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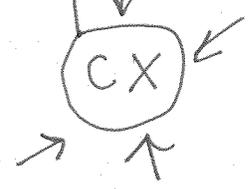
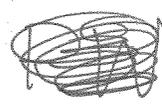
2005 - 2006 LEGISLATURE

LRB-3947/P1 P2
JTK.../ch

Fri: 12/2 - 1 PM

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- SA ✓
- SA insts ✓
- stat comp ✓
- x-refs ✓
- new CRs ✓
- RNs ✓
- search "draft" ✓



(regenerate)

1 AN ACT *to repeal* 5.02 (6m), 6.26 (2) (am), 6.28 (3), 6.55 (7), 6.87 (3) (c) and 12.13
 2 (4); *to renumber* 7.30 (1) and 7.31 (1); *to renumber and amend* 6.55 (3); *to*
 3 *amend* 5.35 (6) (a) 4a., 5.90, 6.15 (4) (a) to (e), 6.15 (6), 6.21, 6.22 (4), 6.22 (5),
 4 6.24 (6), 6.26 (2) (a), 6.26 (2) (b) and (c), 6.26 (3), 6.28 (1), 6.29 (1), 6.29 (2) (a),
 5 6.30 (4), 6.32, 6.33 (1), 6.33 (2) (a) and (b), 6.36 (1) (a), 6.36 (2) (a), 6.36 (2) (c)
 6 2., 6.50 (3), 6.55 (2) (a) 1., 6.55 (2) (b), 6.55 (2) (c) 1., 6.56 (3), 6.79 (2) (d), 6.82
 7 (1) (a), 6.86 (1) (a) 2., 6.86 (1) (b), 6.86 (3) (c), 6.865 (3), 6.87 (3) (a), (b), and (d),
 8 6.87 (4), 6.87 (6), 6.875 (4) and (6), 6.88 (1) to (3), 6.93, 6.935, 6.97 (1) and (2),
 9 7.03 (1) (a), 7.08 (8) (title), 7.15 (1) (e), 7.15 (11), 7.23 (1) (a), 7.30 (2) (a), 7.30 (2)
 10 (am), 7.30 (2) (b), 7.30 (2) (c), 7.30 (4) (a), 7.30 (4) (b) (intro.), 7.30 (4) (b) 1., 7.30
 11 (4) (c), 7.30 (6) (a), 7.30 (6) (b), 7.30 (6) (c), 7.31 (title), 7.33 (3), 7.41, 7.51 (1), 7.51
 12 (2) (c), 7.51 (2) (e), 7.51 (3) (d), 7.51 (4) (a), 7.51 (5) (a), 7.51 (5) (b), 7.53 (1), 7.53
 13 (2) (a), 7.53 (2) (d), 7.60 (2), 8.10 (3) (intro.), 8.15 (4) (a), 8.20 (3), 8.37, 8.40 (2),
 14 9.01 (1) (b) (intro.), 9.01 (10), 9.10 (2) (b), 9.10 (2) (d), 9.10 (2) (em) 2., 9.10 (4)
 15 (a), 10.01 (2) (e), 10.02 (3) (a), 12.03 (title) and (1), 12.03 (4), 12.07 (2), 12.60 (1)

1 (b), 12.60 (1) (c), 12.60 (1) (d), 17.29, 302.117, 880.33 (9), 973.09 (4m) and
 2 973.176 (2); **to repeal and recreate** 12.03 (2) and 12.09; and **to create** 5.02
 3 (16g), 5.35 (6) (c), 5.68 (3m), 6.22 (5m), 6.28 (4), 6.29 (2) (am), 6.34, 6.36 (5), 6.55
 4 (2) (cs), 6.55 (3) (b), 6.56 (3m), 6.79 (2) (dm), 6.855, 6.86 (1) (ac), 6.86 (1) (c), 6.865
 5 (3m), 6.875 (7), 7.10 (1) (d), 7.15 (1m), 7.15 (2m), 7.23 (1) (am), 7.30 (1) (b), 7.30
 6 (6) (am), 7.31 (2m), 7.31 (3m), 7.31 (4m), 7.37 (13), 7.41 (5), 7.52, 7.53 (2m),
 7 12.035, 12.13 (3) (ze), 301.03 (3a) and 301.03 (20) of the statutes; **relating to:**
 8 administration of elections; *providing exemptions from and extending the*
 9 *penalty. penalties* *time limit for emergency rule procedures;*

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

~~JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the joint legislative council's special committee on election law review. The draft makes numerous modifications to the election laws, as described below.~~ *bill*

VOTER REGISTRATION

Forms of Identification Required to Register to Vote

Beginning in the spring of 2006, all voters, with limited exceptions, will need to be registered before they are allowed to vote. Under current law, an elector may register in person or by mail. Generally, registration must be completed by a certain time before election day. However, a person may register in person on election day at the polls, or after the official close of registration in person in the office of the municipal clerk up until 5 p.m. or the close of business, whichever is later, on the day before the election.

A person who registers to vote at the polls on election day or in person in the municipal clerk's office after the official close of registration must show proof of residence. A document constitutes acceptable proof of residence if it includes the person's current and complete name and a current and complete residential address. The statutes provide a list of examples of documents that constitute acceptable proof of residence if they contain the person's name and address. The statutory list, which is not exhaustive, is set forth below:

1. An operator's license issued under ch. 343 (i.e., a Wisconsin driver's license).
2. An identification card issued under s. 343.50 (i.e., a Wisconsin identification card).
3. Any other official identification card or license issued by a Wisconsin governmental body or unit or by an employer in the normal course of business, but not including a business card.

This bill is explained in the ^(S)NOTES provided by the Joint Legislative Council in the bill.
FE-SL v

The requirement does not apply to military electors or overseas electors as defined by federal law.

The bill

4. A credit card or plate.
5. A library card.
6. A check-cashing or courtesy card issued by a merchant in the normal course of business.
7. A real estate tax bill or receipt for the current year or the year preceding the date of the election.
8. A residential lease which is effective for a period that includes election day.
9. A university, college, or technical institute fee card.
10. A university, college, or technical institute identification card.
11. An airplane pilot's license.
12. A gas, electric, or telephone service statement for the period commencing not earlier than 90 days before election day.

A person who is required to provide proof of residence under current law but who is unable to provide such proof may have his or her registration information corroborated by another elector who resides in the same municipality. The corroborating elector must then provide proof of his or her residence. In general, under current law, other persons who register to vote need not provide proof of residence.

Under current law, pursuant to requirements of the Federal Help America Vote Act of 2002 (HAVA), a person who registers to vote by mail and who has never voted in a federal election in his or her municipality (until December 31, 2005) or in the state (effective January 1, 2006) must present certain identification before being allowed to cast a ballot. A person who fails to do so may cast a provisional ballot and provide the identification later. The identification required under current law is: (1) a current and valid piece of identification containing a photograph of the person

or, for an absentee voter, a copy of a current and valid piece of identification containing a photograph of the person

or (2) a utility bill, bank statement, paycheck, or a check or other document issued by a unit of government that shows the current name and address of the person. The draft requires proof of residence to be provided whenever registration to vote is made. It does not alter the corroboration alternative under current law and does not extend that alternative to the new proof of residence requirements contained in the draft.

bill

an elector registers to vote

bill

In addition, the draft establishes one uniform list of documents that may be used as proof of residence by both first-time voters who register by mail and by all persons who are required to register to vote so long as the document contains the full name and residential address of the individual. The list created by the draft is as follows:

any one of which

electors who are newly required to provide proof of residence under

1. A current and valid Wisconsin driver's license.
2. A current and valid Wisconsin identification card.
3. Any other official identification card or license issued by a Wisconsin governmental body or unit.
4. An identification card issued by an employer in the normal course of business and bearing a photograph of the card holder, but not including a business card.
5. A real estate tax bill or receipt for the current year or the year preceding the date of the election.
6. A university, college, or technical college fee or identification card bearing a photograph of the card holder.
7. A utility bill for the period commencing not earlier than 90 days before election day.
8. A bank statement.
9. A paycheck.
10. A check or other document issued by a unit of government.

all applicants for registration except military electors and overseas electors as defined by federal law

bill

The draft provides that a university, college, or technical college fee or identification card which does not contain the address of the student bearing the card may still be considered acceptable proof of residence if the university, college, or technical college that issued the card provides to the municipal clerk before the election a certified and current list of students who reside in housing sponsored by the university, college,

or technical college showing the current address of the students and if the poll worker verifies that the student presenting the card is included on the list.

Deadline for Registration

Under current law, registration for any election must close at 5 p.m. on the second Wednesday preceding the election. Registration may be accepted after this deadline if the municipal clerk determines that the registration list can be revised to incorporate the registration in time for the election. A person may also register to vote after the official date for the close of registration. Generally, a person may register late by filing with the municipal clerk a registration form completed by the person and acceptable proof of residence or corroboration of residence by one other elector of the municipality. The registration form must be filed in person no later than 5 p.m. or the close of business, whichever is later, on the day before the election. Unless the clerk determines that the registration list can be updated in time for the election, the municipal clerk must issue to the late-registering person a certificate addressed to the inspectors of the proper ward directing that the elector be permitted to vote. The certificate must be presented by the person to the inspectors when he or she arrives at the polling place.

The draft changes the registration deadline from the 2nd Wednesday preceding the election to the 3rd Wednesday preceding the election. Under the draft, registration after this deadline is limited to persons registering in person in the office of the municipal clerk, persons registering at the polls on election day, and hospitalized persons registering via an agent. b/11

In addition, the draft modifies the deadline for late registration in the clerk's office. Under the draft, late, in-person registration must be completed by 5 p.m. or the close of business, whichever is later, on the Friday before an election.

Legibility of Voter Registration Forms

Under current law, an elector must complete a registration form in order to register to vote.

The draft requires that the registration form be completed in a legible manner, and be signed by the election official before whom the form was completed.

Return Postage on Registration Forms

Under current law, voter registration forms are to be provided by each municipality and must be prepostpaid for return when mailed within the United States.

The draft eliminates the requirement that the forms contain prepaid return postage.

Locations for Voter Registration

Under current law, individuals may register to vote at the office of the municipal clerk, at other locations designated by the clerk, at high schools, and at the register of deeds office. In addition, current law authorizes the municipal clerk and the elections board to appoint special registration deputies for the purpose of registering electors of a municipality anywhere throughout the municipality--the so-called "roving registration deputies". Current law also authorizes the appointment of special registration deputies to assist in registering voters at the polls on election day and requires the appointment of special registration deputies at other locations designated for registration by the municipal clerk.

The draft eliminates the "roving registration deputies" appointed by the municipal clerk and elections board. Instead, the draft authorizes a municipal clerk to appoint special registration deputies only for fixed registration locations and eliminates the ability of the elections board to appoint special registration deputies. b/11

The draft also creates an exemption from requiring the clerk to appoint special registration deputies for fixed registration locations established by the municipal clerk when the clerk and deputy clerks can sufficiently staff the locations. The draft also eliminates the statutory requirement that registration be available in the office of the

register of deeds and instead requires that registration be available at the office of the county clerk.

Prohibition on Certain Payment for Voter Registration

The draft prohibits any person from compensating any individual who gathers registrations at a rate that varies in relation to the number of voter registrations obtained. Violators are guilty of a misdemeanor and are subject to a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both, for each offense.

bill
PERSON
obtains voter

Verification of Pre-Election Voter Registration

Under current law, when a municipal clerk receives a voter registration form by mail, the clerk must examine the form for sufficiency. If the form is insufficient to accomplish registration or if the clerk knows or has reliable information that the proposed elector is not qualified, the clerk must notify the proposed elector and request that the elector appear at the clerk's office or other registration center to complete a proper registration or substantiate the information presented. Similarly, if the form is submitted after the close of registration, the clerk must attempt to notify the elector that registration may be completed in the clerk's office or at the polls on election day. Under current law, if the form is sufficient and the clerk has no reliable information to believe that the proposed elector is not qualified, the clerk must enter the person's name on the registration list and transmit a first class letter on postcard to the registrant identifying the registrant's proper ward or aldermanic district and polling place. If the letter or postcard is returned, the clerk must change the registrant's status to ineligible.

The draft applies these requirements to any pre-election day registration form not submitted in person by the person seeking registration in the office of the municipal clerk or in person at another approved registration location. In addition, the draft specifies that the clerk must mail the letter or postcard within 10 days of receiving the registration.

bill

Fee for Copy of Registration List

Under current law, the fee for a copy of a public record may not exceed the actual, necessary, and direct cost of reproduction, unless a fee is otherwise specifically established or authorized to be established.

The draft directs the elections board to establish a fee for receiving a copy of the statewide voter registration list. The fee must be established by rule after consultation with county and municipal election officials. The amount of the fee must be set to cover the cost of reproduction and the cost of maintaining the list. The rules must also specify how the fees will be shared between state and local jurisdictions. The draft also authorizes the board to promulgate emergency rules to be in effect until permanent rules are promulgated.

revenues from

The municipalities (or counties if they perform registration functions on behalf of municipalities)

Same-Day Voter Registration Verification by Elections Board

Under current law, after each election the municipal clerk receives a list of all electors who registered to vote on election day. Upon receipt of the list, the clerk is required to make an audit of all such electors. The audit is to be made by 1st class postcard, which is to be marked in such a way so that it will be returned to the clerk if the elector named on the card does not reside at the address given on the postcard. If the postcard is returned undelivered, the clerk is required to change the status of the elector on the registration list from eligible to ineligible and mail the elector a notice of the change in status and provide the name to the district attorney for the county where the polling place is located.

The draft authorizes the state elections board to perform this audit function in lieu of the municipal clerk.

JWS
SA

ABSENTEE BALLOTS

Requesting an Absentee Ballot by Fax or Email

Under current law, any elector who is unable or unwilling to appear at the polling place in his or her ward on election day may vote by absentee ballot. An elector seeking

to vote by absentee ballot must generally make a written application to the municipal clerk. An application may be made by one of the following methods: (1) by mail; (2) in person at the office of the municipal clerk; (3) by signing a statement indicating the elector is indefinitely confined or disabled; (4) by agent when the elector is hospitalized; or (5) by delivering an application to a special voting deputy when the elector is an occupant of a nursing home and similar facilities.

The ~~draft~~ authorizes a registered elector, including a registered "overseas elector", or an elector who qualifies as a "military elector", who is unable or unwilling to appear at the polling place in his or her ward on election day to apply for an absentee ballot by making a written application to the municipal clerk by facsimile transmission (fax) or electronic mail (email). The application must contain a copy of the applicant's original signature. When the absentee ballot is returned, the elector must enclose a copy of the absentee ballot request bearing an original signature of the elector along with the ballot. Ballots cast in contravention of this procedure are not to be counted.

Deadline for Requesting Absentee Ballot by Mail

Under current law, requests for absentee ballots made by an elector by mail must be received by the municipal clerk by 5 p.m. on the Friday preceding the election. The ~~draft~~ changes the deadline for such requests to no later than 5 p.m. on the 6th day immediately preceding the election, except for applications submitted by mail by military electors and indefinitely confined voters. Under the ~~draft~~, applications by mail from these electors retain the current deadline of 5 p.m. on the Friday before the election.

Absentee Ballots for Military Electors – Permanent Ballots

Under current law, "military electors" are defined to be any of the following:

- Members of a uniformed service (i.e., the U.S. army, navy, air force, marine corps, or coast guard, the commissioned corps of the federal public health service, or the national oceanic and atmospheric administration).
- Members of the U.S. merchant marine.
- Civilian employees of the U.S. and civilians officially attached to a uniformed service who are serving outside the U.S.
- Peace corps volunteers.
- Spouses and dependents of the above who reside with or accompany them.

In general, and with some exceptions, a military elector is to vote in the ward or election district for the address of his or her residence prior to becoming a military elector. In general, military electors are not required to register as a prerequisite to voting in any election.

A military elector may request an absentee ballot for any election, or for all elections until the individual otherwise requests or until the person no longer qualifies as a military elector. An absentee ballot application from a military elector may be received at any time. In general, as an alternative to a regular absentee ballot request form, a federal postcard registration and absentee ballot request form may be used to apply for an absentee ballot by a military elector if the municipal clerk can determine that the applicant is qualified to vote in the election district where he or she seeks to vote and that the applicant is qualified to receive an absentee ballot as a military elector.

For military electors who are in the uniformed service and on active duty, members of the merchant marine, and the spouse and dependents of such persons who are absent because of the duty or service of the member, current law also provides that such electors may request an absentee ballot for the next 2 general elections. A municipal clerk must comply with such a request except that no absentee ballot may be sent for a succeeding general election if the elector's name appeared on the registration list for a previous general election and no longer appears on the registration list for the succeeding general election. Further, if the elector's address for the succeeding general election is in a municipality that is different from the municipality in which the elector resided for the first general election, current law requires the clerk to forward the request to the clerk of the municipality where the elector resides.

Bill

Electors

Currently, a municipal clerk must send a ballot, as soon as available, to each military elector who requests a ballot. However, the clerk may not send a ballot for an election if the application is received later than 5 p.m. on the Friday preceding that election. Whenever absentee ballots are sent to military electors, they must be prepared and mailed to make use of the federal free postage laws.

The draft modifies current law to provide that every request by any military elector must be treated as a request for an absentee ballot for all subsequent elections. Under the draft, if a municipal clerk receives a request for an absentee ballot from a military elector, the municipal clerk must send an absentee ballot to the elector for all elections that occur after the request is received. The draft allows a military elector to provide an alternate address on the absentee ballot application and requires the municipal clerk to send an absentee ballot to that alternate address if a ballot sent to the elector's primary address is returned as undeliverable.

The draft authorizes a municipal clerk to stop sending a ballot to a military elector in the following situations: (1) if 2 successive general elections go by and a military elector fails to return an absentee ballot for any election during that time period; (2) if the clerk is reliably informed that the elector is no longer a military elector or no longer resides in the municipality; (3) if the elector is subject to a registration requirement and his or her name no longer appears on the registration list as an eligible elector; or (4) the elector so requests. Prior to discontinuing sending ballots to a military elector solely for the failure to return absentee ballots, the municipal clerk must notify the elector by mail that no future ballots will be sent unless the elector renews his or her absentee ballot request within 30 days. The draft also requires the municipal clerk to notify a military elector of any action to discontinue sending ballots to the elector not taken at the elector's request within 5 days of taking that action, if possible.

Late-Arriving Absentee Ballots From Military Electors

Under current law, absentee ballots must be returned to the municipal clerk in time for delivery to the polls before the polls close. Any ballot not delivered by this deadline may not be counted.

The draft provides that a ballot cast by a "military elector", as defined above, that is received by the municipal clerk after the close of the polls may, in some situations, still be counted. Under the draft, such a ballot that is received after the polls close is considered a valid ballot if it is received by the clerk by the deadline for requesting a recount and if it contains a postal service cancellation mark dated on or before the election day for which the ballot was cast. However, under the draft these ballots will not be counted unless a recount occurs.

Under the draft, a certificate envelope sent to a military elector must be clearly labeled so that when it is returned the clerk will know that it is from a military elector. If a certificate envelope that is returned by a military elector after the polls close but before the deadline for the return of such ballots has an illegible postmark, or no postmark, it is presumed that the envelope was timely mailed, unless established otherwise.

The draft directs the municipal clerk to post in his or her office on election night and on an internet site a statement announcing the number of absentee ballots that have not been returned by military electors by the closing of the polls. However, the posting may not include the names or addresses of any military electors.

Under the draft, if a recount petition is filed, the municipal clerk must immediately notify the appropriate board of canvassers as to the number of absentee ballots that were timely received after the polls closed and whether any absentee ballots that were sent to military electors have not been returned. If there are unreturned ballots at the time a recount petition has been filed, the draft provides that the recount may not proceed until all timely returned ballots are delivered by the clerk or 9 a.m. on the day following the last day for filing a recount petition, whichever occurs first.

of military electors

As soon as practicable after receiving the last late-arriving ballot but in no case later than 9 a.m. on the day following the last day for filing a recount petition, the clerk must transmit to the appropriate board of canvassers all of the late arriving ~~military~~ ballots received by the clerk.

When the board of canvassers conducting a recount receives late arriving absentee ballots cast by military electors, the board must first open and record the names of the military electors whose ballots have been received. If the late-arriving ballot cast by a military elector is otherwise valid, the board of canvassers must count the ballot and adjust the original statements, certifications, and determinations. After doing so, the board of canvassers may begin the recount.

Witness for Absentee Ballots

Under current law, military and overseas voters who cast absentee ballots must have a witness who is an adult U.S. citizen. All other absentee ballots must have a witness, but the age and nationality of the witness is not specified. The ~~draft~~ requires all absentee ballots to be witnessed by an adult U.S citizen. *bill*

Elimination of Prepaid Return Postage and Notice of Hours

Generally, under current law, if the municipal clerk sends an absentee ballot to an elector, the ballot must include sufficient return postage from anywhere within the United States. The ~~draft~~ deletes this requirement that absentee ballots be sent with return postage paid. Thus, a person who seeks to return an absentee ballot by mail would be required to supply the requisite postage. The ~~draft~~ also modifies the notice that a clerk must post to include the hours that an elector can cast an absentee ballot in the clerk's office. *bill*

Absentee Ballots Sent to Permanent or Temporary Residence Only

Under current law, if an elector requests an absentee ballot, the municipal clerk must mail the ballot to the residence of the elector, unless the elector specifies a different mailing address. An elector may not specify that a ballot be sent to the address of a candidate, political party, or campaign finance registrant, unless the elector resides there. If an elector has applied for an absentee ballot and there may not be time to return the ballot, a clerk may send a ballot to a fax number or electronic mail address. *unless the ballot qualifies for mailing free of postage under Federal law*

The ~~draft~~ specifies that absentee ballots may only be sent to an elector's permanent or temporary address.

Opening Absentee Ballots in Public

Under current law, absentee ballot envelopes must be opened at the polling place during poll hours and the ballots placed in the ballot box without disclosing how the voter voted. When the envelopes are opened, the inspector is required to publicly announce the names or serial numbers of the absent electors casting the ballots.

The ~~draft~~ adds language to ensure that this opening process is done so that election observers may hear and see the process.

Observation of Absentee Voting in Certain Nursing Homes and Other Facilities

Under current law, there is a separate procedure for absentee voting by residents of nursing homes, qualified community-based residential facilities, and qualified retirement homes. If a resident of such a facility requests an absentee ballot, the clerk will arrange a time to send 2 special deputies to the facility to facilitate the residents in voting absentee.

The ~~draft~~ requires the municipal clerk to maintain a list, available to the public, of all of the facilities where an absentee ballot has been requested and when the special deputies will be visiting the facility. In addition, the clerk must post a notice at the facility indicating when the special deputies will be visiting. The ~~draft~~ also allows one observer from each of the recognized political parties whose candidate for governor or president received the greatest numbers of votes in the municipality at the most recent general election to accompany the deputies to observe the distribution of absentee ballots in the *bill*

common areas of the facility. The deputies are given the same authority as the chief election inspector to monitor this observer's conduct.

Alternate Absentee Ballot Site

Under current law, persons may apply for and vote an absentee ballot at the municipal clerk's office prior to election day. In addition, absentee ballots that are not voted at the clerk's office are to be returned to the clerk's office in time for delivery to the polls before the polls close on election day.

The ~~draft~~ authorizes the governing body of a municipality (city, village, or town) to establish an alternate absentee ballot site in lieu of the municipal clerk's office to facilitate absentee ballot applications, voting of absentee ballots, and the return of absentee ballots prior to the close of the polls. Generally, the decision to move the absentee ballot functions to this alternate site, and the location of the alternate location, must be established no later than 14 days prior to the time when absentee ballots are available for voting at a primary, if a primary is required (generally 30 days before a September primary and 21 days before other primaries, including the Spring primary) and may expire no earlier than the day after the election following the primary. No absentee ballot functions that are to take place at this alternate site may be conducted at the municipal clerk's office so long as the alternate site is used. The ~~draft~~ requires notice of the alternate site to be prominently displayed in the office of the municipal clerk during the time that absentee ballots are available and requires a notice of the alternate site to be published in a newspaper along with other absentee ballot information required under current law. The ~~draft~~ requires the alternate site to be staffed by the municipal clerk or by employees of the clerk. Observation and electioneering laws would apply to alternate locations established under the ~~draft~~.

Election Observers

Under current law, any member of the public may be present at any polling place for the purpose of observing an election, except a candidate at that election. The chief inspector at the polling place is authorized to "reasonably limit" the number of persons representing the same organization who are permitted to observe an election at the same time. In addition, the chief inspector is authorized to restrict the location of observers to certain areas at a polling place. Such an area is to be clearly designated as an observation area. Observation areas must be positioned to allow observers to readily observe all public aspects of the voting process. The statutes authorize a chief inspector to order the removal from a polling place of any observer who commits an overt act which either disrupts the operation of the polling place or who engages in electioneering in violation of the law.

Under the statutes, an observer may not view the confidential portion of a registration list relating to an individual who has obtained a confidential listing based on domestic abuse. However, the poll workers must disclose to an observer, upon request, the existence of such a list, the number of electors whose names appear on the list, and the number of those electors who have voted at any point during the election. In addition, an observer may not view the certificate of an absent elector who has obtained such a confidential listing. Current law prohibits any person from refusing to obey a lawful order of a poll worker made for the purpose of enforcing the election laws; engaging in disorderly behavior at or near a polling place; or interrupting or disturbing the voting or canvassing proceedings. A person violating this prohibition may be fined not more than \$1,000, or imprisoned for not more than 6 months, or both.

The ~~draft~~ applies the above observation provisions to the municipal clerk's office or an alternate absentee ballot site authorized by the governing body of a municipality on any day that absentee ballots may be cast in that office. However, the observation provisions created by the ~~draft~~ would only apply to offices of municipal clerks that are located in public buildings. Accordingly, these provisions would not apply to clerks whose offices are located in their primary residences. In addition, the prohibition on a "candidate at that election" being an observer is clarified to apply to a candidate whose

name appears on the ballot at the polling place or on an absentee ballot to be cast at the clerk's office or alternate site.

Electioneering

Current law prohibits an election official from engaging in "electioneering" on election day. In addition, the law prohibits any person from engaging in "electioneering" during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place. This restriction, though, does not apply to the placement of any material on the bumper of a motor vehicle that is located on such property on election day. A municipal clerk, poll worker, or law enforcement officer is authorized to remove posters or other advertising that violates the prohibitions on "electioneering".

The law defines "electioneering" as any activity that is intended to influence voting at an election. Persons who violate the above prohibitions on electioneering may be fined not more than \$1,000, or imprisoned for not more than 6 months, or both. In addition, any election official who is convicted of violating the electioneering prohibitions is disqualified from acting as an election official for a term of 5 years from the time of the conviction.

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The ~~draft~~ extends the prohibitions on electioneering to the municipal clerk's office or an alternate absentee ballot site authorized by the governing body of a municipality during times when absentee voting may be conducted in the office or at the alternate site. Specifically, the ~~draft~~ prohibits the clerk, an employee of the clerk, or any other person ~~who assists electors cast absentee ballots at those locations~~ from engaging in electioneering activities at those locations during the hours that absentee ballots may be cast. In addition, the ~~draft~~ prohibits any person from engaging in electioneering activities during the hours that absentee ballots may be cast in the municipal clerk's office or at an alternate absentee ballot site on any public property within 100 feet of an entrance to a building that contains the clerk's office or the alternate site. Violations of these provisions are subject to the same penalties as provided under current law for electioneering at a polling place.

Option to Count Absentee Ballots at a Central Location

Currently, each absentee ballot must be received at the polling place serving an elector's residence no later than 8 p.m. on election night for the ballot to be counted. The municipal clerk or board of election commissioners delivers all absentee ballots received by the clerk or board to the appropriate polling places. The inspectors (poll workers) canvass the absentee ballots, together with the other ballots, publicly on election day by marking the names of the absentee electors on the same poll list that is used to mark the names of the electors who vote in person. Any member of the public may observe the proceedings. Any elector may challenge for cause any absentee ballot that the elector knows or suspects is not cast by a qualified elector, whether the absentee ballot is cast in person at the office of a municipal clerk or board of election commissioners or the ballot is received in some other manner. Unless an absentee ballot is challenged or voted provisionally, it is not identifiable once it is counted, except that an absentee ballot may be distinguished from another ballot because it carries the initials of the municipal clerk or executive director of the board of election commissioners or a designated deputy. The inspectors at each polling place announce the results of each election when the canvass is completed on election night. Each municipal canvass must be completed by 2 p.m. on the day after each election, and each county canvass must begin no later than 9 a.m. on the Thursday following an election.

The ~~draft~~ permits the governing body of any municipality, by ordinance, to discontinue the canvassing of absentee ballots at polling places. Under the ~~draft~~, if absentee ballots are not canvassed at polling places, a municipal board of absentee ballot canvassers, appointed by the municipal clerk, must publicly convene any time after the polls open and before 10 p.m. on election day for the purpose of counting absentee ballots. Under the ~~draft~~, the board of absentee ballot canvassers does not announce the results

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of its count until the canvass of all absentee ballots is completed. The ~~draft~~ provides for the board of absentee ballot canvassers to conduct a cross-check of absentee ballots for any potential duplication by electors who also cast ballots in person. To accomplish the cross-check, the board of absentee ballot canvassers numbers each absentee ballot as it is counted, and if the elector who casts the ballot also casts a ballot in person, the absentee ballot is not counted. The ~~draft~~ permits any elector to challenge any absentee ballot for cause.

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PRE-ELECTION PROCEDURES

Qualifications of Circulators of Nomination Papers and Petitions

Under current law, each nomination paper and petition for an election must be circulated by a qualified elector of the jurisdiction or district in which the paper or petition is circulated. However, in *Frami v. Ponto*, 255 F. Supp. 962 (W.D. Wis. 2003), a federal district court ruled that this residency requirement is unconstitutional and prevented the state from enforcing the statutory requirement.

The ~~draft~~ removes the residency requirement by providing that a circulator of a nomination paper or petition must be a qualified elector of this state or a U.S. citizen age 18 or over who, if he or she were a resident of the state, would not be disqualified from voting because he or she is incompetent, a felon whose right to vote has not been restored, or involved in a wager or bet depending upon the result of the election.

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Notice of School District Referendum

Currently, proposed constitutional amendments and other measures or questions to be submitted to a vote of the people must be filed with the official or agency responsible for preparing the ballots for the election no later than 42 days prior to the election at which the amendment, measure, or question will appear on the ballot.

The ~~draft~~ requires, in addition, that a copy of a measure or question to be submitted to a vote of the people on behalf of a school district be provided to the clerk of each county having territory within the school district no later than 42 days prior to the election.

Contingency Planning Report

The ~~draft~~ requires the elections board to submit a report and recommendations to the legislature on state and local election-related contingency planning efforts and preparedness regarding natural disasters and terrorist activities that may occur at or near election time. The report is due on ~~July 1, 2006~~.

The first day of the 7th

Guidance to Local Units of Government Regarding Election-Related Purchases

Under current law, the election administration council consists of members of the public and local election officials appointed by the executive director of the elections board. The council is to assist the elections board to establish the state's election administration plan under HAVA.

month beginning after publication of the bill as an act

The ~~draft~~ requires the election administration council to also provide guidance to local units of government concerning the purchasing of election apparatus, ballot forms, and supplies for use in elections in this state to help ensure that competitive prices are obtained.

Term of Appointment for Certain Election Officials

Under current law, election officials are appointed for a 2-year term. The appointments are made in December of each even-numbered year. The ~~draft~~ changes the date that election officials are appointed to December of each odd-numbered year.

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Election Official Training

Under current law, the elections board conducts training programs for chief inspectors (chief officials at polling places). No person may serve as a chief inspector if he or she has not been certified by the elections board as having met the requirements prescribed by the board for certification. The elections board must also prescribe requirements for maintaining certification. The elections board may also conduct training programs for other election officials. Municipal clerks and boards of election

commissioners are required to train all election officials, and municipalities may require applicants for election official positions to take examinations. Currently, the elections board and municipal clerks and boards of election commissioners may appoint special registration deputies who obtain voter registrations from electors prior to the close of registration and municipal clerks may appoint special voting deputies to conduct voting at nursing homes and certain retirement homes and community-based residential facilities. Currently, the clerks and boards of election commissioners must train the deputies in accordance with rules prescribed by the elections board.

elections

Beginning for elections held in 2008, the draft requires all municipal clerks to receive election training at least once every 2 years. The draft authorizes the board to produce and periodically update a video program and make the program available electronically through an Internet-based system for training purposes. Also, the draft requires municipal clerks to train all poll workers other than chief inspectors, who would continue to be trained and certified under current law, as well as special registration deputies and special voting deputies pursuant to rules developed by the elections board. The draft provides that no person may serve as a poll worker, special registration deputy, or special voting deputy unless that person has received training required in the draft unless certain unforeseen circumstances occur. Municipalities are required to compensate election officials other than special registration deputies and special voting deputies for attendance at training sessions.

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ELECTION DAY PROCEDURES

Election Day Identification for Certain Voters

Under current law, certain electors who register to vote by mail at an election for national office must show identification before being allowed to cast a ballot if the elector has not previously voted in an election for national office in the municipality (or, effective January 1, 2006, in the state).

The draft applies this requirement to such electors who register to vote in advance of election day in any manner other than in person in the office of the municipal clerk or at another approved registration location.

High School Poll Workers

Student I

Generally, a pupil who is 16 or 17 years of age, who is enrolled in grades 9 to 12 in a public or private school, and who has at least a 3.0 grade point average (GPA) may serve as an inspector (poll worker) at the polling place serving the pupil's residence. Approval of the pupil's parent or guardian and of the school principal is required. There must be at least one qualified elector of the state serving at the polling place for a pupil to be appointed and a pupil may not serve as chief inspector. The term of appointment of an inspector lasts for 2 years and until his or her successor is appointed and qualified.

The draft eliminates the minimum GPA requirement and instead authorizes school boards to develop criteria for approving students to serve as poll workers. The draft also modifies the term of service of a high school pupil appointed to serve as an inspector. Under the draft, a high school pupil is appointed for one election only rather than for 2 years. The draft does not prohibit such pupil from being appointed to serve at future elections.

Poll Closing Procedures When Voters Waiting to Vote

Under current law, any elector waiting to vote, whether within the polling booth or in the line outside the booth at the time the polls officially close must be permitted to vote.

The draft requires an election inspector (poll worker) to position himself or herself at the end of the line of individuals waiting to vote at the time the polls officially close as a way to mark the end of the line.

Conduct of Election Observers

Under current law, any member of the public may be present at any polling place for the purpose of observing an election, except a candidate at that election. The chief

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inspector at the polling place is authorized to "reasonably limit" the number of persons representing the same organization who are permitted to observe an election at the same time. In addition, the chief inspector is authorized to restrict the location of observers to certain areas at a polling place. Such an area is to be clearly designated as an observation area. Observation areas must be positioned to allow observers to readily observe all public aspects of the voting process. The statutes authorize a chief inspector to order the removal from a polling place of any observer who commits an overt act which either disrupts the operation of the polling place or who engages in electioneering.

Under the statutes, an observer may not view the confidential portion of a registration list relating to an individual who has obtained a confidential listing based on domestic abuse. However, the poll workers must disclose to an observer, upon request, the existence of such a list, the number of electors whose names appear on the list, and the number of those electors who have voted at any point during the election. In addition, an observer may not view the certificate of an absent elector who has obtained such a confidential listing.

Currently, any person who refuses to obey a lawful order of a poll worker made for the purpose of enforcing the election laws; who engages in disorderly behavior at or near a polling place; or who interrupts or disturbs the voting or canvassing proceedings may be fined not more than \$1,000, or imprisoned for not more than 6 months, or both.

The draft directs the elections board to promulgate rules regarding the proper conduct of observers at polling places, municipal clerk's offices, or alternate absentee ballot sites, including the interaction of observers with election officials at polling places. The draft requires the rules to be submitted to the legislative council staff for review by February 1, 2006. *the 60th day beginning after publication of the bill as an act*

Identification Required of Certain Voters

Under current law, effective January 1, 2006, a person, other than a military elector or an overseas elector, who registers to vote by mail and who has not previously voted in an election for national office in Wisconsin must provide identification, as specified by law, before being allowed to vote at an election for national office. A person who is required to provide identification before voting but who fails to do so may cast a provisional ballot which may be counted if the person subsequently presents identification before 4 p.m. on the day after the election.

The draft applies the identification requirement to persons who do not register to vote in the office of the municipal clerk or other locations designated by the clerk and who have never voted in the state in any election, not just elections for national office.

Election Threats

Current law, in s. 12.09 of the statutes, prevents the making of various election threats. Violations of that section are punishable as a Class I felony (a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both).

Presently, s. 12.09 is drafted as one paragraph consisting of 3 distinct components, each of which prohibits different conduct. The provision reads as follows:

No person may personally or through an agent make use of or threaten to make use of force, violence or restraint in order to induce or compel any person to vote or refrain from voting at an election; or, by abduction, duress or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise at an election; or by any act compel, induce or prevail upon an elector either to vote or refrain from voting at any election for or against a particular candidate or referendum.

The draft, in order to improve the readability of the provision, repeals the provision and recreates it with 3 distinct subsections. The draft makes no substantive changes to the law and violations would still be subject to the same penalties as provided under current law.

Prohibition on Certain Election-Related Material

Current law defines "electioneering" as any activity which is intended to influence voting at an election. Under current law, "electioneering" is prohibited at or near the entrances to polling places on election day. Specifically, the law prohibits an election official from engaging in "electioneering" on election day. In addition, the law prohibits any person from engaging in "electioneering" during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place. This restriction, though, does not apply to the placement of any material on the bumper of a motor vehicle that is located on such property on election day. A municipal clerk, poll worker, or law enforcement officer is authorized to remove posters or other advertising that violates the prohibitions on "electioneering".

Persons who violate the above prohibitions on electioneering may be fined not more than \$1,000, or imprisoned for not more than six months, or both. In addition, any election official who is convicted of violating the electioneering prohibitions is disqualified from acting as an election official for a term of five years from the time of the conviction.

The draft modifies the statutory language regarding "electioneering" to provide that the prohibition on electioneering also applies to electioneering at a polling place.

In addition, the draft prohibits the posting or distribution of election-related material during polling hours on any public property on election day at a polling place or within 100 feet of an entrance to a building containing a polling place. Similarly, the draft prohibits such conduct in relation to the municipal clerk's office or an alternate absentee ballot site during hours that absentee ballots may be cast therein. For purposes of the draft, "election-related material" means any written matter which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place or voting by absentee ballot. The prohibition would not apply to material posted or distributed by the municipal clerk or other election officials or to a bumper sticker on a motor vehicle. The draft authorizes a municipal clerk, election inspector, or law enforcement officer to remove or confiscate unauthorized election-related material. Finally, the draft provides that a violation of the election-related prohibition is punishable by a forfeiture not to exceed \$100.

Map of Area Served by Polling Place

The draft requires that the municipal clerk or board of election commissioners in municipalities with multiple polling places to prominently post at each polling place a map of the geographic area served by each polling place for that election. The map must display the boundaries of the ward or wards served by the polling place for that election.

Lists of Felons Ineligible to Vote

Under current law, any person who is convicted of a felony is not eligible to vote. However, if the person is pardoned or the person completes his or her sentence, the person's voting rights are restored. A person who is on probation, parole, or extended supervision has not completed his or her sentence. Under current law, there is no procedure that election officials must use to identify felons who are ineligible to vote and to prevent them from voting.

The draft directs the department of corrections (DOC) to transmit electronically to the elections board, on a continuous basis, a list containing the names of each person who has been convicted of a felony under the laws of this state and whose voting rights have not been restored, together with the date on which DOC expects his or her voting rights to be restored. The draft directs the board to enter the information received from DOC on the statewide voter registration list and to maintain the information on that list so that the information is kept current. Under the draft, the information is open to public inspection.

The draft also directs the elections board to enter on the poll list prepared for each election a notation after the name of any elector who is ineligible to vote on that date because the person's name appears on the current list that DOC provides. In addition, the draft directs the board to provide for each polling place at each election a list of persons whose names do not appear on the registration list but whose names appear on the

current list that DOC provides and whose addresses are located within the area served by the polling place. These lists are open to public inspection.

The draft requires poll workers to check the lists and to inform any person whose name appears on the lists that they are ineligible to register to vote or to vote. A person whose name appears on a list and who claims to be eligible to vote may still be allowed to vote, but the person must vote by ballot. The ballot is marked for later examination and it may be reviewed and discounted during a canvass or recount if the appropriate board of canvassers determines that the person who cast the ballot is ineligible to vote.

The draft also requires every person who registers to vote, to affirm specifically that he or she has not been convicted of a felony for which he or she has not been pardoned and, if so, whether the person is incarcerated or on probation, parole, or extended supervision resulting from that conviction. Currently, the law requires a person who registers at a polling place only to affirm that he or she is not disqualified on any ground from voting, and does not require any similar affirmation from other late registrants.

In addition, the draft directs the elections board to conduct a postelection audit after each election to determine whether any ineligible felons have been allowed to register and vote after the close of registration. If so, the board is directed to enter a notation reflecting this ineligibility on the registration list and to provide the names of these felons to the district attorney.

Finally, the draft requires DOC to create a form for notifying individuals of their ineligibility to vote. When an inmate who is disqualified from voting is released to parole or extended supervision, the DOC must use the form to notify the person that he or she may not vote until his or her civil rights are restored. The person and a witness must sign the form. The same procedure must be followed for each probationer, and by the court every time it imposes a sentence or places a defendant on probation for a conviction that disqualifies him or her from voting.

Additional Poll Worker: Greeter

Under current law, there must be at least 3 inspectors (poll workers) at each polling place. Municipalities may increase that number and may appoint special registration deputies on a nonpartisan basis to register voters at polling places on election day. Inspectors must be appointed from lists containing the names of eligible electors submitted by party committeemen and committeewomen. If no names or insufficient names are submitted, inspectors are appointed on a nonpartisan basis. Certain high school pupils may also be appointed to serve as inspectors. The party whose candidate for president or governor received the most votes in the area served by the polling place at the most recent general election is entitled to one more appointment than the other party. Alternate officials must also be appointed in a sufficient number to maintain adequate staffing.

The draft provides that each municipality may appoint an additional inspector on a nonpartisan basis who serves as a greeter and substitutes for other inspectors who must leave the voting room temporarily. Under the draft, the additional inspector is not entitled to participate in the canvassing process.

POST-ELECTION PROCEDURES

Time for Delivery of Election Material

Currently, by 2 p.m. on the day after an election, the municipal clerk must deliver the ballots, statements, tally sheets, lists, and envelopes for the clerk's municipality concerning any county, technical college district, state, or national election to the county clerk. In addition, current law requires the municipal clerk to arrange for delivery of these materials concerning a school district election to the school district clerk, but does not specify a time by which that delivery must take place. The draft sets the deadline for delivery of these materials at 4 p.m. on the day after an election.

Post-Election Inspectors' Statements

Under current law, after ballots have been counted and votes recorded at the polling place on appropriate tally sheets, inspectors' statements must be completed in duplicate, and all materials secured and routed to the appropriate clerk. The draft deletes the requirement that inspectors' statements be completed in duplicate. Instead, under the draft, the municipal clerk must make copies of the inspectors' statement for delivery to the county or school district clerk, or both. The municipal clerk must retain the original statement.

County and Municipal Clerk Serving on Board of Canvassers

Generally, under current law, the municipal and county board of canvassers is composed of the municipal or county clerk and 2 appointed members. No person may serve on the board if he or she is a candidate at an election to be canvassed. The draft allows the county and municipal clerk to continue to serve on the respective board of canvassers if the clerk is a candidate as long as he or she has no opponent on the ballot, or, in the event of a recount, the office the clerk is seeking is not a subject of the recount.

Grounds for Recall of Certain Local Elective Offices

Under current law, a petition for the recall of a city, village, town, or school district officer, in addition to other requirements, must state a reason for the recall that is related to the official responsibilities of the officer. Current law also provides for the removal of elective village, town, and school district officers and certain elective city officers, for cause, after notice and a hearing. Under current law, inefficiency, neglect of duty, official misconduct, or malfeasance in office constitute cause for removal from office.

The draft requires a petition for the recall of a city, village, town, or school district officer to contain a statement of the grounds that constitute each cause for the recall. Under the draft, "cause" means official misconduct or malfeasance in office.

Retention of Unused Ballots After an Election

The draft provides that unused ballots from an election may not be discarded or destroyed until at least the day after the last day for the filing of a recount petition for any office on the ballots. In addition, the draft authorizes the county clerk to store any such unused ballots upon request of a municipal clerk of a municipality within the county and authorizes the county clerk to destroy the ballots pursuant to provisions of the draft.

Recount Procedures

Under current law, the state elections board is required to prescribe standard forms and procedures for the making of recounts. Additionally, when a recount is being conducted, if the ballots are in readable form such that automatic tabulating equipment may be used to count the ballots, the board of canvassers conducting the recount may choose to recount the ballots without the aid of automatic tabulating equipment. If automatic tabulating equipment is to be used, the equipment must be tested prior to the recount.

The draft requires the procedures developed by the elections board to require boards of canvassers in recounts involving more than one board of canvassers to consult with the elections board staff prior to beginning any recount to ensure that uniform procedures are used, to the extent practicable, in conducting such recounts.

In addition, the draft requires boards of canvassers to use automatic tabulating equipment to recount ballots that are in readable form. The draft provides, however, that a candidate, or elector if the recount is for a referendum question, may petition the circuit court for an order requiring ballots in readable form to be counted by hand or by another method approved by the court. The petition must be filed by the close of business on the next business day after the last day for filing a petition for a recount. To prevail, the petitioner must establish by clear and convincing evidence that due to irregularity, defect, or mistake committed during the voting or canvassing process the results of a recount using automatic tabulating equipment will produce incorrect recount results and that there is a substantial probability that recounting the ballots by hand or another method will produce a more correct result and change the outcome of the election. The court with

whom the petition is filed must hear the matter as expeditiously as possible, without a jury. Only if the court determines that the petitioner has made the required showing may the court order a recount of the ballots by hand or other method. The procedure created by the draft is not intended to affect the ability of an aggrieved candidate or elector under current law to appeal the outcome of a recount to circuit court upon completion of the recount.

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Post-Election Audits

The draft requires the elections board, by no later than December 31, 2006, to prepare recommendations with regard to random post-election audits of local election practices to be conducted in the fall of odd-numbered years. The recommendations must include recommendations on how election practices at the local level may be reviewed by election officials of other, similar-size municipalities and how such audits may be funded by the state. The recommendations must be submitted to the legislature.

1 SECTION 1. 5.02 (6m) of the statutes is repealed.

2 SECTION 2. 5.02 (16g) of the statutes is created to read:

3 5.02 (16g) "Qualified circulator" means a qualified elector of this state or any
4 U.S. citizen age 18 or older who, if he or she were a resident of this state, would not
5 be disqualified from voting under s. 6.03.

6 SECTION 3. 5.35 (6) (a) 4a. of the statutes is amended to read:

7 5.35 (6) (a) 4a. Instructions prescribed by the board for electors for whom
8 identification proof of residence under s. 6.34 is required under s. ~~6.36 (2) (c) 2.~~ 6.55 (2)

9 SECTION 4. 5.35 (6) (c) of the statutes is created to read:

10 5.35 (6) (c) At each polling place located in a municipality that is served by more
11 than one polling place for an election, the municipal clerk or board of election
12 commissioners shall prominently post a map of the geographic area served by the
13 polling place for that election. The posting shall clearly show the boundaries of the
14 ward or wards served by the polling place for that election.

15 SECTION 5. 5.68 (3m) of the statutes is created to read:

16 5.68 (3m) The election administration council shall provide guidance to local
17 units of government concerning the purchasing of election apparatus, ballot forms,

1 and supplies for use in elections in this state to help ensure that competitive prices
2 are obtained by those units of government.

3 SECTION 6. 5.90 of the statutes is amended to read:

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5 **5.90 Recounts** (1) Except as otherwise provided in this subchapter, recounts

6 of votes cast on an electronic voting system shall be conducted in the manner
7 prescribed in s. 9.01. If Except as provided in sub. (2), if the ballots are in readable
8 form, the board of canvassers may elect to shall recount the ballots without the aid
9 of with automatic tabulating equipment. If the board of canvassers elects to use
10 automatic tabulating equipment, the The board of canvassers shall test the
11 automatic tabulating equipment to be used prior to the recount as provided in s. 5.84,
12 and then the official ballots or the record of the votes cast shall be recounted on the
13 automatic tabulating equipment. In addition, the board of canvassers shall check
14 the ballots for the presence or absence of the initials and other distinguishing marks,
15 shall examine the ballots marked "Rejected", "Defective" and "Objected to" to
16 determine the propriety of such labels, and shall compare the "Duplicate Overvoted
17 Ballots" and "Duplicate Damaged Ballots" with their respective originals to
18 determine the correctness of the duplicates.

19 5.90 (2) Any candidate, or any elector when for a referendum, may, by the close of
20 business on the next business day after the last day for filing a petition for a recount
21 under s. 9.01, petition the circuit court for an order requiring ballots in readable form
22 under sub. (1) to be counted by hand or by another method approved by the court.

23 The petitioner in such an action bears the burden of establishing by clear and
24 convincing evidence that due to irregularity, defect, or mistake committed during the
25 voting or canvassing process the results of a recount using automatic tabulating
equipment will produce incorrect recount results and that there is a substantial

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SECTION 6. 5.90 (2) and (3)

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1 probability that recounting the ballots by hand or another method will produce a
2 more correct result and change the outcome of the election.

3 (3) A court with whom a petition under sub. (2) is filed shall hear the matter
4 as expeditiously as possible, without a jury. The court may order a recount of the
5 ballots by hand or ^{another} other method only if it determines that the petitioner has
6 established by clear and convincing evidence that due to ^{an} irregularity, defect, or
7 mistake committed during the voting or canvassing process the results of a recount
8 using automatic tabulating equipment will produce incorrect recount results and
9 that there is a substantial probability that recounting the ballots by hand or another
10 method will produce a more correct result and change the outcome of the election.
11 Nothing in this section affects the right of a candidate or elector aggrieved by the
12 recount to appeal to circuit court under s. 9.01 (6) upon completion of the recount.

13 **SECTION 7.** 6.15 (4) (a) to ~~(e)~~ of the statutes are amended to read:

14 6.15 (4) (a) Clerks holding new resident ballots shall deliver them to the
15 election inspectors in the proper ward or election district where the new residents
16 reside or, in municipalities where absentee ballots are canvassed under s. 7.52, to the
17 municipal board of absentee ballot canvassers when it convenes under s. 7.52 (1), as
18 provided by s. 6.88 for absentee ballots.

19 (b) During polling hours, the inspectors shall open each carrier envelope,
20 announce the elector's name, check the affidavit for proper execution, and check the
21 voting qualifications for the ward, if any. In municipalities where absentee ballots
22 are canvassed under s. 7.52, the municipal board of absentee ballot canvassers shall
23 perform this function at a meeting of the board of absentee ballot canvassers.

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1 (c) The inspectors or board of absentee ballot canvassers shall open the inner
2 envelope without examination of the ballot other than is necessary to see that the
3 issuing clerk has endorsed it. *plain space*

4 (d) Upon satisfactory completion of the procedure under pars. (b) and (c) the
5 inspectors or board of absentee ballot canvassers shall deposit the ballot in the ballot
6 box. The inspectors or board of absentee ballot canvassers shall enter the name of
7 each elector voting under this section on the poll list with an indication that the
8 elector is voting under this section or on a separate list maintained for the purpose
9 under s. 6.79 (2) (c).

10 (e) If the person is not a qualified elector in the ward or municipality, or if the
11 envelope is open or has been opened and resealed, the inspectors shall reject the vote.
12 Rejected ballots shall be processed the same as rejected absentee ballots, under s.
13 6.88 (3) (b).

14 SECTION 8. 6.15 (6) of the statutes is amended to read:

15 6.15 (6) DEATH OF ELECTOR. When it appears by due proof to the inspectors or,
16 in municipalities where absentee ballots are canvassed under s. 7.52, when it
17 appears by due proof to the board of absentee ballot canvassers that a person voting ✓
18 under this section at an election has died before the date of the election, the
19 inspectors or board of absentee ballot canvassers shall return the ballot with ✓
20 defective ballots to the issuing official.

21 SECTION 9. 6.21 of the statutes is amended to read:

22 6.21 Deceased electors. When by due proof it appears to the inspectors or,
23 in municipalities where absentee ballots are canvassed under s. 7.52, when it *by due proof*
24 appears ~~by due proof~~ to the board of absentee ballot canvassers that a person voting
25 under this section casting an absentee ballot at an election has died before the date

1 of the election, they the inspectors or board of absentee ballot canvassers shall return
2 the ballot with defective ballots to the issuing official. The casting of the ballot of a
3 deceased elector does not invalidate the election.

4 SECTION 10. 6.22 (4) of the statutes is ^{renumbered 6.22(4)(a)} amended to read:

5 (a) 6.22 (4) INSTRUCTIONS AND HANDLING An ^e(a) A request for an absentee ballot
6 by an individual who qualifies as a military elector may shall be treated as a request
7 for an absentee ballot for any election, or for all elections until the individual
8 otherwise requests or until the individual no longer qualifies as a military elector.
9 Upon receiving a ^{timely} request for an absentee ballot ^{under par. (b)} by an individual who qualifies as a
10 military elector, the municipal clerk shall send or transmit to the elector an absentee
11 ballot for all elections that occur in the municipality or portion thereof where the
12 elector resides beginning on the date that the clerk receives the request.

13 (b) A military elector's application may be received at any time. The municipal
14 clerk shall not send a ballot for an election if the application is received later than
15 5 p.m. on the Friday preceding that election unless s. 6.87 (3) (d) applies. The
16 municipal clerk shall send a ballot, as soon as available, to each military elector who
17 requests a ballot.

18 (c) ~~A military elector may indicate an alternate address on his or her absentee~~
19 ~~ballot application. If the elector's ballot is returned as undeliverable prior to the~~
20 ~~deadline for ^{requesting an absentee ballot under par. (b)} receipt and return of absentee ballots under s. 6.87 (6) and the elector~~
21 ~~remains eligible to receive absentee ballots under this section, the municipal clerk~~
22 ~~shall immediately send or transmit an absentee ballot to the elector at the alternate~~
23 ~~address.~~

24 (d) The board shall prescribe the instructions for marking and returning ballots
25 and the municipal clerk shall enclose instructions with each ballot and shall also

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JWS
21-3

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[Handwritten box around paragraph (c)]

1 enclose supplemental instructions for local elections. The envelope, return envelope
2 and instructions may not contain the name of any candidate appearing on the
3 enclosed ballots other than that of the municipal clerk affixed in the fulfillment of
4 his or her duties. Each certificate envelope that is mailed or transmitted to a military
5 elector under this section shall be clearly labeled as "Cast by a military elector under
6 s. 6.22, Wis. stats., and may be eligible to be counted after election day".

7 (e) Whenever the material is mailed, the material shall be prepared and mailed
8 to make use of the federal free postage laws. The mailing list established under this
9 subsection shall be kept current in the same manner as provided in s. 6.86 (2) (b).

10 (f) If there occur 2 successive general elections at which a military elector fails
11 to return an absentee ballot sent or transmitted to the elector under par. (a) and the
12 elector has not cast an absentee ballot at any intervening election, if the clerk is
13 reliably informed that the elector is no longer a military elector or no longer resides
14 in the municipality, or if the elector so requests, the clerk shall discontinue sending
15 or transmitting absentee ballots to the elector under this subsection. If a military
16 elector is subject to a registration requirement and the name of a military elector no
17 longer appears on the registration list as an eligible elector, the municipal clerk shall
18 discontinue sending or transmitting absentee ballots to the elector under this
19 subsection. If a military elector who has requested an absentee ballot changes his
20 or her residence from the municipality where a request is filed to another
21 municipality in this state, the municipal clerk of the municipality who received the
22 request shall notify the clerk of the municipality to which the elector's residence is
23 changed of the date of the request or the latest renewal under par. (g) and the date
24 of the most recent absentee ballot returned by the clerk. The municipal clerk who
25 is so notified shall treat the request as having been made to him or her.

1 (g) Prior to any discontinuance of the service provided to a military elector
 2 under this subsection solely for failure to return absentee ballots, the municipal clerk
 3 shall mail the elector a 1st class letter or postcard notifying the elector that an
 4 absentee ballot will no longer be sent to the elector unless the elector renews his or
 5 her request within 30 days of the date of the notification.

6 (h) The municipal clerk shall notify a military elector of any action under par.
 7 (f) that is not taken at the elector's request within 5 days of taking that action, if
 8 possible.

9 **SECTION 11.** 6.22 (5) of the statutes is amended to read:

10 6.22 (5) VOTING PROCEDURE. Except as authorized in sub. (5m) and s. 6.25, the
 11 ballot shall be marked and returned, deposited and recorded in the same manner as
 12 other absentee ballots. In addition, the certification under s. 6.87 (2) shall have a
 13 statement of the elector's birth date. Failure to return any unused ballots in a
 14 primary election does not invalidate the ballot on which the elector casts his or her
 15 votes.

CS Treatment of ballots received after close of polls.

16 **SECTION 12.** 6.22 (5m) of the statutes is created to read:

17 6.22 (5m) (a) A ballot cast under this section that is received by the municipal
 18 clerk after the close of the polls but before the deadline for filing a recount under s.
 19 9.01 (1) (a) shall be treated as a valid vote if the envelope in which the ballot was
 20 received bears a postal service cancellation mark dated on or before the election day
 21 for which the ballot was cast, but may only be counted for purposes of a recount under
 22 s. 9.01.

23 (b) For purposes of par. (a), if a certificate envelope is not postmarked or has
 24 a postmark that is not legible to the municipal clerk, board of canvassers, or the board
 25 of absentee ballot canvassers in municipalities where absentee ballots are canvassed

DWS
23-8

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 1 under s. 7.52, and the envelope was received by mail from the U.S. postal service in
 2 the manner and within the period prescribed in ^{S. 6.187(6)} sub. (3), it is presumed that the
 3 envelope was placed in the mail on or before election day, unless established by a
 4 preponderance of the evidence to the contrary.

5 (c) No later than the closing hour of the polls, the municipal clerk of each
 6 municipality shall post at his or her office, at any alternate site under s. 6.855, and
 7 on the Internet at a site announced by the clerk before the polls open, and shall make
 8 available to any person upon request, a statement of the number of absentee ballots
 9 that the clerk has mailed or transmitted to military electors under this section and
 10 that have not been returned by the closing hour on election day. The posting shall
 11 not include the names or addresses of any military electors.

12 (d) All ballots received by the municipal clerk under this subsection by the
 13 deadline specified in par. (a) shall be carefully preserved, ~~subject to s. 7.23~~ by the
 14 municipal clerk. ^{until destruction or other disposition is authorized under s. 7.23} In the event ^{IF} a petition for a recount is filed under s. 9.01, the clerk
 15 shall immediately notify the appropriate board of canvassers as to whether any
 16 absentee ballots that have been mailed or transmitted to military electors under this
 17 section have been received after the closing of the polls or have not been returned.

18 (dm) If the clerk notifies the board of canvassers that any ~~such~~ ^{that have been mailed or transmitted to military electors under this section} ballots have not
 19 been returned, the board of canvassers ^{shall} may not proceed with the recount until all
 20 such ballots have been returned to the clerk and transmitted to the board of
 21 canvassers, or 9 a.m. on the day following the last day for filing of a petition for a
 22 recount, whichever occurs first.

23 (e) The clerk shall transmit to the appropriate board of canvassers all ballots
 24 received under par. (a) by the clerk as soon as practicable after receiving the last

1 ballot but in no case later than 9 a.m. on the day following the last day for filing a
2 ~~recount~~ petition ^{for a recount} under s. 9.01.

3 (f) Whenever a board of canvassers conducting a recount receives absentee
4 ballots cast by military electors as provided in par. (e), the board of canvassers shall
5 first proceed to open and record the names of the military electors whose ballots have
6 been received. If the ballot cast by a military elector is otherwise valid, the board of
7 canvassers shall count the ballot and adjust the original statements, certifications,
8 and determinations accordingly.

9 (g) The board of canvassers shall then proceed with the recount under s. 9.01
10 (1) (b).

11 SECTION 13. 6.24 (6) of the statutes is amended to read:

12 6.24 (6) INSTRUCTIONS AND HANDLING. The municipal clerk shall send a ballot,
13 as soon as available, to each overseas elector by whom a request has been made. The
14 board shall prescribe the instructions for marking and returning ballots and the
15 municipal clerk shall enclose such instructions with each ballot. The envelope,
16 return envelope and instructions may not contain the name of any candidate
17 appearing on the enclosed ballots other than that of the municipal clerk affixed in
18 the fulfillment of his or her duties. Except as authorized in s. 6.87 (3), the municipal
19 clerk shall mail the material postage prepaid, ~~to any place in the world.~~ ^{with sufficient postage to ensure that}
20 ~~the elector receives the ballot, to any place in the world.~~ ^{unless the material qualifies for mailing free of} The overseas elector shall
21 provide return postage. ^{Postage under Federal Free Postage laws.}

22 SECTION 14. 6.26 (2) (a) of the statutes is amended to read:

23 6.26 (2) (a) A qualified elector of the state may apply to any municipal clerk or
24 board of election commissioners to be appointed as a special registration deputy for
25 the purpose of registering electors of the municipality at fixed registration locations

Score all } If the return envelope qualifies for mailing free of postage under federal free postage laws, the clerk shall affix the appropriate legend required by U.S. postal regulations, otherwise

JNS
25-10

JNS
25-21

1 established under s. 6.28 (1) prior to the close of registration. An applicant may be
2 appointed by more than one municipal clerk or board of election commissioners to
3 serve in more than one municipality.

4 SECTION 15. 6.26 (2) (am) of the statutes is repealed.

5 SECTION 16. 6.26 (2) (b) and (c) of the statutes are amended to read:

6 6.26 (2) (b) The municipal clerk, or board of election commissioners, ~~or elections~~
7 board may appoint any applicant who qualifies under this subsection, unless the
8 applicant's appointment has been revoked by a municipality ~~or by the board~~ for
9 cause. The municipal clerk, or board of election commissioners, ~~or elections board~~
10 may revoke an appointment made by the clerk, or board of election commissioners,
11 ~~or elections board~~ for cause at any time.

12 (c) No individual may serve as a special registration deputy in a municipality
13 unless the individual is appointed by the municipal clerk or board of election
14 commissioners of the municipality ~~or the individual is appointed by the elections~~
15 ~~board to serve all municipalities and the individual completes training required~~
16 under 7.315.

17 SECTION 17. 6.26 (3) of the statutes is amended to read:

18 6.26 (3) The board shall, by rule, prescribe procedures for appointment of
19 special registration deputies, for revocation of appointments of special registration
20 deputies, and for training of special registration deputies by municipal clerks and
21 boards of election commissioners. The procedures shall be coordinated with training
22 programs for special registration deputies conducted by municipal clerks under s.
23 7.315 and shall be formulated to promote increased registration of electors consistent
24 with the needs of municipal clerks and boards of election commissioners to efficiently
25 administer the registration process.

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26-25