

# State of Wisconsin



1997 Assembly Bill 142

Date of enactment: **April 17, 1998**

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## 1997 WISCONSIN ACT 127

AN ACT to amend 5.85 (2) and (3), 5.85 (5), 5.86 (1), 6.875 (4), 7.30 (1) and (2) (b) and (c), 7.30 (4) (a), 7.30 (4) (c), 7.30 (4) (d), 7.51 (4) (a) and 60.24 (3) (a) of the statutes; relating to: the method of selection of election officials.

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

**SECTION 1.** 5.85 (2) and (3) of the statutes are amended to read:

5.85 (2) The election officials shall examine the ballots or record of votes cast for write-in votes and shall count and tabulate the write-in votes. When an electronic voting system is used which utilizes a ballot which is distributed to electors, before separating the remaining ballot cards from their respective covering envelopes, the election officials shall examine the ballots for write-in votes. When an elector has cast a write-in vote, the election officials shall compare the write-in vote with the votes on the ballot to determine whether the write-in vote results in an overvote for any office. In case of an overvote for any office, the election officials, ~~consisting in each case of at least one election official of each of the 2 major political parties, whenever officials of both parties are present,~~ shall make a true duplicate ballot of all votes on the ballot card except for the office which is overvoted, by using the ballot label booklet and voting device for the ward, if any, and one of the punching or marking devices so as to transfer all votes of the elector except for the office overvoted, to an official ballot of that kind used in the ward at that election. Unless election officials are selected under s. 7.30 (4) (c) without regard to party affiliation, the election officials shall consist in each case of

at least one election official of each of the 2 major political parties, whenever officials of both parties are present. Write-in votes shall be counted as provided in s. 7.50 (2) (d). The original ballot upon which there is an overvote shall be clearly labeled "Overvoted Ballot" and the ballot so produced "Duplicate Overvoted Ballot", and each shall bear the same serial number which shall be placed thereon by the election officials, commencing with number "1" and continuing consecutively for each of the ballots of that kind in that ward. 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. Ballots bearing write-in votes marked in the place designated therefor and bearing the initials of an election official and not resulting in an overvote and otherwise complying with the election laws as to marking shall be counted, tallied, and their votes recorded on a tally sheet provided by the municipal clerk. Ballot cards and ballot card envelopes shall be separated and all ballots except any which are defective or overvoted shall be placed separately in the container for return of the ballots, along with the ballots marked "Duplicate Overvoted Ballots".

(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 equipment. If any ballot is damaged or defective so that it cannot be prop-

\* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

erly counted by the automatic tabulating equipment, the election officials, ~~consisting in each case of at least one official of each of the 2 major political parties whenever present~~, in the presence of witnesses, shall make a true duplicate ballot of all votes on that ballot by using the ballot label booklet and voting device for the ward, if any, and one of the punching or marking devices so as to transfer all votes of the elector to an official ballot of that kind used in the ward in that election. Unless election officials are selected under s. 7.30 (4) (c) without regard to party affiliation, the election officials shall consist in each case of at least one election official of each of the 2 major political parties, whenever officials of both parties are present. The original ballot shall be clearly labeled “Damaged Ballot” and the ballot so produced “Duplicate Damaged Ballot”, and each shall bear the same number which shall be placed thereon by the election officials, commencing with number “1” and continuing consecutively for the ballots of that kind in the ward. The election officials shall initial the “Duplicate Damaged Ballot” ballots, and shall place them in the container for return of the ballots. The officials shall place “Damaged Ballot” ballots and their envelopes in the “Original Ballots” envelope.

**SECTION 2.** 5.85 (5) of the statutes is amended to read:

5.85 (5) If the municipality has designated a central counting location to be used to count ballots under s. 7.51 (1), the inspectors shall count and deposit the paper ballots in the container. The inspectors shall then place the slip made out under sub. (4) in the container. The inspectors shall also place the tally sheet recording the write-in votes and other votes cast on paper ballots, and all other ballots, or the record of the votes cast on an electronic voting system where no ballots are distributed to electors, in the container and shall thereupon immediately seal the container with an adhesive seal provided by the municipal clerk for the purpose in such manner that the seal completely covers the opening in the container, and each of the inspectors shall sign the seal. The “Defective Ballots” envelope, and “Original Ballots” envelope each shall be securely sealed and the flap or end thereof of each signed by the inspectors and returned to the central counting location with the box for return of the ballots, enclosed ballots and returns. Thereupon, the municipal clerk or 2 of the election officials, ~~of different political parties whenever officials of both parties are present~~, shall forthwith and by the most direct route transport the container and envelopes to the central counting location designated by the municipal clerk. Unless election officials are selected under s. 7.30 (4) (c) without regard to party affiliation, the election officials shall consist in each case of at least one election official of each of the 2 major political parties, whenever officials of both parties are present.

**SECTION 3.** 5.86 (1) of the statutes is amended to read:

5.86 (1) All proceedings at the central counting location shall be under the direction of the municipal clerk unless the central counting location is at the county seat and the municipal clerk delegates the responsibility to supervise the location to the county clerk. ~~Except for any specially trained technicians required for the operation of the automatic tabulating equipment~~ Unless election officials are selected under s. 7.30 (4) (c) without regard to party affiliation, the employees at the central counting location, other than any specially trained technicians who are required for the operation of the automatic tabulating equipment, shall be equally divided between members of the 2 major political parties under s. 7.30 (2) (a) and all duties performed by the employees shall be by teams consisting of an equal number of members of each political party whenever sufficient persons from each party are available.

**SECTION 4.** 6.875 (4) of the statutes is amended to read:

6.875 (4) For the purpose of absentee voting in nursing homes and qualified retirement homes and qualified community-based residential facilities, the municipal clerk or board of election commissioners of each municipality in which one or more nursing homes or qualified retirement homes or qualified community-based residential facilities are located shall appoint at least 2 special voting deputies for the municipality in the manner prescribed in s. 7.30 (4). Upon application under s. 6.86 (1) or (2) by one or more qualified electors who are occupants of such a nursing home or qualified retirement home or qualified community-based residential facility, the clerk or board of election commissioners shall dispatch 2 special voting deputies to visit the home or qualified community-based residential facility for the purpose of supervising absentee voting procedure by occupants of the home or qualified community-based residential facility. The 2 deputies designated to visit each nursing home or qualified retirement home and qualified community-based residential facility shall be affiliated with different political parties whenever deputies representing different parties are available. Nominations for deputy positions ~~shall~~ may be submitted by the 2 recognized political parties whose candidates for governor or president received the greatest numbers of votes in the municipality at the most recent general election. The deputies shall be specially appointed to carry out duties under this section for the period specified in s. 7.30 (6) (a). The clerk or board of election commissioners may revoke an appointment at any time. No individual who is employed or retained, or within the 2 years preceding appointment has been employed or retained at a nursing home or qualified retirement home or qualified community-based residential facility in the municipal-

ity, or any member of the immediate family of such an individual as defined in s. 19.42 (7), may be appointed to serve as a deputy.

**SECTION 5.** 7.30 (1) and (2) (b) and (c) of the statutes are amended to read:

7.30(1) NUMBER. There shall be 7 inspectors for each polling place at each election. In municipalities where voting machines are used, the municipal governing body may reduce the number of inspectors to 5. A municipal governing body may provide for the appointment of additional inspectors whenever more than one voting machine is used or wards are combined under s. 5.15 (6) (b). A municipal governing body may provide by ordinance for the selection of alternate officials or the selection of 2 sets of officials to work at different times on election day. Additional Unless officials are appointed without regard to party affiliation under sub. (4) (c), additional officials shall be appointed in such a manner that the total number of officials is an odd number and the predominant party under sub. (2) is represented by one more official than the other party.

(2) (b) When a vacancy occurs, the appointment vacancy shall be filled by appointment of the municipal clerk. 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 that the election at which the temporary vacancy occurs. The same qualifications shall be required, but of persons who fill vacancies. Vacancies may be filled in cases of emergency or because of time limitations by a person from another aldermanic district or ward within the municipality so the proper balance of party representation is maintained.

(c) The governing body of any municipality may require all persons named on the party lists for serving as election officials to prove their ability to read and write English and to have a general knowledge of the election laws. Examinations may be given to prove the qualifications can be met.

**SECTION 6.** 7.30 (4) (a) of the statutes is amended to read:

7.30 (4) (a) Except in cities where there is a board of election commissioners, the mayor, president or board chairperson of each municipality shall nominate to the governing body no later than their last regular meeting in December of each even-numbered year the necessary election officials for each election ward polling place. If no regular meeting is scheduled, the mayor, president or chairperson shall call a special meeting for the purpose of considering nominations no later than December 31.

**SECTION 7.** 7.30 (4) (c) of the statutes is amended to read:

7.30 (4) (c) For so long as nominees are made available by the political parties under this section, appointments may be made only from the lists of submitted nominees. If the lists are not submitted by November 30 of the year in which appointments are to be made, the board of election commissioners shall appoint, or the mayor, president or chairperson of a municipality shall nominate qualified persons whose names have not been submitted. If an insufficient number of nominees appears on the lists as of November 30, the board of election commissioners shall similarly appoint, or the mayor, president or chairperson shall similarly nominate sufficient individuals to fill the remaining vacancies. ~~If an official is appointed whose name was not submitted on the lists, the official shall be affiliated with or designated by the appointing authority to represent one of the 2 parties that are entitled to submit lists. An official who is affiliated with one party may not be designated to represent a different party, unless the municipal clerk first makes a good faith effort to appoint an official who is affiliated with the represented party. Any appointment which is made due to the lack of availability of names submitted under par. (b) may be made without regard to party affiliation.~~

**SECTION 8.** 7.30 (4) (d) of the statutes is amended to read:

7.30 (4) (d) A party committee or aldermanic district or village committeeman or committeewoman under s. 8.17 may submit additional names for inclusion in its list of nominations under this section at any time. ~~Whenever there are no available names on any list, the board of election commissioners or the mayor, president or chairman of the municipality shall so notify the chairman of the appropriate party committee or the appropriate aldermanic district or village committeeman or committeewoman under s. 8.17 for the purpose of filling vacancies that occur during a term of office.~~ However, an appointment need at no time be delayed because of the lack of availability of party nominees.

**SECTION 9.** 7.51 (4) (a) of the statutes is amended to read:

7.51 (4) (a) The tally sheets shall state the total number of votes cast for each office and for each individual receiving votes for that office, whether or not the individual's name appears on the ballot, and shall state the vote for and against each proposition voted on. Upon completion of the tally sheets, the inspectors shall immediately complete inspectors' statements in duplicate. The inspectors shall state the excess by which the number of ballots exceeds the number of electors voting as shown by the poll or registration list, if any, and shall state the number of the last elector as shown by the registration or poll lists. At least 3 inspectors, including the chief inspector and, unless election officials are appointed under s. 7.30 (4) (c) without regard to party affiliation, at least one inspector representing each political party, shall then certify to the correctness of the statements and tally

sheets and sign their names. All other election officials assisting with the tally shall also certify to the correctness of the tally sheets. When the tally is complete, the inspectors shall publicly announce the results from the statements.

**SECTION 10.** 60.24 (3) (a) of the statutes is amended to read:

60.24 (3) (a) Nominate individuals for service as election officials when to the town board whenever the town board disapproves the nominee of a party committee under s. 7.30 (4) ~~(b) 2~~ and the names of additional nominees are not available.

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