



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-1890/1  
JK:jld/kjf/amn

## 2017 BILL

1     **AN ACT** *to renumber and amend* 5.84 (1); and *to create* 5.84 (1) (b), 5.91 (19)  
2             and subchapter VI of chapter 6 [precedes 6.981] of the statutes; **relating to:**  
3             using an electronic voting machine to cast a vote with an in-person absentee  
4             ballot.

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### *Analysis by the Legislative Reference Bureau*

This bill authorizes a municipality to allow its electors to vote before election day by using an electronic voting machine to cast an in-person absentee ballot. If a municipality enacts an ordinance or adopts a resolution to implement this method, and the Elections Commission certifies that the municipality is capable of implementation, an elector may vote before election day at the municipal clerk's office by completing his or her ballot and casting the ballot using an electronic voting system. The period for this option is the same as for making applications for in-person absentee ballots: beginning no earlier than the third Monday preceding the election and ending no later than 7 p.m. on the Friday preceding the election. The votes are not tabulated before election day, but the municipal clerk publishes the daily tally of the total number of ballots cast before election day on the municipality's Internet site. The current law that applies to voting on election day with regard to election observers and assisting the disabled also applies to voting as provided under the bill.

The bill also requires the Elections Commission to certify electronic voting systems that include a report function capable of reporting write-in votes by scanning the ballots and electronically capturing the write-in votes.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 5.84 (1) of the statutes is renumbered 5.84 (1) (a) and amended to  
2 read:

3           5.84 (1) (a) ~~Where~~ Except as provided in par. (b), where any municipality  
4 employs an electronic voting system which utilizes automatic tabulating equipment,  
5 either at the polling place or at a central counting location, the municipal clerk shall,  
6 on any day not more than 10 days prior to the election day on which the equipment  
7 is to be utilized, have the equipment tested to ascertain that it will correctly count  
8 the votes cast for all offices and on all measures. Public notice of the time and place  
9 of the test shall be given by the clerk at least 48 hours prior to the test by publication  
10 of a class 1 notice under ch. 985 in one or more newspapers published within the  
11 municipality if a newspaper is published therein, otherwise in a newspaper of  
12 general circulation therein. The test shall be open to the public. The test shall be  
13 conducted by processing a preaudited group of ballots so marked as to record a  
14 predetermined number of valid votes for each candidate and on each referendum.  
15 The test shall include for each office one or more ballots which have votes in excess  
16 of the number allowed by law and, for a partisan primary election, one or more ballots  
17 which have votes cast for candidates of more than one recognized political party, in  
18 order to test the ability of the automatic tabulating equipment to reject such votes.  
19 If any error is detected, the municipal clerk shall ascertain the cause and correct the  
20 error. The clerk shall make an errorless count before the automatic tabulating  
21 equipment is approved by the clerk for use in the election.

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1           **SECTION 2.** 5.84 (1) (b) of the statutes is created to read:

2           5.84 (1) (b) For a municipality that authorizes the absentee voting efficiency  
3 option under subch. VI of ch. 6, the municipal clerk shall have the automatic  
4 tabulating equipment tested, as provided under par. (a), on any day not more than  
5 10 days prior to the first day on which such voting is available in the municipality  
6 pursuant to s. 6.981.

7           **SECTION 3.** 5.91 (19) of the statutes is created to read:

8           5.91 (19) For certifications made under this section on or after the effective date  
9 of this subsection ... [LRB inserts date], if the device consists of an electronic voting  
10 machine, it includes a report function that is capable of reporting write-in votes by  
11 scanning the ballots and electronically capturing the write-in votes. If a device  
12 certified before the effective date of this subsection ... [LRB inserts date], consists  
13 of an electronic voting machine with such a report function, an election official may  
14 use that function to count write-in votes, as provided in s. 7.50 (2) (d) to (j), after the  
15 commission has tested the function.

16           **SECTION 4.** Subchapter VI of chapter 6 [precedes 6.981] of the statutes is  
17 created to read:

**CHAPTER 6****SUBCHAPTER VI****ABSENTEE VOTING EFFICIENCY OPTION**

21           **6.981 Efficiency option.** (1) (a) The municipal clerk shall complete the  
22 application as provided under s. 6.87 (1) and allow an elector to cast a ballot prior to  
23 election day by casting a ballot into an electronic voting system as provided under  
24 s. 6.80 at the municipal clerk's office, if the governing body of the municipality has  
25 enacted an ordinance or adopted a resolution to allow such voting and the

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1 commission has certified the municipality under s. 6.982 (9) (a) to conduct such  
2 voting. An elector may vote under this subchapter no earlier than the opening of  
3 business on the 3rd Monday preceding the election and no later than 7 p.m. on the  
4 Friday preceding the election. The clerk's office, or a site designated under s. 6.855,  
5 may be open for voting under this subchapter Monday to Friday between the hours  
6 of 8 a.m. and 7 p.m. each day, but no voting is allowed under this subchapter on a legal  
7 holiday. A municipality shall specify the hours for voting in the notice under s. 10.01  
8 (2) (e).

9 (b) After the governing body of the municipality has enacted an ordinance or  
10 adopted a resolution to allow the voting procedure under par. (a), the municipality  
11 shall use that procedure for all subsequent elections until such time that the  
12 governing body enacts an ordinance or adopts a resolution repealing the use of the  
13 procedure. The municipal clerk or deputy municipal clerk shall supervise the voting  
14 procedure under par. (a).

15 (c) This subchapter does not preclude the clerk from using absentee envelopes  
16 when the clerk determines that such use is necessary.

17 **6.982 Administration.** (1) (a) Votes cast under s. 6.981 may not be tabulated  
18 until the closing of the polls on election day, but the municipal clerk shall publish on  
19 the municipality's Internet site a daily tally of the total number of ballots cast under  
20 s. 6.981 in the municipality. No person may otherwise view, print, provide, or release  
21 any results from ballots cast under s. 6.981 until the close of the polls on election day.

22 (b) An elector who casts a ballot under s. 6.981 that is accepted by automatic  
23 tabulating equipment may not request that the ballot be returned to him or her as  
24 defective in order to cast a new ballot, as provided under s. 6.80 (2) (c).

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1           (c) The clerk shall reconcile the ballots cast each day to ensure that the number  
2 of ballots cast equals the number issued. If the clerk is unable to reconcile the ballots,  
3 the reconciliation shall be completed as provided under s. 7.51 (2).

4           **(2)** The county or municipal clerk or any other authorized person shall program  
5 memory devices for automatic tabulating equipment used by municipalities that  
6 authorize voting under s. 6.981 no later than 21 days prior to election day and the  
7 municipalities shall acquire a sufficient number of memory devices to facilitate the  
8 administration of a primary, the canvass following the primary, and the subsequent  
9 election and canvass.

10           **(3)** Automatic tabulating equipment used for purposes of this subchapter shall  
11 be secured with a tamper-evident seal and the municipal clerk shall check the seals  
12 for tampering at the beginning and ending of each day designated for voting under  
13 s. 6.981. The clerk shall daily document all checks performed under this subsection.

14           **(4)** For purposes of s. 6.981, the municipal clerk shall issue ballots using the  
15 voter registration and voter information systems established and maintained by the  
16 elections commission in the same manner that the systems are used to issue and  
17 track absentee ballots. The commission shall program the system so that ballots  
18 issued for purposes of this subchapter are tracked by sequentially numbering the  
19 absentee ballot certification and request log.

20           **(5)** (a) Except as provided in par. (b), an elector shall sign an absentee ballot  
21 certification request log for purposes of this subchapter. The municipal clerk shall  
22 have the elector provide an electronic or a handwritten signature, but if the clerk  
23 allows the use of electronic signatures, the clerk shall not generate a final absentee  
24 ballot log until after the last day designated for voting under s. 6.981.

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1           (b) The municipal clerk may have an elector sign an electronic poll book using  
2 an electronic signature as an alternative to signing an absentee ballot certification  
3 request log under par. (a).

4           **(6)** (a) Except as provided in par. (c), the municipal clerk shall seal together all  
5 ballots cast in the municipality under s. 6.981 each day in a numbered and  
6 tamper-evident security seal ballot bag and document all such action and numbers.  
7 All such ballot bags shall remain in the clerk's possession, sealed and secured by the  
8 municipal clerk, until such time that they are needed for audit, recount, or storage.

9           (b) If the municipal clerk is required to report vote totals by ward, but the votes  
10 in multiple wards are processed through a single memory device and tabulator, the  
11 clerk shall not sort the ballots into wards before placing them into the bag described  
12 under par. (a).

13           **(7)** Section 7.41, regarding the public's right to access the polling place and s.  
14 6.82, regarding assisting electors, apply to voting conducted under s. 6.981.

15           **(8)** If an elector makes a challenge for cause in person, as provided under s.  
16 6.925, with regard to any person offering to vote under this subchapter, the clerk  
17 shall place the ballot in an absentee ballot envelope and send the envelope to the  
18 polling place to be challenged under s. 6.93.

19           **(9)** (a) The commission shall establish procedures for certifying municipalities  
20 to conduct voting under s. 6.981. The commission shall certify a municipality to  
21 conduct voting under s. 6.981 if it determines that the municipality is capable of  
22 adequately securing all equipment and ballots consistent with this subchapter and  
23 of satisfying all other requirements set forth in this subchapter.

24           (b) The commission shall establish procedures for the administration of this  
25 subchapter, including procedures to facilitate the secure transfer of memory devices

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1 from their use for voting under s. 6.981 to their use in tabulating the votes on election  
2 day.

3 (END)