

SENATE BILL No. 260

By Committee on Ethics, Elections and Local Government

1-14

1 AN ACT concerning elections; relating to recounts for offices of
2 municipalities; amending K.S.A. 2019 Supp. 25-3107 and repealing the
3 existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2019 Supp. 25-3107 is hereby amended to read as
7 follows: 25-3107. (a) At the time of commencement of any canvass by the
8 county board of canvassers the county election officer shall present to the
9 county board of canvassers the preliminary abstracts of election returns,
10 together with the ballots and records returned by the election boards and,
11 as provided by rules and regulations adopted by the secretary of state as
12 authorized by K.S.A. 25-1132(b), and amendments thereto, advance voting
13 ballots received after the closing of the polls pursuant to K.S.A. 25-
14 1132(b), and amendments thereto. The county board of canvassers shall
15 inspect and check the records presented by the county election officer and
16 shall hear any questions ~~which~~ *that* the county election officer believes
17 appropriate for determination of the board. The county board of canvassers
18 shall do what is necessary to obtain an accurate and just canvass of the
19 election and shall finalize the preliminary abstract of election returns by
20 making any needed changes, and certifying its authenticity and accuracy.
21 The certification of the county board of canvassers shall be attested by the
22 county election officer. Neither the county board of canvassers nor the
23 county election officer shall open or unseal sacks or envelopes of ballots,
24 except as is required by K.S.A. 25-409, 25-1136 and 25-1337, and
25 amendments thereto, or other specific provision of law or as is authorized
26 to carry out a recount under subsection (b), or as authorized under
27 subsection (e).

28 (b) If a majority of the members of the county board of canvassers
29 shall determine that there are manifest errors appearing on the face of the
30 poll books of any election board, ~~which~~ *that* might make a difference in
31 the result of any election, or if any candidate shall request the recount of
32 the ballots cast in all or in only specified voting areas for the office for
33 which the person is a candidate, or if any registered elector who cast a
34 ballot in a question submitted election requests a recount in all or only
35 specified voting areas to determine the result of the election, the county
36 board of canvassers shall cause a special election board appointed by the

1 county election officer to meet under the supervision of the county election
2 officer and recount the ballots with respect to any office or question
3 submitted specified by the county board of canvassers or requested by the
4 candidate or elector. If a recount is required in a county that uses optical
5 scanning systems as defined in K.S.A. 25-4601 et seq., and amendments
6 thereto, or electronic or electromechanical voting systems, as defined in
7 K.S.A. 25-4401, and amendments thereto, the method of conducting the
8 recount shall be at the discretion of the person requesting the recount. The
9 county election officer shall not be a member of the special election board.
10 Before the special election board meets to recount the ballots upon a
11 properly filed request, the party who makes the request shall file with the
12 county election officer a bond, with security to be approved by the county
13 or district attorney, conditioned to pay all costs incurred by the county in
14 making the recount. In the event that the candidate requesting the recount
15 is declared the winner of the election as a result of the recount, or if as a
16 result of the recount a question submitted is overturned, no action shall be
17 taken on the person's bond and the county shall bear the costs incurred for
18 the recount. Any recount must be requested in writing and filed with the
19 county election officer not later than 5 p.m. on the day following the
20 meeting of the county board of canvassers. The request shall specify which
21 voting areas are to be recounted. The county election officer shall
22 immediately notify any candidate involved in the election for which the
23 recount is requested, or shall notify the county chairperson of each
24 candidate's party. Any ~~the~~ recount shall be initiated not later than the
25 following day and shall be completed not later than 5 p.m. on the fifth day
26 following the filing of the request for a recount, including Saturdays,
27 Sundays and holidays. Upon completion of any recount under this
28 subsection, the election board shall package and reseal the ballots as
29 provided by law and the county board of canvassers shall complete its
30 canvass. The members of the special election board shall be paid as
31 prescribed in K.S.A. 25-2811, and amendments thereto, for time actually
32 spent making the recount.

33 (c) (1) The provisions of this subsection shall apply to candidates at
34 any election for:

- 35 (A) Any state or national office elected on a statewide basis;
36 (B) the office of president or vice president of the United States;
37 (C) the office of members of *the* United States house of
38 representatives;
39 (D) *the* office of members of *the* state senate or house of
40 representatives whose district is located in two or more counties; and
41 (E) *the* office of members of *the* state board of education.

42 (2) Any candidate may request a recount in one or more counties.
43 Any such recount must be requested in writing and filed with the secretary

1 of state not later than 5 p.m. on the second Friday following the election.
2 The request shall specify which counties are to be recounted. If a recount
3 is required in a county that uses optical scanning systems as defined in
4 K.S.A. 25-4601, and amendments thereto, or electronic or
5 electromechanical voting systems, as defined in K.S.A. 25-4401, and
6 amendments thereto, the method of conducting the recount shall be at the
7 discretion of the person requesting the recount. Except as provided by this
8 subsection and subsection (d), the person requesting the recount shall file
9 with the secretary of state a bond, with security to be approved by the
10 secretary of state, conditioned to pay all costs incurred by the counties and
11 the secretary of state in making the recount. The amount of the bond shall
12 be determined by the secretary of state. A candidate described in
13 subsection (c)(1)(D) and (E) may post a bond as provided by subsection
14 (b) in lieu of the bond required by this subsection. In the event that the
15 candidate requesting the recount is declared the winner of the election as a
16 result of the recount, no action shall be taken on the candidate's bond and
17 the counties shall bear the costs incurred for the recount.

18 (3) The secretary of state immediately shall notify each county
19 election officer affected by the recount and any candidate involved in the
20 election for which the recount is requested. If the candidate cannot be
21 reached, then the secretary of state shall notify the state chairperson of
22 such candidate's party. Any such recount shall be conducted under the
23 supervision of the county election officers at the direction of the secretary
24 of state, and shall be initiated not later than the following day and shall be
25 completed not later than 5 p.m. on the fifth day following the filing of the
26 request for a recount, including Saturdays, Sundays and holidays. Each
27 county election officer involved in the recount shall appoint a special
28 election board to recount the ballots. The members of the special election
29 board shall be paid as prescribed in K.S.A. 25-2811, and amendments
30 thereto, for time actually spent making the recount. Upon completion of
31 any recount under this subsection, the special election board in each
32 county shall package and reseal the ballots as provided by law and the
33 county board of canvassers shall complete its canvass. The county election
34 officer in each county immediately shall certify the results of the recount
35 to the secretary of state.

36 (d) (1) The provisions of this subsection shall apply to candidates at
37 general elections for:

- 38 (A) Any state or national office elected on a statewide basis;
39 (B) the office of president or vice president of the United States;
40 (C) the office of members of *the* United States house of
41 representatives;
42 (D) *the* office of members of *the* state senate or house of
43 representatives; ~~and~~

1 (E) *the office of members of the state board of education; and*
2 (F) *the office of members of any municipality as defined in K.S.A.*
3 *2019 Supp. 25-21a01, and amendments thereto.*

4 (2) Whenever the election returns reflect that a candidate for office
5 was defeated by $\frac{1}{2}$ of 1% or less of the total number of votes cast and if
6 the candidate requests a recount in one or more counties of the ballots, the
7 state shall bear the cost of any recount performed using the method by
8 which the ballots were counted originally.

9 (3) Not later than 60 days following a recount conducted pursuant to
10 this subsection, the board of county commissioners of each county in
11 which the recount occurred shall certify to the secretary of state the
12 amount of all necessary direct expenses incurred by the county. Payment
13 for such expenses shall be made to the county treasurer of the county upon
14 warrants of the director of accounts and reports pursuant to vouchers
15 approved by the secretary of state. Upon receipt of such payment and
16 reimbursements, the county treasurer shall deposit the entire amount
17 thereof in the county election fund, if there is one and if there is not then to
18 the county general fund.

19 (4) The secretary of state, with the advice of the director of accounts
20 and reports, shall determine the correctness of each amount certified under
21 this section and adjust any discrepancies discovered before approving
22 vouchers for payment to any county.

23 (e) Procedures for canvassing and challenging advance voting ballots
24 received by mail after the closing of the polls pursuant to K.S.A. 25-
25 1132(b), and amendments thereto, shall be as set forth in rules and
26 regulations adopted by the secretary of state as authorized by K.S.A. 25-
27 1132(b), and amendments thereto.

28 Sec. 2. K.S.A. 2019 Supp. 25-3107 is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its
30 publication in the statute book.