State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–1763/P5
JTK/JK/TKK:all:wj

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

Today, please

Only changes p. 85

D-Note

Regen

AN ACT ~~*to repeal*~~ 11.09, 11.38 (2) (c), 67.05 (3) (a) 2. and 67.05 (3) (a) 4.; ***to renumber and amend*** 6.97 (3) (b), 9.20 (4), 11.01 (16) (b), 11.05 (8) and 67.05 (5) (b); ***to amend*** 5.02 (19), 5.052 (3) (a) to (e), 5.15 (6) (b), 5.35 (6) (a) 2., 5.90 (1), 6.15 (2) (bm), 6.29 (2) (b), 6.34 (2), 6.34 (3) (a) 8., 6.36 (1) (a), 6.36 (2) (a), 6.36 (2) (c), 6.55 (2) (b), 6.55 (2) (c) 1., 6.79 (2) (a), 6.79 (2) (d), 6.82 (1) (a), 6.86 (1) (ac), 6.86 (1) (b), 6.86 (3) (a) 1., 6.87 (2) (intro.), 6.88 (3) (a), 7.08 (1) (c), 7.15 (2) (d), 7.30 (2) (a) and (b), 7.41 (1), 7.41 (2), 7.41 (3) (intro.) and (a), 7.51 (3) (a), 7.51 (5) (b), 7.52 (3) (a), 7.52 (8), 8.05 (3) (d), 8.05 (3) (e), 8.06, 8.50 (intro.), 8.50 (1) (a), 8.50 (1) (c), 8.50 (2) (a), 8.50 (4) (f) 1. and 2., 9.01 (1) (ag) 1m., 9.01 (1) (b) (intro.), 9.01 (1) (b) 1., 9.10 (2) (b), 9.10 (2) (d), 11.01 (16) (intro.), 11.01 (16) (a) (intro.), 11.01 (18m), 11.05 (1), 11.05 (2), 11.05 (3) (c), 11.05 (12) (b), 11.06 (1) (intro.), 11.06 (1) (j), 11.12 (1) (d), 11.12 (3), 11.12 (4), 11.16 (1) (d), 11.19 (2), 11.23 (3), 11.29 (1), 11.38 (title) and (1) (a) 1., 11.38 (1) (b), 13.625 (1) (c) (intro.), 17.02 (1), 17.18, 24.66 (3) (b), 24.66 (4), 32.72 (1), 38.15 (1), 38.16 (3) (br) 1., 59.08 (7) (b), 59.605 (3) (a) 1., 60.62 (2), 60.74 (5) (b), 61.187 (1), 61.46 (1), 62.09 (1) (a),

62.13 (6) (b), 64.03 (1), 64.39 (3), 66.0101 (8), 66.0211 (1), 66.0213 (6), 66.0215 (2), 66.0217 (3) (b), 66.0217 (7) (a) 3., 66.0217 (7) (d), 66.0219 (4) (b), 66.0225 (2), 66.0227 (3), 66.0305 (6) (b), 66.0307 (4) (e) 2., 66.0602 (4) (a), 66.0619 (2m) (b), 66.0815 (1) (c), 66.0921 (2), 66.1103 (10) (d), 66.1113 (2) (g), 66.1113 (2) (h), 67.05 (3) (f), 67.05 (4), 67.05 (5) (a), 67.05 (6a) (a) 2. a., 67.05 (6m) (b), 67.10 (5) (b), 67.12 (12) (e) 2., 67.12 (12) (e) 5., 82.03 (2) (b), 86.21 (2) (a), 92.11 (4) (c), 117.20 (2), 119.48 (4) (b), 119.48 (4) (c), 119.49 (1) (b), 119.49 (2), 120.13 (intro.), 121.91 (3) (a), 197.04 (1) (b), 197.04 (2), 197.10 (2) and 198.19 (1); ***to repeal and recreate*** 11.01 (16) (a) 1.; and ***to create*** 5.02 (6m) (g), 6.34 (3) (a) 12., 6.79 (3) (c), 6.86 (1) (bb), 6.87 (4) (b) 6., 6.87 (6d), 7.51 (2) (cm), 7.52 (4) (cm), 8.065, 8.50 (4) (bm), 11.01 (11g) and (11r), 11.01 (16) (b) 1., 11.05 (11g), 11.051, 11.06 (1g), 11.061, 11.25 (4) and 11.33 (2m) of the statutes; **relating to:** various changes in the campaign finance laws; identifying documentation to establish proof of residency for voter registration; recording the type of identifying document provided as proof of residence; limiting the times for voting by absentee ballot in person; the method of reporting election returns by municipalities; fees for election recounts; the method of recounting votes cast with automatic tabulating equipment; residency of election officials; recall petition requirements; the procedure for recounting ballots when electors voting in person are required to sign the poll list and fail to do so; challenging an elector's registration during recount proceedings; witness addresses on absentee ballot certificates; nominees submitted by the Government Accountability Board

candidate committee; securing ballot containers; party representation for election officials serving at polling places; and scheduling of referendums.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the campaign finance, election, and lobbying regulation laws. Significant provisions include:

CAMPAIGN FINANCE

Disclosure of political activity

Currently, with certain exceptions, individuals who accept contributions, organizations that make or accept contributions, and individuals who or organizations that incur obligations or make disbursements for the purpose of influencing an election for state or local office are required to register with the appropriate filing officer or agency and to file financial reports with that officer or agency, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.

This bill provides that registration and reporting requirements apply to any communication that contains certain explicit terms with reference to a clearly identified candidate that expressly advocates the election or defeat of that candidate and unambiguously relates to that candidate. The bill also provides that these requirements do not apply to a communication made by an individual other than a candidate, or by an organization that receives donations or other income not directed at political activity, if the communication does not expressly advocate the election or defeat of a clearly identified candidate or the adoption or rejection of a question at a referendum. The change in the scope of reportable activity under the bill also affects contribution limitations and prohibitions by causing the term "contribution" to exclude the cost of any communication that is not reportable under the bill.

Corporations, cooperatives, and other entities; limited political activity

Under current law, corporations and cooperatives are prohibited from making contributions or disbursements (expenditures) in campaigns for state or local office. Violators are subject to a forfeiture (civil penalty) of not more than $500 for each violation. Intentional violators are guilty of a Class I felony, which is punishable by a fine of not more than $10,000 or imprisonment for not more than three and one-half years, or both, except that if a violation involves $100 or less, the violation is punishable as a misdemeanor with a fine of not more than $1,000 or imprisonment for not more than six months, or both. A recent decision of the U.S. Supreme Court casts doubt upon whether this law is enforceable as it applies to disbursements. See *Citizens United v. F.E.C.*, 130 S. Ct. 876 (2010). Current law also provides that if an individual other than a candidate or an organization that is not organized primarily for political purposes does not engage in express advocacy with respect to a clearly identified candidate or referendum question and does not make any contributions, the individual or organization is exempt from registration and reporting requirements.

This bill deletes the current prohibition on disbursements by corporations and cooperatives.

The bill also permits a corporation or cooperative to make independent disbursements or to make contributions to a committee that makes only independent disbursements. Under the bill, if a corporation, cooperative, or any other entity is not organized exclusively for political purposes and does not make any contributions other than to committees that make only independent disbursements and does not make any disbursements or incur any obligations other than for the purpose of making independent disbursements, the corporation, cooperative, or entity is not subject to registration and reporting requirements under current law, including requirements to disclose sources, dates, and amounts of income and certain information about donors, creditors, and payees. However, any corporation, cooperative, or other entity that makes one or more independent disbursements in an amount or value exceeding $750 in the aggregate during a calendar year must register with the appropriate filing officer, file reports concerning the independent disbursements, and include an attribution on communications financed by the independent disbursements. If a corporation, a cooperative, or other entity is subject to the registration requirement created by the bill, the corporation, cooperative, or entity must also file periodic and special reports with the appropriate filing officer disclosing the amount of each independent disbursement, the date on which it is made, and the name of the candidate or candidates in behalf of or in opposition to whom the disbursement is made, indicating whether the purpose is support or opposition. If a corporation, a cooperative, or other entity makes one or more independent disbursements with respect to an election later than 15 days before the election, the reports must include the identity of any donor to the corporation, cooperative, or entity who made a donation specifically in support of the independent disbursement.

Campaign finance registration, record keeping, and reporting thresholds

With some exceptions, current law requires an individual, candidate, group, or committee that makes or accepts a contribution, incurs an obligation, or makes a disbursement for political purposes and in an amount that exceeds $25 to register with the Government Accountability Board (GAB). This bill increases that threshold from $25 to $1,000. Under current law, each registrant must maintain records of any contribution, disbursement, and incurred obligation that exceeds $10. This bill increases the $10 record–keeping threshold to $25.

Under current law, a registrant is not subject to the filing requirements related to campaign financing if the registrant does not anticipate accepting contributions, making disbursements, or incurring obligations in an aggregate amount exceeding $1,000 in a year or does not anticipate accepting any contribution from a single source, other than a candidate's contribution to his or her own campaign, exceeding $100 in a year or, for purposes of promoting or opposing a referendum, $750 in a year.

Under this bill, a registrant is not subject to the filing requirements if the registrant does not anticipate accepting contributions, making disbursements, or incurring obligations in an aggregate amount exceeding $2,000 in a year or does not anticipate accepting any contribution from a single source, other than a candidate's

contribution to his or her own campaign, exceeding $200 in a year or, for purposes of promoting or opposing a referendum, $750 in a year.

Communications with members of certain entities

Current law permits any corporation, cooperative, unincorporated cooperative association, or voluntary association to make a disbursement for the purpose of communicating only with its members to endorse a candidate, explain its views or interests, or take a position on a referendum without being subject to reporting requirements for this activity. This bill clarifies that any such communication, while remaining exempt from the reporting requirement, may include information on how a member may contribute to an endorsed candidate.

Communications by legislators

Currently, with certain exceptions, no person who is elected to state or local office and who becomes a candidate for national, state, or local office may use public funds for the cost of materials or distribution of 50 or more pieces of substantially identical material distributed during the period beginning on the first day for circulation of nomination papers as a candidate (or certain other dates for candidates who do not file nomination papers) and ending on the date of the election at which the person's name appears on the ballot, or on the date of the primary election at which the person's name so appears if the person is not nominated at the primary.

This bill provides that this prohibition does not apply to the cost of materials or distribution of a communication made by a member of the legislature to an address located within the legislative district represented by that member during the 45–day period following declaration of a state of emergency by the governor affecting any county in which the district is located if the communication relates solely to the subject of the emergency.

LOBBYING

Campaign contributions by lobbyists

Currently, a lobbyist may make a campaign contribution to a partisan elective state official or candidate for partisan elective state office in the year of the official's or candidate's election between June 1 and the day of the election. This bill extends the time during which a lobbyist may make such a contribution to between the first day authorized by law for the circulation of nomination papers as a candidate and the day of the election.

ELECTION ADMINISTRATION

Proof of identification requirement

Currently, with certain exceptions, an elector who votes in an election must present proof of identification in order to vote. The proof may consist of one of a number of documents specified by law that contains the name of the individual to whom the document was issued, which name conforms to the individual's voter registration, if the individual is registered to vote, and with limited exceptions, that contains a photograph of the individual. With certain exceptions, an elector who casts an absentee ballot by mail must enclose a copy of his or her proof of identification in the envelope containing his or her ballot. One form of acceptable proof of identification is a Wisconsin driver's license or identification card issued by

the Department of Transportation. An individual who applies for a Wisconsin operator's license or identification card may be exempted from the current requirement to be photographed under narrowly defined circumstances.

This bill permits a veterans identification card issued by the Veterans Health Administration of the federal Department of Veterans Affairs to be used as proof of identification if the card contains the name of the person to whom it is issued and a photograph of the individual.

The bill also exempts an elector from the requirement to provide proof of identification if the elector appears at the polling place serving his or her residence on election day and swears or affirms before the chief inspector and submits a signed statement affirming either that 1) he or she is indigent and cannot obtain proof of identification without payment of a fee; or 2) he or she has a religious objection to being photographed. Alternatively, if the elector votes by absentee ballot, the bill exempts the elector from the requirement to enclose a copy of his or her proof of identification if the elector encloses in the envelope with the absentee ballot an affidavit affirming either that 1) he or she is indigent and cannot obtain proof of identification without payment of a fee; or 2) he or she has a religious exemption to being photographed. The bill provides that if an elector submits such a statement or encloses such an affidavit, the elector's ballot is marked in the same manner as a challenged ballot and the board of canvassers that determines the election or conducts a recount may review and determine the validity of the elector's ballot. The bill also provides that the municipal clerk or board of election commissioners of the elector's municipality of residence may investigate the qualifications of any elector who submits a statement or encloses an affidavit under the bill and advise the municipal board of canvassers or board of absentee ballot canvassers of his or her findings.

Proof of residency for voter registration

With limited exceptions, current law requires each person who is an eligible elector and who wishes to vote in this state to first register. In certain circumstances, an eligible elector must submit proof of residence with his or her registration form or prior to being permitted to vote. For example, a person who registers in the clerk's office of his or her municipality within 20 days of an election must provide proof of residence in order to obtain registration. Current law provides a list of qualifying identifying documents and specifies the information that must appear on those documents. Identifying documents must contain the registrant's name and current address and qualifying identifying documents include a real estate tax bill, a bank statement, and a current and valid Wisconsin driver license or identification card.

This bill prohibits an elector from providing an identifying document that is displayed electronically to establish proof of residence; the identifying document must be provided in hard-copy form. The bill adds to the list of qualifying identifying documents a bill for cellular or wireless telephone service for the period commencing no earlier than 90 days before election day and a credit card statement for the period commencing no earlier than 90 days before election day.

Under current law, the GAB must compile and maintain an official registration list. The registration list must contain specific information about each registered

elector in the state, including the elector's name, address, date of birth, and an indication of how the elector's registration form was received. This bill requires the board to include on the official registration list an indication of whether an elector was required to provide proof of residence and, if so, the type of identifying document submitted by the elector as proof of residence.

Poll book signature requirement

Currently, with limited exceptions, an elector voting in person at a polling place must enter his or her signature on the poll list or a similar list before being permitted to vote. After entering his or her signature, the election officials mark the poll list to indicate that the elector has voted and, unless voting machines are used, give the elector a ballot. Under current law, with certain exceptions, the election laws are to be interpreted to give effect to the will of the electors if that can be ascertained from the proceedings, notwithstanding failure to fully comply with some of their provisions. When the ballots cast at an election are used to recount the votes cast for an office or question, the officials compare the number of ballots cast to the number of voting electors, according to the poll list. After certain other categories of defective ballots are removed from the count, if the number of voting electors still exceeds the number of ballots, the officials conducting the recount draw a number of ballots at random from the remaining ballots until the number of voting electors equals the number of ballots.

This bill provides that, for purposes of a recount, an elector shall not be considered to be a voting elector if he or she is required to sign the poll list and does not do so.

Proximity of election observers

Under current law, any member of the public may be present at a polling place, a designated alternative absentee ballot site, or at the office of a municipal clerk to observe an election and the absentee voting process. Current law permits the chief inspector or municipal clerk to designate areas within the polling place, alternate site, or municipal office from which members of the public may observe, provided those observation areas permit the members of the public to readily observe all public aspects of the voting process. The chief inspector at any polling place or the municipal clerk may limit the number of observers representing the same organization who are permitted to observe the election or absentee voting process at the same time.

This bill requires the chief inspector and the municipal clerk to designate an observation area for election observers that is within five feet of the table at which electors announce their name and address to be issued a voter number and within five feet of the table at which a person may register to vote. Under the bill, the chief inspector or municipal clerk may permit an election observer to sit at either table, provided the observer is not permitted to observe confidential information. The bill also requires each election observer to print his or her name and sign and date a log maintained for the polling place.

Challenging an elector's registration during a recount

Currently, any person may object to the validity of an elector's registration by filing an objection with the municipal clerk or board of election commissioners before

election day or with the inspectors at a polling place on election day. If a challenge is made to an elector's registration on election day, the elector's ballot is marked for review of the challenge during any recount that may be held. Currently, during the recount of an election, the board of canvassers conducting the recount compares the number of voted ballots to the number of voting electors as indicated on the poll lists or supplemental lists. If, after certain other defective ballots are set aside, the number of voted ballots still exceeds the number of voting electors, the board draws down, at random, a number of voted ballots equal to the excess number before recounting the voted ballots and these ballots are not counted during the recount.

This bill provides that, in determining the number of voting electors, the board of canvassers must hear and decide any objection to the validity of the registration of an elector who registered on election day. Under the bill, if the board of canvassers determines that the registration of an elector who registered on election day is invalid, the board reduces the number of voting electors by one in performing the drawdown of voted ballots, whenever a drawdown is required.

Witness addresses on absentee ballot certificates

Under current law, in order to vote using an absentee ballot, an individual must complete a certificate, which certifies that the individual is a qualified elector. The individual must sign the certificate in the presence of a witness who must also sign the certificate and provide his or her name and address. Under this bill, an absentee ballot may not be counted if the certificate is missing the address of a witness.

Nominees to the Government Accountability Board

Under current law, the governor appoints members of the GAB from nominations submitted by the board's candidate committee. Current law requires the candidate committee to submit at least two nominations to fill one vacancy on the GAB, three nominations to fill two vacancies, five nominations to fill three vacancies, six nominations to fill four vacancies, and seven nominations to fill five vacancies. This bill doubles the number of nominations the candidate committee must submit to the governor.

Securing ballot containers

Under current law, election inspectors take all ballots counted by them and secure the ballots together so that they cannot be separated or tampered with without breaking a seal. The inspectors then put the secured ballots into a ballot container and secure the container so that it cannot be opened without breaking a seal or lock or without destroying the container. Under this bill, only the chief inspector and one other inspector whose party affiliation is different than the chief inspector's party affiliation may secure the ballot container.

Party representation at the polls

Currently, polling places are staffed principally by election inspectors. Unless a municipality decides to increase or decrease the number of inspectors, there are seven inspectors at each polling place. With certain exceptions, the individuals who are appointed as inspectors at a polling place are drawn from nominations submitted by the political parties whose candidates for president or governor received the most votes in the area served by the polling place at the preceding general election, with

the party whose candidate received the most votes entitled to fill one more position than the other party.

This bill provides that whenever two or more inspectors are required to perform a function within a polling place and both parties that are entitled to submit nominees have done so, the chief inspector must assign, insofar as practicable, an equal number of inspectors from the nominees of each party.

Registration

This bill requires the municipal clerk, clerk's agent, and other individuals authorized to accept receipt of a registration form from an elector to enter on the registration form or poll list, and in some cases both the registration form and poll list, the type of identifying document submitted by the elector as proof of residence when proof of residence is required of the elector.

Voting by absentee ballot in person

Under current law, a person may apply to the municipal clerk in person to vote using an absentee ballot. In-person applications to vote using an absentee ballot may be made beginning on the third Monday preceding the election and ending on the later of 5 p.m. or the close of business on the Friday preceding the election.

Under this bill, in-person applications to vote using absentee ballots may be received only Monday to Friday between the hours of 7:30 a.m. and 6 p.m., except that an individual may make an appointment with the actual city, town, or village clerk, as appropriate, so that the clerk, not a member of the clerk's staff or a designated agent, may receive the individual's application made in person after 6 p.m. or anytime on Saturday or Sunday, not including the Saturday and Sunday after the Friday preceding the election.

Reporting of election returns by municipalities

Currently, the voters of each ward vote at the same polling place, which is generally separate from other polling places in a municipality. Election returns are reported by ward unless otherwise authorized by law. Currently, no later than 60 days before each September primary and general election, and no later than 30 days before each other election, the governing body of a municipality may combine two or more wards for voting purposes to permit the use of a common polling place. In municipalities with a population of 35,000 or more, a municipality must continue to report all election returns by ward even where wards are combined for voting purposes at a single location. Other municipalities may report returns for combined wards together unless a separate ballot is required in a partisan election, in which case separate returns must be reported for the offices listed on each separate ballot so that the results of the various elections may be determined.

Under this bill, any municipality having a population of 35,000 or more may provide that election returns for any ward having a population of 20 or less will be combined with returns for any adjacent ward, unless separate returns are required to determine the results of an election. A municipality, however, may not combine wards if the total population of the combined wards would exceed the applicable population range for wards in that municipality. The bill allows the municipal clerk to estimate ward populations for the purpose of combining returns if the population cannot be determined from census results.

Fees for election recounts

Currently, any candidate who receives votes in an election and any elector who votes in a referendum may petition for a recount of the votes cast. If the difference between the votes cast for the leading candidate and those cast for the petitioner or the difference between the affirmative and negative votes cast upon any referendum question is at least ten votes if 1,000 or fewer votes are cast or more than 0.5 percent but not more than 2 percent of the total votes if more than 1,000 votes are cast, the petitioner must pay a fee of $5 per ward or $5 per municipality if a municipality is not divided into wards. The bill increases that amount to $25 per ward or $25 per municipality if a municipality is not divided into wards.

Special elections

This bill makes various changes in the laws governing special elections.

1. Currently, when a vacancy in the office of a U.S. senator or representative in congress from this state occurs, the vacancy is filled by special election ordered by the governor unless the vacancy occurs between the second Tuesday in April and the second Tuesday in May in the year of the general election in which case it is filled at the general election. This bill provides, in addition, that whenever a U.S. senator or representative in congress is elected to another office after the beginning of his or her term, and the term of the new office or the period during which the senator or representative is eligible to assume office begins prior to the end of the senator's or representative's original term of office, the governor may call a special election to fill the seat of the senator or representative in anticipation of a vacancy, upon receipt of notice of the written resignation of that senator or representative that is effective on a date not later than the date of the proposed special election.

2. Currently, when a special election must be ordered to fill a vacancy in any of the following, the special election must be held within a designated period following the order: the office of a U.S. senator or representative of this state; certain executive state offices; judicial and legislative state offices; county, city, village, and town offices; the office of municipal judge; and the office of member of the board of school directors of the Milwaukee Public Schools. Under current law, with two exceptions, the date for the special election may not be not less than 62 nor more than 77 days from the date of the order:

a. If the special election is to be held on the day of the general election or to fill a vacancy in a national office, the order must precede the partisan primary or special primary, respectively, by not more than 122 days and by no fewer than 92 days.

b. If the special election is to be held on the day of the spring election, the order must precede the spring primary by not more than 92 days and by not fewer than 49 days.

This bill eliminates the maximum number of days between which a special election may be ordered and held.

3. Current law imposes restrictions on the timing of a special election ordered to fill a vacancy in a judicial office that occurs after the date of the spring election but on or before December 1:

a. If the vacancy occurs in the office of circuit judge, the vacancy must be filled at the succeeding spring election.

b. If the vacancy occurs in the office of court of appeals judge, the vacancy must be filled at the first succeeding spring election when no other court of appeals judge is to be elected from the same court of appeals district.

c. If the vacancy occurs in the office of supreme court justice, the vacancy must be filled at the first succeeding spring election when no other justice is to be elected.

If a vacancy occurs in any of these judicial offices after December 1 but on or before the succeeding spring election, the vacancy must be filled at the second succeeding spring election that corresponds with the spring elections described above. Finally, if, as a result of the resignation of the incumbent, a vacancy occurs in any of these judicial offices after December 1 but on or before the date of the succeeding spring election, and if the incumbent is not a candidate to succeed himself or herself, the vacancy must be filled at the regularly scheduled election.

This bill changes each December 1 date to August 1.

4. Current law refers to the authority of the attorney general to order a special election. This bill eliminates that reference.

5. Under current law, "special election" means any election other than a general election, partisan primary, spring election, or spring primary to fill vacancies or to conduct a referendum. This bill changes the definition of "special election" to mean any election other than a general election, partisan primary, spring election, or spring primary to fill vacancies.

Scheduling of referendums

Currently, a local government may schedule, or may be required to schedule, a referendum to be held under various laws for various purposes. These purposes include to apply for a state trust fund loan, to approve the issuance of bonds, to exceed an applicable levy limit, or to annex territory. In some cases, a referendum must be held at a special election scheduled for that purpose. In other cases, a referendum may be held concurrently with a specified election, such as the spring election. In still other cases, a referendum may be held with any election or at a special election scheduled for that purpose. Current law occasionally requires the local government to schedule a referendum within a specified period of time after a precipitating action, such as two months after the filing of a petition or application or no sooner than 42 days after the filing of a resolution. Although more restrictive limitations do apply, current law generally requires any measure or question to be submitted to a vote of the people, and any petition requesting that a measure or question be submitted to a vote of the people, to be filed with the official or agency responsible for preparing the ballots for the election no later than 70 days prior to the election at which the measure or question will appear on the ballot.

This bill provides that a local governmental unit may schedule a referendum only concurrently with a spring primary (held in most election districts in each year), a spring election (held in each year), a partisan primary (held on the second Tuesday in August in an even–numbered year), or a general election (held in even–numbered years on the Tuesday after the first Monday in November) or at a special election held to fill vacancies. The bill generally permits a referendum to be held at any of the specified elections, including the next available election following the precipitating action if holding the referendum at that election would be consistent with any

applicable restrictions on the number of days that must pass after a precipitating action or the general provision that a measure, question, or petition be filed with the official or agency responsible for preparing the ballots no later than 70 days prior to the election at which the measure or question will appear on the ballot.

Recounting votes cast with automatic tabulating equipment

Currently, with a limited exception, a board of canvassers must use automatic tabulating equipment to conduct a recount of ballots that are in machine–readable form. However, a candidate, or an elector if the recount is for a referendum question, may petition the circuit court for an order requiring ballots in machine–readable form to be recounted by hand or by another method approved by the court. To obtain such an order, the candidate or elector must show by clear and convincing evidence that due to an irregularity, defect, or mistake committed during the voting or canvassing process the results of a recount using automatic tabulating equipment will produce incorrect results and there is a substantial probability that recounting the ballots by hand or by another method will produce a more correct result and change the outcome of the election.

This bill permits the board of canvassers conducting a recount to determine to conduct the recount of a specific election by hand unless a court orders the recount to be conducted by another method.

Residency of election officials

Current law generally requires election officials to be qualified electors of the municipality in which the officials serve. In addition, current law generally requires election officials who serve at a polling place to be qualified electors of the ward for which the polling place is established, whenever a municipality is divided into wards. However, special registration deputies who register electors at a polling place on election day, election officials who are appointed to work at a polling place that serves more than one ward, election officials who are reassigned by a municipal clerk or board of election commissioners to correct staffing deficiencies, or election officials who are appointed to fill a temporary or permanent vacancy need not be electors of any particular ward, but must be qualified electors of the municipality in which they serve. Officials who are appointed to work at a polling place that serves more than one ward must be electors of one of the wards served by the polling place. A high school pupil who is 16 or 17 years of age may serve as an inspector (poll worker) at the polling place serving his or her residence. In addition, if the municipal clerk or the executive director of a board of election commissioners or a deputy to the clerk or executive director serves as a special registration deputy or is appointed to work at a polling place to fill a vacancy in an inspector position, the clerk, executive director, or deputy need not be a resident of the municipality in which he or she serves.

This bill provides, with certain exceptions, that an individual who serves as an election official at a polling place on election day need be an elector only of a county in which the municipality where the official serves is located. An individual who serves as the chief inspector at a polling place must be a qualified elector of the municipality where he or she serves unless no qualified candidate is available or the

chief inspector is appointed to fill a temporary vacancy. A high school pupil who serves as an inspector must continue to meet the current residency requirement.

Recall petition requirements

Under current law, a petition for the recall of a city, village, town, town sanitary district, or school district officer, in addition to other requirements, must indicate a reason for the recall that is related to the officer's official responsibilities. Under this bill, any person who wishes to circulate a petition for the recall of a city, village, town, town sanitary district, or school district officer must include with the person's registration under the campaign finance laws a statement indicating that the officer for whom the recall is sought has been charged with committing a crime or violating a code of ethics law applicable to local officials. The person must also include a copy of the criminal or civil complaint alleging the crime or violation.

OTHER CHANGES

Prohibitions on certain expenditures by school districts

Current law generally limits the amount of per pupil revenue a school district may receive from general school aids and property taxes to the amount of revenue allowed per pupil in the previous school year. A school board may adopt a resolution to exceed the revenue limit; a resolution adopted by the school board must be submitted to the electors of the school district at a referendum before the school district may exceed its revenue limit. This bill prohibits a school board from spending any state aid or property tax revenue to publish or disseminate information related to or to promote any referendum called by the school district to exceed its revenue limit.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 5.02 (6m) (g) of the statutes is created to read:

5.02 **(6m)** (g) A veterans identification card issued by the veterans health administration of the federal department of veterans affairs.

SECTION 2. 5.02 (19) of the statutes is amended to read:

5.02 **(19)** "Special election" means any election, other than those described in subs. (5), ~~(18)~~ (12s), (21) and (22), to fill vacancies ~~or to conduct a referendum~~.

SECTION 3. 5.052 (3) (a) to (e) of the statutes are amended to read:

5.052 **(3)** (a) To fill one vacancy, ~~2~~ 4 nominations.

(b) To fill 2 vacancies, ~~3~~ 6 nominations.

(c) To fill 3 vacancies, ~~5~~ 10 nominations.

(d) To fill 4 vacancies, ~~6~~ 12 nominations.

(e) To fill 5 vacancies, ~~7~~ 14 nominations.

SECTION 4. 5.15 (6) (b) of the statutes is amended to read:

5.15 **(6)** (b) No later than 30 days before each election, the governing body of any municipality may by resolution combine 2 or more wards for voting purposes to facilitate using a common polling place. Whenever wards are so combined, the original ward numbers shall continue to be utilized for all official purposes. Except as otherwise authorized under this paragraph, every municipality having a population of 35,000 or more shall maintain separate returns for each ward so combined. In municipalities having a population of 35,000 or more, the governing body may provide in a resolution that returns for any ward having a population of 20 or less be combined with returns for any adjacent ward, if the total population of the combined wards does not exceed the applicable population range under sub. (2) (b) for wards in that municipality. In municipalities having a population of less than 35,000, the governing body may provide in the resolution that returns shall be maintained only for each group of combined wards at any election. Whenever a governing body provides ~~for common ballot boxes and ballots or voting machines,~~ that returns shall be maintained only for combined wards under this paragraph, the municipality shall report separate ~~returns shall be maintained~~ results for each separate ballot required under ss. ~~5.62 and~~ 5.58 to 5.64 ~~at the partisan primary and general election~~. The municipal clerk shall transmit a copy of the resolution to the county clerk of each county in which the municipality is contained. In municipalities having a population of less than 35,000, the resolution shall remain in effect for each

election until modified or rescinded, or until a new division is made under this section. Whenever needed for purposes of this paragraph, the municipal clerk shall determine the population of each ward in his or her municipality. If the population of a ward cannot be determined from census results, the clerk shall determine the population of the smallest unit encompassing the entire ward that can be determined from census results. The clerk shall then divide the land area of the ward by the land area of that unit. The clerk shall then multiply that result by the population of the unit to determine the population of the ward for purposes of this paragraph.

SECTION 5. 5.35 (6) (a) 2. of the statutes is amended to read:

5.35 **(6)** (a) 2. A copy of the election fraud laws provided in s. 12.13 (1) and (3) (intro), (d), (f), (g), (k), (L), (o), (q), (r), (u), and (x), together with the applicable penalties provided in s. 12.60 (1). The materials described in this subdivision shall be positioned so that the electors entering the polling place approach and pass by the materials.

SECTION 6. 5.90 (1) of the statutes is amended to read:

5.90 **(1)** Except as otherwise provided in this subchapter, recounts of votes cast on an electronic voting system shall be conducted in the manner prescribed in s. 9.01. Except as provided in this subsection, sub. (2), and s. 9.01 (1) (b) 8s., if the ballots are distributed to the electors, the board of canvassers shall recount the ballots with automatic tabulating equipment. The board of canvassers shall test the automatic tabulating equipment to be used prior to the recount as provided in s. 5.84, and then the official ballots or the record of the votes cast shall be recounted on the automatic tabulating equipment. In addition, the board of canvassers shall check the ballots for the presence or absence of the initials and other distinguishing marks, shall examine the ballots marked "Rejected", "Defective" and "Objected to" to determine

the propriety of such labels, and shall compare the "Duplicate Overvoted Ballots" and "Duplicate Damaged Ballots" with their respective originals to determine the correctness of the duplicates. Unless a court orders a recount to be conducted by another method under sub. (2), the board of canvassers may determine to conduct the recount of a specific election by hand. If electronic voting machines are used, the board of canvassers shall perform the recount using the permanent paper record of the votes cast by each elector, as generated by the machines.

SECTION 7. 6.15 (2) (bm) of the statutes is amended to read:

6.15 **(2)** (bm) Except as authorized in s. 6.79 (7), when making application in person at the office of the municipal clerk, each applicant shall present proof of identification. If any document presented by the applicant is not proof of residence under s. 6.34, the applicant shall also present proof of residence under s. 6.34. The clerk shall verify that the name on the proof of identification presented by the elector conforms to the name on the elector's application ~~and~~, shall verify that any photograph appearing on that document reasonably resembles the elector, and shall enter the type of identifying document submitted by the elector as proof of residence on the application form.

SECTION 8. 6.29 (2) (b) of the statutes is amended to read:

6.29 **(2)** (b) Upon the filing of the registration form required by this section, the municipal clerk or clerk's agent under s. 6.33 (5) (b) shall enter the type of identifying document submitted by the elector as proof of residence on the registration form and issue a certificate containing the name and address of the elector addressed to the inspectors of the proper ward or election district directing that the elector be permitted to cast his or her vote if the elector complies with all requirements for

voting at the polling place. The certificate shall be numbered serially, prepared in duplicate and one copy preserved in the office of the municipal clerk.

SECTION 9. 6.34 (2) of the statutes is amended to read:

6.34 **(2)** Upon completion of a registration form prescribed under s. 6.33, each eligible elector who is required to register under s. 6.27, who is not a military elector or an overseas elector, and who registers after the close of registration under s. 6.29 or 6.86 (3) (a) 2., shall provide ~~an~~ one of the identifying ~~document that establishes~~ documents specified under sub. (3) to establish proof of residence ~~under sub. (3)~~. Each eligible elector who is required to register under s. 6.27, who is not a military elector or an overseas elector, who registers by mail, and who has not voted in an election in this state shall, if voting in person, provide ~~an~~ one of the identifying ~~document that establishes~~ documents specified under sub. (3) to establish proof of residence ~~under sub. (3)~~ or, if voting by absentee ballot, provide a copy of an identifying document specified under sub. (3) that establishes proof of residence ~~under sub. (3)~~. If the elector registered by mail, the identifying document may not be a residential lease. Any identifying document provided to establish proof of residence under this section may not be displayed electronically, but must be provided in hard–copy form.

SECTION 10. 6.34 (3) (a) 8. of the statutes is amended to read:

6.34 **(3)** (a) 8. A utility bill, including a bill for cellular or wireless telephone service, for the period commencing not earlier than 90 days before the day registration is made.

SECTION 11. 6.34 (3) (a) 12. of the statutes is created to read:

6.34 **(3)** (a) 12. A credit card statement for the period commencing not earlier than 90 days before the day registration is made.

SECTION 12. 6.36 (1) (a) of the statutes is amended to read:

6.36 **(1)** (a) The board shall compile and maintain electronically an official registration list. The list shall contain the name and address of each registered elector in the state, the date of birth of the elector, the ward and aldermanic district of the elector, if any, and, for each elector, a unique registration identification number assigned by the board, the number of a valid operator's license issued to the elector under ch. 343, if any, or the last 4 digits of the elector's social security account number, if any, any identification serial number issued to the elector under s. 6.47 (3), the date of any election in which the elector votes, an indication of whether the elector is an overseas elector, as defined in s. 6.24 (1), any information relating to the elector that appears on the current list transmitted to the board by the department of corrections under s. 301.03 (20m), an indication of any accommodation required under s. 5.25 (4) (a) to permit voting by the elector, an indication of the method by which the elector's registration form was received, an indication of whether the elector was required under s. 6.34 to provide proof of residence and, if so, the type of identifying document submitted as proof of residence, and such other information as may be determined by the board to facilitate administration of elector registration requirements.

SECTION 13. 6.36 (2) (a) of the statutes is amended to read:

6.36 **(2)** (a) Except as provided in par. (b), each registration list prepared for use as a poll list at a polling place or for purposes of canvassing absentee ballots at an election shall contain the full name and address of each registered elector; a blank column for the entry of the serial number of the electors when they vote or the poll list number used by the municipal board of absentee ballot canvassers in canvassing absentee ballots; an indication next to the name of each elector for whom proof of

residence under s. 6.34 is required; a space for entry of the type of identifying document submitted by the elector as proof of residence when proof of residence under s. 6.34 is required; a space for entry of the elector's signature, or if another person signed the elector's registration form for the elector by reason of the elector's physical disability, the word "exempt"; and a form of certificate bearing the certification of the administrator of the elections division of the board stating that the list is a true and complete registration list of the municipality or the ward or wards for which the list is prepared. The board shall, by rule, prescribe the space and location for entry of each elector's signature on the poll list which shall provide for entry of the signature without changing the orientation of the poll list from the orientation used by the election officials.

SECTION 14. 6.36 (2) (c) of the statutes is amended to read:

6.36 **(2)** (c) The list shall contain, next to the name of each elector, an indication of whether proof of residence under s. 6.34 is required for the elector to be permitted to vote. If proof of residence is provided, the type of identifying document submitted by the elector shall be entered on the list in the space provided. Proof of residence is required if the elector is not a military elector or an overseas elector and the elector registers by mail and has not previously voted in an election in this state.

SECTION 15. 6.55 (2) (b) of the statutes is amended to read:

6.55 **(2)** (b) Upon executing the registration form under par. (a), the elector shall provide proof of residence under s. 6.34. The signing by the elector executing the registration form shall be in the presence of the special registration deputy or inspector ~~who~~. Upon receipt of the registration form, the deputy or inspector shall enter the type of identifying document submitted by the elector as proof of residence in the space provided on the form. The deputy or inspector shall then print his or her

name on and sign the form, indicating that the deputy or inspector has accepted the form. Upon compliance with this procedure, the elector shall be permitted to cast his or her vote, if the elector complies with all other requirements for voting at the polling place.

SECTION 16. 6.55 (2) (c) 1. of the statutes is amended to read:

6.55 **(2)** (c) 1. As an alternative to registration at the polling place under pars. (a) and (b), the board of election commissioners, or the governing body of any municipality, may by resolution require a person who qualifies as an elector and who is not registered and desires to register on the day of an election to do so at another readily accessible location in the same building as the polling place serving the elector's residence or at an alternate polling place assigned under s. 5.25 (5) (b), instead of at the polling place serving the elector's residence. In such case, the municipal clerk shall prominently post a notice of the registration location at the polling place. An eligible elector who desires to register shall execute a registration form as prescribed under par. (a) and provide proof of residence as provided under s. 6.34. The signing by the person executing the registration form shall be in the presence of the municipal clerk, deputy clerk, or special registration deputy. Upon receipt of the registration form, the municipal clerk, deputy clerk, or special registration deputy shall enter the type of identifying document submitted by the elector as proof of residence in the space provided on the form. The municipal clerk, the deputy clerk, or the special registration deputy shall then print his or her name and sign the form, indicating that the clerk, deputy clerk, or deputy has accepted the form. Upon proper completion of registration, the municipal clerk, deputy clerk, or special registration deputy shall serially number the registration and give one copy

to the person for presentation at the polling place serving the person's residence or an alternate polling place assigned under s. 5.25 (5) (b).

SECTION 17. 6.79 (2) (a) of the statutes is amended to read:

6.79 **(2)** (a) Unless information on the poll list is entered electronically, the municipal clerk shall supply the inspectors with 2 copies of the most current official registration list or lists prepared under s. 6.36 (2) (a) for use as poll lists at the polling place. Except as provided in subs. (3) (b) and (c), (6), and (7), each eligible elector, before receiving a serial number, shall state his or her full name and address and present to the officials proof of identification. The officials shall verify that the name on the proof of identification presented by the elector conforms to the name on the poll list or separate list and shall verify that any photograph appearing on that document reasonably resembles the elector. The officials shall then require the elector to enter his or her signature on the poll list, supplemental list, or separate list maintained under par. (c) unless the elector is exempt from the signature requirement under s. 6.36 (2) (a). The officials shall verify that the name and address stated by the elector conform to the elector's name and address on the poll list.

SECTION 18. 6.79 (2) (d) of the statutes is amended to read:

6.79 **(2)** (d) If the poll list indicates that proof of residence under s. 6.34 is required and the document provided by the elector under par. (a) does not constitute proof of residence under s. 6.34, the officials shall require the elector to provide proof of residence. If proof of residence is provided, the officials shall enter the type of identifying document submitted as proof of residence in the space provided on the registration form and shall verify that the name and address on the ~~identification~~ identifying document ~~submitted as proof of residence provided~~ is the same as the name and address shown on the registration list. If proof of residence is required and

not provided, or if the elector does not present proof of identification under par. (a), whenever required, the officials shall offer the opportunity for the elector to vote under s. 6.97.

SECTION 19. 6.79 (3) (c) of the statutes is created to read:

6.79 **(3)** (c) 1. An elector who is indigent and cannot obtain proof of identification without payment of a fee or an elector who has a religious objection to being photographed may, as an alternative to presenting proof of identification, swear or affirm in an oath administered by the chief inspector either that:

a. The elector is indigent and cannot obtain proof of identification without payment of a fee; or

b. The elector has a religious objection to being photographed.

2. An elector who makes an oath or affirmation under subd. 1. shall also sign a statement in the form prescribed by the board making the same affirmation. The inspector shall then write the words "Alternative identification" next to the elector's name on the poll list or other list maintained under this section and shall enter the elector's serial number on the back of the ballot before the ballot is given to the elector. The municipal clerk or board of election commissioners may investigate the qualifications of any elector who submits a statement under this subdivision and may advise the municipal board of canvassers of his or her findings.

SECTION 20. 6.82 (1) (a) of the statutes is amended to read:

6.82 **(1)** (a) When any inspectors are informed that an eligible elector is at the entrance to the polling place who as a result of disability is unable to enter the polling place, they shall permit the elector to be assisted in marking a ballot by any individual selected by the elector, except the elector's employer or an agent of that employer or an officer or agent of a labor organization which represents the elector.

Except as authorized in s. 6.79 (3) (b) and (c), (6), and (7), the individual selected by the elector shall present to the inspectors proof of identification and, if the proof of identification does not constitute proof of residence under s. 6.34, shall also provide proof of residence under s. 6.34 for the assisted elector, whenever required, and all other information necessary for the elector to obtain a ballot under s. 6.79 (2). The inspectors shall verify that the name on the proof of identification presented by the person assisting the elector conforms to the elector's name on the poll list or separate list ~~and~~, shall verify that any photograph appearing on that document reasonably resembles the elector, and shall enter the type of identifying document submitted by the assisted elector as proof of residence in the space provided on the poll list or separate list. The inspectors shall then issue a ballot to the individual selected by the elector and shall accompany the individual to the polling place entrance where the assistance is to be given. If the ballot is a paper ballot, the assisting individual shall fold the ballot after the ballot is marked by the assisting individual. The assisting individual shall then immediately take the ballot into the polling place and give the ballot to an inspector. The inspector shall distinctly announce that he or she has "a ballot offered by .... (stating person's name), an elector who, as a result of disability, is unable to enter the polling place without assistance". The inspector shall then ask, "Does anyone object to the reception of this ballot?" If no objection is made, the inspectors shall record the elector's name under s. 6.79 and deposit the ballot in the ballot box, and shall make a notation on the poll list: "Ballot received at poll entrance".

SECTION 21. 6.86 (1) (ac) of the statutes is amended to read:

6.86 **(1)** (ac) Any elector qualifying under par. (a) may make written application to the municipal clerk for an official ballot by means of facsimile transmission or

electronic mail. Any application under this paragraph need not contain a copy of the applicant's original signature. An elector requesting a ballot under this paragraph shall return with the voted ballot a copy of the request bearing an original signature of the elector as provided in s. 6.87 (4). Except as authorized in ss. 6.87 (4) (b) 2. to ~~5.~~ 6. and 6.875 (6), and notwithstanding s. 343.43 (1) (f), the elector shall transmit a copy of his or her proof of identification in the manner provided in s. 6.87 (1) unless the elector is a military elector or an overseas elector or the elector has a confidential listing under s. 6.47 (2).

SECTION 22. 6.86 (1) (b) of the statutes is amended to read:

6.86 **(1)** (b) Except as provided in this section, if application is made by mail, the application shall be received no later than 5 p.m. on the 5th day immediately preceding the election. ~~If~~ Except as provided in par. (bb), if application is made in person, the application shall be made no earlier than the opening of business on the 3rd Monday preceding the election and no later than ~~5 p.m. or the close of business, whichever is later,~~ 6 p.m. on the Friday preceding the election. Except as provided in par. (c), if the elector is making written application for an absentee ballot at the partisan primary, the general election, the presidential preference primary, or a special election for national office, and the application indicates that the elector is a military elector, as defined in s. 6.34 (1), the application shall be received by the municipal clerk no later than 5 p.m. on election day. If the application indicates that the reason for requesting an absentee ballot is that the elector is a sequestered juror, the application shall be received no later than 5 p.m. on election day. If the application is received after 5 p.m. on the Friday immediately preceding the election, the municipal clerk or the clerk's agent shall immediately take the ballot to the court in which the elector is serving as a juror and deposit it with the judge. The judge shall

recess court, as soon as convenient, and give the elector the ballot. The judge shall then witness the voting procedure as provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who shall deliver it to the polling place or, in municipalities where absentee ballots are canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application is made under sub. (2) or (2m), the application may be received no later than 5 p.m. on the Friday immediately preceding the election.

SECTION 23. 6.86 (1) (bb) of the statutes is created to read:

6.86 **(1)** (bb) An application made in person may only be received Monday to Friday between the hours of 7:30 a.m. and 6 p.m, except that an individual may make an appointment with the actual city, town, or village clerk, as appropriate, so that, notwithstanding s. 7.21 (1), the clerk, not a member of the clerk's staff or a designated agent, may receive the individual's application made in person after 6 p.m. or anytime on Saturday or Sunday, not including the Saturday and Sunday after the Friday preceding the election.

SECTION 24. 6.86 (3) (a) 1. of the statutes is amended to read:

6.86 **(3)** (a) 1. Any elector who is registered and who is hospitalized, may apply for and obtain an official ballot by agent. The agent may apply for and obtain a ballot for the hospitalized absent elector by presenting a form prescribed by the board and containing the required information supplied by the hospitalized elector and signed by that elector, unless the elector is unable to sign due to physical disability. In this case, the elector may authorize another elector to sign on his or her behalf. Any elector signing an application on another elector's behalf shall attest to a statement that the application is made on request and by authorization of the named elector, who is unable to sign the application due to physical disability. The agent shall

present this statement along with all other information required under this subdivision. Except as authorized for an elector who has a confidential listing under s. 6.47 (2) or as authorized under s. 6.87 (4) (b) 4. or 6., the agent shall present any proof of identification required under sub. (1) (ar). The form shall include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that the agent presented proof of identification to the clerk on behalf of the elector.

SECTION 25. 6.87 (2) (intro.) of the statutes is amended to read:

6.87 **(2)** (intro.) Except as authorized under sub. (3) (d), the municipal clerk shall place the ballot in an unsealed envelope furnished by the clerk. The envelope shall have the name, official title and post–office address of the clerk upon its face. The other side of the envelope shall have a printed certificate which shall include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that, except as authorized in sub. (4) (b) 6., if the absentee elector voted in person under s. 6.86 (1) (ar), the elector presented proof of identification to the clerk and the clerk verified the proof presented. The certificate shall also include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that the elector is exempt from providing proof of identification because the individual is a military or overseas elector or is exempted from providing proof of identification under sub. (4) (b) 2. ~~or~~, 3., or 6. The certificate shall be in substantially the following form:

SECTION 26. 6.87 (4) (b) 6. of the statutes is created to read:

6.87 **(4)** (b) 6. An elector who is indigent and cannot obtain proof of identification without payment of a fee or an elector who has a religious objection to being photographed may, as an alternative to presenting or enclosing a copy of proof of identification, enclose in his or her absentee ballot envelope an affidavit affirming either that:

a. The elector is indigent and cannot obtain proof of identification without payment of a fee; or

b. The elector has a religious objection to being photographed.

SECTION 27. 6.87 (6d) of the statutes is created to read:

6.87 **(6d)** If a certificate is missing the address of a witness, the ballot may not be counted.

SECTION 28. 6.88 (3) (a) of the statutes is amended to read:

6.88 **(3)** (a) Except in municipalities where absentee ballots are canvassed under s. 7.52, at any time between the opening and closing of the polls on election day, the inspectors shall, in the same room where votes are being cast, in such a manner that members of the public can hear and see the procedures, open the carrier envelope only, and announce the name of the absent elector or the identification serial number of the absent elector if the elector has a confidential listing under s. 6.47 (2). When the inspectors find that the certification has been properly executed, the applicant is a qualified elector of the ward or election district, and the applicant has not voted in the election, they shall enter an indication on the poll list next to the applicant's name indicating an absentee ballot is cast by the elector. They shall then open the envelope containing the ballot in a manner so as not to deface or destroy the certification thereon. The inspectors shall take out the ballot without unfolding it or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the inspectors shall verify that the ballot has been endorsed by the issuing clerk. If the poll list indicates that proof of residence under s. 6.34 is required and no proof of residence is enclosed or the name or address on the document that is provided is not the same as the name and address shown on the poll list, the inspectors shall proceed as provided under s. 6.97 (2). <u>If the inspectors find that an elector has</u>

enclosed an affidavit under s. 6.87 (4) (b) 6., the inspectors shall mark the back of the elector's ballot with the serial number that corresponds to the elector's name on the poll list or other list maintained under s. 6.79 and shall enter on the list next to the name of the elector the words "Alternative identification." The inspectors shall then deposit the ballot into the proper ballot box and enter the absent elector's name or voting number after his or her name on the poll list in the same manner as if the elector had been present and voted in person.

SECTION 29. 6.97 (3) (b) of the statutes is renumbered 6.97 (3) (b) 1. and amended to read:

6.97 **(3)** (b) 1. Whenever the municipal clerk or executive director of the municipal board of election commissioners is informed by the inspectors that a ballot has been cast under this section, the clerk or executive director shall promptly provide written notice to the board of canvassers of each municipality, special purpose district, and county that is responsible for canvassing the election of the number of ballots cast under this section in each ward or election district. The municipal clerk or executive director then shall determine whether each individual voting under this section is qualified to vote in the ward or election district where the individual's ballot is cast. If the elector is required to provide proof of identification under s. 6.79 (2) or 6.86 (1) (ar) and fails to do so, the elector bears the burden of correcting the omission by providing the proof of identification at the polling place before the closing hour ~~or~~, by providing the proof of identification at the office of the municipal clerk or board of election commissioners serving his or her residence no later than 4 p.m. on the Friday after the election~~.~~, or by filing an affidavit under s. 6.87 (4) (b) 6.

2. The municipal clerk or executive director shall make a record of the procedure used to determine the validity of each ballot cast under this section. If, prior to 4 p.m. on the Friday after the election, the municipal clerk or executive director determines that the individual is qualified to vote in the ward or election district where the individual's ballot is cast, the municipal clerk or executive director shall notify the board of canvassers for each municipality, special purpose district and county that is responsible for canvassing the election of that fact.

SECTION 30. 7.08 (1) (c) of the statutes is amended to read:

7.08 **(1)** (c) Prescribe forms required by ss. 6.24 (3) and (4), 6.30 (4), 6.33 (1), 6.40 (1) (a), 6.47 (1) (am) 2. and (3), 6.55 (2), 6.79 (3) (c) 2., and 6.86 (2) to (3). All such forms shall contain a statement of the penalty applicable to false or fraudulent registration or voting through use of the form. Forms are not required to be furnished by the board.

SECTION 31. 7.15 (2) (d) of the statutes is amended to read:

7.15 **(2)** (d) Whenever the governing body of any municipality submits any question to a vote of the electors or whenever a proper recall petition and certificate are filed under s. 9.10, the municipal clerk shall issue a call for the election and prepare and distribute ballots as required in the authorization of submission or as provided in s. 9.10. The date of the referendum shall be ~~fixed~~ established in accordance with ss. 8.065 and 8.37 and shall be determined by the municipal clerk or board of election commissioners unless otherwise provided by law or unless the governing body ~~fixes a~~ determines the date. If the governing body determines the date, the date shall be established in accordance with ss. 8.065 and 8.37. The ballot for any referendum shall conform to s. 5.64 (2). If there is already an official

municipal referendum ballot for the election, the question may appear on the same ballot.

SECTION 32. 7.30 (2) (a) and (b) of the statutes are amended to read:

7.30 **(2)** (a) Only election officials appointed under this section or s. 6.875 may conduct an election. Except as otherwise provided in this paragraph and in ss. 7.15 (1) (k) and 7.52 (1) (b), each election official shall be a qualified elector of ~~the ward or wards, or the election district, for~~ a county in which the ~~polling place is established. A special registration deputy who is appointed under s. 6.55 (6) or an election official who is appointed under this section to fill a vacancy under par. (b) need not be a resident of the ward or wards, or the election district, but shall be a resident of the~~ municipality~~, except that if~~ where the official serves is located, and each chief inspector shall be a qualified elector of the municipality in which the chief inspector serves. If no qualified candidate for chief inspector is available or if the chief inspector is appointed to fill a vacancy under par. (b), the person so appointed need not be a qualified elector of the municipality. If a municipal clerk or deputy clerk serves as a registration deputy or is appointed to fill a vacancy under par. (b), the clerk or deputy clerk need not be a resident of the ~~municipality~~ county, but shall be a resident of the state. No more than 2 individuals holding the office of clerk or deputy clerk may serve without regard to ~~municipal~~ county residency in any municipality at any election. Special registration deputies who are appointed under s. 6.55 (6) may be appointed to serve more than one polling place. All officials appointed under this section shall be able to read and write the English language, be capable, and be of good understanding, and may not be a candidate for any office to be voted for at an election at which they serve. In 1st class cities, they may hold no public office other than notary public. Except as authorized under subs. (1) (b) and

(4) (c), all inspectors shall be affiliated with one of the 2 recognized political parties which received the largest number of votes for president, or governor in nonpresidential general election years, in the ward or combination of wards served by the polling place at the last election. Excluding the inspector who may be appointed under sub. (1) (b), the party which received the largest number of votes is entitled to one more inspector than the party receiving the next largest number of votes at each polling place. ~~Election officials appointed under this section may serve the electors of more than one ward where wards are combined under s. 5.15 (6) (b). If a municipality is not divided into wards, the ward requirements in this paragraph apply to the municipality at large.~~ Whenever 2 or more inspectors are required to perform a function within a polling place and both parties that are entitled to submit nominees have done so, the chief inspector shall assign, insofar as practicable, an equal number of inspectors from the nominees of each party.

(b) When a vacancy occurs in an office under this section, the vacancy shall be filled by appointment of the municipal clerk. Unless the vacancy occurs in the position of an inspector appointed under sub. (1) (b), the vacancy shall be filled from the remaining names on the lists submitted under sub. (4) or from additional names submitted by the chairperson of the county party committee of the appropriate party under sub. (4) whenever names are submitted under sub. (4) (d). If the vacancy is due to candidacy, sickness or any other temporary cause, the appointment shall be a temporary appointment and effective only for the election at which the temporary vacancy occurs. The same qualifications that applied to original appointees shall be required of persons who fill vacancies except that ~~a vacancy may be filled in cases of emergency or because of time limitations by a person who resides in another aldermanic district or ward within the municipality, and~~ if a municipal clerk or

deputy clerk fills the vacancy, the clerk or deputy, but not more than a total of 2 individuals in any municipality, may serve without regard to the clerk's or deputy's ~~municipality~~ county of residence, if the clerk or deputy meets the other qualifications.

SECTION 33. 7.41 (1) of the statutes is amended to read:

7.41 **(1)** Any member of the public may be present at any polling place, in the office of any municipal clerk whose office is located in a public building on any day that absentee ballots may be cast in that office, or at an alternate site under s. 6.855 on any day that absentee ballots may be cast at that site for the purpose of observation of an election and the absentee ballot voting process, except 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 at that election. The chief inspector or municipal clerk may reasonably limit the number of persons representing the same organization who are permitted to observe under this subsection at the same time. Each person permitted to observe under this subsection shall print his or her name in and sign and date a log maintained by the chief inspector or municipal clerk for that polling place, office, or alternate site.

SECTION 34. 7.41 (2) of the statutes is amended to read:

7.41 **(2)** The chief inspector or municipal clerk may restrict the location of any individual exercising the right under sub. (1) to certain areas within a polling place, the clerk's office, or alternate site under s. 6.855. The chief inspector or municipal clerk shall clearly designate ~~such an area as an~~ observation ~~area. Designated observation~~ areas for election observers under sub. (1). The observation areas shall be within 5 feet of the table at which electors announce their name and address to be issued a voter number at the polling place, office, or alternate site and within 5

feet of the table at which a person may register to vote at the polling place, office, or alternate site. The chief inspector or municipal clerk may permit an election observer to sit at either of the tables, provided the election observer is not permitted to observe confidential information. The observation areas shall be so positioned to permit any ~~authorized individual~~ election observer to readily observe all public aspects of the voting process.

SECTION 35. 7.41 (3) (intro.) and (a) of the statutes are amended to read:

7.41 **(3)** (intro.) The chief inspector or municipal clerk may order the removal of any individual exercising the right under sub. (1) if that individual commits an overt act which does any of the following:

(a) Disrupts the operation of the polling place, clerk's office, or alternate site under s. 6.855~~; or~~.

SECTION 36. 7.51 (2) (cm) of the statutes is created to read:

7.51 **(2)** (cm) The board of canvassers may review the validity of any ballot submitted with a statement under s. 6.79 (3) (c) 2. or any ballot with an affidavit enclosed under s. 6.87 (4) (b) 6. in the same manner as provided for challenged ballots under s. 6.95.

SECTION 37. 7.51 (3) (a) of the statutes is amended to read:

7.51 **(3)** (a) The inspectors shall place together all ballots counted by them which relate to any national, state or county office or any state, county or technical college district referendum and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots together with any ballots marked "Defective" shall then be secured by the ~~inspectors~~ chief inspector, and, if available, one other inspector whose party affiliation is different than the chief inspector's party affiliation, in the ballot container in such a manner that the

container cannot be opened without breaking the seals or locks, or destroying the container. The inspectors shall place the ballots cast under s. 6.97 in a separate, securely sealed carrier envelope which is clearly marked "Section 6.97 ballots". The chief inspector and 2 other inspectors shall sign the carrier envelope. The carrier envelope shall not be placed in the ballot container. The inspectors shall then deliver the ballots to the municipal clerk in the ballot container and carrier envelope.

SECTION 38. 7.51 (5) (b) of the statutes is amended to read:

7.51 **(5)** (b) The municipal clerk shall deliver all ballots, statements, tally sheets, lists, ~~and~~ envelopes, and affidavits relating to a school district election to the school district clerk, excluding any absentee ballots that are received after the closing hour on election night and any provisional ballots, by 4 p.m. on the day following each such election and shall deliver to the school district clerk any amended statements, tally sheets, affidavits, and lists for additional provisional and absentee ballots canvassed under s. 6.97 (4) or 7.515 (6) (b) no later than 4 p.m. on the Monday after the election. The municipal clerk shall deliver to the county clerk the ballots, statements, tally sheets, lists, ~~and~~ envelopes, and affidavits for his or her municipality relating to any county, technical college district, state, or national election no later than 4 p.m. on the day following each such election or, in municipalities where absentee ballots are canvassed under s. 7.52, by 4 p.m. on the 2nd day following each such election, and shall deliver to the county clerk any additional provisional and absentee ballots canvassed under s. 6.97 (4) or 7.515 (6) (b) together with amended statements, tally sheets, lists, ~~and~~ envelopes, and affidavits no later than 4 p.m. on the Monday after the election. The person delivering the returns shall be paid out of the municipal treasury. Each clerk shall

retain ballots, statements, tally sheets, ~~or~~ envelopes, and affidavits received by the clerk until destruction is authorized under s. 7.23 (1).

SECTION 39. 7.52 (3) (a) of the statutes is amended to read:

7.52 **(3)** (a) The board of absentee ballot canvassers shall first open the carrier envelope only, and, in such a manner that a member of the public, if he or she desired, could hear, announce the name of the absent elector or the identification serial number of the absent elector if the elector has a confidential listing under s. 6.47 (2). When the board of absentee ballot canvassers finds that the certification has been properly executed and the applicant is a qualified elector of the ward or election district, the board of absentee ballot canvassers shall enter an indication on the poll list next to the applicant's name indicating an absentee ballot is cast by the elector. The board of absentee ballot canvassers shall then open the envelope containing the ballot in a manner so as not to deface or destroy the certification thereon. The board of absentee ballot canvassers shall take out the ballot without unfolding it or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the board of absentee ballot canvassers shall verify that the ballot has been endorsed by the issuing clerk. If the poll list indicates that proof of residence is required and no proof of residence is enclosed or the name or address on the document that is provided is not the same as the name and address shown on the poll list, the board of absentee ballot canvassers shall proceed as provided under s. 6.97 (2). If the board of absentee ballot canvassers finds that any elector has enclosed an affidavit under s. 6.87 (4) (b) 6., the inspector shall mark the back of the elector's ballot with the serial number that corresponds to the elector's name on the poll list and shall enter on the poll list next to the name of the elector the words "Alternative identification." The board of absentee ballot canvassers shall mark the poll list number of each elector who casts

an absentee ballot on the back of the elector's ballot. The board of absentee ballot canvassers shall then deposit the ballot into the proper ballot box and enter the absent elector's name or poll list number after his or her name on the poll list.

SECTION 40. 7.52 (4) (cm) of the statutes is created to read:

7.52 **(4)** (cm) The board of absentee ballot canvassers may review the validity of any absentee ballot with an affidavit enclosed under s. 6.87 (4) (b) 6. in the same manner as provided for challenged ballots under s. 6.95.

SECTION 41. 7.52 (8) of the statutes is amended to read:

7.52 **(8)** The board of absentee ballot canvassers shall make full and accurate return of the votes cast for each candidate and proposition on the tally sheet forms. Each tally sheet shall record the returns for each office or referendum by ward, unless combined returns are authorized in accordance with s. 5.15 (6) (b), in which case the tally sheet shall record the returns for each group of combined wards. After recording the votes, the board of absentee ballot canvassers shall seal in a carrier envelope outside the ballot bag or container one inspector's statement under sub. (4) (d), one tally sheet, and one poll list for delivery to the county clerk, unless the election relates only to municipal or school district offices ~~or referenda~~. The board of absentee ballot canvassers shall also similarly seal one statement, one tally sheet, and one poll list for delivery to the municipal clerk.

SECTION 42. 8.05 (3) (d) of the statutes is amended to read:

8.05 **(3)** (d) The question of adoption of the nonpartisan primary under this subsection may be submitted to the electors at ~~any regular~~ an election authorized under s. 8.065 (2) to be held in the town ~~or at a special election called for the purpose~~. When a petition requesting adoption of the nonpartisan primary conforming to the

requirements of s. 8.40 and signed by at least 20 electors of the town is filed with the town clerk as provided in s. 8.37, the question shall be submitted to a vote.

SECTION 43. 8.05 (3) (e) of the statutes is amended to read:

8.05 **(3)** (e) Petitions requesting a vote on the question at a regular town election shall be filed in accordance with s. 8.37 no later than 5 p.m. the last Tuesday in February. When the petition is filed, the clerk shall check its sufficiency. ~~Whether at a regular or special election, the~~ The clerk shall give separate notice by one publication in a newspaper at least 5 days before the election.

SECTION 44. 8.06 of the statutes is amended to read:

8.06 Special elections may be called. Towns, cities, villages, and school districts may call special elections for any purpose whenever such action is authorized or required by law. ~~If an~~, and may include a call for a special referendum. A special election ~~is called~~ that includes a call for a special referendum~~, the election~~ shall be noticed under s. 8.55.

SECTION 45. 8.065 of the statutes is created to read:

8.065 Scheduling of referendums. (1) In this section, "local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing, or an instrumentality of the state and any of the foregoing.

(2) Unless otherwise required by law, a referendum held by any local governmental unit that is authorized or required by law to hold a referendum may be held only concurrently with the spring primary, spring election, partisan primary, or general election or with a special election.

SECTION 46. 8.50 (intro.) of the statutes is amended to read:

8.50 Special elections. (intro.) Unless otherwise provided, this section applies to filling vacancies in the U.S. senate and house of representatives, executive state offices except the offices of governor, lieutenant governor, and district attorney, judicial and legislative state offices, county, city, village, and town offices, and the offices of municipal judge and member of the board of school directors in school districts organized under ch. 119. ~~State~~ Congressional and state legislative offices may be filled in anticipation of the occurrence of a vacancy whenever authorized in sub. (4) (bm) or (e). No special election may be held after February 1 preceding the spring election unless it is held on the same day as the spring election, nor after August 1 preceding the general election unless it is held on the same day as the general election, until the day after that election. If the special election is held on the day of the general election, the primary for the special election, if any, shall be held on the day of the partisan primary. If the special election is held on the day of the spring election, the primary for the special election, if any, shall be held on the day of the spring primary.

SECTION 47. 8.50 (1) (a) of the statutes is amended to read:

8.50 **(1)** (a) When there is to be a special election~~,~~: the county board of supervisors shall, except as provided in s. 17.21 (5), order the special election for county office ~~shall be ordered by the county board of supervisors except as provided in s. 17.21 (5)~~; the common council shall order the special election for city office ~~shall be ordered by the common council~~; the board of trustees shall order the special election for village office ~~shall be ordered by the board of trustees~~; the town board of supervisors shall order the special election for town office ~~shall be ordered by the town board of supervisors~~; the school board shall order the special election for school board member in a school district organized under ch. 119 ~~shall be ordered by the~~

~~school board~~; the governing body of the municipality shall order the special election for municipal judge ~~shall be ordered by the governing body of the municipality~~, except in 1st class cities~~,~~ or if the judge is elected under s. 755.01 (4) jointly by the governing bodies of all municipalities served by the judge; and the governor shall order all other special elections ~~shall be ordered by the governor~~. When the governor ~~or attorney general~~ issues the order, it shall be filed and recorded in the office of the board. When the county board of supervisors issues the order, it shall be filed and recorded in the office of the county clerk. When the county executive issues the order, it shall be filed in the office of the county board of election commissioners. When the common council issues the order, it shall be filed in the office of the city clerk. When the board of trustees issues the order, it shall be filed in the office of the village clerk. When the town board of supervisors issues the order, it shall be filed in the office of the town clerk. When the school board of a school district organized under ch. 119 issues the order, it shall be filed and recorded in the office of the city board of election commissioners. If a municipal judge is elected under s. 755.01 (4), the order shall be filed in the office of the county clerk or board of election commissioners of the county having the largest portion of the population of the jurisdiction served by the judge.

SECTION 48. 8.50 (1) (c) of the statutes is amended to read:

8.50 **(1)** (c) The order and notice shall specify the office to be filled, the expiration date of the remaining term of office, the date of the election, the earliest date for circulating and deadline for filing nomination papers, the area involved in the election, the name of the incumbent before the vacancy occurred and a description of how the vacancy occurred, or for an election held under sub. (4) (bm) or (e), the name of the incumbent and a description of how and when the vacancy is

expected to occur. Except as otherwise provided in this paragraph, the notice shall include the information specified in s. 10.01 (2) (a).

SECTION 49. 8.50 (2) (a) of the statutes is amended to read:

8.50 **(2)** (a) The date for the special election shall be not ~~less~~ earlier than 62 ~~nor more than 77~~ days from the date of the order except when the special election is held to fill a vacancy in a national office or the special election is held on the day of the general election or spring election. If a special election is held concurrently with the spring election, the special election may be ordered ~~not earlier than 92 days prior to the spring primary and~~ not later than 49 days prior to ~~that~~ the spring primary. If a special election is held concurrently with the general election or a special election is held to fill a national office, the special election may be ordered not ~~earlier than 122~~ later than 92 days prior to the partisan primary or special primary, respectively~~, and not later than 92 days prior to that primary~~.

SECTION 50. 8.50 (4) (bm) of the statutes is created to read:

8.50 **(4)** (bm) Whenever a U.S. senator or representative in congress is elected to another office after the commencement of his or her term, and the term of the new office or the period during which the senator or representative is eligible to assume that office commences prior to the end of the senator's or representative's original term of office, the governor may call a special election to fill the seat of the senator or representative in anticipation of a vacancy, upon receipt of notice from the secretary of state that the secretary has received notice of the written resignation of that senator or representative under s. 17.02 (1) that is effective on a date not later than the date of the proposed special election.

SECTION 51. 8.50 (4) (f) 1. and 2. of the statutes are amended to read: