




















# **RESEARCH APPENDIX -**

## **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 05/15/2019 (Per: MPG)

### Compile Draft - Appendix I

- Appendix A  The 2019 drafting file for LRB-0223/P1
- Appendix B  The 2019 drafting file for LRB-0225/P1
- Appendix C  The 2019 drafting file for LRB-0229/P1
- Appendix D  The 2019 drafting file for LRB-0230/P1
- Appendix E  The 2019 drafting file for LRB-0234/P1
- Appendix F  The 2019 drafting file for LRB-0245/P1
- Appendix G  The 2019 drafting file for LRB-0246/P1
- Appendix H  The 2019 drafting file for LRB-0247/P1
- Appendix I  The 2019 drafting file for LRB-0249/P1
- Appendix J  The 2019 drafting file for LRB-0250/P1
- Appendix K  The 2019 drafting file for LRB-0251/P1
- Appendix L  The 2019 drafting file for LRB-0255/P1
- Appendix M  The 2019 drafting file for LRB-0256/P1
- Appendix N  The 2019 drafting file for LRB-0259/P1
- Appendix O  The 2019 drafting file for LRB-0260/P1
- Appendix P  The 2019 drafting file for LRB-0261/P1
- Appendix Q  The 2019 drafting file for LRB-0262/P1
- Appendix R  The 2019 drafting file for LRB-0263/P1
- Appendix S  The 2019 drafting file for LRB-0333/P1

has been copied/added to the drafting file for **2019 LRB-2186**

2019 DRAFTING REQUEST

**Bill**

For: **Kathleen Bernier (608) 266-9172** Drafter: **mgallagh**  
By: **chad** Secondary Drafters:  
Date: **9/7/2018** May Contact:

Same as LRB:

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

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Eliminate references to antiquated technologies (June 20, 2017, memo, items 6, 30, 38, and 40 )

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**Instructions:**

Eliminate references to antiquated technology in the elections statutes.

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>     | <u>Submitted</u>     | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|---------------------|----------------------|-----------------|-----------------|
| /?           | mgallagh<br>9/10/2018 | eweiss<br>9/20/2018 |                      |                 |                 |
| /P1          |                       |                     | dwalker<br>9/20/2018 |                 |                 |

FE Sent For: **<END>**



By Trues, 9/20 Trues!  
State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-024902  
MPG:...  
emw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

1/P1

SA ✓  
KPC ✓  
PMF ✓

1 AN ACT <sup>Gun</sup>; relating to: statutory references to mechanical voting machines. ✓

*Analysis by the Legislative Reference Bureau*

This bill eliminates references in the statutes to mechanical voting machines, including references to buttons and levers on voting machines. ✓

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

2 SECTION 1. 5.02 (24r) of the statutes is amended to read:  
3 5.02 (24r) "Voting machine" means a machine which that serves in lieu of a  
4 paper ballot marked in a voting booth and which mechanically or that electronically  
5 records the votes cast by electors, ~~who depress levers or buttons located next to the~~  
6 choices listed on a ballot to cast their votes.

History: 1971 c. 211; 1971 c. 304 ss. 2, 29 (2); 1973 c. 280, 334; 1975 c. 93; 1977 c. 107, 187, 394; 1977 c. 427 ss. 3 to 14; 1977 c. 449; 1979 c. 32, 89, 221; 1979 c. 260 ss. 1m, 73 to 75; 1979 c. 311, 328; 1981 c. 4, 391; 1983 a. 484 ss. 5, 5c, 124m, 128; 1985 a. 303; 1985 a. 304 ss. 1m, 2, 155; 1987 a. 391 ss. 1 to 1r, 66w; 1989 a. 31; 1991 a. 5; 1993 a. 140, 184; 1995 a. 16 s. 2; 1995 a. 27 s. 9145 (1); 1995 a. 219; 1997 a. 35; 2001 a. 16, 109; 2003 a. 24, 265; 2005 a. 177, 451; 2007 a. 1; 2009 a. 397; 2011 a. 23, 32, 45, 75; 2013 a. 165; 2015 a. 117, 118, 261.

7 SECTION 2. 5.40 (5) of the statutes is amended to read:  
8 5.40 (5) A municipality which that utilizes voting machines at a polling place  
9 shall not utilize the machines to receive the vote of an elector who declares to the chief

1 inspector that, due to physical disability, the elector is unable to ~~depress a button or~~  
2 ~~lever on a~~ use the machine.

History: 1971 c. 304 s. 29 (2); 1973 c. 112; 1977 c. 427; 1979 c. 235, 311, 355; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1993 a. 399; 2003 a. 265; 2007 a. 1; 2015 a. 118 ss. 62, 266 (10).

3 **SECTION 3.** 5.62 (1) (a) of the statutes is amended to read:

4 5.62 (1) (a) At the partisan primary, the following ballot shall be provided for  
5 the nomination of candidates of recognized political parties for national, state and  
6 county offices and independent candidates for state office in each ward, in the same  
7 form as prescribed by the commission under s. 7.08 (1) (a), except as authorized in  
8 s. 5.655. The ballots shall be made up of the several party tickets with each party  
9 entitled to participate in the primary under par. (b) or sub. (2) having its own ballot,  
10 except as authorized in s. 5.655. The ballots shall be secured together at the bottom.  
11 The party ballot of the party receiving the most votes for president or governor at the  
12 last general election shall be on top with the other parties arranged in descending  
13 order based on their vote for president or governor at the last general election. The  
14 ballots of parties qualifying under sub. (2) shall be placed after the parties qualifying  
15 under par. (b), in the same order in which the parties filed petitions with the  
16 commission. Any ballot required under par. (b) 2. shall be placed next in order. At  
17 polling places where voting machines are used, each party shall be represented in  
18 one or more separate columns or rows on the ballot. At polling places where an  
19 electronic voting system is used ~~other than an electronic~~ that does not employ a  
20 voting machine, each party may be represented in separate columns or rows on the  
21 ballot.

History: 1971 c. 304 ss. 12, 29 (2); 1971 c. 336; 1973 c. 334 s. 57; 1975 c. 93; 1977 c. 107, 427; 1979 c. 260, 311, 328; 1981 c. 377; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 192; 1991 a. 316; 1993 a. 184; 1999 a. 182; 2005 a. 149; 2007 a. 1; 2011 a. 32, 75; 2013 a. 166 s. 77; 2013 a. 373; 2015 a. 118 ss. 66, 266 (10).

22 **SECTION 4.** 5.76 of the statutes is amended to read:

1           **5.76 Adoption, experimentation, or discontinuance of systems.** The  
2 governing body or board of election commissioners of any municipality may by  
3 ordinance or resolution adopt, experiment with, or discontinue any electronic voting  
4 system authorized by this subchapter and approved under s. 5.91 for use in this state,  
5 and may purchase or lease materials or equipment for such system to be used in all  
6 or some of the wards within its jurisdiction, either exclusively in combination with  
7 ~~meechanical~~ voting machines, or in combination with paper ballots where such ballots  
8 are authorized to be used.

History: 1979 c. 311; 1985 a. 304.

Cross-reference: See also ch. EL 7, Wis. adm. code. X

9           **SECTION 5.** 5.77 (2) of the statutes is amended to read:

10           5.77 (2) So far as applicable, the procedure provided for voting with ~~meechanical~~  
11 voting machines applies when an electronic voting system employing the use of  
12 ~~electronic~~ voting machines is used.

History: 1979 c. 311.

Cross-reference: See also ch. EL 7, Wis. adm. code. X

13           **SECTION 6.** 5.90 (1) of the statutes is amended to read:

14           5.90 (1) Except as otherwise provided in this subchapter, recounts of votes cast  
15 on an electronic voting system shall be conducted in the manner prescribed in s. 9.01.  
16 Except as provided in this subsection, sub. (2), and s. 9.01 (1) (b) 8s., if the ballots are  
17 distributed to the electors, the board of canvassers shall recount the ballots with  
18 automatic tabulating equipment. The board of canvassers shall test the automatic  
19 tabulating equipment to be used prior to the recount as provided in s. 5.84, and then  
20 the official ballots or the record of the votes cast shall be recounted on the automatic  
21 tabulating equipment. In addition, the board of canvassers shall check the ballots  
22 for the presence or absence of the initials and other distinguishing marks, shall  
23 examine the ballots marked "Rejected", "Defective", "Overvoted", and "Objected to"

1 to determine the propriety of such labels, and shall compare the "Duplicate  
2 Overvoted Ballots" and "Duplicate Damaged Ballots" with their respective originals  
3 to determine the correctness of the duplicates. Unless a court orders a recount to be  
4 conducted by another method under sub. (2), the board of canvassers may determine  
5 to conduct the recount of a specific election by hand and may determine to conduct  
6 the recount by hand for only certain wards or election districts. If electronic voting  
7 machines are used, the board of canvassers shall perform the recount using the  
8 permanent paper record of the votes cast by each elector, as generated by the  
9 machines.

History: 1979 c. 311; 1987 a. 391; 2005 a. 92, 451; 2007 a. 96; 2013 a. 176; 2015 a. 261.

Cross-reference: See also ch. EL 7, Wis. adm. code.

10 **SECTION 7.** 5.91 (18) of the statutes is amended to read:

11 5.91 (18) If the device consists of an ~~an electronic~~<sup>an</sup> voting machine, it generates a  
12 complete, permanent paper record showing all votes cast by each elector, that is  
13 verifiable by the elector, by either visual or nonvisual means as appropriate, before  
14 the elector leaves the voting area, and that enables a manual count or recount of each  
15 vote cast by the elector.

History: 1979 c. 311; 1983 a. 484; 1985 a. 304; 2001 a. 16; 2003 a. 265; 2005 a. 92; 2011 a. 23, 32; 2015 a. 118 s. 266 (10); 2015 a. 261; 2017 a. 365 s. 111.

Cross-reference: See also ch. EL 7, Wis. adm. code.

16 **SECTION 8.** 6.82 (2) (a) of the statutes is amended to read:

17 6.82 (2) (a) If an elector declares to the presiding election official that he or she  
18 cannot read or write, or has difficulty in reading, writing, or understanding English  
19 or that due to disability is unable to mark a ballot or ~~depress a button or lever on~~ use  
20 a voting machine, the elector shall be informed by the officials that he or she may  
21 have assistance. When assistance is requested, the elector may select any individual  
22 to assist in casting his or her vote. The selected individual rendering assistance may  
23 not be the elector's employer or an agent of that employer or an officer or agent of a

1 labor organization ~~which that~~ represents the elector. The selected individual shall  
2 certify on the back of the ballot that it was marked with his or her assistance. Where  
3 voting machines are used, certification shall be made on the registration list.

History: 1971 c. 304 s. 29 (2); 1975 c. 85, 199, 275; 1977 c. 26; 1977 c. 394 s. 53; 1979 c. 260, 311, 355; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192; 2001 a. 16; 2003 a. 265; 2005 a. 451; 2011 a. 23; 2013 a. 182.

4 **SECTION 9.** 6.82 (2) (b) of the statutes is amended to read:

5 6.82 (2) (b) The individual chosen shall enter the voting booth ~~or machine~~ with  
6 the elector and shall read the names of all candidates on the ballot for each office, and  
7 ask, "For which one do you vote?". The ballot shall be marked ~~or the lever or button~~  
8 ~~depressed~~ according to the elector's expressed preference. The individual selected  
9 to assist may not disclose to anyone how the elector voted.

History: 1971 c. 304 s. 29 (2); 1975 c. 85, 199, 275; 1977 c. 26; 1977 c. 394 s. 53; 1979 c. 260, 311, 355; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192; 2001 a. 16; 2003 a. 265; 2005 a. 451; 2011 a. 23; 2013 a. 182.

10 **SECTION 10.** 6.82 (3) of the statutes is amended to read:

11 6.82 (3) USE OF PAPER BALLOTS. Whenever, in a municipality in which voting  
12 machines are used, an elector declares to the chief inspector that, due to physical  
13 disability, the elector is unable to ~~depress a button or lever on~~ use a voting machine,  
14 the inspectors shall permit the elector to vote using a paper ballot and voting booth.

History: 1971 c. 304 s. 29 (2); 1975 c. 85, 199, 275; 1977 c. 26; 1977 c. 394 s. 53; 1979 c. 260, 311, 355; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192; 2001 a. 16; 2003 a. 265; 2005 a. 451; 2011 a. 23; 2013 a. 182.

15 **SECTION 11.** 7.25 (1) of the statutes is amended to read:

16 7.25 (1) The municipal clerk of each municipality in which voting machines are  
17 used is responsible for the proper ballot ~~being placed~~ appearing on each machine, the  
18 sample ballots, ~~setting, adjusting,~~ and putting the machine in order to use in voting  
19 when delivered to the ward. For the purpose of ~~labeling, setting, adjusting and~~  
20 putting the voting machines in order, one or more competent voting machine  
21 custodians may be employed.

History: 1971 c. 304 s. 29 (2); 1977 c. 427; 1979 c. 311; 1985 a. 304; 2001 a. 107; 2005 a. 149.

1           **SECTION 12.** 7.25 (2) of the statutes is amended to read:

2           7.25 (2) Under the direction of the municipal clerk, the custodian shall label  
3 ~~or insert, set, adjust,~~ put in order and deliver the machines with all necessary  
4 furniture and appliances to the rooms where the election will be held for each ward  
5 at least one hour before the time set for opening the polls on election day.

**History:** 1971 c. 304 s. 29 (2); 1977 c. 427; 1979 c. 311; 1985 a. 304; 2001 a. 107; 2005 a. 149.

      \*\*\*\*NOTE: Let me know if you would like to affect any other language in s. 7.25.  
Specifically, you may consider affecting the reference to voting machines being sealed and  
locked with keys in §. 7.25 (4) or the references to seals and counters on voting machines  
in s. 7.25 (6) (b) and (c). I don't know whether some or all of this language is outdated.  
MPG

6           **SECTION 13.** 7.51 (6) of the statutes is amended to read:

7           7.51 (6) **ELECTRONIC VOTING SYSTEMS.** The procedure for canvassing of votes cast  
8 at polling places utilizing an electronic voting system in which ballots are distributed  
9 to electors shall follow the procedure for canvassing paper ballots insofar as  
10 applicable, and the procedure for canvassing of votes cast at polling places utilizing  
11 an electronic voting system employing voting machine machines shall follow the  
12 procedure for canvassing of ~~mechanical~~ voting machines insofar as applicable,  
13 except as otherwise provided in ss. 5.85 to 5.89.

**History:** 1971 c. 304 s. 29 (2); 1977 c. 29; 1977 c. 394 s. 53; 1977 c. 427, 447; 1979 c. 260 ss. 36, 48; 1979 c. 311; 1981 c. 4, 391; 1983 a. 183, 442; 1983 a. 484 ss. 76, 77, 172 (3); 1983 a. 538; 1985 a. 120, 304; 1987 a. 391; 1989 a. 56, 192; 1993 a. 399; 1997 a. 127; 1999 a. 49, 182; 2001 a. 107, 109; 2003 a. 265; 2005 a. 451; 2007 a. 96; 2011 a. 75, 115; 2013 a. 180; 2015 a. 261.

14           **SECTION 14.** 9.01 (1) (b) 6. of the statutes is amended to read:

15           9.01 (1) (b) 6. In recounting the votes cast on a voting machine in which the  
16 record of the votes cast is contained in the machine, the board of canvassers shall  
17 make a record of the number of the seal, if any, the number of the protective counter  
18 or other device, if one is provided, and shall open the recording compartment of the  
19 machine, and without unlocking the machine against voting, shall recount the votes



1 thereon. If the machine is ~~an electronic voting machine utilizing~~ utilizes a  
2 detachable record of votes cast, the record shall be retabulated under s. 5.90.

**History:** 1971 c. 251; 1971 c. 304 s. 29 (2); 1971 c. 336; 1973 c. 313; 1973 c. 334 ss. 23 to 26, 57; 1975 c. 41, 422; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 200; 1979 c. 260 ss. 66 to 68, 93; 1979 c. 311, 355; 1983 a. 183; 1983 a. 484 s. 172 (3); 1983 a. 538; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1993 a. 213; 1997 a. 27; 1999 a. 49, 182; 2001 a. 16; 2003 a. 265, 321; 2005 a. 149, 451; 2007 a. 1, 96; 2011 a. 75, 115; 2015 a. 36, 117; 2015 a. 118 ss. 107 to 119, 266 (10); 2015 a. 261; 2017 a. 120, 366.

**Cross-reference:** See also s. EL 6.04, Wis. adm. code.

3 **SECTION 15.** 9.01 (1) (b) 8. of the statutes is amended to read:

4 9.01 (1) (b) 8. If upon the recount it is found that the original canvass of the  
5 returns has been correctly made from a voting machine and that a discrepancy still  
6 remains unaccounted for, the board of canvassers shall publicly ~~unlock the voting~~  
7 ~~and counting mechanism of the machine, and shall proceed to examine and test the~~  
8 machine to determine the cause of the discrepancy in returns from the machine. ~~A~~  
9 ~~similar test shall be performed for electronic voting machines and~~ to ascertain  
10 whether there is any malfunction in the machine. After the completion of the  
11 examination and test, the board of canvassers shall prepare a statement giving the  
12 results of the examination and test. The statement shall be witnessed by at least one  
13 witness.

**History:** 1971 c. 251; 1971 c. 304 s. 29 (2); 1971 c. 336; 1973 c. 313; 1973 c. 334 ss. 23 to 26, 57; 1975 c. 41, 422; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 200; 1979 c. 260 ss. 66 to 68, 93; 1979 c. 311, 355; 1983 a. 183; 1983 a. 484 s. 172 (3); 1983 a. 538; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1993 a. 213; 1997 a. 27; 1999 a. 49, 182; 2001 a. 16; 2003 a. 265, 321; 2005 a. 149, 451; 2007 a. 1, 96; 2011 a. 75, 115; 2015 a. 36, 117; 2015 a. 118 ss. 107 to 119, 266 (10); 2015 a. 261; 2017 a. 120, 366.

**Cross-reference:** See also s. EL 6.04, Wis. adm. code.

14 **SECTION 16.** 9.01 (1) (b) 10. of the statutes is amended to read:

15 9.01 (1) (b) 10. Recounts at polling places utilizing an electronic voting system  
16 in which ballots are distributed to electors shall be performed in accordance with the  
17 procedure for recounting paper ballots insofar as applicable, except as provided in  
18 s. 5.90. Recounts at polling places utilizing ~~electronic~~ an electronic voting system  
19 employing voting machines shall be performed in accordance with the procedure for

\*\*\*NOTE: Let me know if you want to affect any other language in this provision that seems to reference <sup>mechanical</sup> voting machines. See also the note under s. 2.25(2). MPV

SECTION 16

1 recounting votes cast on mechanical voting machines, insofar as applicable, except  
2 as provided in s. 5.90.

History: 1971 c. 251; 1971 c. 304 s. 29 (2); 1971 c. 336; 1973 c. 313; 1973 c. 334 ss. 23 to 26, 57; 1975 c. 41, 422; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 200; 1979 c. 260 ss. 66 to 68, 93; 1979 c. 311, 355; 1983 a. 183; 1983 a. 484 s. 172 (3); 1983 a. 538; 1985 a. 304; 1987 a. 391; 1989 a. 182; 1993 a. 213; 1997 a. 27; 1999 a. 49, 182; 2001 a. 16; 2003 a. 265, 321; 2005 a. 149, 451; 2007 a. 1, 96; 2011 a. 75, 115; 2015 a. 36, 117; 2015 a. 118 ss. 107 to 119, 266 (10); 2015 a. 261; 2017 a. 120, 366.

Cross-reference: See also s. EL 6.04, Wis. adm. code.

3 **SECTION 17.** 10.02 (3) (b) of the statutes is amended to read:

4 10.02 (3) (b) 1. The elector shall ~~make a cross (X) next to or separately depress~~  
5 ~~the levers or buttons next to~~ select each candidate's name for whom he or she intends  
6 to vote; ~~or shall insert or write in the name of a candidate.~~

7 2. At a partisan primary, the elector shall select the party ballot of his or her  
8 choice and shall ~~make a cross (X) next to or depress the lever or button next to~~ then  
9 select the candidate's name for each office for whom the elector intends to vote, or  
10 shall ~~insert or write in the name of the elector's choice for a candidate.~~

11 3. When casting a presidential preference vote, the elector shall select the party  
12 ballot of his or her choice and ~~make a cross (X) next to or depress the button or lever~~  
13 ~~next to~~ shall then select the candidate's name for whom he or she intends to vote or  
14 shall, in the alternative, ~~make a cross (X) next to or depress the button or lever next~~  
15 ~~to the words~~ select "Uninstructed delegation"; or shall write in the name of his or her  
16 choice for a candidate.

17 4. At a nonpartisan primary, the elector shall ~~make a cross (X) next to or depress~~  
18 ~~the button or lever next to~~ select the candidate's name for each office for whom he or  
19 she intends to vote; or ~~insert or write in the name of his or her choice for a candidate.~~

History: 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1975 c. 85, 199; 1977 c. 107, 427, 447; 1979 c. 311; 1981 c. 377; 1983 a. 484 ss. 119, 172 (3); 1985 a. 304; 1989 a. 31; 1997 a. 250; 1999 a. 182; 2003 a. 265; 2005 a. 451; 2011 a. 23, 32; 2015 a. 118 s. 266 (10).

20 **SECTION 18.** 10.02 (3) (c) of the statutes is amended to read:

21 10.02 (3) (c) In presidential elections, the elector shall ~~make a cross (X) next~~  
22 ~~to or depress the button or lever next to~~ select the set of candidates for president and

1 vice president for whom he or she intends to vote. A vote for candidates for president  
2 and vice president is a vote for the presidential electors of those candidates.

History: 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1975 c. 85, 199; 1977 c. 107, 427, 447; 1979 c. 311; 1981 c. 377; 1983 a. 484 ss. 119, 172 (3); 1985 a. 304; 1989 a. 31; 1997 a. 250; 1999 a. 182; 2003 a. 265; 2005 a. 451; 2011 a. 23, 32; 2015 a. 118 s. 266 (10).

3 **SECTION 19.** 10.02 (3) (d) of the statutes is amended to read:

4 10.02 (3) (d) On referenda questions, the elector shall ~~make a cross (X) next to~~  
5 ~~or depress the button or lever next to~~ select the answer ~~which that~~ he or she intends  
6 to give.

History: 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1975 c. 85, 199; 1977 c. 107, 427, 447; 1979 c. 311; 1981 c. 377; 1983 a. 484 ss. 119, 172 (3); 1985 a. 304; 1989 a. 31; 1997 a. 250; 1999 a. 182; 2003 a. 265; 2005 a. 451; 2011 a. 23, 32; 2015 a. 118 s. 266 (10).

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

8 10.06 (3) (e) When ~~electronic or mechanical~~ voting machines or electronic  
9 voting systems in which ballots are distributed to electors are used in a municipality  
10 at a municipal election, the municipal clerk shall publish a type B notice on the  
11 Monday before the election. The notice shall include all offices and questions to be  
12 voted on at the election. The cost of this notice shall be shared under s. 5.68 (2) and  
13 (3).

History: 1973 c. 280; 1973 c. 334 s. 57; 1975 c. 275, 422; 1977 c. 107, 340, 427; 1979 c. 260, 311; 1983 a. 484; 1985 a. 304, 332; 1987 a. 391; 1989 a. 273; 1995 a. 16 s. 2; 1999 a. 182; 2001 a. 16, 109; 2003 a. 24; 2007 a. 1; 2011 a. 33, 45, 75; 2013 a. 165; 2015 a. 118 ss. 120, 266 (10).

14 **SECTION 21.** 12.13 (3) (j) of the statutes is amended to read:

15 12.13 (3) (j) When called upon to assist an elector who cannot read or write, has  
16 difficulty in reading, writing, or understanding English, or is unable to mark a ballot  
17 ~~or depress a lever or button on~~ use a voting machine, inform the elector that a ballot  
18 contains names or words different than are printed or displayed on the ballot with  
19 the intent of inducing the elector to vote contrary to his or her inclination,

**SECTION 21**

- 1 intentionally fail to cast a vote in accordance with the elector's instructions, or reveal
- 2 the elector's vote to any 3rd person.

**History:** 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 427, 447; 1979 c. 89, 249, 260, 311, 357; 1983 a. 183 s. 45; 1983 a. 192 s. 304; 1983 a. 484 ss. 135, 172 (3), 174; 1983 a. 491; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1991 a. 316; 1999 a. 49; 2001 a. 16; 2003 a. 265; 2005 a. 451; 2007 a. 1; 2011 a. 23; 2013 a. 159; 2015 a. 117; 2015 a. 118 ss. 130, 266 (10).

3

**(END)**

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0249/P1dn  
MPG:...

emw

—Date—

\* Chad Zuleger<sup>^</sup><sub>∇</sub>

This draft eliminates language in the statutes referencing mechanical voting machines and buttons and levers on voting machines. It includes items 6, 30, 38, and 40 from the June 20, 2017, Elections Commission memo. Please let me know if you have any questions. ✓

Thank you.

Michael Gallagher  
Senior Legislative Attorney  
(608) 504-5811  
michael.gallagher@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0249/P1dn  
MPG:emw

September 20, 2018

Chad Zuleger:

This draft eliminates language in the statutes referencing mechanical voting machines and buttons and levers on voting machines. It includes items 6, 30, 38, and 40 from the June 20, 2017, Elections Commission memo. Please let me know if you have any questions.

Thank you.

Michael Gallagher  
Senior Legislative Attorney  
(608) 504-5811  
michael.gallagher@legis.wisconsin.gov



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-0249/P1  
MPG:emw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1        **AN ACT to amend** 5.02 (24r), 5.40 (5), 5.62 (1) (a), 5.76, 5.77 (2), 5.90 (1), 5.91 (18),  
2            6.82 (2) (a), 6.82 (2) (b), 6.82 (3), 7.25 (1), 7.25 (2), 7.51 (6), 9.01 (1) (b) 6., 9.01  
3            (1) (b) 8., 9.01 (1) (b) 10., 10.02 (3) (b), 10.02 (3) (c), 10.02 (3) (d), 10.06 (3) (e) and  
4            12.13 (3) (j) of the statutes; **relating to:** statutory references to mechanical  
5            voting machines.

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***Analysis by the Legislative Reference Bureau***

This bill eliminates references in the statutes to mechanical voting machines, including references to buttons and levers on voting machines.

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

6            **SECTION 1.** 5.02 (24r) of the statutes is amended to read:  
7            5.02 (24r) "Voting machine" means a machine ~~which that~~ serves in lieu of a  
8            ~~paper ballot marked in a voting booth and which mechanically or that~~ electronically  
9            records the votes cast by electors, ~~who depress levers or buttons located next to the~~  
10           ~~choices listed on a ballot to cast their votes.~~

1           **SECTION 2.** 5.40 (5) of the statutes is amended to read:

2           5.40 (5) A municipality ~~which~~ that utilizes voting machines at a polling place  
3 shall not utilize the machines to receive the vote of an elector who declares to the chief  
4 inspector that, due to physical disability, the elector is unable to ~~depress a button or~~  
5 ~~lever on a~~ use the machine.

6           **SECTION 3.** 5.62 (1) (a) of the statutes is amended to read:

7           5.62 (1) (a) At the partisan primary, the following ballot shall be provided for  
8 the nomination of candidates of recognized political parties for national, state and  
9 county offices and independent candidates for state office in each ward, in the same  
10 form as prescribed by the commission under s. 7.08 (1) (a), except as authorized in  
11 s. 5.655. The ballots shall be made up of the several party tickets with each party  
12 entitled to participate in the primary under par. (b) or sub. (2) having its own ballot,  
13 except as authorized in s. 5.655. The ballots shall be secured together at the bottom.  
14 The party ballot of the party receiving the most votes for president or governor at the  
15 last general election shall be on top with the other parties arranged in descending  
16 order based on their vote for president or governor at the last general election. The  
17 ballots of parties qualifying under sub. (2) shall be placed after the parties qualifying  
18 under par. (b), in the same order in which the parties filed petitions with the  
19 commission. Any ballot required under par. (b) 2. shall be placed next in order. At  
20 polling places where voting machines are used, each party shall be represented in  
21 one or more separate columns or rows on the ballot. At polling places where an  
22 electronic voting system is used ~~other than an electronic~~ that does not employ a  
23 voting machine, each party may be represented in separate columns or rows on the  
24 ballot.

25           **SECTION 4.** 5.76 of the statutes is amended to read:



1           **5.76 Adoption, experimentation, or discontinuance of systems.** The  
2 governing body or board of election commissioners of any municipality may by  
3 ordinance or resolution adopt, experiment with, or discontinue any electronic voting  
4 system authorized by this subchapter and approved under s. 5.91 for use in this state,  
5 and may purchase or lease materials or equipment for such system to be used in all  
6 or some of the wards within its jurisdiction, either exclusively in combination with  
7 ~~mechanical~~ voting machines, or in combination with paper ballots where such ballots  
8 are authorized to be used.

9           **SECTION 5.** 5.77 (2) of the statutes is amended to read:

10           5.77 (2) So far as applicable, the procedure provided for voting with ~~mechanical~~  
11 voting machines applies when an electronic voting system employing the use of  
12 ~~electronic~~ voting machines is used.

13           **SECTION 6.** 5.90 (1) of the statutes is amended to read:

14           5.90 (1) Except as otherwise provided in this subchapter, recounts of votes cast  
15 on an electronic voting system shall be conducted in the manner prescribed in s. 9.01.  
16 Except as provided in this subsection, sub. (2), and s. 9.01 (1) (b) 8s., if the ballots are  
17 distributed to the electors, the board of canvassers shall recount the ballots with  
18 automatic tabulating equipment. The board of canvassers shall test the automatic  
19 tabulating equipment to be used prior to the recount as provided in s. 5.84, and then  
20 the official ballots or the record of the votes cast shall be recounted on the automatic  
21 tabulating equipment. In addition, the board of canvassers shall check the ballots  
22 for the presence or absence of the initials and other distinguishing marks, shall  
23 examine the ballots marked "Rejected", "Defective", "Overvoted", and "Objected to"  
24 to determine the propriety of such labels, and shall compare the "Duplicate  
25 Overvoted Ballots" and "Duplicate Damaged Ballots" with their respective originals

1 to determine the correctness of the duplicates. Unless a court orders a recount to be  
2 conducted by another method under sub. (2), the board of canvassers may determine  
3 to conduct the recount of a specific election by hand and may determine to conduct  
4 the recount by hand for only certain wards or election districts. If ~~electronic~~ voting  
5 machines are used, the board of canvassers shall perform the recount using the  
6 permanent paper record of the votes cast by each elector, as generated by the  
7 machines.

8 **SECTION 7.** 5.91 (18) of the statutes is amended to read:

9 5.91 (18) If the device consists of ~~an electronic~~ a voting machine, it generates  
10 a complete, permanent paper record showing all votes cast by each elector, that is  
11 verifiable by the elector, by either visual or nonvisual means as appropriate, before  
12 the elector leaves the voting area, and that enables a manual count or recount of each  
13 vote cast by the elector.

14 **SECTION 8.** 6.82 (2) (a) of the statutes is amended to read:

15 6.82 (2) (a) If an elector declares to the presiding election official that he or she  
16 cannot read or write, or has difficulty in reading, writing, or understanding English  
17 or that due to disability is unable to mark a ballot or ~~depress a button or lever on~~ use  
18 a voting machine, the elector shall be informed by the officials that he or she may  
19 have assistance. When assistance is requested, the elector may select any individual  
20 to assist in casting his or her vote. The selected individual rendering assistance may  
21 not be the elector's employer or an agent of that employer or an officer or agent of a  
22 labor organization ~~which~~ that represents the elector. The selected individual shall  
23 certify on the back of the ballot that it was marked with his or her assistance. Where  
24 voting machines are used, certification shall be made on the registration list.

25 **SECTION 9.** 6.82 (2) (b) of the statutes is amended to read:

1           6.82 (2) (b) The individual chosen shall enter the voting booth ~~or machine~~ with  
2 the elector and shall read the names of all candidates on the ballot for each office, and  
3 ask, "For which one do you vote?". The ballot shall be marked ~~or the lever or button~~  
4 ~~depressed~~ according to the elector's expressed preference. The individual selected  
5 to assist may not disclose to anyone how the elector voted.

6           **SECTION 10.** 6.82 (3) of the statutes is amended to read:

7           6.82 (3) USE OF PAPER BALLOTS. Whenever, in a municipality in which voting  
8 machines are used, an elector declares to the chief inspector that, due to physical  
9 disability, the elector is unable to ~~depress a button or lever on~~ use a voting machine,  
10 the inspectors shall permit the elector to vote using a paper ballot and voting booth.

11           **SECTION 11.** 7.25 (1) of the statutes is amended to read:

12           7.25 (1) The municipal clerk of each municipality in which voting machines are  
13 used is responsible for the proper ballot ~~being placed~~ appearing on each machine, the  
14 sample ballots, ~~setting, adjusting,~~ and putting the machine in order to use in voting  
15 when delivered to the ward. For the purpose of ~~labeling, setting, adjusting and~~  
16 putting the voting machines in order, one or more competent voting machine  
17 custodians may be employed.

18           **SECTION 12.** 7.25 (2) of the statutes is amended to read:

19           7.25 (2) Under the direction of the municipal clerk, the custodian shall ~~label~~  
20 ~~or insert, set, adjust,~~ put in order and deliver the machines with all necessary  
21 furniture and appliances to the rooms where the election will be held for each ward  
22 at least one hour before the time set for opening the polls on election day.

\*\*\*\*NOTE: Let me know if you would like to affect any other language in s. 7.25.  
Specifically, you may consider affecting the reference to voting machines being sealed and  
locked with keys in s. 7.25 (4) or the references to seals and counters on voting machines  
in s. 7.25 (6) (b) and (c). I don't know whether some or all of this language is outdated.  
MPG

1           **SECTION 13.** 7.51 (6) of the statutes is amended to read:

2           7.51 (6) **ELECTRONIC VOTING SYSTEMS.** The procedure for canvassing of votes cast  
3 at polling places utilizing an electronic voting system in which ballots are distributed  
4 to electors shall follow the procedure for canvassing paper ballots insofar as  
5 applicable, and the procedure for canvassing of votes cast at polling places utilizing  
6 an electronic voting system employing voting machine machines shall follow the  
7 procedure for canvassing of ~~mechanical~~ voting machines insofar as applicable,  
8 except as otherwise provided in ss. 5.85 to 5.89.

9           **SECTION 14.** 9.01 (1) (b) 6. of the statutes is amended to read:

10          9.01 (1) (b) 6. In recounting the votes cast on a voting machine in which the  
11 record of the votes cast is contained in the machine, the board of canvassers shall  
12 make a record of the number of the seal, if any, the number of the protective counter  
13 or other device, if one is provided, and shall open the recording compartment of the  
14 machine, and without unlocking the machine against voting, shall recount the votes  
15 thereon. If the machine is ~~an electronic voting machine utilizing~~ utilizes a  
16 detachable record of votes cast, the record shall be retabulated under s. 5.90.

17          **SECTION 15.** 9.01 (1) (b) 8. of the statutes is amended to read:

18          9.01 (1) (b) 8. If upon the recount it is found that the original canvass of the  
19 returns has been correctly made from a voting machine and that a discrepancy still  
20 remains unaccounted for, the board of canvassers shall publicly ~~unlock the voting~~  
21 ~~and counting mechanism of the machine, and shall proceed to examine and test the~~  
22 machine to determine the cause of the discrepancy in returns from the machine. ~~A~~  
23 ~~similar test shall be performed for electronic voting machines and~~ to ascertain  
24 whether there is any malfunction in the machine. After the completion of the  
25 examination and test, the board of canvassers shall prepare a statement giving the

1 results of the examination and test. The statement shall be witnessed by at least one  
2 witness.

\*\*\*\*NOTE: Let me know if you want to affect any other language in this provision  
that seems to reference mechanical voting machines. See also the note under s. 7.25 (2).  
MPG

3 **SECTION 16.** 9.01 (1) (b) 10. of the statutes is amended to read:

4 9.01 (1) (b) 10. Recounts at polling places utilizing an electronic voting system  
5 in which ballots are distributed to electors shall be performed in accordance with the  
6 procedure for recounting paper ballots insofar as applicable, except as provided in  
7 s. 5.90. Recounts at polling places utilizing ~~electronic~~ an electronic voting system  
8 employing voting machines shall be performed in accordance with the procedure for  
9 recounting votes cast on ~~mechanical~~ voting machines, insofar as applicable, except  
10 as provided in s. 5.90.

11 **SECTION 17.** 10.02 (3) (b) of the statutes is amended to read:

12 10.02 (3) (b) 1. The elector shall ~~make a cross (X) next to or separately depress~~  
13 ~~the levers or buttons next to~~ select each candidate's name for whom he or she intends  
14 to vote, or shall ~~insert or~~ write in the name of a candidate.

15 2. At a partisan primary, the elector shall select the party ballot of his or her  
16 choice and shall ~~make a cross (X) next to or depress the lever or button next to~~ then  
17 select the candidate's name for each office for whom the elector intends to vote, or  
18 shall ~~insert or~~ write in the name of the elector's choice for a candidate.

19 3. When casting a presidential preference vote, the elector shall select the party  
20 ballot of his or her choice and ~~make a cross (X) next to or depress the button or lever~~  
21 ~~next to~~ shall then select the candidate's name for whom he or she intends to vote or  
22 shall, in the alternative, ~~make a cross (X) next to or depress the button or lever next~~

1 to the words select "Uninstructed delegation"; or shall write in the name of his or her  
2 choice for a candidate.

3 4. At a nonpartisan primary, the elector shall ~~make a cross (X) next to or depress~~  
4 ~~the button or lever next to~~ select the candidate's name for each office for whom he or  
5 she intends to vote, or ~~insert or~~ write in the name of his or her choice for a candidate.

6 **SECTION 18.** 10.02 (3) (c) of the statutes is amended to read:

7 10.02 (3) (c) In presidential elections, the elector shall ~~make a cross (X) next~~  
8 ~~to or depress the button or lever next to~~ select the set of candidates for president and  
9 vice president for whom he or she intends to vote. A vote for candidates for president  
10 and vice president is a vote for the presidential electors of those candidates.

11 **SECTION 19.** 10.02 (3) (d) of the statutes is amended to read:

12 10.02 (3) (d) On referenda questions, the elector shall ~~make a cross (X) next to~~  
13 ~~or depress the button or lever next to~~ select the answer which ~~that~~ he or she intends  
14 to give.

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

16 10.06 (3) (e) When ~~electronic or mechanical~~ voting machines or electronic  
17 voting systems in which ballots are distributed to electors are used in a municipality  
18 at a municipal election, the municipal clerk shall publish a type B notice on the  
19 Monday before the election. The notice shall include all offices and questions to be  
20 voted on at the election. The cost of this notice shall be shared under s. 5.68 (2) and  
21 (3).

22 **SECTION 21.** 12.13 (3) (j) of the statutes is amended to read:

23 12.13 (3) (j) When called upon to assist an elector who cannot read or write, has  
24 difficulty in reading, writing, or understanding English, or is unable to mark a ballot  
25 or ~~depress a lever or button on~~ use a voting machine, inform the elector that a ballot

1 contains names or words different than are printed or displayed on the ballot with  
2 the intent of inducing the elector to vote contrary to his or her inclination,  
3 intentionally fail to cast a vote in accordance with the elector's instructions, or reveal  
4 the elector's vote to any 3rd person.

5

(END)