

**2019 DRAFTING REQUEST****Bill**

For: **Kathleen Bernier (608) 266-7511** Drafter: **mgallagh**  
 By: **Scott** Secondary Drafters:  
 Date: **1/17/2020** 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**

**Pre Topic:**

No specific pre topic given

**Topic:**

ERIC voter participation reports; Elections Commission investigations of violations of election laws

**Instructions:**

Require Elections Commission to investigate voter participation reports received under ERIC and refer potential violations for criminal investigation. Authorize Elections Commission to investigate potential election law violations based on its own motion regardless of whether a complaint has been filed.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 1/30/2020	swinder 1/31/2020			
/P1	mgallagh 2/4/2020	swinder 2/4/2020	dwalker 1/31/2020		State S&L
/P2	mgallagh 2/6/2020	swinder 2/6/2020	jmurphy 2/4/2020		State S&L
/1	mgallagh	swinder	lparisi		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	2/6/2020	2/6/2020	2/6/2020		S&L
/2		swinder 2/6/2020	lparisi 2/6/2020	dwalker 2/7/2020	State S&L

FE Sent For:

2  
at  
intro

<END>



State of Wisconsin  
2019 - 2020 LEGISLATURE

By Friday 1/31 (by Noon)

Thanks?

LRB-5389?  
MPG:...

skw

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

to by

PI

generate cutaway

1 AN ACT ...; relating to: complaints alleging election law violations and  
2 investigations of the Elections Commission based on information from the  
3 Electronic Registration Information Center and from municipal clerks  
4 indicating that Wisconsin registered voters may have voted more than once in  
5 the same election.

**Analysis by the Legislative Reference Bureau**

Under current law, the administrator of the Elections Commission is required to enter into a membership agreement with the Electronic Registration Information Center (ERIC) to assist the commission in maintaining Wisconsin's official voter registration list. The information ERIC provides to the commission includes information about voters registered in Wisconsin who may have voted more than once in the same election because the voter also voted in another state.

This bill requires the commission to obtain and examine on an annual basis information provided by ERIC indicating that individuals registered to vote in Wisconsin may have voted in another state in the same election. Under the bill, if, after examination of such information and other relevant information and documents, the commission determines based on criteria established by the commission that an elector has likely voted more than once in the same election, the commission must refer the matter to the appropriate district attorney or, in some circumstances, the attorney general. The bill includes a similar requirement with respect to information the commission receives from municipal clerks indicating that a voter may have voted more than once in Wisconsin in the same election.

and complaints filed with the Elections Commission alleging election law violations

Also, under current law, the commission may initiate an investigation of potential violations of Wisconsin's election laws only if a sworn complaint is filed with the commission alleging such a violation occurred. Current law prohibits members of the commission, the commission administrator, and employees of the commission from filing a sworn complaint.

Under the bill, any member of the commission and the commission administrator or his or her designee may file a sworn complaint with the commission alleging election law violations.

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.** 5.05 (2m) (a) of the statutes is amended to read:

2           5.05 (2m) (a) The commission shall investigate violations of laws administered  
3 by the commission and may prosecute alleged civil violations of those laws, directly  
4 or through its agents under this subsection, pursuant to all statutes granting or  
5 assigning that authority or responsibility to the commission. Prosecution of alleged  
6 criminal violations investigated by the commission may be brought only as provided  
7 in par. (c) 11., 14., 15., and 16. and s. 978.05 (1). For purposes of this subsection,  
8 except as provided under par. (fg), the commission may only initiate an investigation  
9 of an alleged violation of chs. 5 to 10 and 12, other than an offense described under  
10 par. (c) 12., based on a sworn complaint filed with the commission, as provided under  
11 par. (c). ~~Neither the commission nor any~~ Any member or employee of the commission,  
12 ~~including or the commission administrator, or his or her designee~~ may file a sworn  
13 complaint for purposes of this subsection.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128; 2007 a. 20; 2009 a. 28, 180; 2011 a. 75; 2013 a. 20, 166; 2015 a. 2, 117; 2015 a. 118 ss. 3 to 54, 266 (10); 2015 a. 261; 2017 a. 365 s. 111; 2017 a. 366, 369.

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

14           **SECTION 2.** 5.05 (2m) (fg) of the statutes is created to read:

1           5.05 (2m) (fg) 1. At least annually, the commission shall obtain and examine  
2 information from the Electronic Registration Information Center, Inc., indicating  
3 that electors registered to vote in this state voted more than once in the same  
4 election.

5           2. If, after examination of the information under subd. 1. and other relevant  
6 information and documents, the commission determines based on criteria  
7 established by the commission that an elector has likely voted more than once in the  
8 same election, the commission shall refer the matter as provided in par. (c) 11.

9           3. If, after examination of information received under s. 6.56 (4) and other  
10 relevant information and documents, the commission determines that an elector has  
11 likely voted more than once in the same election, the commission shall refer the  
12 matter as provided in par. (c) 11.

13           4. Each county and municipal clerk and board of election commissioners shall  
14 cooperate fully with commission investigations under this paragraph.

15           **SECTION 3.** 6.56 (4) of the statutes is amended to read:

16           6.56 (4) After each election, the municipal clerk shall perform an audit to  
17 assure that no person has been allowed to vote more than once. Whenever the  
18 municipal clerk has good reason to believe that a person has voted more than once  
19 in an election, the clerk shall send the person a 1st class letter marked in accordance  
20 with postal regulations to ensure that it will be returned to the clerk if the elector  
21 does not reside at the address given on the letter. The letter shall inform the person  
22 that all registrations relating to that person may be changed from eligible to  
23 ineligible status within 7 days unless the person contacts the office of the clerk to  
24 clarify the matter. A copy of the letter and of any subsequent information received

1 from or about the addressee shall be sent to ~~the district attorney for the county where~~  
2 ~~the person resides and the commission for investigation under s. 5.05 (2m) (fg) 3.~~

**History:** 1975 c. 85, 199; 1977 c. 394; 1979 c. 260; 1983 a. 484; 1985 a. 304; 1989 a. 192; 2001 a. 51; 2003 a. 265; 2005 a. 451; 2007 a. 1; 2011 a. 23; 2015 a. 118 ss. 78, 266 (10).

\*\*\*\*NOTE: Should the duty under this provision be extended to a board of election commissioners? Currently, only municipal clerks are required to perform an audit after each election to assure that no person has voted more than once in the election. MPG

3

**(END)**



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Insect

172

1 **AN ACT to amend** 5.05 (2m) (a) and 6.56 (4); and **to create** 5.05 (2m) (fg) of the  
2 statutes; **relating to:** investigations by the Elections Commission based on  
3 information from the Electronic Registration Information Center and from  
4 municipal clerks indicating that Wisconsin registered voters may have voted  
5 more than once in the same election, and complaints filed with the Elections  
6 Commission alleging election law violations.

states each general election

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

Under current law, the administrator of the Elections Commission is required to enter into a membership agreement with the Electronic Registration Information Center (ERIC) to assist the commission in maintaining Wisconsin's official voter registration list. The information ERIC provides to the commission includes information about voters registered in Wisconsin who may have voted more than once in the same election because the voter also voted in another state.

This bill requires the commission to obtain and examine on an annual basis information provided by ERIC indicating that individuals registered to vote in Wisconsin may have voted in another state in the same election. Under the bill, if, after examination of such information and other relevant information and documents, the commission determines based on criteria established by the commission that an elector has likely voted more than once in the same election, the commission must refer the matter to the appropriate district attorney or, in some

circumstances, the attorney general. (The bill includes a similar requirement with respect to information the commission receives from municipal clerks indicating that a voter may have voted more than once in Wisconsin in the same election.

Also, under current law, the commission may initiate an investigation of potential violations of Wisconsin's election laws only if a sworn complaint is filed with the commission alleging such a violation occurred. Current law prohibits members of the commission, the commission administrator, and employees of the commission from filing a sworn complaint.

Under the bill, any member of the commission and the commission administrator or his or her designee may file a sworn complaint with the commission alleging election law violations.

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:*

**SECTION 1.** 5.05 (2m) (a) of the statutes is amended to read:

5.05 (2m) (a) The commission shall investigate violations of laws administered by the commission and may prosecute alleged civil violations of those laws, directly or through its agents under this subsection, pursuant to all statutes granting or assigning that authority or responsibility to the commission. Prosecution of alleged criminal violations investigated by the commission may be brought only as provided in par. (c) 11., 14., 15., and 16. and s. 978.05 (1). For purposes of this subsection, except as provided under par. (fg), the commission may only initiate an investigation of an alleged violation of chs. 5 to 10 and 12, other than an offense described under par. (c) 12., based on a sworn complaint filed with the commission, as provided under par. (c). ~~Neither the commission nor any~~ Any member or employee of the commission, ~~including or~~ the commission administrator, or his or her designee may file a sworn complaint for purposes of this subsection.

**SECTION 2.** 5.05 (2m) (fg) of the statutes is created to read:

Insert A  
Final



After each general election

1 5.05 (2m) (fg) 1. At least annually, the commission shall obtain and examine  
2 information from the Electronic Registration Information Center, Inc., indicating  
3 that electors registered to vote in this state voted more than once in the same  
4 election.

5 2. If, after examination of the information under subd. 1. and other relevant  
6 information and documents, the commission determines based on criteria  
7 established by the commission that an elector has likely voted more than once in the  
8 same election, the commission shall refer the matter as provided in par. (c) 11.

9 3. If, after examination of information received under s. 6.56 (4) and other  
10 relevant information and documents, the commission determines that an elector has  
11 likely voted more than once in the same election, the commission shall refer the  
12 matter as provided in par. (c) 11.

13 4. Each county and municipal clerk and board of election commissioners shall  
14 cooperate fully with commission investigations under this paragraph.

No later than 30 days after the general election

SECTION 3. 6.56 (4) of the statutes is amended to read:

16 6.56 (4) After each election, the municipal clerk shall perform an audit to  
17 assure that no person has been allowed to vote more than once. Whenever the  
18 municipal clerk has good reason to believe that a person has voted more than once  
19 in an election, the clerk shall send the person a 1st class letter marked in accordance  
20 with postal regulations to ensure that it will be returned to the clerk if the elector  
21 does not reside at the address given on the letter. The letter shall inform the person  
22 that all registrations relating to that person may be changed from eligible to  
23 ineligible status within 7 days unless the person contacts the office of the clerk to  
24 clarify the matter. A copy of the letter and of any subsequent information received

Insert 3-14/1

1 from or about the addressee shall be sent to the district attorney for the county where  
2 the person resides and the commission for investigation under s. 5.05 (2m) (fg) 3.

\*\*\*NOTE: Should the duty under this provision be extended to a board of election commissioners? Currently, only municipal clerks are required to perform an audit after each election to assure that no person has voted more than once in the election. MPG

3 (END)

INSERT A

Also, under current law, after each election a municipal clerk is required to perform an audit to assure that no person has been allowed to vote more than once. If a municipal clerk has good reason to believe that a person has voted more than once in an election, the municipal clerk is required to send the person a letter regarding the matter and send a copy of the letter and subsequent information to the local district attorney and the commission.

This bill applies those requirements to a municipal board of election commissioners and requires the Elections Commission to verify receipt by district attorneys of the required letters and information. For purposes of election administration, municipal clerks are responsible for municipal election functions except that, in cities having a population of more than 500,000 (the city of Milwaukee), election functions are delegated by law to a municipal board of election commissioners.

The bill includes additional reporting requirements relating to all of the commission's duties under the bill described above.

END INSERT A

INSERT 3-14

1           5. In each report it submits to the legislature under s. 7.15<sup>✓</sup> (1) (g), the  
2 commission shall include information relating to its duties under this paragraph,  
3 including the number of referrals made under subd. 2. and 3. and a general  
4 description of each referral and the outcome of the referral.

5           **SECTION 1.** 6.56<sup>✓</sup> (4) of the statutes is amended to read:

6           6.56<sup>✓</sup> (4) After each election, the municipal clerk or board of election  
7 commissioners shall perform an audit to assure that no person has been allowed to  
8 vote more than once. Whenever the municipal clerk or board of election  
9 commissioners has good reason to believe that a person has voted more than once in  
10 an election, the clerk or board of election commissioners shall send the person a 1st  
11 class letter marked in accordance with postal regulations to ensure that it will be  
12 returned to the clerk or board of election commissioners if the elector does not reside

1 at the address given on the letter. The letter shall inform the person that all  
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5 information received from or about the addressee shall be sent to the district attorney  
6 for the county where the person resides and the commission. The commission shall  
7 verify the district attorney's receipt of each letter and all subsequent information  
8 required to be sent to the district attorney under this subsection.

**History:** 1975 c. 85, 199; 1977 c. 394; 1979 c. 260; 1983 a. 484; 1985 a. 304; 1989 a. 192; 2001 a. 51; 2003 a. 265; 2005 a. 451; 2007 a. 1; 2011 a. 23; 2015 a. 118 ss. 78, 266 (10).

9 **SECTION 2.** 7.15 (1) (g) of the statutes is amended to read:

10 7.15 (1) (g) In the manner prescribed by the commission, report suspected  
11 election frauds, irregularities, or violations of which the clerk has knowledge to the  
12 district attorney for the county where the suspected activity occurs and to the  
13 commission. The commission shall annually report the information obtained under  
14 this paragraph to the legislature under s. 13.172 (2). The report shall include  
15 information relating to the duties of a municipal clerk or board of election  
16 commissioners under s. 6.56 (4), including the number of letters referring matters  
17 to district attorneys under s. 6.56 (4) and a general description of each referral and  
18 the outcome of the referral.

**History:** 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1975 c. 85 ss. 50, 65; 1975 c. 275, 422; 1977 c. 283; 1977 c. 394 s. 54; 1977 c. 427, 447; 1979 c. 260, 311; 1981 c. 391; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1991 a. 316; 1999 a. 182; 2001 a. 16; 2003 a. 265; 2005 a. 451; 2007 a. 1; 2011 a. 23, 45, 75, 115; 2013 a. 148; 2015 a. 118 ss. 88, 266 (10); 2015 a. 209, 229; 2017 a. 369.

END INSERT 3-14

19



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-5389/P2  
MPG:skw

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

11

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1 AN ACT *to amend* 5.05 (2m) (a), 6.56 (4) and 7.15 (1) (g); and *to create* 5.05 (2m)  
2 (fg) of the statutes; **relating to:** investigations by the Elections Commission  
3 based on information from the Electronic Registration Information Center and  
4 from municipal clerks indicating that Wisconsin registered voters may have  
5 voted more than once in the same election, and complaints filed with the  
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Under current law, the administrator of the Elections Commission is required to enter into a membership agreement with the Electronic Registration Information Center (ERIC) to assist the commission in maintaining Wisconsin's official voter registration list. The information ERIC provides to the commission includes information about voters registered in Wisconsin who may have voted more than once in the same election because the voter also voted in another state.

This bill requires the commission to obtain and examine after each general election information provided by ERIC indicating that individuals registered to vote in Wisconsin may have voted in another state in the same election. Under the bill, if, after examination of such information and other relevant information and documents, the commission determines based on criteria established by the commission that an elector has likely voted more than once in the same election, the commission must refer the matter to the appropriate district attorney or, in some circumstances, the attorney general.

Also, under current law, after each election a municipal clerk is required to perform an audit to assure that no person has been allowed to vote more than once. If a municipal clerk has good reason to believe that a person has voted more than once in an election, the municipal clerk is required to send the person a letter regarding the matter and send a copy of the letter and subsequent information to the local district attorney and the commission.

This bill applies those requirements to a municipal board of election commissioners and requires the Elections Commission to verify receipt by district attorneys of the required letters and information. For purposes of election administration, municipal clerks are responsible for municipal election functions except that, in cities having a population of more than 500,000 (the city of Milwaukee), election functions are delegated by law to a municipal board of election commissioners.

The bill <sup>also</sup> includes additional reporting requirements relating to all of the commission's duties under the bill described above.

Finally, under current law, the commission may initiate an investigation of potential violations of Wisconsin's election laws only if a sworn complaint is filed with the commission alleging such a violation occurred. Current law prohibits members of the commission, the commission administrator, and employees of the commission from filing a sworn complaint.

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- 6 criminal violations investigated by the commission may be brought only as provided
- 7 in par. (c) 11., 14., 15., and 16. and s. 978.05 (1). For purposes of this subsection,
- 8 except as provided under par. (fg), the commission may only initiate an investigation

1 of an alleged violation of chs. 5 to 10 and 12, other than an offense described under  
2 par. (c) 12., based on a sworn complaint filed with the commission, as provided under  
3 par. (c). ~~Neither the commission nor any~~ Any member or employee of the commission,  
4 including or the commission administrator, or his or her designee may file a sworn  
5 complaint for purposes of this subsection.

6 **SECTION 2.** 5.05 (2m) (fg) of the statutes is created to read:

7 5.05 (2m) (fg) 1. After each general election, the commission shall obtain and  
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10 same election.

11 2. If, after examination of the information under subd. 1. and other relevant  
12 information and documents, the commission determines based on criteria  
13 established by the commission that an elector has likely voted more than once in the  
14 same election, the commission shall refer the matter as provided in par. (c) 11. no  
15 later than ~~XX~~ days after the general election. 80

16 3. If, after examination of information received under s. 6.56 (4) and other  
17 relevant information and documents, the commission determines that an elector has  
18 likely voted more than once in the same election, the commission shall refer the  
19 matter as provided in par. (c) 11. no later than ~~XX~~ days after the general election. 80

20 4. Each county and municipal clerk and board of election commissioners shall  
21 cooperate fully with commission investigations under this paragraph.

22 5. In each report it submits to the legislature under s. 7.15 (1) (g), the  
23 commission shall include information relating to its duties under this paragraph,  
24 including the number of referrals made under subds. 2. and 3. and a general  
25 description of each referral and the outcome of the referral.

1           **SECTION 3.** 6.56 (4) of the statutes is amended to read:

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16 required to be sent to the district attorney under this subsection.

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18           7.15 (1) (g) In the manner prescribed by the commission, report suspected  
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20 district attorney for the county where the suspected activity occurs and to the  
21 commission. The commission shall annually report the information obtained under  
22 this paragraph to the legislature under s. 13.172 (2). The report shall include  
23 information relating to the duties of a municipal clerk or board of election  
24 commissioners under s. 6.56 (4), including the number of letters referring matters



1 to district attorneys under s. 6.56 (4) and a general description of each referral and  
2 the outcome of the referral.

3 (END)



now Shades!  
State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-5389/1  
MPG:skw

## 2019 BILL

12

1 AN ACT *to amend* 5.05 (2m) (a), 6.56 (4) and 7.15 (1) (g); and *to create* 5.05 (2m)  
2 (fg) of the statutes; **relating to:** investigations by the Elections Commission  
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**BILL**

Also, under current law, after each election a municipal clerk is required to perform an audit to assure that no person has been allowed to vote more than once. If a municipal clerk has good reason to believe that a person has voted more than once in an election, the municipal clerk is required to send the person a letter regarding the matter and send a copy of the letter and subsequent information to the local district attorney and the commission.

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5 assigning that authority or responsibility to the commission. Prosecution of alleged  
6 criminal violations investigated by the commission may be brought only as provided  
7 in par. (c) 11., 14., 15., and 16. and s. 978.05 (1). For purposes of this subsection,  
8 except as provided under par. (fg), the commission may only initiate an investigation

**BILL**

1 of an alleged violation of chs. 5 to 10 and 12, other than an offense described under  
2 par. (c) 12., based on a sworn complaint filed with the commission, as provided under  
3 par. (c). ~~Neither the commissioner nor any~~ Any member or employee of the commission,  
4 ~~including or the commission administrator, or his or her designee~~ may file a sworn  
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10 same election.

11 2. If, after examination of the information under subd. 1. and other relevant  
12 information and documents, the commission determines based on criteria  
13 established by the commission that an elector has likely voted more than once in the  
14 same election, the commission shall refer the matter as provided in par. (c) 11. no  
15 later than <sup>71</sup>80 days after the general election.

16 3. If, after examination of information received under s. 6.56 (4) and other  
17 relevant information and documents, the commission determines that an elector has  
18 likely voted more than once in the same election, the commission shall refer the  
19 matter as provided in par. (c) 11. no later than <sup>71</sup>80 days after the general election.

20 4. Each county and municipal clerk and board of election commissioners shall  
21 cooperate fully with commission investigations under this paragraph.

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24 including the number of referrals made under subds. 2. and 3. and a general  
25 description of each referral and the outcome of the referral.

Commission

Obtains the information under subd. 1.

**BILL****SECTION 3**

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4 vote more than once. Whenever the municipal clerk or board of election  
5 commissioners has good reason to believe that a person has voted more than once in  
6 an election, the clerk or board of election commissioners shall send the person a 1st  
7 class letter marked in accordance with postal regulations to ensure that it will be  
8 returned to the clerk or board of election commissioners if the elector does not reside  
9 at the address given on the letter. The letter shall inform the person that all  
10 registrations relating to that person may be changed from eligible to ineligible status  
11 within 7 days unless the person contacts the office of the clerk or board of election  
12 commissioners to clarify the matter. A copy of the letter and of any subsequent  
13 information received from or about the addressee shall be sent to the district attorney  
14 for the county where the person resides and the commission. The commission shall  
15 verify the district attorney's receipt of each letter and all subsequent information  
16 required to be sent to the district attorney under this subsection.

17           **SECTION 4.** 7.15 (1) (g) of the statutes is amended to read:

18           **7.15 (1) (g)** In the manner prescribed by the commission, report suspected  
19 election frauds, irregularities, or violations of which the clerk has knowledge to the  
20 district attorney for the county where the suspected activity occurs and to the  
21 commission. The commission shall annually report the information obtained under  
22 this paragraph to the legislature under s. 13.172 (2). The report shall include  
23 information relating to the duties of a municipal clerk or board of election  
24 commissioners under s. 6.56 (4), including the number of letters referring matters

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1 to district attorneys under s. 6.56 (4) and a general description of each referral and  
2 the outcome of the referral.

3 (END)



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-5389/2  
MPG:skw

**2019 BILL**

1     **AN ACT** *to amend* 5.05 (2m) (a), 6.56 (4) and 7.15 (1) (g); and *to create* 5.05 (2m)  
2           (fg) of the statutes; **relating to:** investigations by the Elections Commission  
3           based on information from the Electronic Registration Information Center and  
4           from municipal clerks indicating that Wisconsin registered voters may have  
5           voted more than once in the same election, and complaints filed with the  
6           Elections Commission alleging election law violations.

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

Under current law, the administrator of the Elections Commission is required to enter into a membership agreement with the Electronic Registration Information Center (ERIC) to assist the commission in maintaining Wisconsin's official voter registration list. The information ERIC provides to the commission includes information about voters registered in Wisconsin who may have voted more than once in the same election because the voter also voted in another state.

This bill requires the commission to obtain and examine after each general election information provided by ERIC indicating that individuals registered to vote in Wisconsin may have voted in another state in the same election. Under the bill, if, after examination of such information and other relevant information and documents, the commission determines based on criteria established by the commission that an elector has likely voted more than once in the same election, the commission must refer the matter to the appropriate district attorney or, in some circumstances, the attorney general.

**BILL**

Also, under current law, after each election a municipal clerk is required to perform an audit to assure that no person has been allowed to vote more than once. If a municipal clerk has good reason to believe that a person has voted more than once in an election, the municipal clerk is required to send the person a letter regarding the matter and send a copy of the letter and subsequent information to the local district attorney and the commission.

This bill applies those requirements to a municipal board of election commissioners and requires the Elections Commission to verify receipt by district attorneys of the required letters and information. For purposes of election administration, municipal clerks are responsible for municipal election functions except that, in cities having a population of more than 500,000 (the city of Milwaukee), election functions are delegated by law to a municipal board of election commissioners.

The bill also includes additional reporting requirements relating to all of the commission's duties under the bill described above.

Finally, under current law, the commission may initiate an investigation of potential violations of Wisconsin's election laws only if a sworn complaint is filed with the commission alleging such a violation occurred. Current law prohibits members of the commission, the commission administrator, and employees of the commission from filing a sworn complaint.

Under the bill, any member of the commission and the commission administrator or his or her designee may file a sworn complaint with the commission alleging election law violations.

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

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

1           **SECTION 1.** 5.05 (2m) (a) of the statutes is amended to read:  
2           5.05 (2m) (a) The commission shall investigate violations of laws administered  
3 by the commission and may prosecute alleged civil violations of those laws, directly  
4 or through its agents under this subsection, pursuant to all statutes granting or  
5 assigning that authority or responsibility to the commission. Prosecution of alleged  
6 criminal violations investigated by the commission may be brought only as provided  
7 in par. (c) 11., 14., 15., and 16. and s. 978.05 (1). For purposes of this subsection,  
8 except as provided under par. (fg), the commission may only initiate an investigation



**BILL**

1 of an alleged violation of chs. 5 to 10 and 12, other than an offense described under  
 2 par. (c) 12., based on a sworn complaint filed with the commission, as provided under  
 3 par. (c). ~~Neither the commission nor any~~ Any member or employee of the commission,  
 4 ~~including or the commission administrator, or his or her designee~~ may file a sworn  
 5 complaint for purposes of this subsection.

6 **SECTION 2.** 5.05 (2m) (fg) of the statutes is created to read:

7 5.05 (2m) (fg) 1. After each general election, the commission shall obtain and  
 8 examine information from the Electronic Registration Information Center, Inc.,  
 9 indicating that electors registered to vote in this state voted more than once in the  
 10 same election.

11 2. If, after examination of the information under subd. 1. and other relevant  
 12 information and documents, the commission determines based on criteria  
 13 established by the commission that an elector has likely voted more than once in the  
 14 same election, the commission shall refer the matter as provided in par. (c) 11. no  
 15 later than 180 days after the commission obtains the information under subd. 1.

16 3. If, after examination of information received under s. 6.56 (4) and other  
 17 relevant information and documents, the commission determines that an elector has  
 18 likely voted more than once in the same election, the commission shall refer the  
 19 matter as provided in par. (c) 11. no later than 180 days after the commission obtains  
 20 the information under subd. 1. *S. 6.56(4)*

21 4. Each county and municipal clerk and board of election commissioners shall  
 22 cooperate fully with commission investigations under this paragraph.

23 5. In each report it submits to the legislature under s. 7.15 (1) (g), the  
 24 commission shall include information relating to its duties under this paragraph,

*receives*

**BILL**

1 including the number of referrals made under subds. 2. and 3. and a general  
2 description of each referral and the outcome of the referral.

3 **SECTION 3.** 6.56 (4) of the statutes is amended to read:

4 6.56 (4) After each election, the municipal clerk or board of election  
5 commissioners shall perform an audit to assure that no person has been allowed to  
6 vote more than once. Whenever the municipal clerk or board of election  
7 commissioners has good reason to believe that a person has voted more than once in  
8 an election, the clerk or board of election commissioners shall send the person a 1st  
9 class letter marked in accordance with postal regulations to ensure that it will be  
10 returned to the clerk or board of election commissioners if the elector does not reside  
11 at the address given on the letter. The letter shall inform the person that all  
12 registrations relating to that person may be changed from eligible to ineligible status  
13 within 7 days unless the person contacts the office of the clerk or board of election  
14 commissioners to clarify the matter. A copy of the letter and of any subsequent  
15 information received from or about the addressee shall be sent to the district attorney  
16 for the county where the person resides and the commission. The commission shall  
17 verify the district attorney's receipt of each letter and all subsequent information  
18 required to be sent to the district attorney under this subsection.

19 **SECTION 4.** 7.15 (1) (g) of the statutes is amended to read:

20 7.15 (1) (g) In the manner prescribed by the commission, report suspected  
21 election frauds, irregularities, or violations of which the clerk has knowledge to the  
22 district attorney for the county where the suspected activity occurs and to the  
23 commission. The commission shall annually report the information obtained under  
24 this paragraph to the legislature under s. 13.172 (2). The report shall include  
25 information relating to the duties of a municipal clerk or board of election

**BILL**

1 commissioners under s. 6.56 (4), including the number of letters referring matters  
2 to district attorneys under s. 6.56 (4) and a general description of each referral and  
3 the outcome of the referral.

4 (END)

**Walker, Dan**

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**From:** Nelson, Scott  
**Sent:** Friday, February 07, 2020 3:36 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -5389/2

Please Jacket LRB -5389/2 for the SENATE.