



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBs0179/1
MPG&JK:skw

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 685**

November 15, 2023 - Offered by Senator CABRAL-GUEVARA.

1 **AN ACT** *to repeal* 5.85 (5), 5.86 and 7.03 (1) (c); *to renumber and amend* 7.52
2 (1) (a); *to amend* 5.05 (12), 5.84 (1), 5.84 (2), 5.85 (1), 5.87 (1), 5.91 (17), 6.15
3 (4) (a), 6.15 (4) (b), 6.33 (1), 6.86 (1) (b), 6.87 (6), 6.88 (1), 6.88 (2), 7.37 (12), 7.51
4 (1), 7.52 (2), 7.52 (3) (a), 7.52 (4) (a), 7.52 (9), 12.60 (1) (a) and 54.25 (2) (c) 1. g.;
5 and *to create* 5.057, 6.88 (4), 7.15 (16), 7.52 (1) (d) to (h), 7.52 (10) and 7.52 (11)
6 of the statutes; **relating to:** canvassing absentee ballots, use of central
7 counting locations, election night reporting, court determinations of
8 incompetency and ineligibility to vote, and providing a penalty.

Analysis by the Legislative Reference Bureau

EARLY CANVASSING OF ABSENTEE BALLOTS

Under current law, absentee ballots may not be canvassed until election day. Current law additionally provides that any municipality may provide by ordinance that, in lieu of canvassing absentee ballots at polling places, a municipal board of absentee ballot canvassers established by the municipality is responsible for canvassing all absentee ballots received by the municipal clerk by 8 p.m. on election

day. In such a municipality, the board of absentee ballot canvassers is required to convene a meeting any time after the polls open and before 10 p.m. on election day to canvass the absentee ballots cast in the municipality in the election. Among the requirements governing such a meeting, any member of the public has the same right of access to the meeting that the individual would have to observe the canvassing of absentee ballots at a polling place.

This bill does all of the following:

1. Requires the municipal board of absentee ballot canvassers in a municipality having an ordinance described above to begin canvassing absentee ballots on the day before an election. Canvassing absentee ballots on the day before the election is optional except for each spring and general election and each special election or recall election if the special or recall election is for a state or national office.

2. Provides that the board of absentee ballot canvassers must publicly convene no earlier than 7 a.m. on the day before the election to begin the canvass of absentee ballots for the municipality and recess at 8 p.m. on that day.

3. Requires that at 8 p.m. on the day before the election, and at 7 a.m., noon, and 8 p.m. on election day, the municipal clerk or his or her designee or the municipal board of election commissioners must provide to the county clerk or county board of election commissioners of the county in which the municipality is located a statement that shows the total number of absentee ballots returned to the municipality and the total number of absentee ballots the municipal board of absentee ballot canvassers has canvassed. The county clerk or county board of election commissioners must promptly post each statement on the website on which returns for the county are posted on election night. In a municipality having a municipal board of election commissioners (currently, only the city of Milwaukee), the municipal board of election commissioners must also post the statement on the website maintained by the municipal board of election commissioners. The statement may not include the names or addresses of any electors. An absentee ballot is considered canvassed for purposes of this reporting requirement only after all tasks have been completed in the canvassing process except for the tallying of votes.

4. Requires that when the meeting of the board of absentee ballot canvassers recesses on the day before the election, the board must secure the automatic tabulating equipment, and the areas where the programmed media, memory devices, and absentee ballots are housed, with tamper-evident security seals in a double-lock location such as a locked cabinet inside a locked office. Before resuming the canvassing of absentee ballots, the board must check and record the status of each tamper-evident seal and must immediately notify the Elections Commission of any evidence of tampering. If the board discovers evidence of tampering with respect to automatic tabulating equipment, the canvass may not resume until the equipment is replaced and the replacement equipment is tested. Also, if the board discovers evidence of tampering, the Elections Commission must verify the accuracy of the absentee ballot count by ordering the municipality to conduct a recount after the election and conducting an audit of the election equipment.

5. Provides that votes on absentee ballots canvassed early under the bill may not be tallied until after the polls close on election day.

6. Provides that no person may act in a manner that would give him or her the ability to know or to provide information on the tallied results from the ballots canvassed under the bill before the polls close on election day. Whoever intentionally violates that prohibition is guilty of a Class I felony, the penalty for which is a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both.

7. Authorizes municipalities not having a board of absentee ballot canvassers to begin processing absentee ballots beginning no earlier than 7 a.m. on the day before the election subject to some of the requirements described above. In order to canvass absentee ballots early, such a municipality must provide by ordinance that absentee ballots received by the municipal clerk may be canvassed on the day before the election. Prior to enacting the ordinance, the municipal clerk must notify the Elections Commission in writing of the proposed ordinance and must consult with the Elections Commission concerning the early canvassing of absentee ballots.

Finally, under current law, criminal penalties are provided for election officials who commit certain specified kinds of election fraud. Otherwise, the willful neglect or refusal of an election official to perform a duty prescribed under the election laws is punishable by disqualification to act as an election official for five years. Under the bill, a member of the municipal board of absentee ballot canvassers or other election official who willfully neglects or refuses to perform any of the duties prescribed under the bill, and other duties prescribed under current law, with respect to the canvassing of absentee ballots by a municipal board of absentee ballot canvassers is guilty of a Class I felony.

USE OF CENTRAL COUNTING LOCATIONS

Under current law, votes are canvassed at the polling place after polls close on election day, except that any municipality where an electronic voting system is used may elect to adjourn the canvass to a central counting location where votes cast at multiple polling places in the municipality may all be counted after the polls close on election day. The bill eliminates the option for municipalities to use such central counting locations.

ELECTION NIGHT REPORTING

Under the bill, at 10 p.m. on election night, and every hour thereafter until the canvass is complete, each municipal clerk or his or her designee must provide to the county clerk of the county in which the municipality is located a statement that shows the total number of ballots, including absentee ballots, cast at the municipality in the election, the total number of ballots, including absentee ballots, that have been canvassed, and the total number of ballots, including absentee ballots, that remain to be canvassed. The county clerk must promptly post each statement on the website on which the county clerk posts returns on election night. In a municipality having a municipal board of election commissioners (currently, only the city of Milwaukee), the municipal board of election commissioners must also post the statement on the website maintained by the municipal board of election commissioners. The statement may not include the names or addresses of any electors.

COURT DETERMINATIONS OF INCOMPETENCY AND INELIGIBILITY TO VOTE

Under current law, no person who is incapable of understanding the objective of the elective process or who is under a guardianship may vote unless a court has determined that the person is competent to vote. Current law also allows any voter in a municipality to petition a circuit court to determine whether a person residing in the municipality is incapable of understanding the objective of the elective process. If the court determines that the person is incapable of such understanding, the person is not eligible to register to vote or to vote. Current law requires the clerk of the circuit court to communicate the court's determinations, in writing, to the election officials who are responsible for determining challenges to registration and voting that may be brought against the person.

This bill requires the circuit court to notify the Elections Commission, by email, of the court's determination regarding incompetency and ineligibility to register to vote or to vote. Under the bill, when the commission receives a determination of incompetency and ineligibility to register to vote or to vote, the commission must, within three business days, change the status of the voter subject to the determination to inactive on the official voter registration list, note on the list that the voter is ineligible to register to vote or to vote, and notify the voter and the voter's municipal clerk of the voter's change in status. The bill also provides that if a court reviews a determination of incompetency and ineligibility to vote and restores the voter's right to vote, upon receipt of that determination by email, the commission must, within three business days, notify the voter that the voter is eligible to vote and that the voter is required to complete a new registration to vote if the voter intends to vote. Under the bill, the clerk must examine the registration list before issuing a ballot to any voter.

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

1 **SECTION 1.** 5.05 (12) of the statutes is amended to read:

2 5.05 (12) VOTER EDUCATION. The commission may conduct or prescribe
3 requirements for educational programs to inform electors about voting procedures,
4 voting rights, and voting technology. The commission shall conduct an educational
5 program for the purpose of educating electors ~~who cast paper ballots, ballots that are~~
6 ~~counted at a central counting location, and absentee ballots of the effect of casting~~
7 excess votes for a single office.

8 **SECTION 2.** 5.057 of the statutes is created to read:

5.057 Determination of ineligibility to vote due to incompetency. (1)

1 Upon receipt of a determination of ineligibility to register to vote or to vote under
2 s. 54.25 (2) (c) 1. g., the commission shall, no later than 3 business days after receiving
3 the determination, change the status of the elector subject to the determination to
4 inactive on the official registration list under s. 6.36, note on the list that the elector
5 is ineligible to register to vote or to vote in accordance with s. 6.03 (3), and notify the
6 elector and the elector's municipal clerk of the elector's change in status. If the
7 commission does not have a record of the elector upon receipt of a determination of
8 ineligibility, the commission shall create a record listing the elector as ineligible to
9 vote in accordance with s. 6.03 (3) and provide a copy of that record to the elector's
10 municipal clerk. Upon receipt of a registration to vote, the municipal clerk shall
11 examine the registration list to determine whether the elector is ineligible to register
12 to vote or to vote in accordance with s. 6.03 (3) and shall notify the elector if the clerk
13 determines that the elector is ineligible. The clerk shall examine the registration list
14 before issuing a ballot to any elector.

16 **(2)** If under s. 54.64 (2) (a) a court subsequently reviews a determination of
17 ineligibility to vote under s. 54.25 (2) (c) 1. g. and restores an elector's right to vote,
18 as provided under s. 54.64 (2) (c), upon receipt of the reviewing court's determination,
19 the commission shall, no later than 3 business days after receiving the
20 determination, notify the elector that the elector is eligible to vote, but that the
21 elector is required to complete a new voter registration if the elector intends to vote.
22 The commission shall submit with the notice a registration form for the elector to
23 complete and return to the municipal clerk, if the elector intends to vote.

24 **SECTION 3.** 5.84 (1) of the statutes is amended to read:

1 5.84 (1) Where any municipality employs an electronic voting system which
2 that utilizes automatic tabulating equipment, ~~either at the polling place or at a~~
3 ~~central counting location~~, the municipal clerk shall, on any day not more than 10
4 days prior to the ~~election~~ day on which the equipment is to be utilized in an election,
5 have the equipment tested to ascertain that it will correctly count the votes cast for
6 all offices and on all measures. Public notice of the time and place of the test shall
7 be given by the clerk at least 48 hours prior to the test by posting notice on the
8 municipality's website if it has one and by publication of a class 1 notice under ch.
9 985 in one or more newspapers published within the municipality if a newspaper is
10 published therein, otherwise in a newspaper of general circulation therein. The test
11 shall be open to the public. The test shall be conducted by processing a preaudited
12 group of ballots so marked as to record a predetermined number of valid votes for
13 each candidate and on each referendum. The test shall include for each office one
14 or more ballots which have votes in excess of the number allowed by law and, for a
15 partisan primary election, one or more ballots which have votes cast for candidates
16 of more than one recognized political party, in order to test the ability of the
17 automatic tabulating equipment to reject such votes. If any error is detected, the
18 municipal clerk shall ascertain the cause and correct the error. The clerk shall make
19 an errorless count before the automatic tabulating equipment is approved by the
20 clerk for use in the election.

21 **SECTION 4.** 5.84 (2) of the statutes is amended to read:

22 5.84 (2) Before beginning the ballot count at each polling place ~~or at the central~~
23 ~~counting location~~ or at a meeting convened under s. 6.88 (4) or 7.52 (1), the election
24 officials shall witness a test of the automatic tabulating equipment by engaging the
25 printing mechanism and securing a printed result showing a zero count for every

1 candidate and referendum. After the completion of the count, the ballots and
2 programs used shall be sealed and retained under the custody of the municipal clerk
3 in a secure location.

4 **SECTION 5.** 5.85 (1) of the statutes is amended to read:

5 5.85 (1) At any polling place at which an electronic voting system is utilized,
6 the following procedures for receiving, counting, tallying, and return of the ballots
7 shall be used. Whenever paper ballots are utilized at a polling place in combination
8 with ballots employed in an electronic voting system, the paper ballots shall be
9 deposited in a separate ballot box or boxes, according to the types of ballots used. For
10 the purpose of transporting the ballots or the record of the votes cast, the municipal
11 clerk shall provide a secure container for each polling place. At each polling place,
12 the applicable portions of the procedure prescribed for initiating the canvass under
13 s. 7.51 (1) and (2) shall be performed, ~~except that no count of the ballots, except~~
14 ~~write-in votes and paper ballots used for absentee voting and other purposes~~
15 ~~authorized by law, may be performed at a polling place if a central counting location~~
16 ~~is designated for the counting of ballots at that polling place by the municipality.~~

17 **SECTION 6.** 5.85 (5) of the statutes is repealed.

18 **SECTION 7.** 5.86 of the statutes is repealed.

19 **SECTION 8.** 5.87 (1) of the statutes is amended to read:

20 5.87 (1) ~~If a central counting location is not utilized, the~~ The procedure for
21 tabulating the votes by the automatic tabulating equipment shall be under the
22 direction of the chief inspector and shall conform to the requirements of the
23 automatic tabulating equipment. If any ballot is not accepted by the automatic
24 tabulating equipment, the election officials shall make a duplicate ballot to replace
25 that ballot in the manner prescribed in s. 5.85 (3). All proceedings at the polling place

1 ~~and at any central counting location~~ shall be open to the public, but no person, except
2 those employed and authorized for the purpose, may touch any ballot, container,
3 envelope, return, or equipment.

4 **SECTION 9.** 5.91 (17) of the statutes is amended to read:

5 5.91 (17) ~~Unless the ballot is counted at a central counting location, it~~ It
6 includes a mechanism for notifying an elector who attempts to cast an excess number
7 of votes for a single office that his or her votes for that office will not be counted, and
8 provides the elector with an opportunity to correct his or her ballot or to receive and
9 cast a replacement ballot.

10 **SECTION 10.** 6.15 (4) (a) of the statutes is amended to read:

11 6.15 (4) (a) Clerks holding new resident ballots shall deliver them to the
12 election inspectors in the proper ward or election district where the new residents
13 reside or, in municipalities where absentee ballots are canvassed under s. 7.52, to the
14 municipal board of absentee ballot canvassers ~~when it convenes~~ at a meeting
15 convened under s. 7.52 (1), as provided by s. 6.88 for absentee ballots.

16 **SECTION 11.** 6.15 (4) (b) of the statutes is amended to read:

17 6.15 (4) (b) During polling hours, or on the day before the election under s. 6.88
18 (4), the inspectors shall open each carrier envelope, announce the elector's name,
19 check the affidavit for proper execution, and check the voting qualifications for the
20 ward, if any. In municipalities where absentee ballots are canvassed under s. 7.52,
21 the municipal board of absentee ballot canvassers shall perform this function at a
22 meeting of the board of absentee ballot canvassers.

23 **SECTION 12.** 6.33 (1) of the statutes is amended to read:

24 6.33 (1) The commission shall prescribe the format, size, and shape of
25 registration forms. All nonelectronic forms shall be printed and each item of

1 information shall be of uniform font size, as prescribed by the commission. Except
2 as otherwise provided in this subsection, electronic forms shall contain the same
3 information as nonelectronic forms. The municipal clerk shall supply sufficient
4 forms to meet voter registration needs. The commission shall design the form to
5 obtain from each elector information as to name; date; residence location; location of
6 previous residence immediately before moving to current residence location;
7 citizenship; date of birth; age; the number of a current and valid operator's license
8 issued to the elector under ch. 343 or the last 4 digits of the elector's social security
9 account number; whether the elector has resided within the ward or election district
10 for the number of consecutive days specified in s. 6.02 (1); whether the elector has
11 been convicted of a felony for which he or she has not been pardoned, and if so,
12 whether the elector is incarcerated, or on parole, probation, or extended supervision;
13 whether the elector is disqualified on any other ground from voting, including being
14 adjudicated incompetent to exercise the right to register to vote or to vote in an
15 election; and whether the elector is currently registered to vote at any other location.
16 The forms shall provide check boxes for the elector to indicate whether he or she is
17 disqualified to vote and, if disqualified to vote, the grounds for which the elector is
18 so disqualified. The commission shall include on the nonelectronic form a space for
19 the elector's signature and on the electronic form the authorization specified under
20 s. 6.30 (5). Below the space for the signature or authorization, respectively, the
21 commission shall include the following statement: "Falsification of information on
22 this form is punishable under Wisconsin law as a Class I felony." The commission
23 shall include on the form a space to enter the name of any inspector, municipal clerk,
24 or deputy clerk under s. 6.55 (2) who obtains the form and a space for the inspector,
25 clerk, or deputy clerk to sign his or her name, affirming that the inspector, clerk, or

1 deputy clerk has accepted the form. The commission shall include on the form a
2 space for entry of the ward and aldermanic district, if any, where the elector resides
3 and any other information required to determine the offices and referenda for which
4 the elector is certified to vote. The commission shall also include on the form a space
5 where the clerk may record an indication of whether the form is received by mail or
6 by electronic application, a space where the clerk shall record an indication of the
7 type of identifying document submitted by the elector as proof of residence under s.
8 6.34 or an indication that the elector's information in lieu of proof of residence was
9 verified under s. 6.34 (2m), the name of the entity or institution that issued the
10 identifying document, and, if the identifying document includes a number that
11 applies only to the individual holding that document, that number. The commission
12 shall also include on the form a space where the clerk, for any elector who possesses
13 a valid voting identification card issued to the person under s. 6.47 (3), may record
14 the identification serial number appearing on the voting identification card. Each
15 county clerk shall obtain sufficient registration forms for completion by an elector
16 who desires to register to vote at the office of the county clerk under s. 6.28 (4).

17 **SECTION 13.** 6.86 (1) (b) of the statutes is amended to read:

18 6.86 (1) (b) Except as provided in this section, if application is made by mail,
19 the application shall be received no later than 5 p.m. on the 5th day immediately
20 preceding the election. If application is made in person, the application shall be
21 made no earlier than 14 days preceding the election and no later than the Sunday
22 preceding the election. No application may be received on a legal holiday. A
23 municipality shall specify the hours in the notice under s. 10.01 (2) (e). The
24 municipal clerk or an election official shall witness the certificate for any in-person
25 absentee ballot cast. Except as provided in par. (c), if the elector is making written

1 application for an absentee ballot at the partisan primary, the general election, the
2 presidential preference primary, or a special election for national office, and the
3 application indicates that the elector is a military elector, as defined in s. 6.34 (1), the
4 application shall be received by the municipal clerk no later than 5 p.m. on election
5 day. If the application indicates that the reason for requesting an absentee ballot is
6 that the elector is a sequestered juror, the application shall be received no later than
7 5 p.m. on election day. If the application is received after 5 p.m. on the Friday
8 immediately preceding the election, the municipal clerk or the clerk's agent shall
9 immediately take the ballot to the court in which the elector is serving as a juror and
10 deposit it with the judge. The judge shall recess court, as soon as convenient, and
11 give the elector the ballot. The judge shall then witness the voting procedure as
12 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
13 shall deliver it to the ~~polling place~~ election inspectors of the proper ward or election
14 district or, in municipalities where absentee ballots are canvassed under s. 7.52, to
15 the municipal clerk as required in s. 6.88. If application is made under sub. (2) or
16 (2m), the application may be received no later than 5 p.m. on the Friday immediately
17 preceding the election.

18 **SECTION 14.** 6.87 (6) of the statutes is amended to read:

19 6.87 (6) The ballot shall be returned so it is delivered to the ~~polling place~~
20 election inspectors of the proper ward or election district no later than 8 p.m. on
21 election day. Except in municipalities where absentee ballots are canvassed under
22 s. 7.52, if the municipal clerk receives an absentee ballot on election day, the clerk
23 shall secure the ballot and cause the ballot to be delivered to the polling place serving
24 the elector's residence before 8 p.m. Any ballot not mailed or delivered as provided
25 in this subsection may not be counted.

1 **SECTION 15.** 6.88 (1) of the statutes is amended to read:

2 6.88 (1) When an absentee ballot arrives at the office of the municipal clerk,
3 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,
4 unopened, in a carrier envelope which shall be securely sealed and endorsed with the
5 name and official title of the clerk, and the words “This envelope contains the ballot
6 of an absent elector and must be opened ~~in the same room where votes are being cast~~
7 ~~at the polls during polling hours on election day or, in municipalities where absentee~~
8 ~~ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of~~
9 ~~absentee ballot canvassers under s. 7.52, stats~~ only as provided by law.” If the elector
10 is a military elector, as defined in s. 6.34 (1), or an overseas elector, regardless of
11 whether the elector qualifies as a resident of this state under s. 6.10, and the ballot
12 was received by the elector by facsimile transmission or electronic mail and is
13 accompanied by a separate certificate, the clerk shall enclose the ballot in a
14 certificate envelope and securely append the completed certificate to the outside of
15 the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep
16 the ballot in the clerk’s office or at the alternate site, if applicable until delivered, as
17 required in sub. (2).

18 **SECTION 16.** 6.88 (2) of the statutes is amended to read:

19 6.88 (2) When an absentee ballot is received by the municipal clerk prior to the
20 delivery of the official ballots to the election officials of the ward in which the elector
21 resides or, where absentee ballots are canvassed under s. 7.52, to the municipal board
22 of absentee ballot canvassers, the municipal clerk shall seal the ballot envelope in
23 the carrier envelope as provided under sub. (1), and shall enclose the envelope in a
24 package and deliver the package to the election inspectors of the proper ward or
25 election district or, in municipalities where absentee ballots are canvassed under s.

1 7.52, to the municipal board of absentee ballot canvassers ~~when it convenes~~ at a
2 meeting convened under s. 7.52 (1). When the official ballots for the ward or election
3 district have been delivered to the election inspectors before the receipt of an
4 absentee ballot, the clerk shall immediately enclose the envelope containing the
5 absentee ballot in a carrier envelope as provided under sub. (1) and deliver it in
6 person to the proper election officials.

7 **SECTION 17.** 6.88 (4) of the statutes is created to read:

8 6.88 (4) (a) 1. The governing body of any municipality not specified in s. 7.52
9 (1) (a) may provide by ordinance that absentee ballots received by the municipal clerk
10 may be canvassed on the day before the election.

11 2. Prior to enacting an ordinance under subd. 1., the municipal clerk shall
12 notify the commission in writing of the proposed enactment and shall consult with
13 the commission concerning administration of this subsection.

14 (am) In any municipality having an ordinance under par. (a), subject to pars.
15 (b) to (f), the election inspectors may convene a meeting to begin canvassing absentee
16 ballots no earlier than 7 a.m. on the day before the election.

17 (b) The municipal clerk shall give at least 60 days' notice of a meeting under
18 this subsection. Any member of the public has the same right of access to observe
19 the proceedings at a meeting under this subsection that the individual would have
20 under s. 7.41. The election inspectors may order the removal of any individual
21 exercising the right to observe the proceedings if the individual disrupts the meeting.

22 (c) 1. At 8 p.m. on the day before the election, and at 7 a.m., noon, and 8 p.m.
23 on election day, the municipal clerk or his or her designee or municipal board of
24 election commissioners shall provide to the county clerk of the county in which the
25 municipality is located or the county board of election commissioners a statement

1 that shows the total number of absentee ballots returned to the municipality and the
2 total number of absentee ballots the election inspectors have canvassed under this
3 subsection. The county clerk or county board of election commissioners shall
4 promptly post each statement on the website on which returns for the county are
5 posted on election night under s. 7.60. In a municipality having a municipal board
6 of election commissioners, the statement required under this paragraph shall also
7 be posted on the website maintained by the municipal board of election
8 commissioners. The statement may not include the names or addresses of any
9 electors.

10 2. An absentee ballot shall be considered canvassed for purposes of subd. 1. only
11 after all tasks have been completed in the canvassing process except for the tallying
12 of votes.

13 (d) When the meeting of the election inspectors recesses on the day before the
14 election, the election inspectors shall secure the automatic tabulating equipment,
15 and the areas where the programmed media, memory devices, and absentee ballots
16 are housed, with tamper-evident security seals in a double-lock location such as a
17 locked cabinet inside a locked office. Before resuming the canvassing of absentee
18 ballots on election day, the election inspectors shall check and record the status of
19 each tamper-evident seal. The election inspectors shall immediately notify the
20 commission of any evidence of tampering. If the election inspectors discover evidence
21 of tampering with respect to automatic tabulating equipment, the canvass may not
22 resume until the equipment is replaced and the replacement equipment is tested as
23 provided in s. 5.84, except that public notice need not be provided 48 hours prior to
24 the test. If the election inspectors discover evidence of tampering under this

1 paragraph, the commission shall verify the accuracy of the absentee ballot count in
2 the municipality in the election by doing all of the following:

3 1. Ordering the municipality to conduct a recount after the election of all
4 absentee ballots cast in the municipality in the election. The commission's order
5 shall establish procedures for the recount consistent with s. 9.01.

6 2. Auditing the election equipment in the same manner as audits are conducted
7 under s. 7.08 (6).

8 (e) Votes on absentee ballots canvassed under this subsection may not be tallied
9 until after the polls close on election day.

10 (f) No person may intentionally act in a manner that would give him or her the
11 ability to know or to provide information on the tallied results from the ballots
12 canvassed under this subsection before the polls close on election day. Whoever
13 intentionally violates this paragraph is guilty of a Class I felony.

14 (g) An ordinance under par. (a) may not take effect less than 60 days before an
15 election.

16 **SECTION 18.** 7.03 (1) (c) of the statutes is repealed.

17 **SECTION 19.** 7.15 (16) of the statutes is created to read:

18 7.15 (16) ELECTION NIGHT REPORTING. (a) At 10 p.m. on election night, and every
19 hour thereafter until the canvass is complete, the municipal clerk or his or her
20 designee or municipal board of election commissioners shall provide to the county
21 clerk of the county in which the municipality is located or the county board of election
22 commissioners a statement that shows the total number of ballots, including
23 absentee ballots, cast at the municipality in the election, the total number of ballots,
24 including absentee ballots, that have been canvassed, and the total number of
25 ballots, including absentee ballots, that remain to be canvassed. The county clerk

1 or county board of election commissioners shall promptly post each statement on the
2 website on which the county posts returns on election night under s. 7.60. In a
3 municipality having a municipal board of election commissioners, the statement
4 required under this subsection shall also be posted on the website maintained by the
5 municipal board of election commissioners. The statement may not include the
6 names or addresses of any electors.

7 (b) An absentee ballot may be considered canvassed for purposes of par. (a) only
8 after all tasks have been completed in the canvassing process except for the tallying
9 of votes.

10 **SECTION 20.** 7.37 (12) of the statutes is amended to read:

11 7.37 (12) CANVASSERS. The election inspectors shall constitute the board of
12 canvassers of their polling place and in that capacity shall perform the duties under
13 s. 7.51, except as otherwise designated by the municipal clerk under ss. s. 5.85 and
14 5.86.

15 **SECTION 21.** 7.51 (1) of the statutes is amended to read:

16 7.51 (1) CANVASS PROCEDURE. Immediately after the polls close the inspectors
17 except any inspector appointed under s. 7.30 (1) (b) shall proceed to canvass publicly
18 all votes received at the polling place. ~~In any municipality where an electronic voting~~
19 ~~system is used, the municipal governing body or board of election commissioners may~~
20 ~~provide or authorize the municipal clerk or executive director of the board of election~~
21 ~~commissioners to provide for the adjournment of the canvass to one or more central~~
22 ~~counting locations for specified polling places in the manner prescribed in subch. III~~
23 ~~of ch. 5. No central counting location may be used to count votes at a polling place~~
24 ~~where an electronic voting system is not employed. The canvass, whether conducted~~
25 ~~at the polling place or at a central counting location, shall continue without~~

1 adjournment until the canvass of all ballots cast and received on or before election
2 day is completed and the return statement is made or, in municipalities where
3 absentee ballots are canvassed under s. 7.52, until the canvass of all absentee ballots
4 cast and received on or before election day is completed and the return statement for
5 those ballots is made. The inspectors shall not permit access to the name of any
6 elector who has obtained a confidential listing under s. 6.47 (2) during the canvass,
7 except as authorized in s. 6.47 (8).

8 **SECTION 22.** 7.52 (1) (a) of the statutes is renumbered 7.52 (1) (a) 1. and
9 amended to read:

10 7.52 (1) (a) 1. The governing body of any municipality may provide by ordinance
11 that, in lieu of canvassing absentee ballots at polling places under s. 6.88, the
12 municipal board of absentee ballot canvassers designated under s. 7.53 (2m) shall,
13 at each election held in the municipality, canvass all absentee ballots received by the
14 municipal clerk by 8 p.m. on election day. Prior to enacting an ordinance under this
15 subsection subdivision, the municipal clerk or board of election commissioners of the
16 municipality shall notify the elections commission in writing of the proposed
17 enactment and shall consult with the elections commission concerning
18 administration of this section. At Except as provided under par. (h), at every election
19 held in the municipality following enactment of an ordinance under this subsection
20 subdivision, the board of absentee ballot canvassers shall, any time after the opening
21 of the polls and before 10 p.m. on election day, publicly convene no earlier than 7 a.m.
22 on the day before the election to count the begin the canvass of absentee ballots for
23 the municipality and may not recess until 8 p.m. on that day, or at such time when
24 there are no further absentee ballots to be processed on that day, whichever is earlier,
25 at which time the meeting shall recess; the meeting shall reconvene at 7 a.m. on

1 election day and continue until all absentee ballots received by the municipal clerk
2 by 8 p.m. on election day have been canvassed.

3 2. The municipal clerk shall give at least ~~48 hours'~~ 60 days' notice of ~~any~~ the
4 meeting under this subsection. Any member of the public has the same right of
5 access to a meeting of the municipal board of absentee ballot canvassers under this
6 subsection that the individual would have under s. 7.41 to observe the proceedings
7 at a polling place. The board of absentee ballot canvassers may order the removal
8 of any individual exercising the right to observe the proceedings if the individual
9 disrupts the meeting.

10 **SECTION 23.** 7.52 (1) (d) to (h) of the statutes are created to read:

11 7.52 (1) (d) 1. At 8 p.m. on the day before the election, and at 7 a.m., noon, and
12 8 p.m. on election day, the municipal clerk or his or her designee or municipal board
13 of election commissioners shall provide to the county clerk of the county in which the
14 municipality is located or the county board of election commissioners a statement
15 that shows the total number of absentee ballots returned to the municipality and the
16 total number of absentee ballots the municipal board of absentee ballot canvassers
17 has canvassed under this subsection. The county clerk or county board of election
18 commissioners shall promptly post each statement on the website on which returns
19 for the county are posted on election night under s. 7.60. In a municipality having
20 a municipal board of election commissioners, the statement required under this
21 paragraph shall also be posted on the website maintained by the municipal board of
22 election commissioners. The statement may not include the names or addresses of
23 any electors.

1 2. An absentee ballot shall be considered canvassed for purposes of subd. 1. only
2 after all tasks have been completed in the canvassing process except for the tallying
3 of votes.

4 (e) When the meeting of the board of absentee ballot canvassers recesses on the
5 day before the election, the board of absentee ballot canvassers shall secure the
6 automatic tabulating equipment, and the areas where the programmed media,
7 memory devices, and absentee ballots are housed, with tamper-evident security
8 seals in a double-lock location such as a locked cabinet inside a locked office. Before
9 resuming the canvassing of ballots on election day, the board of absentee ballot
10 canvassers shall check and record the status of each tamper-evident seal. The board
11 of absentee ballot canvassers shall immediately notify the commission of any
12 evidence of tampering. If the board of absentee ballot canvassers discovers evidence
13 of tampering with respect to automatic tabulating equipment, the canvass may not
14 resume until the equipment is replaced and the replacement equipment is tested as
15 provided in s. 5.84, except that public notice need not be provided 48 hours prior to
16 the test. If the board of absentee ballot canvassers discovers evidence of tampering
17 under this paragraph, the commission shall verify the accuracy of the absentee ballot
18 count in the municipality in the election by doing all of the following:

19 1. Ordering the municipality to conduct a recount after the election of all
20 absentee ballots cast in the municipality in the election. The commission's order
21 shall establish procedures for the recount consistent with s. 9.01.

22 2. Auditing the election equipment in the same manner as audits are conducted
23 under s. 7.08 (6).

24 (f) Votes on absentee ballots canvassed under this section may not be tallied
25 until after the polls close on election day.

1 (g) No person may intentionally act in a manner that would give him or her the
2 ability to know or to provide information on the tallied results from the ballots
3 canvassed under this section before the polls close on election day. Whoever
4 intentionally violates this paragraph is guilty of a Class I felony.

5 (h) Canvassing absentee ballots on the day before the election under this
6 section is optional except for each spring and general election and each special
7 election or recall election if the special or recall election is for a state or national office.

8 **SECTION 24.** 7.52 (2) of the statutes is amended to read:

9 7.52 (2) In counting the absentee ballots, the board of absentee ballot
10 canvassers shall use 2 duplicate copies of a single poll list for the entire municipality
11 prepared in accordance with s. 6.36 (2). Upon ~~accepting~~ reviewing each absentee
12 ballot certificate envelope to ensure that it satisfies all applicable legal
13 requirements, the board of absentee ballot canvassers shall enter a ~~poll list~~
14 sequential count number on the poll list next to the name of the elector who voted
15 the ballot, beginning with the number one. If the elector's name does not appear on
16 the poll list, the board of absentee ballot canvassers shall enter the number on a
17 separate list maintained under this subsection. The board of absentee ballot
18 canvassers shall record each elector's sequential count number on the face of the
19 elector's certificate envelope.

20 **SECTION 25.** 7.52 (3) (a) of the statutes is amended to read:

21 7.52 (3) (a) The board of absentee ballot canvassers shall first open the carrier
22 envelope only, and, in such a manner that a member of the public, if he or she desired,
23 could hear, announce the name of the absent elector or the identification serial
24 number of the absent elector if the elector has a confidential listing under s. 6.47 (2).
25 When the board of absentee ballot canvassers finds that the certification has been

1 properly executed and the applicant is a qualified elector of the ward or election
2 district, the board of absentee ballot canvassers shall enter an indication, including
3 the elector's sequential count number as provided under sub. (2), on the poll list next
4 to the applicant's name indicating an absentee ballot is cast by the elector. The board
5 of absentee ballot canvassers shall then open the envelope containing the ballot in
6 a manner so as not to deface or destroy the certification thereon. ~~The board of~~
7 ~~absentee ballot canvassers shall take out the ballot without unfolding it or~~
8 ~~permitting it to be unfolded or examined~~ and shall remove the ballot from the
9 certificate envelope without viewing who the elector voted for. Unless the ballot is
10 cast under s. 6.95, the board of absentee ballot canvassers shall verify that the ballot
11 has been endorsed by the issuing clerk. If the poll list indicates that proof of
12 residence is required and no proof of residence is enclosed or the name or address on
13 the document that is provided is not the same as the name and address shown on the
14 poll list, the board of absentee ballot canvassers shall proceed as provided under s.
15 6.97 (2). ~~The board of absentee ballot canvassers shall mark the poll list number of~~
16 ~~each elector who casts an absentee ballot on the back of the elector's ballot.~~ The board
17 of absentee ballot canvassers shall then deposit the ballot into the proper ballot box
18 and enter the absent elector's name or poll list number after his or her name on the
19 poll list or automatic tabulating equipment.

20 **SECTION 26.** 7.52 (4) (a) of the statutes is amended to read:

21 7.52 (4) (a) The board of absentee ballot canvassers shall then ~~open the ballot~~
22 ~~box and remove and~~ count the number of ballots ~~therein~~ without examination except
23 as is necessary to ascertain that each is a single ballot. If 2 or more ballots are folded
24 together so as to appear as a single ballot, the board of absentee ballot canvassers
25 shall lay them aside until the count is completed; and if, after a comparison of the

1 count and the appearance of the ballots it appears to the board of absentee ballot
2 canvassers that the ballots folded together were voted by the same person they shall
3 not be counted but the board of absentee ballot canvassers shall mark them as to the
4 reason for removal, set them aside, and carefully preserve them. The board of
5 absentee ballot canvassers shall then proceed under par. (b).

6 **SECTION 27.** 7.52 (9) of the statutes is amended to read:

7 7.52 (9) The governing body of any municipality that has provided by ordinance
8 enacted under sub. (1) (a) 1. for the canvassing of absentee ballots at all elections held
9 in the municipality under this section may by similar action rescind that decision.
10 Thereafter, the absentee ballots at all elections held in the municipality shall be
11 canvassed as provided in s. 6.88.

12 **SECTION 28.** 7.52 (10) of the statutes is created to read:

13 7.52 (10) A member of the board of absentee ballot canvassers or other election
14 official who willfully neglects or refuses to perform any of the duties prescribed under
15 this section is guilty of a Class I felony.

16 **SECTION 29.** 7.52 (11) of the statutes is created to read:

17 7.52 (11) An ordinance under sub. (1) may not take effect less than 60 days
18 before an election.

19 **SECTION 30.** 12.60 (1) (a) of the statutes is amended to read:

20 12.60 (1) (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3)
21 (a), (e), (f), (j), (k), (L), (m), (y) or (z) is guilty of a Class I felony. This paragraph does
22 not apply to a violation of s. 12.13 (1) (a) by an individual who is determined ineligible
23 to register to vote or to vote under s. 54.25 (2) (c) 1. g., but the individual's vote shall
24 not be included in the final tally for that election.

25 **SECTION 31.** 54.25 (2) (c) 1. g. of the statutes is amended to read:

1 54.25 (2) (c) 1. g. The right to register to vote or to vote in an election, if the court
2 finds that the individual is incapable of understanding the objective of the elective
3 process. Also, in accordance with s. 6.03 (3), any elector of a municipality may
4 petition the circuit court for a determination that an individual residing in the
5 municipality is incapable of understanding the objective of the elective process and
6 thereby ineligible to register to vote or to vote in an election. This determination
7 shall be made by the court in accordance with the procedures specified in this
8 paragraph. If a petition is filed under this subd. 1. g., the finding of the court shall
9 be limited to a determination as to voting eligibility. The appointment of a guardian
10 is not required for an individual whose sole limitation is ineligibility to vote. The
11 court shall, no later than 3 days after the determination, notify the elections
12 commission by email of the determination of the court shall be communicated in
13 writing by the clerk of court to the election official or agency charged under s. 6.48,
14 6.92, 6.925, 6.93, or 7.52 (5) with the responsibility for determining challenges to
15 registration and voting that may be directed against that elector. An email
16 notification sent to the elections commission under this subd. 1. g. shall remain
17 confidential, except as otherwise provided under s. 19.36. The court shall also, at the
18 time of the determination, provide the determination in writing to the individual and
19 the individual's guardian, if applicable. The determination may be reviewed as
20 provided in s. 54.64 (2), and the court shall notify the elections commission, the
21 individual, and the individual's guardian, if applicable, by mail and email of any
22 subsequent determination of the court ~~shall be likewise communicated by the clerk~~
23 ~~of court.~~ All notices provided to the elections commission under this subd. 1. g. shall
24 include the full name; residential address, including city, state, and zip code; mailing
25 address, if different than the residential address; and date of birth of the individual

1 subject to the determination. If the court appoints a guardian for an individual who
2 is ineligible to vote, the guardian shall, no later than 3 days after the determination,
3 report any residential or mailing address change for the individual to the court, and
4 the court shall immediately notify the elections commission of that address by email.
5 The court shall use a standardized notice of eligibility form to communicate its
6 determinations to the individual and the individual's guardian, if applicable.

7

(END)