recount may be granted. The results may be voided, and a new election ordered.

Appeal

The decision may not be appealed.

Ohio



Oklahoma

Introduction

Structure for the administration of the election process

The county Election Board is responsible for conducting the federal election and counting the votes. The State Election Board is responsible for tabulating the votes when more than one jurisdiction is involved, and also certifies the results.

Security process for election materials

The Sheriff provides security until 5:00 pm on Friday following the election at which time the results of the election are certified if no contest is filed. If a contest is filed, the Sheriff provides security until the contest is heard, not less than three days nor more than ten days after the petition is filed.

Government Initiated Validation of Election Results

Verifications of the vote count

In the four counties that use marksense ballots, a verification of a precinct's vote count is done if the number of unprocessed ballots is greater than two percent of the total. The county has the authority, but is not required, to recount those precincts' ballots on a different precinct ballot tabulator than the one used on election day.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any candidate has standing to obtain a recount of a federal election.

Grounds

No specific grounds are required.

Filing deadlines

The request for recount must be filed with the State Election Board by 5 p.m. on Friday following the election. A copy must be served on other candidates in the race.

Form and its content

The State Board has guidelines to follow when submitting a petition. The request should state the precincts and absentee ballots to be counted. If an electronic voting system was used, the petition should specify if a manual recount is desired.

Costs of the recount

A certified cashier's check is required at the time of filing. A deposit of \$600 per county will be levied. An additional deposit is required if a hand count of electronic system ballots is requested. The state bears the cost of the recount if the petitioner prevails.

Procedures involved in recount

The county Election Board(s), under delegation of authority from the State Election Board, conduct(s) the recount in the District Court of each county involved. The time is set by the Secretary of the county Election Board.

Scope of materials used

All ballots are recounted. Electronic devices are tested for accuracy.

Observers

Observers must be commissioned in writing to the county Election Board by a candidate. Each candidate may designate one observer per recount table.

Methods used based on type of voting equipment

For computer counted ballots, a hand count must be specified in the petition; otherwise the same system used for the original count is used for the recount. For paper ballots, all individual votes are retallied and totals retabulated.

Procedure for invalidating ballots

The county Election Board initiates the process for invalidation. An observer may challenge the invalidation. Such challenge shall be made immediately to the County Election Board, whose decision shall be final.

Security of and access to materials

The county Sheriff provides security for ballot boxes from election day until boxes are delivered to the District Court. Questions regarding the security of or access to such materials should be directed to the State Election Board.

Deadlines

No provision.

Privately Initiated Contests

The following apply to both primary and general elections unless otherwise noted.

Standing

Any candidate may contest.

Grounds

Grounds to contest include: (1) fraud and (2) irregularities other than fraud.

Filing deadlines

An action to contest a federal election must be filed before 5 p.m. on the Friday after election.

Form and its content

A petition for "fraud or irregularities hearing" must be used. It must include a statement of fraud and identify the precincts or absentee ballots involved, and the specific act of fraud and the perpetrators. Alternatively, the petition can include a statement of irregularities that states (1) that the contestant is entitled to be nominated or elected; and (2) it is impossible to determine "with mathematical certainty" which candidate is entitled to certification.

Forum for filing and hearing

The contest is filed with the State Election Board. After consultation with the State Election Board, the contest is scheduled and heard by the District Court of the county where the fraud or irregularity is charged.

Oklahoma

Costs of the contest

In contests alleging fraud, a \$5,000 cash bond is required for each county involved. In contests alleging irregularities, a \$250 cashiers check deposit is required for each county involved.

Deadlines

The hearing will be held no earlier than three days before and no later than ten days after the petition is filed.

Provisions for preserving evidence

The Sheriff and the county Election Board are responsible for preserving all relevant election material.

Relief available

If fraud is proved, the contestee is declared ineligible.

Appeal

No provision.

Oklahoma

Oregon

Introduction

Structure for the administration of the election process

The County Clerk is responsible for conducting the federal election and counting the votes. The Secretary of State is responsible for tabulating the votes when more than one jurisdiction is involved, and also certifies the results.

Security process for election materials

All election materials remain in the custody of the County Clerk. Ballots, vote recorders, programs and memory packs must all be sealed. Inquiries regarding security of or access to election materials should be directed to the Secretary of State or the appropriate County Clerk.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed after vote tabulation, but before certification, on computer-based vote tabulating systems. The test involves processing a preaudited group of ballots. In addition, at the polling place, poll books are reconciled to confirm that the number of ballots counted equals the number of voters signed in.

If an error is discovered before the results are certified, the County Clerk on his/her own initiative or by a directive of the Secretary of State makes the correction.

State required automatic recounts

In both primary and general elections, the State provides for an automatic recount before certifying the result. This action is mandatory and cannot be waived. It is triggered if the difference in votes is not more than 0.2 percent of the total votes cast for both candidates, or if two or more candidates have an equal number of votes.

The County Clerk, at the direction of the Secretary of State, is responsible for conducting the automatic recount. It is conducted in the county after notification of all parties by the County Clerk or the Secretary of State. The County Clerk appoints a sufficient number of counting boards as staff for the recount. Each board is bipartisan and has four members. There is no specified deadline set for completion of the automatic recount.

This recount involves all votes cast, but is not limited to recount of ballots only. Parties may request an inspection of the vote recorder pages.

Observers are permitted, but are limited in number. Each candidate is allowed one observer at each recount site.

The candidate or an individual of his/her choice may act as an observer.

For computer counted ballots, recount is done by hand. For paper ballots, all votes are retallied and retabulated.

The counting boards review ballots for validity. Criteria used include: intent of voter unclear; votes not cast on official ballot; identifying mark; and use of sticker to indicate write-in candidate choice. Observers may raise questions about ballot validity with supervisory personnel, who will refer them to the counting board for decision.

Privately Initiated Recounts

Standing

An elector, a candidate, or the officer of a political party on behalf of the party may make a demand for a recount.

Grounds

No specific grounds are required.

Filing deadlines

The demand must be filed in the office of the Secretary of State within 35 days of the election.

Form and its content

There is a state form—SED Form 155R. It includes a sworn statement, the office in question, the precincts to be recounted and the name and address of the party paying the deposit.

Costs of the recount

The petitioner must pay a cash deposit of \$15 for each precinct to be recounted up to a maximum of \$8000 for the entire state. If the result is changed, the state bears the cost; if the result is not changed, the petitioner pays.

Procedures involved in recount

The petitioner may specify the precincts to be recounted. The Secretary of State and county officials jointly set the schedule.

Scope of materials used

Same as for government initiated recount.

Observers

Same as for government initiated recount.

Methods used based on type of voting equipment

Same as for government initiated recount.

Procedure for invalidating ballots

Same as for government initiated recount.

Security of and access to materials

All election materials remain in the custody of the County Clerk. Ballots, vote recorders, programs and memory packs must all be sealed. Inquiries regarding security of or access to election materials should be directed to the Secretary of State or the appropriate County Clerk.

Deadlines

No deadline is specified for the recount to be completed.

Privately Initiated Contests

Standing

Any elector or candidate may contest.

Oregon

Grounds

The grounds to contest include: (1) deliberate and material violation of any provision of the election laws in connection with the nomination or election; (2) ineligibility of the person elected to the office to hold the office at the time of the election; (3) illegal votes; (4) mistake or fraud in the canvass of votes; (5) fraud in the count of votes; and (6) nondeliberate and material error in the distribution of the official ballots by a local election official.

Filing deadlines

A petition for contest must be filed within 40 days after the election or the completion of a recount of votes cast in the election.

Form and its content

The petition must specify the cause of the contest, name the contestees and be verified by the contestant in the manner required for the verification of complaints in civil cases. There is no specific form.

Forum for filing and hearing

The petition filed with the circuit court clerk for the county in which the contestee resides or in which the certificate of election will be issued - Marion County, Oregon. The contest is heard by the circuit court where the filing took place.

Costs of the contest

The contestant must furnish a bond with two sureties; the amount will not exceed \$2000. The prevailing party in the contest proceeding recovers costs from the losing party, disbursements and reasonable attorney fees at trial and on appeal. If the cause of the contest is a mistake in the canvass of votes and the contestant prevails, the cost is paid by the county.

Deadlines

No deadline is specified by which the contest must be decided.

Provisions for preserving evidence

The County Clerk acts as custodian and keeps copies of all election related materials.

Relief available

The court may grant a full or selective recount, or void the result and declare a vacancy.

Appeal

The decision of the circuit court can be appealed to the Oregon Court of Appeals.

Oregon



Pennsylvania

Introduction

Structure for the administration of the election process

The county Boards of Elections are responsible for conducting federal elections, counting the votes, and certifying the returns to the Secretary of the Commonwealth. The Secretary of the Commonwealth is responsible for tabulating the votes when more than one jurisdiction is involved, and certifying the results.

Security process for election materials

Immediately after the votes have been counted in districts using paper ballots, all ballots cast, one set of tally papers, one numbered list of voters, and one oath of office for each elections officer are placed in the ballot box, sealed, locked and returned to the county Board of Elections. As soon as the polls close in voting machine districts, the operating lever or mechanism is immediately locked and sealed. A certificate is then signed by the officers, clerks and overseers verifying that the machine has been locked and sealed, the number shown on the public counter, the number on the seal which was attached, the number registered on the protective counter and the number or other designation of the voting machine. These certificates are returned to the county board. When district tabulation is provided by an electronic voting system, the district officers must prepare the same general return sheets similar to paper ballot and voting machine districts. When central tabulation is provided by an electronic voting system, the election officials must prepare reports accounting for ballots and then transport the sealed carrier of ballots, reports and materials to the tabulation center.

Government Initiated Validation of Election Results

Verifications of the vote count

An official count is conducted by the county Board of Elections three days after the election. The county board has the authority to correct discrepancies prior to certifying the results.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Three qualified electors may petition the Common Pleas Court requesting a recount of paper ballots or to recanvass a voting machine.

Grounds

Fraud or error must be stated.

Filing deadlines

Any petition to open a ballot box or to recanvass a voting machine must be filed no later than five days after the completion of the official count.

Form and its content

Not designated in the Election Code.

Costs of the recount

A cash deposit of \$50 or a bond of \$100 per ballot box or voting machine must be filed in the office of the county Prothonotary. If it appears that fraud or substantial error was committed then the cash is returned to the petitioners or the bond is cancelled.

Procedures involved in recount

The Court of Common Pleas is responsible for conducting the recount. The time and place is set by the court.

Scope of materials used

Petitioner requests extent of the recount.

Observers

Candidates or their attorneys are entitled to be present at any recount of ballots or recanvassing of machines.

Methods used based on type of voting equipment

The court designates persons to correctly count the ballots when a ballot box is open. The court or a judge of the court marks the registering counters of a voting machine visibly and without unlocking the machine against voting, the votes are recanvassed. A recount of an electronic voting system can be done manually, mechanically or electronically.

Procedure for invalidating ballots

No provision.

Security of and access to materials

No provision.

Deadlines

Any petition to open a ballot box or to recanvass the votes on a voting machine must be filed no later than five (5) days after the completion of the computational canvassing of all returns of the county by the board. If error or fraud is found the court will grant interested parties an additional five (5) days to file petitions requesting additional ballot boxes to be opened or voting machines to be recanvassed.

Privately Initiated Contests

The following apply to both primary and general elections unless otherwise noted.

Standing

The petition of 100 electors must be filed to contest the election for President or U.S. Senator. A petition containing the signatures of 20 registered electors must be filed to contest the election of a U.S. Congressman.

Grounds

The petition must show where it is claimed that the primary or election is illegal.

Filing deadlines

The contest must be filed within 20 days after the election.

Form and its content

There is no specific form. The petition must set forth the cause of complaint, showing how the election was illegal.

Forum for filing and hearing

A petition to contest a Presidential or Senatorial election is filed and heard in the Court of Common Pleas for Dauphin County. The petition to contest an election for the U.S. House of Representatives is filed and heard in the Court of Common Pleas where the candidate resides.

Pennsylvania

Costs of the contest

A bond signed by at least five (5) of the petitioners in the designated amount must be filed within five days. If the petitioners prevail, the bond is cancelled.

Deadlines

Decision to be made without delay.

Provisions for preserving evidence

No provision.

Relief available

The results of the election may be voided and a new election could be ordered.

Appeal

The decision may be appealed to a state appellate court.

Pennsylvania

Rhode Island

Introduction

Structure for the administration of the election process

The Board of Canvassers for the city or town, consisting of three qualified and appointed electors, conducts the federal election. The State Board of Elections counts the votes, aggregating those from the various jurisdictions to obtain district and statewide totals. The State Board, a seven-member nonpartisan body who serve 14-year overlapping terms, also certifies the results.

Security process for election materials

Machine keys and all other relevant election material are kept with the local election board the night of the election. The next day they are transferred to the State Board of Elections under guard of the local law enforcement officers. Materials are kept in a locked storage by the State Board. Machines are brought directly from the polling places to the State Board the morning after the election.

Government Initiated Validation of Election Results

Verifications of the vote count

The State Board of Elections checks the addition of machine totals for each polling place, and also rereads machine counters if the numbers are unclear. If an error is discovered before the results are certified, the State Board has the authority to make the correction.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Any candidate, the candidate's attorney, or the candidate's representative has standing to request a recount.

Grounds

No specific grounds are required.

Filing deadlines

In a primary election, an action to recount must be filed with the State Board of Elections by 4 p.m. the day after the election. In a general election, an action to recount must be filed by 4 p.m. on the seventh day after the election.

Form and its content

There is no specific form. The written request for a hearing must specify the race being recounted, what is actually being requested, and the reasons for seeking the recount.

Costs of the recount

The state bears the cost of the recount.

Procedures involved in recount

A hearing will be held no later than three days after the request is received at the State Board of Elections.

Scope of materials used

The requesting candidate may specify which precincts will be recounted.

Rhode Island

Observers

Observers are permitted but their number is limited to one per candidate at each machine.

Methods used based on type of voting equipment

For mechanical lever machines, machine counters are reread and retabulated. Paper ballots are retallied and retabulated. Absentee ballots are not recounted.

Procedure for invalidating ballots

No provision.

Security of and access to materials

Machine keys and all other relevant election material are kept with the local election board the night of the election. The next day they are transferred to the State Board of Elections under guard of the local law enforcement officers. Materials are kept in a locked storage by the State Board. Machines are brought directly from the polling places to the State Board the morning after the election.

Deadlines

In a primary election, the recount must be decided within seven days of the election. There is no specific deadline for deciding a general election recount.

Privately Initiated Contests

Standing

Same as for privately initiated recounts.

Grounds

Same as for privately initiated recounts.

Filing deadlines

Same as for privately initiated recounts.

Form and its content

Same as for privately initiated recounts.

Forum for filing and hearing

The request is filed with and heard by the State Board of Elections.

Costs of the contest

Same as for privately initiated recounts.

Deadlines

Same as for privately initiated recounts.

Provisions for preserving evidence

Machine keys and all other relevant election material are kept with the local election board the night of the election. The next day they are transferred to the State Board of Elections under guard of the local law enforcement officers. Materials are kept in a locked storage by the State Board. Machines are brought directly from the polling places to the State Board the morning after the election.

Rhode Island

Relief available

A full or selective recount may be granted. The results may be voided, and a new election ordered if after the hearing the State Board considers the results uncertain. The results may be changed, and a new winner designated.

Appeal

There is no appeal “as a matter of right”. An individual can appeal for writ of certiorari to the Rhode Island Supreme Court.

Rhode Island

South Carolina

Introduction

Structure for the administration of the election process

The county Election Commission conducts the federal election and counts the votes. The State Board of Canvassers tabulates the votes when more than one jurisdiction is involved, and certifies the results.

Security process for election materials

The county officials designate a person who will have custody of the vote recorders of the county. The election commissioners are responsible for protecting the voting machines.

Government Initiated Validation of Election Results

Verifications of the vote count

For punchcard and marksense systems, a logic and accuracy test is performed after vote tabulation, but before certification. A preaudited group of ballots is processed. If an error is discovered before the results are certified, the county Election Commission, in consultation with the State Board of Canvassers has the authority to make the correction.

State required automatic recounts

For both primary and general elections, an automatic recount prior to certification is triggered when the difference between winning and losing candidates is not more than one percent of the total vote cast for the office. The action is ordered by the State Election Commission, but can be waived by a losing candidate. The recount involves retabulation of all votes cast, is conducted in counties involved under supervision of the State Commission, and starts as soon as possible after the state canvass shows it to be necessary.

Candidates may appoint observers; their number is limited only by available space.

For punchcard or marksense ballots, votes are counted by the same computer used for the original count. For mechanical lever machines, counters are reread and totals retabulated. For direct recording electronic (DRE) machines, results produced on the paper results tape are not verified against results stored elsewhere in the machine, but totals are retabulated from the memory packs by the same methods used for the original count. For paper ballots, all votes are retallied and totals retabulated.

A ballot is invalidated when the intent of the voter is unclear. The process of invalidation may be initiated by those conducting the recount or by an observer; final decision is made by the county Election Commission. The decision to invalidate may be challenged by an observer.

Questions regarding security of or access to election materials should be directed to the county Election Commission.

Privately Initiated Recounts

South Carolina law makes no provision for a privately initiated recount. A candidate may seek a recount by filing a contest.

Privately Initiated Contests

Standing

Any candidate may contest.

South Carolina

Grounds

No provision.

Filing deadlines

Primary: No later than noon on the Monday following the canvass of votes. General: No later than the fifth day following the canvass of votes by the State Board of Canvassers. A copy of the “protest document” must be filed for distribution to each candidate in the race.

Form and its content

There is no specific form. Each protest document must be filed in writing, citing each specific ground.

Forum for filing and hearing

Primary: Contest is filed with the state political party executive committee chairman, and heard in Columbia by the political party executive committee on the Thursday following the deadline for filing.

General: Contest is filed with the Chairman of the State Board of Canvassers and heard by the State Election Commission in Columbia not earlier than the fifth or later than the tenth day following receipt of the protest.

Costs of the contest

No cost to the parties.

Deadlines

The Executive Committee or State Election Commission remains in session until a conclusion has been reached.

Provisions for preserving evidence

The State Board of Canvassers is responsible for preserving all relevant election materials.

Relief available

A full or selective recount can be granted. The results can be voided, and a new election ordered when evidence presented in protest hearing casts doubt on certified result. The results may be changed, and a new winner designated.

Appeal

Primary: No provision.

General: Appealed to the Supreme Court of South Carolina.

South Dakota

Introduction

Structure for the administration of the election process

The County Auditor is responsible for conducting and counting votes in federal elections. The State Canvassing Board, composed of the Secretary of State, Governor, Attorney General, and a representative from the Supreme Court, tabulates vote totals from the various jurisdictions and certifies the results of federal elections.

Security process for election materials

The County Auditor is responsible for protecting the ballots. Inquiries regarding the security of or access to such ballots should be directed to the County Auditor.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is not performed on the computer-based vote tabulating system following vote tabulation. If a tie vote exists in an election or nomination, a recount will be ordered for all votes involved. The County Auditor has the authority to make corrections if an error in vote tabulation is discovered before the results are certified.

State required automatic recounts

South Dakota provides for mandatory automatic recount of a federal election before results are certified. It is triggered by a tie vote, and cannot be waived.

All votes cast are recounted. A review of election materials other than ballots or votes is not required. The County Auditor conducts the recount in his office on the second Monday after the canvass. Observers are permitted but are limited to the candidates and their representatives.

Recount is performed on the same computer used in original count. For mechanical lever machines, machine counters are reread and totals are retabulated. Paper ballots are individually retallied and totals are retabulated.

Privately Initiated Recounts

Standing

Precinct recount: Any three registered voters in the precinct.

Entire election: Defeated candidate when margin of vote between him and winning candidate is not more than 0.25 percent. In a Presidential election, the filing may be made by the chairman of the state central committee of the political party which nominated the losing candidate.

Grounds

Precinct recount: Belief that the official returns are erroneous.

Entire election: Close result (0.25 percent or less).

Filing deadlines

For both precinct and entire election recounts except for Presidential, file within ten days after election. For Presidential, file after the election and prior to the canvass by the State Canvassing Board. The precinct recount petition is filed with the officer in charge of the election; entire election recount petition is filed with the Secretary of State.

Form and its content

Precinct recount: Must state belief that the official returns are erroneous and be verified by the three petitioners.

Entire election: Must state the closeness of the result and belief that a recount will change the result.

Costs of the recount

The county pays the cost of recount. No bond, fee or deposit is required from petitioner.

Procedures involved in recount

Recount involves a recount of all votes in a precinct or in the entire race. It is conducted in the auditor's office on the second Monday following the canvass by a three-member Recount Board appointed by the circuit judge.

Scope of materials used

Limited to a retabulation of the ballots/votes only.

Observers

Each candidate involved may observe.

Methods used based on type of voting equipment

For computer counted ballots, the same computer used for the original count is used for the recount. For mechanical lever machines, machine counters are reread and totals are retabulated. Paper ballots are individually retallied and totals are retabulated.

Procedure for invalidating ballots

No standards specified. Decisions on disputed ballots are made by county Recount Board.

Security of and access to materials

The County Auditor is responsible for protecting the ballots. Questions regarding the security of or access to such materials should be directed to the County Auditor.

Deadlines

No deadline specified.

Privately Initiated Contests

Contests refer only to Presidential electors.

Standing

Any one or more of a group of candidates or the chairman of the state central committee of any political party whose candidates were on the ballot may contest a Presidential election.

Grounds

In a primary election, "any reason" may be used to contest a Presidential election. In a general election, a Presidential election may be contested if there is a reasonable chance that the losing candidate was in fact elected.

Filing deadlines

The contest may be commenced any time after the official canvass of the returns.

South Dakota

Form and its content

For a contest of a primary election, a summons plus complaint in the county is required. For a contest of a general election, a summons for civil action is required.

Forum for filing and hearing

The contest is filed in the circuit court of a county which includes the locality where the election, or some part of it, was held. Contest is heard in the same circuit court.

Costs of the contest

For both primary and general elections, the candidate who initiates the contest bears the costs. No bond or other deposit is required.

Deadlines

The court schedules the hearing as soon as possible, with five days notice to all parties. No deadline by which the contest must be decided is prescribed.

Provisions for preserving evidence

No provision.

Relief available

A full recount may be granted by the circuit court. Results may be voided and a new election ordered. Results may be changed and new winner designated.

Appeal

An appeal may be taken from the judgment of the circuit court as in other civil proceedings. The appeal is to the Supreme Court and must be made within 20 days of the judgment.

South Dakota

Tennessee

Introduction

Structure for the administration of the election process

The county Election Commission is responsible for conducting the federal election and counting the votes. The State Canvassing Board, consisting of the Governor, the Secretary of State, and the Attorney General, is responsible for tabulating the vote of a general election when more than one jurisdiction is involved, and also certifies the results.

In a primary, the state party organization is responsible for tabulating the vote when more than one jurisdiction is involved, and also certifies the results.

Security process for election materials

No provision.

Government Initiated Validation of Election Results

Verifications of the vote count

All voting machines are reread after a federal election.

If an error is discovered before the results are certified, the county Election Commission has the authority to make the correction.

State required automatic recounts

None required.

Privately Initiated Recounts

Tennessee law does not mention recounts. However, by inference from an Attorney General opinion, it appears that a court can order a recount as part of relief granted in resolving an election contest.

Privately Initiated Contests

Standing

Any candidate has standing to contest.

Grounds

The petition shall state each ground of the complaint “specifically and completely.”

Filing deadlines

In a primary election, an action to contest must be filed within five days after certification, in a general election, within ten days after the election.

Form and its content

There is no specific form. A written notice of contest must be filed citing the specific grounds of contest.

Forum for filing and hearing

Action to contest a primary election is filed and heard at the state party primary board of the candidate's party and with all other candidates who may be adversely affected attending. Action to contest a general election is filed and heard in the chancery court of the division where the defendant resides. Action to contest a Presidential election is filed with the Secretary of State, with a copy sent to the chairperson of the

state executive of the political party against whose electors the complaint is filed. The action is heard by the Presidential Electors Tribunal (Governor, Secretary of State, and the Attorney General).

Costs of the contest

The individual bringing the contest bears the costs.

Deadlines

The action to contest a Presidential election must be decided by the last day of November.

Provisions for preserving evidence

No provision.

Relief available

In a general election, the results may be voided and a new election ordered. The results may also be changed, and a new winner designated.

Appeal

A primary contest cannot be appealed. A general election contest may be appealed to the State Supreme Court.

Texas

Introduction

Structure for the administration of the election process

Primary elections are conducted by the political parties. The county chairman is the responsible authority for counting and reporting the vote. In multi-county races, the State party chairman aggregates the vote and certifies the winners.

General elections are conducted by the county election official, variously entitled the County Clerk, the County Election Administrator, or the County Tax Assessor/Collector, depending on the county. This official also supervises the vote counting and the reporting of the vote. For multi-county districts, the vote is aggregated by the Secretary of State. The Governor certifies winners.

Security process for election materials

Voting machines are locked for ten days after election; this period may be extended. Punchcard voting devices and ballot pages are secured for ten days after election and this period also may be extended. Ballots are secured for twenty-two months following the election.

Government Initiated Validation of Election Results

Verifications of the vote count

For computer counted ballots, a logic and accuracy test is performed twice before the count and once after the count and before certification, using a preaudited group of voted test ballots. If the test is unsuccessful, the count is voided and the ballots must be recounted until a successful test is obtained. In addition, one percent or three precincts, whichever is greater, of these ballots are recounted by hand and the recount must begin prior to certification.

Errors in vote tabulation discovered before results are certified are corrected in accordance with procedures prescribed by the Secretary of State.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

U.S. Senate and House of Representatives: losing candidate. Presidential Electors: Presidential candidate, Presidential Elector candidate, or both.

Grounds

(1) No grounds required for recount of votes cast on electronic voting system. (2) Margin of votes between winner and losing candidate less than ten percent of winner's total. (3) Secretary of State finds errors with paper ballots.

Filing deadlines

For primary elections, the later of:

- (1) 2 p.m. on the third day after election, or
- (2) 2 p.m. on the first day after date of the local canvass.

For runoff primary and general elections, the later of:

- (1) 5 p.m. on the fifth day after election, or
- (2) 5 p.m. on the second day after completion of the original canvass.

Form and its content

A written petition must be submitted which identifies the office, states the grounds, identifies the precincts in which the recount is requested, and indicates the voting method used in each precinct involved. Must be signed by candidate or his agent and include the names, addresses and telephone numbers of all candidates involved.

For primary election, file with appropriate county party chairman (single-county race) or the state party chairman (multi-county race). For general election, file with the Judge of the Commissioners Court (single-county race) or the Secretary of State (multi-county race).

Costs of the recount

A deposit, in accordance with a schedule based on number of precincts and type of voting system, manual or automatic recount, etc. is required. Deposit is returned if petition is found to be deficient or the recount changes the outcome of the election.

Procedures involved in recount

Primary: A Recount Coordinator is in charge. For multi-county race this is the state party chairman; for single-county race the county party chairman. In a multi-county race there also is a Recount Supervisor in each county who is the county party chairman.

General: A Recount Coordinator is in charge. For multi-county race this is the Secretary of State; for single-county race, the Judge of Commissioners Court. In the multi-county race there also is a Recount Supervisor in each county who is the Judge of Commissioners Court.

Scope of materials used

In a single county race, all precincts are recounted. Where the race is multi-county, all paper ballots cast in the entire district and/or one or more whole counties using voting systems are recounted, as specified in the request.

Observers

Observers are permitted, including all candidates plus a representative of each candidate for each counting team, or two representatives if there is only one counting team. Representative must present certificate of appointment by candidate. See 213.013. for detail. Political parties also may send representatives in general election.

Methods used based on type of voting equipment

For computer counted ballots, the choice of manual or machine count is made by the requestor, who also may request that the recount be conducted using "corrected program" and/or "other equipment" if the logic and accuracy test of the equipment prior to the recount is unsuccessful. If the logic and accuracy test is successful, but the requester is dissatisfied with the program or equipment, he may obtain a manual count if he pays for it in advance.

For mechanical lever machines the counters are reread and totals retabulated.

No Direct Recording Electronic (DRE) machines are presently used in the state, however, when certified, procedures for recounting will be prescribed by the Secretary of State.

Paper ballots are retallied and totals retabulated.

Procedure for invalidating ballots

The Recount Committee must file a written statement of specific reasons for each ballot rejected. Such an invalidation may be challenged by any Recount Committee member.

Texas

Security of and access to materials

Same as in the introduction.

Deadlines

No deadline for completion specified.

Privately Initiated Contests

Standing

Primary: Any candidate for the office.

General: (1) Any candidate for U.S. Senate or House of Representatives; (2) Presidential candidate on the ballot; (3) Presidential Elector candidate(s) with approval of their Presidential candidate, or Presidential candidate and Elector candidate(s) jointly.

Grounds

Primary and General: None specified, but implied in statute - illegal votes counted; eligible voters prevented from voting; legal votes not counted; other mistakes or fraud by election officials.

Filing deadlines

Primary: No earlier than on day after election or later than the tenth day after the official result determined.

General: No earlier than on day after election or later than the thirtieth day after the official result determined.

Form and its content

Primary and General: Petition stating the grounds, as well as the name and address of the contestant.

Forum for filing and hearing

Primary and General: U.S. Senate, contest is filed and heard in the District Court of Travis County. House of Representatives, contest is filed and heard in the District Court for the county where the contestee lives or in any county covered by the election.

For both offices, the contestee is notified and must file an answer.

General, Presidential Electors: Contest is filed with the Secretary of State and heard by the Governor.

Costs of the contest

Presidential electors: Each party is responsible for the initial payment of discovery and taking depositions. Governor may assess final costs against any one or more of the parties.

U.S. Senate and House of Representatives: The Court determines how costs are assessed.

Deadlines

Presidential Electors: Contest must be decided no later than the seventh day before date for meeting of the Electoral College, which is the first Monday after the second Wednesday in December following the election.

U.S. Senate and House of Representatives: No deadline specified for deciding the contest.

Provisions for preserving evidence

Determination made by court hearing the contest.

Relief available

Results may be voided and a new election ordered. Result may be changed and a new winner designated.

Appeal

U.S. Senate and House of Representatives: Result may be appealed to the Texas Court of Appeals.

Utah

Introduction

Structure for the administration of the election process

The County Clerk is responsible for conducting federal elections. The Board of County Commissioners of each county serves as the Board of County Canvassers, and is responsible for counting the vote.

For any statewide or multi-county election, the County Clerk issues a certified abstract of results and transmits it to the Lieutenant Governor. The Board of State Canvassers, consisting of the State Auditor, the State Treasurer and the Attorney General, tabulates vote totals from the various jurisdictions and certifies the results. The Lieutenant Governor serves as secretary of the Board of State Canvassers and issues certifications to winners.

Security process for election materials

After the polls close, ballots are sealed and delivered to the County Clerk, who has custody of them for one year.

Government Initiated Validation of Election Results

Verifications of the vote count

No provision.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

The losing candidate may request a recount.

Grounds

The candidate must lose by no more than one vote per voting district in order to request a recount.

Filing deadlines

The request is made within seven days of the canvass to the Lieutenant Governor.

Form and its content

No particular form is specified.

Costs of the recount

The losing party in the recount proceeding pays the costs, except when the margin of loss is only one vote, in which case the county pays.

Procedures involved in recount

The recount is conducted under direction of the Lieutenant Governor. The person receiving the highest number of votes upon recount must be declared elected.

Scope of materials used

Absentee ballot envelopes are reexamined.

Observers

No provision.

Methods used based on type of voting equipment

The judicial authority directs the manner in which the ballots are to be recounted.

Procedure for invalidating ballots

No provision.

Security of and access to materials

Questions regarding the security of or access to such materials should be directed to the County Clerk.

Deadlines

No provision.

Privately Initiated Contests

Standing

Not specified, although electors have apparent standing to contest.

Grounds

One may contest the results of an election on the grounds of: (1) malconduct, fraud or corruption on the part of a judge or any Board of Canvassers sufficient to change the result; (2) ineligibility of the person declared elected at the time of the election; (3) bribery on the part of the person declared elected for the purpose of procuring the election; (4) illegal votes received or legal votes rejected sufficient to change the result; (5) any error on the part of any Board of Canvassers or election judge in counting the votes or declaring the result of the election, if the error would change the result; (6) a sufficient number of ballots containing uncorrected errors or omissions have been received to change the election result; and (7) any other cause showing that the candidate was illegally elected.

Filing deadlines

The action must be filed within 40 days after the returns.

Form and its content

A verified, written statement is required and must provide: (1) the name of the party contesting the election and that he is an elector; (2) the name of the person whose right to the office is being contested; (3) the office; and (4) the grounds of the contest.

Forum for filing and hearing

Complaint is filed with the clerk of the District Court of the county within or for which such office is to be exercised. Contest is heard in same District Court.

Costs of the contest

The losing party is liable for the costs.

Deadlines

The District Court judge will schedule the hearing between ten and 30 days from the date of the filing of the complaint. The trial cannot exceed 20 days.

Provisions for preserving evidence

After the counting of ballots, the County Clerk will keep a statement of voted ballots, unofficial ballots,

Utah

spoiled ballots, and unused ballots.

Relief available

No provision.

Appeal

The aggrieved party may appeal to the Supreme Court of Utah. Appeal must be filed within ten days after the decision of the District Court.

Utah

Vermont

Introduction

Structure for the administration of the election process

The Secretary of State and the local boards of civil authority are responsible for conducting federal elections. Boards of civil authority are responsible for counting the vote. The canvassing committees and the Secretary of State are responsible for certifying the results.

Security process for election materials

The County Clerks store all ballots in their vaults until the day of the recount.

Government Initiated Validation of Election Results

Verifications of the vote count

None specified.

State required automatic recounts

None required

Privately Initiated Recounts

Standing

The losing candidate has standing to request a recount.

Grounds

A recount may be requested if the difference between the winning candidate's votes and the losing candidate's votes is less than five percent of the total votes cast for all the candidates for an office, divided by the number of persons to be elected.

Filing deadlines

The petition must be filed with the Superior Court, Washington County, within ten days of the election.

Form and its content

The petition must be supported by a certified copy of the certificate of election, verifying the total number of votes cast and the number cast for each candidate.

Costs of the recount

The Secretary of State will bear the costs of the recount.

Procedures involved in recount

The recount is supervised by the County Clerk and conducted by recount teams appointed by the judge of the Superior Court, who also sets "an early date" for it to begin. Appointments to the recount teams are made from lists of persons suggested by the political parties and candidates.

Scope of materials used

Not specified.

Observers

Observers are allowed and include the recount committee members, along with any other interested individuals.

Methods used based on type of voting equipment

Recount methods regarding computer counted ballots and mechanical lever machines are not specified. Paper ballots are individually retallied and totals are retabulated.

Procedure for invalidating ballots

If the recount team cannot agree on how a ballot should be counted, the ballot will be set aside as questionable. The Superior Court will make a final decision on the ballot. Observers can initiate the process for invalidation of ballots.

Security of and access to materials

The County Clerk stores all ballots in their vaults until the day of the recount. Questions regarding the security of or access to such materials should be directed to County Clerk.

Privately Initiated Contests

Standing

Any legal voter entitled to vote for the office may contest.

Grounds

Errors, fraud, or any other reason which would cause the result of the election to be invalid.

Filing deadlines

The complaint must be filed within 15 days after the election or, if there is a recount, after the court issues its judgment on the recount.

Form and its content

No special form required. The complaint must allege the grounds of the contest.

Forum for filing and hearing

The complaint is filed in and heard by the Superior Court, Washington County.

Costs of the contest

No provision.

Deadlines

The hearing will be scheduled on a priority basis. No deadline specified by which the contest must be decided.

Provisions for preserving evidence

No provision.

Relief available

A full or selective recount may be granted. Additionally, the results may be voided and a new election ordered.

Appeal

No provision.

Virginia

Introduction

Structure for the administration of the election process

The county Electoral Board is responsible for conducting and counting votes in federal elections. Votes from more than one jurisdiction are tallied by the State Board of Elections, which also certifies the results.

Security process for election materials

The court is responsible for “appropriate safeguards”. Inquiries regarding the security of or access to election materials should be directed to the State Board of Elections.

Miscellaneous notes

The State Board of Elections is very involved in recounts and works with the court to develop plans and procedures. As an officer of the court, it supervises the work of local electoral boards. The State Board develops detailed written procedures which must be followed by local boards in conducting a recount.

Government Initiated Validation of Election Results

The State Board thoroughly reviews and verifies all aspects of the canvass work done by local boards before certifying results of a federal election.

Verifications of the vote count

A logic and accuracy test is performed on the computer-based vote tabulating system following the vote tabulation but before certification. A group of preaudited ballots is tabulated by the local board. The State Board designs a test deck and verifies the results produced by the local board (punchcard only; Virginia has no marksense).

The State Board reviews and retabulates by computer the canvass work of the local boards.

If an error in vote tabulation is discovered before the results are certified, the county electoral board has the authority to make corrections of errors by pollworkers. If errors are made by county electoral boards, the State Board of Elections directs that correction be made.

State required automatic recounts

No provision.

Privately Initiated Recounts

Standing

The losing candidate has standing to obtain a recount of a federal election.

Grounds

The margin of the winning candidate must not be more than one percent of total votes cast for both candidates. If the margin is more than one percent, no recount is granted.

Filing deadlines

A recount must be requested within ten days of certification of results by the State Board of Elections, which is no earlier than the fourth Monday in November.

Form and its content

A petition, but no special form, is required. It must state the results of the election as found by the State

Board, and request a recount. A copy of the petition must be served on the winning candidate within the same ten day period.

Costs of the recount

If the margin of victory is less than 0.5 percent, the locality or localities pay for the recount. If the margin of victory is between 0.5 and one percent, the petitioner pays if no change in results occurs. The locality or localities pay if a new winner is declared.

Procedures involved in recount

The conduct of a privately initiated recount is supervised by a three-judge court appointed by the Chief Judge of the Supreme Court. The State Board and local boards must cooperate. Pollworkers, chosen by parties to the contest, are used as bipartisan recount teams.

The recount process starts with a preliminary hearing at which motions are disposed of and rules of procedure established. The recount involves all votes cast for the certified winner and for the petitioner. Votes for other candidates not included.

Scope of materials used

The recount involves a review of voting machines, poll books, invalidated ballots and other materials, at the discretion of court. Court defines scope and components of recount after consultation with State Board of Elections. Customarily, the process is very broad; the State Board looks at everything.

Observers

Observers are permitted at the recount and are appointed by the parties to the recount. No provision in statute regulates the number of observers permitted at the recount. However, when the court sets procedures, it may limit each party's observers to one per team.

Methods used based on type of voting equipment

For computer counted ballots, recount method is at discretion of the court. For mechanical lever machines, machine counters are reread from the printer pack, if there is one and if it is legible. In other instances, votes are reread directly from machines. For direct recording electronic (DRE) machines, the recount probably would involve only looking at results tape produced by each machine, accepting those figures and retabulating totals. Paper ballots are individually retallied and totals retabulated.

Procedure for invalidating ballots

Ballots are invalidated when the intent of the voter is unclear, when the ballot is defaced or when an identifying mark exists. Those conducting the recount and observers can initiate the process for invalidation. However, the decision is made by the court, whose decision cannot be challenged.

Security of and access to materials

Court specifies appropriate safeguards. Questions regarding the security of or access to such materials should be directed the State Board of Elections.

Deadlines

No deadlines are specified.

Other applicable provisions

The State Board develops detailed written procedures which must be followed by local boards in conducting the recount.

Virginia

Privately Initiated Contests

Standing

In both primary and general elections, an unsuccessful candidate has standing to contest the result of a federal election. In addition, if there has been a recount which changes the winner, the original winner, now an unsuccessful candidate, may file a contest.

Grounds

In both primary and general elections, the results of a federal election may be contested on the grounds of (1) specific objections to the eligibility of the contestee, or (2) specific objections to the conduct or results of the election which, if proved true, would have an impact on the outcome.

Filing deadlines

An action contesting a federal election result must be filed within ten days after the primary election and within 30 days after the general election.

Form and its content

No special form; a written complaint stating grounds is required.

Forum for filing and hearing

For both general and primary elections, the contest is filed with the Clerk of Circuit Court of the City of Richmond. A copy must also be served on the contestee, who has ten days to respond. The contest is heard in same court. The court consists of three judges, appointed by the Chief Judge of the State Supreme Court.

Costs of the contest

If the contest is unsuccessful, the candidate filing the complaint bears the cost. If the contest is successful, the locality(ies) included in the area in which the election was held bear(s) the cost.

Deadlines

The contest takes precedence on the docket of the court and is heard on its merits, not on technicalities.

Provisions for preserving evidence

Provisions for preserving evidence are set by the court. Impoundment may be used.

Relief available

The court can void the result and declare the position vacant; this vacancy must be filled by a special election.

Appeal

The decision of the Circuit Court of the City of Richmond cannot be appealed.

Other applicable provisions

The State Board has substantial involvement in contest resolution. It consults with and advises the court.

Virginia

Washington

Introduction

Structure for the administration of the election process

The County Auditor is responsible for conducting federal elections, and the County Canvassing Board for totaling the votes. The Secretary of State tabulates vote totals from the various jurisdictions and certifies the results.

Security process for election materials

The Washington election code does not specify how voting equipment is secured. The statutes on voting material security are currently being rewritten.

Government Initiated Validation of Election Results

Verifications of the vote count

Although a logic and accuracy test on computer-based systems following vote tabulation but before certification is not required by law, many counties do it voluntarily. If an error in vote tabulation is discovered before the results are certified, the county canvassing board has authority to make corrections.

State required automatic recounts

Washington provides for an automatic recount before results are certified in both primary and general elections.

Such action is mandatory if the official canvass of returns shows that the difference between the number of votes cast for the winning candidate and the closest defeated candidate is less than 0.5 percent of the total votes cast for that office. The Secretary of State shall direct the appropriate County Canvassing Boards to conduct a recount of all votes cast for that office, which must be held not more than four days after the receipt of the directive from the Secretary of State.

Observers are permitted, and include candidates, witnesses, legal counsel and other interested groups.

For computer counted ballots, the recount is done by the same computer used in the original count. For mechanical lever machines, counters are reread and retabulated. Paper ballots are retallied and totals retabulated.

Privately Initiated Recounts

Standing

For both primary and general election results, an officer of a political party or any defeated candidate may file an application for a recount of votes.

Grounds

No grounds are required.

Filing deadlines

Application for recount must be filed with the County Canvassing Board within three working days after the Board has declared the official results of the primary or general election.

Form and its content

The application must be in writing, state the office for which a recount is requested as well as whether the recount is for all or only a portion of the votes cast in that jurisdiction.

Washington

Costs of the recount

The applicant must deposit with the County Canvassing Board, in cash or by certified check, a sum equal to five cents for each ballot cast in the jurisdiction or portion of jurisdiction for which the recount is requested. If the result of the election is confirmed, the requester pays for the cost of the recount. If the result is reversed, the county pays.

Procedures involved in recount

The requester specifies the extent of the recount. The County Canvassing Board is responsible for conducting the recount.

Scope of materials used

The ballots/votes only are involved in a privately initiated recount.

Observers

Observers are permitted, including candidates, witnesses, legal counsel and other interested parties.

Methods used based on type of voting equipment

For computer counted ballots, the requester can select a hand count or a computer count. For mechanical lever machines, machine counters are reread and the totals are retabulated. Paper ballots are individually retallied and totals retabulated.

Procedure for invalidating ballots

An Attorney General opinion prohibits invalidation of ballots.

Security of and access to materials

Questions regarding the security of or access to such materials should be directed to the County Auditor.

Deadlines

No deadline provided for completion of recount.

Privately Initiated Contests

Standing

Any registered voter has standing to contest.

Grounds

Grounds for contest include illegal votes; misconduct on the part of any member of any precinct election board; bribery of a voter, inspector or judge on the part of contestee.

Filing deadlines

An affidavit must be filed no later than ten days after issuance of the certificate.

Form and its content

An affidavit filed with the Superior Court is required. It must set forth the name of the contestant (and that he is a registered voter in the county, district or precinct in which the office is to be exercised), the name of the contestee, the office, and the particular causes of the contest.

No affidavit shall be dismissed for want of form if the particular causes of contest are alleged with sufficient certainty.

Washington

Forum for filing and hearing

The contest is filed and heard in the Superior Court of any county in which votes were cast for the office.

Costs of the contest

If the election is confirmed or the case dismissed, the contestor pays. If the election is annulled, the cost is borne by the party charged with error or omission.

Deadlines

The affidavit of an elector shall be heard and disposed of by the court no later than five days after the filing of the affidavit.

Provisions for preserving evidence

No provision.

Relief available

The election in question shall not be annulled and set aside unless the irregularity or improper conduct in the proceedings of any member of any election board was such as to change the result of the election. Similarly, no election shall be annulled or set aside unless the number of illegal votes given to the contestee was enough to change the result of the election.

If an election is set aside by the judgment of the Superior Court and if no appeal is taken within ten days, the certificate issued shall be rendered void.

Appeal

Appeal must be taken to an appellate court within ten days of the judgment of the Superior Court.

Washington

West Virginia

Introduction

Structure for the Administration of the election process

The county commission and county clerks are responsible for conducting the federal election. The county commission sitting as a board of canvassers certifies the precinct results. The Secretary of State is responsible for tabulating the votes when more than one jurisdiction is involved. The Governor certifies the results of federal elections.

West Virginia does not have a statute regarding contested elections for federal offices. Also, there are no provisions for government initiated recounts of federal elections.

Privately Initiated Recounts

Within 48 hours after the board of canvassers publicly declares the results of the election, but before certification, any candidate who received votes may request a recount. The board of canvassers is given an additional 24 hours to notify all candidates of the date, time and place where the recount will commence. After notice is served, candidates then have 24 hours to notify the board of their intention to preserve their right to demand a recount of precincts not requested to be recounted by the candidate originally requesting the recount. The recount can be set no sooner than three days after serving the notice.

Every candidate who demands a recount shall be required to furnish bond in a reasonable amount with sufficient surety to guarantee payment of the costs, but the bond shall not exceed \$300. If the winner of the election is not changed, the costs are paid by the party who initiated the recount.

All election materials are preserved for 22 months

West Virginia

Wisconsin

Introduction

Structure for the administration of the election process

In all municipalities, except the city of Milwaukee, the Municipal Clerks are responsible for conducting the federal election. In Milwaukee, it is the responsibility of the City Board of Election Commissioners. In all the counties, except Milwaukee County, it is the responsibility of the County Clerk. In Milwaukee County, it is the responsibility of the County Board of Election Commissioners. The State Elections Board is responsible for tabulating the votes when more than one jurisdiction is involved.

Security process for election materials

When the polls close, ballots, programs, and all relevant documents are sealed and kept under the custodial care of the County Clerk. Inquiries regarding security of and access to materials should be directed to the County Clerk.

Government Initiated Validation of Election Results

Verifications of the vote count

If an error is discovered before the results are certified, the local Board of Canvassers has the authority to make the correction at the local level. At the state level, the State Elections Board, in consultation with the local Board of Canvassers has the authority to make corrections.

State required automatic recounts

None required.

Privately Initiated Recounts

Standing

Only a candidate may request a recount.

Grounds

No specific grounds are required, but may be included to ensure that issues are addressed.

Filing deadlines

The request must be filed by 5 p.m. on the third business day after the date on which the last of the counties in the constituency delivers its results to the State Elections Board.

Form and its content

No specific form is required. A verified petition is filed, stating that the petitioner was a candidate for the office and believes that mistake or fraud has been committed. The State Elections Board has a model form that may be used.

Costs of the recount

No fee is required if (1) the margin of votes between the leading candidate and the petitioner is ten votes or less; (2) fewer than 1000 votes were cast in the race; or (3) the margin between leading candidates and petitioners is less than 0.5 percent of the total vote for those two candidates.

The petitioner must pay \$5 per ward (precinct) to the State Elections Board if none of the above conditions are met.

Procedures involved in recount

The local Board of Canvassers conducts the recount, which begins at 9 a.m. the day after the deadline for filing and usually takes place at the county courthouse.

The Board examines and recounts absentee ballots and ballots. They also recanvass voting machines and retabulate votes on electronic voting machines, and examine absentee ballot applications and envelopes.

The State Elections Board provides substantial support to local election officials for conducting recounts.

Scope of materials used

Ballots/votes; absentee voting documents.

Observers

The recount is public. All materials may be reviewed by the candidates, the petitioner, and representatives. The number of observers is unlimited.

Methods used based on type of voting equipment

For computer counted ballots the recount is done by the same computer used for the original count. The ballots may also be recounted by hand. The County Board of Canvassers makes the choice. For mechanical lever machines, machine counters are reread.

Procedure for invalidating ballots

Ballot is invalidated if voter intent is unclear. Those conducting the recount or an observer may initiate the process for invalidation. An invalidation may be challenged, and the county Board of Canvassers makes the decision. Losers may appeal to the circuit court within five days of completion of recount.

Security of and access to materials

When the polls close, ballots, programs, and all relevant documents are sealed and kept under the custodial care of the County Clerk. Inquiries regarding security of and access to materials should be directed to the County Clerk.

Deadlines

The recount must be completed 13 calendar days from its start.

Privately Initiated Contests

Wisconsin statutes for contesting elections other than by recount do not apply to elections for federal office.

Wyoming

Introduction

Structure for the administration of the election process

The County Clerk is responsible for conducting the federal election and counting the votes. The Secretary of State is responsible for tabulating a statewide abstract by counties of votes for federal offices. The State Canvassing Board, consisting of the Governor, the Secretary of State, the State Auditor, and the Treasurer, certifies the results.

Security process for election materials

All voting machines are locked and sealed. Ballots must receive “adequate security” for their delivery to a counting center. All relevant materials are to be preserved for one year. Inquiries regarding the security of or access to such materials should be directed to the County Clerk.

Government Initiated Validation of Election Results

Verifications of the vote count

A logic and accuracy test is performed after the vote tabulation, but before certification, on computer-based systems. A preaudited group of ballots is processed. The County Clerk certifies that the system is counting accurately.

If an error is discovered before the results are certified, the County Clerk has the authority to make the correction.

State required automatic recounts

In both general and primary elections the state provides for an automatic recount before certifying the results. This action is mandatory, and may not be waived. It is triggered when the difference between votes for the winning candidate and votes for the losing candidate receiving the greatest number of votes is less than one percent of the votes cast for the winning candidate. The automatic recount involves all votes cast and is limited to the retabulation of ballots. The County Canvassing Board is responsible for conducting the automatic recount.

For mechanical lever machines, machine counters are reread and totals are retabulated. For direct recording electronic (DRE) machines, individual machine cartridges are read in the election office the day after the election to produce county-wide totals. For hand counted paper ballots, individual votes are retallied and totals retabulated.

The County Clerk has the authority to establish the procedures for ballot invalidation.

Privately Initiated Recounts

Standing

A losing candidate has standing to obtain a recount of a federal election.

Grounds

Grounds for recount are fraud or error in the vote count.

Filing deadlines

The request for recount must be filed no later than two days after the completion of the state canvass.

Form and its content

There is no specific form. An affidavit must be filed including the grounds for a recount.

Costs of the recount

A \$100 fee is required at the time of filing. If the results are changed, the counties pay for the recount. If the state prevails, the applicant must pay for the recount at the cost of up to \$500 per county.

Procedures involved in recount

The recount must involve all votes cast, but is limited to the retabulation of ballots. The County Clerk is responsible for conducting the recount.

Scope of materials used

Only ballots/votes are involved.

Observers

No provision.

Methods used based on type of voting equipment.

Same as for automatic recount.

Procedure for invalidating ballots

Same as for automatic recount.

Security of and access to materials

Same as in the introduction.

Deadlines

No provision.

Privately Initiated Contests

The following apply to both primary and general elections unless otherwise noted.

Standing

Any qualified elector may contest.

Grounds

The grounds to contest include:

- (1) Misconduct or material negligence of an election official which affected the result of the election;
- (2) The person whose election is contested is not eligible to hold the office;
- (3) The person whose election is contested offered to give a bribe to a voter or election official to procure his election;
- (4) Illegal votes were counted, or legal votes were not counted;
- (5) The person whose election is contested violated the provisions of sections 22-26-101 through 22-26-121 of the statutes.

Filing deadlines

An action contesting a federal election must be filed within fifteen days after the results have been certified by a State Canvassing Board.

Form and its content

There is no specific form. A verified petition must include the name of the contestant and his/her registration data, the name of the person whose election is contested, the grounds for contest, and the name of the office being contested.

Wyoming

Forum for filing and hearing

The contest is filed and heard in the County District Court. A separate action must be filed for each county in which the result is contested.

Costs of the contest

If the election is voided or set aside, the state pays for the recount. If the election is confirmed, the contestant bears the costs.

Deadlines

None specified.

Provisions for preserving evidence

The County District Court makes the provisions for preserving evidence.

Relief available

The results may be voided and a vacancy declared. The results may also be changed, and a new winner designated.

Appeal

No provision.

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