2007 ASSEMBLY BILL 904


AN ACT to renumber and amend 6.34 (1) (a); to amend 5.06 (1), 5.06 (3), 5.06 (4), 5.06 (5), 5.06 (6), 6.22 (6), 6.221 (2), 6.36 (1) (a), 6.82 (2) (a), 6.865 (3m) (a), 6.87 (5), 6.875 (4) (b), 6.875 (6) (c) 1., 6.88 (3) (a), 6.88 (3) (b), 7.08 (3) (intro.), 7.15 (5), 7.15 (6) (a), 7.51 (2) (b), 7.51 (2) (c), 7.51 (2) (d), 7.51 (2) (e), 7.51 (5) (b), 7.52 (3) (a), 7.52 (3) (b), 7.52 (4) (b), 7.52 (4) (c), 7.52 (4) (d), 7.52 (4) (e), 7.60 (1), 9.01 (1) (b) (intro.), 9.01 (1) (b) 2., 9.01 (1) (b) 4. a. and b., 9.01 (1) (b) 4. c., 9.01 (1) (b) (d.), 9.01 (1) (b) 4. e., 9.01 (1) (b) 5., 9.01 (5) (a), 10.02 (3) (g), 12.13 (3) (j) and 12.60 (1) (b); and to create 5.02 (2m), 6.275 (3), 6.79 (2) (f), 7.30 (2) (d), 9.01 (1) (at), 12.13 (2) (b) 9., 12.13 (2) (c) and 12.13 (4) of the statutes; relating to: administration of elections and providing penalties.

Analysis by the Legislative Reference Bureau
This bill makes various changes in laws relating to elections administration. The changes include:
1. Currently, all election officials are required to comply with the election laws and valid administrative rules promulgated by the Government Accountability Board. This bill requires, in addition, that all officials comply with valid applicable
requirements of the election manual that is published by the Government Accountability Board. The bill further provides that if a municipal clerk is found to have violated the election laws or any applicable requirement of the election manual or is restrained from violating the laws or applicable requirement of the manual, the clerk may not participate in assisting a municipal board of canvassers in conducting a recount. The bill instead provides that the clerk’s appointing authority shall designate the municipal clerk of another municipality to assist the board of canvassers with the recount. The bill also provides that if an individual who serves as a poll worker is found to have committed any such violation or is restrained from any such violation, the individual may not serve again until the municipal clerk or executive director of the board of election commissioners of the municipality where the individual serves certifies that the individual has successfully completed a training program. In addition, the bill provides that no individual may serve as a poll worker if a complaint against the individual is pending before the Government Accountability Board or during the pendency of an appeal of a decision of the board relating to the individual.

2. Currently, when the number of ballots cast in a ward or election district exceeds the number of voting electors indicated on the poll list, the board of canvassers lays aside blank ballots. The board of canvassers then lays aside any ballots not bearing the required initials of the municipal clerk or executive director of the board of election commissioners or their deputies or the initials of the inspectors (poll workers). If there is an excess number of absentee ballots, the board of canvassers draws out a number of absentee ballots equal to the excess number, and, if there is an excess number of nonabsentee ballots, the board of canvassers draws out a number of nonabsentee ballots equal to the excess number. The board of canvassers then counts only the remaining ballots. This bill provides that the board of canvassers must exclude any marked ballot cast by any of the following electors from this process: 1) a member of a uniformed service on active duty who, by reason of that duty, is absent from the residence where the member is otherwise qualified to vote; or 2) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the residence where the member is otherwise qualified to vote.

3. Currently, an absentee ballot must have the initials of the municipal clerk or executive director of the city board of election commissioners by whom the ballot is issued or the initials of a deputy clerk or a deputy appointed by the executive director written on the back before the ballot is cast. The statutes also provide that the election laws shall be construed to give effect to the will of the electors, if that will is ascertainable, notwithstanding any informality or failure to comply with the law. This bill provides that in no case may an absentee ballot that does not bear the required initials be counted.

4. Currently, each ballot that is distributed to electors has a space on the back for the initials of the two inspectors (poll workers) who give the ballot to an elector who qualifies to cast the ballot. This bill provides specifically that these inspectors shall initial the ballot when it is given to the elector who casts it and may not initial any ballots before that time.
5. Currently, an elector who has difficulty in voting because of a disability or inability to read, write, or understand English may request the assistance of any individual of his or her choice in voting his or her ballot, except the elector’s employer or an agent of that employer or an officer or agent of the elector’s labor organization. The assistance may be provided either at a polling place or at a site where an absentee ballot is cast. This bill precludes an elector from obtaining the assistance of a municipal clerk or deputy clerk, or the executive director of a city board of election commissioners or a deputy designated by the executive director. Violators are guilty of a misdemeanor and may be fined not more than $1,000 or imprisoned for not more than six months, or both.

6. Currently, an elector who resides in a nursing home or in a community-based residential facility or retirement home meeting certain standards may vote in the home or facility with the assistance of two special voting deputies who are dispatched by the municipal clerk or board of election commissioners. Currently, election inspectors (poll workers) are prohibited from advising or suggesting how any ballot should be voted. This bill prohibits any individual who renders assistance at a polling place or absentee balloting site, as well as any deputy who renders assistance at a nursing or retirement home or a community-based residential facility, from advising an elector to vote for or against any candidate. Any person who violates the prohibition is guilty of a felony and may be fined not more than $10,000 or imprisoned for not more than three years and six months, or both. The bill also precludes any individual who has assisted with the campaign of any candidate at an election from serving as a special voting deputy at the election at which that candidate’s name appears on the ballot.

7. Currently, where ballots are distributed to electors at an election, each municipal clerk and board of election commissioners must keep a record of when and in what condition ballots are received from the county clerk and must deliver unopened packages of ballots to the election inspectors (poll workers) at each polling place. This bill provides that each municipal clerk and board of election commissioners must count and record the number of ballots delivered from the county clerk or, if the municipality prepares its own ballots, from the ballot supplier for each election. The bill also directs each municipal clerk and board of election commissioners to keep a record of the number of ballots used as absentee ballots, the number of ballots delivered to each polling place before each election, and the number of voted, spoiled, and unused ballots returned to the clerk or board from each polling place after each election. In addition, the bill directs each municipal clerk and board of election commissioners to report to the Government Accountability Board after each election the number of ballots delivered to the clerk or board, the number of substitute ballots printed by the clerk or board, if any, the number of ballots cast, the number of ballots spoiled, and the number of unused ballots returned to the clerk or board. Finally, the bill also requires each municipal clerk and board of election commissioners to secure access to all unused ballots.

8. Currently, each municipal clerk or board of election commissioners must deliver all ballots, statements, tally sheets, lists, and envelopes relating to each technical college, county, state, or national election to the county clerk or board of
election commissioners no later than 4 p.m. on the day after each election. The county clerk or board of election commissioners must retain them until destruction is permitted by law. This bill provides that the municipal clerk or executive director of the board of election commissioners or a deputy under direction of the clerk or executive director must personally deliver the ballots and other materials to the county clerk or board of election commissioners. The bill also requires the county clerk or board of election commissioners to keep the clerk's or board's office open on the day after each election until all ballots, statements, tally sheets, lists, and envelopes relating to the election have been received.

9. Currently, if an absentee ballot is open or has been opened or resealed, the ballot is not counted. This bill provides that this procedure also applies to ballots enclosed in unsealed envelopes. Currently, if an absentee ballot is recounted, it is discounted only if it is not witnessed, it is not signed by the voter, or if the certificate accompanying the ballot is missing. This bill provides, in addition, that an absentee ballot shall not be counted in a recount if the absentee ballot envelope was open or unsealed when it was received by the inspectors.

10. Currently, if there are insufficient ballots printed to serve the number of qualified electors who wish to vote, the municipal clerk or board of election commissioners of the municipality where the shortage occurs must provide sufficient substitute ballots to meet demand. This bill provides no election official may duplicate a ballot that bears the initials of an election inspector. Violators are guilty of a misdemeanor and may be fined not more than $1,000 or imprisoned for not more than six months, or both.

11. Currently, the Government Accountability Board is directed to prepare and publish an election manual for the use of election officials in interpreting and implementing the election laws. This bill provides that each step performed by a board of canvassers in conducting a recount must be consistent with applicable law and applicable requirements of the manual.

12. Currently, when a board of canvassers or the chairperson of the Government Accountability Board or its designee conducts a recount, the board or chairperson or designee is directed to keep minutes of the proceedings before the board or the chairperson or designee. This bill requires the minutes to include a description of each step in the recount process that is performed by the board or the chairperson or designee and the findings of the board or the chairperson or designee with respect to each step performed by the board or the chairperson or designee during the recount process, if any. The bill also provides that the board of canvassers may take testimony and may question an elector concerning the process of voting or assistance provided to the elector, but shall not question an elector as to which candidates or questions the elector voted for or against. Any person who violates the prohibition is guilty of a misdemeanor and may be fined not more than $1,000 or imprisoned for not more than six months, or both, and for a 2nd or subsequent offense
occurring within five years, the person is guilty of a felony and may be fined not more than $10,000 or imprisoned for not more than three years and six months, or both.

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

SECTION 1. 5.02 (2m) of the statutes is created to read:

5.02 (2m) “Deputy clerk” includes a deputy who is appointed by the executive director of a board of election commissioners.

SECTION 2. 5.06 (1) of the statutes is amended to read:

5.06 (1) Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act with respect to any matter concerning nominations, qualifications of candidates, voting qualifications, including residence, ward division and numbering, recall, ballot preparation, election administration or conduct of elections is contrary to law or to any applicable requirement of the election manual published under s. 7.08 (3), or the official has abused the discretion vested in him or her by law with respect to any such matter, the elector may file a written sworn complaint with the board requesting that the official be required to conform his or her conduct to the law or to any applicable requirement of the manual, be restrained from taking any action inconsistent with the law or any applicable requirement of the manual or be required to correct any action or decision inconsistent with the law or an applicable requirement of the manual or any abuse of the discretion vested in him or her by law. The complaint shall set forth such facts as are within the knowledge of the complainant to show probable cause to believe that a violation of a law or an applicable requirement of the manual or an abuse of discretion has occurred or will occur. The complaint may be accompanied by relevant supporting documents. The
board may conduct a hearing on the matter in the manner prescribed for treatment of contested cases under ch. 227 if it believes such action to be appropriate.

**SECTION 3.** 5.06 (3) of the statutes is amended to read:

5.06 (3) A complaint under this section shall be filed promptly so as not to prejudice the rights of any other party. In no case may a complaint relating to nominations, qualifications of candidates or ballot preparation be filed later than 10 days after the complainant knew or should have known that a violation of law or abuse of discretion occurred or was proposed to occur.

**SECTION 4.** 5.06 (4) of the statutes is amended to read:

5.06 (4) The board may, on its own motion, investigate and determine whether any election official, with respect to any matter concerning nominations, qualifications of candidates, voting qualifications, including residence, ward division and numbering, recall, ballot preparation, election administration or conduct of elections, has failed to comply with the law or any applicable requirement of the election manual published under s. 7.08 (3) or abused the discretion vested in him or her by law or proposes to do so.

**SECTION 5.** 5.06 (5) of the statutes is amended to read:

5.06 (5) Upon receipt of a complaint under sub. (1), or upon its own motion, the board may order any election official to immediately transfer to its possession any original documents in the custody of the official which the board finds to be necessary and relevant to permit review of compliance with the laws and the applicable requirements of the election manual published under s. 7.08 (3) concerning nominations, qualifications of candidates, ward division and numbering, recall or ballot preparation or the proper administration of such laws.

**SECTION 6.** 5.06 (6) of the statutes is amended to read:
5.06 (6) The board may, after such investigation as it deems appropriate, summarily decide the matter before it and, by order, require any election official to conform his or her conduct to the law and applicable requirements of the election manual published under s. 7.08 (3), restrain an official from taking any action inconsistent with the law or the applicable requirements of the manual or require an official to correct any action or decision inconsistent with the law or an applicable requirement of the manual. The board shall immediately transmit a copy of the order to the official. An order issued under this subsection is effective immediately or at such later time as may be specified in the order.

SECTION 7. 6.22 (6) of the statutes is amended to read:

6.22 (6) MILITARY ELECTOR LIST. Each municipal clerk shall keep an up-to-date list of all eligible military electors who reside in the municipality; city clerks shall keep the lists by wards. The list shall contain the name, latest-known military residence and military mailing address of each military elector. The list shall indicate whether each elector whose name appears on the list is a military elector, as defined in s. 6.36 (2) (e) 6.34 (1) (a), and whether the military elector qualifies under s. 6.34 (1) (a) 1., 2., or 3., and has so certified under s. 6.865 (3m). All persons over 18 years of age or who will be 18 years old prior to an election shall be listed and remain on the list for the duration of their tour of duty. The list shall be kept current through all possible means. Each clerk shall exercise reasonable care to avoid duplication of names or listing anyone who is not eligible to vote. Each clerk shall distribute 2 copies of the list to the appropriate ward in the municipality for use on election day.

SECTION 8. 6.221 (2) of the statutes is amended to read:
6.221 (2) Each certificate envelope that is mailed or transmitted to a military elector under this section shall be clearly labeled as “Cast by a military elector under s. 6.221, Wis. Stats., and may be eligible to be counted after election day”. The certificate envelope shall also indicate whether the military elector qualifies under s. 6.34 (1) (a) 1., 2., or 3.

SECTION 9. 6.275 (3) of the statutes is created to read:

6.275 (3) Within 30 days after each primary and other election, including any special election, that is held in a municipality in which ballots are distributed to electors, the municipal clerk or board of election commissioners shall make a written statement to the board specifying the number of ballots delivered to the clerk or board of election commissioners, the number of substitute ballots printed by the clerk or board of election commissioners, if any, the number of ballots cast, the number of ballots spoiled, and the number of unused ballots returned to the clerk or board of election commissioners.

SECTION 10. 6.34 (1) (a) of the statutes is renumbered 6.34 (1) (a) (intro.) and amended to read:

6.34 (1) (a) (intro.) “Military elector” means a any of the following:

1. A member of a uniformed service on active duty who, by reason of that duty, is absent from the residence where the member is otherwise qualified to vote;

2. A member of the merchant marine, as defined in s. 6.22 (1) (a), who by reason of service in the merchant marine, is absent from the residence where the member is otherwise qualified to vote;

3. The spouse or dependent of any such member who, by reason of the duty or service of the member, is absent from the residence where the spouse or dependent is otherwise qualified to vote.
SECTION 11. 6.36 (1) (a) of the statutes is amended to read:

6.36 (1) (a) The board shall compile and maintain electronically an official registration list. The list shall contain the name and address of each registered elector in the state, the date of birth of the elector, the ward and aldermanic district of the elector, if any, and, for each elector, a unique registration identification number assigned by the board, the number of a valid operator’s license issued to the elector under ch. 343, if any, or the last 4 digits of the elector’s social security account number, if any, any identification serial number issued to the elector under s. 6.47 (3), the date of any election in which the elector votes, an indication of whether the elector is a military elector, as defined in sub. (2) (c) s. 6.34 (1) (a), who has so certified under s. 6.865 (3m), and whether the elector qualifies as such under s. 6.34 (1) (a) 1., 2., or 3., an indication of whether the elector is an overseas elector, as defined in s. 6.24 (1), any information relating to the elector that appears on the current list transmitted to the board by the department of corrections under s. 301.03 (20m), an indication of any accommodation required under s. 5.25 (4) (a) to permit voting by the elector, an indication of the method by which the elector’s registration form was received, and such other information as may be determined by the board to facilitate administration of elector registration requirements.

SECTION 12. 6.79 (2) (f) of the statutes is created to read:

6.79 (2) (f) Upon providing an elector with a slip under par. (e), 2 inspectors shall place their initials on a blank ballot designated for the ward or election district where the elector resides and one of them shall give the ballot to the elector. No inspector may place his or her initials on a ballot prior to the time that the ballot is given to the elector who casts the ballot.

SECTION 13. 6.82 (2) (a) of the statutes is amended to read:
6.82 (2) (a) If an elector declares to the presiding election official that he or she cannot read or write, or has difficulty in reading, writing or understanding English or that due to disability is unable to mark a ballot or depress a button or lever on a voting machine, the elector shall be informed by the officials that he or she may have assistance. When assistance is requested, the elector may select any individual other than a municipal clerk or deputy clerk to assist in casting his or her vote. The selected individual rendering assistance may not be the elector’s employer or an agent of that employer or an officer or agent of a labor organization which represents the elector. The selected individual shall not advise the elector to vote for or against any candidate. For purposes of this paragraph, advice includes any gesture or other visual or verbal indication of a preferred candidate. The selected individual shall certify on the back of the ballot that it was marked with his or her assistance. Where voting machines are used, certification shall be made on the registration list.

Section 14. 6.865 (3m) (a) of the statutes is amended to read:

6.865 (3m) (a) Except as provided in par. (c), if any elector who certifies that he or she will be a military elector on election day requests an absentee ballot, the municipal clerk shall send or transmit to the elector an absentee ballot for all elections that occur in the municipality or portion thereof where the elector resides beginning on the date that the clerk receives the request and ending on the day after the 3rd successive general election that follows receipt of the request, unless the elector otherwise requests. In addition, the municipal clerk shall continue to send or transmit to the elector an absentee ballot for all elections ending on the day after the 3rd successive general election that follows any election at which the elector returns an absentee ballot under this section or renews his or her request under par.
(c) A military elector who makes a certification under this paragraph shall indicate whether the elector qualifies as a military elector under s. 6.34 (1) (a) 1., 2., or 3.

**SECTION 15.** 6.87 (5) of the statutes is amended to read:

6.87 (5) If the absent elector declares that he or she is unable to read, has difficulty in reading, writing or understanding English or due to disability is unable to mark his or her ballot, the elector may select any individual, except a municipal clerk or a deputy clerk, the elector’s employer or an agent of that employer, or an officer or agent of a labor organization which represents the elector, to assist in marking the ballot, and the assistant shall then sign his or her name to a certification on the back of the ballot, as provided under s. 5.55. The selected individual shall not advise the absent elector to vote for or against any candidate. For purposes of this subsection, advice includes any gesture or other visual or verbal indication of a preferred candidate.

**SECTION 16.** 6.875 (4) (b) of the statutes is amended to read:

6.875 (4) (b) Nominations for the special voting deputy positions described in par. (a) may be submitted by the 2 recognized political parties whose candidates for governor or president received the greatest numbers of votes in the municipality at the most recent general election. The deputies shall be specially appointed to carry out the duties under par. (a) for the period specified in s. 7.30 (6) (a). The clerk or board of election commissioners may revoke an appointment at any time. No individual who is employed or retained, or within the 2 years preceding appointment has been employed or retained, at a nursing home or qualified retirement home or qualified community–based residential facility in the municipality, or any member of the individual’s immediate family, as defined in s. 19.42 (7), may be appointed to serve as a deputy. No individual who has assisted with the campaign of any candidate
at an election may serve as a special voting deputy under this section at the election at which that candidate's name appears on the ballot. The clerk or board of election commissioners shall appoint an election inspector of the municipality to serve in place of any individual who is precluded from serving under this paragraph at a particular election.

**SECTION 17.** 6.875 (6) (c) 1. of the statutes is amended to read:

6.875 (6) (c) 1. Upon their visit to the home or facility under par. (a), the deputies shall personally offer each elector who has filed a proper application for an absentee ballot the opportunity to cast his or her absentee ballot. If an elector is present who has not filed a proper application for an absentee ballot, the 2 deputies may accept an application from the elector and shall issue a ballot to the elector if the elector is qualified and the application is proper. The deputies shall each witness the certification and may, upon request of the elector, assist the elector in marking the elector’s ballot. All voting shall be conducted in the presence of the deputies. Neither of the deputies may advise the elector to vote for or against any candidate. For purposes of this subdivision, advice includes any gesture or other visual or verbal indication of a preferred candidate. Upon request of the elector, a relative of the elector who is present in the room may assist the elector in marking the elector’s ballot. No individual other than a deputy may witness the certification and no individual other than a deputy or relative of an elector may render voting assistance to the elector.

**SECTION 18.** 6.88 (3) (a) of the statutes is amended to read:

6.88 (3) (a) Except in municipalities where absentee ballots are canvassed under s. 7.52, at any time between the opening and closing of the polls on election day, the inspectors shall, in the same room where votes are being cast, in such a manner
that members of the public can hear and see the procedures, open the carrier
envelope only, and announce the name of the absent elector or the identification
serial number of the absent elector if the elector has a confidential listing under s.
6.47 (2). When the inspectors find that the certification has been properly executed,
the applicant is a qualified elector of the ward or election district, and the applicant
has not voted in the election, they shall enter an indication on the poll list next to the
applicant’s name indicating an absentee ballot is cast by the elector. They shall then
open the envelope containing the ballot in a manner so as not to deface or destroy the
certification thereon. The inspectors shall take out the ballot without unfolding it
or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95,
the inspectors shall verify that the ballot has been endorsed by the issuing clerk. If
the certificate envelope indicates that the ballot is cast by a military elector, as
defined in s. 6.34 (1) (a) 1. or 2., the inspectors shall write on the back of the ballot
“Military elector s. 6.34 (1) (a) 1. or 2., stats.”. If the poll list indicates that proof of
residence under s. 6.34 is required and no proof of residence is enclosed or the name
or address on the document that is provided is not the same as the name and address
shown on the poll list, the inspectors shall proceed as provided under s. 6.97 (2). The
inspectors shall then deposit the ballot into the proper ballot box and enter the
absent elector’s name or voting number after his or her name on the poll list in the
same manner as if the elector had been present and voted in person.

SECTION 19. 6.88 (3) (b) of the statutes is amended to read:

6.88 (3) (b) When the inspectors find that a certification is insufficient, that the
applicant is not a qualified elector in the ward or election district, that the ballot
envelope is open or unsealed or has been opened and resealed, that the ballot
envelope contains more than one ballot of any one kind or, except in municipalities
where absentee ballots are canvassed under s. 7.52, that the certificate of an elector who received an absentee ballot by facsimile transmission or electronic mail is missing, or if proof is submitted to the inspectors that an elector voting an absentee ballot has since died, the inspectors shall not count the ballot. The inspectors shall endorse every ballot not counted on the back, “rejected (giving the reason)”. The inspectors shall reinsert each rejected ballot into the certificate envelope in which it was delivered and enclose the certificate envelopes and ballots, and securely seal the ballots and envelopes in an envelope marked for rejected absentee ballots. The inspectors shall endorse the envelope, “rejected ballots” with a statement of the ward or election district and date of the election, signed by the chief inspector and one of the inspectors representing each of the 2 major political parties and returned to the municipal clerk in the same manner as official ballots voted at the election.

**SECTION 20.** 7.08 (3) (intro.) of the statutes is amended to read:

7.08 (3) ELECTION MANUAL. (intro.) Prepare and publish separate from the election laws an election manual written so as to be easily understood by the general public explaining the duties of the election officials, together with notes and references to the statutes as the board considers advisable. The election manual shall be consistent with all laws and valid rules of the board and does not apply to the extent of any inconsistency. The election manual shall:

**SECTION 21.** 7.15 (5) of the statutes is amended to read:

7.15 (5) RECORD OF BALLOTS RECEIVED. Each municipal clerk shall keep a record of when and in what condition the packages containing the ballots were received from the county clerk. The municipal clerk shall count and record the number of ballots delivered from the county clerk or, if the municipality prepares its own ballots, from the ballot supplier for each election. The municipal clerk shall secure
access to all unused ballots. The municipal clerk shall deliver to the proper officials
the unopened packages of ballots the day before the election. The municipal clerk
shall keep a record of the number of ballots used as absentee ballots, the number of
ballots delivered to each polling place before each election, and the number of voted,
spoiled, and unused ballots returned to the clerk from each polling place after each
election.

SECTION 22. 7.15 (6) (a) of the statutes is amended to read:

7.15 (6) (a) The municipal clerk shall provide substitute paper ballots in
substantially the form of the original ballots whenever the necessary original ballots
are not delivered to the municipality, are destroyed, are lost or stolen after delivery,
are not ready for distribution or the supply is exhausted during polling hours. The
municipal clerk may also provide substitute paper ballots, together with ballot boxes
and voting booths, whenever a voting machine or electronic voting system is
rendered inoperable by a malfunction which occurs within 24 hours of the time set
for opening of the polls. No substitute ballot may carry the initials of the municipal
clerk or an election inspector prior to the time that the ballot is voted. Paper ballots
may be cast only in accordance with the procedures prescribed in ss. 6.80 (2) and 7.37
(4). The municipal clerk shall keep a record of the number of substitute ballots
provided to each polling place before or during each election and the number of voted,
spoiled, and unused substitute ballots that are returned to the clerk from each
polling place after each election.

SECTION 23. 7.30 (2) (d) of the statutes is created to read:

7.30 (2) (d) No individual who serves as a chief inspector, an inspector, or a
special registration deputy appointed under s. 6.55 (6) may serve at any election if
the individual is found under s. 5.06 or in any judicial action or proceeding to have
violated the election laws or any applicable requirement contained in the election
manual published under s. 7.08 (3) or is restrained from violating the laws or manual
until the municipal clerk of the municipality where the individual serves certifies
that the individual has successfully completed a training program under s. 7.31 or
7.315. No individual may serve in any such position at any election of a complaint
against the individual under s. 5.06 is pending before the board or an appeal of the
decision of the board relating to the individual is pending before a court on the day
of the election. The position of the individual shall be filled as a temporary vacancy
under par. (b) until the individual's disqualification is removed.

SECTION 24. 7.51 (2) (b) of the statutes is amended to read:

7.51 (2) (b) When during the counting of the ballots cast at an election a
majority of the inspectors find that a ballot is so defective that they cannot determine
with reasonable certainty for whom it was cast, they shall so mark the ballot and
preserve it. The board of canvassers shall not count the vote cast on the the ballot
for any office for which they determine the ballot to be defective. Notwithstanding
s. 5.01 (1), the inspectors shall not count any absentee ballot that does not bear the
initials of the municipal clerk or a deputy clerk. The inspectors shall mark, lay aside,
and carefully preserve any absentee ballot not bearing the initials of the municipal
clerk or a deputy clerk.

SECTION 25. 7.51 (2) (c) of the statutes is amended to read:

7.51 (2) (c) Whenever the number of ballots remaining after ballots are laid
aside under par. (b) exceeds the number of voting electors as indicated on the poll list,
the inspectors shall place all ballots face up to check for blank ballots. In this
paragraph, “blank ballot” means a ballot on which no votes are cast for any office or
question. The inspectors shall mark, lay aside and preserve any blank ballots. The
inspectors shall then temporarily separate the absentee ballots marked “Military
elector s. 6.34 (1) (a) 1. or 2., stats.” from the other ballots. Except in municipalities
where absentee ballots are canvassed under s. 7.52, if the number of remaining
ballots still exceeds the total number of voting electors reduced by the number of
ballots separated under this paragraph, the inspectors shall place all ballots face
down and then proceed to check for the initials. The inspectors shall mark, lay aside
and preserve any ballot not bearing the initials of 2 inspectors or any absentee ballot
not bearing the initials of the municipal clerk. During, Except as provided in par.
(b), during the count the inspectors shall count those ballots cast by challenged
electors the same as the other ballots.

SECTION 26. 7.51 (2) (d) of the statutes is amended to read:

7.51 (2) (d) The inspectors shall keep a written statement, in duplicate, of the
number of ballots set aside, the number of ballots separated as military elector
ballots, and the number of defective ballots and challenged ballots. The statement
shall contain a record of the reasons for setting aside each ballot and the reasons why
each defective or challenged ballot is defective or challenged. The inspectors shall
certify that the statement is correct, sign it, and attach it to the tally sheets.

SECTION 27. 7.51 (2) (e) of the statutes is amended to read:

7.51 (2) (e) Except in municipalities where absentee ballots are canvassed
under s. 7.52, if after any ballots have been laid aside, the number of remaining
ballots still exceeds the total number of electors recorded on the poll list reduced by
the number of ballots separated under par. (c), the inspectors shall separate the
absentee ballots that were not laid aside or separated under par. (b) or (c) from the
other ballots. If there is an excess number of those absentee ballots, the inspectors
shall place the absentee ballots in the ballot box and one of the inspectors shall
publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of absentee ballots. If there is an excess number of nonabsentee ballots, the inspectors shall place those ballots in the ballot box and one of the inspectors shall publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of those ballots. All ballots so removed may not be counted but shall be specially marked as having been removed by the inspectors on original canvass due to an excess number of ballots, set aside and preserved. When the number of ballots and total shown on the poll list agree, the inspectors shall return all ballots to be counted, including the ballots of military electors that were separated under par. (c), to the ballot box and shall turn the ballot box in such manner as to thoroughly mix the ballots. The inspectors shall then open, count and record the number of votes. When the ballots are counted, the inspectors shall separate them into piles for ballots similarly voted. Objections may be made to placement of ballots in the piles at the time the separation is made.

SECTION 28. 7.51 (5) (b) of the statutes is amended to read:

7.51 (5) (b) The municipal clerk shall deliver all ballots, statements, tally sheets, lists, and envelopes relating to a school district election to the school district clerk by 4 p.m. on the day following each such election. The municipal clerk or a deputy clerk under direction of the municipal clerk shall personally deliver the ballots, statements, tally sheets, lists, and envelopes for his or her municipality relating to any county, technical college district, state, or national election to the county clerk no later than 4 p.m. on the day following each such election or, in municipalities where absentee ballots are canvassed under s. 7.52, by 4. p.m. on the 2nd day following each such election, and no later than 4 p.m. on the day after receiving any corrected returns under s. 6.221 (6) (b). The person delivering the
returns shall be paid out of the municipal treasury. Each county clerk shall retain ballots, statements, tally sheets, or envelopes received by the clerk until destruction is authorized under s. 7.23 (1).

Section 29. 7.52 (3) (a) of the statutes is amended to read:

7.52 (3) (a) The board of absentee ballot canvassers shall first open the carrier envelope only, and, in such a manner that a member of the public, if he or she desired, could hear, announce the name of the absent elector or the identification serial number of the absent elector if the elector has a confidential listing under s. 6.47 (2). When the board of absentee ballot canvassers finds that the certification has been properly executed and the applicant is a qualified elector of the ward or election district, the board of absentee ballot canvassers shall enter an indication on the poll list next to the applicant's name indicating an absentee ballot is cast by the elector. The board of absentee ballot canvassers shall then open the envelope containing the ballot in a manner so as not to deface or destroy the certification thereon. The board of absentee ballot canvassers shall take out the ballot without unfolding it or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the board of absentee ballot canvassers shall verify that the ballot has been endorsed by the issuing clerk. If the certificate envelope indicates that the ballot is cast by a military elector, as defined in s. 6.34 (1) (a) 1. or 2., the board of absentee ballot canvassers shall write on the back of the ballot “Military elector s. 6.34 (1) (a) 1. or 2., stats.”. If the poll list indicates that proof of residence is required and no proof of residence is enclosed or the name or address on the document that is provided is not the same as the name and address shown on the poll list, the board of absentee ballot canvassers shall proceed as provided under s. 6.97 (2). The board of absentee ballot canvassers shall mark the poll list number of each elector who casts an
absentee ballot on the back of the elector’s ballot. The board of absentee ballot
canvassers shall then deposit the ballot into the proper ballot box and enter the
absent elector’s name or poll list number after his or her name on the poll list.

SECTION 30. 7.52 (3) (b) of the statutes is amended to read:

7.52 (3) (b) When the board of absentee ballot canvassers finds that a
certification is insufficient, that the applicant is not a qualified elector in the ward
or election district, that the ballot envelope is open or unsealed or has been opened
and resealed, that the ballot envelope contains more than one ballot of any one kind,
or that the certificate of an elector who received an absentee ballot by facsimile
transmission or electronic mail is missing, or if proof is submitted to the board of
absentee ballot canvassers that an elector voting an absentee ballot has since died,
the board of absentee ballot canvassers shall not count the ballot. Each member of
the board of absentee ballot canvassers shall endorse every ballot not counted on the
back as “rejected (giving the reason).” The board of absentee ballot canvassers shall
reinsert each rejected ballot into the certificate envelope in which it was delivered
and enclose the certificate envelopes and ballots, and securely seal the ballots and
envelopes in an envelope marked for rejected absentee ballots. The board of absentee
ballot canvassers shall endorse the envelope as “rejected ballots,” with a statement
of the ward or election district and date of the election, and each member of the board
of absentee ballot canvassers shall sign the statement. The board of absentee ballot
canvassers shall then return the envelope containing the ballots to the municipal
clerk.

SECTION 31. 7.52 (4) (b) of the statutes is amended to read:

7.52 (4) (b) When during the counting of the ballots cast at an election the board
of absentee ballot canvassers finds that a ballot is so defective that it cannot
determine with reasonable certainty for whom it was cast, the board of absentee ballot canvassers shall so mark the ballot and preserve it. The board of absentee ballot canvassers shall not count the vote cast on the ballot for any office for which it determines the ballot to be defective. Notwithstanding s. 5.01 (1), the board of absentee ballot canvassers shall not count any absentee ballot that does not bear the initials of the municipal clerk or a deputy clerk. The board of absentee ballot canvassers shall mark, lay aside, and carefully preserve any absentee ballot not bearing the initials of the municipal clerk or a deputy clerk.

**SECTION 32.** 7.52 (4) (c) of the statutes is amended to read:

> 7.52 (4) (c) Whenever the number of ballots exceeds the number of voting electors as indicated on the poll list, the board of absentee ballot canvassers shall place all ballots face up to check for blank ballots. In this paragraph, “blank ballot” means a ballot on which no votes are cast for any office or question. The board of absentee ballot canvassers shall mark, lay aside, and preserve any blank ballots. If the number of ballots still exceeds the number of voting electors, the board of absentee ballot canvassers shall place all ballots face down and proceed to check for the initials. The board of absentee ballot canvassers shall mark, lay aside, and preserve any ballot not bearing the initials of the municipal clerk. During the count, the board of absentee ballot canvassers shall then temporarily separate the absentee ballots marked “Military elector s. 6.34 (1) (a) 1. or 2., stats.” from the other ballots. Except as provided in par. (b), during the count, the board of absentee ballot canvassers shall count those ballots cast by challenged electors the same as the other ballots.

**SECTION 33.** 7.52 (4) (d) of the statutes is amended to read:

> 7.52 (4) (d) The board of absentee ballot canvassers shall keep a written statement, in duplicate, of the number of ballots set aside, the number of ballots
separated as military elector ballots, and the number of defective ballots and challenged ballots. The statement shall contain a record of the reasons for setting aside each ballot and the reasons why each defective or challenged ballot is defective or challenged. The board of absentee ballot canvassers shall certify that the statement is correct, sign it, and attach it to the tally sheets.

**SECTION 34.** 7.52 (4) (e) of the statutes is amended to read:

7.52 (4) (e) If, after any ballots have been set aside, the number of remaining ballots still exceeds the total number of electors recorded on the poll list reduced by the number of ballots separated under par. (c), the board of absentee ballot canvassers shall place the absentee ballots that were not laid aside or separated under par. (b) or (c) in the ballot box and one of the members shall publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of ballots. All ballots so removed shall not be counted but shall be specially marked as having been removed by the board of absentee ballot canvassers on original canvass due to an excess number of ballots, set aside, and preserved. When the number of ballots and total shown on the poll list agree, the board of absentee ballot canvassers shall return all ballots to be counted, including the ballots of military electors that were separated under par. (c), to the ballot box and shall turn the ballot box in such manner as to thoroughly mix the ballots. The board of absentee ballot canvassers shall then open, count, and record the number of votes. When the ballots are counted, the board of absentee ballot canvassers shall separate them into piles for ballots similarly voted. Objections may be made to placement of ballots in the piles at the time the separation is made.

**SECTION 35.** 7.60 (1) of the statutes is amended to read:
7.60 (1) KEEP OFFICE OPEN. On election night the county clerk shall keep the clerk’s office open to receive reports from the ward inspectors and shall post all returns. On the day after election day, the county clerk shall keep the clerk’s office open until the clerk has received all ballots, statements, tally sheets, lists, and envelopes from each municipal clerk.

SECTION 36. 9.01 (1) (at) of the statutes is created to read:

9.01 (1) (at) 1. The municipal clerk shall assist the municipal board of canvassers in conducting any recount that is conducted by the board of canvassers, except that if the municipal clerk is found under s. 5.06 or in any judicial action or proceeding to have violated the election laws or any applicable requirement contained in the election manual published under s. 7.08 (3) or is restrained from violating the laws or manual, the municipal clerk shall not participate in assisting the board of canvassers. The appointing authority shall designate the municipal clerk of another municipality to serve in lieu of the municipal clerk who is not participating.

2. No individual who serves as a chief inspector, an inspector, or a special registration deputy appointed under s. 6.55 (6) may participate in conducting a recount if the individual is found under s. 5.06 or in any judicial action or proceeding to have violated the election laws or any applicable requirement contained in the election manual published under s. 7.08 (3) or is restrained from violating the laws or manual until the municipal clerk of the municipality where the individual serves certifies that the individual has successfully completed a training program under s. 7.31 or 7.315. No such individual may participate in conducting a recount if a complaint against the individual under s. 5.06 is pending before the board or an
appeal of the decision of the board relating to the individual is pending before a court on the day of the election.

**SECTION 37.** 9.01 (1) (b) (intro.) of the statutes is amended to read:

9.01 (1) (b) (intro.) The proper board of canvassers shall reconvene no earlier than 9 a.m. on the day following delivery of notice to all candidates under sub. (2) and no later than 9 a.m. on the day following the last day for filing of a petition, or if the original canvass is subject to correction under s. 6.221 (6) (b), immediately after issuance of the amended statement and determination in the original canvass, whichever is later. The board of canvassers shall then proceed to recount the ballots in the wards or municipalities specified and to review the allegations of fact contained in the petition or petitions. Each step performed by the board of canvassers shall be consistent with applicable law and applicable requirements of the election manual published under s. 7.08 (3). The recount shall proceed for each ward or municipality as follows:

**SECTION 38.** 9.01 (1) (b) 2. of the statutes is amended to read:

9.01 (1) (b) 2. The board of canvassers shall then examine the absentee ballot envelopes. Any defective absentee ballot envelopes shall be laid aside, properly marked and carefully preserved. The number of voters shall be reduced by the number of ballot envelopes set aside under this subdivision. An absentee ballot envelope is defective only if it is not witnessed or, if it is not signed by the voter, if the envelope was open or unsealed when it was originally received by the inspectors, or if the certificate accompanying an absentee ballot that the voter received by facsimile transmission or electronic mail is missing.

**SECTION 39.** 9.01 (1) (b) 4. a. and b. of the statutes are amended to read:
9.01 (1) (b) 4. a. When the container or bag has been checked, it shall be opened and the contents removed. The board of canvassers shall, without examination other than what is necessary to determine that each is a single ballot, count the number of ballots in the container or bag, excluding ballots removed under s. 7.51 (2) (b) and (e).

b. The board of canvassers shall then, for each opened absentee ballot envelope that was laid aside as defective under subd. 2., without inspection, randomly draw one absentee ballot that was not laid aside under s. 7.51 (2) (b) from the container or bag. In differentiating absentee ballots from other ballots, the board of canvassers shall presume that a ballot initialed only by the municipal clerk, the executive director of the board of election commissioners, or a deputy clerk or secretary is an absentee ballot. If there are more defective absentee ballot envelopes than there are probable absentee ballots, all of the probable absentee ballots that were not laid aside under s. 7.51 (2) (b) shall be removed from the container or bag. Additional ballots shall be removed only if the number of remaining ballots still exceeds the number of voting electors recorded under subd. 1., reduced by the number of defective envelopes set aside under subd. 2. All ballots removed shall not be counted, but shall be marked as to the reason for their removal, set aside and carefully preserved.

**Section 40.** 9.01 (1) (b) 4. c. of the statutes is amended to read:

9.01 (1) (b) 4. c. If, after completing the steps set forth in subd. 4. b., the number of ballots still exceeds the number of voters, the board of canvassers shall place all ballots face up to check for blank ballots. Any blank ballots shall be so marked, set aside and carefully preserved. The board of canvassers shall then temporarily separate the absentee ballots marked “Military elector s. 6.34 (1) (a) 1. or 2., stats.” from the other ballots.
SECTION 41. 9.01 (1) (b) 4. d. of the statutes is amended to read:

9.01 (1) (b) 4. d. If, after completing the steps set forth in subd. 4. c., the number of remaining ballots still exceeds the total number of voters reduced by the number of defective envelopes set aside under subd. 2. and by the number of ballots temporarily separated under subd. 4. c., the board of canvassers shall place all ballots face down to then check the initials. Any ballot not properly initialed by 2 inspectors or any absentee ballot not properly initialed by the municipal clerk, the executive director of the board of election commissioners, or a deputy clerk or secretary shall be temporarily set aside and the board of canvassers shall, without inspection, randomly draw from these ballots as many as are necessary to reduce the number of ballots to equal the number of voters. Any ballots removed for lack of initials shall not be counted but shall be marked, set aside and carefully preserved.

SECTION 42. 9.01 (1) (b) 4. e. of the statutes is amended to read:

9.01 (1) (b) 4. e. If, after completing the steps set forth in subd. 4. d., the number of remaining ballots still exceeds the number of voters reduced by the number of defective envelopes set aside under subd. 2. and by the number of ballots temporarily separated under subd. 4. c., the remaining ballots shall be returned to the container or bag and the board of canvassers shall draw a number of ballots equal to the excess number of ballots by chance and without inspection from the container or bag. These ballots shall not be counted but shall be marked as having been removed by the canvassers on recount due to an excess number of ballots, set aside and carefully preserved.

SECTION 43. 9.01 (1) (b) 5. of the statutes is amended to read:

9.01 (1) (b) 5. When the number of ballots and voters agree, or after noting that the number of voters exceeds the number of ballots, the board of canvassers shall
return all ballots to be counted, including the ballots of military electors that were
separated under subd. 4, c., to the ballot box and shall turn the ballot box in such
manner as to thoroughly mix the ballots. The recount shall then begin.

SECTION 44. 9.01 (5) (a) of the statutes is amended to read:

9.01 (5) (a) The board of canvassers or the chairperson of the board or the
chairperson’s designee shall keep complete minutes of all proceedings before the
board of canvassers or the chairperson or designee. The minutes shall include a
description of each step in the recount process that is performed by the board of
canvassers or the chairperson or designee and the findings of the board of canvassers
or the chairperson or designee with respect to that step, if any. The minutes shall
include a record of objections and offers of evidence. If the board of canvassers or the
chairperson or chairperson’s designee receives exhibits from any party, the board of
canvassers or the chairperson or designee shall number and preserve the exhibits.
The board of canvassers or the chairperson or chairperson’s designee shall make
specific findings of fact with respect to any irregularity raised in the petition or
discovered during the recount. Any member of the board of canvassers or the
chairperson or chairperson’s designee may receive testimony, administer oaths,
certify official acts and issue subpoenas for purposes of this section. The board of
canvassers or the chairperson of the board or the chairperson’s designee may
question an elector concerning the process of voting or assistance provided to the
elector, but shall not question an elector as to which candidates or questions the
elector voted for or against. Witness fees shall be paid by the county. In the case of
proceedings before the chairperson of the board or chairperson’s designee, witness
fees shall be paid by the board.

SECTION 45. 10.02 (3) (g) of the statutes is amended to read:
10.02 (3) (g) An elector may select an individual to assist in casting his or her vote if the elector declares to the presiding official that he or she is unable to read, has difficulty reading, writing or understanding English or that due to disability is unable to cast his or her ballot. The selected individual rendering assistance may not be a municipal clerk or a deputy clerk, the elector’s employer or an agent of that employer, or an officer or agent of a labor organization which represents the elector and shall not advise the elector to vote for or against any candidate.

SECTION 46. 12.13 (2) (b) 9. of the statutes is created to read:

12.13 (2) (b) 9. Duplicate a ballot that bears the initials of an election inspector.

SECTION 47. 12.13 (2) (c) of the statutes is created to read:

12.13 (2) (c) No municipal clerk or deputy clerk may assist an elector who declares that he or she is unable to read, has difficulty in reading, writing, or understanding English, or due to disability is unable to mark his or her ballot, in marking the elector’s ballot.

SECTION 48. 12.13 (3) (j) of the statutes is amended to read:

12.13 (3) (j) When called upon to assist an elector who cannot read or write, has difficulty in reading, writing or understanding English, or is unable to mark a ballot or depress a lever or button on a voting machine, inform the elector that a ballot contains names or words different than are printed or displayed on the ballot with the intent of inducing the elector to vote contrary to his or her inclination, intentionally fail to cast a vote in accordance with the elector’s instructions, advise the elector to vote for or against any candidate, or reveal the elector’s vote to any 3rd person. For purposes of this paragraph, advice includes any gesture or other visual or verbal indication of a preferred candidate.

SECTION 49. 12.13 (4) of the statutes is created to read:
12.13 (4) CANVASSERS. If any member of a board or canvassers, or the chairperson of the board or chairperson’s designee, questions an elector in violation of s. 9.01 (5) (a), the member, chairperson or designee may be fined not more than $1,000 or imprisoned for not more than 6 months, or both, and for a 2nd or subsequent offense within 5 years is guilty of a Class I felony.

SECTION 50. 12.60 (1) (b) of the statutes is amended to read:

12.60 (1) (b) Whoever violates s. 12.03, 12.05, 12.07, 12.08 or 12.13 (2) (b) 8. or 9. or (c), (3) (b), (c), (d), (g), (i), (n) to (x), (ze), (zm) or (zn) may be fined not more than $1,000, or imprisoned not more than 6 months or both.

(END)