

Proposed Local Law Number 5 Of 2020

County of Ulster

A Local Law Amending Chapter 37 Of The Code Of The County Of Ulster Regarding Automatic Re-Canvassing Procedure In And For The County Of Ulster, State Of New York

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. LEGISLATIVE INTENT.

The Ulster County Legislature deems public trust in the electoral process to be of paramount importance.

Pursuant to Local Law No. 5 of 2015, adopted March 17, 2015, the Ulster County Legislature established an automatic re-canvassing procedure in and for the County of Ulster. This law was subsequently amended on August 18, 2015. After recent experience with the current law in place, the Ulster County Legislature deems it appropriate to make further revisions to the existing law to improve procedure and operate in the best interest of the people of Ulster County.

The Ulster County Legislature recognizes that undertaking a recount is an expensive and time-consuming, yet valuable process. Currently, no timeline for completing a recount exists. In the event of a recount, the process for counting the majority of cast ballots should begin as early as possible and should happen concurrent with other canvassing efforts and potential court cases. If not completed by January 1st, this process can prevent a smooth transition of power in elected offices putting the continuation of county services in jeopardy, including those that impact public safety.

Several safeguards currently exist and are incorporated into an accountability process. Numerous tests of the voting systems are conducted prior to each election. In addition, a randomized hand-count audit is conducted of machines post-election to ensure that machine totals match the paper ballot count.

The Ulster County Legislature further finds a candidate who loses an election by a close margin should be able to request a recount. However, taxpayers should not be forced to bear the cost of a recount that is not intentionally requested by a candidate.

SECTION 2. Chapter 37. Elections of the Code of the County of Ulster, Article I. Re-canvassing Procedure, § 37 – 3. Regulation. A. is hereby amended to read as follows:

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A. Forthwith after a primary, regular or special election for municipal office and prior to certification of the final vote count, the Ulster County Board of Elections shall manually re-canvass, **upon request as described in subsection “G” below**, all paper ballots for a given election where one person is to be elected in an election contest if the following criteria are met:

(1) The margin of victory is less than 1/2 of 1% of the total votes cast, minus blanks and voids, in any particular contest where the total number of votes cast is less than 3,000; or

(2) The margin of victory is less than 0.2% of the total votes cast, minus blanks and voids, in any particular contest where the total number of votes cast is 3,000 or greater.

SECTION 3. Chapter 37. Elections of the Code of the County of Ulster, Article I. Re-canvassing Procedure, § 37 – 3. Regulation. B. is hereby amended to read as follows:

B. Forthwith after a primary, regular election for municipal office, and prior to certification of the final vote count, the Ulster County Board of Elections shall, **upon request as described in subsection “G” below**, manually re-canvass all paper ballots for a given election where more than one person is to be elected in a single election contest if the following criteria are met:

(1) The margin of victory between the candidate who won the election with the least votes and the candidate who lost the election with the most votes is less than or equal to 1/2 of 1% of the votes cast for the candidate who won the contest with the least votes.

SECTION 4. Chapter 37. Elections of the Code of the County of Ulster, Article I. Re-canvassing Procedure, § 37 – 3. Regulation. D. is hereby repealed and replaced by the following:

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~~D. An automatic re-canvassing as provided for in this article shall only occur after the Board of Elections completes the canvassing and re-canvassing procedures, but prior to the certification of the vote count in accordance with the New York State Election Law. If any of the margin of victory thresholds in “A”, “B”, or “C” of this Section are met following the closing of polls on any election day, the Ulster County Board of Elections shall automatically expand their 3% canvas to be inclusive of 100% of voting ballots.~~

SECTION 5. Chapter 37. Elections of the Code of the County of Ulster, Article I. Re-canvassing Procedure, § 37 – 3. Regulation. G. is hereby repealed and replaced by the following:

~~G. The losing candidate in a contest that meets the criteria as set forth above, may waive the automatic re-canvass provisions of this article by giving written notice to the Ulster County Board of Elections after the Board of Elections completes the canvassing and re-canvassing procedures but prior to the certification of the original vote count in accordance with the New York State Election Law. The losing candidate in a contest that meets the criteria as set forth above, or either candidate in the event each candidate receives the exact same number of votes, may, by written notice filed with the Ulster County Board of Elections within five (5) days after the date of the election for which the ballots are to be re-canvassed, request the automatic re-canvass provisions of this article be imposed. Upon receipt of such filing, and only upon receipt of such filing, shall re-canvassing provisions be automatically initiated.~~

SECTION 6. Chapter 37. Elections of the Code of the County of Ulster, Article I. Re-canvassing Procedure, § 37 – 3. Regulation. shall include a new subsection H to read as follows:

H. All re-canvassing provided for in this Local Law shall be completed prior to January 1st of the year immediately following the election for which the re-canvassing is being performed.

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SECTION 7. SEVERABILITY.

If any part or provision of this Local Law or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction such judgment shall be confined in its operation to the part of the provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances and the Ulster County Legislature hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 8. EFFECTIVE DATE.

This Local Law shall take effect upon its filing with the New York State Secretary of State.