

2019 DRAFTING REQUEST**Bill**

For: **Kathleen Bernier (608) 266-7511** Drafter: **mgallagh**
 By: **Scott** Secondary Drafters: **jkreye**
 Date: **2/20/2019** May Contact:
 Same as LRB:

Submit via email: **YES**
 Requester's email: **Sen.Bernier@legis.wisconsin.gov**
 Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**
michael.gallagher@legis.wisconsin.gov

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See attached

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FE Sent For:

At Introduction

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WISCONSIN ELECTIONS COMMISSION

212 EAST WASHINGTON AVENUE, 3RD FLOOR
POST OFFICE BOX 7984
MADISON, WI 53707-7984
(608) 261-2028
ELECTIONS@WI.GOV
ELECTIONS.WI.GOV



COMMISSIONERS

DEAN KNUDSON, CHAIR
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INTERIM ADMINISTRATOR MEAGAN WOLFE

MEMORANDUM

DATE: March 2019

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe
Interim Administrator

Prepared and Presented By:
Michael Haas Nathan Judnic
Staff Attorney Senior Elections Specialist

Maxted Lenz
Legal Intern

SUBJECT: Legislative Recommendations Drafted by the Legislative Reference Bureau

Background

Commission staff maintains an ongoing list of recommended changes to current laws identified by legislators, municipal and county clerks, and the public. Staff also regularly reviews and analyzes current statutes, administrative code, and Board policies in order to identify potential changes that may improve efficiency, cost-effectiveness, public comprehension, and general policy administration. The recommended changes below are those which staff believes would improve administrative processes, provide clarity or simplification to existing policies and procedures, or update policies to reflect modern practices.

This list of proposed legislation has been annotated with information about potential bills (drafted by LRB), including what the bill proposes and whether the proposed bill sufficiently addresses concerns raised by Commission Staff. A list of Commission Staff's proposed legislation not yet addressed by draft legislation is included in a separate memorandum.

A. Electronic Poll Books

1. § 6.45(1). This provision requires the municipal clerk to make copies of the poll list for use in the election. It should be updated to clarify that paper copies of a poll list need not be produced when an electronic poll list is used. (Technical)

Preliminary Draft (LRB-0245) amends § 6.45(1) to clarify that paper copies of the registration list need not be made for use during an election if an electronic registration list is used. This sufficiently addresses concerns raised in Electronic Poll Book Suggestion 1.

2. § 6.46(2). This provision requires a municipal clerk to remove the poll lists from the office for the purpose of copying if a copying machine is not accessible in response to public records requests or in order to supply candidates with the poll list. The provision should be updated to replace “if a copying machine is not accessible” with “if producing copies of the lists at the clerk’s office is not possible.” (Technical)

Preliminary Draft (LRB-0246) amends § 6.46(2). The amendment eliminates the phrase “if a copying machine is not accessible.” The relevant sentence would now read “If the clerk must remove the lists from the office for the purposes of copying, the clerk shall return them immediately thereafter. This does not exactly match what the Commission requested in Electronic Poll Books suggestion 2.

3. § 7.23(1)(e). This provision requires that clerks retain poll lists for 22 months after any election. To accommodate electronic poll books, it should be revised to allow electronic poll books to be erased after the last day for filing a recount petition, but only if the clerk first transfers the electronic poll book data to a disk or other recording medium which must be retained for 22 months after the election. (Technical)

Preliminary Draft (LRB-0247) amends § 7.23(1)(e) to add the following sentence: “An original electronic poll list need not be maintained under this paragraph if a true copy of the electronic poll list is maintained whether in hard copy or electronic format.” This does not amend the statute specifically as recommended by the Commission, but it sufficiently addresses concerns raised in Electronic Poll Book Suggestion 3.

B. Absentee Voting

4. Chapter 5 Subchapter III – Voting Equipment Statutes. This subchapter of the statutes refers to antiquated technologies such as voting equipment that utilizes levers or punch cards. These types of voting systems have been entirely replaced by electronic voting systems. The Legislature could revise this subchapter to remove references to antiquated technology. There are also references to such antiquated voting equipment elsewhere throughout the election laws. The Legislature could consider a broader review and revision of state law to reflect the electronic voting equipment currently in use throughout the State of Wisconsin, as well as the potential use of new technologies in the future.

Preliminary Draft (LRB-0249) makes sufficient changes to Chapter 5 so as to remove reference to antiquated voting technology. The preliminary draft also amends other provisions in the statutes to make similar changes. The preliminary draft does make some changes to reflect the nature of voting technology currently used but does not speak to the potential use of new technologies in the future.

MINOR POLICY INITIATIVES

Chapter 5

5. §§ 5.06(5) and (6). These provisions allow the Commission to issue an order to ensure compliance with election laws. The Legislature could revise these provisions in order to authorize the Commission to issue a temporary order while a complaint investigation is ongoing. Occasionally Commission staff must direct a local election official to stay any

action until the completion of a review investigation, such as when the question is whether to schedule a recall election or whether a candidate has qualified for ballot access. Current statutes allow the issuance of an order only after the filing of a complaint, upon a motion of the Commission, or after completion of an investigation.

Preliminary Draft (LRB-0250) proposes an amendment to § 5.06(7) instead of subsections (5) or (6). However, the amendment to § 5.06(7) empowers the “commission” to “issue such other temporary orders of limited effect as it deems necessary to carry out its powers and duties under this section.” This amendment substantially addresses commission staff’s concerns present in Minor Policy Initiative 5.

6. § 5.06(10). This provision prohibits the Commission from reviewing matters arising in connection with recounts under § 9.01. This appears to be intended to avoid conflict with Wis. Stat. § 9.01(6) which directs appeals of recounts to circuit court. However, there are a variety of decisions made by election officials under § 9.01 that could benefit from commission review, e.g., estimates of recount filing fees. A better option may be to phrase this provision such that the Commission may not review the recount result or substantive decisions of the board of canvassers in a recount other than to enforce consistent application of those decisions when multiple boards of canvassers are involved. This authority would permit Commission staff to resolve procedural questions or conflicts more definitively and is supported by the charge of Wis. Stat. § 9.01(10) for the Commission to develop standard forms and procedures for use in recounts.

Preliminary Draft (LRB-0251) proposes an Act to repeal § 5.06(10), to renumber and amend § 5.06(1), to amend § 5.06(4), and to create § 5.06(1)(b). The Act empowers the Commission to review the decision or other conduct of an election official with respect to matters concerning a recount. This sufficiently addresses the concerns raised in Minor Policy Initiative 6.

7. §§ 5.15 and 66 subchapter II. These provisions provide limitations to the construction of wards. Current statutes restrict a town from drawing ward lines that do not cross the boundaries of a state assembly district, and requires towns to create a separate ward when a county does not adjust boundaries for county supervisory districts. However, statutes do not place similar restrictions on cities or villages annexing territory. This could be a problem if a city or village was to annex territory in different districts. The Legislature could revise these provisions to enact the same requirements for cities and villages that currently exist for towns and require specifying the identification of the created ward (e.g., ward 7).

Preliminary Draft (LRB-0223) proposes an Act to amend §§ 5.15(4)(a), 5.15(6)(a), 5.15(7), and 62.08(2). This specifies that no municipal wards may cross the boundary of a congressional, an assembly, or a supervisory district. The Act also addresses similar concerns in the annexing of new territory. The Act does not amend chapter 66, but seems to sufficiently address the concerns raised in Minor Policy Initiative 7.

8. § 5.94. This provision requires the publication of a sample ballot. Wis. Stat. §10.02 (2)(c) allows the ballot size to be reduced when publishing the notice. The Legislature could consider removing the requirement for an “actual-size” copy of the ballot for publication in

Wis. Stat. § 5.94 to reduce the costs that jurisdictions must incur and make these two provisions consistent.

Preliminary Draft (LRB-0225) is an Act to amend § 5.94. It removes the requirement for local and county clerks to publish an actual size copy of the ballot used on the electronic voting system in their jurisdiction. This sufficiently addresses the concerns raised in Minor Policy Initiative 8.

Chapter 6

9. § 6.18. This provision provides a process for former Wisconsin residents to vote in a Presidential Election if they do not yet qualify to vote in their new state of residency, but does not provide a specific deadline for such a request. The Legislature could revise this provision by establishing a receipt deadline of 5:00 p.m. on the fifth day before the election to request an absentee ballot, consistent with most other absentee voters.

Preliminary Draft (LRB-0226) is an Act to amend § 6.18. It requires former Wisconsin residents that have not yet met the residency requirements in their new State who wish to vote absentee in their old Wisconsin district to officially request an absentee ballot by 5 p.m. on the 5th day immediately preceding the election. This sufficiently addresses concerns raised in Minor Policy Initiative 9.

10. § 6.22(6). This provision requires each municipal clerk to keep an updated list of eligible military electors that reside in the municipality in the format provided by the commission, and to distribute a copy the list to each polling place. The intent of this provision was to ensure compliance with absentee ballot procedures for military voters and the exemption from the voter registration requirement. In practice, all of the required information exists within WisVote and all known military voters automatically appear on the poll books. Clerks who rely on someone else for WisVote services communicate with their WisVote provider for lists prior to absentee voting. The Legislature could repeal this provision to reflect modern practices.

Preliminary Draft (LRB-0209) repeals § 6.22(6) as requested in Minor Policy Initiative 10.

11. § 6.25(1)(c). This provision exempts military electors from the requirement to submit a separate absentee request before the Federal Write-In Absentee Ballot (FWAB) may be counted. Overseas electors are not similarly exempted from the requirement to submit a separate absentee request in addition to the FWAB before the ballot may be counted. The declaration/affirmation page of the FWAB contains all the necessary information to serve as an absentee request. Permanent overseas voters face many of the same difficulties voting as overseas military voters. The Legislature could modify this provision to allow permanent overseas voters to submit a FWAB without a separate absentee ballot application no later than the applicable absentee request deadline in order to establish a more consistent process for all overseas voters.

Preliminary Draft (LRB-0209) modifies § 6.25(1)(c) to exempt overseas voters from submitting an application for an absentee ballot in addition to submitting the Federal Absentee Ballot. This sufficiently addresses the concerns raised in Minor Policy Initiative 11. The Preliminary Draft also modifies the statutes so that an individual

serving as a witness for an absentee ballot cast by a military elector need not be a U.S. Citizen. The bill also allows all overseas electors to receive absentee ballots electronically.

12. § 6.30(4). This provision requires that municipalities make available a voter registration form and that “the form shall be pre-postpaid for return when mailed at any point within the United States.” However, in practice, most municipalities simply make copies of the form available and do not offer pre-paid postage because of the cost. Additionally, the Commission has implemented online registration as directed by the Legislature, which may significantly reduce the demand for registration by mail. Due to the cost to municipalities and the online alternative the Legislature could consider elimination of the prepostpaid requirement for voter registration forms.

Preliminary Draft (LRB-0252) amends § 6.30(4) to remove the requirement that voter registration forms be prepostpaid for return when mailed at any point within the U.S. This is in accordance with the Commission’s request in Minor Policy Initiative 12.

13. § 6.32(4). This provision requires a municipal clerk to send an address verification mailing to a voter who registers by mail or online. In practice, the Commission sends these mailings on behalf of municipalities. This facilitates consistent compliance and leveraging State purchasing power. During the 2013-2014 Legislative Session, the Wisconsin Legislature enacted 2013 Wisconsin Act 149, specifically authorizing the G.A.B. to send out the Election Day Registrant address verification mailings. The Legislature could revise this provision to authorize the Commission to send out all other address verification mailings, including those related to the ERIC initiative, on behalf of municipalities.

Preliminary Draft (LRB-0253) amends § 6.32(4) so that the Commission is charged with mailing address verification mailings to voters. This sufficiently addresses concerns raised by the Commission in Minor Policy Initiative 13.

14. § 6.34(3)(a)10. This provision allows for using a paycheck as proof of residence. As many voters do not receive a physical paycheck anymore, the G.A.B. previously interpreted this provision to include pay stubs, pay sheets, or other payroll documentation such as a direct deposit statement. The Legislature could revise this provision to also include these more modern alternatives to the paycheck and reinforce the agency’s prior interpretation.

Preliminary Draft (LRB-0254) amends § 6.34(3)(a)10. to read “A paycheck, pay stub, or pay statement.” This addresses the concerns raised in Minor Policy Initiative 14, but maybe not as completely or specifically as the Commission had hoped.

15. § 6.55(2)(d). This provision provides for a voter who has changed their name, but not their address to make such a change in their registration by notifying the election inspectors at the polling place instead of completing a new voter registration form. The Government Accountability Board consistently required voters who wish to change their name to complete a new voter registration. When the Legislature repealed § 6.40, it removed a provision that permitted voters to make changes to their registration without submitting a new registration form. The Legislature could ensure that every change in a voter’s registration is documented with a new voter registration form by modifying this provision to eliminate the ability of a voter to change their name without providing a new voter registration form.

Preliminary Draft (LRB-0227) amends § 6.55(2)(d) to require electors that have changed their name to complete a new voter registration form. This sufficiently addresses concerns raised in Minor Policy Initiative 15.

16. § 6.82(1). This provision permits an elector who is unable to enter the polling place due to a disability to receive their ballot at the entrance to the polling place. While this provision does not directly speak to whether this elector must sign the poll book, G.A.B. staff interpreted this provision to allow such electors to receive a ballot without signing the poll list because to qualify for the procedure a voter must be prevented from entering the polling place due to a disability and § 6.79(2)(am) specifically authorizes the election inspectors to waive the signature requirement if the elector is unable to sign due to disability. To clarify the procedure, the Legislature could specifically direct that an elector voting under this provision is exempt from signing the poll book.

Preliminary Draft (LRB-0228) amends §6.82(1)(a) so that those that are unable to enter the polling place due to disability are not required to sign the poll list or a separate list. This sufficiently addresses the concerns raised in Minor Policy Initiative 16.

17. § 6.97. This provision provides the option for a voter to cast a provisional ballot whenever they are required to provide proof of residence and cannot provide such documentation. Agency staff has interpreted this provision to only apply to persons who registered to vote on or before April 4, 2014 to coincide with when the G.A.B. directed clerks to stop accepting voter registrations that were missing proof of residence. After the few remaining voters in the statewide voter registration system who are still missing proof of residence provide such documentation or are removed from the list, this provision will no longer be necessary and the Legislature may wish to remove this language to avoid the impression that a provisional ballot would be an option for new registrants who do not have a proof of residence.

Preliminary Draft (LRB-0218) amends §§ 6.79(2)(d) and 6.97(1) so that new registrants without proof of residence will not be allowed to cast a provisional ballot or otherwise vote. This sufficiently addresses concerns raised in Minor Policy Initiative 17.

Chapter 7

18. § 7.25. This section enumerates the duties of election officials in using “voting machines”. Voting machines are defined in 5.02(24r) as “a machine which serves in lieu of a voting booth and which mechanically or electronically records the votes cast by electors, who depress levers or buttons located next to the choices listed on a ballot to cast their votes.” Wisconsin no longer uses mechanical voting systems like lever voting machines and this section should be updated to reflect current practices and technology.

Preliminary Draft (LRB-0249) makes sufficient changes to § 7.25 so as to remove reference to antiquated voting technology. The preliminary draft also amends other provisions in the statutes to make similar changes.

19. § 7.50(2)(em). 2013 Wisconsin Act 178 amended this provision to state that all votes for write-in candidates shall be tallied if a candidate on the ballot dies or withdraws before the election. However, Wisconsin Statutes do not provide a procedure for candidates to

withdraw. The Legislature could correct this issue by striking “*or withdraws*” from this provision or specifying what constitutes a candidate’s withdrawal.

Preliminary Draft (LRB-0255) amends § 7.50(2)(em) by striking “or withdraws” as suggested by the Commission in Minor Policy Initiative 19.

20. § 7.60(5)(a). This provision requires county clerks to deliver or transmit to the Commission a certified copy of each county board of canvass statement. In current practice, county clerks use the Commission’s Canvass Reporting System (CRS) to generate those statements using their secure login credentials, and then mail a signed copy of that report to the Commission. The Legislature could modernize this provision by adding the language *in the manner prescribed by the commission after the county clerk shall deliver or transmit*, or consider replacing the word *certified* with *electronically signed*. In 2014, the Legislature made a similar change, allowing political committees to sign their campaign finance reports electronically when certifying that information to the G.A.B.

Preliminary Draft (LRB-0256) amends § 7.60(5)(a) so that “in a manner prescribed by the commission” follows “the county clerk shall deliver or transmit to the elections commission”. This sufficiently addresses concerns raised in Minor Policy Initiative 20.

Chapter 8

21. §§ 8.10(5), 8.15(4)(b), and 8.20(6). These provisions outline the filing requirements for candidates, including their declaration of candidacy, nomination papers, and statement of economic interest (SEI). Under current statutes, candidates are not required to file their SEI until 4:30 p.m. the third day after the deadline for the other documents. The Legislature could consider changing the deadline to file an SEI to match filing of declaration of candidacy and nomination papers. This would provide a consistent deadline that could improve administrative efficiency and public awareness of candidates that will appear on the ballot. Staff recommends moving the deadline to file the SEI to match the 5:00 p.m. deadline on the day that the declaration of candidacy and nomination papers is due. The counterpoint to this policy change is that the later deadline provides an “escape valve” where candidates no longer wishing to appear on the ballot could simply not file their SEI. The later deadline also allows the candidate additional time to gather the required financial information, though they have already had considerable time to gather nomination signatures. However, staff believes that a consistent deadline would improve administration and better inform the public of candidates who achieve ballot status.

Preliminary Draft (LRB-0288) amends §§ 8.10(5), 8.15(4)(b), and 8.20(6) so that the deadline to file the SEI matches the 5 p.m. deadline on the day that the declaration of candidacy and nomination papers are due. This sufficiently addresses concerns raised in Minor Policy Initiative 21.

Chapter 9

22. § 9.01(2). This provision establishes the candidate notification requirements prior to conducting a recount. Current statutes require personal delivery of the petition to the candidate or an approved agent, by either the clerk or the sheriff. Providing notice of the recount petition could potentially be delayed if the candidate and/or their agent is traveling outside of the municipality, county, or state after the election. The Legislature could revise

this provision by allowing a three-step process. The first step a clerk would take is to attempt personal delivery of the petition to the candidate or approved agent. The second step would be to obtain documented confirmation of acknowledgement by the candidate or agent (e.g., through email or a documented phone call). The clerk could then issue a public notice and proceed with the recount process, if those two options are unsuccessful within a reasonable time period.

Preliminary Draft (LRB-0257) amends § 9.01(2) to implement the three-step recount notification process suggested by the Commission in Minor Policy Initiative 22.

Chapter 10

23. § 10.02(3)(b). This provision includes requirements for the information that must be contained in the Type B election notice. This language still refers to antiquated voting equipment technology and depressing levers. The Legislature could revise this provision to reflect modern voting equipment technologies.

Preliminary Draft (LRB-0249) makes sufficient changes to § 10.02(3)(b) so as to remove reference to antiquated voting technology. The preliminary draft also amends other provisions in the statutes to make similar changes.

TECHNICAL CHANGES

Chapter 5

24. § 5.02(24r). This provision defines the term “voting machine” and includes mechanical voting equipment like lever voting machines. Mechanical voting systems have been entirely replaced by more modern electronic voting systems and the Legislature could consider revising this definition to remove the references to the antiquated technology.

Preliminary Draft (LRB-0249) makes sufficient changes to § 5.02(24r) so as to remove reference to antiquated voting technology. The preliminary draft also amends other provisions in the statutes to make similar changes.

25. § 5.60(3). This provision provides for a separate ballot for city offices, but unlike subsections for other levels of government this subsection does not require write-in lines be provided. The Legislature could clarify that write-in lines must be provided for city ballots as well.

Preliminary Draft (LRB-0230) amends § 5.60(3)(ag) to ensure that sufficient space shall be provided for write-in candidates on ballots for city elections. This sufficiently addresses concerns raised in Technical Change 25.

26. § 5.62(1)(a). This provision requires that independent candidates for state office appear on partisan primary ballots. This was previously necessary to determine the independent candidate’s eligibility for public funding. As public funding for state candidates has been eliminated, this language should be removed.

Preliminary Draft (LRB-0229) amends §§ 5.62(1)(a) and 5.62(1)(b)1. so that independent candidates for state office are not required to appear on partisan primary ballots. This sufficiently addresses concerns raised in Technical Change 26.

Chapter 6

27. § 6.03(3). This provision addresses the right to vote by persons under guardianship or adjudicated incompetent. State law currently reserves rights to the individual unless specifically determined by a court to be incompetent to exercise those rights. However, this provision contains old language requiring individuals subject to guardianship to have an affirmative finding that they are competent to vote. The Legislature could revise this provision to reverse the standard to assume competency as required by state law and cross-reference as necessary with other state laws on guardianship. This change would make this provision consistent with other state laws regarding guardianship and legal competency.

Preliminary Draft (LRB-0258) amends §§ 6.03(1)(a), 6.03(3), and 9.10(2)(e)6. to ensure that no person may be denied the right to register of vote on the grounds of incompetency unless that person has been adjudicated incompetent. This sufficiently addresses concerns raised in Technical Change 27.

28. § 6.25(4). The last clause of this provision states, “*and, if the elector is an overseas elector, the elector resides outside of the United States.*” The Legislature could eliminate the redundant second half of this clause as an overseas elector is already defined in § 6.24(1) as someone who does not qualify as a resident of this state.

Preliminary Draft (LRB-0209) amends § 6.25(4) to remove the language the Commission suggested be removed in Technical Change 28. The draft also amends the statutes to more fully define an “overseas elector.”

29. § 6.34. This section covers proof of residence (POR) requirements for voter registration. Throughout this section, there are several references to POR as an *identifying document*. The Legislature could replace those references with *proof of residence* to clarify the section and avoid any confusion with the proof of identification requirement.

Preliminary Draft (LRB-0231) amends several sections of Chapter 6 of the statutes to remove the word “identifying” from the phrase “identifying document” when the phrase is used with regard to proof of residence requirements. This does not amend the Chapter exactly as the Commission recommended, but it reaches the same result.

30. §§ 6.34(3)(a)1 and 2. These provisions refer to using either a Wisconsin driver license or state-issued identification card as proof of residence. The Legislature could revise these sections to include a receipt for either Wisconsin Department of Motor Vehicles (DMV) product, consistent with DMV current practices of issuing a temporary receipt prior to the driver license or state-issued identification card.

Preliminary Draft (LRB-0232) creates §§ 6.34(3)(a)1m. and 6.34(3)(a)2m. so voters may use an unexpired driving receipt or an unexpired identification card receipt as proof of residence for voting purposes. This sufficiently addresses concerns raised in Technical Change 30.

Chapter 7

31. § 7.08(10). This provision requires that the Commission provide to each municipal clerk, on a continuous basis, the names and addresses of organizations certified to provide services to victims of domestic abuse or sexual assault. As the addresses of these

organizations may be sensitive information in that they provide temporary shelter to victims, this information cannot be placed on the Commission's website. Additionally, sending this information unsolicited to over 1,800 municipal clerks could also compromise the security of victims. To better promote the security of victims of domestic abuse or sexual assault, the Legislature could consider modifying this provision to only provide this information to municipal clerks as needed to confirm the eligibility of confidential voters.

Preliminary Draft (LRB-0259) amends §§ 6.47(1)(ag), 6.47(1)(dm), and 7.08(10) so that the Commission is no longer required to provide names and addresses of sexual assault and domestic abuse service providers on a continuous basis, but rather is now only required to provide the information to municipal clerks on an as needed basis. This substantially addresses the issues raised in Technical Change 31.

32. § 7.15(1)(j). This provision requires municipal clerks to send absentee ballots to electors who have filed a proper request. The provision appears to be redundant with subparagraph (cm) and could be removed or consolidated with (cm).

Preliminary Draft (LRB-0233) repeals § 7.15(1)(j) and amends § 7.15(1)(cm) to add the requirements formerly of § 7.15(1)(j) to that section. This sufficiently addresses concerns raised in Technical Change 32.

33. § 7.52(1)(b). This section provides a procedure by which a municipality may canvass absentee ballots on Election Day in a location other than the polling place and authorizes the municipality to appoint additional election inspectors to administer this absentee ballot canvass. However, when 2013 Act 147 expanded the residency of election officials to the county in which they serve, it did not similarly modify the residency requirement for election inspectors appointed to assist with this absentee ballot canvassing process. For consistency of administration, the Legislature could consider modifying § 7.52 to also permit the appointment of individuals who reside within the county of a municipality using this procedure.

Preliminary Draft (LRB-0234) amends § 7.52(1)(b) to allow for qualified electors of the county in which a municipality sits to be appointed to assist with the absentee ballot canvassing process only if the municipality cannot identify a sufficient number of qualified electors of the municipality to serve as inspectors. This is not exactly what the commission suggested, but it sufficiently addresses concerns raised in Technical Change 33.

Chapter 9

34. § 9.10(2)(e). This provision provides the reasons to not count recall petition signatures. In 2013 Wisconsin Act 160, the Legislature required that all petitions include the legibly printed name of the signer. While 2013 Act 160 required the printed name for nomination papers and petitions, it did not add the same requirement for recall petitions. The Legislature could correct this by adding to this section a reason not to count a recall petition signature if the printed name is not legible. The sections that cover the requirements for petitions are also inconsistent. Sections related to nomination papers and petitions affirm the requirements of what individuals must provide, whereas the section on recall petitions identifies when not to count signatures. Alternatively, the Legislature could revise this provision to state the information a recall petition must contain in order to count a signature, similar to the other sections.

Preliminary Draft (LRB-0260) creates § 9.10(2)(e)9. so that a signature on a recall petition may not be counted if the signer has not legibly printed his or her name in a space provided next to his or her signature. This sufficiently addresses concerns raised in Technical Change 34.

Chapter 10

35. § 10.06(2). This section enumerates the various election notices that county clerks are required to publish. While subparagraphs (f) and (L) require the publication of a Type A Notice of Referendum Election before the spring and general elections, there are no similar provisions for such a notice for referenda held in conjunction with the spring or partisan primaries. There is also no requirement in this section for the Type C Notice of Referendum before these elections, although it is addressed in the general description of the Type C notice at 10.01(2)(c). For consistency, the Legislature could revise 10.06(2) to include similar referendum notice requirements for state or county referenda held in conjunction with these elections as with any other election.

Preliminary Draft (LRB-0261) amends §§ 10.06(2)(f) and 10.06(2)(L) to require that Type A notice of a referendum be published on the fourth Tuesday prior to the spring or partisan primaries if a referendum is set to appear on the ballot in those elections. This sufficiently addresses concerns raised in Technical Change 35.

Preliminary Draft (LRB-0333) amends §§ 10.06(2)(d) and 10.06(2)(j) to require county clerks to publish a type C notice of referenda to appear on the ballot in the spring or partisan primaries on the Monday preceding the election. The type C notice is in addition to the requirement to publish a Type B notice on that same day and is only required "if applicable." This further clarifies the issues raised in Technical Change 35.

36. § 10.06(3). This section enumerates the various election notices that municipal clerks are required to publish. While subparagraph (as) requires the publication of a Type A Notice of Referendum Election before the spring primary if there is direct legislation to be voted on, there is no requirement for such a notice for other referenda held in conjunction with the spring primary. There is also no requirement for the Type C Notice of Referendum for non-direct legislation referenda voted on at the spring primary or for any referenda to be voted on at the partisan primary, except as part of the general definition of the notice in 10.01(2)(c). Finally, there is no Type D Notice of Polling Hours and Locations requirement in this section for either the spring or partisan primary although it is required as part of the general definition of the Type D notice at 10.01(2)(d). For consistency, the Legislature could revise this section to include similar notice requirements for all elections.

Preliminary Draft (LRB-0262) amends §§ 10.06(3)(as), 10.06(3)(b), 10.06(3)(c), and 10.06(3)(d) to eliminate the requirement that municipal clerks must publish Type A notices on the 4th Tuesday preceding the spring primary of any direct legislation on the ballot and instead requires that same type of notice for referenda on the ballot. The bill makes a similar switch regarding Type C notices of referenda on a municipal primary ballot published on the Monday before the election. The bill also requires publication of type B and type D notices of a the spring primary and spring election and type D notices of each partisan primary and general elections. This sufficiently addresses concerns raised in Technical Change 36, with the possible exception of the elimination of the requirement of direct legislation questions.

WISCONSIN ELECTIONS COMMISSION

212 EAST WASHINGTON AVENUE, 3RD FLOOR
POST OFFICE BOX 7984
MADISON, WI 53707-7984
(608) 261-2028
ELECTIONS@WI.GOV
ELECTIONS.WI.GOV



COMMISSIONERS

DEAN KNUDSON, CHAIR
BEVERLY R. GILL
JULIE M. GLANCEY
ANN S. JACOBS
JODI JENSEN
MARK L. THOMSEN

INTERIM ADMINISTRATOR MEAGAN WOLFE

DATE: January 16, 2019

TO: Scott Nelson
Office of Senator Kathy Bernier

FROM: Michael Haas
Staff Counsel
Wisconsin Elections Commission

SUBJECT: Draft Elections Legislation Categories

I have attempted to organize the draft bills into groupings that may make some sense to combine. Below is one option which sorts the bills into categories related to voter registration, absentee voting and voting procedures, and administrative/miscellaneous items. Within each category I have listed the draft bills in order of their The last category includes a large number of draft bills, although many are not lengthy, and could be divided further based on the statutory chapters affected. Hopefully this is at least a starting point for organizing the bills by topic.

A. Voter Registration

| <u>LRB No.</u> | <u>Brief Description</u> |
|----------------|-------------------------------------------------------------------------|
| 227 | New registration required for name change |
| 231 | Proof of residence labeled "document" instead of "identifying document" |
| 232 | Receipt for driver's license/State ID is acceptable POR |
| 252 | No prepaid postage required with voter registration applications |
| 253 | WEC sends address verification postcards |
| 254 | Pay stubs and pay statements included as acceptable POR |
| 264 | Electronic forms of POR are acceptable |

B. Absentee Voting and Voting Procedures

| <u>LRB No.</u> | <u>Brief Description</u> |
|----------------|--------------------------------------------------------------------------------|
| 208 | Clarification re. SVD process and attached retirement homes |
| 209 | Military and overseas electors – sections 8, 14 and 15 not included in Act 369 |
| 218 | Provisional ballots |

WEC
checking on
status

1

JK Verba

- WEC thinking*
- ✓226 Former residents voting
 - 228 Assistor does not sign poll list
 - ✓233 Clerk sending absentee ballots
 - ✓258 Specific finding of incompetency required

C. Administration of Elections/Miscellaneous

| <u>LRB No.</u> | <u>Brief Description</u> |
|----------------|-----------------------------------------------------------------------------|
| ✓223 | Ward lines cannot cross district boundaries |
| ✓225 | Eliminates actual size ballot for publication |
| ✓229 | No independent candidates on partisan primary ballot |
| ✓230 | Write-in line included on ballot for city offices |
| ✓234 | Absentee ballot canvassers can be from county |
| ✓245 | No paper copies of registration list required if electronic poll books used |
| ✓246 | Reference to copying machines deleted |
| ✓247 | No original electronic poll list needs to be retained if copy is retained |
| ✓249 | References to mechanical voting machines deleted |
| ✓250 | WEC temporary orders authorized |
| ✓251 | Recount procedures can be subject of WEC complaint |
| ✓255 | Eliminate reference to candidate withdrawal |
| ✓256 | Transmission of canvass statements to WEC |
| ✓257 | Serving <u>recall</u> petition on incumbent |
| ✓259 | WEC providing information regarding shelter providers to clerks |
| ✓260 | Printed name required on recall petitions |
| ✓261 | Type A Notice published before primary |
| ✓262 | Other notices prior to primary |
| ✓263 | No administrative rules required regarding notice format |
| 288 | Deadline for statement of economic interests |
| ✓333 | Type C Notice published before primary |

but
WEC to
poll book w/
res. voters
w/ disability

3

✓recount

→ Hold off

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STEVE KING

MARK L. THOMSEN, CHAIR

ADMINISTRATOR MICHAEL HAAS

MEMORANDUM

DATE: For the Meeting of June 20, 2017

TO: Members, Wisconsin Elections Commission

FROM: Michael Haas
Interim Administrator

Prepared and Presented By:
Commission Staff

SUBJECT: Outstanding Legislative Recommendations for the 2017 - 2018
Legislative Agenda

Background

At its March 14, 2017 meeting, the Commission adopted several recommendations for the Legislature to consider during the 2017 – 18 session. This memorandum lists outstanding staff recommendations which the Commission has not yet addressed. To address the implementation of electronic poll books, items 46 and 47 have been added. The remaining items were included in the staff memorandum for the March 14, 2017 Commission meeting.

Also, please note that attached is a letter from the Federal Voting Assistance Program (FVAP) of the U.S. Department of Defense related to Wisconsin's definition of "overseas elector," and the rights and processes which apply to those electors. It is the opinion of Commission staff that this request is more appropriately considered as a policy decision of the Legislature. Currently absentee voters who live overseas and intend to return to the United States may vote for every office on the ballot but may not receive ballots through the MyVote Wisconsin website or by email or fax (except pursuant to the *One Wisconsin Now* court decision). Absentee voters who live overseas with no intent to return to the United States may download their ballot through MyVote Wisconsin or receive a ballot by email or fax, but they may vote only in contests for federal offices. The request outlined by FVAP would affect these policy choices previously made by the Legislature.

Commission staff maintains an ongoing list of recommended changes to current laws identified by legislators, municipal and county clerks, and the public. Staff also regularly reviews and analyzes current statutes, administrative code, and Board policies in order to identify potential changes that may improve efficiency, cost-effectiveness, public

MINOR POLICY INITIATIVES

Chapter 5

3. §§ 5.06(5) and (6). These provisions allow the Commission to issue an order to ensure compliance with election laws. The Legislature could revise these provisions in order to authorize the Commission to issue a temporary order while a complaint investigation is ongoing. Occasionally Commission staff must direct a local election official to stay any action until the completion of a review investigation, such as when the question is whether to schedule a recall election or whether a candidate has qualified for ballot access. Current statutes allow the issuance of an order only after the filing of a complaint, upon a motion of the Commission, or after completion of an investigation.
4. § 5.06(10). This provision prohibits the Commission from reviewing matters arising in connection with recounts under § 9.01. This appears to be intended to avoid conflict with Wis. Stat. § 9.01(6) which directs appeals of recounts to circuit court. However, there are a variety of decisions made by election officials under § 9.01 that could benefit from commission review, e.g., estimates of recount filing fees. A better option may be to phrase this provision such that the Commission may not review the recount result or substantive decisions of the board of canvassers in a recount other than to enforce consistent application of those decisions when multiple boards of canvassers are involved. This authority would permit Commission staff to resolve procedural questions or conflicts more definitively and is supported by the charge of Wis. Stat. § 9.01(10) for the Commission to develop standard forms and procedures for use in recounts.
5. §§ 5.15 and 66 subchapter II. These provisions provide limitations to the construction of wards. Current statutes restrict a town from drawing ward lines that do not cross the boundaries of a state assembly district, and requires towns to create a separate ward when a county does not adjust boundaries for county supervisory districts. However, statutes do not place similar restrictions on cities or villages annexing territory. This could be a problem if a city or village was to annex territory in different districts. The Legislature could revise these provisions to enact the same requirements for cities and villages that currently exist for towns and require specifying the identification of the created ward (e.g., ward 7).
6. § 5.84(1). This provision specifies that municipalities must conduct public tests of voting equipment in the 10 days prior to each election. The current requirement is problematic as larger municipalities may require several days to test all the equipment to be used at an election. Extending the testing window to the 15 calendar days prior to the election would grant municipal clerks more flexibility in the event any problems are identified during the public test. This provision also requires public notice of voting equipment testing via publication in a newspaper within the municipality or a newspaper of general circulation therein. Publishing in a general circulation newspaper, or even a municipal newspaper, may require significant costs to municipalities. The Legislature could revise this provision to require municipalities to

absentee ballot application no later than the applicable absentee request deadline in order to establish a more consistent process for all overseas voters.

12. § 6.29(2)(b). This provision requires municipal clerks to prepare a certificate of registration in duplicate and provide one copy of the certificate to any person registering during the late registration period while keeping the other in their office. Commonly late registrations in-person are immediately followed by a request to vote an in-person absentee ballot. In this scenario, the preparation and issuance of the certificate of registration has no purpose. The Legislature could consider exempting clerks from the requirement to issue registration certificates if the voter chooses to vote absentee in the clerk's office in the same transaction as registering to vote.
13. § 6.29(2)(c). This provision requires any voter who registered to vote during the late registration period and receives a certificate of registration to provide that certificate to the inspectors at the polling place or to enclose that certificate with their voted absentee ballot. However, state law does not specify a consequence if the elector fails to provide their certificate of registration. It appears that the certificate is intended as a failsafe to prove registration has occurred in the event that the voter's name does not appear on the poll book despite their earlier registration. As such the Legislature could consider removing the requirement for the voter to provide their certificate of registration, but preserve the issuance of such certificates to maintain the failsafe.
14. § 6.30(4). This provision requires that municipalities make available a voter registration form and that "the form shall be pre-postpaid for return when mailed at any point within the United States." However, in practice, most municipalities simply make copies of the form available and do not offer pre-paid postage because of the cost. Additionally, the Commission has implemented online registration as directed by the Legislature, which may significantly reduce the demand for registration by mail. Due to the cost to municipalities and the online alternative the Legislature could consider elimination of the prepostpaid requirement for voter registration forms.
15. § 6.32(4). This provision requires a municipal clerk to send an address verification mailing to a voter who registers by mail or online. In practice, the Commission sends these mailings on behalf of municipalities. This facilitates consistent compliance and leveraging State purchasing power. During the 2013-2014 Legislative Session, the Wisconsin Legislature enacted 2013 Wisconsin Act 149, specifically authorizing the G.A.B. to send out the Election Day Registrant address verification mailings. The Legislature could revise this provision to authorize the Commission to send out all other address verification mailings, including those related to the ERIC initiative, on behalf of municipalities.
16. § 6.34(3)(a)10. This provision allows for using a paycheck as proof of residence. As many voters do not receive a physical paycheck anymore, the G.A.B. previously interpreted this provision to include pay stubs, pay sheets, or other payroll documentation such as a direct deposit statement. The Legislature could revise this

21. § 6.87(3)(d). This provision allows military and permanent overseas voters to receive their absentee ballot electronically. Voters who are temporarily overseas do not receive this transmission option and therefore must request their ballot significantly earlier to account for the additional time it will take for the blank ballot to reach them. The Legislature could consider revising this provision to allow temporary overseas voters to receive their ballot electronically in order to increase the opportunity for those voters to receive and return their ballot in a timely manner.
22. § 6.875. This provision covers absentee voting procedures involving special voting deputies (SVDs). This section does not specify whether a municipal clerk must issue a 30-day notice to renew their absentee ballot request as an indefinitely confined voter if the voter declines to vote via SVD. The Legislature could clarify this section by stating that the voter may decline to receive their ballot on a form prescribed by the Commission, as well as indicate if they wish to remain on the list of indefinitely confined voters (“permanent absentees”). This is current practice and is included in the Commission’s SVD manual.
23. §§ 6.875(4)(b), 7.30(4). Wis. Stat. § 6.875(4)(b) sets forth the process by which individuals are appointed as special voting deputies. The process is similar to the process for appointing election officials generally as set forth in Wis. Stat. § 7.30(4), but does not specifically state that the process of 7.30 applies to these appointments. Staff have interpreted § 7.30(4) to include special voting deputies, but the Legislature could modify § 6.875(4)(b) or 7.30(4) to make this more clear.
24. § 6.97. This provision provides the option for a voter to cast a provisional ballot whenever they are required to provide proof of residence and cannot provide such documentation. Agency staff has interpreted this provision to only apply to persons who registered to vote on or before April 4, 2014 to coincide with when the G.A.B. directed clerks to stop accepting voter registrations that were missing proof of residence. After the few remaining voters in the statewide voter registration system who are still missing proof of residence provide such documentation or are removed from the list, this provision will no longer be necessary and the Legislature may wish to remove this language to avoid the impression that a provisional ballot would be an option for new registrants who do not have a proof of residence.

Chapter 7

25. § 7.25. This section enumerates the duties of election officials in using “voting machines”. Voting machines are defined in 5.02(24r) as “a machine which serves in lieu of a voting booth and which mechanically or electronically records the votes cast by electors, who depress levers or buttons located next to the choices listed on a ballot to cast their votes.” Wisconsin no longer uses mechanical voting systems like lever voting machines and this section should be updated to reflect current practices and technology.

and nomination papers is due. The counterpoint to this policy change is that the later deadline provides an “escape valve” where candidates no longer wishing to appear on the ballot could simply not file their SEI. The later deadline also allows the candidate additional time to gather the required financial information, though they have already had considerable time to gather nomination signatures. However, staff believes that a consistent deadline would improve administration and better inform the public of candidates who achieve ballot status.

Chapter 9

31. § 9.01(2). This provision establishes the candidate notification requirements prior to conducting a recount. Current statutes require personal delivery of the petition to the candidate or an approved agent, by either the clerk or the sheriff. Providing notice of the recount petition could potentially be delayed if the candidate and/or their agent is traveling outside of the municipality, county, or state after the election. The Legislature could revise this provision by allowing a three-step process. The first step a clerk would take is to attempt personal delivery of the petition to the candidate or approved agent. The second step would be to obtain documented confirmation of acknowledgement by the candidate or agent (e.g., through email or a documented phone call). The clerk could then issue a public notice and proceed with the recount process, if those two options are unsuccessful within a reasonable time period.
32. §§ 9.01(1)(ar)3. and (b). These sections establish deadlines for convening the board of canvassers for conducting a recount but provide conflicting deadlines. The Legislature could revise this section by setting the deadline to provide clarity, consistency, and sufficient time for clerks to prepare for conducting a recount.

Chapter 10

33. § 10.02(3)(b). This provision includes requirements for the information that must be contained in the Type B election notice. This language still refers to antiquated voting equipment technology and depressing levers. The Legislature could revise this provision to reflect modern voting equipment technologies.
34. § 10.04. This section relates to the publication of election notices and the fees charged for publication by newspapers. The Legislature could clarify this section by allowing publishing all types of elections notices as an insert, consistent with commercial rates for newspaper inserts.

TECHNICAL CHANGES

Chapter 5

35. § 5.02(24r). This provision defines the term “voting machine” and includes mechanical voting equipment like lever voting machines. Mechanical voting systems have been

42. § 6.25(4). The last clause of this provision states, “*and, if the elector is an overseas elector, the elector resides outside of the United States.*” The Legislature could eliminate the redundant second half of this clause as an overseas elector is already defined in § 6.24(1) as someone who does not qualify as a resident of this state.
43. § 6.34. This section covers proof of residence (POR) requirements for voter registration. Throughout this section, there are several references to POR as an *identifying document*. The Legislature could replace those references with *proof of residence* to clarify the section and avoid any confusion with the proof of identification requirement.
44. §§ 6.34(3)(a)1 and 2. These provisions refer to using either a Wisconsin driver license or state-issued identification card as proof of residence. The Legislature could revise these sections to include a receipt for either Wisconsin Department of Motor Vehicles (DMV) product, consistent with DMV current practices of issuing a temporary receipt prior to the driver license or state-issued identification card.
45. § 6.34(3)(a)7. This provision allows for using a university, college, or technical college identification card as proof of residence for voter registration, with either a fee payment receipt or a list of students residing in school housing. The Legislature could clarify that the receipt or list of students must include the name and address of the registrant.
46. § 6.45(1). This provision requires the municipal clerk to make copies of the poll list for use in the election. It should be updated to clarify that paper copies of a poll list need not be produced when an electronic poll list is used.
47. § 6.46(2). This provision requires a municipal clerk to remove the poll lists from the office for the purpose of copying if a copying machine is not accessible in response to public records requests or in order to supply candidates with the poll list. The provision should be updated to replace “if a copying machine is not accessible” with “if producing copies of the lists at the clerk’s office is not possible.”

Chapter 7

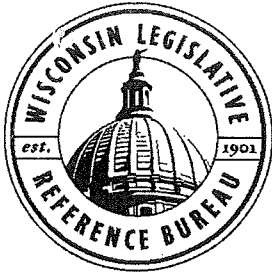
48. § 7.08(10). This provision requires that the Commission provide to each municipal clerk, on a continuous basis, the names and addresses of organizations certified to provide services to victims of domestic abuse or sexual assault. As the addresses of these organizations may be sensitive information in that they provide temporary shelter to victims, this information cannot be placed on the Commission’s website. Additionally, sending this information unsolicited to over 1,800 municipal clerks could also compromise the security of victims. To better promote the security of victims of domestic abuse or sexual assault, the Legislature could consider modifying this provision to only provide this information to municipal clerks as needed to confirm the eligibility of confidential voters.

similar provisions for such a notice for referenda held in conjunction with the spring or partisan primaries. There is also no requirement in this section for the Type C Notice of Referendum before these elections, although it is addressed in the general description of the Type C notice at 10.01(2)(c). For consistency, the Legislature could revise 10.06(2) to include similar referendum notice requirements for state or county referenda held in conjunction with these elections as with any other election.

54. § 10.06(3). This section enumerates the various election notices that municipal clerks are required to publish. While subparagraph (a) requires the publication of a Type A Notice of Referendum Election before the spring primary if there is direct legislation to be voted on, there is no requirement for such a notice for other referenda held in conjunction with the spring primary. There is also no requirement for the Type C Notice of Referendum for non-direct legislation referenda voted on at the spring primary or for any referenda to be voted on at the partisan primary, except as part of the general definition of the notice in 10.01(2)(c). Finally, there is no Type D Notice of Polling Hours and Locations requirement in this section for either the spring or partisan primary although it is required as part of the general definition of the Type D notice at 10.01(2)(d). For consistency, the Legislature could revise this section to include similar notice requirements for all elections.

Chapters Not Administered by the Wisconsin Elections Commission

55. Chapter 66 – Subchapter II. This subchapter generally describes the processes by which a municipality may incorporate or adjust municipal boundaries. Staff has been involved in several incorporations and boundary agreements where the provisions of this subchapter appear inconsistent with the rules applied to other petitions and referenda in Chapters 5-12. The Legislature could consider revisiting this subchapter to harmonize its provisions with the rules governing other forms of petitions and referenda.



RESEARCH APPENDIX

Drafting History Reproduction Request Form

Drafting Attorneys: Please complete form below and give to Mike Barman (lead PA).

| | | |
|------------------------------------------------------------------------------------------------------|----------------------------------------|----------------------------------------|
| Requested by | MPL | |
| Date | 5/14/2019 | |
| *Note: Except for companion bills, both drafts should have same requester. | | |
| <input type="checkbox"/> | Please transfer the drafting file for: | |
| 2017 LRB | | For Rep./Sen. |
| To the drafting file for: | | |
| 2019 LRB | | For Rep./Sen. |
| OR | | |
| <input checked="" type="checkbox"/> | Please copy the drafting file for: | |
| 2019 LRB | see attached | For Rep./Sen. <u>Refriner</u> |
| And place it in the drafting file for: | | |
| 2019 LRB | -2186 | For Rep./Sen. <u>Refriner</u> |
| Companion bills? | <input type="checkbox"/> YES* | <input checked="" type="checkbox"/> NO |
| *If yes, the transfer or copy of the file was authorized by whom in the original requester's office? | | |

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Underlying drafts for Group C compile, LRB-2186

- 0223/P1
- 0225/P1
- 0229/P1
- 0230/P1
- 0234/P1
- 0245/P1
- 0246/P1
- 0247/P1
- 0249/P1
- 0250/P1
- 0251/P1
- 0255/P1
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- 0261/P1
- 0262/P1
- 0263/P1
- 0333/P1

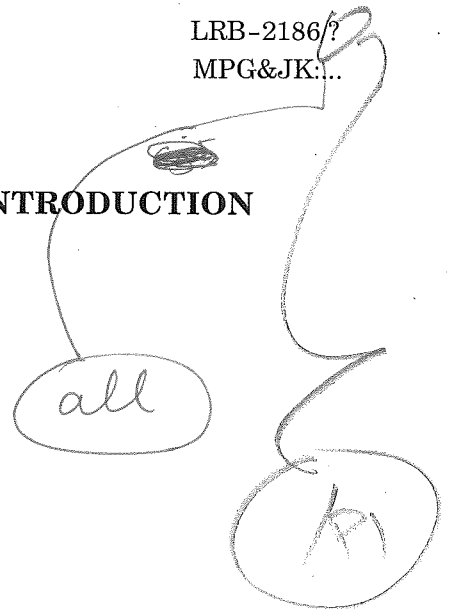
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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- 1 AN ACT...; relating to: elections administration, recall petitions, and recount
- 2 procedures.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the state's election laws, including the following:

1. Under current law, the Elections Commission is authorized to review the conduct of election officials for violations of law and abuse of discretion. Current law provides that the commission may, after investigation, issue an order requiring an election official to conform his or her conduct to the law, restraining an election official from taking an action inconsistent with the law, or requiring an election official to correct an action or decision inconsistent with the law.

This bill authorizes the commission to issue such other temporary orders of limited effect as it deems necessary to carry out its powers and duties in reviewing the conduct of election officials.

2. Under current law, only courts are authorized to review matters concerning recounts. This bill does not affect that authority but additionally authorizes the commission to review the decision or other conduct of an elections official with respect to matters concerning a recount in order to determine whether the official's decision or other conduct is contrary to law or constitutes an abuse of discretion. That authority mirrors the commission's authority with respect to other matters arising in the course of elections. Under the bill, the commission may not review a final recount determination that is ripe for appeal in court.

3. This bill alters the methods of delivery of a recount petition to candidates in an election. Under current law, a petition for a recount for an elected office must be

filed with the clerk or body with whom nomination papers are filed for that office. The clerk or body is required to deliver the petition to each opposing candidate or the candidate's designated agent. The candidate or agent must acknowledge personal delivery of the petition by signing a receipt. If a candidate or agent does not personally accept delivery of the petition, the clerk or body must promptly deliver the copies of the petition to the sheriff, who must then deliver the copies of the petition to each candidate at the address given on the candidate's nomination papers in the manner provided for service of a summons in civil actions.

This bill replaces service by the sheriff with the following:

a. If a candidate or agent does not personally accept delivery of the petition, the clerk or body is required to attempt to notify the candidate or agent of the petition by e-mail and by telephone and, upon receiving acknowledgement from the candidate or agent, retain documentation of that notice.

b. If the clerk or body does not receive acknowledgement by e-mail or by telephone, the clerk or body must publish notice of the petition.

4. Under current law, the commission is required to provide information on a continuing basis to all municipal clerks concerning the names and addresses of domestic abuse and sexual assault service providers. Under this bill, the commission is required to provide that information only as needed to verify the voting eligibility of a voter whose identity must be kept confidential because the voter is the victim of domestic abuse, sexual assault, or stalking.

5. Under this bill, an individual's signature on a recall petition may not be counted unless, among the other requirements provided under current law, the signer legibly prints his or her name in a space provided next to his or her signature.

6. This bill requires county clerks to publish a type A notice of a referendum prior to a partisan primary or spring primary if a referendum will appear on the ballot at the spring or partisan primary. Under current law, a type A notice of a referendum must contain the text of the ballot question and a statement specifying where a copy of the resolution directing submission of the question may be obtained.

7. This bill requires municipal clerks to publish certain notices, required under current law for spring and general elections, prior to a partisan primary or spring primary when a referendum will appear on the ballot at the spring or partisan primary.

8. Under current law, each county clerk is required to deliver or transmit to the commission a certified copy of each statement of a county board of canvassers regarding an election within certain specified time periods after primaries and all other elections. This bill specifies that the certified copies must be delivered or transmitted to the commission in a manner prescribed by the commission.

9. Current law allows a municipality to appoint additional election inspectors for the canvassing of absentee ballots by the municipal board of absentee ballot canvassers. Under current law, an inspector so appointed must be a qualified elector of the municipality. This bill provides that if the municipality cannot identify a sufficient number of qualified electors of the municipality to serve as inspectors, the municipality may appoint qualified electors of the county in which the municipality is located to serve as inspectors.

10. Current law requires that spring election ballots for town, village, and school district offices include sufficient space for write-in candidates. This bill requires that spring election ballots for city offices also include sufficient space for write-in candidates.

11. This bill eliminates the requirement that a partisan primary ballot list the names of independent candidates for state office. Prior to July 1, 2011, listing the names of independent candidates for state office on the partisan primary ballot was necessary for determining eligibility for providing public financing for such candidates. Current law no longer provides public financing for campaigns for state office.

12. Under current law, a poll list created for an election must be maintained for 22 months after the election. This bill provides that an original electronic poll list need not be maintained if a true copy is maintained for the 22-month period.

13. Under current law, when a municipality uses an electronic voting system for an election, the clerks of the county and municipality where the system is used must provide notice of the ballot form and contents by arranging for the publication of an actual size copy of the ballot. Current law, however, allows a publisher to reduce the size of the facsimile ballot for publication purposes. This bill eliminates the inconsistency between these two provisions by eliminating the requirement that the clerks arrange for publication of an actual size copy of the ballot.

14. This bill specifies that a municipal clerk need not make paper copies of a registration list for use in an election if an electronic registration list is used.

15. Under current law, a municipal clerk is required upon request to provide a candidate one copy of the current poll list for those areas for which he or she is a candidate. Current law specifies that if a copying machine is unavailable, the clerk is required to remove the lists from the office to make copies and return the lists immediately thereafter. This bill removes any reference to a copying machine.

16. Under current law, one of the circumstances under which all write-in votes must be counted for a particular office in an election occurs if a candidate certified to appear on the ballot dies or withdraws before the election. Under this bill, all write-in votes must be counted under that circumstance only if a candidate certified to appear on the ballot dies before the election.

17. Under current law, the commission is required to make rules and draft whatever forms it considers necessary to standardize the form of various election notices. This bill eliminates the requirement to make such rules but not the requirement to draft standardized forms.

For further information see the *state and 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.** 5.06 (1) of the statutes is renumbered 5.06 (1) (a) and amended to
2 read:

3 5.06 (1) (a) ~~Whenever any elector of a jurisdiction or district served by an~~
4 ~~election official~~ person authorized under par. (b) to file a complaint believes that a
5 decision or action of ~~the~~ an election official or the failure of the official to act with
6 respect to any matter concerning nominations, qualifications of candidates, voting
7 qualifications, including residence, ward division and numbering, recall, ballot
8 preparation, election administration ~~or~~, conduct of elections, or, subject to par. (b) 2.,
9 conduct of a recount, is contrary to law, or the official has abused the discretion vested
10 in him or her by law with respect to any such matter, the elector authorized person
11 may file a written sworn complaint with the commission requesting that the official
12 be required to conform his or her conduct to the law, be restrained from taking any
13 action inconsistent with the law, or be required to correct any action or decision
14 inconsistent with the law or any abuse of the discretion vested in him or her by law.
15 The complaint shall set forth such facts as are within the knowledge of the
16 complainant to show probable cause to believe that a violation of law or abuse of
17 discretion has occurred or will occur. The complaint may be accompanied by relevant
18 supporting documents. The commission may conduct a hearing on the matter in the
19 manner prescribed for treatment of contested cases under ch. 227 if it believes such
20 action to be appropriate.

21 **SECTION 2.** 5.06 (1) (b) of the statutes is created to read:

22 5.06 (1) (b) The following persons are authorized to file a complaint under this
23 subsection:

24 1. An elector of a jurisdiction or district served by an election official who is a
25 subject of the complaint.

1 2. A candidate voted for at an election who is an aggrieved party, as determined
2 under s. 9.01 (1) (a) 5., or an elector who voted upon a referendum question at an
3 election, with respect to a recount under s. 9.01, except that a recount determination
4 that is ripe for appeal under s. 9.01 (6) is not reviewable under this subsection.

5 **SECTION 3.** 5.06 (4) of the statutes is amended to read:

6 5.06 (4) The commission may, on its own motion, investigate and determine
7 whether any election official, with respect to any matter ~~concerning nominations,~~
8 ~~qualifications of candidates, voting qualifications, including residence, ward~~
9 ~~division and numbering, recall, ballot preparation, election administration or~~
10 ~~conduct of elections specified in sub. (1),~~ has failed to comply with the law or abused
11 the discretion vested in him or her by law or proposes to do so.

12 **SECTION 4.** 5.06 (7) of the statutes is amended to read:

13 5.06 (7) The commission may withdraw, modify or correct an order issued
14 under sub. (6) within a timely period if it finds such action to be appropriate. The
15 commission may issue such other temporary orders of limited effect as it deems
16 necessary to carry out its powers and duties under this section.

17 **SECTION 5.** 5.06 (10) of the statutes is repealed.

18 **SECTION 6.** 5.15 (4) (a) of the statutes is amended to read:

19 5.15 (4) (a) Except as provided in par. (c), the division ordinance or resolution
20 shall number all wards in the municipality with unique whole numbers in
21 consecutive order, beginning with the number one, shall designate the polling place
22 for each ward, and shall describe the boundaries of each ward consistent with the
23 conventions set forth in s. 4.003. No ward line may cross the boundary of a
24 congressional, ~~an~~ assembly, or ~~a~~ supervisory district. The ordinance or resolution
25 shall be accompanied by a list of the block numbers used by the U.S. bureau of the

1 census that are wholly or partly contained within each ward, with any block numbers
 2 partly contained within a ward identified, and a map of the municipality which
 3 illustrates the revised ward boundaries. If the legislature, in an act redistricting
 4 legislative districts under article IV, section 3, of the constitution, or in redistricting
 5 congressional districts, establishes a district boundary within a municipality that
 6 does not coincide with the boundary of a ward established under the ordinance or
 7 resolution of the municipality, the municipal governing body shall, no later than
 8 April 10 of the 2nd year following the year of the federal decennial census on which
 9 the act is based, amend the ordinance or resolution to the extent required to effect
 10 the act. The amended ordinance or resolution shall designate the polling place for
 11 any ward that is created to effect the legislative act. Nothing in this paragraph shall
 12 be construed to compel a county or city to alter or redraw supervisory or aldermanic
 13 districts.

14 **SECTION 7.** 5.15 (6) (a) of the statutes is amended to read:

15 5.15 (6) (a) Following any municipality-wide special federal census of
 16 population, the governing body of the municipality in which the special census was
 17 held may, by ordinance or resolution, adjust the ward boundaries, but no ward line
 18 adjustment may cross the boundary of a congressional, an assembly, or a supervisory
 19 district. The municipal clerk shall transmit copies of the ordinance or resolution in
 20 compliance with sub. (4) (b).

21 **SECTION 8.** 5.15 (7) of the statutes is amended to read:

22 5.15 (7) If a new municipality is created or if part of a municipality is annexed
 23 to a city or village during a decennial period after April 1 of the year of the federal
 24 decennial census, the governing body of any municipality to which territory is
 25 attached or from which territory is detached, without regard to the time provisions

1 of sub. (1) (b), may, by ordinance or resolution, create new wards or adjust the
2 existing wards in that municipality to the extent required to reflect the change. If
3 a municipality is consolidated with another municipality during a decennial period
4 after April 1 of the year of the federal decennial census, the governing body of the
5 consolidated municipality, without regard to the time provisions under sub. (1) (b),
6 may, by ordinance or resolution, create new wards or adjust the existing wards of the
7 municipality to the extent required to reflect the change. No ward line adjustment
8 under this subsection may cross the boundary of a congressional, an assembly, or a
9 supervisory district. Within 5 days after adoption of the ordinance or resolution, the
10 municipal clerk shall transmit copies of the ordinance or resolution making the
11 adjustment to the county clerk in compliance with sub. (4) (b).

12 **SECTION 9.** 5.60 (3) (ag) of the statutes is amended to read:

13 5.60 (3) (ag) Except as authorized in s. 5.655, there shall be a separate ballot
14 giving the names of all candidates for city offices, printed in the same form as
15 prescribed by the commission under s. 7.08 (1) (a). Sufficient space shall be provided
16 on the ballot for write-in candidates. City election ballots may vary in form to
17 conform to the law under which an election is held.

18 **SECTION 10.** 5.62 (1) (a) of the statutes is amended to read:

19 5.62 (1) (a) At the partisan primary, the following ballot shall be provided for
20 the nomination of candidates of recognized political parties for national, state and
21 county offices and ~~independent candidates for state office~~ in each ward, in the same
22 form as prescribed by the commission under s. 7.08 (1) (a), except as authorized in
23 s. 5.655. The ballots shall be made up of the several party tickets with each party
24 entitled to participate in the primary under par. (b) or sub. (2) having its own ballot,
25 except as authorized in s. 5.655. The ballots shall be secured together at the bottom.

1 The party ballot of the party receiving the most votes for president or governor at the
2 last general election shall be on top with the other parties arranged in descending
3 order based on their vote for president or governor at the last general election. The
4 ballots of parties qualifying under sub. (2) shall be placed after the parties qualifying
5 under par. (b), in the same order in which the parties filed petitions with the
6 commission. Any ballot required under par. (b) 2. shall be placed next in order. At
7 polling places where voting machines are used, each party shall be represented in
8 one or more separate columns or rows on the ballot. At polling places where an
9 electronic voting system is used other than an electronic voting machine, each party
10 may be represented in separate columns or rows on the ballot.

11 **SECTION 11.** 5.62 (1) (b) 1. of the statutes is amended to read:

12 5.62 (1) (b) 1. Except as provided in subd. 2. and s. 5.64 (1) (e) 2., every
13 recognized political party listed on the official ballot at the last gubernatorial election
14 whose candidate for any statewide office received at least 1 percent of the total votes
15 cast for that office and, if the last general election was also a presidential election,
16 every recognized political party listed on the ballot at that election whose candidate
17 for president received at least 1 percent of the total vote cast for that office shall have
18 a separate primary ballot or one or more separate columns or rows on the primary
19 ballot as prescribed in par. (a) and a separate column on the general election ballot
20 in every ward and election district. ~~An organization which was listed as~~
21 ~~“independent” at the last general election and whose candidate meets the same~~
22 ~~qualification shall receive the same ballot status upon petition of the chairperson~~
23 ~~and secretary of the organization to the commission requesting such status and~~
24 ~~specifying their party name, which may not duplicate the name of an existing party.~~

1 A petition under this subdivision may be filed no later than 5 p.m. on April 1 in the
2 year of each general election.

3 **SECTION 12.** 5.94 of the statutes is amended to read:

4 **5.94 Sample ballots; publication.** When an electronic voting system
5 employing a ballot that is distributed to electors is used, the county and municipal
6 clerk of the county and municipality in which the polling place designated for use of
7 the system is located shall cause to be published, in the type B notices, a true
8 actual-size copy of the ballot containing the names of offices and candidates and
9 statements of measures to be voted on, as nearly as possible, in the form in which they
10 will appear on the official ballot on election day. The notice may be published as a
11 newspaper insert. Municipal clerks may post the notice if the remainder of the type
12 B notice is posted.

13 **SECTION 13.** 6.45 (1) of the statutes is amended to read:

14 6.45 (1) After the deadline for revision of the registration list, the municipal
15 clerk shall make copies of the list for election use. Paper copies need not be made if
16 an electronic registration list is used.

17 **SECTION 14.** 6.46 (2) of the statutes is amended to read:

18 6.46 (2) Poll lists shall be open to public inspection, except as provided in s.
19 6.47. The municipal clerk shall furnish upon request to each candidate who has filed
20 nomination papers for an office which that represents at least part of the
21 municipality one copy of the current poll list for those areas for which he or she is a
22 candidate for a fee not to exceed the cost of reproduction. ~~If a copying machine is not~~
23 ~~accessible,~~ the clerk shall must remove the lists from the office for the purposes of
24 copying, and the clerk shall return them immediately thereafter. The clerk shall

1 exclude information that is confidential under s. 6.47 (2) from copies of the list, except
2 as authorized under s. 6.47 (8).

3 **SECTION 15.** 6.47 (1) (ag) of the statutes is amended to read:

4 6.47 (1) (ag) "Domestic abuse victim service provider" means an organization
5 that is certified by the department of children and families as eligible to receive
6 grants under s. 49.165 (2) and whose name is included on the list provided by the
7 commission under s. 7.08 (10).

8 **SECTION 16.** 6.47 (1) (dm) of the statutes is amended to read:

9 6.47 (1) (dm) "Sexual assault victim service provider" means an organization
10 that is certified by the department of justice as eligible to receive grants under s.
11 165.93 (2) and whose name is included on the list provided by the commission under
12 s. 7.08 (10).

13 **SECTION 17.** 7.08 (10) of the statutes is amended to read:

14 7.08 (10) DOMESTIC ABUSE AND SEXUAL ASSAULT SERVICE PROVIDERS. Provide to
15 each municipal clerk, on a continuous basis as needed to confirm the eligibility to vote
16 of electors who have obtained a confidential listing under s. 6.47 (2), the names and
17 addresses of organizations that are certified under s. 49.165 (4) (a) or 165.93 (4) (a)
18 to provide services to victims of domestic abuse or sexual assault.

19 **SECTION 18.** 7.23 (1) (e) of the statutes is amended to read:

20 7.23 (1) (e) Poll lists created for any election may be destroyed 22 months after
21 the election at which they were created. An original electronic poll list need not be
22 maintained under this paragraph if a true copy of the electronic poll list is
23 maintained whether in hard copy or electronic format.

24 **SECTION 19.** 7.50 (2) (em) of the statutes is amended to read:

1 7.50 (2) (em) Except as otherwise provided in this paragraph, write-in votes
2 shall only be counted if no candidates have been certified to appear on the ballot. If
3 a candidate has been certified to appear on the ballot, write-in votes may only be
4 counted for a candidate that files a registration statement under s. 11.0202 (1) (a) no
5 later than noon on the Friday immediately preceding the election. If a candidate
6 certified to appear on the ballot dies or withdraws before the election, all write-in
7 votes shall be counted. When write-in votes are counted, every vote shall be counted
8 for the candidate for whom it was intended, if the elector's intent can be ascertained
9 from the ballot itself.

10 **SECTION 20.** 7.52 (1) (b) of the statutes is amended to read:

11 7.52 (1) (b) A municipality that adopts the canvassing procedure under this
12 section may appoint additional inspectors under s. 7.30 (2) (a) to assist the absentee
13 ballot board of canvassers in canvassing absentee ballots under this section. In such
14 case, an odd number of inspectors shall be appointed, and at no time may there be
15 less than 3 inspectors who serve. Except as authorized in s. 7.30 (4) (c), all inspectors
16 shall be affiliated with one of the 2 recognized political parties receiving the largest
17 numbers of votes for president, or for governor in nonpresidential general election
18 years, in the municipality. The party whose candidate received the largest number
19 of votes in the municipality is entitled to one more inspector than the party whose
20 candidate received the next largest number of votes in the municipality. Each
21 inspector so appointed shall be a qualified elector of the municipality, except that if
22 the municipality cannot identify a sufficient number of qualified electors of the
23 municipality to serve as inspectors, the municipality may appoint qualified electors
24 of the county in which the municipality is located to serve as inspectors. The

1 inspectors who are appointed under this paragraph shall serve under the direction
2 and supervision of the board of absentee ballot canvassers.

3 **SECTION 21.** 7.60 (5) (a) of the statutes is amended to read:

4 7.60 (5) (a) Immediately following the canvass, the county clerk shall deliver
5 or transmit to the elections commission in a manner prescribed by the commission
6 a certified copy of each statement of the county board of canvassers for president and
7 vice president, state officials, senators and representatives in congress, state
8 legislators, justice, court of appeals judge, circuit judge, district attorney, and
9 metropolitan sewerage commissioners, if the commissioners are elected under s.
10 200.09 (11) (am). The statement shall record the returns for each office or
11 referendum by ward, unless combined returns are authorized under s. 5.15 (6) (b) in
12 which case the statement shall record the returns for each group of combined wards.
13 Following primaries the county clerk shall enclose on forms prescribed by the
14 elections commission the names, party or principle designation, if any, and number
15 of votes received by each candidate recorded in the same manner. The county clerk
16 shall deliver or transmit the certified statement to the elections commission no later
17 than 9 days after each primary except the partisan primary, no later than 10 days
18 after the partisan primary and any other election except the general election, and no
19 later than 14 days after the general election. The board of canvassers shall deliver
20 or transmit a certified copy of each statement for any technical college district
21 referendum to the secretary of the technical college district board.

22 **SECTION 22.** 9.01 (2) of the statutes is amended to read:

23 9.01 (2) NOTICE TO CANDIDATES. When the recount concerns an election for an
24 office, the clerk or body with whom the petition is filed shall promptly prepare a copy
25 of the petition for delivery to each opposing candidate for the same office whose name

1 appears on the ballot. In a recount proceeding for a partisan primary, the clerk or
2 body shall prepare a copy of the petition for delivery to each opposing candidate for
3 the same party nomination for the same office, to each opposing candidate for the
4 party nomination of each other party for the same office and to each independent
5 candidate qualifying to have his or her name placed on the ballot for the succeeding
6 election. A candidate or agent designated by a candidate may personally accept
7 delivery of a copy of the petition. Upon such delivery, the clerk or body shall require
8 the candidate or agent to sign a receipt ~~therefor~~ acknowledging delivery of the
9 petition. If a candidate or agent does not personally accept delivery, the clerk or body
10 shall then ~~promptly deliver the copies of the petition to the sheriff, who shall~~
11 ~~promptly deliver the copies of the petition to each candidate at the address given on~~
12 ~~the candidate's nomination papers, without fee, in the manner provided for service~~
13 ~~of a summons in civil actions~~ attempt to notify the candidate or agent of the petition
14 by electronic mail and by telephone and, upon receiving acknowledgement from the
15 candidate or agent, retain documentation of that notice. If the clerk or body does not
16 receive acknowledgement by electronic mail or by telephone, the clerk or body shall
17 publish notice of the petition.

18 **SECTION 23.** 9.10 (2) (e) 9. of the statutes is created to read:

19 9.10 (2) (e) 9. The signer has not legibly printed his or her name in a space
20 provided next to his or her signature.

21 **SECTION 24.** 10.01 (1) of the statutes is amended to read:

22 10.01 (1) The form of the various election notices shall be prescribed by the
23 commission to standardize election notices. To accomplish this purpose, the
24 commission shall ~~make rules and~~ draft whatever forms it considers necessary.
25 Notification or certification lists of candidates or referenda questions sent to the

1 county clerks shall prescribe the form in which the county clerks shall publish the
2 relevant portions of the notice and any additional county offices and referenda
3 questions. The commission shall also prescribe the provisions for municipal notices
4 which shall be sent to each county clerk who shall immediately forward them to each
5 municipal clerk.

6 **SECTION 25.** 10.06 (2) (d) of the statutes is amended to read:

7 10.06 (2) (d) On the Monday preceding the spring primary, when held, the
8 county clerk shall publish a type B notice and, if applicable, a type C notice.

9 **SECTION 26.** 10.06 (2) (f) of the statutes is amended to read:

10 10.06 (2) (f) On the 4th Tuesday preceding the each spring primary and
11 election, the county clerk shall publish a type A notice of any state or county
12 referendum to be held at the primary or election.

13 **SECTION 27.** 10.06 (2) (j) of the statutes is amended to read:

14 10.06 (2) (j) On the Monday preceding the partisan primary the county clerk
15 shall publish a type B notice and, if applicable, a type C notice.

16 **SECTION 28.** 10.06 (2) (L) of the statutes is amended to read:

17 10.06 (2) (L) On the 4th Tuesday preceding the each partisan primary and
18 general election, the county clerk shall publish a type A notice of any state or county
19 referendum to be held at the primary or election.

20 **SECTION 29.** 10.06 (3) (as) of the statutes is amended to read:

21 10.06 (3) (as) On the 4th Tuesday preceding the spring primary, when held, the
22 municipal clerk shall publish a type E notice. In cities and villages, the municipal
23 clerk shall publish a type A notice on the 4th Tuesday preceding the spring primary
24 of any ~~direct legislation questions~~ referendum to be ~~voted on~~ held at the primary.

25 **SECTION 30.** 10.06 (3) (b) of the statutes is amended to read:

1 10.06 (3) (b) If there is to be a municipal primary, the municipal clerk shall
2 publish a type B notice on the Monday before the primary election. In cities and
3 villages, the municipal clerk shall publish a type C notice on the Monday before the
4 primary election of any ~~direct legislation questions~~ referendum to be voted on held
5 at the primary.

6 **SECTION 31.** 10.06 (3) (c) of the statutes is amended to read:

7 10.06 (3) (c) On the Monday before the each spring primary and election, the
8 municipal clerk shall publish a type B notice and a type D notice. If there are
9 municipal referenda, the municipal clerk shall publish a type C notice at the same
10 time.

11 **SECTION 32.** 10.06 (3) (d) of the statutes is amended to read:

12 10.06 (3) (d) On the Monday preceding the each partisan primary and general
13 election, the municipal clerk shall publish a type D notice. If there are municipal
14 referenda, the municipal clerk shall publish type B and C notices at the same time.

15 **SECTION 33.** 62.08 (2) of the statutes is amended to read:

16 62.08 (2) If territory becomes a part of any city after April 1 of the year of the
17 federal decennial census, the limitations of s. 5.15 relating to population or area do
18 not apply to the creation of new wards in the attached territory, or to the addition of
19 the territory to an existing ward, but no ward line adjustment may cross the
20 boundary of a congressional, an assembly, or a supervisory district.

21 **SECTION 34. Initial applicability.**

22 (1) This act first applies to an election held or a recall petition filed on the
23 effective date of this subsection.

24 (END)