

2001 DRAFTING REQUEST

Bill

Received: **12/01/2000**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 7-0371**

By/Representing: **Uecker**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Alt. Drafters: **rmarchan**

Subject: **Elections - miscellaneous**

Extra Copies: **JK - 1**

Pre Topic:

DOA:.....Uecker/Ziegler -

Topic:

Various election law changes

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/4			jfrantze 02/03/2001	_____	lrb_docadmin 02/03/2001		S&L
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A large signature 'JP6' with '2-7-1' below it.

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TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY



Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: November 30, 2000
To: Steve Miller, LRB
From: Deborah Uecker, DOA
267-0371
Subject: Elections Board Statutory Language

Please have these statutory language changes drafted for inclusion in the 2001-03 budget bill:

1. **Photo Identification at Polling Places.** Require one form of photo identification in order for a person to register during the 13 days prior to the election, register on the day of an election, and vote, whether they have registered or not. For those persons whose photo ID does not list their current address, when they register to vote, they would need to record a distinct identification code or number that appears on their photo identification card. When this person votes, he/she would show their photo identification card with the identification number that matches the number on the registration list.
2. **Centralized Registration List.** Mandate registration in all municipalities and require a centralized computer registration list maintained by the Elections Board. Municipal and county clerks would add and delete people to this list. This would allow the Elections Board and public groups to search the list for duplicate and suspect entries and challenge the registration where necessary.
3. **Supervising Local Election Practices.** Give the Elections Board the general authority to supervise and, if absolutely necessary, conduct an election. The Elections Board could:
 - Investigate a municipality that has failed to follow the law or is not equipped to conduct elections, either on its own motion or on petition of an elector.
 - Mandate that the municipality conform to the law, take specific action reasonable calculated to resolve past problems, or in extreme cases, appoint a special master to conduct part or all of the election. Such a decision could be appealed to the courts.
 - Bill the municipality the board's reasonable costs to apply the remedy which could be deducted from the municipality's share of revenue payments.
 - Mandate by rule standards for training for various election workers.
 - Contract with ad hoc election inspectors in municipalities with demonstrated problems.
4. **Regulating Poll Workers.** Make poll worker misconduct a crime and require any person who is a poll worker to wear a sticker or badge with that person's full name any time while at the polling place
5. **Standardized Registration Forms/Registration Misconduct.** Allow the Elections Board to promulgate a rule to specify minimum requirements for registration forms and make it a civil violation for failing to exercise due care in registering people to vote.

Steve Miller, LRB
October 5, 2000
Page 2

6. **Taskforce on Technology and Electoral Participation.** As part of the E-Government initiative, the Governor will announce a taskforce that is charged with finding ways to use technology to increase voter participation. The Governor would also set as a goal to have the next Wisconsin presidential primary online.

Thank you for your help.

Uecker, Deborah

From: Millis, Don
Sent: Friday, December 01, 2000 10:36 AM
To: Uecker, Deborah
Subject: RE: Regulating poll workers

Deborah,

Here is how I would do it. Provide that if any person who is an election official (defined in sec. 5.02(4)(e)) violates any provision specified in sections 12.60(1)(b), (c), or (d) with respect to an election for which that election official has a duty, then the penalty prescribed in these sections is doubled. The rationale is that elections officials should have a higher duty with respect to elections for which they are charged with a duty. For example, if the maximum penalty for electioneering is \$1,000 and/or 6 months. Under this proposal if a poll worker wears a t-shirt advocating the election of a candidate running in that election at the polls--as was alleged in Milwaukee on Nov. 7--then the maximum penalty is \$2,000 and/or 1 year.

I also believe that it is important to have the penalty enhancer apply to activities other than those that occur just at the polling place or while the person is on duty. Because it is not always apparent to the public when an election official is on duty, confidence in the integrity of elections mandates that the violation apply to any activity relative to the election for which that official is charged with a duty. There is a precedent for this. Section 12.03(1) prohibits electioneering by an election official at any time on election day, not just when the election official is on duty.

No penalty enhancer would be provided for violations specified in 12.60(1)(a) because these violations carry a pretty stiff penalty already--\$10,000 and/or 4.5 years. (This stiff penalty would continue to apply to violations of 12.13(2) which already specifically applies to election officials.)

Please get back to me if you need more information or if this does not work for you.

By the way, is there any expectation that I participate in this briefing. As it turns out, I am available all day on Monday (assuming that it is still scheduled for Monday). Let me know if you want me to attend.

I will get back to you later about suggestions relative to 1677/4. (I did receive it, by the way. Thanks.)

Don

-----Original Message-----

From: Uecker, Deborah
Sent: Friday, December 01, 2000 9:38 AM
To: Millis, Don
Cc: Wornson, Bryon
Subject: Regulating poll workers

Don, Bryon Wornson and Bob Wood would like me to present all of your election administration ideas to the Governor during the Elections Board budget briefing. On the idea of regulating poll workers I have a question. The memo text I have on your ideas says this:

Regulating Poll Workers. Make poll worker misconduct a crime and require any person who is a poll worker to wear a sticker or badge with that person's full name any time while at the polling place.

Exactly what kind of crime would it be for poll worker misconduct and exactly what kind of misconduct would this be? The LRB attorney drafting this will ask me so I need to know what to tell them for further definition.

Deborah A. Uecker

Executive Policy and Budget Analyst
State Budget Office
Department of Administration
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deborah.uecker@doa.state.wi.us
Phone: (608) 267-0371
Fax: (608) 267-0372

Kuesel, Jeffery

From: Uecker, Deborah
Sent: Thursday, December 14, 2000 2:07 PM
To: Kuesel, Jeffery
Cc: Millis, Don; Wornson, Bryon
Subject: Governor's recommendations on Elections statutory language

Jeff, these are the Governor's recommendations on part of the items I want to include in the budget bill.



Statlang Elections.doc

Photo ID at polling places - approved with no modifications

Centralized registration list - approved with no modifications. Jeff, I agree with your assumptions about no obligations to search the list by municipal clerks, etc.

Supervising local election practices - approved. Jeff, I am not sure what limitations could be removed in 5.06(4). I don't see any and I would not want to remove anything unless the language in my briefing document would say so. The part about "special masters" is approved as well. **Don and Bryon, please reply to myself and to Jeff on exactly what phraseology for this provision should be as mentioned in Jeff's previous email (down below). Also, please reply on the ad hoc inspectors issue. Jeff has several concerns about who these inspectors would replace and to whom they would be accountable.**

Reimbursement of poll workers - the decision is no, but it could be approved in a later package of other items.

Training of election observers is not decided yet. We may establish a grant program run by the Elections Board for election observers training and funding for the centralized certification list. I do not know whether any drafting is necessary on this yet.

Standardizing registration forms - the civil penalty issue has already been resolved by Don.

Task force on technology and electoral participation - we want to add \$50,000 GPR in DOA's Committees and Interstate Bodied general program operations appropriation. No session law would be needed and the Governor would create the task force by executive order.

Governor's campaign finance reform plan - approved as drafted for the last budget will no substantive modifications. \$750,000 GPR would be placed in Joint Finance's GPR supplemental appropriation exactly as was done last budget as far as whether the funds were reserved or not. Jeff, on your question about adjusting the disbursement levels according to the consumer price index since the Kettl Commission report was issued, no, do not adjust the figures. They are correct as drafted now. **Don, as for the other questions Jeff has which are mentioned in the note attached to the draft, I will let you respond according to your conversations with Professor Kettl.**

This is Jeff Kuesel's email response to my submission of ideas for drafting for your reference:

Deborah,

Confirming our phone conversation of this date, the election administration reform package is LRB-1301. The campaign finance changes are LRB-1157. That draft was completed by us on 11/28 but we have been having trouble getting the editors to edit it. Hopefully, it will reach you shortly. LRB 1157 does not include any changes regarding the appropriation. We discussed at least 4 options and we are awaiting your decision on that.

The discussion below relates to your memo of 11/30 and follow-up e mail of 12/1.

1. *Photo identification at polling places.* We do not recommend the use of private photo ID cards. The reason is that there is no requirement for a numbering system and we have no control over the numbering system and no assurance that the issuer issues unique numbers. The issuer could be anyone, just a couple of guys getting together informally, perhaps. We could have a state certification system for issuers, but that might be more trouble than it's worth. We think the state driver's license or Wisconsin ID card would cover 98% of the adult population of Wisconsin. For the

others, we think there must be a free alternative because the federal courts will not permit us to tax the franchise. We recommend either of 2 options: 1) The first option would be to have the state elections board issue free voter ID cards upon request. We would provide that the board could designate agents (perhaps county clerks) to issue the cards. The one difficulty with this system is that it might be difficult to have photos on the cards and still issue them promptly. However, they would have a name and address and would be permanent. If a name or address changed, the election officials would mark the card in ink and inform the board; the board would then issue a new card but with the same number. 2) The second option would be to utilize the existing infrastructure of DOT as a method of providing a free state-issued ID card. For this option, you would have to fund the card issuance program with DOT segregated revenue or with GPR. We understand that you suggest corroboration as an alternative and this may suffice, but it is possible that no one would be in a position to corroborate for some electors and or that for some reason no potential corroborator could be recruited by an elector to come to the polls when the elector wished to vote.

2. *Centralized registration list.* Currently, military electors are exempt from registration but overseas electors are not exempt. We assume you would want to continue that law. We also assume, on the basis of your instructions, that there would be no obligation, beyond current law requirements imposed upon the municipal clerk, to search or revise the statewide list. (If so, we would need more detail regarding who would perform the review, what kind of review would be performed and how often.) Once a statewide list is created, private persons could access the list and then raise issues with the appropriate municipal clerk(s).

3. *Supervising local election practices. a. Investigations.* Under ss. 5.05 (3) (a) and 5.06 (4) to (6), stats., the elections board currently has the authority to investigate violations of the elections laws upon complaint or **on its own motion**, and to order compliance, but there are some subject matter limitations in s. 5.06 (4), stats. If we eliminate those limitations, is that enough to implement this point?

b. *Special masters.* Under the instructions, special masters could be appointed "in extreme cases". We should discuss some appropriate statutory phraseology for that standard, e.g. "If the board determines that [a municipality] [election inspectors at a particular polling place] have repeatedly and materially failed to substantially comply with the election laws in performing their functions,..." See also the discussion below under 'ad hoc' inspectors.

c. *Billing and shared revenue deductions.* This appears to be fairly straightforward.

d. *Training standards.* Presently, training is the responsibility of municipal clerks and governing bodies. They determine how much training to provide and whether to ensure that officials understand what they have been taught by giving examinations. The elections board generally focuses on training the clerks, not the poll workers. We would need to know if the intent is to prescribe recommended training materials or to require all election officials to complete and pass a course having certain prescribed content. If it's the latter, we might need to provide some exemptions to cover emergency situations or require that alternate officials be prequalified to step in (presently, alternates are a rarely exercised local option).

e. *Ad hoc inspectors.* Presently, there is an involved procedure for appointment of election officials. Normally, there are an odd number of officials at each polling place with the nominees of each of the 2 major political parties represented, but there are exceptions to this. The municipal clerk is essentially "the boss" and is required to remove election officials for incompetence, neglect of duties or misconduct, but then the parties may then nominate a replacement. If "ad hoc" inspectors come in, there is a question as to who they would replace (for example, would it be fair to replace one party's nominee and leave the other party's nominee alone?) and to whom they would be accountable, the municipal clerk or the board. It would be awkward to have different lines of accountability within the same municipality or even within the same polling place.

4. *Regulating poll workers.* We will draft this per the 12/1 e mail. We understand that any sticker or badge will do, as long as it contains the full first and last name of the official.

5. *Standardizing registration forms; registration misconduct.* Currently, the precise information required on registration forms is prescribed by law under s. 6.33 (1), stats. There are 10 items of information required. The board prescribes the format for registration forms under s. 7.08 (1) (c), stats. In my opinion, municipalities should not be varying the content or format. I think there has been some misinformation and confusion on this point. It would be a good topic for the board's next conference with the clerks. Regarding the civil penalty, there are 2 existing ones in s.12.60 (1) (c) and (d), stats. One has a \$100 maximum forfeiture and the other has a \$500 maximum forfeiture. We suggest you choose one of these. Otherwise, we need a figure to insert.

6. *Task force on technology and electoral participation.* We assume this could be created by executive order without legislation under s. 14.019, stats. If extra money is needed, it could be added to your schedule under s. 20.505 (3) (a), stats. If, however, you want a special appropriation for this purpose, we would need to create the task force by session law, which means we would need to detail the makeup, the officers and staffing and prescribe the duties and the person(s) to whom to report and reporting deadline. As I mentioned, I would be cautious about going too far too fast with on-line voting, but it's fine to study it, at least as a partial option. All the states that have looked at it, as far as we know, have decided to go slow or to shelve the idea for the time being.

Training for observers. This item was not in the memo, but we discussed it over the phone. Currently, the board is directed under s. 5.05 (7), stats. to conduct administrative meetings and conferences for clerks and election officials. If you contemplate having the board train private citizens to better serve as observers, I would amend that subsection and decide whether the board should be directed or permitted to do this.

Jeffery Kuesel

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STATUTORY LANGUAGE BRIEFING DOCUMENT

Agency: Elections Board
 Analyst: Deborah Uecker
 Date: December 8, 2000

LANGUAGE ITEM	DOA Recommendation	Governor's Recommendation
---------------	--------------------	---------------------------

1 Photo Identification at Polling Places. Require one form of photo identification in order for a person to;

- ✓ Register during the 13 days prior to the election
- ✓ Register on the day of an election
- ✓ Vote, whether registered or not

*Scanned 8 electors not covered w/ address
 Pre-registered but no photo ID @ polls.*

Approve Approve

2 For those persons whose photo ID does not list their current address, when they register to vote, they would need to record a distinct identification code or number that appears on their photo identification card. When this person votes, he/she would show their photo identification card with the identification number that matches the number on the registration list. If a person is registered and does not have a photo ID, that person may vote if another elector swears in writing on personal knowledge that the person without a photo ID is the same as the person on the registration list. To avoid abuse, limit the number of persons any elector may so swear qualify to 2.

Centralized Registration List. Mandate registration in all municipalities and require a centralized computer registration list maintained by the Elections Board. Municipal and county clerks would add and delete people to this list. This would allow the Elections Board and public groups to search the list for duplicate and suspect entries and challenge the registration where necessary under current challenge provisions.

Approve Approve

Approve

Approve

3. **Supervising Local Election Practices.** Give the Elections Board the general authority to supervise and, if absolutely necessary, conduct an election. The Elections Board could:

- Establish by rule standards and procedures for the efficient and fair conduct of elections, including the training of poll workers.
- Investigate a municipality that has failed to follow the law or adhere to Election Board rules, either on its own motion or on petition of an elector.
- Order a municipality to conform to the law or Election Board rules, take specific action reasonably calculated to remedy violations identified by the Elections Board, or in extreme cases, appoint a special master to conduct part or all of the election. Such actions would be made and appealed in the matter consistent with other election law provisions included in the budget (i.e., revised Kettl Commission proposals).
- Bill the municipality for the board's reasonable costs to apply the remedy which could be deducted from the municipality's share of revenue payments.
- Contract with ad hoc election inspectors in municipalities with demonstrated problems.

Deny

Approve

4. **Regulating Poll Workers.** Double the penalty for any election official who violates various prohibited election practices and require any person who is a poll worker to wear a sticker or badge with that person's full name any time while at the polling place. For example, the penalty would double from \$1,000 and/or 6 months imprisonment under current law to \$2,000 and/or 1 year of imprisonment for violations such as:

- Electioneering – attempting to influence voting at an election
- False representations affecting elections
- Mishandling ballots such as failing to deliver them or destroying or concealing ballots
- Falsifying voter registration

Approve

Approve

5. **Standardized Registration Forms/Registration Misconduct.** Allow the Elections Board to promulgate a rule to specify minimum requirements for registration forms and make it a civil violation for failing to exercise due care in registering people to vote. This is intended to alleviate problems with private get out the vote activities—especially those on-line—in which people are misled into believing they are registered.

