



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBa1445/1
JK:all

**SENATE AMENDMENT 1,
TO ASSEMBLY BILL 1038**

April 15, 2020 - Offered by Senators BEWLEY, CARPENTER, ERPENBACH, HANSEN, JOHNSON, LARSON, MILLER, RINGHAND, RISSER, SCHACHTNER, SHILLING, SMITH, L. TAYLOR and WIRCH.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 19, line 1: before that line insert:

3 “**SECTION 1a.** 5.41 of the statutes is created to read:

4 **5.41 Suspension of voter identification during an emergency.**

5 Notwithstanding any provision to the contrary, no elector is required to provide
6 identification in order to vote at any primary or election held within 90 days after the
7 day on which the governor issues an executive order declaring a state of emergency,
8 as provided under s. 323.10.

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

10 5.84 (1) Where any municipality employs an electronic voting system which
11 utilizes automatic tabulating equipment, ~~either at the polling place or at a central~~
12 ~~counting location,~~ the municipal clerk shall, on any day not more than 10 days prior
13 to the election day on which the equipment is to be utilized, have the equipment

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

16 **SECTION 1c.** 6.15 (4) (b) of the statutes is amended to read:

17 6.15 (4) (b) During polling hours, or on the Sunday before the election if
18 authorized under s. 6.885, the inspectors shall open each carrier envelope, announce
19 the elector's name, check the affidavit for proper execution, and check the voting
20 qualifications for the ward, if any. In municipalities where absentee ballots are
21 canvassed under s. 7.52, the municipal board of absentee ballot canvassers shall
22 perform this function at a meeting of the board of absentee ballot canvassers.

23 **SECTION 1d.** 6.28 (1) (a) of the statutes is amended to read:

24 6.28 (1) (a) Except as authorized in ss. 6.29, 6.55 (2), and 6.86 (3) (a) 2.,
25 registration in person for an election closes at 5 p.m. on the 3rd Wednesday preceding

1 the election. Registrations made by mail under s. 6.30 (4) must be delivered to the
2 office of the municipal clerk or postmarked no later than the 3rd Wednesday
3 preceding the election. Electronic Except as authorized under s. 6.58, electronic
4 registration under s. 6.30 (5) for an election closes at 11:59 p.m. on the 3rd Wednesday
5 preceding the election. The municipal clerk or board of election commissioners may
6 assign election registration officials to register electors who apply for an in-person
7 absentee ballot under s. 6.86 (1) (b) or to register electors at a polling place on election
8 day or at a residential care facility, as defined under s. 6.875 (1) (bm).

9 **SECTION 1e.** 6.58 of the statutes is created to read:

10 **6.58 Registration during a state of emergency.** If the governor issues an
11 executive order declaring a state of emergency, as provided under s. 323.10,
12 electronic registration under s. 6.30 (5) for any primary or election occurring no later
13 than 90 days after the order closes at 5 p.m. on the 5th day preceding the election.

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

15 6.86 (1) (b) Except as provided in this section, if application is made by mail,
16 the application shall be received no later than 5 p.m. on the 5th day immediately
17 preceding the election. If application is made in person, the application shall be
18 made no earlier than 14 days preceding the election and no later than the Sunday
19 preceding the election. A municipality shall allow applications in person on the
20 Sunday preceding any election that is held no later than 90 days after the day on
21 which the governor issues an executive order declaring a state of emergency under
22 s. 323.10. No application may be received on a legal holiday. A municipality shall
23 specify the hours in the notice under s. 10.01 (2) (e). The municipal clerk or an
24 election official shall witness the certificate for any in-person absentee ballot cast.
25 Except as provided in par. (c), if the elector is making written application for an

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

18 **SECTION 1g.** 6.86 (3m) of the statutes is created to read:

19 6.86 (3m) Any elector who is quarantined or in isolation as the result of a state
20 of emergency declared under s. 323.10 may register and apply for and obtain an
21 official ballot by agent in the same manner as a hospitalized elector may register and
22 apply for and obtain an official ballot by agent under sub. (3).

23 **SECTION 1h.** 6.87 (6) of the statutes is renumbered 6.87 (6) (a) and amended
24 to read:

1 6.87 (6) (a) ~~The~~ Except as provided in par. (b), the ballot shall be returned so
2 it is delivered to the ~~polling place~~ election inspectors of the proper ward or election
3 district no later than 8 p.m. on election day. Except in municipalities where absentee
4 ballots are canvassed under s. 7.52, if the municipal clerk receives an absentee ballot
5 on election day, the clerk shall secure the ballot and cause the ballot to be delivered
6 to the polling place serving the elector's residence before 8 p.m. Any ballot not mailed
7 or delivered as provided in this ~~subsection~~ paragraph or par. (b) may not be counted.

8 **SECTION 1i.** 6.87 (6) (b) of the statutes is created to read:

9 6.87 (6) (b) If the governor issues an executive order declaring a state of
10 emergency under s. 323.10, an absentee ballot being returned by mail for any
11 primary or election occurring no later than 90 days after the day on which the order
12 is issued shall be returned to the municipal clerk no later than 3 days after the day
13 of the primary or election and postmarked no later than the day of the primary or
14 election.

15 **SECTION 1j.** 6.88 (1) of the statutes is amended to read:

16 6.88 (1) When an absentee ballot arrives at the office of the municipal clerk,
17 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,
18 unopened, in a carrier envelope which shall be securely sealed and endorsed with the
19 name and official title of the clerk, and the words "This envelope contains the ballot
20 of an absent elector and must be opened ~~in the same room where votes are being cast~~
21 ~~at the polls during polling hours on election day or, in municipalities where absentee~~
22 ~~ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of~~
23 ~~absentee ballot canvassers under s. 7.52, stats~~ only as provided by law." If the elector
24 is a military elector, as defined in s. 6.34 (1), or an overseas elector, regardless of
25 whether the elector qualifies as a resident of this state under s. 6.10, and the ballot

1 was received by the elector by facsimile transmission or electronic mail and is
2 accompanied by a separate certificate, the clerk shall enclose the ballot in a
3 certificate envelope and securely append the completed certificate to the outside of
4 the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep
5 the ballot in the clerk's office or at the alternate site, if applicable until delivered, as
6 required in sub. (2).

7 **SECTION 1k.** 6.885 of the statutes is created to read:

8 **6.885 Early canvassing of absentee ballots during a state of emergency.**

9 **(1) ORDINANCE AUTHORIZING EARLY CANVASSING; REQUIREMENTS.** (a) 1. The governing
10 body of any municipality that uses automatic tabulating equipment to process
11 absentee ballots may provide by ordinance that absentee ballots received by the
12 municipal clerk may be canvassed on the Sunday before any election occurring no
13 later than 90 days after the governor issues an executive order declaring a state of
14 emergency under s. 323.10.

15 2. Prior to enacting an ordinance under subd. 1., the municipal clerk or
16 municipal board of election commissioners shall notify the elections commission in
17 writing of the proposed enactment and shall consult with the elections commission
18 concerning administration of this section.

19 (b) Early canvassing of absentee ballots under this section shall satisfy the
20 procedures required for canvassing absentee ballots during polling hours at a polling
21 place under s. 6.88 (3) or, if applicable, 7.52.

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

1 (d) When not in use, automatic tabulating equipment used for purposes of this
2 section and the areas where the programmed media and the absentee ballots are
3 housed shall be secured with tamper-evident security seals in a double-lock location
4 such as a locked cabinet inside a locked office.

5 (e) Ballots canvassed early under this section may not be tabulated until the
6 closing of the polls on election day.

7 (f) No person may act in any manner that would give him or her the ability to
8 know or to provide information on the accumulating or final results from the ballots
9 canvassed early under this section before the close of the polls on election day. A
10 person who violates this paragraph is guilty of a Class I felony.

11 **(2) NOTICE REQUIREMENTS.** Absentee ballots may not be canvassed early under
12 this section for any election unless all of the following apply:

13 (a) As soon as practicable before the election the municipal clerk or executive
14 director of the municipal board of election commissioners notifies in writing the
15 county clerk or executive director of the county board of election commissioners that
16 early canvassing of absentee ballots will take place in the election.

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

19 **SECTION 1L.** 6.895 of the statutes is created to read:

20 **6.895 Voting by absentee ballot during an emergency.** Notwithstanding
21 any provision to the contrary, if the governor issues an executive order declaring a
22 state of emergency under s. 323.10, absentee ballots shall be sent to all registered
23 voters no later than 7 days prior to any primary or election held during the period
24 covered by the order, including any extension under s. 323.10. No witness

1 certification is required for any absentee ballot returned during the period covered
2 by a state of emergency declared under s. 323.10.

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

4 **6.91 Place for challenging an elector.** The vote of any voter, including an
5 absent voter, may be challenged as provided under this subchapter at the polling
6 place, at the municipal clerk's office, at an in-person absentee voting location during
7 the period for making an in-person application for an absentee ballot under s. 6.86
8 (1) (b), at a location where the early canvassing of absentee ballots is being conducted
9 under s. 6.885, or at a central count location.

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

11 7.52 (1) (a) The governing body of any municipality may provide by ordinance
12 that, in lieu of canvassing absentee ballots at polling places under s. 6.88, the
13 municipal board of absentee ballot canvassers designated under s. 7.53 (2m) shall,
14 at each election held in the municipality, canvass all absentee ballots received by the
15 municipal clerk by 8 p.m. on election day. Prior to enacting an ordinance under this
16 subsection, the municipal clerk or board of election commissioners of the
17 municipality shall notify the elections commission in writing of the proposed
18 enactment and shall consult with the elections commission concerning
19 administration of this section. At every election held in the municipality following
20 enactment of an ordinance under this subsection, the board of absentee ballot
21 canvassers shall, any time after the opening of the polls, or on the Sunday before the
22 election if authorized under s. 6.885, and before 10 p.m. on election day, publicly
23 convene to count the absentee ballots for the municipality. The municipal clerk shall
24 give at least 48 hours' notice of any meeting under this subsection. Any member of
25 the public has the same right of access to a meeting of the municipal board of

1 absentee ballot canvassers under this subsection that the individual would have
2 under s. 7.41 to observe the proceedings at a polling place. The board of absentee
3 ballot canvassers may order the removal of any individual exercising the right to
4 observe the proceedings if the individual disrupts the meeting.

5 **SECTION 1p.** 8.41 of the statutes is created to read:

6 **8.41 Signature requirements during a public health emergency.** If the
7 governor issues an executive order declaring a public health emergency under s.
8 323.10, the commission may modify any signature requirement under this chapter
9 that it considers necessary for public safety or for the administration of any election
10 held during the state of emergency.”.

11 (END)