



2013 SENATE BILL 644

February 28, 2014 – Introduced by Senators COWLES, T. CULLEN, GUDEX, HANSEN, LASEE, LEHMAN, MILLER, MOULTON, SHILLING, VINEHOUT and WIRCH, cosponsored by Representatives BERNIER, NERISON, STRACHOTA, NYGREN, BALLWEG, A. OTT, TAUCHEN, THIESFELDT, PETERSEN, LOUDENBECK, SWEARINGEN, WACHS, BERCEAU, BERNARD SCHABER, DANOU, RINGHAND, PRIDEMORE, RIPP, MARKLEIN, BILLINGS, JORGENSEN, KRUG, KLEEFISCH, BIES, KESTELL, DOYLE, MURPHY, TITTL, KULP, BROOKS, HESSELBEIN, OHNSTAD, VRUWINK, ENDSLEY, WEATHERSTON, T. LARSON, KOLSTE, KAHL, SARGENT, TRANEL, SCHRAA, JACQUE and JAGLER. Referred to Energy, Consumer Protection, and Government Reform.

1 **AN ACT** *to repeal* 59.23 (2) (j) and 59.23 (2) (k); *to amend* 5.62 (4) (b), 7.20 (1),
2 7.21 (2), 59.23 (1) (a), 59.23 (1) (b), 59.23 (1) (c), 59.23 (2) (a), 59.23 (2) (b), 59.23
3 (2) (c), 59.23 (2) (e), 59.23 (2) (f), 59.23 (2) (h), 59.23 (2) (m) 2., 59.23 (2) (n), 59.23
4 (2) (q), 59.23 (2) (r), 59.23 (2) (s) and 889.04; and *to create* 59.23 (2) (cm), 59.23
5 (2) (de), 59.23 (2) (dg), 59.23 (2) (di), 59.23 (2) (i) and 59.23 (2) (nm) of the
6 statutes; **relating to:** modifying the duties of a county clerk; the counties in
7 which a board of election commissioners is required; and staffing of a board of
8 election commissioners in populous counties.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the duties of a county clerk and specifies some of the clerk's duties in the statute that lists the requirements of that office. The bill does the following:

1. Specifies that full-time equivalent deputies of the clerk work exclusively in the clerk's office and that deputies may be removed only by the clerk.

2. Specifies that the clerk may appoint as many assistants as the county board authorizes. Currently, this provision applies only to counties with a population exceeding 150,000.

3. Requires a county board to appoint an acting clerk within 90 days of the board adopting a resolution finding that the clerk is incapable of discharging his or

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her duties. Currently, the county board may appoint an acting clerk if the clerk is incapable of discharging his or her duties.

4. Requires a clerk to create the agenda for board meetings, under the direction of the county board chairperson or committee chairperson, and file in the clerk's office copies of agendas and meetings of board and committee meetings.

5. Requires a clerk to keep records of board and committee proceedings, orders for payments, receipts and disbursements of money, and reports of the treasurer related to receipts and disbursements of the county, without specifying the form or medium in which such records are kept. Currently, a clerk is required to keep such records in a book.

6. Requires a clerk to notify a county commissioner of highways of the commissioner's election within ten days of the election and notify town officers of the levy and rate of tax for the county road and bridge fund. Currently, a clerk performed such notifications only in counties with a population of less than 150,000.

Under current law, a clerk is required to transmit annually to the secretary of state a typed or printed list showing the name and post-office address of certain specified municipal officials. Under this bill, a clerk is required to transmit annually to the secretary of state a list of the name, phone number, e-mail address, and post-office address of these same municipal officials, other unspecified local officials, and elective and appointive officials of any other local governmental unit that is wholly or partly within the county. The bill also requires the clerk, secretary, or other administrative officer of a local governmental unit to provide the county clerk any information he or she needs to complete this requirement.

The bill also repeals a number of obsolete provisions of current law. The bill repeals a requirement that a clerk transmit to the Department of Public Instruction certified copies of certain resolutions relating to raising money for school purposes, and repeals a requirement that a clerk transmit to the secretary of state a certified copy of an ordinance enacted by a village or town that relates to a change of the village's or town's name, the name of a newly organized town, or town boundary changes that result from county board action.

Currently, in each county over 500,000 population, elections are administered on the county level by a board of election commissioners instead of by the county clerk. This bill provides that, in each county over 750,000 population, elections are administered on the county level by a board of election commissioners instead of by the county clerk.

Currently, counties, municipalities, and special purpose districts share responsibility for administering elections in their jurisdictions. For purposes of election administration, county clerks are responsible for county functions except that, in counties having a population of more than 500,000 (Milwaukee County), county election functions are delegated by law to a bipartisan board of election commissioners. The board of election commissioners may hire an individual to serve as its executive director, whose employment and removal is subject to civil service standards. This bill provides that each county clerk is the chief election officer of the county in which the clerk serves. The bill does not change the distribution of election administration functions among governmental units. The bill also provides that, in

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counties having a population of more than 750,000, the county clerk shall serve as the executive director of the board of election commissioners. The change is effective on the day on which the bill becomes law.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 5.62 (4) (b) of the statutes is amended to read:

2 5.62 (4) (b) The county board of election commissioners in counties having a
3 population of more than ~~500,000~~ 750,000 shall prepare the official primary ballot.
4 The commissioners shall arrange the names of all candidates for each office whose
5 nomination papers are filed at the county level, using the same method as that used
6 by the government accountability board under s. 5.60 (1) (b).

7 **SECTION 2.** 7.20 (1) of the statutes is amended to read:

8 7.20 (1) A municipal board of election commissioners ~~and a county board of~~
9 ~~election commissioners~~ shall be established in every city ~~and county~~ over 500,000
10 population. A county board of election commissioners shall be established in every
11 county over 750,000 population.

12 **SECTION 3.** 7.21 (2) of the statutes is amended to read:

13 7.21 (2) The county clerk shall serve as executive director of the county board
14 of election commissioners ~~may hire an executive director who.~~ The clerk shall
15 perform whatever duties the board of election commissioners assigns to him or her.
16 ~~The county board shall determine the salary of that executive director. Appointment~~
17 ~~and removal of that executive director shall be subject to civil service standards. An~~
18 executive director of the city board of election commissioners shall be appointed
19 under s. 62.51.

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1 **SECTION 4.** 59.23 (1) (a) of the statutes is amended to read:

2 59.23 (1) (a) Every clerk shall appoint in writing one or more deputies and file
3 the appointment in the clerk's office. The deputy or deputies shall aid in the
4 performance of the duties of the clerk under the clerk's direction, and in case of the
5 absence or disability of the clerk or of a vacancy in the clerk's office, unless another
6 is appointed therefor as provided in par. (c), shall perform all of the duties of the clerk
7 during the absence or until the vacancy is filled. The board may, at ~~any meeting its~~
8 annual meeting or at any special meeting, provide a salary for the deputy or deputies.

9 **SECTION 5.** 59.23 (1) (b) of the statutes is amended to read:

10 59.23 (1) (b) In each county ~~having a population exceeding 150,000 according~~
11 ~~to the last state or national census~~, the clerk may also appoint the number of
12 assistants that the board authorizes and prescribes, and the assistants shall receive
13 salaries that the board provides and fixes.

14 **SECTION 6.** 59.23 (1) (c) of the statutes is amended to read:

15 59.23 (1) (c) If a clerk is incapable of discharging the duties of office the board
16 ~~may shall~~ appoint an acting clerk, ~~who shall~~ within 90 days after the board adopts
17 a resolution finding that the clerk is incapable of discharging the duties of the office.
18 The acting clerk shall serve until the disability is removed. If the board is not in
19 session at the time of the incapacity, the chairperson of the board may appoint an
20 acting clerk, whose term shall not extend beyond the next regular or special meeting
21 of the board. A person appointed as acting clerk or appointed to fill a vacancy in the
22 office of clerk, upon giving an official bond with sureties as required of a clerk, shall
23 perform all of the duties of the office; and thereupon the powers and duties of the
24 deputy of the last clerk shall cease.

25 **SECTION 7.** 59.23 (2) (a) of the statutes is amended to read:

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1 59.23 (2) (a) *Board proceedings.* Act as clerk of the board at all of the board's
2 regular, special, limited term, and standing committee meetings thereof; under the
3 direction of the county board chairperson or committee chairperson, create the
4 agenda for board meetings; keep and record in a book therefor true minutes of all the
5 proceedings of the board; in a format chosen by the clerk, including all committee
6 meetings, either personally or through the clerk's appointee; file in the clerk's office
7 copies of agendas and minutes of board meetings and committee meetings; make
8 regular entries of the board's resolutions and decisions upon all questions; record the
9 vote of each supervisor on any question submitted to the board, if required by any
10 member present; publish ordinances as provided in s. 59.14 (1); and perform all
11 duties prescribed by law or required by the board in connection with its meetings and
12 transactions.

13 **SECTION 8.** 59.23 (2) (b) of the statutes is amended to read:

14 59.23 (2) (b) *Recording of proceedings.* Record at length ~~in a book therefor~~ every
15 resolution adopted, order passed and ordinance enacted by the board.

16 **SECTION 9.** 59.23 (2) (c) of the statutes is amended to read:

17 59.23 (2) (c) *Orders for payment.* Sign all orders for the payment of money
18 directed by the board to be issued, and keep ~~in a book therefor~~ a true and correct
19 account ~~thereof~~ of such orders, and of the name of the person to whom each order is
20 issued; but he or she shall not sign or issue any county order except upon a recorded
21 vote or resolution of the board authorizing the same; and shall not sign or issue any
22 such order for the payment of the services of any clerk of court, district attorney or
23 sheriff until the person claiming the order files an affidavit stating that he or she has
24 paid into the county treasury all moneys due the county and personally collected or
25 received in an official capacity; and shall not sign or issue any order for the payment

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1 of money for any purpose in excess of the funds appropriated for such purpose unless
2 first authorized by a resolution adopted by the county board under s. 65.90 (5).

3 **SECTION 10.** 59.23 (2) (cm) of the statutes is created to read:

4 59.23 (2) (cm) *Apportionment of taxes.* Apportion taxes and carry out other
5 responsibilities as specified in s. 70.63 (1).

6 **SECTION 11.** 59.23 (2) (de) of the statutes is created to read:

7 59.23 (2) (de) *Property.* To the extent authorized by the board, exercise the
8 authority under s. 59.52 (6).

9 **SECTION 12.** 59.23 (2) (dg) of the statutes is created to read:

10 59.23 (2) (dg) *Dogs.* Perform the responsibilities relating to dog licensing,
11 which are assigned to the clerk under ch. 174, and the dog fund specified in ch. 174.

12 **SECTION 13.** 59.23 (2) (di) of the statutes is created to read:

13 59.23 (2) (di) *Marriage licenses, domestic partnerships.* Administer the
14 program for issuing marriage licenses as provided in ch. 765 and the program for
15 forming and terminating domestic partnerships as provided in ch. 770.

16 **SECTION 14.** 59.23 (2) (e) of the statutes is amended to read:

17 59.23 (2) (e) *Reports of receipts and disbursements.* Record ~~in a book therefor~~
18 the reports of the treasurer of the receipts and disbursements of the county.

19 **SECTION 15.** 59.23 (2) (f) of the statutes is amended to read:

20 59.23 (2) (f) *Recording receipts and disbursements.* Keep a true and accurate
21 account ~~in a book therefor~~ of all money which comes into the clerk's hands by virtue
22 of the clerk's office, specifying the date of every receipt or payment, the person from
23 or to whom the receipt or payment was received or paid, and the purpose of each
24 particular receipt or disbursement, and keep the book at all times open to the
25 inspection of the county board or any member of the board.

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1 **SECTION 16.** 59.23 (2) (h) of the statutes is amended to read:

2 59.23 (2) (h) *Books of account.* Keep all of the accounts of the county and all
3 books of account as in a manner that the board directs. Books of account shall be
4 maintained on a calendar year basis, which shall be the fiscal year in every county.

5 **SECTION 17.** 59.23 (2) (i) of the statutes is created to read:

6 59.23 (2) (i) *Chief election officer, election duties.* As the chief election officer
7 of the county, perform all duties that are imposed on the clerk in relation to the
8 preparation and distribution of ballots and the canvass and return of votes at
9 general, judicial, and special elections.

10 **SECTION 18.** 59.23 (2) (j) of the statutes is repealed.

11 **SECTION 19.** 59.23 (2) (k) of the statutes is repealed.

12 **SECTION 20.** 59.23 (2) (m) 2. of the statutes is amended to read:

13 59.23 (2) (m) 2. Except as otherwise provided, receive and file the official oaths
14 and bonds of all county officers and upon request shall certify under the clerk's
15 signature and seal the official capacity and authority of any county officer so filing
16 and charge therefor the statutory fee. Upon the commencement of each term every
17 clerk shall file the clerk's signature and the impression of the clerk's official seal in
18 the office of the secretary of state.

19 **SECTION 21.** 59.23 (2) (n) of the statutes is amended to read:

20 59.23 (2) (n) ~~*Taxes; election duties.*~~ Perform all duties that are imposed on the
21 clerk in relation to the assessment and collection of taxes, ~~and to the preparation and~~
22 ~~distribution of ballots and the canvass and return of votes at general, judicial and~~
23 ~~special elections.~~

24 **SECTION 22.** 59.23 (2) (nm) of the statutes is created to read:

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1 59.23 (2) (nm) *Timber harvest notices.* Provide notice to a town chairperson
2 regarding the harvesting of raw forest products, as described in s. 26.03 (1m) (a) 2.

3 **SECTION 23.** 59.23 (2) (q) of the statutes is amended to read:

4 59.23 (2) (q) *County highway commissioner; notify of election.* ~~Except in~~
5 ~~counties having a population of 150,000 or more, notify~~ Notify a county commissioner
6 of highways of the commissioner's election within 10 days thereafter.

7 **SECTION 24.** 59.23 (2) (r) of the statutes is amended to read:

8 59.23 (2) (r) *County tax for road and bridge fund.* ~~Except in counties having~~
9 ~~a population of 150,000 or more, notify~~ Notify the proper town officers of the levy and
10 rate of any tax for the county road and bridge fund.

11 **SECTION 25.** 59.23 (2) (s) of the statutes is amended to read:

12 59.23 (2) (s) *List of municipal officers* local officials. Annually, on the first
13 Tuesday of June, transmit to the secretary of state a ~~typewritten or printed~~ list
14 showing the name, phone number, electronic mail address, and post-office address
15 of local officials, including the chairperson, mayor, president, clerk, treasurer,
16 council and board members, and assessor of each municipality, and of the elective or
17 appointive officials of any other local governmental unit, as defined in s. 66.0135 (1)
18 (c), that is located wholly or partly within the county. Such lists shall be placed on
19 file for the information of the public. The clerk, secretary, or other administrative
20 officer of a local governmental unit, as defined in s. 66.0137 (1) (ae), shall provide the
21 county clerk the information he or she needs to complete the requirements of this
22 paragraph.

23 **SECTION 26.** 889.04 of the statutes is amended to read:

24 **889.04 County and municipal ordinances.** Matter entered or recorded in
25 any ordinance ~~or,~~ record book, or other format authorized under ss. 59.23 (2) (b),

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1 60.33 (1) and (2), 61.25 (3) and 62.09 (11) (c) or printed in any newspaper, book,
2 pamphlet, or other form purporting to be so published, entered or recorded by any
3 county, town, city or village in this state as a copy of its ordinance, bylaw, resolution
4 or regulation, is prima facie evidence thereof; and after 3 years from the date of such
5 publication, entry or recording such book or pamphlet shall be conclusive proof of the
6 regularity of the adoption and publication of the ordinance, bylaw, resolution or
7 regulation.

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(END)