



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5389/2
MPG:skw

2019 SENATE BILL 795

February 11, 2020 - Introduced by Senators BERNIER, WANGGAARD, CRAIG and JACQUE, cosponsored by Representatives BRANDTJEN, ALLEN, DITTRICH, GUNDRUM, LOUDENBECK, MAGNAFICI and SKOWRONSKI. Referred to Committee on Elections, Ethics and Rural Issues.

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.

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.

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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.

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

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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 receives
20 the information under 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,

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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

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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)