

2013 DRAFTING REQUEST

Bill

Received: **5/3/2013** Received By: **tkuczens**
Wanted: **As time permits** Same as LRB:
For: **Kathleen Bernier (608) 266-9172** By/Representing: **Chad Z.**
May Contact: Drafter: **tkuczens**
Subject: **Elections - miscellaneous** Addl. Drafters:
Extra Copies: **jk, jtk**

Submit via email: **YES**
Requester's email: **Rep.Bernier@legis.wisconsin.gov**
Carbon copy (CC) to: **tracy.kuczenski@legis.wisconsin.gov**
andrew.hanus@legis.wisconsin.gov
chad.zuleger@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Require remade ballots to be marked as such in designated location

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 5/8/2013			_____			
/P1	tkuczens 5/9/2013	jdyer 5/9/2013	rschluet 5/9/2013	_____	sbasford 5/9/2013		
/P2	tkuczens	jdyer	phenry	_____	lparisi		

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	5/10/2013	5/10/2013	5/10/2013	_____	5/9/2013		
/P3	tkuczens 5/14/2013	jdyer 5/15/2013	jfrantze 5/15/2013	_____ _____	mbarman 5/10/2013		
/P4	tkuczens 9/25/2013			_____ _____	sbasford 5/15/2013		
/1		kfollett 9/25/2013	jfrantze 9/25/2013	_____ _____	lparisi 9/25/2013	mbarman 9/26/2013	

FE Sent For:

Not needed

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Handwritten notes:
 11/5/13
 5/25
 [Signature] 9/25

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May 3, 2013

Rep. Bernier (Chad Zuleger)

Prepare a draft like LRB-0472 but require the label/serial number to be located somewhere other than upper right corner

Concern: may interfere with machine reading

→ Maybe the "greyed" or certified area on ballots?

* is there a uniform/greyed area?

		Duplicate	original
→ check the box?	recade /damaged	_____	_____
	overroted	_____	_____

TK notes:

* Provisions related to LRCOB (form) 5.51 general provisions

5.90(1) Compare duplicate to original in event of recount

5.51(8) CAB ballot forms under 7.08(1)(a)



pl
PB

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

5/8/13

wanted
5/9/13 or 5/10/13

✓

Gen

1

AN ACT ...; relating to: labeling of duplicate ballots. ✓

Analysis by the Legislative Reference Bureau

Current law permits an election official to create a duplicate of an elector's ballot when one of two circumstances occur: 1) the elector's original ballot is damaged or defective such that the ballot cannot be properly counted by automatic tabulating equipment; or 2) the elector has overvoted for an office by writing in votes for more candidates than the number of votes authorized to be cast. In the first circumstance, the election official duplicates the elector's ballot in its entirety. In the second circumstance, the election official duplicates the elector's original ballot but does not complete that portion of the ballot for the office for which the elector overvoted. Current law requires the election official to retain and write "Damaged Ballot" or "Overvoted Ballot" on the elector's original ballot, and to assign a consecutive number to each such ballot. Current law also requires the election official to write "Duplicate Damaged Ballot" or "Duplicate Overvoted Ballot" on the duplicate ballot and to assign a corresponding consecutive number to the duplicate. *

This bill requires the election officials to label and number these ballots and duplicate ballots in that portion of the ballot for official endorsement. ✓

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

✓

2

SECTION 1. 5.85 (2) (a) of the statutes is amended to read:

1 5.85 (2) (a) The election officials shall examine the ballots or record of votes cast
2 for write-in votes and shall count and tabulate the write-in votes. The election
3 officials shall count write-in votes as provided in s. 7.50 (2) (d). When an electronic
4 voting system is used in which ballots are distributed to electors, before separating
5 the remaining ballots from their respective covering envelopes, the election officials
6 shall examine the ballots for write-in votes. When an elector has cast a write-in
7 vote, the election officials shall compare the write-in vote with the votes on the ballot
8 to determine whether the write-in vote results in an overvote for any office. In case
9 of an overvote for any office, the election officials shall ~~make a true duplicate ballot~~
10 ~~of all votes on the ballot except for the office that is overvoted, by using an official~~
11 ~~ballot of that kind used by the elector who voted the original ballot, and one of the~~
12 ~~marking devices so as to transfer all votes of the elector except for the office~~
13 ~~overvoted, to an official ballot of that kind used in the ward at that election. Unless~~
14 ~~election officials are selected under s. 7.30 (4) (e) without regard to party affiliation,~~
15 ~~the election officials shall consist in each case of at least one election official of each~~
16 ~~of the 2 major political parties, whenever officials of both parties are present follow~~
17 the procedure in par. (b).

INSERT
A
(from next
page)

****NOTE: I found the manner in which the material about write-in votes and duplicate ballots was divided between this par. (a) and current law s. 5.85 (2) (b) to be confusing. I moved the stricken material in this paragraph into newly created s. 5.85 (2) (b) 1., and modified the language slightly for clarity. I also transferred the sentence about the manner of counting write-in votes from current law s. 5.85 (2) (b) to this par. (a). Let me know if you have any questions or concerns about this approach.

*

History: 1979 c. 311, 1989 a. 192, 1997 a. 127, 2001 a. 16, 2005 a. 149

18 **SECTION 2.** 5.85 (2) (b) 1. of the statutes is created to read:

19 5.85 (2) (b) 1. In case of an overvote for any office, the election officials shall
20 make a true duplicate ballot of all votes on the ballot except for the office that is
21 overvoted in the manner described in this subdivision. The election officials shall use

1 an official ballot of that kind used by the elector who voted the original ballot, and
 2 one of the marking devices, so as to transfer all votes of the elector except for the office
 3 overvoted to an official ballot of that kind used in the ward at that election. Unless
 4 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
 5 whenever election officials of both of the 2 major political parties are present, the
 6 election officials acting under this subdivision shall consist in each case of at least
 7 one election official of each of the parties.

INSERT
 A →
 (move to previous page)

SECTION 3. 5.85 (2) (b) of the statutes is renumbered 5.85 (2) (b) 2. and amended to read:

5.85 (2) (b) 2. Write-in votes shall be counted as provided in s. 7.50 (2) (d). The election officials shall clearly label the original ballot upon which there is an overvote shall be clearly labeled with the words "Overvoted Ballot" and the duplicate ballot produced under par. (a) subd. 1. shall be clearly labeled "Duplicate Overvoted Ballot." The election officials shall place the same serial number on each "Overvoted Ballot" and its corresponding "Duplicate Overvoted Ballot," commencing with number "1" and continuing consecutively for each of the ballots for which a "Duplicate Overvoted Ballot" is produced in that ward or election district. The election officials shall write each label and serial number required under this subdivision in the space for official endorsement. The election officials shall initial the "Duplicate Overvoted Ballot" ballots and shall place them in the container for return of the ballots. The "Overvoted Ballot" ballots and their envelopes shall be placed in the "Original Ballots" envelope.

~~History: 1979 s. 311; 1989 s. 192; 1997 s. 137; 2001 s. 16; 2005 s. 143.~~

SECTION 4. 5.85 (3) of the statutes is amended to read:

5.85 (3) The election officials shall examine the ballots to determine if any is damaged or defective so that it cannot be counted by the automatic tabulating

1 equipment. If any ballot is damaged or defective so that it cannot be properly counted
2 by the automatic tabulating equipment, the election officials, in the presence of
3 witnesses, shall make a true duplicate ballot of all votes on that ballot by using one
4 of the marking devices so as to transfer all votes of the elector to an official ballot of
5 that kind used by the elector who voted the original ballot in that election. Unless
6 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
7 whenever election officials of both of the 2 major political parties are present,[✓] the
8 election officials acting under this paragraph[✓] shall consist in each case of at least one
9 election official of each of the ~~2~~[↓] major political parties, ~~whenever officials of both~~
10 ~~parties are present~~. The election officials shall clearly label the original ballot[✓] ~~shall~~ ^{plain}
11 ~~be clearly labeled with the words~~ “Damaged Ballot” and the duplicate ballot so
12 produced under this paragraph with the words “Duplicate Damaged Ballot”,~~and~~
13 ~~each shall bear.~~ The election officials shall place the same serial number which shall
14 ~~be placed thereon by the election officials, on each “Damaged Ballot” and its~~
15 corresponding “Duplicate Damaged Ballot,”[✓] commencing with number “1” and
16 continuing consecutively for ~~the ballots of that kind~~ each of the ballots for which a
17 “Duplicate Damaged Ballot” is produced in the ward or election district. The election
18 officials shall write each label and serial number required under this[✓] paragraph in
19 the space for official endorsement.[✓] The election officials shall initial the “Duplicate
20 Damaged Ballot” ballots, and shall place them in the container for return of the
21 ballots. The officials shall place “Damaged Ballot” ballots and their envelopes in the
22 “Original Ballots” envelope.

23 History: 1979 c. 311; 1989 a. 192; 1997 a. 127; 2001 a. 16; 2005 a. 149.

(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2305/P1dn

TKK: A:...

date

JLd

Chad:

When we discussed this draft on the phone, you asked whether we could create a space in the certified area on a ballot in which election officials could mark a line or a box to indicate that the ballot is a duplicate damaged or duplicate overvoted ballot. I think the election officials would also need to mark a line or box on the original damaged or overvoted ballot for purposes of comparing the originals and duplicates in the event of a recount. See s. 5.90 (1). Okay? I also think this approach will require an explicit instruction to GAB to include such a line or box on the ballot forms. See, for example, ss. 5.51 (8) and 7.08 (1) (a).

In this draft, the election officials are directed to label a duplicate or damaged ballot as they are required to do under current law, but are directed to do so in the space for official endorsement. Do you want me to require GAB to create lines or boxes for marking in lieu of the written labels? If so, do you want to specify that the lines or boxes be created "in the space for official endorsement"?

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2305/P1dn
TKK:jld:jf

May 9, 2013

Chad:

When we discussed this draft on the phone, you asked whether we could create a space in the certified area on a ballot in which election officials could mark a line or a box to indicate that the ballot is a duplicate damaged or duplicate overvoted ballot. I think the election officials would also need to mark a line or box on the original damaged or overvoted ballot for purposes of comparing the originals and duplicates in the event of a recount. See s. 5.90 (1). Okay? I also think this approach will require an explicit instruction to GAB to include such a line or box on the ballot forms. See ss. 5.51 (8) and 7.08 (1) (a).

In this draft, the election officials are directed to label a duplicate or damaged ballot as they are required to do under current law, but are directed to do so in the space for official endorsement. Do you want me to require GAB to create lines or boxes for marking in lieu of the written labels? If so, do you want to specify that the lines or boxes be created "in the space for official endorsement"?

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov



d-note
re-send
/Pldn)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

5/9/13
Today

✓ Regen

1 AN ACT to renumber and amend 5.85 (2) (b); to amend 5.85 (2) (a) and 5.85
2 (3); and to create 5.85 (2) (b) 1. of the statutes; relating to: labeling of
3 duplicate ballots.

Analysis by the Legislative Reference Bureau

Current law permits an election official to create a duplicate of an elector's ballot when one of two circumstances occur: 1) the elector's original ballot is damaged or defective such that the ballot cannot be properly counted by automatic tabulating equipment; or 2) the elector has overvoted for an office by writing in votes for more candidates than the number of votes authorized to be cast. In the first circumstance, the election official duplicates the elector's ballot in its entirety. In the second circumstance, the election official duplicates the elector's original ballot but does not complete that portion of the ballot for the office for which the elector overvoted. ~~NO~~ Current law requires the election official to retain and write "Damaged Ballot" or "Overvoted Ballot" on the elector's original ballot. Current law also requires the election official to write "Duplicate Damaged Ballot" or "Duplicate Overvoted Ballot" on the duplicate ballot.

DATA

This bill requires the election officials to uniformly write the identity of these ballots and duplicate ballots on that portion of the ballot where the election officials initial the ballot prior to distributing the ballot to an elector.

label and number

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

in that portion of the ballot for official endorsement

1 **SECTION 1.** 5.85 (2) (a) of the statutes is amended to read:

2 5.85 (2) (a) The election officials shall examine the ballots or record of votes cast
3 for write-in votes and shall count and tabulate the write-in votes. The election
4 officials shall count write-in votes as provided in s. 7.50 (2) (d). When an electronic
5 voting system is used in which ballots are distributed to electors, before separating
6 the remaining ballots from their respective covering envelopes, the election officials
7 shall examine the ballots for write-in votes. When an elector has cast a write-in
8 vote, the election officials shall compare the write-in vote with the votes on the ballot
9 to determine whether the write-in vote results in an overvote for any office. In case
10 of an overvote for any office, the election officials shall ~~make a true duplicate ballot~~
11 ~~of all votes on the ballot except for the office that is overvoted, by using an official~~
12 ~~ballot of that kind used by the elector who voted the original ballot, and one of the~~
13 ~~marking devices so as to transfer all votes of the elector except for the office~~
14 ~~overvoted, to an official ballot of that kind used in the ward at that election. Unless~~
15 ~~election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,~~
16 ~~the election officials shall consist in each case of at least one election official of each~~
17 ~~of the 2 major political parties, whenever officials of both parties are present~~ follow
18 the procedure in par. (b).

 ***NOTE: I found the manner in which the material about write-in votes and duplicate ballots was divided between this par. (a) and current law s. 5.85 (2) (b) to be confusing. I moved the stricken material in this paragraph into newly created s. 5.85 (2) (b) 1., and modified the language slightly for clarity. I also transferred the sentence about the manner of counting write-in votes from current law s. 5.85 (2) (b) to this par. (a). Let me know if you have any questions or concerns about this approach.

19 **SECTION 2.** 5.85 (2) (b) of the statutes is renumbered 5.85 (2) (b) 2. and amended
20 to read:

21 5.85 (2) (b) 2. ~~Write-in votes shall be counted as provided in s. 7.50 (2) (d).~~ The
22 election officials shall clearly label the original ballot upon which there is an overvote

1 shall be clearly labeled with the words "Overvoted Ballot" and the duplicate ballot
 2 produced under ~~par. (a) subd. 1.~~ shall be clearly labeled "Duplicate Overvoted Ballot."
 3 The election officials shall place the same serial number on each "Overvoted Ballot"
 4 and its corresponding "Duplicate Overvoted Ballot," commencing with number "1"
 5 and continuing consecutively for each of the ballots for which a "Duplicate Overvoted
 6 Ballot" is produced in that ward or election district. To the greatest extent
 7 practicable, the election officials shall write ^{each} ~~the~~ label and serial number required
 8 under this subdivision in the same place on the ballot as the election officials initial
 9 the ballot prior to distributing the ballot to an elector. The election officials shall
 10 initial the "Duplicate Overvoted Ballot" ballots and shall place them in the container
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 16 overvoted in the manner described in this subdivision. The election officials shall use
 17 an official ballot of that kind used by the elector who voted the original ballot, and
 18 one of the marking devices, so as to transfer all votes of the elector except for the office
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 21 whenever election officials of both of the 2 major political parties are present, the
 22 election officials acting under this subdivision shall consist in each case of at least
 23 one election official of each of the parties.

24 **SECTION 4.** 5.85 (3) of the statutes is amended to read:

space for
official
endorsement

1 5.85 (3) The election officials shall examine the ballots to determine if any is
2 damaged or defective so that it cannot be counted by the automatic tabulating
3 equipment. If any ballot is damaged or defective so that it cannot be properly counted
4 by the automatic tabulating equipment, the election officials, in the presence of
5 witnesses, shall make a true duplicate ballot of all votes on that ballot by using one
6 of the marking devices so as to transfer all votes of the elector to an official ballot of
7 that kind used by the elector who voted the original ballot in that election. Unless
8 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
9 whenever election officials of both of the 2 major political parties are present, the
10 election officials acting under this ~~paragraph~~ ^{subsection} shall consist in each case of at least one
11 election official of each of the ~~2 major political parties, whenever officials of both~~
12 parties are present. The election officials shall clearly label the original ballot shall
13 be clearly labeled with the words "Damaged Ballot" and the duplicate ballot so
14 produced under this ~~paragraph~~ ^{subsection} with the words "Duplicate Damaged Ballot", and
15 each shall bear,". The election officials shall place the same serial number which
16 shall be placed thereon by the election officials, on each "Damaged Ballot" and its
17 corresponding "Duplicate Damaged Ballot," commencing with number "1" and
18 continuing consecutively for the ballots of that kind each of the ballots for which a
19 "Duplicate Damaged Ballot" is produced in the ward or election district. (To the
20 greatest extent practicable, the election officials shall write ^{each} the label and serial
21 number required under this ~~paragraph~~ ^{subsection} in the same place on the ballot as the election
22 officials initial the ballot prior to distributing the ballot to an elector. The election
23 officials shall initial the "Duplicate Damaged Ballot" ballots, and shall place them

space for official endorsement

1 in the container for return of the ballots. The officials shall place “Damaged Ballot”
2 ballots and their envelopes in the “Original Ballots” envelope.

3 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2305(P)dn
TKK:jld:jf

P2

May 9, 2013

Chad:

When we discussed this draft on the phone, you asked whether we could create a space in the certified area on a ballot in which election officials could mark a line or a box to indicate that the ballot is a duplicate damaged or duplicate overvoted ballot. I think the election officials would also need to mark a line or box on the original damaged or overvoted ballot for purposes of comparing the originals and duplicates in the event of a recount. See s. 5.90 (1). Okay? I also think this approach will require an explicit instruction to GAB to include such a line or box on the ballot forms. See ss. 5.51 (8) and 7.08 (1) (a).

In this draft, the election officials are directed to label a duplicate or damaged ballot as they are required to do under current law, but are directed to do so in the space for official endorsement. Do you want me to require GAB to create lines or boxes for marking in lieu of the written labels? If so, do you want to specify that the lines or boxes be created "in the space for official endorsement"?

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2305/P2dn
TKK:jld:rs

May 9, 2013

Chad:

When we discussed this draft on the phone, you asked whether we could create a space in the certified area on a ballot in which election officials could mark a line or a box to indicate that the ballot is a duplicate damaged or duplicate overvoted ballot. I think the election officials would also need to mark a line or box on the original damaged or overvoted ballot for purposes of comparing the originals and duplicates in the event of a recount. See s. 5.90 (1). Okay? I also think this approach will require an explicit instruction to GAB to include such a line or box on the ballot forms. See ss. 5.51 (8) and 7.08 (1) (a).

In this draft, the election officials are directed to label a duplicate or damaged ballot as they are required to do under current law, but are directed to do so in the space for official endorsement. Do you want me to require GAB to create lines or boxes for marking in lieu of the written labels? If so, do you want to specify that the lines or boxes be created "in the space for official endorsement"?

Tracy K. Kuczenski
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DN

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

5/10/13 Today

[Handwritten signature]

Regen

X

1 AN ACT to renumber and amend 5.85 (2) (b); to amend 5.85 (2) (a) and 5.85
2 (3); and to create 5.85 (2) (b) 1. of the statutes; relating to: labeling of
3 duplicate ballots.

Analysis by the Legislative Reference Bureau

Current law permits an election official to create a duplicate of an elector's ballot when one of two circumstances occur: 1) the elector's original ballot is damaged or defective such that the ballot cannot be properly counted by automatic tabulating equipment; or 2) the elector has overvoted for an office by writing in votes for more candidates than the number of votes authorized to be cast. In the first circumstance, the election official duplicates the elector's ballot in its entirety. In the second circumstance, the election official duplicates the elector's original ballot but does not complete that portion of the ballot for the office for which the elector overvoted. Current law requires the election official to retain and write "Damaged Ballot" or "Overvoted Ballot" on the elector's original ballot. Current law also requires the election official to write "Duplicate Damaged Ballot" or "Duplicate Overvoted Ballot" on the duplicate ballot.

X This bill requires the election officials to label ^{or mark the identity of} and number these ballots and duplicate ballots in that portion of the ballot for official endorsement.

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

in boxes and on lines designated for that purpose

1 SECTION 1. 5.85 (2) (a) of the statutes is amended to read:

2 5.85 (2) (a) The election officials shall examine the ballots or record of votes cast
3 for write-in votes and shall count and tabulate the write-in votes. The election
4 officials shall count write-in votes as provided in s. 7.50 (2) (d). When an electronic
5 voting system is used in which ballots are distributed to electors, before separating
6 the remaining ballots from their respective covering envelopes, the election officials
7 shall examine the ballots for write-in votes. When an elector has cast a write-in
8 vote, the election officials shall compare the write-in vote with the votes on the ballot
9 to determine whether the write-in vote results in an overvote for any office. In case
10 of an overvote for any office, the election officials shall ~~make a true duplicate ballot~~
11 ~~of all votes on the ballot except for the office that is overvoted, by using an official~~
12 ~~ballot of that kind used by the elector who voted the original ballot, and one of the~~
13 ~~marking devices so as to transfer all votes of the elector except for the office~~
14 ~~overvoted, to an official ballot of that kind used in the ward at that election. Unless~~
15 ~~election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,~~
16 ~~the election officials shall consist in each case of at least one election official of each~~
17 ~~of the 2 major political parties, whenever officials of both parties are present follow~~
18 the procedure in par. (b).

6
****NOTE: I found the manner in which the material about write-in votes and duplicate ballots was divided between this par. (a) and current law s. 5.85 (2) (b) to be confusing. I moved the stricken material in this paragraph into newly created s. 5.85 (2) (b) 1., and modified the language slightly for clarity. I also transferred the sentence about the manner of counting write-in votes from current law s. 5.85 (2) (b) to this par. (a). Let me know if you have any questions or concerns about this approach.

19 SECTION 2. 5.85 (2) (b) of the statutes is renumbered 5.85 (2) (b) 2. and amended
20 to read:

21 5.85 (2) (b) 2. ~~Write-in votes shall be counted as provided in s. 7.50 (2) (d).~~ The
22 election officials shall clearly label the original ballot upon which there is an overvote

Insert 2-19 ✓

1 shall be clearly labeled with the words "Overvoted Ballot" and the duplicate ballot
2 produced under ~~par. (a) subd. 1.~~ shall be clearly labeled "Duplicate Overvoted Ballot."
3 The election officials shall place the same serial number on each "Overvoted Ballot"
4 and its corresponding "Duplicate Overvoted Ballot," commencing with number "1"
5 and continuing consecutively for each of the ballots for which a "Duplicate Overvoted
6 Ballot" is produced in that ward or election district. The election officials shall write
7 each label and serial number required under this subdivision in the space for official
8 endorsement. The election officials shall initial the "Duplicate Overvoted Ballot"
9 ballots and shall place them in the container for return of the ballots. The "Overvoted
10 Ballot" ballots and their envelopes shall be placed in the "Original Ballots" envelope.

11 **SECTION 3.** 5.85 (2) (b) 1. of the statutes is created to read:

12 5.85 (2) (b) 1. In case of an overvote for any office, the election officials shall
13 make a true duplicate ballot of all votes on the ballot except for the office that is
14 overvoted in the manner described in this subdivision. The election officials shall use
15 an official ballot of that kind used by the elector who voted the original ballot, and
16 one of the marking devices, so as to transfer all votes of the elector except for the office
17 overvoted to an official ballot of that kind used in the ward at that election. Unless
18 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
19 whenever election officials of both of the 2 major political parties are present, the
20 election officials acting under this subdivision shall consist in each case of at least
21 one election official of each of the parties.

22 **SECTION 4.** 5.85 (3) of the statutes is amended to read:

23 5.85 (3) The election officials shall examine the ballots to determine if any is
24 damaged or defective so that it cannot be counted by the automatic tabulating
25 equipment. If any ballot is damaged or defective so that it cannot be properly counted

Insert 3-22 ✓

1 by the automatic tabulating equipment, the election officials, in the presence of
2 witnesses, shall make a true duplicate ballot of all votes on that ballot by using one
3 of the marking devices so as to transfer all votes of the elector to an official ballot of
4 that kind used by the elector who voted the original ballot in that election. Unless
5 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
6 whenever election officials of both of the 2 major political parties are present, the
7 election officials acting under this subsection shall consist in each case of at least one
8 election official of each of the 2 major political parties, whenever officials of both
9 parties are present. The election officials shall clearly label the original ballot shall
10 be clearly labeled with the words "Damaged Ballot" and the duplicate ballot so
11 produced under this subsection with the words "Duplicate Damaged Ballot", and
12 each shall bear,". The election officials shall place the same serial number which
13 shall be placed thereon by the election officials, on each "Damaged Ballot" and its
14 corresponding "Duplicate Damaged Ballot," commencing with number "1" and
15 continuing consecutively for the ballots of that kind each of the ballots for which a
16 "Duplicate Damaged Ballot" is produced in the ward or election district. The election
17 officials shall write each label and serial number required under this subsection in
18 the space for official endorsement. The election officials shall initial the "Duplicate
19 Damaged Ballot" ballots, and shall place them in the container for return of the
20 ballots. The officials shall place "Damaged Ballot" ballots and their envelopes in the
21 "Original Ballots" envelope.

22

(END)

d-note
↓

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2305/P2ins
TKK:jld:rs

INSERT 2-19

1 **SECTION 1.** 5.85 (2) (b) of the statutes is renumbered 5.85 (2) (b) 2. and amended
2 to read:

3 5.85 (2) (b) 2. ~~Write-in votes shall be counted as provided in s. 7.50 (2) (d). The~~
4 On any original ballot upon which there is an overvote shall be clearly labeled, the
5 election officials shall, in the space on the ballot for official endorsement, mark an
6 [X] in the box to the right of the label, "Overvoted Ballot", and write a serial number
7 on the line adjacent to this box. On the duplicate ballot produced under par. (a) shall
8 be clearly labeled subd. 1., the election officials shall, in the space on the ballot for
9 official endorsement, mark an [X] in the box to the right of the label, "Duplicate
10 Overvoted Ballot", and write a serial number on the line adjacent to this box. The
11 election officials shall place the same serial number on each "Overvoted Ballot" and
12 its corresponding "Duplicate Overvoted Ballot," commencing with number "1" and
13 continuing consecutively for each of the ballots for which a "Duplicate Overvoted
14 Ballot" is produced in that ward or election district. The election officials shall initial
15 the "Duplicate Overvoted Ballot" ballots and shall place them in the container for
16 return of the ballots. The "Overvoted Ballot" ballots and their envelopes shall be
17 placed in the "Original Ballots" envelope.

History: 1979 c. 311; 1989 a. 192; 1997 a. 127; 2001 a. 16; 2005 a. 149.

INSERT 3-22

18 **SECTION 2.** 5.85 (3) of the statutes is amended to read:

19 5.85 (3) The election officials shall examine the ballots to determine if any is
20 damaged or defective so that it cannot be counted by the automatic tabulating
21 equipment. If any ballot is damaged or defective so that it cannot be properly counted
22 by the automatic tabulating equipment, the election officials, in the presence of

1 witnesses, shall make a true duplicate ballot of all votes on that ballot by using one
2 of the marking devices so as to transfer all votes of the elector to an official ballot of
3 that kind used by the elector who voted the original ballot in that election. Unless
4 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
5 whenever election officials of both of the 2 major political parties are present, the
6 election officials acting under this subsection[✓] shall consist in each case of at least one
7 election official of each of the 2 major political[✓] parties, whenever officials of both
8 parties are present. The. On any damaged or defective original ballot, the election
9 officials shall be clearly labeled, in the space on the ballot for official endorsement,
10 mark an [X] in the box to the right of the label, "Damaged Ballot",[✓] and write a serial
11 number on the line adjacent to this box. On the duplicate ballot so produced under
12 this subsection,[✓] the election officials shall, in the space for official endorsement,
13 mark an [X] in the box to the right of the label, "Duplicate Damaged Ballot",[✓] and
14 each shall bear the write a serial number on the line adjacent to this box. The election
15 officials shall place the same serial number which shall be placed thereon by the
16 election officials, on each "damaged Ballot" and its corresponding "Duplicate
17 Damaged Ballot," commencing with number "1" and continuing consecutively for the
18 ballots of that kind each of the ballots for which a "Duplicate Damaged Ballot" is
19 produced in the ward or election district.[✓] The election officials shall initial the
20 "Duplicate Damaged Ballot" ballots, and shall place them in the container for return
21 of the ballots. The officials shall place "Damaged Ballot" ballots and their envelopes
22 in the "Original Ballots" envelope.

History: 1979 c. 311; 1989 a. 192; 1997 a. 127; 2001 a. 16; 2005 a. 149.

(end ins 3-22)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

3
LRB-2305/P³dn
TKK:jld:rs

date

Chad:

* When you discuss this draft with the Government Accountability Board, you may wish to ask whether revisions to s. 7.08 (1) (a), stats., to direct the board to create the boxes and lines on the official ballot forms ^{is} necessary given the proposed language in s. 5.85 (2) (b) 2. and (3).
are

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2305/P3dn
TKK:jld:ph

May 10, 2013

Chad:

When you discuss this draft with the Government Accountability Board, you may wish to ask whether revisions to s. 7.08 (1) (a), stats., to direct the board to create the boxes and lines on the official ballot forms are necessary given the proposed language in s. 5.85 (2) (b) 2. and (3).

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insert

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

5/14/13

SOON

Regen

X

1 AN ACT ~~to renumber and amend~~ 5.85 (2) (b); ~~to amend~~ 5.85 (2) (a) and 5.85
2 (3); and ~~to create~~ 5.85 (2) (b) 1. of the statutes; relating to: labeling of
3 duplicate ballots.

Analysis by the Legislative Reference Bureau

Current law permits an election official to create a duplicate of an elector's ballot when one of two circumstances occur: 1) the elector's original ballot is damaged or defective such that the ballot cannot be properly counted by automatic tabulating equipment; or 2) the elector has overvoted for an office by writing in votes for more candidates than the number of votes authorized to be cast. In the first circumstance, the election official duplicates the elector's ballot in its entirety. In the second circumstance, the election official duplicates the elector's original ballot but does not complete that portion of the ballot for the office for which the elector overvoted. Current law requires the election official to retain and write "Damaged Ballot" or "Overvoted Ballot" on the elector's original ballot. Current law also requires the election official to write "Duplicate Damaged Ballot" or "Duplicate Overvoted Ballot" on the duplicate ballot.

X
X
X
X

This bill requires the election officials to mark the identity of and number these ballots and duplicate ballots in boxes and on lines designated for that purpose in that portion of the ballot for official endorsement.

Insert Analysis ✓

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

1 SECTION 1. 5.85 (2) (a) of the statutes is amended to read:

2 5.85 (2) (a) The election officials shall examine the ballots or record of votes cast
3 for write-in votes and shall count and tabulate the write-in votes. The election
4 officials shall count write-in votes as provided in s. 7.50 (2) (d). When an electronic
5 voting system is used in which ballots are distributed to electors, before separating
6 the remaining ballots from their respective covering envelopes, the election officials
7 shall examine the ballots for write-in votes. When an elector has cast a write-in
8 vote, the election officials shall compare the write-in vote with the votes on the ballot
9 to determine whether the write-in vote results in an overvote for any office. In case
10 of an overvote for any office, the election officials shall ~~make a true duplicate ballot~~
11 ~~of all votes on the ballot except for the office that is overvoted, by using an official~~
12 ~~ballot of that kind used by the elector who voted the original ballot, and one of the~~
13 ~~marking devices so as to transfer all votes of the elector except for the office~~
14 ~~overvoted, to an official ballot of that kind used in the ward at that election. Unless~~
15 ~~election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,~~
16 ~~the election officials shall consist in each case of at least one election official of each~~
17 ~~of the 2 major political parties, whenever officials of both parties are present follow~~
18 the procedure in par. (b).

19 SECTION 2. 5.85 (2) (b) of the statutes is renumbered 5.85 (2) (b) 2. and amended
20 to read:

21 5.85 (2) (b) 2. ~~Write-in votes shall be counted as provided in s. 7.50 (2) (d). The~~

22 On any original ballot upon which there is an overvote ^{↑ the election officials} ^{plain} (shall) be clearly labeled, (the

23 election officials shall), in the space on the ballot for official endorsement, (mark an

24 [X] in the box to the right of the label, "Overvoted Ballot" ^{plain} and write a serial number

25 on the line adjacent to this box. ^{identify the ballot as an} ^{← score} On the duplicate ballot produced under par. (a) shall

✓ identify the ballot as a

1 be clearly labeled subd. 1., the election officials shall, in the space on the ballot for
 2 official endorsement, mark an [X] in the box to the right of the label. "Duplicate
 3 Overvoted Ballot" ~~and~~ ^{keep striken} ~~write a serial number on the line adjacent to this box.~~ ^{Stet} The
 4 election officials shall place the same serial number on each "Overvoted Ballot" and
 5 its corresponding "Duplicate Overvoted Ballot," commencing with number "1" and
 6 continuing consecutively for each of the ballots for which a "Duplicate Overvoted
 7 Ballot" is produced in that ward or election district. The election officials shall initial
 8 the "Duplicate Overvoted Ballot" ballots and shall place them in the container for
 9 return of the ballots. The "Overvoted Ballot" ballots and their envelopes shall be
 10 placed in the "Original Ballots" envelope.

11 SECTION 3. 5.85 (2) (b) 1. of the statutes is created to read:

12 5.85 (2) (b) 1. In case of an overvote for any office, the election officials shall
 13 make a true duplicate ballot of all votes on the ballot except for the office that is
 14 overvoted in the manner described in this subdivision. The election officials shall use
 15 an official ballot of that kind used by the elector who voted the original ballot, and
 16 one of the marking devices, so as to transfer all votes of the elector except for the office
 17 overvoted to an official ballot of that kind used in the ward at that election. Unless
 18 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
 19 whenever election officials of both of the 2 major political parties are present, the
 20 election officials acting under this subdivision shall consist in each case of at least
 21 one election official of each of the parties.

22 SECTION 4. 5.85 (3) of the statutes is amended to read:

23 5.85 (3) The election officials shall examine the ballots to determine if any is
 24 damaged or defective so that it cannot be counted by the automatic tabulating
 25 equipment. If any ballot is damaged or defective so that it cannot be properly counted

1 by the automatic tabulating equipment, the election officials, in the presence of
2 witnesses, shall make a true duplicate ballot of all votes on that ballot by using one
3 of the marking devices so as to transfer all votes of the elector to an official ballot of
4 that kind used by the elector who voted the original ballot in that election. Unless
5 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
6 whenever election officials of both of the 2 major political parties are present, the
7 election officials acting under this subsection shall consist in each case of at least one
8 election official of each of the 2 major political parties, ~~whenever officials of both~~
9 ~~parties are present.~~ The. On any damaged or defective original ballot, the election
10 officials shall be clearly labeled, in the space on the ballot for official endorsement,
11 mark an [X] in the box to the right of the label, "Damaged Ballot," and write a serial
12 number on the line adjacent to this box. On the duplicate ballot so produced under
13 this subsection, the election officials shall, in the space for official endorsement,
14 mark an [X] in the box to the right of the label, "Duplicate Damaged Ballot," and
15 each shall bear the write a serial number on the line adjacent to this box. The election
16 officials shall place the same serial number which shall be placed thereon by the
17 election officials, on each "Damaged Ballot" and its corresponding "Duplicate
18 Damaged Ballot," commencing with number "1" and continuing consecutively for the
19 ballots of that kind each of the ballots for which a "Duplicate Damaged Ballot" is
20 produced in the ward or election district. The election officials shall initial the
21 "Duplicate Damaged Ballot" ballots, and shall place them in the container for return
22 of the ballots. The officials shall place "Damaged Ballot" ballots and their envelopes
23 in the "Original Ballots" envelope.

INSERT ANALYSIS

~~NO~~ The bill requires the Government Accountability Board to include on each official ballot form, in the space for official endorsement, markings or spaces for identifying these ballots and for writing an identifying serial number.

INSERT 4-24

1 SECTION 1. 7.08 (1) (a) of the statutes is amended to read:
2 7.08 (1) (a) Prescribe all official ballot forms necessary under chs. 5 to 12 and
3 revise the official ballot forms to harmonize with legislation and the current official
4 status of the political parties whenever necessary. The board shall include on each
5 ballot form, in the space for official endorsement, markings or spaces for identifying
6 a ballot as an overvoted ballot, a duplicate overvoted ballot, a damaged ballot, or a
7 duplicate damaged ballot and for writing an identifying serial number. The board
8 shall provide one copy of each ballot form without charge to each county and
9 municipal clerk and board of election commissioners. The board shall distribute or
10 arrange for distribution of additional copies. The prescribed forms shall be
11 substantially followed in all elections under chs. 5 to 12.

History: 1971 c. 242; 1973 c. 334 s. 6, 57; 1975 c. 85, 93, 94, 199; 1977 c. 29, 107, 394, 427; 1979 c. 89, 177, 260, 311; 1981 c. 377; 1983 a. 51, 484; 1985 a. 120, 304; 1989 a. 192; 1993 a. 140; 1995 a. 16 s. 2; 1997 a. 27; 1999 a. 49, 182; 2001 a. 16, 38, 107, 109; 2003 a. 265; 2005 a. 177, 278, 451; 2007 a. 1, 20, 96; 2009 a. 28; 2011 a. 23, 32, 45, 75, 227.

(end ins)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2305/P4/

TKK:jld:jf

Stays RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

9/25/13

Today

Regen

1 AN ACT *to renumber and amend* 5.85 (2) (b); *to amend* 5.85 (2) (a), 5.85 (3) and
2 7.08 (1) (a); and *to create* 5.85 (2) (b) 1. of the statutes; **relating to:** labeling
3 of duplicate ballots.

Analysis by the Legislative Reference Bureau

Current law permits an election official to create a duplicate of an elector's ballot when one of two circumstances occur: 1) the elector's original ballot is damaged or defective such that the ballot cannot be properly counted by automatic tabulating equipment; or 2) the elector has overvoted for an office by writing in votes for more candidates than the number of votes authorized to be cast. In the first circumstance, the election official duplicates the elector's ballot in its entirety. In the second circumstance, the election official duplicates the elector's original ballot but does not complete that portion of the ballot for the office for which the elector overvoted. Current law requires the election official to retain and write "Damaged Ballot" or "Overvoted Ballot" on the elector's original ballot. Current law also requires the election official to write "Duplicate Damaged Ballot" or "Duplicate Overvoted Ballot" on the duplicate ballot.

This bill requires the election officials to identify and number these ballots and duplicate ballots in that portion of the ballot for official endorsement. The bill requires the Government Accountability Board to include on each official ballot form,

in the space for official endorsement, markings or spaces for identifying these ballots and for writing an identifying serial number.

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

1 SECTION 1. 5.85 (2) (a) of the statutes is amended to read:

2 5.85 (2) (a) The election officials shall examine the ballots or record of votes cast
3 for write-in votes and shall count and tabulate the write-in votes. The election
4 officials shall count write-in votes as provided in s. 7.50 (2) (d). When an electronic
5 voting system is used in which ballots are distributed to electors, before separating
6 the remaining ballots from their respective covering envelopes, the election officials
7 shall examine the ballots for write-in votes. When an elector has cast a write-in
8 vote, the election officials shall compare the write-in vote with the votes on the ballot
9 to determine whether the write-in vote results in an overvote for any office. In case
10 of an overvote for any office, the election officials shall ~~make a true duplicate ballot~~
11 ~~of all votes on the ballot except for the office that is overvoted, by using an official~~
12 ~~ballot of that kind used by the elector who voted the original ballot, and one of the~~
13 ~~marking devices so as to transfer all votes of the elector except for the office~~
14 ~~overvoted, to an official ballot of that kind used in the ward at that election. Unless~~
15 ~~election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,~~
16 ~~the election officials shall consist in each case of at least one election official of each~~
17 ~~of the 2 major political parties, whenever officials of both parties are present follow~~
18 the procedure in par. (b).

19 SECTION 2. 5.85 (2) (b) of the statutes is renumbered 5.85 (2) (b) 2. and amended
20 to read:

1 5.85 (2) (b) 2. ~~Write-in votes shall be counted as provided in s. 7.50 (2) (d). The~~
2 On any original ballot upon which there is an overvote, the election officials shall be
3 clearly labeled, in the space on the ballot for official endorsement, identify the ballot
4 as an “Overvoted Ballot” and write a serial number. On the duplicate ballot produced
5 under par. (a) shall be clearly labeled subd. 1., the election officials shall, in the space
6 on the ballot for official endorsement, identify the ballot as a “Duplicate Overvoted
7 Ballot.” and write a serial number. The election officials shall place the same serial
8 number on each “Overvoted Ballot” and its corresponding “Duplicate Overvoted
9 Ballot,” commencing with number “1” and continuing consecutively for each of the
10 ballots for which a “Duplicate Overvoted Ballot” is produced in that ward or election
11 district. The election officials shall initial the “Duplicate Overvoted Ballot” ballots
12 and shall place them in the container for return of the ballots. The “Overvoted Ballot”
13 ballots and their envelopes shall be placed in the “Original Ballots” envelope.

14 SECTION 3. 5.85 (2) (b) 1. of the statutes is created to read:

15 5.85 (2) (b) 1. In case of an overvote for any office, the election officials shall
16 make a true duplicate ballot of all votes on the ballot except for the office that is
17 overvoted in the manner described in this subdivision. The election officials shall use
18 an official ballot of that kind used by the elector who voted the original ballot, and
19 one of the marking devices, so as to transfer all votes of the elector except for the office
20 overvoted to an official ballot of that kind used in the ward at that election. Unless
21 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
22 whenever election officials of both of the 2 major political parties are present, the
23 election officials acting under this subdivision shall consist in each case of at least
24 one election official of each of the parties.

25 SECTION 4. 5.85 (3) of the statutes is amended to read:

1 5.85 (3) The election officials shall examine the ballots to determine if any is
2 damaged or defective so that it cannot be counted by the automatic tabulating
3 equipment. If any ballot is damaged or defective so that it cannot be properly counted
4 by the automatic tabulating equipment, the election officials, in the presence of
5 witnesses, shall make a true duplicate ballot of all votes on that ballot by using one
6 of the marking devices so as to transfer all votes of the elector to an official ballot of
7 that kind used by the elector who voted the original ballot in that election. Unless
8 election officials are selected under s. 7.30 (4) (c) without regard to party affiliation,
9 whenever election officials of both of the 2 major political parties are present, the
10 election officials acting under this subsection shall consist in each case of at least one
11 election official of each of the 2 major political parties, whenever officials of both
12 parties are present. The. On any damaged or defective original ballot, the election
13 officials shall be clearly labeled, in the space on the ballot for official endorsement,
14 identify the ballot as a “Damaged Ballot” and write a serial number. On the duplicate
15 ballot so produced under this subsection, the election officials shall, in the space for
16 official endorsement, identify the ballot as a “Duplicate Damaged Ballot”, and each
17 shall bear the write a serial number. The election officials shall place the same serial
18 number which shall be placed thereon by the election officials, on each “Damaged
19 Ballot” and its corresponding “Duplicate Damaged Ballot,” commencing with
20 number “1” and continuing consecutively for the ballots of that kind each of the
21 ballots for which a “Duplicate Damaged Ballot” is produced in the ward or election
22 district. The election officials shall initial the “Duplicate Damaged Ballot” ballots,
23 and shall place them in the container for return of the ballots. The officials shall
24 place “Damaged Ballot” ballots and their envelopes in the “Original Ballots”
25 envelope.

1 **SECTION 5.** 7.08 (1) (a) of the statutes is amended to read:

2 7.08 (1) (a) Prescribe all official ballot forms necessary under chs. 5 to 12 and
3 revise the official ballot forms to harmonize with legislation and the current official
4 status of the political parties whenever necessary. The board shall include on each
5 ballot form, in the space for official endorsement, markings or spaces for identifying
6 a ballot as an overvoted ballot, a duplicate overvoted ballot, a damaged ballot, or a
7 duplicate damaged ballot, and for writing an identifying serial number. The board
8 shall provide one copy of each ballot form without charge to each county and
9 municipal clerk and board of election commissioners. The board shall distribute or
10 arrange for distribution of additional copies. The prescribed forms shall be
11 substantially followed in all elections under chs. 5 to 12.

12

(END)

Barman, Mike

From: Zuleger, Chad
Sent: Wednesday, September 25, 2013 5:08 PM
To: LRB.Legal
Subject: Draft Review: LRB -2305/1 Topic: Require remade ballots to be marked as such in designated location

Please RUSH jacketing.

Thanks,

Chad

Chad Zuleger
Office of State Representative Kathy Bernier
68th Assembly District
(608) 266-9172

Please Jacket LRB -2305/1 for the ASSEMBLY.