



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Senate Bill 295	Senate Substitute Amendment 1, as Amended, and Assembly Amendment 2
<i>Memo published:</i> February 18, 2016 <i>Contact:</i> Katie Bender-Olson, Senior Staff Attorney (266-2988)	

2015 Senate Bill 295 makes a number of changes to current law relating to electronic voter registration, verification of registrations, proof of residence for voting, electronic poll lists, election equipment approval, counting of absentee ballots, and other items. The following memorandum describes current law and the changes contained within Senate Bill 295, Senate Substitute Amendment 1, Senate Amendments 1 and 11 to the substitute amendment, and Assembly Amendment 2.

ELECTRONIC VOTER REGISTRATION

Current Law

Current law does not allow for electronic voter registration. Voter registration forms may be accessed and filled out online, but the forms must be printed and mailed to a clerk.

Senate Bill 295

The bill allows for electronic registration and requires the Government Accountability Board (GAB)¹ to maintain a secure, online registration form. The electronic registration system can 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. Under the bill, electronic registration closes at midnight on the 3rd Wednesday before the election.

¹ Provisions of the bill and substitute amendment are double-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.

The bill 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. The bill requires GAB and DOT to enter into an agreement to match personally identifiable information submitted as part of electronic 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, and GAB is able to verify the information with DOT, then the voter does not have to provide proof of residence when registering.

Under the bill, the electronic registration form requires the same information that appears on the current nonelectronic registration form. The system also requires a voter to authorize use of the voter's electronic signature from DOT's database for the electronic voter registration to affirm that the information provided by the voter 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 bill does not impose a specific deadline by which the electronic voter registration system must be implemented.

Substitute Amendment

The substitute amendment maintains the electronic registration provisions from the original bill, but provides that a voter does not have to provide proof of residence if the voter provides a name, date of birth, and driver's license number or **state ID card number** that GAB is able to verify by accessing the DOT information.

The substitute amendment also provides that electronic registration closes at **11:59 p.m.** on the 3rd Wednesday before the election, and specifies that implementation of the electronic voter registration system must be complete and performance of the system satisfactory before the **2017 spring primary**.

ELIMINATION OF SPECIAL REGISTRATION DEPUTIES

Current Law

Current law allows a municipal clerk or board of election commissioners (hereinafter, "clerk") to appoint special registration deputies to register voters of the municipality more than 20 days prior to an election or to register voters at polling places.

Senate Bill 295

The bill eliminates the authority to appoint and use special registration deputies. Instead, the bill replaces special registration deputies with "election registration officials." Election registration officials are individuals appointed to register voters at polling places and must receive the same training required for election inspectors (poll workers). The bill eliminates special registration deputies immediately upon the bill's effective date.

Substitute Amendment

As under the original bill, the substitute amendment eliminates the authority to appoint and use special registration deputies and replaces them with “election registration officials.” The substitute amendment provides that election registration officials are officials **assigned** by a clerk to register voters at polling places, as well as at **residential care facilities** and for **in-person absentee voting**. Unlike the bill, the substitute amendment makes elimination of special registration deputies effective when GAB provides notification that implementation of the electronic voter registration system is complete and the performance is satisfactory.

COUNTING OF ABSENTEE BALLOTS

Current Law

Current law provides that an absentee ballot is counted if it is postmarked no later than Election Day and is received by the clerk no later than 4 p.m. on the Friday after the election. Current law also requires an absentee ballot voter to complete a certification and sign the certification in the presence of a witness. The witness must sign the certificate and provide his or her name and address.

Senate Bill 295

The bill requires that an absentee ballot be received by the municipal clerk no later than 8 p.m. on Election Day to be counted. The bill also prohibits the counting of an absentee ballot if the certificate is missing the address of the witness.

Substitute Amendment

The substitute amendment provides that an absentee ballot must be **delivered to the polling place** no later than 8 p.m. on Election Day to be counted. As under the original bill, the substitute amendment prohibits counting an absentee ballot if the certificate is missing the address of the witness.

NEW PROOF OF RESIDENCE DOCUMENT

Current Law

Current law generally requires an individual who is registering to vote to provide proof of residence containing a current and complete name and address. The proof of residence must be one of a list of specified documents. The list does not currently include a contract or intake document for occupants of residential care facilities.

Senate Bill 295

The bill adds a new proof of residence document to the list of specified documents. An occupant of a residential care facility may use a contract or intake document prepared by the

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

Substitute Amendment

As under the original bill, the substitute amendment allows an occupant of a residential care facility to use a contract or intake document prepared by the residential care facility that specifies that the occupant currently resides in the facility as proof of residence for registering to vote at the facility.

NEW VOTER ID DOCUMENT

Current Law

Current law requires a voter to present proof of identification when voting, a requirement which is commonly referred to as "Voter ID." The identification must be one of a list of specified documents and the list does not currently include a veterans identification card.

Senate Bill 295

The bill does not add any forms of identification to the list of specified documents that may be used as Voter ID.

Substitute Amendment

The substitute amendment adds a veterans identification card to the list of specified documents that can be used as Voter ID. Under the substitute amendment, a voter may provide a veterans identification card issued by the Veterans Health Administration of the federal Department of Veterans Affairs as proof of identification.

Senate Amendment 1 to the Substitute Amendment

Senate Amendment 1 to the substitute amendment provides that the veterans identification card must be "unexpired."

ADDITIONAL CATEGORIES OF INFORMATION IN THE OFFICIAL REGISTRATION LIST

Current Law

Current law requires GAB to compile and maintain electronically an official registration list, which GAB maintains through its WisVote System (formerly known as the Statewide Voter Registration System). Current law requires that the official registration list contain specified information, such as the name and address of each registered voter, the date of any election in which the voter participates, an indication of the method by which the voter's registration form was received, and the type of identifying document submitted as proof of residence.

Senate Bill 295

The bill does not create new categories of information that must be included in the official registration list or new deadlines for entering information into the system.

Substitute Amendment

The substitute amendment requires that additional categories of information be included in the official registration list, which largely relate to absentee voting activity. Under the substitute amendment, 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 substitute amendment 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 **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.

Senate Amendment 11 to the Substitute Amendment

Senate Amendment 11 to the substitute amendment provides that if a deadline for the clerk or clerk's designee to input absentee voting information into the official registration list falls on a Saturday or Sunday, then the deadline is extended to the next business day.

SUBSCRIPTION SERVICE FOR ABSENTEE VOTING INFORMATION

Current Law

Current law does not require GAB to create a subscription service for accessing absentee ballot information.

Senate Bill 295

The bill does not require GAB to create a subscription service for accessing absentee ballot information.

Substitute Amendment

The substitute amendment requires GAB to create a subscription service to allow 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

Current Law

Current law does not dictate a specific number of hours within which election night returns must be reported to the county clerk or posted on a county Internet site.

Senate Bill 295

The bill does not dictate a specific number of hours within which election night returns must be reported to the county clerk or posted on a county Internet site.

Substitute Amendment

The substitute amendment 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 substitute amendment 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 substitute amendment requires GAB to provide a link on its Internet site to returns posted on each county's site.

TESTING ELECTION OFFICIALS

Current Law

Current law requires GAB to establish requirements for certification of individuals to serve as chief inspectors, including that they complete training, but prohibits GAB from requiring chief inspectors to take an examination. Current law does not address testing of other election officials.

Senate Bill 295

The bill eliminates the prohibition on requiring a chief inspector to take an examination. The bill also requires GAB to establish a knowledge-based test to administer to individuals who receive training to become election officials, to ensure that they have an understanding of election laws.

Substitute Amendment

As under the original bill, the substitute amendment eliminates the prohibition on requiring a chief inspector to take an examination. However, unlike the bill, the substitute amendment does not require GAB to establish a test to administer to election officials.

ELECTRONIC POLL BOOKS

Current Law

Current law allows municipal clerks to maintain poll lists either manually or electronically, but does not impose any requirements related to electronic poll lists on GAB.

Senate Bill 295

The bill requires GAB to facilitate the creation and maintenance of electronic poll lists, including entering into contracts with vendors and establishing programs for development and testing.

Substitute Amendment

The substitute amendment 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 substitute amendment also provides that any electronic poll list system is subject to approval by GAB.

JOINING ERIC

Current Law

Current law does not require GAB to enter into any membership agreements with the Electronic Registration Information Center (ERIC). ERIC is an organization of member states that cross-checks voter registration list data and Department of Motor Vehicle data from each participating state.

Senate Bill 295

The bill requires the chief election officer to enter into a membership agreement with ERIC for the purpose of maintaining the voter registration list. Before entering into the agreement, the chief election officer must ensure that the agreement safeguards the confidentiality of information or data.

Substitute Amendment

As under the original bill, the substitute amendment requires the chief election officer to enter into a membership agreement with ERIC for maintaining the voter registration list. Before entering into the agreement, the chief election officer must ensure that the agreement satisfies a **specified list of conditions**. These conditions include that the agreement must safeguard the confidentiality of registration information or data, must prohibit the sale or distribution of registration data to a 3rd-party vendor, and must not affect the state's exemption under the National Voter Registration Act.

APPROVAL OF ELECTRONIC VOTING EQUIPMENT

Current Law

Current law prohibits use of any voting device, automatic tabulating equipment, or related equipment or material unless it is approved by GAB. To be approved, the equipment or material must fulfill a list of statutory requirements.

Senate Bill 295

The bill 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 the current list of statutory requirements.

Substitute Amendment

As under the original bill, the substitute amendment 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 the current list of statutory requirements.

TREATMENT OF OVERVOTED BALLOTS

Current Law

Current law addresses how election officials are to proceed when there is an “overvote,” which occurs when a voter wrote in votes for more candidates than the number of votes to be cast for the office. When this occurs, election officials must make a duplicate of the voter’s ballot that includes all votes from the voter’s original ballot, except the votes for the office that was overvoted. The original ballot and duplicate ballot are then marked and secured in the ballot container.

Senate Bill 295

The bill allows election officials to either create a duplicate ballot (as under current law) or use the override function of the electronic voting system to eliminate the votes for the overvoted office.

Substitute Amendment

As under the original bill, the substitute amendment allows election officials to either create a duplicate ballot or use the override function of the electronic voting system to eliminate the votes for the overvoted office. The substitute amendment additionally specifies that use of the override function must be noted on the inspector’s statement.

ELIMINATION OF VOTER REGISTRATION TRANSFERS

Current Law

Current law permits a registered voter to transfer his or her voter registration after moving within Wisconsin, or to transfer voter registration to a new name after a legal name change. The voter may transfer the registration by filing a request with the municipal clerk. Current law also permits a municipal clerk to transfer a voter registration after receiving reliable information that the voter has changed residence within the municipality, or after the clerk conducts a door-to-door or mail registration canvass.

Senate Bill 295

The bill maintains the current law provisions allowing a voter or clerk to transfer a voter registration.

Substitute Amendment

The substitute amendment repeals the statutory section providing for transfer of voter registrations.

GAB AUTHORITY TO PERFORM CERTAIN REGISTRATION ACTIVITIES

Current Law

Current law requires a municipal clerk who receives a voter registration form to examine the form for sufficiency, and if the form is insufficient, to notify the proposed voter and request that the voter complete a proper registration or substantiate the information. If the form is submitted fewer than 20 days before the election, the clerk must make a good faith effort to notify the voter that he or she may register at the clerk's office or at the polling place. Current law further requires that if a form is sufficient to accomplish registration, the clerk must then enter the voter's name on the registration list and transmit a 1st class letter or postcard to the voter specifying the voter's ward or aldermanic district and polling place. If the postcard or letter is returned, the clerk must change the voter's status to "ineligible."

Senate Bill 295

The bill provides that a clerk **or GAB** may complete the specified registration activities.

Substitute Amendment

The substitute amendment maintains current law requiring that the specified registration activities be performed by the clerk.

Senate Amendment 1 to the Substitute Amendment

As under the original bill, Senate Amendment 1 to the substitute amendment provides that a clerk **or GAB** may complete the specified registration activities.

CAMPAIGN FINANCE LAW CHANGE

Current Law

Current law limits the amount that a political action committee (PAC) may contribute to a political party or a legislative campaign committee to \$12,000 in a calendar year. However, current law does not impose any limit on the amount that a PAC may contribute to a segregated fund established and administered by a political party or legislative committee.

Current law also imposes limits on the amounts 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.

Senate Bill 295

The bill does not make any change to current campaign finance law.

Substitute Amendment

The substitute amendment imposes a \$12,000 limit on the amount a PAC may contribute to the segregated fund of a political party or legislative campaign committee in a calendar year.

Assembly Amendment 2

Assembly Amendment 2 imposes limits on the amounts “other persons” may contribute to a candidate committee. Under the amendment, 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).

Assembly Amendment 2 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

Current Law

Current law applies the standards of conduct contained within subch. III of ch. 19, Stats., (the Code of Ethics for Public Officials and Employees) to state public officials. State public officials are individuals holding a “state public office.” The current definition of “state public office” includes all positions to which individuals are regularly appointed by the Governor, but do not include officials who are appointed by legislative leadership.

Several members of the new Elections Commission and Ethics Commission will be appointed by legislative leadership; one member will be appointed by each of the following: (1) the Senate Majority Leader; (2) the Senate Minority Leader; (3) the Speaker of the Assembly; and

(4) the Assembly Minority Leader. Because these commission members will be appointed by legislative leadership, they will not hold a “state public office” under the current definition and are not subject to the standards of conduct contained within the Code of Ethics.

Current law also requires specified public officials and employees to file a statement of economic interests disclosing the filer’s financial relationships. The requirement applies to, among others, an “official required to file.” The definition of “official required to file” currently includes a member or employee of the Elections Commission, but does not include a member or employee of the Ethics Commission. However, all members and employees of the Ethics Commission are currently required to file statements of economic interest under another statutory provision, s. 19.47 (3), Stats.

Senate Bill 295

The bill does not change the definition of “state public office” or the application of the standards of conduct contained within the Code of Ethics.

Similarly, the bill does not change the definition of an “official required to file.”

Substitute Amendment

The substitute amendment 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 the Code of Ethics.

The substitute amendment also changes the definition of “official required to file” to include members and employees of the Ethics Commission.

BILL HISTORY

Senate Substitute Amendment 1 was offered by Senator LeMahieu on February 2, 2016. The Senate Committee on Elections and Local Government adopted the amendment on a vote of Ayes, 3; Noes, 2, on February 3, 2016. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 3; Noes, 2.

Senate Amendments 1 and 11 to Senate Substitute Amendment 1 were offered by Senator LeMahieu on February 9, 2016. On the same date, the Senate adopted Senate Amendments 1 and 11 to Senate Substitute Amendment 1 and then adopted Senate Substitute Amendment 1 and passed the bill, as amended, on a vote of Ayes, 19; Noes, 13.

Assembly Amendment 2 was offered by Representative Vos on February 16, 2016. On the same date, the Assembly adopted Assembly Amendment 2 and concurred in the bill, as amended, on a vote of Ayes, 56; Noes, 38; and Paired, 4.

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