

1 **AN ACT** *to create* 7.41 (5) of the statutes; **relating to:** the conduct of election
2 observers, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, any member of the public may be present at any polling place for the purpose of observing an election, except a candidate at that election. The chief inspector at the polling place is authorized to "reasonably limit" the number of persons representing the same organization who are permitted to observe an election at the same time. In addition, the chief inspector is authorized to restrict the location of observers to certain areas at a polling place. Such an area is to be clearly designated as an observation area. Observation areas must be positioned to allow observers to readily observe all public aspects of the voting process.

The statutes authorize a chief inspector to order the removal from a polling place of any observer who commits an overt act which either disrupts the operation of the polling place or who engages in electioneering.

Under the statutes, an observer may not view the confidential portion of a registration list relating to an individual who has obtained a confidential listing based on domestic abuse. However, the poll workers must disclose to an observer, upon request, the existence of such a list, the number of electors whose names appear on the list, and the number of those electors who have voted at any point during the election. In addition, an observer may not view the certificate of an absent elector who has obtained such a confidential listing.

Current law prohibits any person from refusing to obey a lawful order of a poll worker made for the purpose of enforcing the election laws; engaging in disorderly behavior at or near a polling place; or interrupting or disturbing the voting canvassing proceedings. A person violating this prohibition may be fined not more than \$1,000, or imprisoned for not more than 6 months, or both.

This draft directs the elections board to promulgate rules regarding the proper conduct of observers at polling places, including the interaction of observers with election officials at polling places. The draft requires the rules to be submitted to the legislative council staff for review by February 1, 2006.

The draft would be effective upon publication of the draft as an act.

1 **SECTION 1.** 7.41 (5) of the statutes is created to read:

2 7.41 (5) The board shall promulgate rules regarding the proper conduct of individuals
3 exercising the right under sub. (1), including the interaction of those individuals with
4 inspectors and other election officials.

5 **SECTION 2. Nonstatutory provisions.**

6 (1) Polling place observation: rules

7 (a) The elections board shall submit in proposed form the rules required under section
8 7.41 (5) of the statutes, as created by this act, to the legislative council staff under section
9 227.15 (1) of the statutes no later than February 1, 2006.

10 [(b) Using the procedure under section 227.24 of the statutes, the elections board may
11 promulgate rules required under s. 7.41 (5) of the statutes, as created by this act, for the period
12 before the effective date of the rules submitted under paragraph (a), but not to exceed the
13 period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section
14 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not required to provide evidence that
15 promulgating a rule under this paragraph as an emergency rule is necessary for the
16 preservation of the public peace, health, safety, or welfare and is not required to provide a
17 finding of emergency for a rule promulgated under this paragraph.]

COMMENT: The bracketed language authorizes the elections board to
 promulgate emergency rules until the permanent rules become effective.
 Does the committee wish to include this authority?

18 **(END)**