

Florida Election Recounts – Again

November 07, 2018

With memories of dimpled chads and butterfly ballots coming to mind, Florida is facing the potential of statewide election recounts based on the current results of the 2018 general election.

Why did this happen?

Florida has a standard that if a particular election result is within one-half of 1 percent, then a recount procedure is used to ensure the accuracy of the count.

But didn't Election Day end Tuesday night?

While most people focus on the election returns posted on election night, in reality votes continue to be counted days after the election. There are several reasons for this, such as provisional ballots needed on Election Day, return-by-mail ballots that arrive at the Supervisor of Elections by 7 p.m. on Election Day, and overseas ballots from those serving in the military that are postmarked by Election Day and received up to 10 days thereafter.

So when is the deadline for vote counts?

The deadline for the “unofficial returns” that each county must submit to the state is no later than noon on the fourth day after the general election (Saturday, Nov. 10, in this case).

When is a recount ordered?

If the unofficial returns show that a particular statewide election is within the one-half of 1 percent threshold, then the state will order a machine recount. If this happens with a local election, such as county commissioner, the local Canvassing Board will issue the same order. The local elections office will then run the ballots back through the tabulating machines and report a second set of “unofficial returns” to the state by 3 p.m. on the ninth day after the general election (Thursday, Nov. 15). Florida has 67 counties, so there would be 67 different vote counting operations.

What about manual recounts?

If the second set of “unofficial returns” show that an election result is within one-quarter of 1 percent, then a manual recount is ordered. This does not mean all of the ballots are reviewed. Instead, only the ballots where the tabulating machine showed that a voter either overvoted (for example, voted for both candidates), or undervoted (for example, did not vote for either candidate) in the specific election contest at issue are looked at individually to ensure they were accurately counted. The state has published a long rule that sets out which kinds of votes are valid, and which are not, in this circumstance. For example:

When will it all end?

The “official results” from each county are due to the state by noon on the 12th day following the general election (Sunday, Nov. 18). On Tuesday, Nov. 20, the Elections Canvassing Commission will meet at 9 a.m. to certify the results. Of course, all of this assumes no litigation is filed.

More questions? Please feel free to reach out to any member of the Carlton Fields Election Law team.

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