



State of Wisconsin
2023 - 2024 LEGISLATURE

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2023 ASSEMBLY BILL 567

October 26, 2023 - Introduced by Representatives TUSLER, MAXEY, ARMSTRONG, DITTRICH, DONOVAN, KITCHENS, MICHALSKI, MURPHY, O'CONNOR, RETTINGER, ROZAR, SCHRAA and STEFFEN, cosponsored by Senator CABRAL-GUEVARA. Referred to Committee on Campaigns and Elections.

AN ACT *to repeal* 5.85 (5), 5.86 and 7.03 (1) (c); *to renumber and amend* 7.52

(1) (a); *to amend* 5.05 (12), 5.056, 5.84 (1), 5.84 (2), 5.85 (1), 5.87 (1), 5.91 (17), 6.15 (4) (a), 6.15 (4) (b), 6.29 (2) (am), 6.55 (2) (cs), 6.56 (3m), 6.79 (2) (dm), 6.86 (1) (b), 6.87 (6), 6.88 (1), 6.88 (2), 7.15 (1) (cm), 7.37 (12), 7.51 (1), 7.52 (2), 7.52 (3) (a), 7.52 (4) (a), 7.52 (9) and 54.25 (2) (c) 1. g.; and *to create* 5.057, 6.88 (4), 7.15 (16), 7.52 (1) (d) to (h), 7.52 (10), 7.52 (11) and 66.0512 of the statutes; **relating to:** transmitting and canvassing absentee ballots, use of central counting locations, election night reporting, whistleblower protection for municipal clerks, notifications and verifications concerning citizenship status, court determinations of incompetency and ineligibility to vote, and providing a penalty.

ASSEMBLY BILL 567***Analysis by the Legislative Reference Bureau*****EARLY CANVASSING OF ABSENTEE BALLOTS**

Under current law, absentee ballots may not be canvassed until election day. Current law additionally provides that any municipality may provide by ordinance that, in lieu of canvassing absentee ballots at polling places, a municipal board of absentee ballot canvassers established by the municipality is responsible for canvassing all absentee ballots received by the municipal clerk by 8 p.m. on election day. In such a municipality, the board of absentee ballot canvassers is required to convene a meeting any time after the polls open and before 10 p.m. on election day to canvass the absentee ballots cast in the municipality in the election. Among the requirements governing such a meeting, any member of the public has the same right of access to the meeting that the individual would have to observe the canvassing of absentee ballots at a polling place.

This bill does all of the following:

1. Requires the municipal board of absentee ballot canvassers in a municipality having an ordinance described above to begin canvassing absentee ballots on the day before an election. Canvassing absentee ballots on the day before the election is optional except for each spring and general election and each special election or recall election if the special or recall election is for a state or national office.

2. Provides that the board of absentee ballot canvassers must publicly convene at 7 a.m. on the day before the election to begin the canvass of absentee ballots for the municipality and recess at 8 p.m. on that day.

3. Requires that at 7 a.m., noon, and 8 p.m. on the day before the election, and at 7 a.m., noon, and 8 p.m. on election day, the municipal clerk or his or her designee or the municipal board of election commissioners must provide to the county clerk or county board of election commissioners of the county in which the municipality is located a statement that shows the total number of absentee ballots returned to the municipality and the total number of absentee ballots the municipal board of absentee ballot canvassers has canvassed. The county clerk or county board of election commissioners must promptly post each statement on the website on which returns for the county are posted on election night. In a municipality having a municipal board of election commissioners (currently, only the city of Milwaukee), the municipal board of election commissioners must also post the statement on the website maintained by the municipal board of election commissioners. The statement may not include the names or addresses of any electors. An absentee ballot is considered canvassed for purposes of this reporting requirement only after all tasks have been completed in the canvassing process except for the tallying of votes.

4. Requires that when the meeting of the board of absentee ballot canvassers recesses on the day before the election, the board must secure the automatic tabulating equipment, and the areas where the programmed media, memory devices, and absentee ballots are housed, with tamper-evident security seals in a

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double-lock location such as a locked cabinet inside a locked office. Before resuming the canvassing of absentee ballots, the board must check and record the status of each tamper-evident seal and must immediately notify the Elections Commission of any evidence of tampering. If the board discovers evidence of tampering with respect to automatic tabulating equipment, the canvass may not resume until the equipment is replaced and the replacement equipment is tested. Also, if the board discovers evidence of tampering, the Elections Commission must verify the accuracy of the absentee ballot count by ordering the municipality to conduct a recount after the election and conducting an audit of the election equipment.

5. Provides that votes on absentee ballots canvassed early under the bill may not be tallied until after the polls close on election day.

6. Provides that no person may act in a manner that would give him or her the ability to know or to provide information on the tallied results from the ballots canvassed under the bill before the polls close on election day. Whoever intentionally violates that prohibition is guilty of a Class I felony, the penalty for which is a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both.

7. Authorizes municipalities not having a board of absentee ballot canvassers to begin processing absentee ballots beginning at 7 a.m. on the day before the election subject to some of the requirements described above. In order to canvass absentee ballots early, such a municipality must provide by ordinance that absentee ballots received by the municipal clerk may be canvassed on the day before the election. Prior to enacting the ordinance, the municipal clerk must notify the Elections Commission in writing of the proposed ordinance and must consult with the Elections Commission concerning the early canvassing of absentee ballots.

Finally, under current law, criminal penalties are provided for election officials who commit certain specified kinds of election fraud. Otherwise, the willful neglect or refusal of an election official to perform a duty prescribed under the election laws is punishable by disqualification to act as an election official for five years. Under the bill, a member of the municipal board of absentee ballot canvassers or other election official who willfully neglects or refuses to perform any of the duties prescribed under the bill, and other duties prescribed under current law, with respect to the canvassing of absentee ballots by a municipal board of absentee ballot canvassers is guilty of a Class I felony.

USE OF CENTRAL COUNTING LOCATIONS

Under current law, votes are canvassed at the polling place after polls close on election day, except that any municipality where an electronic voting system is used may elect to adjourn the canvass to a central counting location where votes cast at multiple polling places in the municipality may all be counted after the polls close on election day. The bill eliminates the option for municipalities to use such central counting locations.

ASSEMBLY BILL 567**ELECTION NIGHT REPORTING**

Under the bill, at 9 p.m. on election night, and every hour thereafter until the canvass is complete, each municipal clerk or his or her designee must provide to the county clerk of the county in which the municipality is located a statement that shows the total number of ballots, including absentee ballots, cast at the municipality in the election, the total number of ballots, including absentee ballots, that have been canvassed, and the total number of ballots, including absentee ballots, that remain to be canvassed. The county clerk must promptly post each statement on the website on which the county clerk posts returns on election night. In a municipality having a municipal board of election commissioners (currently, only the city of Milwaukee), the municipal board of election commissioners must also post the statement on the website maintained by the municipal board of election commissioners. The statement may not include the names or addresses of any electors.

TIMELINE FOR SENDING OR TRANSMITTING ABSENTEE BALLOTS

Current law requires a municipal clerk to send an absentee ballot for each partisan primary, presidential preference primary, and general election to all electors requesting the ballot, including military and overseas electors, no later than the 47th day before the partisan primary, presidential preference primary, or general election or, if the request is not made before that day, within one business day after the request is received. For all other primaries and elections, the municipal clerk must send or transmit the absentee ballot no later than the 21st day before the primary or election or, if the request is not made before that day, within one business day after the request is received.

Under the bill, a municipal clerk must send or transmit an absentee ballot for all primaries and elections, regardless of the type of primary or election, to electors other than military and overseas electors no later than the 21st day before the primary or election or, if the request is not made before that day, within one business day after the request is received. Under the bill, a municipal clerk must send or transmit an absentee ballot for all primaries and elections, regardless of the type of primary or election, to military and overseas electors no later than the 45th day before the primary or election or, if the request is not made before that day, within one business day after the request is received. That 45th day timeline is consistent with federal law.

WHISTLEBLOWER PROTECTIONS

The bill provides whistleblower protection for municipal clerks who witness and report election fraud or irregularities. Under the bill, no municipal clerk may be discriminated against in regard to employment, including by being discharged, disciplined, or demoted, as a reprisal because the clerk lawfully reported, or is believed to have reported, witnessing what the clerk reasonably believed to be election fraud or irregularities.

ASSEMBLY BILL 567**COURT DETERMINATIONS OF INCOMPETENCY AND INELIGIBILITY TO VOTE**

Under current law, no person who is incapable of understanding the objective of the elective process or who is under a guardianship may vote unless a court has determined that the person is competent to vote. Current law also allows any voter in a municipality to petition the circuit court to determine whether a person residing in the municipality is incapable of understanding the objective of the elective process. If the court determines that the person is incapable of such understanding, the person is not eligible to register to vote or to vote. Current law requires the clerk of the circuit court to communicate the court's determinations, in writing, to the election officials who are responsible for determining challenges to registration and voting that may be brought against the person.

This bill requires the circuit court, no later than one business day after the date of a determination by the court, to notify the Elections Commission of the court's determination regarding incompetency and ineligibility to vote. Under the bill, when the commission receives a determination of incompetency and ineligibility to vote, the commission must, within one business day, change the status of the voter subject to the determination to inactive on the official voter registration list, note on the list that the voter is ineligible to vote, and notify the voter's municipal clerk of the voter's change in status. The bill also provides that if a court reviews a determination of ineligibility to vote and restores the voter's right the vote, upon receipt of that determination, the commission must, within one business day, change the voter's status on the official voter registration list to active, note on the list that the voter is eligible to vote, and notify the municipal clerk of the voter's change in status.

VERIFICATIONS OF VOTER CITIZENSHIP STATUS

Current law requires the administrator of the Elections Commission to enter into an agreement with the secretary of transportation to match personally identifiable information on the official voter registration list with the information maintained by the Department of Transportation. Under this bill, the agreement with the secretary of transportation must also provide the commission access to personally identifiable information maintained by DOT in order to verify that individuals on the official registration list are U.S. citizens. In addition, the bill requires the commission to conduct the verifications as soon as practicable after the effective date of the bill and immediately whenever an individual registers to vote or modifies his or her registration.

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:

ASSEMBLY BILL 567**SECTION 1**

SECTION 1. 5.05 (12) of the statutes is amended to read:

5.05 (12) VOTER EDUCATION. The commission may conduct or prescribe requirements for educational programs to inform electors about voting procedures, voting rights, and voting technology. The commission shall conduct an educational program for the purpose of educating electors ~~who cast paper ballots, ballots that are counted at a central counting location, and absentee ballots~~ of the effect of casting excess votes for a single office.

SECTION 2. 5.056 of the statutes is amended to read:

5.056 Matching program with secretary of transportation. The commission administrator shall enter into the agreement with the secretary of transportation specified under s. 85.61 (1) to match personally identifiable information on the official registration list maintained by the commission under s. 6.36 (1) and the information specified in s. 6.34 (2m) with personally identifiable information maintained by the department of transportation. The agreement shall require the department of transportation to provide the commission access to personally identifiable information maintained by the department of transportation in order to verify that individuals on the official registration list are U.S. citizens. The commission shall immediately verify the information on the list whenever an individual registers to vote or modifies his or her registration.

SECTION 3. 5.057 of the statutes is created to read:

5.057 Determination of ineligibility to vote due to incompetency. (1)
(a) Upon receipt of a determination of ineligibility to vote under s. 54.25 (2) (c) 1. g., the commission shall, no later than one business day after receiving the

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determination, change the status of the elector subject to the determination to inactive on the official registration list under s. 6.36, note on the list that the elector is ineligible to vote in accordance with s. 6.03 (3), and notify the elector's municipal clerk of the elector's change in status.

(b) The commission shall include the elector determined to be ineligible to vote under s. 54.25 (2) (c) 1. g. on the ineligible elector list. If the elector's right to vote is restored, as provided under s. 54.64 (2) (c), after preparation of the ineligible elector list, the elector may vote at the elector's polling place on election day if the elector presents to the chief inspector documentation from the court under s. 54.64 (2) (c) showing that the court has restored the elector's right to vote. If the elector presents such documentation to the chief inspector, the chief inspector shall note the elector's change in status on the ineligible elector list. If the elector is unable to present such documentation, the elector may cast a provisional ballot under s. 6.97, but the ballot shall not be counted unless the elector provides the documentation described under this paragraph to the polling place before the closing hour or to the office of the municipal clerk or board of election commissioners no later than 4 p.m. on the Friday after the election.

(2) If under s. 54.64 (2) (a) a court subsequently reviews a determination of ineligibility to vote under s. 54.25 (2) (c) 1. g. and restores an elector's right to vote, as provided under s. 54.64 (2) (c), upon receipt of the reviewing court's determination, the commission shall, no later than one business day after receiving the determination, change the status of the elector subject to the determination to active on the official registration list under s. 6.36, note on the list that the elector is

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eligible to vote in accordance with s. 6.03 (3), and notify the elector's municipal clerk of the elector's change in status. The commission shall also remove the elector from the ineligible elector list.

SECTION 4. 5.84 (1) of the statutes is amended to read:

5.84 (1) Where any municipality employs an electronic voting system ~~which~~ that utilizes automatic tabulating equipment, ~~either at the polling place or at a central counting location,~~ the municipal clerk shall, on any day not more than 10 days prior to the ~~election~~ day on which the equipment is to be utilized in an election, have the equipment tested to ascertain that it will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given by the clerk at least 48 hours prior to the test by posting notice on the municipality's website if it has one and by publication of a class 1 notice under ch. 985 in one or more newspapers published within the municipality if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be open to the public. The test shall be conducted by processing a preaudited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each referendum. The test shall include for each office one or more ballots which have votes in excess of the number allowed by law and, for a partisan primary election, one or more ballots which have votes cast for candidates of more than one recognized political party, in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the municipal clerk shall ascertain the cause and correct the error. The clerk shall

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make an errorless count before the automatic tabulating equipment is approved by the clerk for use in the election.

SECTION 5. 5.84 (2) of the statutes is amended to read:

5.84 (2) Before beginning the ballot count at each polling place ~~or at the central counting location~~, the election officials shall witness a test of the automatic tabulating equipment by engaging the printing mechanism and securing a printed result showing a zero count for every candidate and referendum. After the completion of the count, the ballots and programs used shall be sealed and retained under the custody of the municipal clerk in a secure location.

SECTION 6. 5.85 (1) of the statutes is amended to read:

5.85 (1) At any polling place at which an electronic voting system is utilized, the following procedures for receiving, counting, tallying, and return of the ballots shall be used. Whenever paper ballots are utilized at a polling place in combination with ballots employed in an electronic voting system, the paper ballots shall be deposited in a separate ballot box or boxes, according to the types of ballots used. For the purpose of transporting the ballots or the record of the votes cast, the municipal clerk shall provide a secure container for each polling place. At each polling place, the applicable portions of the procedure prescribed for initiating the canvass under s. 7.51 (1) and (2) shall be performed, ~~except that no count of the ballots, except write-in votes and paper ballots used for absentee voting and other purposes authorized by law, may be performed at a polling place if a central counting location is designated for the counting of ballots at that polling place by the municipality.~~

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SECTION 7. 5.85 (5) of the statutes is repealed.

SECTION 8. 5.86 of the statutes is repealed.

SECTION 9. 5.87 (1) of the statutes is amended to read:

5.87 (1) ~~If a central counting location is not utilized, the~~ The procedure for tabulating the votes by the automatic tabulating equipment shall be under the direction of the chief inspector and shall conform to the requirements of the automatic tabulating equipment. If any ballot is not accepted by the automatic tabulating equipment, the election officials shall make a duplicate ballot to replace that ballot in the manner prescribed in s. 5.85 (3). All proceedings at the polling place ~~and at any central counting location~~ shall be open to the public, but no person, except those employed and authorized for the purpose, may touch any ballot, container, envelope, return, or equipment.

SECTION 10. 5.91 (17) of the statutes is amended to read:

5.91 (17) ~~Unless the ballot is counted at a central counting location, it~~ It includes a mechanism for notifying an elector who attempts to cast an excess number of votes for a single office that his or her votes for that office will not be counted, and provides the elector with an opportunity to correct his or her ballot or to receive and cast a replacement ballot.

SECTION 11. 6.15 (4) (a) of the statutes is amended to read:

6.15 (4) (a) Clerks holding new resident ballots shall deliver them to the election inspectors in the proper ward or election district where the new residents reside or, in municipalities where absentee ballots are canvassed under s. 7.52, to

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the municipal board of absentee ballot canvassers ~~when it convenes~~ at a meeting convened under s. 7.52 (1), as provided by s. 6.88 for absentee ballots.

SECTION 12. 6.15 (4) (b) of the statutes is amended to read:

6.15 (4) (b) During polling hours, or on the day before the election under s. 6.88 (4), the inspectors shall open each carrier envelope, announce the elector's name, check the affidavit for proper execution, and check the voting qualifications for the ward, if any. In municipalities where absentee ballots are canvassed under s. 7.52, the municipal board of absentee ballot canvassers shall perform this function at a meeting of the board of absentee ballot canvassers.

SECTION 13. 6.29 (2) (am) of the statutes is amended to read:

6.29 (2) (am) The commission shall provide to each municipal clerk a list prepared for use at each municipal clerk's office showing the name and address of each person whose name appears on the list provided by the department of corrections under s. 301.03 (20m) as ineligible to vote, or whose registration status is inactive under s. 5.057 (1) (a), on the date of the election, whose address is located in the municipality, and whose name does not appear on the registration list for that municipality. Prior to permitting an elector to register to vote under this subsection, the municipal clerk shall review the list. If the name of an elector who wishes to register to vote appears on the list, the municipal clerk shall inform the elector that the elector is ineligible to register to vote. If the elector maintains that he or she is eligible to vote in the election, the municipal clerk shall permit the elector to register to vote but shall mark the elector's registration form as "ineligible to vote ~~per Department of Corrections as a disqualified elector under s. 6.03.~~" If the

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elector wishes to vote, the municipal clerk shall challenge the elector's ballot in the same manner as provided for inspectors who challenge ballots under s. 6.79 (2) (dm).

SECTION 14. 6.55 (2) (cs) of the statutes is amended to read:

6.55 (2) (cs) The commission shall provide to each municipal clerk a list prepared for use at each polling place showing the name and address of each person whose name appears on the list provided by the department of corrections under s. 301.03 (20m) as ineligible to vote, or whose registration status is inactive under s. 5.057 (1) (a), on the date of the election, whose address is located in the area served by that polling place, and whose name does not appear on the poll list for that polling place. Prior to permitting an elector to register to vote under this subsection or s. 6.86 (3) (a) 2., the inspectors or election registration officials shall review the list. If the name of an elector who wishes to register to vote appears on the list, the inspectors or election registration officials shall inform the elector or the elector's agent that the elector is ineligible to register to vote. If the elector or the elector's agent maintains that the elector is eligible to vote in the election, the inspectors or election registration officials shall permit the elector to register but shall mark the elector's registration form as "ineligible to vote ~~per Department of Corrections~~ as a disqualified elector under s. 6.03." If the elector wishes to vote, the inspectors shall require the elector to vote by ballot and shall challenge the ballot as provided in s. 6.79 (2) (dm).

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

6.56 (3m) As soon as possible after all information relating to registrations

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after the close of registration for an election is entered on the registration list following the election under s. 6.33 (5) (a), the commission shall compare the list of new registrants whose names do not appear on the poll lists for the election because the names were added after the commission certified the poll lists for use at the election with the list containing the names transmitted to the commission by the department of corrections under s. 301.03 (20m) as of election day and with the names provided in the notices of ineligibility received under s. 54.25 (2) (c) 1. g. If the commission finds that the name of any person whose name appears on the list transmitted under s. 301.03 (20m), or in a notice of ineligibility received under s. 54.25 (2) (c) 1. g., has been added to the registration list, the commission shall enter on the list the information transmitted to the commission under s. 301.03 (20m) or received under s. 54.25 (2) (c) 1. g. and shall notify the district attorney for the county where the polling place is located that the person appears to have voted illegally at the election.

SECTION 16. 6.79 (2) (dm) of the statutes is amended to read:

6.79 (2) (dm) If the poll list indicates that the elector is ineligible to vote because the elector's name appears on the current list ~~provided by the department of corrections under s. 301.03 (20m)~~ of ineligible electors, the inspectors shall inform the elector of this fact. If the elector maintains that he or she is eligible to vote in the election, the inspectors shall provide the elector with a ballot and, after the elector casts his or her vote, shall challenge the ballot as provided in s. 6.92 and treat the ballot in the manner provided in s. 6.95.

SECTION 17. 6.86 (1) (b) of the statutes is amended to read:

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6.86 (1) (b) Except as provided in this section, if application is made by mail, the application shall be received no later than 5 p.m. on the 5th day immediately preceding the election. If application is made in person, the application shall be made no earlier than 14 days preceding the election and no later than the Sunday preceding the election. No application may be received on a legal holiday. A municipality shall specify the hours in the notice under s. 10.01 (2) (e). The municipal clerk or an election official shall witness the certificate for any in-person absentee ballot cast. Except as provided in par. (c), if the elector is making written application for an absentee ballot at the partisan primary, the general election, the presidential preference primary, or a special election for national office, and the application indicates that the elector is a military elector, as defined in s. 6.34 (1), the application shall be received by the municipal clerk no later than 5 p.m. on election day. If the application indicates that the reason for requesting an absentee ballot is that the elector is a sequestered juror, the application shall be received no later than 5 p.m. on election day. If the application is received after 5 p.m. on the Friday immediately preceding the election, the municipal clerk or the clerk's agent shall immediately take the ballot to the court in which the elector is serving as a juror and deposit it with the judge. The judge shall recess court, as soon as convenient, and give the elector the ballot. The judge shall then witness the voting procedure as provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who shall deliver it to the ~~polling place~~ election inspectors of the proper ward or election district or, in municipalities where absentee ballots are canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application is made

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under sub. (2) or (2m), the application may be received no later than 5 p.m. on the Friday immediately preceding the election.

SECTION 18. 6.87 (6) of the statutes is amended to read:

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

SECTION 19. 6.88 (1) of the statutes is amended to read:

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

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the ballot in a certificate envelope and securely append the completed certificate to the outside of the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep the ballot in the clerk's office or at the alternate site, if applicable until delivered, as required in sub. (2).

SECTION 20. 6.88 (2) of the statutes is amended to read:

6.88 (2) When an absentee ballot is received by the municipal clerk prior to the delivery of the official ballots to the election officials of the ward in which the elector resides or, where absentee ballots are canvassed under s. 7.52, to the municipal board of absentee ballot canvassers, the municipal clerk shall seal the ballot envelope in the carrier envelope as provided under sub. (1), and shall enclose the envelope in a package and deliver the package to the election inspectors of the proper ward or election district or, in municipalities where absentee ballots are canvassed under s. 7.52, to the municipal board of absentee ballot canvassers ~~when it convenes~~ at a meeting convened under s. 7.52 (1). When the official ballots for the ward or election district have been delivered to the election inspectors before the receipt of an absentee ballot, the clerk shall immediately enclose the envelope containing the absentee ballot in a carrier envelope as provided under sub. (1) and deliver it in person to the proper election officials.

SECTION 21. 6.88 (4) of the statutes is created to read:

6.88 (4) (a) 1. The governing body of any municipality not specified in s. 7.52 (1) (a) may provide by ordinance that absentee ballots received by the municipal clerk may be canvassed on the day before the election.

2. Prior to enacting an ordinance under subd. 1., the municipal clerk shall

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notify the commission in writing of the proposed enactment and shall consult with the commission concerning administration of this subsection.

(am) In any municipality having an ordinance under par. (a), subject to pars. (b) to (f), the election inspectors may convene a meeting to begin canvassing absentee ballots beginning at 7 a.m. on the day before the election.

(b) The municipal clerk shall give at least 60 days' notice of a meeting under this subsection. Any member of the public has the same right of access to observe the proceedings at a meeting under this subsection that the individual would have under s. 7.41. The election inspectors may order the removal of any individual exercising the right to observe the proceedings if the individual disrupts the meeting.

(c) 1. At 7 a.m., noon, and 8 p.m. on the day before the election, and at 7 a.m., noon, and 8 p.m. on election day, the municipal clerk or his or her designee or municipal board of election commissioners shall provide to the county clerk of the county in which the municipality is located or the county board of election commissioners a statement that shows the total number of absentee ballots returned to the municipality and the total number of absentee ballots the election inspectors have canvassed under this subsection. The county clerk or county board of election commissioners shall promptly post each statement on the website on which returns for the county are posted on election night under s. 7.60. In a municipality having a municipal board of election commissioners, the statement required under this paragraph shall also be posted on the website maintained by

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the municipal board of election commissioners. The statement may not include the names or addresses of any electors.

2. An absentee ballot shall be considered canvassed for purposes of subd. 1. only after all tasks have been completed in the canvassing process except for the tallying of votes.

(d) When the meeting of the election inspectors recesses on the day before the election, the election inspectors shall secure the automatic tabulating equipment, and the areas where the programmed media, memory devices, and absentee ballots are housed, with tamper-evident security seals in a double-lock location such as a locked cabinet inside a locked office. Before resuming the canvassing of absentee ballots on election day, the election inspectors shall check and record the status of each tamper-evident seal. The election inspectors shall immediately notify the commission of any evidence of tampering. If the election inspectors discover evidence of tampering with respect to automatic tabulating equipment, the canvass may not resume until the equipment is replaced and the replacement equipment is tested as provided in s. 5.84, except that public notice need not be provided 48 hours prior to the test. If the election inspectors discover evidence of tampering under this paragraph, the commission shall verify the accuracy of the absentee ballot count in the municipality in the election by doing all of the following:

1. Ordering the municipality to conduct a recount after the election of all absentee ballots cast in the municipality in the election. The commission's order shall establish procedures for the recount consistent with s. 9.01.

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2. Auditing the election equipment in the same manner as audits are conducted under s. 7.08 (6).

(e) Votes on absentee ballots canvassed under this subsection may not be tallied until after the polls close on election day.

(f) No person may intentionally act in a manner that would give him or her the ability to know or to provide information on the tallied results from the ballots canvassed under this subsection before the polls close on election day. Whoever intentionally violates this paragraph is guilty of a Class I felony.

(g) An ordinance under par. (a) may not take effect less than 60 days before an election.

SECTION 22. 7.03 (1) (c) of the statutes is repealed.

SECTION 23. 7.15 (1) (cm) of the statutes is amended to read:

7.15 (1) (cm) Prepare official absentee ballots for delivery to electors requesting them; and ~~except as provided in this paragraph, send an official absentee ballot to each elector who has requested a ballot by mail, and to each military elector, as defined in s. 6.34 (1), and overseas elector who has requested a ballot by mail, electronic mail, or facsimile transmission, no later than the 47th~~ 45th day before each partisan primary, presidential preference primary, special primary or election, and general election ~~and no later than the 21st day before each other primary and election if the request is made before that day; otherwise, the municipal clerk shall send or transmit an official absentee ballot within one business day of the time the~~ military or overseas elector's request for such a ballot is received. The clerk shall send or transmit an absentee ballot ~~for the presidential~~

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~~preference primary to each elector who has requested that~~ to all other electors requesting a ballot no later than the 47th 21st day before the ~~presidential preference primary~~ or election if the request is made before that day, or, if the request is not made before that day, within one business day of the time the request is received. For purposes of this paragraph, “business day” means any day from Monday to Friday, not including a legal holiday under s. 995.20.

SECTION 24. 7.15 (16) of the statutes is created to read:

7.15 (16) ELECTION NIGHT REPORTING. (a) At 9 p.m. on election night, and every hour thereafter until the canvass is complete, the municipal clerk or his or her designee or municipal board of election commissioners shall provide to the county clerk of the county in which the municipality is located or the county board of election commissioners a statement that shows the total number of ballots, including absentee ballots, cast at the municipality in the election, the total number of ballots, including absentee ballots, that have been canvassed, and the total number of ballots, including absentee ballots, that remain to be canvassed. The county clerk or county board of election commissioners shall promptly post each statement on the website on which the county posts returns on election night under s. 7.60. In a municipality having a municipal board of election commissioners, the statement required under this subsection shall also be posted on the website maintained by the municipal board of election commissioners. The statement may not include the names or addresses of any electors.

(b) An absentee ballot may be considered canvassed for purposes of par. (a)

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only after all tasks have been completed in the canvassing process except for the tallying of votes.

SECTION 25. 7.37 (12) of the statutes is amended to read:

7.37 (12) CANVASSERS. The election inspectors shall constitute the board of canvassers of their polling place and in that capacity shall perform the duties under s. 7.51, except as otherwise designated by the municipal clerk under ~~ss. s.~~ 5.85 and 5.86.

SECTION 26. 7.51 (1) of the statutes is amended to read:

7.51 (1) CANVASS PROCEDURE. Immediately after the polls close the inspectors except any inspector appointed under s. 7.30 (1) (b) shall proceed to canvass publicly all votes received at the polling place. ~~In any municipality where an electronic voting system is used, the municipal governing body or board of election commissioners may provide or authorize the municipal clerk or executive director of the board of election commissioners to provide for the adjournment of the canvass to one or more central counting locations for specified polling places in the manner prescribed in subch. III of ch. 5. No central counting location may be used to count votes at a polling place where an electronic voting system is not employed. The canvass, whether conducted at the polling place or at a central counting location,~~ shall continue without adjournment until the canvass of all ballots cast and received on or before election day is completed and the return statement is made or, in municipalities where absentee ballots are canvassed under s. 7.52, until the canvass of all absentee ballots cast and received on or before election day is completed and the return statement for those ballots is made. The inspectors shall

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not permit access to the name of any elector who has obtained a confidential listing under s. 6.47 (2) during the canvass, except as authorized in s. 6.47 (8).

SECTION 27. 7.52 (1) (a) of the statutes is renumbered 7.52 (1) (a) 1. and amended to read:

7.52 (1) (a) 1. The governing body of any municipality may provide by ordinance that, in lieu of canvassing absentee ballots at polling places under s. 6.88, the municipal board of absentee ballot canvassers designated under s. 7.53 (2m) shall, at each election held in the municipality, canvass all absentee ballots received by the municipal clerk by 8 p.m. on election day. Prior to enacting an ordinance under this ~~subsection~~ subdivision, the municipal clerk or board of election commissioners of the municipality shall notify the ~~elections~~ commission in writing of the proposed enactment and shall consult with the ~~elections~~ commission concerning administration of this section. ~~At~~ Except as provided under par. (h), at every election held in the municipality following enactment of an ordinance under this ~~subsection~~ subdivision, the board of absentee ballot canvassers shall, any time after the opening of the polls and before 10 p.m. on election day, publicly convene at 7 a.m. on the day before the election to count the begin the canvass of absentee ballots for the municipality and may not recess until 8 p.m. on that day, or at such time when there are no further absentee ballots to be processed on that day, whichever is earlier, at which time the meeting shall recess; the meeting shall reconvene at 7 a.m. on election day and continue until all absentee ballots received by the municipal clerk by 8 p.m. on election day have been canvassed.

2. The municipal clerk shall give at least ~~48 hours'~~ 60 days' notice of ~~any the~~

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meeting under this subsection. Any member of the public has the same right of access to a meeting of the municipal board of absentee ballot canvassers under this subsection that the individual would have under s. 7.41 to observe the proceedings at a polling place. The board of absentee ballot canvassers may order the removal of any individual exercising the right to observe the proceedings if the individual disrupts the meeting.

SECTION 28. 7.52 (1) (d) to (h) of the statutes are created to read:

7.52 (1) (d) 1. At 7 a.m., noon, and 8 p.m. on the day before the election, and at 7 a.m., noon, and 8 p.m. on election day, the municipal clerk or his or her designee or municipal board of election commissioners shall provide to the county clerk of the county in which the municipality is located or the county board of election commissioners a statement that shows the total number of absentee ballots returned to the municipality and the total number of absentee ballots the municipal board of absentee ballot canvassers has canvassed under this subsection. The county clerk or county board of election commissioners shall promptly post each statement on the website on which returns for the county are posted on election night under s. 7.60. In a municipality having a municipal board of election commissioners, the statement required under this paragraph shall also be posted on the website maintained by the municipal board of election commissioners. The statement may not include the names or addresses of any electors.

2. An absentee ballot shall be considered canvassed for purposes of subd. 1. only after all tasks have been completed in the canvassing process except for the tallying of votes.

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(e) When the meeting of the board of absentee ballot canvassers recesses on the day before the election, the board of absentee ballot canvassers shall secure the automatic tabulating equipment, and the areas where the programmed media, memory devices, and absentee ballots are housed, with tamper-evident security seals in a double-lock location such as a locked cabinet inside a locked office. Before resuming the canvassing of ballots on election day, the board of absentee ballot canvassers shall check and record the status of each tamper-evident seal. The board of absentee ballot canvassers shall immediately notify the commission of any evidence of tampering. If the board of absentee ballot canvassers discovers evidence of tampering with respect to automatic tabulating equipment, the canvass may not resume until the equipment is replaced and the replacement equipment is tested as provided in s. 5.84, except that public notice need not be provided 48 hours prior to the test. If the board of absentee ballot canvassers discovers evidence of tampering under this paragraph, the commission shall verify the accuracy of the absentee ballot count in the municipality in the election by doing all of the following:

1. Ordering the municipality to conduct a recount after the election of all absentee ballots cast in the municipality in the election. The commission's order shall establish procedures for the recount consistent with s. 9.01.

2. Auditing the election equipment in the same manner as audits are conducted under s. 7.08 (6).

(f) Votes on absentee ballots canvassed under this section may not be tallied until after the polls close on election day.

(g) No person may intentionally act in a manner that would give him or her

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the ability to know or to provide information on the tallied results from the ballots canvassed under this section before the polls close on election day. Whoever intentionally violates this paragraph is guilty of a Class I felony.

(h) Canvassing absentee ballots on the day before the election under this section is optional except for each spring and general election and each special election or recall election if the special or recall election is for a state or national office.

SECTION 29. 7.52 (2) of the statutes is amended to read:

7.52 (2) In counting the absentee ballots, the board of absentee ballot canvassers shall use 2 duplicate copies of a single poll list for the entire municipality prepared in accordance with s. 6.36 (2). Upon ~~accepting~~ reviewing each absentee ballot certificate envelope to ensure that it satisfies all applicable legal requirements, the board of absentee ballot canvassers shall enter a ~~poll list sequential count~~ number on the poll list next to the name of the elector who voted the ballot, beginning with the number one. If the elector's name does not appear on the poll list, the board of absentee ballot canvassers shall enter the number on a separate list maintained under this subsection. The board of absentee ballot canvassers shall record each elector's sequential count number on the face of the elector's certificate envelope.

SECTION 30. 7.52 (3) (a) of the statutes is amended to read:

7.52 (3) (a) The board of absentee ballot canvassers shall first open the carrier envelope only, and, in such a manner that a member of the public, if he or she desired, could hear, announce the name of the absent elector or the identification

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serial number of the absent elector if the elector has a confidential listing under s. 6.47 (2). When the board of absentee ballot canvassers finds that the certification has been properly executed and the applicant is a qualified elector of the ward or election district, the board of absentee ballot canvassers shall enter an indication, including the elector's sequential count number as provided under sub. (2), on the poll list next to the applicant's name indicating an absentee ballot is cast by the elector. The board of absentee ballot canvassers shall then open the envelope containing the ballot in a manner so as not to deface or destroy the certification thereon. ~~The board of absentee ballot canvassers shall take out the ballot without unfolding it or permitting it to be unfolded or examined and shall remove the ballot from the certificate envelope without viewing who the elector voted for.~~ Unless the ballot is cast under s. 6.95, the board of absentee ballot canvassers shall verify that the ballot has been endorsed by the issuing clerk. If the poll list indicates that proof of residence is required and no proof of residence is enclosed or the name or address on the document that is provided is not the same as the name and address shown on the poll list, the board of absentee ballot canvassers shall proceed as provided under s. 6.97 (2). ~~The board of absentee ballot canvassers shall mark the poll list number of each elector who casts an absentee ballot on the back of the elector's ballot. The board of absentee ballot canvassers shall then deposit the ballot into the proper ballot box and enter the absent elector's name or poll list number after his or her name on the poll list or automatic tabulating equipment.~~

SECTION 31. 7.52 (4) (a) of the statutes is amended to read:

7.52 (4) (a) The board of absentee ballot canvassers shall then ~~open the ballot~~

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~~box and remove and~~ count the number of ballots ~~therein~~ without examination except as is necessary to ascertain that each is a single ballot. If 2 or more ballots are folded together so as to appear as a single ballot, the board of absentee ballot canvassers shall lay them aside until the count is completed; and if, after a comparison of the count and the appearance of the ballots it appears to the board of absentee ballot canvassers that the ballots folded together were voted by the same person they shall not be counted but the board of absentee ballot canvassers shall mark them as to the reason for removal, set them aside, and carefully preserve them. The board of absentee ballot canvassers shall then proceed under par. (b).

SECTION 32. 7.52 (9) of the statutes is amended to read:

7.52 (9) The governing body of any municipality that has provided by ordinance enacted under sub. (1) (a) 1. for the canvassing of absentee ballots at all elections held in the municipality under this section may by similar action rescind that decision. Thereafter, the absentee ballots at all elections held in the municipality shall be canvassed as provided in s. 6.88.

SECTION 33. 7.52 (10) of the statutes is created to read:

7.52 (10) A member of the board of absentee ballot canvassers or other election official who willfully neglects or refuses to perform any of the duties prescribed under this section is guilty of a Class I felony.

SECTION 34. 7.52 (11) of the statutes is created to read:

7.52 (11) An ordinance under sub. (1) may not take effect less than 60 days before an election.

SECTION 35. 54.25 (2) (c) 1. g. of the statutes is amended to read:

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54.25 (2) (c) 1. g. The right to register to vote or to vote in an election, if the court finds that the individual is incapable of understanding the objective of the elective process. Also, in accordance with s. 6.03 (3), any elector of a municipality may petition the circuit court for a determination that an individual residing in the municipality is incapable of understanding the objective of the elective process and thereby ineligible to register to vote or to vote in an election. This determination shall be made by the court in accordance with the procedures specified in this paragraph. If a petition is filed under this subd. 1. g., the finding of the court shall be limited to a determination as to voting eligibility. The appointment of a guardian is not required for an individual whose sole limitation is ineligibility to vote. The No later than one business day after the date of a determination, the court shall notify the elections commission by electronic means of the determination of the court. In addition, the determination of the court shall be communicated in writing by the clerk of court to the election official or agency charged under s. 6.48, 6.92, 6.925, 6.93, or 7.52 (5) with the responsibility for determining challenges to registration and voting that may be directed against that elector. The determination may be reviewed as provided in s. 54.64 (2) and. The court shall notify election official or agency charged under s. 6.48, 6.92, 6.925, 6.93, or 7.52 (5) with the responsibility for determining challenges to registration and voting that may be directed against that elector of any subsequent determination of the court shall be likewise communicated by the clerk of court no later than one business day after the determination. All notices provided under this subd. 1. g. shall include the full name; address, including city, state, and zip code; and date of

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birth of the individual subject to the determination. If the court appoints a guardian for an individual who is ineligible to vote, the guardian shall report an address change for the individual to the court within 10 business days of the change and the court shall notify the elections commission by electronic means of that address change using the methods described in this subd. 1. g. no later than one business day after receiving the information.

SECTION 36. 66.0512 of the statutes is created to read:

66.0512 Whistleblower protection for certain disclosures made by municipal clerks. No municipal clerk may be discharged, disciplined, demoted, or otherwise discriminated against in regard to employment, or threatened with any such treatment, as a reprisal because the clerk lawfully reported, or is believed to have reported, witnessing what the clerk reasonably believed to be election fraud or irregularities. For purposes of this section, “lawfully reported” means a report of information the disclosure of which is not expressly prohibited by state or federal law, rule, or regulation.

SECTION 37. Nonstatutory provisions.

(1) **CITIZENSHIP VERIFICATION.** The elections commission shall verify the citizenship of all electors on the official registration list as soon as practicable after the effective date of this subsection using the information provided by the department of transportation under s. 5.056.

(END)