



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBa1403/1
MPG:skw

**SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 214**

February 22, 2022 – Offered by Senators CARPENTER, SMITH, AGARD and RINGHAND.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 5: delete the material beginning with “ballots,” and ending with
3 “candidates,” on line 7 and substitute “ballots”.

4 **2.** Page 4, line 1: delete the material beginning with that line and ending with
5 page 17, line 3, and substitute:

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

7 5.84 (1) Where any municipality employs an electronic voting system which
8 that utilizes automatic tabulating equipment, ~~either at the polling place or at a~~
9 ~~central counting location,~~ the municipal clerk shall, on any day not more than 10
10 days prior to the ~~election~~ day on which the equipment is to be utilized in an election,
11 have the equipment tested to ascertain that it will correctly count the votes cast for
12 all offices and on all measures. Public notice of the time and place of the test shall

1 be given by the clerk at least 48 hours prior to the test by publication of a class 1 notice
2 under ch. 985 in one or more newspapers published within the municipality if a
3 newspaper is published therein, otherwise in a newspaper of general circulation
4 therein. The test shall be open to the public. The test shall be conducted by
5 processing a preaudited group of ballots so marked as to record a predetermined
6 number of valid votes for each candidate and on each referendum. The test shall
7 include for each office one or more ballots ~~which~~ that have votes in excess of the
8 number allowed by law and, for a partisan primary election, one or more ballots
9 which have votes cast for candidates of more than one recognized political party, in
10 order to test the ability of the automatic tabulating equipment to reject such votes.
11 If any error is detected, the municipal clerk shall ascertain the cause and correct the
12 error. The clerk shall make an errorless count before the automatic tabulating
13 equipment is approved by the clerk for use in the election.

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

15 5.86 (1) All proceedings at each central counting location shall be under the
16 direction of the municipal clerk or an election official designated by the clerk unless
17 the central counting location is at the county seat ~~and the municipal clerk delegates~~
18 ~~the responsibility to supervise the location to the county clerk~~, in which case the
19 proceedings shall be under the direction of the county clerk or an election official
20 designated by the county clerk. If for any municipality the central counting location
21 is at the county seat and the municipality authorizes or elects the early canvassing
22 of absentee ballots under s. 7.525, the county clerk or the county clerk's designee
23 shall begin the proceedings for that municipality on the day before the election
24 consistent with the requirements under s. 7.525. Unless election officials are
25 selected under s. 7.30 (4) (c) without regard to party affiliation, the employees at each

1 central counting location, other than any specially trained technicians who are
2 required for the operation of the automatic tabulating equipment, shall be equally
3 divided between members of the 2 major political parties under s. 7.30 (2) (a) and all
4 duties performed by the employees shall be by teams consisting of an equal number
5 of members of each political party whenever sufficient persons from each party are
6 available.

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

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

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

16 6.86 (1) (b) Except as provided in this section, if application is made by mail,
17 the application shall be received no later than 5 p.m. on the 5th day immediately
18 preceding the election. If application is made in person, the application shall be
19 made no earlier than 14 days preceding the election and no later than the Sunday
20 preceding the election. No application may be received on a legal holiday. A
21 municipality shall specify the hours in the notice under s. 10.01 (2) (e). The
22 municipal clerk or an election official shall witness the certificate for any in-person
23 absentee ballot cast. Except as provided in par. (c), if the elector is making written
24 application for an absentee ballot at the partisan primary, the general election, the
25 presidential preference primary, or a special election for national office, and the

1 application indicates that the elector is a military elector, as defined in s. 6.34 (1), the
2 application shall be received by the municipal clerk no later than 5 p.m. on election
3 day. If the application indicates that the reason for requesting an absentee ballot is
4 that the elector is a sequestered juror, the application shall be received no later than
5 5 p.m. on election day. If the application is received after 5 p.m. on the Friday
6 immediately preceding the election, the municipal clerk or the clerk's agent shall
7 immediately take the ballot to the court in which the elector is serving as a juror and
8 deposit it with the judge. The judge shall recess court, as soon as convenient, and
9 give the elector the ballot. The judge shall then witness the voting procedure as
10 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
11 shall deliver it to the ~~polling place~~ election inspectors of the proper ward or election
12 district or, in municipalities where absentee ballots are canvassed under s. 7.52, to
13 the municipal clerk as required in s. 6.88. If application is made under sub. (2) or
14 (2m), the application may be received no later than 5 p.m. on the Friday immediately
15 preceding the election.

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

17 6.87 (6) The ballot shall be returned so it is delivered to the ~~polling place~~
18 election inspectors of the proper ward or election district no later than 8 p.m. on
19 election day. Except in municipalities where absentee ballots are canvassed under
20 s. 7.52, if the municipal clerk receives an absentee ballot on election day, the clerk
21 shall secure the ballot and cause the ballot to be delivered to the polling place serving
22 the elector's residence before 8 p.m. Any ballot not mailed or delivered as provided
23 in this subsection may not be counted.

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

1 6.88 (1) When an absentee ballot arrives at the office of the municipal clerk,
2 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,
3 unopened, in a carrier envelope which shall be securely sealed and endorsed with the
4 name and official title of the clerk, and the words “This envelope contains the ballot
5 of an absent elector and must be opened ~~in the same room where votes are being cast~~
6 ~~at the polls during polling hours on election day or, in municipalities where absentee~~
7 ~~ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of~~
8 ~~absentee ballot canvassers under s. 7.52, stats~~ only as provided by law.” If the elector
9 is a military elector, as defined in s. 6.34 (1), or an overseas elector, regardless of
10 whether the elector qualifies as a resident of this state under s. 6.10, and the ballot
11 was received by the elector by facsimile transmission or electronic mail and is
12 accompanied by a separate certificate, the clerk shall enclose the ballot in a
13 certificate envelope and securely append the completed certificate to the outside of
14 the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep
15 the ballot in the clerk’s office or at the alternate site, if applicable until delivered, as
16 required in sub. (2).

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

18 6.88 (3) (a) Except in municipalities where absentee ballots are canvassed
19 under s. 7.52, at any time between the opening and closing of the polls on election day,
20 or between 7 a.m. and 8 p.m. on the day before the election if authorized or elected
21 for that election under s. 7.525, the inspectors shall, in the same room where votes
22 are being cast, or in the place where absentee ballots are being canvassed early under
23 s. 7.525, in such a manner that members of the public can hear and see the
24 procedures, open the carrier envelope only, and announce the name of the absent
25 elector or the identification serial number of the absent elector if the elector has a

1 confidential listing under s. 6.47 (2). When the inspectors find that the certification
2 has been properly executed, the applicant is a qualified elector of the ward or election
3 district, and the applicant has not voted in the election, ~~they~~ the inspectors shall
4 enter an indication on the poll list next to the applicant's name indicating an
5 absentee ballot is cast by the elector. ~~They~~ The inspectors shall then open the
6 envelope containing the ballot in a manner so as not to deface or destroy the
7 certification thereon. The inspectors shall take out the ballot without unfolding it
8 or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95,
9 the inspectors shall verify that the ballot has been endorsed by the issuing clerk. If
10 the poll list indicates that proof of residence under s. 6.34 is required and proof of
11 residence is enclosed, the inspectors shall enter both the type of identifying
12 document submitted by the absent elector and the name of the entity or institution
13 that issued the identifying document on the poll list in the space provided. If the poll
14 list indicates that proof of residence under s. 6.34 is required and no proof of
15 residence is enclosed or the name or address on the document that is provided is not
16 the same as the name and address shown on the poll list, the inspectors shall proceed
17 as provided under s. 6.97 (2). The inspectors shall then deposit the ballot into the
18 proper ballot box and enter the absent elector's name or voting number after his or
19 her name on the poll list in the same manner as if the elector had been present and
20 voted in person.

21 **SECTION 8.** 6.91 of the statutes is created to read:

22 **6.91 Place for challenging an elector.** The vote of any elector, including an
23 absent elector, may be challenged as provided under this subchapter at the polling
24 place, at the municipal clerk's office, at an in-person absentee voting location during
25 the period for making an in-person application for an absentee ballot under s. 6.86

1 (1) (b), at a location where the early canvassing of absentee ballots is being conducted
2 under s. 7.525, or at a central count location.

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

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

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

1 7.52 (10) If, subject to s. 7.525, absentee ballots begin being canvassed under
2 this section on the day before the election, no action under subs. (4) to (8) may be
3 performed before election day.

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

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

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

17 (b) Ballots may be canvassed early under this section only between 7 a.m. and
18 8 p.m. on the day before the election and may not be tallied until after the polls close
19 on election day.

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

23 (d) When not in use, automatic tabulating equipment used for purposes of this
24 section and the areas where the programmed media, memory devices, and ballots are

