



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 261
[2015 Senate Bill 295]

**Electronic Voter Registration and
Election Administration**

2015 Wisconsin Act 261 relates to electronic voter registration, verification of registrations, proof of residence for voting, electronic poll lists, election equipment approval, counting of absentee ballots, and other elections and campaign finance items.

ELECTRONIC VOTER REGISTRATION

Act 261 provides for electronic voter registration and requires the Government Accountability Board (GAB)¹ to maintain a secure, online registration form. The electronic registration system may be used by an eligible voter who holds a current and valid Wisconsin driver's license or Wisconsin identification card ("state ID card") to register or make changes to his or her registration. Electronic registration closes at 11:59 p.m. on the third Wednesday before the election.

The Act also exempts certain voters who register electronically from having to provide proof of residence if their information is verified with Department of Transportation (DOT) records. GAB and DOT must enter into an agreement to match personally identifiable information submitted as part of electronic voter registration with information in the DOT record file database and vehicle registration records. The electronic voter registration system must verify, on an instant basis, a voter's information with the DOT system. If the voter provides a name, date of birth, and driver's license number or state ID card number, and GAB is able to verify the information with DOT, then the voter does not have to provide proof of residence when registering.

¹ Provisions of the Act are drafted such that references to the GAB will be replaced by references to the "Elections Commission" or "Ethics Commission" when those commissions become effective on June 30, 2016.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

Under the Act, the electronic registration system requires a voter to authorize use of the voter's electronic signature from DOT's database to affirm that the registration information he or she provided is correct. The electronic signature is integrated into the voter registration application and has the same effect as if the voter signed the application personally.

The Act specifies that implementation of the electronic voter registration system must be complete and performance of the system satisfactory before the 2017 spring primary. GAB must notify the Legislative Reference Bureau (LRB) of the date when implementation is complete and performance is satisfactory. Until that time, GAB and DOT must each report quarterly to the Legislature on the agency's progress in implementing the electronic voter registration system.

ELIMINATION OF SPECIAL REGISTRATION DEPUTIES

Act 261 eliminates the authority of a municipal clerk or board of election commissioners (hereinafter, "clerk") to appoint special registration deputies to register voters. Special registration deputies are currently authorized to register voters of a municipality more than 20 days prior to an election or to register voters at polling places.

The Act's elimination of special registration deputies coincides with electronic voter registration - the provision eliminating the deputies takes effect when the LRB receives notice that the electronic voter registration system is complete and performance is satisfactory.

Act 261 also creates "election registration officials." Election registration officials are individuals assigned by a clerk to register voters for in-person absentee voting, to register voters at polling places, or to register voters at residential care facilities.

COUNTING OF ABSENTEE BALLOTS

Act 261 requires an absentee ballot to be delivered to the polling place no later than 8 p.m. on Election Day to be counted. Under prior law, an absentee ballot was counted if it was postmarked no later than Election Day and was received by the clerk no later than 4 p.m. on the Friday after the election.

Act 261 also requires an absentee ballot to have a witness address to be counted. An absentee ballot voter must complete a certification and sign the certification in the presence of a witness, and the witness must sign the certificate and provide his or her name and address. The Act prohibits the counting of an absentee ballot if the certificate is missing the address of the witness.

The provisions prohibiting the counting of absentee ballots not delivered by 8 p.m. on Election Day or missing a witness address first apply to elections held no earlier than six months after the Act's effective date.

NEW PROOF OF RESIDENCE DOCUMENT

Act 261 creates a new type of proof of residence that may be used for registering to vote. State law generally requires an individual who is registering to vote to provide one of a specified list of proof of residence documents containing a current and complete name and address. The Act allows an occupant of a residential care facility to use a contract or intake document

prepared by the residential care facility specifying that the occupant currently resides in the facility as proof of residence for registering to vote at the facility.

The new proof of residence document first applies to registration applications filed on March 18, 2016.

NEW VOTER ID DOCUMENT

Act 261 adds a veterans identification card to the list documents that can be used as proof of identification when voting, a requirement commonly referred to as "Voter ID." Under the Act, a voter may provide an unexpired veterans identification card issued by the Veterans Health Administration of the federal Department of Veterans Affairs as proof of identification.

ADDITIONAL CATEGORIES OF INFORMATION IN THE OFFICIAL REGISTRATION LIST

Act 261 requires clerks to input additional categories of information into the official voter registration list. State law requires GAB to compile and maintain an official registration list electronically, which the agency does through its WisVote System. The official registration list must contain specified information, such as the name and address of each registered voter, the date of any election in which the voter participates, and an indication of the method by which the voter's registration form was received.

The Act requires additional categories of information in the official registration list, which largely relate to absentee voting activity. Under the Act, the official registration list must have separate columns indicating each of the following: (1) the date on which a voter applied to vote by in-person absentee ballot; (2) the date on which the clerk mailed an absentee ballot to a voter; (3) the date on which a voter returned the absentee ballot; (4) the polling location associated with each voter's address and ward or aldermanic district, if any; and (5) the mailing address for the municipal clerk associated with the polling location identified for a voter.

The Act also requires clerks to input the required absentee voting information into the official registration list within a specified period of time. A clerk must enter or submit to the clerk's designee the information identified in (1), (2), and (3) above, as well as other required information about the voter, **within 48 hours** after mailing the absentee ballot, receiving the in-person absentee ballot application, or receiving the returned absentee ballot. If the information is submitted by the clerk to a designee, the clerk's designee must enter the information **within 24 hours** after receiving it from the clerk. If the deadline falls on a Saturday or Sunday, then the deadline is extended to the next business day.

SUBSCRIPTION SERVICE FOR ABSENTEE VOTING INFORMATION

Act 261 requires GAB to create a subscription service providing access to the absentee ballot data entered into the official registration list, as described in the preceding section. The subscription service must include semiweekly updates of the information, and GAB must establish the fee for access to the subscription service by rule.

POSTING ELECTION NIGHT RETURNS

Act 261 requires municipalities to report returns, by ward or reporting unit, to the county clerk no later than **two hours** after the votes are tabulated. The Act also requires the county clerk to post all returns, by ward or reporting unit, on the county's Internet site no later than **two hours** after receiving the returns. In addition, the Act requires GAB to provide a link on its Internet site on election night to returns posted on each county's site.

ELECTION OFFICIAL EXAMINATIONS

Act 261 removes a prohibition on requiring a chief inspector to take an examination. GAB must establish requirements for certification of chief inspectors, including that they complete training. Prior law prohibited GAB from requiring chief inspectors to take an examination. The Act removes the prohibition.

ELECTRONIC POLL BOOKS

Act 261 provides that GAB may facilitate the creation and maintenance of electronic poll lists, including entering into contracts with vendors and establishing programs for testing. The Act also provides that any electronic poll list system is subject to approval by GAB.

JOINING ERIC

Act 261 requires the chief election officer to enter into a membership agreement with the Electronic Registration Information Center, Inc. (ERIC) for the purpose of maintaining the official registration list. Before entering into the agreement, the chief election officer must ensure that the agreement satisfies a specified list of conditions, including that the agreement must safeguard the confidentiality of registration information or data; must prohibit the sale or distribution of registration data to a third-party vendor; and must not affect the state's exemption under the National Voter Registration Act.

APPROVAL OF ELECTRONIC VOTING EQUIPMENT

Act 261 provides that GAB may certify any voting device, automatic tabulating equipment, or related equipment or material regardless of whether the item is approved by the Federal Election Assistance Commission, provided that the device, equipment, or material fulfills a list of statutory requirements.

TREATMENT OF OVERVOTED BALLOTS

Act 261 allows election officials to use an electronic voting system override function to address an "overvote." An "overvote" occurs when a voter writes in votes for more candidates than the number of votes to be cast for a particular office. Under prior law, when an overvote occurred, election officials were required to make a duplicate of the voter's ballot that included all votes from the voter's original ballot, except the votes for the office that was overvoted. Under the Act, election officials may either create a duplicate ballot (as under prior law) or use

the override function of the electronic voting system to eliminate the votes for the overvoted office. If the override function is used, it must be noted on the inspector's statement.

ELIMINATION OF VOTER REGISTRATION TRANSFERS

Act 261 eliminates transfer of voter registrations. Under prior law, a registered voter could transfer his or her voter registration after moving within Wisconsin, or transfer his or her voter registration to a new name after a legal name change. The voter could transfer the registration by filing a request with the clerk. Prior law also permitted a clerk to transfer a voter registration after receiving reliable information that the voter had changed residence within the municipality, or after the clerk conducted a door-to-door or mail registration canvass. The Act repeals the statutory section providing for transfer of voter registrations, requiring that a voter re-register rather than transfer registration.

GAB AUTHORITY TO PERFORM CERTAIN REGISTRATION ACTIVITIES

Act 261 allows either a clerk or GAB to complete specified registration activities. These activities include: (1) examining registration forms for sufficiency; (2) notifying proposed voters about insufficient registration forms and requesting certain action; (3) making a good faith effort to notify voters who submit insufficient forms that they may register at the clerk's office or polling place; (4) entering voter names on the registration list and transmitting a first class letter or postcard specifying a voter's ward or aldermanic district and polling place; and (5) changing voter status to "ineligible" if the postcard or letter is returned. Under prior law, the clerk was required to complete these registration activities.

CAMPAIGN FINANCE LAW CHANGES

Act 261 imposes a \$12,000 limit on the amount a political action committee (PAC) may contribute to the segregated fund of a political party or legislative campaign committee in a calendar year. Prior law did not impose any limit on the amount a PAC could contribute to such a segregated fund.

Act 261 also imposes limits on the amount "other persons" may contribute to certain committees. State law limits the amount an individual, candidate committee, or PAC may contribute to a candidate committee, and expressly prohibits independent expenditure committees, corporations, associations, labor organizations, and tribes from making any contribution to a candidate committee. Prior law did not previously limit the amount "other persons" could contribute to particular committees.

Specifically, under the Act, the same contribution limit amounts that apply to PAC contributions to candidate committees also apply to contributions made by "any person" (other than individuals, candidate committees, PACs, corporations, associations, tribes, or labor organizations, which are already subject to limits or prohibitions). The Act also imposes a \$12,000 limit on the amount "other persons" may contribute to a legislative campaign committee, political party, or segregated fund of a political party or legislative campaign committee in a calendar year.

CODE OF ETHICS-RELATED CHANGES

Act 261 changes the definition of “state public office” to include all members of the Elections Commission and all members of the Ethics Commission. The definitional change makes all members of both commissions subject to the standards of conduct contained within subch. III of ch. 19, Stats., the Code of Ethics for Public Officials and Employees.

Act 261 also changes the definition of “official required to file” contained within the Code of Ethics. Specified public officials and employees must file a statement of economic interests disclosing the filer’s financial relationships. The requirement applies to, among others, an “official required to file.” The Act changes the definition to include members and employees of the Ethics Commission.

The Code of Ethics changes take effect on June 30, 2016. The changes relate to the Elections Commission and Ethics Commission, which do not exist until that date.

Effective date: Provisions of Act 261 take effect on March 18, 2016, except as otherwise noted.

Prepared by: Katie Bender-Olson, Senior Staff Attorney

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