

2023 Kansas Statutes

25-3107. Procedure for canvass by county board; recount, when; recount procedure; payment of costs; rules and regulations. (a) At the time of commencement of any canvass by the county board of canvassers the county election officer shall present to the county board of canvassers the preliminary abstracts of election returns, together with the ballots and records returned by the election boards and, as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto, advance voting ballots received after the closing of the polls pursuant to K.S.A. 25-1132(b), and amendments thereto. The county board of canvassers shall inspect and check the records presented by the county election officer and shall hear any questions which the county election officer believes appropriate for determination of the board. The county board of canvassers shall do what is necessary to obtain an accurate and just canvass of the election and shall finalize the preliminary abstract of election returns by making any needed changes, and certifying its authenticity and accuracy. The certification of the county board of canvassers shall be attested by the county election officer. Neither the county board of canvassers nor the county election officer shall open or unseal sacks or envelopes of ballots, except as is required by K.S.A. 25-409, 25-1136 and 25-1337, and amendments thereto, or other specific provision of law or as is authorized to carry out a recount under subsection (b), or as authorized under subsection (e).

(b) If a majority of the members of the county board of canvassers shall determine that there are manifest errors appearing on the face of the poll books of any election board, which might make a difference in the result of any election, or if any candidate shall request the recount of the ballots cast in all or in only specified voting areas for the office for which the person is a candidate, or if any registered elector who cast a ballot in a question submitted election requests a recount in all or only specified voting areas to determine the result of the election, the county board of canvassers shall cause a special election board appointed by the county election officer to meet under the supervision of the county election officer and recount the ballots with respect to any office or question submitted specified by the county board of canvassers or requested by the candidate or elector. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601 et seq., and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting the recount. The county election officer shall not be a member of the special election board. Before the special election board meets to recount the ballots upon a properly filed request, the party who makes the request shall file with the county election officer a bond, with security to be approved by the county or district attorney, conditioned to pay all costs incurred by the county in making the recount. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, or if as a result of the recount a question submitted is overturned, no action shall be taken on the person's bond and the county shall bear the costs incurred for the recount. Any recount must be requested in writing and filed with the county election officer not later than 5 p.m. on the day following the last meeting of the county board of canvassers. The request shall specify which voting areas are to be recounted. The county election officer shall immediately notify any candidate involved in the election for which the recount is requested, or shall notify the county chairperson of each candidate's party. Any recount shall be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Upon completion of any recount under this subsection, the election board shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount.

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

- (A) Any state or national office elected on a statewide basis;
- (B) the office of president or vice president of the United States;

- (C) the office of members of the United States house of representatives;
 - (D) the office of members of the state senate or house of representatives whose district is located in two or more counties;
 - (E) the office of members of the state board of education; and
 - (F) a constitutional amendment.
- (2) Any candidate may request a recount in one or more counties. Any registered elector who cast a ballot in an election for a constitutional amendment submitted may request a recount in one or more counties. Any such recount shall be requested in writing and filed with the secretary of state not later than 5 p.m. on the day following the last meeting of the county board of canvassers canvassing votes in the election for which the recount is requested. The request shall specify which counties or precincts are to be recounted. If a recount is required in a county that uses optical scanning equipment, as defined in K.S.A. 25-4601, and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting the recount. Except as provided by this subsection and subsection (d), the person requesting the recount shall file, contemporaneously with a request for a recount, a bond with the secretary of state, with security to be approved by the secretary of state, conditioned to pay all costs incurred by the counties and the secretary of state in making the recount. The amount of the bond shall be determined by the secretary of state. A candidate described in subsection (c)(1)(D) and (E) may post a bond as provided by subsection (b) in lieu of the bond required by this subsection. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, no action shall be taken on the candidate's bond and the counties shall bear the costs incurred for the recount.
- (3) The secretary of state immediately shall notify each county election officer affected by the recount and any candidate involved in the election for which the recount is requested. If the candidate cannot be reached, then the secretary of state shall notify the state chairperson of such candidate's party. Any such recount shall be conducted under the supervision of the county election officers at the direction of the secretary of state, and shall be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Each county election officer involved in the recount shall appoint a special election board to recount the ballots. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount. Upon completion of any recount under this subsection, the special election board in each county shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The county election officer in each county immediately shall certify the results of the recount to the secretary of state.
- (d) (1) The provisions of this subsection shall apply to any general elections for:
- (A) Any state or national office elected on a statewide basis;
 - (B) the office of president or vice president of the United States;
 - (C) the office of members of the United States house of representatives;
 - (D) the office of members of * state senate or house of representatives; and
 - (E) the office of members of the state board of education.
- (2) Whenever the election returns reflect that a candidate for office was defeated by $\frac{1}{2}$ of 1% or less of the total number of votes cast and if the candidate requests a recount in one or more counties, no bond shall be required and the state shall bear the cost of any recount performed using the method by which the ballots were counted originally.
- (3) Not later than 60 days following a recount conducted pursuant to this subsection, the board of county commissioners of each county in which the recount occurred shall certify to the secretary of state the amount of all necessary direct expenses incurred by the county. Payment for such expenses shall be made to the county treasurer of the county upon warrants of the director of accounts and reports pursuant to vouchers approved by the secretary of state. Upon receipt of such payment and reimbursements, the county treasurer shall deposit the entire amount thereof in the county election fund, if there is one and if there is not then to the county general fund.

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

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

History: L. 1968, ch. 406, § 46; L. 1969, ch. 194, § 1; L. 1970, ch. 146, § 1; L. 1972, ch. 132, § 8; L. 1975, ch. 206, § 3; L. 1978, ch. 143, § 1; L. 1982, ch. 160, § 1; L. 1984, ch. 143, § 1; L. 1987, ch. 128, § 1; L. 1995, ch. 192, § 6; L. 2001, ch. 124, § 1; L. 2002, ch. 130, § 2; L. 2011, ch. 56, § 19; L. 2017, ch. 49, § 6; L. 2023, ch. 79, § 50; July 1.

* The word "the" should have been included.