



State of Wisconsin
2021 - 2022 LEGISLATURE

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**SENATE AMENDMENT 1,
TO SENATE BILL 939**

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

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

2 **1.** Page 1, line 8: before “and providing a penalty” insert “early canvassing of
3 absentee ballots,”.

4 **2.** Page 4, line 1: before that line insert:

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

6 5.84 (1) Where any municipality employs an electronic voting system which
7 utilizes automatic tabulating equipment, ~~either at the polling place or at a central~~
8 ~~counting location,~~ the municipal clerk shall, on any day not more than 10 days prior
9 to the election day on which the equipment is to be utilized in an election, have the
10 equipment tested to ascertain that it will correctly count the votes cast for all offices
11 and on all measures. Public notice of the time and place of the test shall be given by
12 the clerk at least 48 hours prior to the test by publication of a class 1 notice under
13 ch. 985 in one or more newspapers published within the municipality if a newspaper

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

12 **SECTION 1k.** 5.86 (1) of the statutes is amended to read:

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

1 members of the 2 major political parties under s. 7.30 (2) (a) and all duties performed
2 by the employees shall be by teams consisting of an equal number of members of each
3 political party whenever sufficient persons from each party are available.

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

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

12 **3.** Page 5, line 11: delete lines 11 to 17.

13 **4.** Page 9, line 14: delete the material beginning with “A” and ending with
14 “felony.” on line 15.

15 **5.** Page 10, line 16: after that line insert:

16 **SECTION 9c.** 6.86 (1) (b) of the statutes is amended to read:

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

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

18 **6.** Page 16, line 1: delete lines 1 to 10 and substitute:

19 “**SECTION 17b.** 6.87 (6) of the statutes is amended to read:

20 6.87 (6) The ballot shall be returned so it is delivered to the ~~polling place~~
21 election inspectors of the proper ward or election district no later than 8 p.m. on
22 election day. Except in municipalities where absentee ballots are canvassed under
23 s. 7.52, if the municipal clerk receives an absentee ballot on election day, the clerk
24 shall secure the ballot and cause the ballot to be delivered to the polling place serving

1 the elector's residence before 8 p.m. Any ballot not mailed or delivered as provided
2 in this subsection may not be counted.

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

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

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

21 6.88 (3) (a) Except in municipalities where absentee ballots are canvassed
22 under s. 7.52, at any time between the opening and closing of the polls on election day,
23 or between 7 a.m. and 8 p.m. on the day before the election if authorized or elected
24 for that election under s. 7.525, the inspectors shall, in the same room where votes
25 are being cast, or in the place where absentee ballots begin being canvassed early

1 under s. 7.525, in such a manner that members of the public can hear and see the
2 procedures, open the carrier envelope only, and announce the name of the absent
3 elector or the identification serial number of the absent elector if the elector has a
4 confidential listing under s. 6.47 (2). When the inspectors find that the certification
5 has been properly executed, the applicant is a qualified elector of the ward or election
6 district, and the applicant has not voted in the election, they shall enter an indication
7 on the poll list next to the applicant's name indicating an absentee ballot is cast by
8 the elector. They shall then open the envelope containing the ballot in a manner so
9 as not to deface or destroy the certification thereon. The inspectors shall take out the
10 ballot without unfolding it or permitting it to be unfolded or examined. Unless the
11 ballot is cast under s. 6.95, the inspectors shall verify that the ballot has been
12 endorsed by the issuing clerk. If the poll list indicates that proof of residence under
13 s. 6.34 is required and proof of residence is enclosed, the inspectors shall enter both
14 the type of identifying document submitted by the absent elector and the name of the
15 entity or institution that issued the identifying document on the poll list in the space
16 provided. If the poll list indicates that proof of residence under s. 6.34 is required and
17 no proof of residence is enclosed or the name or address on the document that is
18 provided is not the same as the name and address shown on the poll list, the
19 inspectors shall proceed as provided under s. 6.97 (2). The inspectors shall then
20 deposit the ballot into the proper ballot box and enter the absent elector's name or
21 voting number after his or her name on the poll list in the same manner as if the
22 elector had been present and voted in person.

23 **SECTION 17k.** 6.91 of the statutes is created to read:

24 **6.91 Place for challenging an elector.** The vote of any voter, including an
25 absent voter, may be challenged as provided under this subchapter at the polling

1 place, at the municipal clerk's office, at an in-person absentee voting location during
2 the period for making an in-person application for an absentee ballot under s. 6.86
3 (1) (b), at a location where the early canvassing of absentee ballots is being conducted
4 under s. 7.525, or at a central count location.

5 **SECTION 17n.** 7.52 (1) (a) of the statutes is amended to read:

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

1 **SECTION 17q.** 7.52 (10) of the statutes is created to read:

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

5 **SECTION 17t.** 7.525 of the statutes is created to read:

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

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

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

1 housed shall be secured with tamper-evident security seals in a double-lock location
2 such as a locked cabinet inside a locked office.

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

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

9 (a) At least 70 days before the election the municipal clerk or executive director
10 of the municipal board of election commissioners notifies in writing the county clerk
11 or executive director of the county board of election commissioners that early
12 canvassing of absentee ballots will take place in the election.

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

15 **7.** Page 16, line 13: after that line insert:

16 “(2) **EARLY CANVASSING OF ABSENTEE BALLOTS.** The treatment of ss. 5.84 (1), 5.86
17 (1), 6.15 (4) (b), 6.86 (1) (b), 6.87 (6), 6.88 (1) and (3) (a), 6.91, 7.52 (1) (a) and (10), and
18 7.525 first applies to the August 9, 2022, primary election.”.

19 **(END)**