



1997 ASSEMBLY BILL 142

February 24, 1997 - Introduced by Representatives OTTE, UNDERHEIM, BALDWIN, HANDRICK, RYBA, AINSWORTH, ZUKOWSKI, MUSSER, HUEBSCH, OWENS, OLSEN and GOETSCH, cosponsored by Senators RISSER, WINEKE and WEEDEN. Referred to Committee on Elections and Constitutional Law.

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

Analysis by the Legislative Reference Bureau

Currently, party committeemen and committeewomen, if any, may nominate to municipalities individuals to serve as election inspectors (poll workers) and special voting deputies at certain nursing and retirement homes and community-based residential facilities. Under the appointment procedure for election inspectors, a committeeman or committeewoman submits a number of nominees equal to the number of inspectors to be appointed. A committeeman or committeewoman may designate any individual as a first choice nominee. The municipal governing body or board of election commissioners must appoint every first choice nominee unless the governing body or board of election commissioners obtains permission from the state elections board not to appoint the nominee. The elections board may only permit nonappointment if a showing of good cause is made. A municipality's request for nonappointment may be contested and is subject to notice and hearing under the state administrative procedure act. The decision of the elections board may be appealed to circuit court. Regardless of whether nominees are submitted to a municipality by a committeeman or committeewoman, all election inspectors must be designated to represent one of the 2 political parties whose candidate for president or governor received the greatest number of votes in the area served by the polling place at the most recent general election, with the party whose candidate received

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the greatest number of votes entitled to be represented by one more inspector than the other party. Appointees serve for 2-year terms. Vacancies are filled by the municipal clerk or board of election commissioners of each municipality in the same manner that original appointments are made.

This bill provides that whenever there are an insufficient number of nominees submitted to a municipality by the appropriate party committeemen and committeewomen, the municipality may appoint election inspectors or special voting deputies without regard to party affiliation.

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

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

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

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1 Write-in votes shall be counted as provided in s. 7.50 (2) (d). The original ballot upon
2 which there is an overvote shall be clearly labeled "Overvoted Ballot" and the ballot
3 so produced "Duplicate Overvoted Ballot", and each shall bear the same serial
4 number which shall be placed thereon by the election officials, commencing with
5 number "1" and continuing consecutively for each of the ballots of that kind in that
6 ward. The election officials shall initial the "Duplicate Overvoted Ballot" ballots and
7 shall place them in the container for return of the ballots. The "Overvoted Ballot"
8 ballots and their envelopes shall be placed in the "Original Ballots" envelope. Ballots
9 bearing write-in votes marked in the place designated therefor and bearing the
10 initials of an election official and not resulting in an overvote and otherwise
11 complying with the election laws as to marking shall be counted, tallied, and their
12 votes recorded on a tally sheet provided by the municipal clerk. Ballot cards and
13 ballot card envelopes shall be separated and all ballots except any which are
14 defective or overvoted shall be placed separately in the container for return of the
15 ballots, along with the ballots marked "Duplicate Overvoted Ballots".

16 (3) The election officials shall examine the ballots to determine if any is
17 damaged or defective so that it cannot be counted by the automatic tabulating
18 equipment. If any ballot is damaged or defective so that it cannot be properly counted
19 by the automatic tabulating equipment, the election officials, ~~consisting in each case~~
20 ~~of at least one official of each of the 2 major political parties whenever present,~~ in the
21 presence of witnesses, shall make a true duplicate ballot of all votes on that ballot
22 by using the ballot label booklet and voting device for the ward, if any, and one of the
23 punching or marking devices so as to transfer all votes of the elector to an official
24 ballot of that kind used in the ward in that election. Unless election officials are
25 selected under s. 7.30 (4) (c) without regard to party affiliation, the election officials

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1 shall consist in each case of at least one election official of each of the 2 major political
2 parties, whenever officials of both parties are present. The original ballot shall be
3 clearly labeled “Damaged Ballot” and the ballot so produced “Duplicate Damaged
4 Ballot”, and each shall bear the same number which shall be placed thereon by the
5 election officials, commencing with number “1” and continuing consecutively for the
6 ballots of that kind in the ward. The election officials shall initial the “Duplicate
7 Damaged Ballot” ballots, and shall place them in the container for return of the
8 ballots. The officials shall place “Damaged Ballot” ballots and their envelopes in the
9 “Original Ballots” envelope.

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

11 5.85 (5) If the municipality has designated a central counting location to be
12 used to count ballots under s. 7.51 (1), the inspectors shall count and deposit the
13 paper ballots in the container. The inspectors shall then place the slip made out
14 under sub. (4) in the container. The inspectors shall also place the tally sheet
15 recording the write-in votes and other votes cast on paper ballots, and all other
16 ballots, or the record of the votes cast on an electronic voting system where no ballots
17 are distributed to electors, in the container and shall thereupon immediately seal the
18 container with an adhesive seal provided by the municipal clerk for the purpose in
19 such manner that the seal completely covers the opening in the container, and each
20 of the inspectors shall sign the seal. The “Defective Ballots” envelope, and “Original
21 Ballots” envelope each shall be securely sealed and the flap or end thereof of each
22 signed by the inspectors and returned to the central counting location with the box
23 for return of the ballots, enclosed ballots and returns. Thereupon, the municipal
24 clerk or 2 of the election officials, ~~of different political parties whenever officials of~~
25 ~~both parties are present~~, shall forthwith and by the most direct route transport the

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1 container and envelopes to the central counting location designated by the municipal
2 clerk. Unless election officials are selected under s. 7.30 (4) (c) without regard to
3 party affiliation, the election officials shall consist in each case of at least one election
4 official of each of the 2 major political parties, whenever officials of both parties are
5 present.

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

7 5.86 (1) All proceedings at the central counting location shall be under the
8 direction of the municipal clerk unless the central counting location is at the county
9 seat and the municipal clerk delegates the responsibility to supervise the location to
10 the county clerk. ~~Except for any specially trained technicians required for the~~
11 ~~operation of the automatic tabulating equipment~~ Unless election officials are
12 selected under s. 7.30 (4) (c) without regard to party affiliation, the employes at the
13 central counting location, other than any specially trained technicians who are
14 required for the operation of the automatic tabulating equipment, shall be equally
15 divided between members of the 2 major political parties under s. 7.30 (2) (a) and all
16 duties performed by the employes shall be by teams consisting of an equal number
17 of members of each political party whenever sufficient persons from each party are
18 available.

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

20 6.875 (4) For the purpose of absentee voting in nursing homes and qualified
21 retirement homes and qualified community-based residential facilities, the
22 municipal clerk or board of election commissioners of each municipality in which one
23 or more nursing homes or qualified retirement homes or qualified community-based
24 residential facilities are located shall appoint at least 2 special voting deputies for
25 the municipality in the manner prescribed in s. 7.30 (4). Upon application under s.

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1 6.86 (1) or (2) by one or more qualified electors who are occupants of such a nursing
2 home or qualified retirement home or qualified community-based residential
3 facility, the clerk or board of election commissioners shall dispatch 2 special voting
4 deputies to visit the home or qualified community-based residential facility for the
5 purpose of supervising absentee voting procedure by occupants of the home or
6 qualified community-based residential facility. The 2 deputies designated to visit
7 each nursing home or qualified retirement home and qualified community-based
8 residential facility shall be affiliated with different political parties whenever
9 deputies representing different parties are available. Nominations for deputy
10 positions ~~shall~~ may be submitted by the 2 recognized political parties whose
11 candidates for governor or president received the greatest numbers of votes in the
12 municipality at the most recent general election. The deputies shall be specially
13 appointed to carry out duties under this section for the period specified in s. 7.30 (6)
14 (a). The clerk or board of election commissioners may revoke an appointment at any
15 time. No individual who is employed or retained, or within the 2 years preceding
16 appointment has been employed or retained at a nursing home or qualified
17 retirement home or qualified community-based residential facility in the
18 municipality, or any member of the immediate family of such an individual as defined
19 in s. 19.42 (7), may be appointed to serve as a deputy.

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

21 7.30 (1) NUMBER. There shall be 7 inspectors for each polling place at each
22 election. In municipalities where voting machines are used, the municipal governing
23 body may reduce the number of inspectors to 5. A municipal governing body may
24 provide for the appointment of additional inspectors whenever more than one voting
25 machine is used or wards are combined under s. 5.15 (6) (b). A municipal governing

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1 body may provide by ordinance for the selection of alternate officials or the selection
2 of 2 sets of officials to work at different times on election day. Additional Unless
3 officials are appointed without regard to party affiliation under sub. (4) (c),
4 additional officials shall be appointed in such a manner that the total number of
5 officials is an odd number and the predominant party under sub. (2) is represented
6 by one more official than the other party.

7 (2) (b) When a vacancy occurs, the ~~appointment~~ vacancy shall be filled by
8 appointment of the municipal clerk. The vacancy shall be filled from the remaining
9 names on the lists submitted under sub. (4) or from additional names submitted by
10 the chairperson of the county party committee of the appropriate party under sub.
11 (4) whenever names are submitted under sub. (4) (d). If the vacancy is due to
12 candidacy, sickness or any other temporary cause, the appointment shall be a
13 temporary appointment and effective only for ~~that~~ the election at which the
14 temporary vacancy occurs. The same qualifications shall be required, ~~but of persons~~
15 who fill vacancies. Vacancies may be filled in cases of emergency or because of time
16 limitations by a person from another aldermanic district or ward within the
17 municipality ~~so the proper balance of party representation is maintained.~~

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

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

23 7.30 (4) (a) Except in cities where there is a board of election commissioners,
24 the mayor, president or board chairperson of each municipality shall nominate to the
25 governing body no later than their last regular meeting in December of each

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1 even-numbered year the necessary election officials for each election ward polling
2 place. If no regular meeting is scheduled, the mayor, president or chairperson shall
3 call a special meeting for the purpose of considering nominations no later than
4 December 31.

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

6 7.30 (4) (c) For so long as nominees are made available by the political parties
7 under this section, appointments may be made only from the lists of submitted
8 nominees. If the lists are not submitted by November 30 of the year in which
9 appointments are to be made, the board of election commissioners shall appoint, or
10 the mayor, president or chairperson of a municipality shall nominate qualified
11 persons whose names have not been submitted. If an insufficient number of
12 nominees appears on the lists as of November 30, the board of election commissioners
13 shall similarly appoint, or the mayor, president or chairperson shall similarly
14 nominate sufficient individuals to fill the remaining vacancies. ~~If an official is~~
15 ~~appointed whose name was not submitted on the lists, the official shall be affiliated~~
16 ~~with or designated by the appointing authority to represent one of the 2 parties that~~
17 ~~are entitled to submit lists. An official who is affiliated with one party may not be~~
18 ~~designated to represent a different party, unless the municipal clerk first makes a~~
19 ~~good faith effort to appoint an official who is affiliated with the represented party.~~
20 Any appointment which is made due to the lack of availability of names submitted
21 under par. (b) may be made without regard to party affiliation.

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

23 7.30 (4) (d) A party committee or aldermanic district or village committeeman
24 or committeewoman under s. 8.17 may submit additional names for inclusion in its
25 list of nominations under this section at any time. ~~Whenever there are no available~~

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1 ~~names on any list, the board of election commissioners or the mayor, president or~~
2 ~~chairman of the municipality shall so notify the chairman of the appropriate party~~
3 ~~committee or the appropriate aldermanic district or village committeeman or~~
4 ~~committeewoman under s. 8.17 for the purpose of filling vacancies that occur during~~
5 ~~a term of office.~~ However, an appointment need at no time be delayed because of the
6 lack of availability of party nominees.

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

8 7.51 (4) (a) The tally sheets shall state the total number of votes cast for each
9 office and for each individual receiving votes for that office, whether or not the
10 individual's name appears on the ballot, and shall state the vote for and against each
11 proposition voted on. Upon completion of the tally sheets, the inspectors shall
12 immediately complete inspectors' statements in duplicate. The inspectors shall state
13 the excess by which the number of ballots exceeds the number of electors voting as
14 shown by the poll or registration list, if any, and shall state the number of the last
15 elector as shown by the registration or poll lists. At least 3 inspectors, including the
16 chief inspector and, unless election officials are appointed under s. 7.30 (4) (c)
17 without regard to party affiliation, at least one inspector representing each political
18 party, shall then certify to the correctness of the statements and tally sheets and sign
19 their names. All other election officials assisting with the tally shall also certify to
20 the correctness of the tally sheets. When the tally is complete, the inspectors shall
21 publicly announce the results from the statements.

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

