



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0132/P2
MPG&JK:cdc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT ,
TO SENATE BILL (LRB-2970/2)

193

1 **AN ACT to amend** 5.84 (1), 5.86 (1), 6.15 (4) (b), 6.86 (1) (b), 6.87 (6), 6.88 (1), 6.88
2 (3) (a), 7.41 (1) and 7.52 (1) (a); and **to create** 7.52 (10) and 7.525 of the statutes;
3 **relating to:** early canvassing of absentee ballots and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, absentee ballots may not be canvassed until election day. This bill authorizes a municipality to adopt an ordinance providing for the canvassing of absentee ballots on the day before an election, subject to the following requirements:

1. The municipality must use automatic tabulating equipment to process absentee ballots.

2. Prior to enacting an ordinance under the bill, the municipal clerk or municipal board of election commissioners must notify the Elections Commission in writing of the proposed enactment and must consult with the Elections Commission concerning administration of early canvassing of absentee ballots. The ordinance may not take effect without the approval of the Elections Commission.

3. Early canvassing of absentee ballots under the bill may be conducted only at the polling place where voting will occur on election day or at a designated central counting location. Ballots may not be tallied until after polls close on election day.

4. When not in use, automatic tabulating equipment used for canvassing absentee ballots and the areas where the programmed media and the absentee ballots are housed must be secured with tamper-evident security seals in a double-lock location such as a locked cabinet inside a locked office.

5. Subject to criminal penalty, no person may act in any manner that would give him or her the ability to know or to provide information on the accumulating or final results from the ballots canvassed early under the bill before the close of the polls on election day.

6. Certain notices must be provided before each election at which the municipality intends to canvass absentee ballots on the ~~Monday~~ ^{day} before election day. ^{the}

Under the bill, if a municipality passes an ordinance authorizing the early canvassing of absentee ballots, the municipal clerk or municipal board of election commissioners may elect to canvass ballots early for any particular election, except as otherwise provided in the ordinance.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

1 **SECTION 1.** 5.84 (1) of the statutes is amended to read:

2 5.84 (1) Where any municipality employs an electronic voting system which

3 utilizes automatic tabulating equipment, ~~either at the polling place or at a central~~

4 ~~counting location,~~ the municipal clerk shall, on any day not more than 10 days prior

5 to the ~~election~~ day on which the equipment is to be utilized in an election, have the

6 equipment tested to ascertain that it will correctly count the votes cast for all offices

7 and on all measures. Public notice of the time and place of the test shall be given by

8 the clerk at least 48 hours prior to the test by publication of a class 1 notice under

9 ch. 985 in one or more newspapers published within the municipality if a newspaper

10 is published therein, otherwise in a newspaper of general circulation therein. The

11 test shall be open to the public. The test shall be conducted by processing a

12 preaudited group of ballots so marked as to record a predetermined number of valid

13 votes for each candidate and on each referendum. The test shall include for each

1 office one or more ballots which have votes in excess of the number allowed by law
2 and, for a partisan primary election, one or more ballots which have votes cast for
3 candidates of more than one recognized political party, in order to test the ability of
4 the automatic tabulating equipment to reject such votes. If any error is detected, the
5 municipal clerk shall ascertain the cause and correct the error. The clerk shall make
6 an errorless count before the automatic tabulating equipment is approved by the
7 clerk for use in the election.

8 **SECTION 2.** 5.86 (1) of the statutes is amended to read:

9 5.86 (1) All proceedings at each central counting location shall be under the
10 direction of the municipal clerk or an election official designated by the clerk unless
11 the central counting location is at the county seat ~~and the municipal clerk delegates~~
12 ~~the responsibility to supervise the location to the county clerk~~, in which case the
13 proceedings shall be under the direction of the county clerk or an election official
14 designated by the county clerk. If for any municipality the central counting location
15 is at the county seat and the municipality authorizes or elects the early canvassing
16 of absentee ballots under s. 7.525, the county clerk or the county clerk's designee
17 shall begin the proceedings for that municipality on the day before the election
18 consistent with that section. Unless election officials are selected under s. 7.30 (4)
19 (c) without regard to party affiliation, the employees at each central counting
20 location, other than any specially trained technicians who are required for the
21 operation of the automatic tabulating equipment, shall be equally divided between
22 members of the 2 major political parties under s. 7.30 (2) (a) and all duties performed
23 by the employees shall be by teams consisting of an equal number of members of each
24 political party whenever sufficient persons from each party are available.

25 **SECTION 3.** 6.15 (4) (b) of the statutes is amended to read:

1 6.15 (4) (b) During polling hours, or between 7 a.m. and 8 p.m. on the day before
2 the election if authorized or elected for that election under s. 7.525, the inspectors
3 shall open each carrier envelope, announce the elector's name, check the affidavit for
4 proper execution, and check the voting qualifications for the ward, if any. In
5 municipalities where absentee ballots are canvassed under s. 7.52, the municipal
6 board of absentee ballot canvassers shall perform this function at a meeting of the
7 board of absentee ballot canvassers.

8 **SECTION 4.** 6.86 (1) (b) of the statutes is amended to read:

9 6.86 (1) (b) Except as provided in this section, if application is made by mail,
10 the application shall be received no later than 5 p.m. on the 5th day immediately
11 preceding the election. If application is made in person, the application shall be
12 made no earlier than 14 days preceding the election and no later than the Sunday
13 preceding the election. No application may be received on a legal holiday. A
14 municipality shall specify the hours in the notice under s. 10.01 (2) (e). The
15 municipal clerk or an election official shall witness the certificate for any in-person
16 absentee ballot cast. Except as provided in par. (c), if the elector is making written
17 application for an absentee ballot at the partisan primary, the general election, the
18 presidential preference primary, or a special election for national office, and the
19 application indicates that the elector is a military elector, as defined in s. 6.34 (1), the
20 application shall be received by the municipal clerk no later than 5 p.m. on election
21 day. If the application indicates that the reason for requesting an absentee ballot is
22 that the elector is a sequestered juror, the application shall be received no later than
23 5 p.m. on election day. If the application is received after 5 p.m. on the Friday
24 immediately preceding the election, the municipal clerk or the clerk's agent shall
25 immediately take the ballot to the court in which the elector is serving as a juror and

1 deposit it with the judge. The judge shall recess court, as soon as convenient, and
2 give the elector the ballot. The judge shall then witness the voting procedure as
3 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
4 shall deliver it to the polling place election inspectors of the proper ward or election
5 district or, in municipalities where absentee ballots are canvassed under s. 7.52, to
6 the municipal clerk as required in s. 6.88. If application is made under sub. (2) or
7 (2m), the application may be received no later than 5 p.m. on the Friday immediately
8 preceding the election.

9 **SECTION 5.** 6.87 (6) of the statutes is amended to read:

10 6.87 (6) The ballot shall be returned so it is delivered to the polling place
11 election inspectors of the proper ward or election district no later than 8 p.m. on
12 election day. Except in municipalities where absentee ballots are canvassed under
13 s. 7.52, if the municipal clerk receives an absentee ballot on election day, the clerk
14 shall secure the ballot and cause the ballot to be delivered to the polling place serving
15 the elector's residence before 8 p.m. Any ballot not mailed or delivered as provided
16 in this subsection may not be counted.

17 **SECTION 6.** 6.88 (1) of the statutes is amended to read:

18 6.88 (1) When an absentee ballot arrives at the office of the municipal clerk,
19 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,
20 unopened, in a carrier envelope which shall be securely sealed and endorsed with the
21 name and official title of the clerk, and the words "This envelope contains the ballot
22 of an absent elector and must be opened in the same room where votes are being cast
23 at the polls during polling hours on election day or, in municipalities where absentee
24 ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of
25 absentee ballot canvassers under s. 7.52, stats only as provided by law." If the elector

1 is a military elector, as defined in s. 6.34 (1), or an overseas elector, regardless of
2 whether the elector qualifies as a resident of this state under s. 6.10, and the ballot
3 was received by the elector by facsimile transmission or electronic mail and is
4 accompanied by a separate certificate, the clerk shall enclose the ballot in a
5 certificate envelope and securely append the completed certificate to the outside of
6 the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep
7 the ballot in the clerk's office or at the alternate site, if applicable until delivered, as
8 required in sub. (2).

9 **SECTION 7.** 6.88 (3) (a) of the statutes is amended to read:

10 6.88 (3) (a) Except in municipalities where absentee ballots are canvassed
11 under s. 7.52, at any time between the opening and closing of the polls on election day,
12 or between 7 a.m. and 8 p.m. on the day before the election if authorized or elected
13 for that election under s. 7.525, the inspectors shall, in the same room where votes
14 are being cast, or in the same room where votes will be cast on election day if absentee
15 ballots begin being canvassed early under s. 7.525, in such a manner that members
16 of the public can hear and see the procedures, open the carrier envelope only, and
17 announce the name of the absent elector or the identification serial number of the
18 absent elector if the elector has a confidential listing under s. 6.47 (2). When the
19 inspectors find that the certification has been properly executed, the applicant is a
20 qualified elector of the ward or election district, and the applicant has not voted in
21 the election, they shall enter an indication on the poll list next to the applicant's name
22 indicating an absentee ballot is cast by the elector. They shall then open the envelope
23 containing the ballot in a manner so as not to deface or destroy the certification
24 thereon. The inspectors shall take out the ballot without unfolding it or permitting
25 it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the inspectors

1 shall verify that the ballot has been endorsed by the issuing clerk. If the poll list
2 indicates that proof of residence under s. 6.34 is required and proof of residence is
3 enclosed, the inspectors shall enter both the type of identifying document submitted
4 by the absent elector and the name of the entity or institution that issued the
5 identifying document on the poll list in the space provided. If the poll list indicates
6 that proof of residence under s. 6.34 is required and no proof of residence is enclosed
7 or the name or address on the document that is provided is not the same as the name
8 and address shown on the poll list, the inspectors shall proceed as provided under
9 s. 6.97 (2). The inspectors shall then deposit the ballot into the proper ballot box and
10 enter the absent elector's name or voting number after his or her name on the poll
11 list in the same manner as if the elector had been present and voted in person.

12 **SECTION 8.** 7.41 (1) of the statutes is amended to read:

13 7.41 (1) Any member of the public may be present at any polling place,
14 including on the day before an election if absentee ballots begin being canvassed
15 early at that polling place under s. 7.525, in the office of any municipal clerk whose
16 office is located in a public building on any day that absentee ballots may be cast in
17 that office, or at an alternate site under s. 6.855 on any day that absentee ballots may
18 be cast at that site for the purpose of observation of an election and the absentee
19 ballot voting process, except a candidate whose name appears on the ballot at the
20 polling place or on an absentee ballot to be cast at the clerk's office or alternate site
21 at that election. The chief inspector or municipal clerk may reasonably limit the
22 number of persons representing the same organization who are permitted to observe
23 under this subsection at the same time. Each person permitted to observe under this
24 subsection shall print his or her name in and sign and date a log maintained by the
25 chief inspector or municipal clerk for that polling place, office, or alternate site.

1 **SECTION 9.** 7.52 (1) (a) of the statutes is amended to read:

2 7.52 (1) (a) The governing body of any municipality may provide by ordinance
3 that, in lieu of canvassing absentee ballots at polling places under s. 6.88, the
4 municipal board of absentee ballot canvassers designated under s. 7.53 (2m) shall,
5 at each election held in the municipality, canvass all absentee ballots received by the
6 municipal clerk by 8 p.m. on election day. Prior to enacting an ordinance under this
7 subsection, the municipal clerk or board of election commissioners of the
8 municipality shall notify the elections commission in writing of the proposed
9 enactment and shall consult with the elections commission concerning
10 administration of this section. At every election held in the municipality following
11 enactment of an ordinance under this subsection, the board of absentee ballot
12 canvassers shall, any time after the opening of the polls, or between 7 a.m. and 8 p.m.
13 on the day before the election if authorized or elected for that election under s. 7.525,
14 and before 10 p.m. on election day, publicly convene to count the absentee ballots for
15 the municipality. The municipal clerk shall give at least 48 hours' notice of any
16 meeting under this subsection. Any member of the public has the same right of
17 access to a meeting of the municipal board of absentee ballot canvassers under this
18 subsection that the individual would have under s. 7.41 to observe the proceedings
19 at a polling place. The board of absentee ballot canvassers may order the removal
20 of any individual exercising the right to observe the proceedings if the individual
21 disrupts the meeting.

22 **SECTION 10.** 7.52 (10) of the statutes is created to read:

23 7.52 (10) If, subject to s. 7.525, absentee ballots begin being canvassed under
24 this section on the day before the election, no action under subs. (4) to (8) may be
25 performed before election day.

1 **SECTION 11.** 7.525 of the statutes is created to read:

2 **7.525 Early canvassing of absentee ballots. (1) ORDINANCE AUTHORIZING**
3 EARLY CANVASSING; REQUIREMENTS. (a) 1. The governing body of any municipality that
4 uses automatic tabulating equipment to process absentee ballots may provide by
5 ordinance that absentee ballots received by the municipal clerk may begin being
6 canvassed on the day before the election. Unless the ordinance provides otherwise,
7 the municipal clerk or municipal board of election commissioners may elect to begin
8 canvassing ballots early under this section in any election.

9 2. Prior to enacting an ordinance under subd. 1., the municipal clerk or
10 municipal board of election commissioners shall notify the elections commission
11 writing of the proposed enactment and shall consult with the elections commission
12 concerning administration of this section. No ordinance under subd. 1. may take
13 effect unless approved by the elections commission.

14 (b) Ballots may be canvassed early under this section only between 7 a.m. and
15 8 p.m. on the day before the election and only at the polling place where votes will
16 be cast on election day or at the designated central counting location to be used to
17 count ballots under s. 7.51 (1). Ballots canvassed early under this section may not
18 be tallied until after the polls close on election day.

19 (c) When not in use, automatic tabulating equipment used for purposes of this
20 section and the areas where the programmed media memory devices and ballots are
21 housed shall be secured with tamper-evident security seals in a double-lock location
22 such as a locked cabinet inside a locked office.

23 (d) No person may act in any manner that would give him or her the ability to
24 know or to provide information on the accumulating or final results from the ballots

1 canvassed early under this section before the close of the polls on election day. A
2 person who violates this paragraph is guilty of a Class I felony.

3 (2) NOTICE REQUIREMENTS. Absentee ballots may not begin being canvassed
4 early under this section for any election unless all of the following apply:

5 (a) At least 70 days before the election the municipal clerk or executive director
6 of the municipal board of election commissioners notifies in writing the county clerk
7 or executive director of the county board of election commissioners that early
8 canvassing of absentee ballots will take place in the election.

9 (b) The notice under s. 10.01 (2) (e) specifies the date and time during which,
10 and each location where, the early canvassing of absentee ballots will be conducted.

11 **SECTION 12. Initial applicability.**

12 (1) This act first applies to the August 11, 2020, primary election.

13 (END)



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Insert

1/14

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Under current law, absentee ballots may not be canvassed until election day. This bill authorizes a municipality to adopt an ordinance providing for the canvassing of absentee ballots on the day before an election, subject to the following requirements:

1. The municipality must use automatic tabulating equipment to process absentee ballots.
2. Prior to enacting an ordinance under the bill, the municipal clerk or municipal board of election commissioners must notify the Elections Commission in writing of the proposed enactment and must consult with the Elections Commission concerning administration of early canvassing of absentee ballots. The ordinance may not take effect without the approval of the Elections Commission.
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b
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4. When not in use, automatic tabulating equipment used for canvassing absentee ballots and the areas where the programmed media and the absentee ballots are housed must be secured with tamper-evident security seals in a double-lock location such as a locked cabinet inside a locked office.

5. Subject to criminal penalty, no person may act in any manner that would give him or her the ability to know or to provide information on the accumulating or final results from the ballots canvassed early under the bill before the close of the polls on election day.

6. Certain notices must be provided before each election at which the municipality intends to canvass absentee ballots on the day before the election.

Under the bill, if a municipality passes an ordinance authorizing the early canvassing of absentee ballots, the municipal clerk or municipal board of election commissioners may elect to canvass ballots early for any particular election, except as otherwise provided in the ordinance.

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

SECTION 1. 5.84 (1) of the statutes is amended to read:

5.84 (1) Where any municipality employs an electronic voting system which utilizes automatic tabulating equipment, ~~either at the polling place or at a central counting location,~~ the municipal clerk shall, on any day not more than 10 days prior to the ~~election~~ day on which the equipment is to be utilized in an election, have the equipment tested to ascertain that it will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given by the clerk at least 48 hours prior to the test by publication of a class 1 notice under ch. 985 in one or more newspapers published within the municipality if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be open to the public. The test shall be conducted by processing a preaudited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each referendum. The test shall include for each

1 office one or more ballots which have votes in excess of the number allowed by law
2 and, for a partisan primary election, one or more ballots which have votes cast for
3 candidates of more than one recognized political party, in order to test the ability of
4 the automatic tabulating equipment to reject such votes. If any error is detected, the
5 municipal clerk shall ascertain the cause and correct the error. The clerk shall make
6 an errorless count before the automatic tabulating equipment is approved by the
7 clerk for use in the election.

8 **SECTION 2.** 5.86 (1) of the statutes is amended to read:

9 5.86 (1) All proceedings at each central counting location shall be under the
10 direction of the municipal clerk or an election official designated by the clerk unless
11 the central counting location is at the county seat ~~and the municipal clerk delegates~~
12 ~~the responsibility to supervise the location to the county clerk~~, in which case the
13 proceedings shall be under the direction of the county clerk or an election official
14 designated by the county clerk. If for any municipality the central counting location
15 is at the county seat and the municipality authorizes or elects the early canvassing
16 of absentee ballots under s. 7.525, the county clerk or the county clerk's designee
17 shall begin the proceedings for that municipality on the day before the election
18 consistent with that section. Unless election officials are selected under s. 7.30 (4)
19 (c) without regard to party affiliation, the employees at each central counting
20 location, other than any specially trained technicians who are required for the
21 operation of the automatic tabulating equipment, shall be equally divided between
22 members of the 2 major political parties under s. 7.30 (2) (a) and all duties performed
23 by the employees shall be by teams consisting of an equal number of members of each
24 political party whenever sufficient persons from each party are available.

25 **SECTION 3.** 6.15 (4) (b) of the statutes is amended to read:

1 6.15 (4) (b) During polling hours, or between 7 a.m. and 8 p.m. on the day before
2 the election if authorized or elected for that election under s. 7.525, the inspectors
3 shall open each carrier envelope, announce the elector's name, check the affidavit for
4 proper execution, and check the voting qualifications for the ward, if any. In
5 municipalities where absentee ballots are canvassed under s. 7.52, the municipal
6 board of absentee ballot canvassers shall perform this function at a meeting of the
7 board of absentee ballot canvassers.

8 **SECTION 4.** 6.86 (1) (b) of the statutes is amended to read:

9 6.86 (1) (b) Except as provided in this section, if application is made by mail,
10 the application shall be received no later than 5 p.m. on the 5th day immediately
11 preceding the election. If application is made in person, the application shall be
12 made no earlier than 14 days preceding the election and no later than the Sunday
13 preceding the election. No application may be received on a legal holiday. A
14 municipality shall specify the hours in the notice under s. 10.01 (2) (e). The
15 municipal clerk or an election official shall witness the certificate for any in-person
16 absentee ballot cast. Except as provided in par. (c), if the elector is making written
17 application for an absentee ballot at the partisan primary, the general election, the
18 presidential preference primary, or a special election for national office, and the
19 application indicates that the elector is a military elector, as defined in s. 6.34 (1), the
20 application shall be received by the municipal clerk no later than 5 p.m. on election
21 day. If the application indicates that the reason for requesting an absentee ballot is
22 that the elector is a sequestered juror, the application shall be received no later than
23 5 p.m. on election day. If the application is received after 5 p.m. on the Friday
24 immediately preceding the election, the municipal clerk or the clerk's agent shall
25 immediately take the ballot to the court in which the elector is serving as a juror and

1 deposit it with the judge. The judge shall recess court, as soon as convenient, and
2 give the elector the ballot. The judge shall then witness the voting procedure as
3 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
4 shall deliver it to the ~~polling place~~ election inspectors of the proper ward or election
5 district or, in municipalities where absentee ballots are canvassed under s. 7.52, to
6 the municipal clerk as required in s. 6.88. If application is made under sub. (2) or
7 (2m), the application may be received no later than 5 p.m. on the Friday immediately
8 preceding the election.

9 **SECTION 5.** 6.87 (6) of the statutes is amended to read:

10 6.87 (6) The ballot shall be returned so it is delivered to the ~~polling place~~
11 election inspectors of the proper ward or election district no later than 8 p.m. on
12 election day. Except in municipalities where absentee ballots are canvassed under
13 s. 7.52, if the municipal clerk receives an absentee ballot on election day, the clerk
14 shall secure the ballot and cause the ballot to be delivered to the polling place serving
15 the elector's residence before 8 p.m. Any ballot not mailed or delivered as provided
16 in this subsection may not be counted.

17 **SECTION 6.** 6.88 (1) of the statutes is amended to read:

18 6.88 (1) When an absentee ballot arrives at the office of the municipal clerk,
19 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,
20 unopened, in a carrier envelope which shall be securely sealed and endorsed with the
21 name and official title of the clerk, and the words "This envelope contains the ballot
22 of an absent elector and must be opened ~~in the same room where votes are being cast~~
23 ~~at the polls during polling hours on election day or, in municipalities where absentee~~
24 ~~ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of~~
25 ~~absentee ballot canvassers under s. 7.52, stats~~ only as provided by law." If the elector

1 is a military elector, as defined in s. 6.34 (1), or an overseas elector, regardless of
2 whether the elector qualifies as a resident of this state under s. 6.10, and the ballot
3 was received by the elector by facsimile transmission or electronic mail and is
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5 certificate envelope and securely append the completed certificate to the outside of
6 the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep
7 the ballot in the clerk's office or at the alternate site, if applicable until delivered, as
8 required in sub. (2).

9 **SECTION 7.** 6.88 (3) (a) of the statutes is amended to read:

10 6.88 (3) (a) Except in municipalities where absentee ballots are canvassed
11 under s. 7.52, at any time between the opening and closing of the polls on election day,
12 or between 7 a.m. and 8 p.m. on the day before the election if authorized or elected
13 for that election under s. 7.525, the inspectors shall, in the same room where votes
14 are being cast, or in the same room where votes will be cast on election day if absentee
15 ballots begin being canvassed early under s. 7.525, in such a manner that members
16 of the public can hear and see the procedures, open the carrier envelope only, and
17 announce the name of the absent elector or the identification serial number of the
18 absent elector if the elector has a confidential listing under s. 6.47 (2). When the
19 inspectors find that the certification has been properly executed, the applicant is a
20 qualified elector of the ward or election district, and the applicant has not voted in
21 the election, they shall enter an indication on the poll list next to the applicant's name
22 indicating an absentee ballot is cast by the elector. They shall then open the envelope
23 containing the ballot in a manner so as not to deface or destroy the certification
24 thereon. The inspectors shall take out the ballot without unfolding it or permitting
25 it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the inspectors

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1 shall verify that the ballot has been endorsed by the issuing clerk. If the poll list
 2 indicates that proof of residence under s. 6.34 is required and proof of residence is
 3 enclosed, the inspectors shall enter both the type of identifying document submitted
 4 by the absent elector and the name of the entity or institution that issued the
 5 identifying document on the poll list in the space provided. If the poll list indicates
 6 that proof of residence under s. 6.34 is required and no proof of residence is enclosed
 7 or the name or address on the document that is provided is not the same as the name
 8 and address shown on the poll list, the inspectors shall proceed as provided under
 9 s. 6.97 (2). The inspectors shall then deposit the ballot into the proper ballot box and
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 11 list in the same manner as if the elector had been present and voted in person.

Insert 7-11

12 **SECTION 8.** 7.41 (1) of the statutes is amended to read:

13 7.41 (1) Any member of the public may be present at any polling place,
 14 including on the day before an election if absentee ballots begin being canvassed
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 17 that office, or at an alternate site under s. 6.855 on any day that absentee ballots may
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 23 under this subsection at the same time. Each person permitted to observe under this
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 25 chief inspector or municipal clerk for that polling place, office, or alternate site.

1 **SECTION 9.** 7.52 (1) (a) of the statutes is amended to read:

2 7.52 (1) (a) The governing body of any municipality may provide by ordinance
3 that, in lieu of canvassing absentee ballots at polling places under s. 6.88, the
4 municipal board of absentee ballot canvassers designated under s. 7.53 (2m) shall,
5 at each election held in the municipality, canvass all absentee ballots received by the
6 municipal clerk by 8 p.m. on election day. Prior to enacting an ordinance under this
7 subsection, the municipal clerk or board of election commissioners of the
8 municipality shall notify the elections commission in writing of the proposed
9 enactment and shall consult with the elections commission concerning
10 administration of this section. At every election held in the municipality following
11 enactment of an ordinance under this subsection, the board of absentee ballot
12 canvassers shall, any time after the opening of the polls, or between 7 a.m. and 8 p.m.
13 on the day before the election if authorized or elected for that election under s. 7.525,
14 and before 10 p.m. on election day, publicly convene to count the absentee ballots for
15 the municipality. The municipal clerk shall give at least 48 hours' notice of any
16 meeting under this subsection. Any member of the public has the same right of
17 access to a meeting of the municipal board of absentee ballot canvassers under this
18 subsection that the individual would have under s. 7.41 to observe the proceedings
19 at a polling place. The board of absentee ballot canvassers may order the removal
20 of any individual exercising the right to observe the proceedings if the individual
21 disrupts the meeting.

22 **SECTION 10.** 7.52 (10) of the statutes is created to read:

23 7.52 (10) If, subject to s. 7.525, absentee ballots begin being canvassed under
24 this section on the day before the election, no action under subs. (4) to (8) may be
25 performed before election day.

1 SECTION 11. 7.525 of the statutes is created to read:

2 7.525 Early canvassing of absentee ballots. (1) ORDINANCE AUTHORIZING

3 EARLY CANVASSING; REQUIREMENTS. (a) 1. The governing body of any municipality that
4 uses automatic tabulating equipment to process absentee ballots may provide by
5 ordinance that absentee ballots received by the municipal clerk may begin being
6 canvassed on the day before the election. Unless the ordinance provides otherwise,
7 the municipal clerk or municipal board of election commissioners may elect to begin
8 canvassing ballots early under this section in any election.

9 2. Prior to enacting an ordinance under subd. 1., the municipal clerk or
10 municipal board of election commissioners shall notify the elections commission in
11 writing of the proposed enactment and shall consult with the elections commission
12 concerning administration of this section. No ordinance under subd. 1. may take
13 effect unless approved by the elections commission.

14 (b) Ballots may be canvassed early under this section only between 7 a.m. and
15 8 p.m. on the day before the election ~~and only at the polling place where votes will~~
16 ~~be cast on election day or at the designated central counting location to be used to~~
17 ~~count ballots under s. 7.51 (1). Ballots canvassed early under this section may not~~
18 be tallied until after the polls close on election day.

Insert 9-18

19 (c) When not in use, automatic tabulating equipment used for purposes of this
20 section and the areas where the programmed media, memory devices, and ballots are
21 housed shall be secured with tamper-evident security seals in a double-lock location
22 such as a locked cabinet inside a locked office.

23 (d) No person may act in any manner that would give him or her the ability to
24 know or to provide information on the accumulating or final results from the ballots

1 canvassed early under this section before the close of the polls on election day. A
2 person who violates this paragraph is guilty of a Class I felony.

3 (2) NOTICE REQUIREMENTS. Absentee ballots may not begin being canvassed
4 early under this section for any election unless all of the following apply:

5 (a) At least 70 days before the election the municipal clerk or executive director
6 of the municipal board of election commissioners notifies in writing the county clerk
7 or executive director of the county board of election commissioners that early
8 canvassing of absentee ballots will take place in the election.

9 (b) The notice under s. 10.01 (2) (e) specifies the date and time during which,
10 and each location where, the early canvassing of absentee ballots will be conducted.

11 **SECTION 12. Initial applicability.**

12 (1) This act first applies to the August 11, 2020, primary election.

13 (END)

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0132/p4ins
MPG:...

INSERT A-1

4. Members of the public must have the same right of access to a place where absentee ballots are being canvassed early as is provided under current law for canvassing absentee ballots on election day.

END INSERT A-1

INSERT 6-9

1 **SECTION 1.** 6.91 of the statutes is created to read:

2 **6.91 Place for challenging an elector.** The vote of any voter, including an
3 absent voter, may be challenged as provided under this subchapter at the polling
4 place, at the municipal clerk's office, at an in-person absentee voting location during
5 the period for making an in-person application for an absentee ballot under s. 6.86
6 (1) (b), at a location where the early canvassing of absentee ballots is being conducted
7 under s. 7.525, or at a central count location.

END INSERT 6-9

INSERT 9-18

8 (c) Any member of the public has the same right of access to a place where
9 absentee ballots are being canvassed early under this section that the individual
10 would have under s. 7.41 to observe the proceedings at a polling place.

END INSERT 9-18



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0132/P4
MPG&JK:cdc

no
change

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT ,
TO SENATE BILL (LRB-2970/2)

1 **AN ACT to amend** 5.84 (1), 5.86 (1), 6.15 (4) (b), 6.86 (1) (b), 6.87 (6), 6.88 (1), 6.88
2 (3) (a) and 7.52 (1) (a); and **to create** 6.91, 7.52 (10) and 7.525 of the statutes;
3 **relating to:** early canvassing of absentee ballots and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, absentee ballots may not be canvassed until election day. This bill authorizes a municipality to adopt an ordinance providing for the canvassing of absentee ballots on the day before an election, subject to the following requirements:

1. The municipality must use automatic tabulating equipment to process absentee ballots.

2. Prior to enacting an ordinance under the bill, the municipal clerk or municipal board of election commissioners must notify the Elections Commission in writing of the proposed enactment and must consult with the Elections Commission concerning administration of early canvassing of absentee ballots. The ordinance may not take effect without the approval of the Elections Commission.

3. Early canvassing of absentee ballots under the bill may be conducted only between 7 a.m. and 8 p.m. on the day before the election, and ballots may not be tallied until after polls close on election day.

