



2005 ASSEMBLY BILL 603

August 16, 2005 - Introduced by Representatives MUSSER, WOOD, KERKMAN, LEMAHIEU, F. LASEE, SUDER, LEHMAN and TOWNS, cosponsored by Senators A. LASEE and DARLING. Referred to Committee on Colleges and Universities.

1 **AN ACT to repeal** 38.04 (15), 38.08 (1g), (2) and (2m) and 38.10; **to renumber** 5.60
2 (1) (a); **to amend** 5.02 (3), (5) and (23), 5.58 (3), 5.60 (1) (title), 5.60 (1) (b), 7.60
3 (4) (a) and (5) (a), 7.70 (3) (d), 9.10 (1) (a), 9.10 (2) (b), 9.10 (3) (a), 9.10 (4) (a),
4 (d) and (7), 11.26 (1) (c), 11.26 (2) (c), 11.31 (1) (f), 11.31 (1) (g) (intro.) and 38.08
5 (1) (b); **to repeal and recreate** 11.31 (1) (f), 17.27 (3) and 38.08 (1) (a); and **to**
6 **create** 5.58 (2s), 5.60 (1) (ag), 7.70 (6), 8.10 (3) (ae), 8.11 (6), 17.01 (10m), 17.02
7 (2), 17.17 (2), 38.06 (6), 38.08 (1) (c) and 38.08 (6) of the statutes; **relating to:**
8 popular election of technical college district boards, providing an exemption
9 from and extending the time limit for emergency rule procedures and granting
10 rule-making authority.

Analysis by the Legislative Reference Bureau

Currently, the technical college system is managed on the local level by district boards consisting of nine members in each of the state's 16 technical college districts. The members of the technical college district board for each district are appointed by an appointment committee consisting of local elected officials in accordance with a representation plan based upon population distribution within the district,

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including distribution of women and minorities. All members of district boards must be residents of the district. Two members must be employers and two members must be employees. One member must be a school district administrator of a school district that lies within the technical college district. All members serve for three-year terms.

This bill provides for the election of all members of district boards from election districts within each technical college district on a nonpartisan ballot at the spring election. Each member must be an elector of the election district from which he or she is elected. Terms are changed to four years. Under the bill, current district board members serve until July 1, 2007, at which time district board members who are elected at the 2007 spring election take office. The terms of the members are staggered so that at least two are elected every year. Nomination paper signature requirements, contribution limits, and spending guidelines are the same as for the office of representative to the assembly. Candidates for the district board are not eligible to receive public grants to finance their campaigns.

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

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

1 **SECTION 1.** 5.02 (3), (5) and (23) of the statutes are amended to read:

2 5.02 **(3)** "Educational officer" means the state superintendent, a member of a
3 technical college district board, and a school board members member.

4 **(5)** "General election" means the election held in even-numbered years on the
5 Tuesday after the first Monday in November to elect United States senators,
6 representatives in congress, presidential electors, state senators, representatives to
7 the assembly, district attorneys, state officers other than the state superintendent,
8 members of the technical college district boards, and judicial officers, and county
9 officers other than supervisors and county executives.

10 **(23)** "State office" means the offices of governor, lieutenant governor, secretary
11 of state, state treasurer, attorney general, state superintendent, justice of the
12 supreme court, court of appeals judge, circuit court judge, state senator, state

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1 representative to the assembly and, district attorney, and member of a technical
2 college district board.

3 **SECTION 2.** 5.58 (2s) of the statutes is created to read:

4 5.58 (2s) TECHNICAL COLLEGE DISTRICT BOARD. When required, there shall be a
5 separate ballot for member of a technical college district board. Arrangement of the
6 names on the ballot shall be determined by the elections board under s. 5.60 (1) (b).
7 The ballot shall be titled "Official Primary Ballot for (name of district) Technical
8 College District Board."

9 **SECTION 3.** 5.58 (3) of the statutes is amended to read:

10 5.58 (3) NAMES ON SPRING BALLOT. Only 2 candidates for state superintendent,
11 for any judicial office, for any elected seat on a metropolitan sewerage commission
12 or town sanitary district commission, for member of a technical college district board
13 from any election district, in counties having a population of 500,000 or more only
14 2 candidates for member of the board of supervisors within each district, in counties
15 having a population of less than 500,000 only 2 candidates for each member of the
16 county board of supervisors from each district or numbered seat or only 4 candidates
17 for each 2 members of the county board of supervisors from each district whenever
18 2 supervisors are elected to unnumbered seats from the same district, in 1st class
19 cities only 2 candidates for any at-large seat and only 2 candidates from any election
20 district to be elected to the board of school directors, in school districts electing school
21 board members to numbered seats, or pursuant to an apportionment plan or district
22 representation plan, only 2 school board candidates for each numbered seat or within
23 each district, and twice as many candidates as are to be elected members of other
24 school boards or other elective officers receiving the highest number of votes at the

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1 primary shall be nominees for the office at the spring election. Only their names
2 shall appear on the official spring ballot.

3 **SECTION 4.** 5.60 (1) (title) of the statutes is amended to read:

4 5.60 (1) (title) ~~STATE SUPERINTENDENT~~ NONPARTISAN STATE OFFICERS; JUDICIARY;
5 COUNTY EXECUTIVE AND COUNTY SUPERVISORS SUPERVISOR.

6 **SECTION 5.** 5.60 (1) (a) of the statutes is renumbered 5.60 (1) (am).

7 **SECTION 6.** 5.60 (1) (ag) of the statutes is created to read:

8 5.60 (1) (ag) There shall be a separate ballot for the seat of each member of the
9 technical college district board in the election district when so required. The elections
10 board shall determine the official ballot arrangement for technical college district
11 board candidates by using the same method as that used under par. (b).

12 **SECTION 7.** 5.60 (1) (b) of the statutes is amended to read:

13 5.60 (1) (b) The board shall certify the candidates' names and designate the
14 official ballot arrangement for candidates for state superintendent, justice, court of
15 appeals judge, member of a technical college district board, circuit judge and, if
16 commissioners are elected under s. 200.09 (11) (am), the metropolitan sewerage
17 commission. The arrangement of names of all candidates on the ballot whose
18 nomination papers are filed with the board shall be determined by the board by the
19 drawing of lots not later than the 2nd Tuesday in January, or the next day if the first
20 Tuesday is a holiday. Whenever a primary is held for an office, a 2nd drawing of all
21 candidates for that office shall be held by or under the supervision of the board not
22 later than the 3rd day following the completion of the primary canvass to determine
23 the arrangement of candidates on the election ballot.

24 **SECTION 8.** 7.60 (4) (a) and (5) (a) of the statutes are amended to read:

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1 7.60 (4) (a) The board of canvassers shall make separate duplicate statements
2 showing the numbers of votes cast for the offices of president and vice president; state
3 officials; U.S. senators and representatives in congress; state legislators; justice;
4 court of appeals judge; members of the technical college district boards; circuit
5 judges; district attorneys; and metropolitan sewerage commissioners, if the
6 commissioners are elected under s. 200.09 (11) (am). If a municipal judge elected
7 under s. 755.01 (4) serves a municipality that is located partially within the county
8 and candidates for that judgeship file nomination papers in another county, the
9 board of canvassers shall prepare a duplicate statement showing the numbers of
10 votes cast for that judgeship in that county for transmittal to the other county. For
11 partisan candidates, the statements shall include the political party or principle
12 designation, if any, next to the name of each candidate. The board of canvassers shall
13 also prepare a statement showing the results of any county, technical college district
14 or statewide referendum. Each statement shall state the total number of votes cast
15 in the county for each office; the names of all persons for whom the votes were cast,
16 as returned; the number of votes cast for each person; and the number of votes cast
17 for and against any question submitted at a referendum. The board of canvassers
18 shall use one copy of each duplicate statement to report to the elections board,
19 technical college district board or board of canvassers of any other county and shall
20 file the other statement in the office of the county clerk or board of election
21 commissioners.

22 (5) (a) Immediately following the canvass, the county clerk shall deliver or send
23 to the elections board, by 1st class mail, a certified copy of each statement of the
24 county board of canvassers for president and vice president, state officials, senators
25 and representatives in congress, state legislators, justice, court of appeals judge,

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1 members of the technical college district boards, circuit judge, district attorney, and
2 metropolitan sewerage commissioners, if the commissioners are elected under s.
3 200.09 (11) (am). The statement shall record the returns for each office or
4 referendum by ward, unless combined returns are authorized under s. 5.15 (6) (b) in
5 which case the statement shall record the returns for each group of combined wards.
6 Following primaries the county clerk shall enclose on forms prescribed by the
7 elections board the names, party or principle designation, if any, and number of votes
8 received by each candidate recorded in the same manner. The county clerk shall
9 deliver or transmit the certified statement to the elections board no later than 7 days
10 after each primary and no later than 10 days after any other election. The board of
11 canvassers shall deliver or transmit a certified copy of each statement for any
12 technical college district referendum to the secretary of the technical college district
13 board.

14 **SECTION 9.** 7.70 (3) (d) of the statutes is amended to read:

15 7.70 (3) (d) When the certified statements and returns are received, the
16 chairperson of the board or the chairperson's designee shall proceed to examine and
17 make a statement of the total number of votes cast at any election for the offices
18 involved in the election for president and vice president; a statement for each of the
19 offices of governor, lieutenant governor, if a primary, and a joint statement for the
20 offices of governor and lieutenant governor, if a general election; a statement for each
21 of the offices of secretary of state, state treasurer, attorney general, and state
22 superintendent; for U.S. senator; representative in congress for each congressional
23 district; the state legislature; justice; court of appeals judge; technical college district
24 board member; circuit judge; district attorney; metropolitan sewerage commission,

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1 if the commissioners are elected under s. 200.09 (11) (am); and for any referenda
2 questions submitted by the legislature.

3 **SECTION 10.** 7.70 (6) of the statutes is created to read:

4 7.70 (6) TECHNICAL COLLEGE DISTRICT BOARD MEMBERS; DETERMINATIONS. The
5 elections board shall transmit to the secretary of the district board a copy of the
6 certified determination of the chairperson of the elections board or his or her
7 designee for the election of each member of any technical college district board.

8 **SECTION 11.** 8.10 (3) (ae) of the statutes is created to read:

9 8.10 (3) (ae) For the office of member of the technical college district board from
10 any election district, not less than 200 nor more than 400 electors.

11 **SECTION 12.** 8.11 (6) of the statutes is created to read:

12 8.11 (6) TECHNICAL COLLEGE DISTRICT BOARD MEMBERS. A primary shall be held
13 in an election for any seat on a technical college district board whenever there are
14 more than 2 candidates in any election district.

15 **SECTION 13.** 9.10 (1) (a) of the statutes is amended to read:

16 9.10 (1) (a) The qualified electors of the state, of any county, city, village, town,
17 of any congressional, legislative, judicial, technical college, or school district, or of
18 any prosecutorial unit may petition for the recall of any incumbent elective official
19 by filing a petition with the same official or agency with whom nomination papers
20 or declarations of candidacy for the office are filed demanding the recall of the
21 officeholder.

22 **SECTION 14.** 9.10 (2) (b) of the statutes is amended to read:

23 9.10 (2) (b) A recall petition for a city, village, town, technical college district,
24 or school district office shall contain a statement of a reason for the recall which is
25 related to the official responsibilities of the official for whom removal is sought.

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1 **SECTION 15.** 9.10 (3) (a) of the statutes is amended to read:

2 9.10 (3) (a) This subsection applies to the recall of all elective officials other
3 than city, village, town, technical college district, and school district officials. City,
4 village, town, technical college district, and school district officials are recalled under
5 sub. (4).

6 **SECTION 16.** 9.10 (4) (a), (d) and (7) of the statutes are amended to read:

7 9.10 (4) (a) Within 10 days after a petition for the recall of a city, village, town,
8 technical college district, or school district official, is offered for filing, the officer
9 against whom the petition is filed may file a written challenge with the ~~municipal~~
10 ~~clerk or board of election commissioners or school district clerk~~ official or agency with
11 whom it is filed, specifying any alleged insufficiency. If a challenge is filed, the
12 petitioner may file a written rebuttal to the challenge with the ~~clerk or board of~~
13 ~~election commissioners~~ official or agency within 5 days after the challenge is filed.
14 If a rebuttal is filed, the officer against whom the petition is filed may file a reply to
15 any new matter raised in the rebuttal within 2 days after the rebuttal is filed. Within
16 14 days after the expiration of the time allowed for filing a reply to a rebuttal, the
17 ~~clerk or board of election commissioners~~ official or agency shall file the certificate or
18 an amended certificate. Within 31 days after the petition is offered for filing, the
19 ~~clerk or board of election commissioners~~ official or agency shall determine by careful
20 examination of the face of the petition whether the petition is sufficient and shall so
21 state in a certificate attached to the petition. If the petition is found to be insufficient,
22 the certificate shall state the particulars creating the insufficiency. The petition may
23 be amended to correct any insufficiency within 5 days following the affixing of the
24 original certificate. Within 2 days after the offering of the amended petition for filing,
25 the ~~clerk or board of election commissioners~~ official or agency shall again carefully

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1 examine the face of the petition to determine sufficiency and shall attach to the
2 petition a certificate stating the findings. Immediately upon finding an original or
3 amended petition sufficient, except in cities over 500,000 population and in technical
4 college districts, the ~~municipal clerk or school district clerk~~ official shall transmit the
5 petition to the governing body or to the school board. Immediately upon finding an
6 original or amended petition sufficient, in cities over 500,000 population, the board
7 of election commissioners shall file the petition in its office. Immediately upon
8 finding an original or amended petition sufficient, in technical college districts, the
9 elections board shall file the petition in its office.

10 (d) Promptly upon receipt of a certificate under par. (a), the governing body,
11 school board, ~~or board of election commissioners,~~ or elections board shall call a recall
12 election. The recall election shall be held on the Tuesday of the 6th week commencing
13 after the date on which the certificate is filed, except that if Tuesday is a legal holiday
14 the recall election shall be held on the first day after Tuesday which is not a legal
15 holiday.

16 **(7) PURPOSE.** The purpose of this section is to facilitate the operation of article
17 XIII, section 12, of the constitution and to extend the same rights to electors of cities,
18 villages, towns, technical college districts, and school districts.

19 **SECTION 17.** 11.26 (1) (c) of the statutes is amended to read:

20 11.26 (1) (c) Candidates for representative to the assembly or member of a
21 technical college district board, \$500.

22 **SECTION 18.** 11.26 (2) (c) of the statutes is amended to read:

23 11.26 (2) (c) Candidates for representative to the assembly or member of a
24 technical college district board, \$500.

25 **SECTION 19.** 11.31 (1) (f) of the statutes is amended to read:

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1 11.31 (1) (f) Candidates for representative to the assembly or member of a
2 technical college district board, \$17,250 total in the primary and election, with
3 disbursements not exceeding \$10,775 for either the primary or the election.

4 **SECTION 20.** 11.31 (1) (f) of the statutes, as affected by 2001 Wisconsin Act 109
5 and by 2005 Wisconsin Act (this act), is repealed and recreated to read:

6 11.31 (1) (f) Candidates for representative to the assembly or member of a
7 technical college district board, \$50,000 total in the primary and election, with
8 disbursements not exceeding \$36,000 for either the primary or the election.

9 **SECTION 21.** 11.31 (1) (g) (intro.) of the statutes is amended to read:

10 11.31 (1) (g) (intro.) In any jurisdiction or district, other than a technical college
11 district or judicial district or circuit, with a population of 500,000 or more according
12 to the most recent federal census covering the entire jurisdiction or district:

13 **SECTION 22.** 17.01 (10m) of the statutes is created to read:

14 17.01 (10m) By a member of a technical college district board, to the secretary
15 of the district board.

16 **SECTION 23.** 17.02 (2) of the statutes is created to read:

17 17.02 (2) TECHNICAL COLLEGE DISTRICT BOARD. Of the resignation of a member
18 of a technical college district board, by the secretary of the district board to the
19 elections board.

20 **SECTION 24.** 17.17 (2) of the statutes is created to read:

21 17.17 (2) TECHNICAL COLLEGE DISTRICT BOARD. In the office of member of a
22 technical college district board, by the secretary of the district board to the elections
23 board.

24 **SECTION 25.** 17.27 (3) of the statutes is repealed and recreated to read:

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1 17.27 (3) TECHNICAL COLLEGE DISTRICT BOARD. Except as provided in s. 9.10, a
2 vacancy in the office of member of a technical college district board may be filled by
3 temporary appointment of the remaining members of the district board. The
4 temporary appointee shall serve until a successor is elected and qualifies. If the
5 vacancy occurs in any year after the first Tuesday in April and on or before December
6 1, the vacancy shall be filled for the residue of the unexpired term, if any, at the
7 succeeding spring election. If the vacancy occurs in any year after December 1 or on
8 or before the first Tuesday in April, the vacancy shall be filled for the residue of the
9 unexpired term, if any, at the 2nd succeeding spring election.

10 **SECTION 26.** 38.04 (15) of the statutes is repealed.

11 **SECTION 27.** 38.06 (6) of the statutes is created to read:

12 38.06 (6) Promptly upon issuance of a reorganization order by the board, the
13 director of the board shall transmit a copy of the order to the elections board.

14 **SECTION 28.** 38.08 (1) (a) of the statutes is repealed and recreated to read:

15 38.08 (1) (a) A district board shall administer the district and shall be composed
16 of 9 members who are residents of the district. The members shall be elected to
17 represent numbered election districts within each technical college district by the
18 electors of each election district at the spring election. Each member of the district
19 board shall be an elector of the numbered election district within the technical college
20 district for which he or she seeks office.

21 **SECTION 29.** 38.08 (1) (b) of the statutes is amended to read:

22 38.08 (1) (b) District board members shall take office on July 1 and shall serve
23 staggered 3-year 4-year terms.

24 **SECTION 30.** 38.08 (1) (c) of the statutes is created to read:

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1 38.08 (1) (c) Promptly upon receipt of the determinations of the elections board
2 under s. 7.70 (6) and upon appointment of any person to fill a temporary vacancy on
3 the district board, the secretary of the district board shall send written notification
4 of the name and address of each member and expiration date of each member's term
5 to the director of the board.

6 **SECTION 31.** 38.08 (1g), (2) and (2m) of the statutes are repealed.

7 **SECTION 32.** 38.08 (6) of the statutes is created to read:

8 38.08 (6) (a) Within 90 days after the population count by block, established
9 in the decennial federal census of population, and maps showing the location and
10 numbering of census blocks become available in printed form from the federal
11 government or are published for distribution by an agency of this state or within 90
12 days after alteration of the boundaries of an existing district, the district board of
13 each existing district shall apportion and prescribe the boundaries of 9 numbered
14 election districts within the district, to be as nearly equal in population as possible.
15 Within 90 days after the creation of any new district, the board shall similarly
16 apportion and prescribe the boundaries of 9 numbered election districts within that
17 district. Alterations in election districts resulting from boundary changes to existing
18 districts may be made only to the extent required to facilitate the change. Insofar
19 as possible, each election district shall be compact and observe the community of
20 interest of existing neighborhoods. A detailed map and description of each election
21 district prescribed by a district board shall be prepared and transmitted by the
22 district board to the director of the board.

23 (b) All proposed district boundaries established by a district board under par.
24 (a) shall become effective only upon their approval by the board. If the board
25 disapproves the proposed boundaries, the district board shall submit a revised

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1 districting plan for approval of the board. Upon approval of the election district
2 boundaries within any district, the board shall promulgate the boundaries
3 established under par. (a) as a rule under ch. 227. The boundaries shall become
4 effective on the effective date of the rule.

5 **SECTION 33.** 38.10 of the statutes is repealed.

6 **SECTION 34. Nonstatutory provisions.**

7 (1) NONSEVERABILITY. Notwithstanding section 990.001 (11) of the statutes, if
8 a court finds that the repeal and recreation of section 11.31 (1) (f) of the statutes by
9 this act or any part of the laws specified in 2001 Wisconsin Act 109, section 9115 (2y)
10 (b) is unconstitutional, the repeal and recreation of section 11.31 (1) (f) of the statutes
11 by this act is void.

12 (2) ELECTION OF INITIAL DISTRICT BOARDS. Notwithstanding section 38.08 (6) of
13 the statutes, as created by this act, within 60 days after the effective date of this
14 subsection, the appointment committee of each technical college district shall adopt
15 and transmit to the secretary of each technical college district board and the director
16 of the state technical college system board an initial districting plan for election
17 districts as required by section 38.08 (6) of the statutes, as created by this act. The
18 state technical college system board shall review and determine its approval or
19 disapproval of each plan as promptly as possible. If a plan is rejected, the
20 appointment committee shall submit a new plan for approval. Notwithstanding
21 section 227.24 (1) (a) and (3) of the statutes, the state technical college system board
22 may promulgate the plan as an emergency rule under section 227.24 of the statutes
23 without providing evidence that promulgating a rule under this subsection as an
24 emergency rule is necessary for the preservation of the public peace, health, safety,
25 or welfare, and is not required to provide a finding of emergency for a rule

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1 promulgated under this subsection. Notwithstanding section 227.24 (1) (c) of the
2 statutes, an emergency rule promulgated under this subsection applies until a rule
3 replacing that rule takes effect or until the actions specified in section 227.24 (1) (d)
4 of the statutes occur, whichever is sooner. Notwithstanding section 227.19 (4) to (6)
5 of the statutes, the rule replacing a valid emergency rule adopted under this
6 subsection may not contain any substantive change from the emergency rule.

7 (3) TRANSITIONAL TERMS. Notwithstanding chapter 269, laws of 1981, section 22,
8 and section 38.08 (1) (b) of the statutes, as affected by this act, the members of each
9 technical college district board who hold office on the effective date of this subsection
10 shall cease to hold office on July 1, 2007. At the 2007 spring election, 9 members shall
11 be elected to each technical college district board for terms commencing on July 1,
12 2007. The persons elected to represent election districts numbered 1 and 2 at that
13 election shall serve for terms of one year, the persons elected to represent election
14 districts numbered 3 and 4 at that election shall serve for terms of 2 years, the
15 persons elected to represent election districts numbered 5 and 6 at that election shall
16 serve for terms of 3 years, and the persons elected to represent election districts
17 numbered 7, 8, and 9 at that election shall serve for terms of 4 years.

18 (4) VACANCIES. Notwithstanding section 38.10, 2003 stats., the appointment
19 committee of each technical college district shall not make any appointment to a
20 technical college district board for the purpose of filling a vacancy resulting from
21 expiration of a term of office after the effective date of this subsection.

22 **SECTION 35. Effective dates.** This act takes effect on August 1, 2006, except
23 as follows:

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1 (1) The treatment of sections 17.01 (10m), 17.02 (2), 17.17 (2), 17.27 (3), 38.04
2 (15), 38.08 (1) (a), (b), and (c), (1g), (2), and (2m), 38.08 (6), and 38.10 of the statutes
3 takes effect on July 1, 2007.

4 (END)