

# State of Wisconsin



2013 Senate Bill 262

Date of enactment: April 2, 2014  
Date of publication\*: April 3, 2014

## 2013 WISCONSIN ACT 179

AN ACT *to renumber and amend* 5.85 (2) (b); *to amend* 5.85 (2) (a), 5.85 (3) and 7.08 (1) (a); and *to create* 5.85 (2) (b) 1. of the statutes; **relating to:** labeling of duplicate ballots.

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

**SECTION 1.** 5.85 (2) (a) of the statutes is amended to read:

5.85 (2) (a) The election officials shall examine the ballots or record of votes cast for write-in votes and shall count and tabulate the write-in votes. The election officials shall count write-in votes as provided in s. 7.50 (2) (d). When an electronic voting system is used in which ballots are distributed to electors, before separating the remaining ballots from their respective covering envelopes, the election officials shall examine the ballots for write-in votes. When an elector has cast a write-in vote, the election officials shall compare the write-in vote with the votes on the ballot to determine whether the write-in vote results in an overvote for any office. In case of an overvote for any office, the election officials shall ~~make a true duplicate ballot of all votes on the ballot except for the office that is overvoted, by using an official ballot of that kind used by the elector who voted the original ballot, and one of the marking devices so as to transfer all votes of the elector except for the office overvoted, to an official ballot of that kind used in the ward at that election. Unless election officials are selected under s. 7.30 (4) (c) without regard to party affiliation, the election officials shall consist in each case of at least one election~~

~~official of each of the 2 major political parties, whenever officials of both parties are present follow the procedure in par. (b).~~

**SECTION 2.** 5.85 (2) (b) of the statutes is renumbered 5.85 (2) (b) 2. and amended to read:

5.85 (2) (b) 2. ~~Write-in votes shall be counted as provided in s. 7.50 (2) (d). The~~ On any original ballot upon which there is an overvote, the election officials shall be clearly labeled, in the space on the ballot for official endorsement, identify the ballot as an "Overvoted Ballot" and write a serial number. On the duplicate ballot produced under par. (a) ~~shall be clearly labeled subd. 1., the election officials shall, in the space on the ballot for official endorsement, identify the ballot as a~~ "Duplicate Overvoted Ballot." and write a serial number. The election officials shall place the same serial number on each "Overvoted Ballot" and its corresponding "Duplicate Overvoted Ballot," commencing with number "1" and continuing consecutively for each of the ballots for which a "Duplicate Overvoted Ballot" is produced in that ward or election district. The election officials shall initial the "Duplicate Overvoted Ballot" ballots and shall place them in the container for return of the ballots. The "Overvoted Ballot" ballots and their envelopes shall be placed in the "Original Ballots" envelope.

**SECTION 3.** 5.85 (2) (b) 1. of the statutes is created to read:

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

5.85 (2) (b) 1. In case of an overvote for any office, the election officials shall make a true duplicate ballot of all votes on the ballot except for the office that is overvoted in the manner described in this subdivision. The election officials shall use an official ballot of that kind used by the elector who voted the original ballot, and one of the marking devices, so as to transfer all votes of the elector except for the office overvoted to an official ballot of that kind used in the ward at that election. Unless election officials are selected under s. 7.30 (4) (c) without regard to party affiliation, whenever election officials of both of the 2 major political parties are present, the election officials acting under this subdivision shall consist in each case of at least one election official of each of the parties.

**SECTION 4.** 5.85 (3) of the statutes is amended to read:

5.85 (3) The election officials shall examine the ballots to determine if any is damaged or defective so that it cannot be counted by the automatic tabulating equipment. If any ballot is damaged or defective so that it cannot be properly counted by the automatic tabulating equipment, the election officials, in the presence of witnesses, shall make a true duplicate ballot of all votes on that ballot by using one of the marking devices so as to transfer all votes of the elector to an official ballot of that kind used by the elector who voted the original ballot in that election. Unless election officials are selected under s. 7.30 (4) (c) without regard to party affiliation, whenever election officials of both of the 2 major political parties are present, the election officials acting under this subsection shall consist in each case of at least one election official of each of the 2 major political parties, whenever officials of both parties are present. The On any damaged or defective original ballot, the election offi-

cial shall be clearly labeled, in the space on the ballot for official endorsement, identify the ballot as a "Damaged Ballot" and write a serial number. On the duplicate ballot so produced under this subsection, the election officials shall, in the space for official endorsement, identify the ballot as a "Duplicate Damaged Ballot"; and each shall bear the write a serial number. The election officials shall place the same serial number which shall be placed thereon by the election officials, on each "Damaged Ballot" and its corresponding "Duplicate Damaged Ballot," commencing with number "1" and continuing consecutively for the ballots of that kind each of the ballots for which a "Duplicate Damaged Ballot" is produced in the ward or election district. The election officials shall initial the "Duplicate Damaged Ballot" ballots, and shall place them in the container for return of the ballots. The officials shall place "Damaged Ballot" ballots and their envelopes in the "Original Ballots" envelope.

**SECTION 5.** 7.08 (1) (a) of the statutes is amended to read:

7.08 (1) (a) Prescribe all official ballot forms necessary under chs. 5 to 12 and revise the official ballot forms to harmonize with legislation and the current official status of the political parties whenever necessary. The board shall include on each ballot form, in the space for official endorsement, markings or spaces for identifying a ballot as an overvoted ballot, a duplicate overvoted ballot, a damaged ballot, or a duplicate damaged ballot, and for writing an identifying serial number. The board shall provide one copy of each ballot form without charge to each county and municipal clerk and board of election commissioners. The board shall distribute or arrange for distribution of additional copies. The prescribed forms shall be substantially followed in all elections under chs. 5 to 12.