



2009 SENATE BILL 249

August 5, 2009 - Introduced by Senators DARLING, A. LASEE and KANAVAS, cosponsored by Representatives J. OTT, BIES, KNODL, KERKMAN, LOTHIAN, NASS and HONADEL. Referred to Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection.

1 **AN ACT** *to repeal* 38.04 (15), 38.08 (1g), (2) and (2m) and 38.10; *to amend* 5.02
2 (3), (5) and (23), 5.58 (3), 5.60 (1) (title), 5.60 (1) (b), 7.60 (4) (a) and (5) (a), 7.70
3 (3) (d), 9.10 (1) (a), 9.10 (2) (b), 9.10 (2) (d), 9.10 (3) (a), 9.10 (4) (title), 9.10 (4)
4 (a), 9.10 (4) (d), 9.10 (7), 11.26 (1) (c), 11.26 (2) (c), 11.31 (1) (f), 11.31 (1) (g)
5 (intro.) and 38.08 (1) (b); *to repeal and recreate* 17.27 (3) and 38.08 (1) (a); and
6 *to create* 5.58 (2s), 5.60 (1) (am), 7.70 (6), 8.10 (3) (ae), 8.11 (6), 17.01 (10m),
7 17.02 (2), 17.17 (2), 38.06 (6), 38.08 (1) (c) and 38.08 (6) of the statutes; **relating**
8 **to:** 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, 2011, at which time district board members who are elected at the 2011 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. In those years when a primary
5 is scheduled, there shall be a separate ballot for member of the technical college
6 district board. Arrangement of the names on the ballot shall be determined by the
7 government accountability board under s. 5.60 (1) (b). The ballot shall be titled
8 "Official Primary Ballot for (name of district) Technical 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) (am) of the statutes is created to read:

7 5.60 (1) (am) In those years when an election is scheduled, there shall be a
8 separate ballot for each member of the technical college district board. The
9 government accountability board shall determine the official ballot arrangement for
10 technical college district board candidates by using the same method as that used
11 under par. (b).

12 **SECTION 6.** 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, circuit judge, member of a technical college district board, 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 7.** 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; circuit judges; members of the technical college district
5 boards; 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 government
19 accountability board, technical college district board, or board of canvassers of any
20 other county and shall file the other statement in the office of the county clerk or
21 board of election commissioners.

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

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1 appeals judge, circuit judge, members of the technical college district boards, district
2 attorney, and metropolitan sewerage commissioners, if the commissioners are
3 elected under s. 200.09 (11) (am). The statement shall record the returns for each
4 office or referendum by ward, unless combined returns are authorized under s. 5.15
5 (6) (b) in which case the statement shall record the returns for each group of
6 combined wards. Following primaries the county clerk shall enclose on forms
7 prescribed by the government accountability board the names, party or principle
8 designation, if any, and number of votes received by each candidate recorded in the
9 same manner. The county clerk shall deliver or transmit the certified statement to
10 the government accountability board no later than 7 days after each primary except
11 the September primary, no later than 10 days after the September primary and any
12 other election except the general election, and no later than 14 days after the general
13 election. The board of canvassers shall deliver or transmit a certified copy of each
14 statement for any technical college district referendum to the secretary of the
15 technical college district board.

16 **SECTION 8.** 7.70 (3) (d) of the statutes is amended to read:

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

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1 college district board member; district attorney; metropolitan sewerage commission,
2 if the commissioners are elected under s. 200.09 (11) (am); and for any referenda
3 questions submitted by the legislature.

4 **SECTION 9.** 7.70 (6) of the statutes is created to read:

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

10 **SECTION 10.** 8.10 (3) (ae) of the statutes is created to read:

11 8.10 (3) (ae) For the office of member of the technical college district board from
12 any election district, not less than 200 nor more than 400 electors.

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

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

17 **SECTION 12.** 9.10 (1) (a) of the statutes is amended to read:

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

24 **SECTION 13.** 9.10 (2) (b) of the statutes is amended to read:

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1 9.10 (2) (b) A recall petition for a city, village, town, technical college district,
2 town sanitary district, or school district office shall contain a statement of a reason
3 for the recall which is related to the official responsibilities of the official for whom
4 removal is sought.

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

6 9.10 (2) (d) No petition may be offered for filing for the recall of an officer unless
7 the petitioner first files a registration statement under s. 11.05 (1) or (2) with the
8 filing officer with whom the petition is filed. The petitioner shall append to the
9 registration a statement indicating his or her intent to circulate a recall petition, the
10 name of the officer for whom recall is sought and, in the case of a petition for the recall
11 of a city, village, town, technical college district, town sanitary district, or school
12 district officer, a statement of a reason for the recall which is related to the official
13 responsibilities of the official for whom removal is sought. No petitioner may
14 circulate a petition for the recall of an officer prior to completing registration. The
15 last date that a petition for the recall of an officer may be offered for filing is 5 p.m.
16 on the 60th day commencing after registration. After the recall petition has been
17 offered for filing, no name may be added or removed. No signature may be counted
18 unless the date of the signature is within the period provided in this paragraph.

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

20 9.10 (3) (a) This subsection applies to the recall of all elective officials other
21 than city, village, town, technical college district, town sanitary district, and school
22 district officials. City, village, town, technical college district, town sanitary district,
23 and school district officials are recalled under sub. (4).

24 **SECTION 16.** 9.10 (4) (title) of the statutes is amended to read:

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1 9.10 (4) (title) CITY, VILLAGE, TOWN, TOWN SANITARY DISTRICT, TECHNICAL COLLEGE
2 DISTRICT, AND SCHOOL DISTRICT OFFICES.

3 **SECTION 17.** 9.10 (4) (a) of the statutes is amended to read:

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

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1 except in cities over 500,000 population and in technical college districts, the
2 ~~municipal clerk or school district clerk~~ official shall transmit the petition to the
3 governing body or to the school board. Immediately upon finding an original or
4 amended petition sufficient, in cities over 500,000 population, the board of election
5 commissioners shall file the petition in its office. Immediately upon finding an
6 original or amended petition sufficient, in technical college districts, the government
7 accountability board shall file the petition in its office.

8 **SECTION 18.** 9.10 (4) (d) of the statutes is amended to read:

9 9.10 (4) (d) Promptly upon receipt of a certificate under par. (a), the governing
10 body, school board, ~~or~~ board of election commissioners, or government accountability
11 board shall call a recall election. The recall election shall be held on the Tuesday of
12 the 6th week commencing after the date on which the certificate is filed, except that
13 if Tuesday is a legal holiday the recall election shall be held on the first day after
14 Tuesday which is not a legal holiday.

15 **SECTION 19.** 9.10 (7) of the statutes is amended to read:

16 9.10 (7) PURPOSE. The purpose of this section is to facilitate the operation of
17 article XIII, section 12, of the constitution and to extend the same rights to electors
18 of cities, villages, towns, technical college districts, town sanitary districts, and
19 school districts.

20 **SECTION 20.** 11.26 (1) (c) of the statutes is amended to read:

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

23 **SECTION 21.** 11.26 (2) (c) of the statutes is amended to read:

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

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1 **SECTION 22.** 11.31 (1) (f) of the statutes is amended to read:

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

5 **SECTION 23.** 11.31 (1) (g) (intro.) of the statutes is amended to read:

6 11.31 (1) (g) (intro.) In any jurisdiction or district, other than a technical college
7 district or judicial district or circuit, with a population of 500,000 or more according
8 to the most recent federal census covering the entire jurisdiction or district:

9 **SECTION 24.** 17.01 (10m) of the statutes is created to read:

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

12 **SECTION 25.** 17.02 (2) of the statutes is created to read:

13 17.02 (2) TECHNICAL COLLEGE DISTRICT BOARD. Of the resignation of a member
14 of a technical college district board, by the secretary of the district board to the
15 government accountability board.

16 **SECTION 26.** 17.17 (2) of the statutes is created to read:

17 17.17 (2) TECHNICAL COLLEGE DISTRICT BOARD. In the office of member of a
18 technical college district board, by the secretary of the district board to the
19 government accountability board.

20 **SECTION 27.** 17.27 (3) of the statutes is repealed and recreated to read:

21 17.27 (3) TECHNICAL COLLEGE DISTRICT BOARD. Except as provided in s. 9.10, a
22 vacancy in the office of member of a technical college district board may be filled by
23 temporary appointment of the remaining members of the district board. The
24 temporary appointee shall serve until a successor is elected and qualifies. If the
25 vacancy occurs in any year after the first Tuesday in April and on or before December

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1 1, the vacancy shall be filled for the residue of the unexpired term, if any, at the
2 succeeding spring election. If the vacancy occurs in any year after December 1 or on
3 or before the first Tuesday in April, the vacancy shall be filled for the residue of the
4 unexpired term, if any, at the 2nd succeeding spring election.

5 **SECTION 28.** 38.04 (15) of the statutes is repealed.

6 **SECTION 29.** 38.06 (6) of the statutes is created to read:

7 38.06 (6) Promptly upon issuance of a reorganization order by the board, the
8 director of the board shall transmit a copy of the order to the government
9 accountability board.

10 **SECTION 30.** 38.08 (1) (a) of the statutes is repealed and recreated to read:

11 38.08 (1) (a) A district board shall administer the district and shall be composed
12 of 9 members who are residents of the district. The members shall be elected to
13 represent numbered election districts within each technical college district by the
14 electors of each election district at the spring election. Each member of the district
15 board shall be an elector of the numbered election district within the technical college
16 district for which he or she seeks office.

17 **SECTION 31.** 38.08 (1) (b) of the statutes is amended to read:

18 38.08 (1) (b) District board members shall take office on July 1 and shall serve
19 ~~staggered 3-year~~ 4-year terms.

20 **SECTION 32.** 38.08 (1) (c) of the statutes is created to read:

21 38.08 (1) (c) Promptly upon receipt of the determinations from the government
22 accountability board under s. 7.70 (6) and upon appointment of any person to fill a
23 temporary vacancy on the district board, the secretary of the district board shall send
24 written notification of the name and address of each member and expiration date of
25 each member's term to the director of the technical college system board.

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1 **SECTION 33.** 38.08 (1g), (2) and (2m) of the statutes are repealed.

2 **SECTION 34.** 38.08 (6) of the statutes is created to read:

3 38.08 (6) (a) Within 90 days after the population count by block, established
4 in the decennial federal census of population, and maps showing the location and
5 numbering of census blocks become available in printed form from the federal
6 government or are published for distribution by an agency of this state or within 90
7 days after alteration of the boundaries of an existing district, the district board of
8 each existing district shall apportion and prescribe the boundaries of 9 numbered
9 election districts within the district, to be as nearly equal in population as possible.
10 Within 90 days after the creation of any new district, the technical college system
11 board shall similarly apportion and prescribe the boundaries of 9 numbered election
12 districts within that district. Alterations in election districts resulting from
13 boundary changes to existing districts may be made only to the extent required to
14 facilitate the change. Insofar as possible, each election district shall be compact and
15 observe the community of interest of existing neighborhoods. A detailed map and
16 description of each election district prescribed by a district board shall be prepared
17 and transmitted by the district board to the director of the technical college system
18 board.

19 (b) All proposed district boundaries prescribed by a district board under par.
20 (a) shall become effective only upon their approval by the technical college system
21 board. If the technical college system board disapproves the proposed boundaries,
22 the district board shall submit a revised districting plan for approval of the technical
23 college system board. Upon approval of the election district boundaries within any
24 district, the technical college system board shall promulgate the boundaries

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1 established under par. (a) as a rule under ch. 227. The boundaries shall become
2 effective on the effective date of the rule.

3 **SECTION 35.** 38.10 of the statutes is repealed.

4 **SECTION 36. Nonstatutory provisions.**

5 (1) INITIAL ELECTION OF DISTRICT BOARDS. Notwithstanding section 38.08 (6) of
6 the statutes, as created by this act, within 60 days after the effective date of this
7 subsection, the appointment committee of each technical college district shall adopt
8 and transmit to the secretary of each technical college district board and the director
9 of the technical college system board an initial districting plan for election districts
10 as required by section 38.08 (6) of the statutes, as created by this act. The technical
11 college system board shall review and determine its approval or disapproval of each
12 plan as promptly as possible. If a plan is rejected, the appointment committee shall
13 submit a new plan for approval. Notwithstanding section 227.24 (1) (a) and (3) of the
14 statutes, the technical college system board may promulgate the plan as an
15 emergency rule under section 227.24 of the statutes without providing evidence that
16 promulgating a rule under this subsection as an emergency rule is necessary for the
17 preservation of the public peace, health, safety, or welfare, and is not required to
18 provide a finding of emergency for a rule promulgated under this subsection.
19 Notwithstanding section 227.24 (1) (c) of the statutes, an emergency rule
20 promulgated under this subsection applies until a rule replacing that rule takes
21 effect or until the actions specified in section 227.24 (1) (d) of the statutes occur,
22 whichever is sooner. Notwithstanding section 227.19 (4) to (6) of the statutes, the
23 rule replacing a valid emergency rule adopted under this subsection may not contain
24 any substantive change from the emergency rule.

