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MEMORANDUM

TO: Lori O'Bright, Jolene Janssen, County Board Supervisors, County Executive

FROM: Joe Guidote

DATE : April 10, 2014

RE: Seating of County Board Supervisors in Contested Districts

ISSUES

I have been asked to opine on two issues: 1) When does an elected County Board Supervisor in a contested district get seated; 2) Can a recount be bypassed by a direct appeal to Circuit Court when it is quite certain that the recount result will be identical to the initial post-election canvass?

OPINION

Under 7.60(6) Stats, the seat would remain open until after the appeal period expires if a petition for a recount has been filed for that supervisory district.

Therefore, even if a recount is completed for that supervisory district, the seat cannot be filled until the appeal period after the recount has expired, which is 5 business days after the recount is completed under 9.01(6) Stats. If an appeal is filed after the recount, then the seat cannot be filled until after the appeal process is completed and a final decision is rendered. As it stands, it appears the Kaukauna seats will remain open for next week's reorganization meeting, as it is my understanding recounts have been requested, because the meeting will be held within the 5 business day appeal period after this Friday's recount.

This will also confirm what I verbally advised the County Clerk that it is my opinion that a recount is necessary before a circuit court appeal of the election results, even if the recount results will likely be identical to the initial canvass

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