



WISCONSIN LEGISLATIVE COUNCIL  
REPORT TO THE LEGISLATURE

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SPECIAL COMMITTEE ON  
ELECTION LAW  
REVIEW

February 20, 2006

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# Special Committee on Election Law Review

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## CONTENTS

<b>PART I - KEY PROVISIONS OF COMMITTEE RECOMMENDATIONS.....</b>	<b>3</b>
2005 Senate Bill 612, Relating to Administration of Elections; Providing Exemptions From and Extending the Time Limit for Emergency Rule Procedures; Granting Rule- Making Authority; and Providing Penalties .....	3
<b>PART II - COMMITTEE ACTIVITY .....</b>	<b>9</b>
Assignment.....	9
Summary of Meetings.....	9
<b>PART III - RECOMMENDATIONS INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL .....</b>	<b>17</b>
Background .....	17
Description .....	18
Appendix 1 - Committee and Joint Legislative Council Votes .....	35
Appendix 2 - List of Joint Legislative Council Members .....	37
Appendix 3 - List of Committee Members .....	39
Appendix 4 - Committee Materials List.....	41



# PART I

## KEY PROVISIONS OF COMMITTEE RECOMMENDATIONS

The Special Committee on Election Law Review recommends the following proposal to the Joint Legislative Council for introduction in the 2005-06 Session of the Legislature.

### **2005 Senate Bill 612, Relating to Administration of Elections; Providing Exemptions From and Extending the Time Limit for Emergency Rule Procedures; Granting Rule-Making Authority; and Providing Penalties**

2005 Senate Bill 612, relating to administration of elections; providing exemptions from and extending the time limit for emergency rule procedures; granting rule-making authority; and providing penalties. 2005 Senate Bill 612, does the following:

- Establishes that only the following list of items are acceptable proof of residence for registration or voting, when required: (1) a current and valid Wisconsin driver's license; (2) a current and valid Wisconsin identification card; (3) any other official identification card or license issued by a Wisconsin governmental body or unit; (4) an identification card issued by an employer in the normal course of business and bearing a photograph of the card holder, but not including a business card; (5) a real estate tax bill or receipt for the current year or the year preceding the date of the election; (6) a residential lease, unless the person registered to vote by mail; (7) a university, college, or technical college fee, or identification card bearing a photograph of the card holder; (8) a utility bill for the period commencing not earlier than 90 days before election day; (9) a bank statement; (10) a paycheck; and (11) a check or other document issued by a unit of government.
- Changes the registration deadline from the 2nd Wednesday preceding the election to the 3rd Wednesday preceding the election. Under the bill, registration after this deadline is limited to persons registering in person in the office of the municipal clerk, persons registering at the polls on election day, and hospitalized persons registering via an agent.
- Requires "roving registration deputies" appointed by the municipal clerk and Elections Board to be trained and to print and sign their names on all registration cards they accept, requires that such cards be subject to a postcard audit, requires that the municipal clerk keep a list of all roving registration deputies, eliminates the statutory requirement that registration be available in the office of the Register of Deeds, and requires that registration be available at the office of the county clerk.
- Prohibits any person from compensating any individual who gathers registrations at a rate that varies in relation to the number of voter registrations obtained. Violators are guilty of a misdemeanor and are subject to a fine of not more than \$1,000 or imprisonment for not more than six months, or both, for each offense.
- Requires the letter or postcard used to verify registrations to be mailed within 10 days of receiving the registration.
- Provides that whenever an elector registers to vote in the general election after the close of registration and the elector presents a valid driver's license issued by another state the registering official must record the license number, issuing state, and expiration date of

any license presented. The information would not be available for general public inspection. In addition, the bill requires the Elections Board, following each general election, to contact the chief election official in each other state that has issued a valid driver's license to an elector presenting that license who voted in the election and to inquire whether the elector had voted in that election in that state. Currently, there are no such requirements.

- Directs the Elections Board to establish a fee for a copy of the statewide voter registration list. The amount of the fee must be set to cover the cost of reproduction and the cost of maintaining the list, and the fee must be shared with local units of government.
- Authorizes the state Elections Board to conduct same-day voter registrations and double voting audits in lieu of the municipal clerk.
- Requires the Elections Board to create uniform registration cards that must be used throughout the state for purposes of registration.
- Authorizes a registered elector or a "military elector," to apply for an absentee ballot by making a written application to the municipal clerk by facsimile transmission (fax) or electronic mail (email).
- Changes the deadline by which requests from most electors for absentee ballots must be received by the municipal clerk from 5 p.m. on the Friday preceding the election to no later than 5 p.m. on the 5th day immediately preceding the election.
- Generally provides that every request by any "military elector" must be treated as a request for an absentee ballot for all subsequent elections.
- Provides that a ballot cast by a "military elector," that is received by the municipal clerk after the close of the polls may, in some situations, still be counted. Under the bill, such a ballot that is received after the polls close is considered a valid ballot if it is received by the clerk by the deadline for requesting a recount and if it contains a postal service cancellation mark dated on or before the election day for which the ballot was cast. However, under the bill these ballots will not be counted unless a recount occurs.
- Requires all absentee ballots to be witnessed by an adult U.S citizen.
- Requires the municipal clerk to maintain a list, available to the public, of all of the nursing homes, community-based residential facilities, and retirement homes where an absentee ballot has been requested and when the special deputies will be visiting the facility and allows one observer from each of the recognized political parties whose candidate for governor or president received the greatest numbers of votes in the municipality at the most recent general election to accompany the deputies to observe the distribution of absentee ballots in the common areas of the facility.
- Authorizes the governing body of a municipality (city, village, or town) to establish an alternate absentee ballot site in lieu of the municipal clerk's office to facilitate absentee ballot applications, voting of absentee ballots, and the return of absentee ballots prior to the close of the polls.
- Applies the restrictions contained in current law regarding the observation of elections to the municipal clerk's office or an alternate absentee ballot site authorized by the governing body of a municipality on any day that absentee ballots may be cast in that office.

- Extends the prohibitions on electioneering contained in current law to the municipal clerk's office or an alternate absentee ballot site authorized by the governing body of a municipality during times when absentee voting may be conducted in the office or at the alternate site.
- Permits the governing body of any municipality, by ordinance, to discontinue the canvassing of absentee ballots at polling places and instead provide for canvassing them at a centralized facility. The bill also provides authority to appoint additional inspectors to assist the board of absentee ballot canvassers.
- Removes "residency" as one of the qualifications required of a circulator of petitions or nomination papers in light of a federal district court ruling which found such requirement to be unconstitutional.
- Requires a copy of a measure or question that will be submitted to a vote of the people on behalf of a school district to be provided to the clerk of each county having territory within the school district no later than 42 days prior to the election.
- Requires the Elections Board to submit a report and recommendations to the Legislature on state and local election-related contingency planning efforts and preparedness regarding natural disasters and terrorist activities that may occur at or near election time.
- Requires the election administration council to provide guidance to local units of government concerning the purchasing of election apparatus, ballot forms, and supplies for use in elections in this state to help ensure that competitive prices are obtained.
- Changes the date that election officials are appointed to December of each odd-numbered year instead of December of even-numbered years.
- Beginning with elections held in 2008, the bill requires all municipal clerks to receive election training at least once every two years and requires municipal clerks to train all pollworkers other than chief inspectors, who would continue to be trained and certified under current law, as well as special registration deputies and special voting deputies pursuant to rules developed by the Elections Board.
- Eliminates the minimum grade point average (GPA) requirement applicable to high school pollworkers under current law and instead authorizes school boards to develop criteria for approving students to serve as pollworkers. The bill also modifies the term of service of a high school pupil appointed to serve as an inspector.
- Requires each municipal clerk to designate an official of the municipality who must position himself or herself at the end of the line of individuals waiting to vote at the time the polls officially close as a way to mark the end of the line. The bill provides that the official may be a poll worker at the polling place, an employee of the municipal clerk, or a police officer.
- Directs the Elections Board to promulgate rules regarding the proper conduct of observers at polling places, municipal clerk's offices, or alternate absentee ballot sites, including the interaction of observers with election officials.
- Clarifies current law regarding election threats without making substantive changes to the law.
- Prohibits certain posting or distribution of election-related material during voting hours on any public property on election day near a polling place. The municipal clerk's office

or an alternate absentee ballot site during hours that absentee ballots may be cast therein. For purposes of the bill, “election-related material” means any written matter which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place or voting by absentee ballot, except material posted or distributed by the municipal clerk or other election officials.

- Requires that the municipal clerk in municipalities with multiple polling places prominently post at each polling place a map of the geographic area served by each polling place for that election.
- Directs the Department of Corrections (DOC) to transmit electronically to the Elections Board, on a continuous basis, a list containing the names of each person who has been convicted of a felony under the laws of this state and whose voting rights have not been restored. The list is to be used to prevent felons from casting ballots. The bill also requires every person who registers to vote, to affirm specifically that he or she has not been convicted of a felony for which he or she has not been pardoned and, if so, whether the person is incarcerated or on probation, parole, or extended supervision resulting from that conviction.
- Provides that each municipality may appoint an additional inspector on a nonpartisan basis who serves as a greeter and substitutes for other inspectors who must leave the voting room temporarily.
- Sets the deadline for delivery of ballots, statements, tally sheets, lists, and envelopes by the municipal clerk to other clerks at 4 p.m. on the day after an election rather than the 2 p.m. deadline under current law.
- Deletes the requirement that inspectors’ statements be completed in duplicate.
- Allows the county and municipal clerk to continue to serve on the respective board of canvassers if the clerk is a candidate as long as he or she has no opponent on the ballot, or, in the event of a recount, the office the clerk is seeking is not a subject of the recount.
- Requires a petition for the recall of a city, village, town, or school district officer to contain a statement of the grounds that constitute each cause for the recall. Under the bill, “cause” means official misconduct or malfeasance in office.
- Provides that unused ballots from an election may not be discarded or destroyed until at least the day after the last day for the filing of a recount petition for any office on the ballots.
- Requires the recount procedures developed by the Elections Board to require boards of canvassers in recounts involving more than one board of canvassers to consult with the Elections Board staff prior to beginning any recount to ensure that uniform procedures are used, to the extent practicable, in conducting such recounts.
- Requires boards of canvassers to use automatic tabulating equipment to recount ballots that are in machine-readable form unless a court finds that the petitioner has established by clear and convincing evidence that due to irregularity, defect, or mistake committed during the voting or canvassing process the results of a recount using automatic tabulating equipment will produce incorrect recount results and that there is a substantial probability that recounting the ballots by hand or another method will produce a more correct result and change the outcome of the election.

- Requires the Elections Board to prepare recommendations for the Legislature with regard to random post-election audits of local election practices to be conducted in the fall of odd-numbered years. The recommendations must include recommendations on how election practices at the local level may be reviewed by election officials of other, similar-size municipalities and how such audits may be funded by the state.



## PART II

### COMMITTEE ACTIVITY

#### Assignment

The Joint Legislative Council established the Special Committee on Election Law Review by a May 21, 2004 mail ballot. The committee was directed to examine the election process and the administration of elections in the state, other than campaign financing law. The Special Committee was specifically directed to examine the implementation of the federal Help America Vote Act of 2002 (HAVA), state oversight of elections in Wisconsin, and the recount process. The Special Committee was also authorized to examine other election-related issues such as voter registration and identification, new technologies for voting, the adequacy of staffing at polling places, and the adequacy of training received by pollworkers.

Membership of the Special Committee, appointed by a July 21, 2004 mail ballot, consisted of two Senators, three Representatives, seven public members, and one nonvoting public member. A list of committee members is included as **Appendix 3** to this report.

#### Summary of Meetings

The Special Committee held nine meetings at the Legislative Council staff offices in Madison, except as otherwise noted, on the following dates:

October 13, 2004	March 23, 2005
November 17, 2004	May 2, 2005
December 15, 2004	August 4, 2005
January 5, 2005	August 25, 2005 (Milwaukee)
March 2, 2005	September 29, 2005

October 13, 2004: At the first meeting of the Special Committee, the committee heard testimony from the following invited speaker:

**Kevin J. Kennedy**, Executive Director, State of Wisconsin Elections Board gave a presentation on HAVA and took numerous questions from the other committee members. Mr. Kennedy discussed, among other things, the important provisions of HAVA, the types of funds HAVA provides to the state, and the implementation of the statewide voter registration list. There was also a discussion of what would happen if there were a terrorist attack or natural catastrophe on election day.

November 17, 2004: Kevin Kennedy presented an overview of the election night issues of which he was aware. He said that there were two major issues concerning the elections on both the state and national levels: long lines and the conduct of observers at polling places. He commented that clearer direction was needed in the statutes on the conduct of observers. Overall, however, he noted that it was his opinion that Wisconsin ran smooth elections on election night. In general, committee members concurred.

Committee members also identified and briefly discussed a number of ways to improve the election process in Wisconsin. Staff was directed to prepare a listing of the issues discussed for the committee at the next meeting. Among the broad issues discussed were the following: absentee voting; voter registration; pollworkers; voting equipment; polling place hours; conduct at polling places by observers and others; voter identification; counting of write-in votes; and online reporting of results.

December 15, 2004: Chair Leibham gave a brief description of his experience with the recount in the 9th Senate District in 2002 and the committee spent time discussing possible modifications to the recount procedure.

The committee also discussed the possibility of early voting, and the current system of “no excuse” absentee voting. The committee requested that staff create drafts on the following issues: (1) allow requests for absentee ballots to be faxed or emailed; (2) allow an absentee ballot to be sent only to an elector’s permanent or temporary address; (3) require absentee ballots to be either returned to the clerk by mail or returned to the clerk in person; and (4) require witnesses for absentee ballots to be adult U.S. citizens.

January 5, 2005 : The committee continued discussing election issues presented in staff reports and agreed that staff should prepare drafts on the following issues: (1) time for voting absentee ballots in the clerk’s office; (2) electioneering and observation during absentee balloting in the clerk’s office; (3) “no excuse” absentee voting; (4) deadline for in-person registration; (5) public processing of absentee ballots at the polls; (6) absentee voting in nursing homes and other facilities under s. 6.875; and (7) absentee ballots for military electors.

March 2, 2005: The committee resumed discussing election issues presented in staff reports and agreed that staff should prepare drafts on the following issues: (1) fees for copies of the statewide voter registration list; (2) deadline for mail-in registration; (3) registration verification; (4) legibility of registration forms; (5) elimination of corroboration; (6) registration of homeless voters; (7) registration locations; (8) registration for HAVA purposes; (9) eliminating prepaid postage on registration cards; (10) compensation for obtaining registrations; (11) content of registration forms; (12) forms of acceptable proof of residence for registration; (13) terms of service for pollworkers; (14) high school pollworkers; (15) an election equipment oversight committee; (16) preparedness for election day disasters or attacks; (17) paper trails for voting machines; (18) qualifications of circulators; (19) manner of publicizing election events; (20) notice of school referendums; and (21) time of school district referendums.

March 23, 2005: **Sharon Robinson, Director, City of Milwaukee Department of Administration and Chair of the City of Milwaukee Election Commission Task Force** made a presentation to the committee. She described the work of the task force that is reviewing Milwaukee’s election practices; said that she expected the task force to have recommendations prepared sometime in May; noted that Mayor Barrett would welcome the chance to come before the Special Committee at that time to present the task force’s findings and recommendations; and hoped the committee would continue to be willing to work with her and the task force. She noted that the City Election Commission has been fully cooperating with law enforcement investigations and the audit by the Legislative Audit Bureau. Ms. Robinson then answered questions from members of the committee.

The committee resumed discussing the issues presented in staff reports and agreed that staff should prepare drafts on the following issues: (1) uniform poll hours; (2) alternative absentee ballot sites; (3) poll closing procedures; (4) conduct of election observers; (5) posting of election-related material at polling places; (6) election threats; (7) identification for certain voters; (8) deadline for delivery of canvass materials; (9) tallying of write-in votes; (10) inspectors’ statements; and (11) service on the board of canvassers.

May 2, 2005: Kevin Kennedy described the results of a survey of municipal clerks regarding voting by mail, after which the issue was set aside. The committee also discussed the training of pollworkers and the issues of the recall procedure, font size on ballots, creating civil penalties for violations of the election laws, and the need to examine the Governor’s proposals regarding election law reform.

The committee also gave tentative approval to, though took no formal votes on, the following drafts (with some minor amendments) that had been prepared by staff: (1) **WLC**:

**0096/1**, relating to requiring a witness for absentee voting to be an adult U.S. citizen; (2) **WLC: 0117/1**, relating to requesting an absentee ballot by mail; (3) **WLC: 0118/1**, relating to the mailing of absentee ballots; (4) **WLC: 0143/1**, relating to the deadline for registration to vote; (5) **WLC: 0146/1**, relating to the minimum GPA required of a high school student to be a pollworker; (6) **WLC: 0147/1**, relating to the term of a pollworker who is a high school student; (7) **WLC: 0148/1**, relating to the elimination of prepaid postage on voter registration cards; (8) **WLC: 0154/1**, relating to notice of certain school referenda; (9) **WLC: 0156/1**, relating to report on election contingency planning; (10) **WLC: 0167/1**, relating to the method of compensation of special voter registration deputies and providing a penalty; (11) **WLC: 0169/1**, relating to conducting registration at offices of the county clerk and the county election commissioners; (12) **WLC: 0170/1**, relating to the date of appointment and term of office for election officials; (13) **WLC: 0179/1**, relating to the conduct of election observers, and granting rule-making authority; (14) **WLC: 0181/1**, relating to identification required for certain voters who register by mail; and (15) **WLC: 0182/1**, relating to election threats.

Additionally, the committee requested substantive amendments to the following drafts for future consideration: (1) **WLC: 0101/1**, relating to requesting an absentee ballot by electronic mail or facsimile transmission; (2) **WLC: 0104/1**, relating to late voter registration in the municipal clerk's office; (3) **WLC: 0105/1**, relating to observation and electioneering activities in the office of the municipal clerk; (4) **WLC: 0106/1**, relating to ballots for military electors; (5) **WLC: 0107/1**, relating to late arriving military ballots; (6) **WLC: 0124/1**, relating to the recording of absentee ballots; (7) **WLC: 0126/1**, relating to absentee voting in nursing homes, qualified retirement homes, and qualified community-based residential facilities; (8) **WLC: 0145/1**, relating to requiring two registration deputies for polling place registration; (9) **WLC: 0153/1**, relating to qualification of circulators of nomination papers and petitions; (10) **WLC: 0157/1**, relating to the timing of local referenda elections; (11) **WLC: 0163/1**, relating to establishment of an election apparatus oversight committee; (12) **WLC: 0165/1**, relating to eliminating registration at high schools, through special registration deputies, and at the office of the register of deeds; (13) **WLC: 0168/1**, relating to registering to vote by mail; (14) **WLC: 0197/1**, relating to proof of residence required of certain voters and those registering to vote at the polls; (15) **WLC: 0174/1**, relating to filing of declarations of candidacy and recording of votes received by write-in candidates in certain elections; (16) **WLC: 0178/1**, relating to requiring a municipal clerk to establish a policy for the orderly closing of polling places; (17) **WLC: 0180/1**, relating to the deadline for delivery of materials from the municipal canvass to the county clerk; and (18) **WLC: 0188/1**, relating to the fee for receiving a copy of the statewide voter registration list.

The committee also agreed that the following drafts be tentatively set aside for possible future discussion: (1) **WLC: 0102/1**, relating to returning absentee ballots and providing a penalty; (2) **WLC: 0144/1**, relating to eliminating corroboration as proof of residence for voter registration; (3) **WLC: 0155/1**, relating to requiring the use of printed ballots with electronic voting systems; (4) **WLC: 0164/1**, relating to publication of election notices in local government newsletters; (5) **WLC: 0173/1**, relating to polling hours; and (6) **WLC: 0129/1**, relating to requesting and casting an absentee ballot.

Finally, the committee requested that staff prepare three additional drafts concerning the following: (1) proof of residence for all registrations; (2) marking voters with indelible ink after voting; and (3) modifying the way in which recalls of city, town, village, and school district officers are triggered.

August 4, 2005: The committee discussed issues surrounding recount proceedings and agreed to establish a subcommittee to address the issue of requiring clerks responsible for boards of canvassers in multi-district recounts to meet prior to the start of a recount to discuss common procedures to be used in the recount, a consideration of recount standards to be applied in all recounts, and resolution of the "drawdown" discussion. [The subcommittee never met.] The committee directed staff to prepare a draft requiring that municipal clerks retain unused ballots

after an election until the recount period has expired and authorize counties to collect and store such unused ballots for municipalities. The committee gave tentative approval to **WLC: 0189/1**, relating to time for sending address verification cards.

The committee suggested amendment of the following drafts: (1) **WLC: 0190/1**, relating to registration with an out-of-state drivers' licenses; (2) **WLC: 0193/1**, relating to electioneering at a polling place, the posting or distribution of election-related material, and providing for a penalty; (3) **WLC: 0195/1**, relating to election inspector statements; (4) **WLC: 0202/1**, relating to county clerks serving on the board of canvassers; (5) **WLC: 0214/1**, relating to establishing a requirement that a petition for the recall of a city, village, town, or school district officer include a statement of the grounds that constitute cause for the recall; and (6) **WLC: 0101/2**, relating to requesting an absentee ballot by electronic mail or facsimile transmission.

The committee decided to temporarily set aside the following drafts: (1) **WLC: 0194/1**, relating to registration of homeless individuals; (2) **WLC: 0198/1**, relating to establishment of satellite offices for absentee voting; and (3) **WLC: 0218/1**, relating to marking voters with indelible ink.

**Milwaukee Mayor Barrett, Ms. Robinson, and Ms. Edman** appeared before the committee and described a number of problems encountered by the City of Milwaukee leading up to and including election day 2004. They described the actions the city took to address those problems, including the creation of a task force to review the election law and its recommendations. Mayor Barrett, Ms. Robinson, and Ms. Edman then answered numerous questions from committee members.

August 25, 2005: Chair Leibham and several committee members met publicly in Milwaukee with staff of the City of Milwaukee Election Commission and others to discuss specific proposals concerning election law changes. At the conclusion of the meeting, committee staff was directed to prepare additional drafts relating to absentee voting, voter registration, and other issues.

September 29, 2005: The Special Committee spent nearly the entire meeting reviewing, discussing, and debating the drafts that had been prepared for committee consideration. The committee made the following recommendations on the following drafts:

**Recommended for Inclusion in Final Recommendations (some with modifications)**

- [WLC: 0236/1](#), relating to preservation of unused ballots.
- WLC: 0245/1, relating to the deadline for requesting an absentee ballot by mail.
- WLC: 0246/1, relating to counting absentee ballots at a central location.
- WLC: 0248/1, relating to the requirement to post maps at polling locations, and making an appropriation.
- WLC: 0250/1, relating to mandatory training for certain pollworkers, and making an appropriation.
- WLC: 0251/1, relating to lists of felons ineligible to vote at an election.
- WLC: 0252/1, relating to the number of pollworkers at certain elections.
- WLC: 0254/1, relating to standard recount procedures.
- WLC: 0256/1, relating to recounts of machine-readable ballots.
- WLC: 0104/2, relating to late voter registration in the municipal clerk's office.

- WLC: 0105/2, relating to observation and electioneering activities in the office of the municipal clerk.
- WLC: 0106/2, relating to ballots for military electors.
- WLC: 0107/2, relating to late arriving military ballots.
- WLC: 0124/2, relating to the recording of absentee ballots.
- WLC: 0126/2, relating to absentee voting in nursing homes, qualified retirement homes, and qualified community-based residential facilities.
- WLC: 0145/2, relating to requiring two registration deputies for polling place registration.
- WLC: 0153/2, relating to qualification of circulators of nomination papers and petitions.
- WLC: 0163/2, relating to establishment of an election apparatus oversight committee.
- WLC: 0165/2, relating to eliminating registration at high schools, through special registration deputies, and at the office of the register of deeds.
- WLC: 0168/2, relating to registration other than in person.
- WLC: 0178/2, relating to requiring a municipal clerk to establish a policy for the orderly closing of polling places.
- WLC: 0180/2, relating to the deadline for delivery of materials from the municipal canvass to the county clerk.
- WLC: 0188/2, relating to the fee for receiving a copy of the statewide voter registration list.
- WLC: 0197/2, relating to proof of residence required to register to vote and of certain voters appearing at the polls.
- WLC: 0101/3, relating to requesting an absentee ballot by electronic mail or facsimile transmission.
- WLC: 0190/2, relating to registration with out-of-state driver's licenses.
- WLC: 193/2, relating to electioneering at a polling place, the posting or distribution of election-related material, and providing a penalty.
- WLC: 0195/2, relating to election inspector statements.
- WLC: 0202/2, relating to the county clerk serving on the board of canvassers.
- WLC: 0214/2, relating to establishing a requirement that a petition for the recall of a city, village, town, or school district officer include a statement of the grounds that constitute cause for the recall.
- WLC: 0096/1, relating to requiring a witness for absentee voting to be an adult U.S. citizen.
- WLC: 0117/1, relating to requesting an absentee ballot by mail.
- WLC: 0118/1, relating to the mailing of absentee ballots.
- WLC: 0143/1, relating to the deadline for registration to vote.
- WLC: 0146/1, relating to the minimum GPA required of a high school student to be a pollworker.
- WLC: 0147/1, relating to the term of a pollworker who is a high school student.

- WLC: 0148/1, relating to the elimination of prepaid postage on voter registration cards.
- WLC: 0154/1, relating to notice of certain school referenda.
- WLC: 0156/1, relating to report on election contingency planning.
- WLC: 0167/1, relating to the method of compensation of special voter registration deputies and providing a penalty.
- WLC: 0169/1, relating to conducting registration at offices of the county clerk and the county election commissioners.
- WLC: 0170/1, relating to the date of appointment and term of office for election officials.
- WLC: 0179/1, relating to the conduct of election observers, and granting rule-making authority.
- WLC: 0181/1, relating to identification required for certain voters who register by mail.
- WLC: 0182/1, relating to election threats.
- WLC: 0189/1, relating to time for sending address verification cards.

#### **Rejected**

- WLC: 0102/1, relating to returning absentee ballots and providing a penalty.
- WLC: 0129/1, relating to requesting and casting an absentee ballot.
- WLC: 0144/1, relating to eliminating corroboration as proof of residence for voter registration.
- WLC: 0155/1, relating to requiring the use of printed ballots with electronic voting systems.
- WLC: 0157/2, relating to the timing of local referenda elections.
- WLC: 0164/1, relating to publication of election notices in local government newsletters.
- WLC: 0173/1, relating to polling hours.
- WLC: 0174/2, relating to filing of declarations of candidacy and recording of votes received by write-in candidates in certain elections.
- WLC: 0194/1, relating to registration of homeless individuals.
- WLC: 0198/1, relating to the establishment of satellite offices for absentee voting.
- WLC: 0218/1, relating to marking voters with indelible ink.
- WLC: 0247/1, relating to waiting time to vote, election day planning, and postelection performance reviews.
- WLC: 0249/1, relating to access to certain information on the statewide voter registration list.

The committee also approved three additional concepts to be drafted as follows:

- Provide that municipal clerks and boards of election commissioners be authorized to relocate the absentee ballot processing and absentee ballot voting function to a more accommodating location in the municipality.
- Provide that the Elections Board establish a plan for random post-election audits during the fall of odd-numbered years under which local election practices are reviewed by election

officials from peer municipalities and under which the cost of such audits are borne by the state.

- Provide that the Elections Board be authorized to do voter registration verification currently required of municipal clerks under current law as part of the Statewide Voter Registration System.

Chair Leibham indicated that he would determine how the committee's recommendations would be presented to the Joint Legislative Council (i.e., as one large bill draft or several smaller drafts) and staff would then compile the approved drafts into the appropriate packaging configuration and send the resulting draft or drafts to members, along with a mail ballot, for final approval. Subsequently, Chair Leibham decided that the approved drafts should be submitted to committee members for final approval and forwarded to the Legislative Council in one bill draft.



## **PART III**

# **RECOMMENDATIONS INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL**

This part of the report provides background information on, and a description of, the bill as recommended by the Special Committee on Election Law Review.

### **Background**

The Special Committee was established to review the implementation of the Help America Vote Act of 2002 (HAVA) and state oversight of elections in Wisconsin. Additionally, the Special Committee was directed to explore the recount process. After the November elections of 2004, amid allegations of election irregularities and mismanagement in various parts of the state, the Special Committee also focused on the elections process as a whole and how that process could be improved.

As a result, the Special Committee's recommendations are wide-ranging and diverse. However, the Special Committee's recommendations can reasonably be grouped into five distinct classifications: (1) voter registration; (2) absentee ballots; (3) other pre-election changes; (4) changes affecting election day procedures; and (5) modifications and additions to post-election practices.

Considerable attention was spent discussing voter registration. As the state will require voter registration in all municipalities beginning in 2006 pursuant to HAVA, the committee explored ways to make sure the registration process is streamlined and uniform. In addition, recommendations were made to improve the reliability of registration data that will be maintained in the statewide voter registration list developed pursuant to a mandate under HAVA.

The Special Committee also spent considerable time discussing the absentee ballot process. Among other things, the Special Committee examined ways to accommodate military voters and providing more flexibility to local communities concerning where absentee ballots are counted. The Special Committee also discussed and recommended ways to make the absentee ballot process less susceptible to electioneering and fraud.

The Special Committee's discussions concerning pre-election procedures ranged from changing the qualifications required to be a circulator of nomination papers and petitions, to requiring the Elections Board to engage in contingency planning in case of a natural disaster or terror attack occurring on or near election day. The Special Committee also discussed the need for more comprehensive training for election officials.

Changes in election day procedures discussed by the Special Committee included expanding the availability of high school students to serve as pollworkers and uniform procedures for the closing of the polls when voters are waiting in line to vote. The conduct of election observers received extensive discussion as did the distribution of misleading election material by advocacy groups and others at or near a polling place. Finally, the Special Committee discussed the importance of improving the available methods for identifying felons who are ineligible to vote and preventing them from voting.

Finally, the Special Committee recognized that efforts to reform the way elections are conducted in Wisconsin cannot ignore what occurs after the votes have been cast. To that end, the Special Committee discussed the delivery and retention of various election materials, post-election audits, and improving the recount process. The Special Committee also gave significant attention to the recall process for local elective offices.

The following is a more extensive description of the provisions recommended by the Special Committee and the Joint Legislative Council and that are contained in 2005 Senate Bill \_\_\_\_:

## Description

### VOTER REGISTRATION

#### Forms of Identification Required to Register to Vote

Beginning in the spring of 2006, all voters, with limited exceptions, will need to be registered before they are allowed to vote. Under current law, an elector may register in person or by mail. Generally, registration must be completed by a certain time before election day. However, a person may register in person on election day at the polls, or after the official close of registration in person in the office of the municipal clerk up until 5 p.m. or the close of business, whichever is later, on the day before the election.

A person who registers to vote at the polls on election day or in person in the municipal clerk's office after the official close of registration must show proof of residence. A document constitutes acceptable proof of residence if it includes the person's current and complete name and a current and complete residential address. The statutes provide a list of examples of documents that constitute acceptable proof of residence if they contain the person's name and address. The statutory list, which is not exhaustive, is set forth below:

1. An operator's license issued under ch. 343, Stats. (i.e., a Wisconsin driver's license).
2. An identification card issued under s. 343.50, Stats. (i.e., a Wisconsin identification card).
3. Any other official identification card or license issued by a Wisconsin governmental body or unit or by an employer in the normal course of business, but not including a business card.
4. A credit card or plate.
5. A library card.
6. A check-cashing or courtesy card issued by a merchant in the normal course of business.
7. A real estate tax bill or receipt for the current year or the year preceding the date of the election.
8. A residential lease which is effective for a period that includes election day.
9. A university, college, or technical institute fee card.
10. A university, college, or technical institute identification card.
11. An airplane pilot's license.
12. A gas, electric, or telephone service statement for the period commencing not earlier than 90 days before election day.

A person who is required to provide proof of residence under current law but who is unable to provide such proof may have his or her registration information corroborated by another elector who resides in the same municipality. The corroborating elector must then provide proof of his or her residence. In general, under current law, other persons who register to vote need not provide proof of residence.

Under current law, pursuant to requirements of HAVA, a person who registers to vote by mail and who has never voted in a federal election in his or her municipality (until December 31, 2005) or in the state (effective January 1, 2006) must present certain identification before being allowed to cast a ballot. A person who fails to do so may cast a provisional ballot and provide the identification later. The identification required under current law is: (1) a current and valid piece of identification containing a photograph of the person or, for an absentee voter, a copy of a current and valid piece of identification containing a photograph of the person; or (2) a copy of a utility bill, bank statement, paycheck, or a check or other document issued by a unit of government that shows the current name and address of the person.

The bill establishes one uniform list of documents, any one of which may be used as proof of residence for registration or voting purposes, so long as the document contains the full name and residential address of the individual. The list created by the bill is as follows:

1. A current and valid Wisconsin driver's license.
2. A current and valid Wisconsin identification card.
3. Any other official identification card or license issued by a Wisconsin governmental body or unit.
4. An identification card issued by an employer in the normal course of business and bearing a photograph of the card holder, but not including a business card.
5. A real estate tax bill or receipt for the current year or the year preceding the date of the election.
6. A residential lease, unless the person registered to vote by mail.
7. A university, college, or technical college fee or identification card bearing a photograph of the card holder.
8. A utility bill for the period commencing not earlier than 90 days before election day.
9. A bank statement.
10. A paycheck.
11. A check or other document issued by a unit of government.

The bill provides that a university, college, or technical college fee or identification card which does not contain the address of the student bearing the card may still be considered acceptable proof of residence if the university, college, or technical college that issued the card provides to the municipal clerk before the election a certified and current list of students who reside in housing sponsored by the university, college, or technical college showing the current address of the students and if the poll worker verifies that the student presenting the card is included on the list.

#### Deadline for Registration

Under current law, registration for any election must close at 5 p.m. on the second Wednesday preceding the election. Registration may be accepted after this deadline if the municipal clerk determines that the registration list can be revised to incorporate the registration in time for the election. A person may also register to vote after the official date for the close of registration. Generally, a person may register late by filing with the municipal clerk a registration form completed by the person and acceptable proof of residence or corroboration of residence by one other elector of the municipality. The registration form must be filed in person no later than 5 p.m. or the close of business, whichever is later, on the day before the election. Unless the clerk determines that the registration list can be updated in time for the election, the municipal clerk must issue to the late-registering person a certificate addressed to the inspectors of the

proper ward directing that the elector be permitted to vote. The certificate must be presented by the person to the inspectors when he or she arrives at the polling place.

The bill changes the registration deadline from the 2nd Wednesday preceding the election to the 3rd Wednesday preceding the election. Under the bill, registration after this deadline is limited to persons registering in person in the office of the municipal clerk, persons registering at the polls on election day, and hospitalized persons registering via an agent.

#### Locations for Voter Registration; "Roving" Special Registration Deputies

Under current law, individuals may register to vote at the office of the municipal clerk, at other locations designated by the clerk, at high schools, and at the Register of Deeds office. In addition, current law authorizes the municipal clerk and the Elections Board to appoint special registration deputies for the purpose of registering electors of a municipality anywhere throughout the municipality-the so-called "roving registration deputies." Current law also authorizes the appointment of special registration deputies to assist in registering voters at the polls on election day and requires the appointment of special registration deputies at other locations designated for registration by the municipal clerk.

The bill requires "roving" special registration deputies to be trained and to print and sign their names on all registration forms they accept. In addition, the bill subjects all registration forms accepted by such deputies to a letter or postcard audit by the municipal clerk. Under the bill, the municipal clerk and the Elections Board must maintain a record of the names and addresses of all individuals appointed by the clerk or board as "roving" special registration deputies.

The bill also creates an exemption from requiring the clerk to appoint special registration deputies for registration locations established by the municipal clerk when the clerk and deputy clerks can sufficiently staff the locations. In addition, the bill eliminates the statutory requirement that registration be available at the office of the Register of Deeds and instead requires that registration be available at the office of the county clerk.

#### Prohibition on Certain Payment for Voter Registration

The bill prohibits any person from compensating any person who obtains voter registrations at a rate that varies in relation to the number of voter registrations obtained. Violators are guilty of a misdemeanor and are subject to a fine of not more than \$1,000 or imprisonment for not more than six months, or both, for each offense.

#### Verification of Pre-Election Voter Registration

Under current law, when a municipal clerk receives a voter registration form by mail, the clerk must examine the form for sufficiency. If the form is insufficient to accomplish registration or if the clerk knows or has reliable information that the proposed elector is not qualified, the clerk must notify the proposed elector and request that the elector appear at the clerk's office or other registration center to complete a proper registration or substantiate the information presented. Similarly, if the form is submitted after the close of registration, the clerk must attempt to notify the elector that registration may be completed in the clerk's office or at the polls on election day.

Under current law, if the form is sufficient and the clerk has no reliable information to believe that the proposed elector is not qualified, the clerk must enter the person's name on the registration list and transmit a first class letter or postcard to the registrant identifying the registrant's proper ward or aldermanic district and polling place. If the letter or postcard is returned, the clerk must change the registrant's status to ineligible.

The bill specifies that the clerk must mail the letter or postcard within 10 days of receiving the registration.

#### Fee for Copy of Registration List

Under current law, the fee for a copy of a public record may not exceed the actual, necessary, and direct cost of reproduction, unless a fee is otherwise specifically established or authorized to be established by law.

The bill directs the Elections Board to establish a fee for receiving a copy of the statewide voter registration list. The fee must be established by rule after consultation with county and municipal election officials. The amount of the fee must be set to cover the cost of reproduction and the cost of maintaining the list. The rules must also specify how revenues from the fees will be shared between the state and municipalities (or counties if they perform registration functions on behalf of municipalities). The bill also authorizes the board to promulgate emergency rules to be in effect until permanent rules are promulgated.

#### Same-Day Voter Registration and Double Voting Audits by Elections Board

Under current law, after each election the municipal clerk receives a list of all electors who registered to vote on election day. Upon receipt of the list, the clerk is required to make an audit of all such electors. The audit is to be made by 1st class postcard, which is to be marked in such a way so that it will be returned to the clerk if the elector named on the card does not reside at the address given on the postcard. If the postcard is returned undelivered, the clerk is required to change the status of the elector on the registration list from eligible to ineligible and mail the elector a notice of the change in status and provide the name to the district attorney for the county where the polling place is located. Also, under current law, the municipal clerk must determine if any elector appears to have voted more than once and must attempt to contact each such elector.

The bill authorizes the state Elections Board to perform this audit function in lieu of the municipal clerk.

#### Out-of-State Driver's License Holders

The bill provides that whenever an elector registers to vote in the general election after the close of registration and the elector presents a valid driver's license issued by another state the registering official must record the license number, issuing state, and expiration date of any license presented. The information would not be available for general public inspection. In addition, the bill requires the Elections Board, following each general election, to contact the chief election official in each other state that has issued a valid driver's license to an elector presenting that license who voted in the election and to inquire whether the elector had voted in that election in that state.

Currently, there are no such requirements.

#### Uniform Registration Forms

Currently, the Elections Board prescribes the content of registration forms in accordance with statutory requirements. This bill requires the board to create uniform registration forms that must be used throughout the state for purposes of registration.

### **ABSENTEE BALLOTS**

#### Requesting an Absentee Ballot by Fax or Email

Under current law, any elector who is unable or unwilling to appear at the polling place in his or her ward on election day may vote by absentee ballot. An elector seeking to vote by absentee ballot must generally make a written application to the municipal clerk. An application may be made by one of the following methods: (1) by mail; (2) in person at the office of the municipal clerk; (3) by signing a statement indicating the elector is indefinitely confined or disabled; (4) by agent when the elector is hospitalized; or (5) by delivering an application to a special voting deputy when the elector is an occupant of a nursing home and similar facilities.

The bill authorizes a registered elector, including a registered “overseas elector,” or an elector who qualifies as a “military elector,” who is unable or unwilling to appear at the polling place in his or her ward on election day to apply for an absentee ballot by making a written application to the municipal clerk by facsimile transmission (fax) or electronic mail (email). The application must contain a copy of the applicant's original signature. When the absentee ballot is returned, the elector must enclose a copy of the absentee ballot request bearing an original signature of the elector along with the ballot. Ballots cast in contravention of this procedure are not to be counted.

#### Deadline for Requesting Absentee Ballot by Mail

Under current law, requests for absentee ballots made by an elector by mail must be received by the municipal clerk by 5 p.m. on the Friday preceding the election. The bill changes the deadline for such requests to no later than 5 p.m. on the 5th day immediately preceding the election, except for applications submitted by mail by military electors and indefinitely confined electors. Under the bill, applications by mail from these electors retain the current deadline of 5 p.m. on the Friday before the election.

#### Absentee Ballots for Military Electors - Permanent Ballots

Under current law, “military electors” are defined to be any of the following:

1. Members of a uniformed service (i.e., the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, the Commissioned Corps of the Federal Public Health Service, or the National Oceanic and Atmospheric Administration).
2. Members of the U.S. Merchant Marine.
3. Civilian employees of the U.S. and civilians officially attached to a uniformed service who are serving outside the U.S.
4. Peace Corps volunteers.
5. Spouses and dependents of the above who reside with or accompany them.

In general, and with some exceptions, a military elector is to vote in the ward or election district for the address of his or her residence prior to becoming a military elector. In general, military electors are not required to register as a prerequisite to voting in any election.

A military elector may request an absentee ballot for any election, or for all elections until the individual otherwise requests or until the person no longer qualifies as a military elector. An absentee ballot application from a military elector may be received at any time. In general, as an alternative to a regular absentee ballot request form, a federal postcard registration and absentee ballot request form may be used to apply for an absentee ballot by a military elector if the municipal clerk can determine that the applicant is qualified to vote in the election district where he or she seeks to vote and that the applicant is qualified to receive an absentee ballot as a military elector.

For military electors who are in the uniformed service and on active duty, members of the merchant marine, and the spouse and dependents of such persons who are absent because of the duty or service of the member, current law also provides that such electors may request an absentee ballot for the next two general elections. A municipal clerk must comply with such a request except that no absentee ballot may be sent for a succeeding general election if the elector’s name appeared on the registration list for a previous general election and no longer appears on the registration list for the succeeding general election. Further, if the elector’s address for the succeeding general election is in a municipality that is different from the municipality in which the elector resided for the first general election, current law requires the clerk to forward the request to the clerk of the municipality where the elector resides.

Currently, a municipal clerk must send a ballot, as soon as available, to each military elector who requests a ballot. However, the clerk may not send a ballot for an election if the application is received

later than 5 p.m. on the Friday preceding that election. Whenever absentee ballots are sent to military electors, they must be prepared and mailed to make use of the federal free postage laws.

The bill modifies current law to provide that every request by any military elector must be treated as a request for an absentee ballot for all subsequent elections. Under the bill, if a municipal clerk receives a request for an absentee ballot from a military elector, the municipal clerk must send an absentee ballot to the elector for all elections that occur after the request is received. The bill allows a military elector to provide an alternate address on the absentee ballot application and requires the municipal clerk to send an absentee ballot to that alternate address if a ballot sent to the elector's primary address is returned as undeliverable.

The bill authorizes a municipal clerk to stop sending a ballot to a military elector in the following situations: (1) if two successive general elections go by and a military elector fails to return an absentee ballot for any election during that time period; (2) if the clerk is reliably informed that the elector is no longer a military elector or no longer resides in the municipality; (3) if the elector is subject to a registration requirement and his or her name no longer appears on the registration list as an eligible elector; or (4) if the elector so requests. Prior to discontinuing sending ballots to a military elector solely for the failure to return absentee ballots, the municipal clerk must notify the elector by mail that no future ballots will be sent unless the elector renews his or her absentee ballot request within 30 days. The bill also requires the municipal clerk to notify a military elector of any action to discontinue sending ballots to the elector not taken at the elector's request within five days of taking that action, if possible.

#### Late-Arriving Absentee Ballots From Military Electors

Under current law, absentee ballots must be returned to the municipal clerk in time for delivery to the polls before the polls close. Any ballot not delivered by this deadline may not be counted.

The bill provides that a vote cast on a ballot cast by a "military elector," as defined above, that is received by the municipal clerk after the close of the polls may, in some situations, still be counted. Under the bill, a vote cast on a ballot that is received after the polls close is considered a valid ballot if it is received by the clerk by the deadline for requesting a recount for the office for which the vote is cast and if it contains a postal service cancellation mark dated on or before the election day for which the ballot was cast. However, under the bill these ballots will not be counted unless a recount occurs.

Under the bill, a certificate envelope sent to a military elector must be clearly labeled so that when it is returned the clerk will know that it is from a military elector. If a certificate envelope that is returned by a military elector after the polls close but before the deadline for the return of such ballots has an illegible postmark, or no postmark, it is presumed that the envelope was timely mailed, unless established otherwise.

The bill directs the municipal clerk to post in his or her office on election night and on an internet site a statement announcing the number of absentee ballots that have not been returned by military electors by the closing of the polls. However, the posting may not include the names or addresses of any military electors.

Under the bill, if a recount petition is filed, the municipal clerk must immediately notify the appropriate board of canvassers as to the number of absentee ballots that were timely received after the polls closed and whether any absentee ballots that were sent to military electors have not been returned. If there are unreturned ballots at the time a recount petition has been filed, the bill provides that the recount may not proceed until all timely returned ballots are delivered by the clerk or 9 a.m. on the day following the last day for filing a recount petition, whichever occurs first.

As soon as practicable after receiving the last late-arriving ballot but in no case later than 9 a.m. on the day following the last day for filing a recount petition, the clerk must transmit to the appropriate board of canvassers all of the late-arriving ballots of military electors received by the clerk.

When the board of canvassers conducting a recount receives late-arriving absentee ballots cast by military electors, the board must first open and record the names of the military electors whose ballots have been received. If the late-arriving ballot cast by a military elector is otherwise valid, the board of canvassers must count the ballot and adjust the original statements, certifications, and determinations. After doing so, the board of canvassers may begin the recount.

#### Witness for Absentee Ballots

Under current law, military and overseas voters who cast absentee ballots must have a witness who is an adult U.S. citizen. All other absentee ballots must have a witness, but the age and nationality of the witness is not specified. The bill requires all absentee ballots to be witnessed by an adult U.S. citizen.

#### Elimination of Prepaid Return Postage and Notice of Hours

Generally, under current law, if the municipal clerk sends an absentee ballot to an elector, the ballot must include sufficient return postage to return the ballot from anywhere within the United States. The bill specifies that if the absentee ballot is mailed from outside the United States, the elector must affix sufficient postage for return of the ballot unless the ballot qualifies for mailing free of postage under federal law. The bill also modifies the notice that a clerk must post to include the hours that an elector can cast an absentee ballot in the clerk's office or an alternate site.

#### Opening Absentee Ballots in Public

Under current law, absentee ballot envelopes must be opened at the polling place during poll hours and the ballots placed in the ballot box without disclosing how the voter voted. When the envelopes are opened, the inspector is required to publicly announce the names or serial numbers of the absent electors casting the ballots.

The bill adds language to ensure that this opening process is done so that election observers may hear and see the process.

#### Observation of Absentee Voting in Certain Nursing Homes and Other Facilities

Under current law, there is a separate procedure for absentee voting by residents of nursing homes, and certain community-based residential facilities and retirement homes. If a resident of such a facility requests an absentee ballot, the clerk will arrange a time to send two special deputies to the facility to facilitate absentee voting by the residents. The time that the deputies visit the home or facility is not announced prior to the visit.

The bill requires the municipal clerk to maintain a list, available to the public, of all of the facilities where an absentee ballot has been requested and when the special deputies will be visiting the facility. In addition, the clerk must post a notice at the facility indicating when the special deputies will be visiting. The bill also allows one observer from each of the recognized political parties whose candidate for governor or president received the greatest numbers of votes in the municipality at the most recent general election to accompany the deputies to observe the distribution of absentee ballots in the common areas of the facility. The deputies are given the same authority as the chief election inspector to monitor this observer's conduct.

#### Alternate Absentee Ballot Site

Under current law, persons may apply for and vote an absentee ballot at the municipal clerk's office prior to election day. In addition, absentee ballots that are not voted at the clerk's office are to be returned to the clerk's office in time for delivery to the polls before the polls close on election day.

The bill authorizes the governing body of a municipality (city, village, or town) to establish an alternate absentee ballot voting site in lieu of the municipal clerk's office to facilitate absentee ballot applications, voting of absentee ballots, and the return of absentee ballots prior to the close of the polls. Generally, the decision to move the absentee ballot functions to this alternate site must be made and the

location of the alternate location must be established no later than 14 days prior to the time when absentee ballots are available for voting at a primary, if a primary is required (generally 30 days before a September primary and 21 days before other primaries, including the Spring primary) and the site must be used until at least the day after the election following the primary. No absentee ballot functions that are to take place at this alternate site may be conducted at the municipal clerk's office so long as the alternate site is used. The bill requires notice of the alternate site to be prominently displayed in the office of the municipal clerk beginning on the date that the site is selected and continuing during the time that absentee ballots are available and requires a notice of the alternate site to be published in a newspaper along with other absentee ballot information required under current law and on an Internet site if one is maintained by the municipal clerk. The bill requires the alternate site to be staffed by the municipal clerk or by employees of the clerk. The alternate site must be accessible and located as near as practicable to the office of the clerk, but may not be located so as to afford an advantage to any political party. Observation and electioneering laws would apply to alternate locations established under the bill.

### Election Observers

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 disrupts the operation of the polling place or who engages in electioneering in violation of the law.

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 or canvassing proceedings. A person violating this prohibition may be fined not more than \$1,000, or imprisoned for not more than six months, or both.

The bill applies the above observation provisions to the municipal clerk's office or an alternate absentee ballot site authorized by the governing body of a municipality on any day that absentee ballots may be cast in that office. However, the observation provisions created by the bill would only apply to offices of municipal clerks that are located in public buildings. Accordingly, these provisions would not apply to clerks whose offices are located in their primary residences. In addition, the prohibition on a “candidate at that election” being an observer is clarified to apply to a candidate whose name appears on the ballot at the polling place or on an absentee ballot to be cast at the clerk's office or alternate site.

### Electioneering

Current law prohibits an election official from engaging in “electioneering” on election day. In addition, the law prohibits any person from engaging in “electioneering” during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place. This restriction, though, does not apply to the placement of any material on the bumper of a motor vehicle that is located on such property on election day. A municipal clerk, poll worker, or law enforcement officer is authorized to remove posters or other advertising that violates the prohibitions on “electioneering.”

The law defines “electioneering” as any activity that is intended to influence voting at an election. Persons who violate the above prohibitions on electioneering may be fined not more than \$1,000, or imprisoned for not more than six months, or both. In addition, any election official who is convicted of

violating the electioneering prohibitions is disqualified from acting as an election official for a term of five years from the time of the conviction.

The bill extends the prohibitions on electioneering to the municipal clerk's office or an alternate absentee ballot site authorized by the governing body of a municipality during times when absentee voting may be conducted in the office or at the alternate site. Specifically, the bill prohibits the clerk, or an employee of the clerk, from engaging in electioneering activities at those locations during the hours that absentee ballots may be cast. In addition, the bill prohibits any person from engaging in electioneering activities during the hours that absentee ballots may be cast in the municipal clerk's office or at an alternate absentee ballot site on any public property within 100 feet of an entrance to a building that contains the clerk's office or the alternate site. Violations of these provisions are subject to the same penalties as provided under current law for electioneering at a polling place.

#### Option to Count Absentee Ballots at a Central Location

Currently, each absentee ballot must be received at the polling place serving an elector's residence no later than 8 p.m. on election night for the ballot to be counted. The municipal clerk or board of election commissioners delivers all absentee ballots received by the clerk or board to the appropriate polling places. The inspectors (poll workers) canvass the absentee ballots, together with the other ballots, publicly on election day by marking the names of the absentee electors on the same poll list that is used to mark the names of the electors who vote in person. Any member of the public may observe the proceedings. Any elector may challenge for cause any absentee ballot that the elector knows or suspects is not cast by a qualified elector, whether the absentee ballot is cast in person at the office of a municipal clerk or board of election commissioners or the ballot is received in some other manner. Unless an absentee ballot is challenged or voted provisionally, it is not identifiable once it is counted, except that an absentee ballot may be distinguished from another ballot because it carries the initials of the municipal clerk or executive director of the board of election commissioners or a designated deputy. The inspectors at each polling place announce the results of each election when the canvass is completed on election night. Each municipal canvass must be completed by 2 p.m. on the day after each election, and each county canvass must begin no later than 9 a.m. on the Thursday following an election.

The bill permits the governing body of any municipality, by ordinance, to discontinue the canvassing of absentee ballots at polling places. Before enacting such an ordinance, a municipality must notify and consult with the Elections Board concerning the alternative procedure for canvassing absentee ballots that will be used. Under the bill, if absentee ballots are not canvassed at polling places, a municipal board of absentee ballot canvassers, appointed by the municipal clerk, must publicly convene any time after the polls open and before 10 p.m. on election day for the purpose of counting absentee ballots. To assist the board of absentee ballot canvassers, a municipality that canvasses absentee ballots at a central location may appoint additional inspectors in accordance with the same procedure that is used to appoint inspectors at polling places. Any inspectors so appointed are under the direction and supervision of the board of absentee ballot canvassers. Under the bill, the board of absentee ballot canvassers does not announce the results of its count until the canvass of all absentee ballots is completed. The bill provides for the board of absentee ballot canvassers to conduct a cross-check of absentee ballots for any potential duplication by electors who also cast ballots in person. To accomplish the cross-check, the board of absentee ballot canvassers numbers each absentee ballot as it is counted, and if the elector who casts the ballot also casts a ballot in person, the absentee ballot is not counted. The bill permits any elector to challenge any absentee ballot for cause. The bill extends the time for completion of the municipal canvass by two hours but does not extend the time by which the county canvass must begin.

### **PRE-ELECTION PROCEDURES**

#### Qualifications of Circulators of Nomination Papers and Petitions

Under current law, each nomination paper and petition for an election must be circulated by a qualified elector of the jurisdiction or district in which the paper or petition is circulated. However, in *Frami v. Ponto*, 255 F. Supp. 962 (W.D. Wis. 2003), a federal district court ruled that this residency requirement is unconstitutional and prevented the state from enforcing the statutory requirement.

The bill removes the residency requirement by providing that a circulator of a nomination paper or petition must be a qualified elector of this state or a U.S. citizen age 18 or over who, if he or she were a resident of the state, would not be disqualified from voting because he or she is incompetent, a felon whose right to vote has not been restored, or involved in a wager or bet depending upon the result of the election.

#### Notice of School District Referendum

Currently, proposed constitutional amendments and other measures or questions to be submitted to a vote of the people must be filed with the official or agency responsible for preparing the ballots for the election no later than 42 days prior to the election at which the amendment, measure, or question will appear on the ballot.

The bill requires, in addition, that a copy of a measure or question to be submitted to a vote of the people on behalf of a school district be provided to the clerk of each county having territory within the school district no later the end of the next business day after the school district clerk receives the measure or question.

#### Contingency Planning Report

The bill requires the Elections Board to submit a report and recommendations to the Legislature on state and local election-related contingency planning efforts and preparedness regarding natural disasters and terrorist activities that may occur at or near election time. The report is due on the first day of the 7th month beginning after publication of the bill as an act.

#### Guidance to Local Units of Government Regarding Election-Related Purchases

Under current law, the election administration council consists of members of the public and local election officials appointed by the executive director of the Elections Board. The council is to assist the Elections Board to establish the state's election administration plan under HAVA.

The bill requires the election administration council to also provide guidance to local units of government concerning the procurement of election apparatus, ballots, ballot forms, materials, and supplies for use in elections in this state to help ensure that competitive prices are obtained.

#### Term of Appointment for Certain Election Officials

Under current law, election officials are appointed for a two-year term. The appointments are made in December of each even-numbered year. The bill changes the date that election officials are appointed to December of each odd-numbered year.

#### Election Official Training

Under current law, the Elections Board conducts training programs for chief inspectors (chief officials at polling places). No person may serve as a chief inspector if he or she has not been certified by the Elections Board as having met the requirements prescribed by the board for certification. The Elections Board must also prescribe requirements for maintaining certification. The Elections Board may also conduct training programs for other election officials. Municipal clerks and boards of election commissioners are required to train all election officials, and municipalities may require applicants for election official positions to take examinations. Currently, the Elections Board and municipal clerks and boards of election commissioners may appoint special registration deputies who obtain voter registrations from electors prior to the close of registration and municipal clerks may appoint special voting deputies to conduct voting at nursing homes and certain retirement homes and community-based residential facilities. Currently, the clerks and boards of election commissioners must train the deputies in accordance with rules prescribed by the Elections Board.

Beginning for elections held in 2008, the bill requires all municipal clerks to receive election training at least once every two years. The bill authorizes the Elections Board to produce and periodically update a video program and make the program available electronically through an Internet-based system

for training purposes. Also, the bill requires municipal clerks to train all poll workers other than chief inspectors, who continue to be trained and certified under current law, as well as special registration deputies and special voting deputies pursuant to rules developed by the Elections Board. The bill provides that no person may serve as a poll worker, special registration deputy, or special voting deputy unless that person has received training required in the bill unless certain unforeseen circumstances occur. Under the bill, municipalities are required to compensate election officials other than special registration deputies and special voting deputies for attendance at training sessions as currently provided.

## **ELECTION DAY PROCEDURES**

### High School Student Poll Workers

Generally, a pupil who is 16 or 17 years of age, who is enrolled in grades 9 to 12 in a public or private school, and who has at least a 3.0 grade point average (GPA) may serve as an inspector (poll worker) at the polling place serving the pupil's residence. Approval of the pupil's parent or guardian and of the school principal is required. There must be at least one qualified elector of the state serving at the polling place for a pupil to be appointed and a pupil may not serve as chief inspector. The term of appointment of an inspector lasts for two years and until his or her successor is appointed and qualified.

The bill eliminates the minimum GPA requirement and instead authorizes school boards to develop criteria for approving students to serve as poll workers. The bill also modifies the term of service of a high school pupil appointed to serve as an inspector. Under the bill, a high school pupil is appointed for one election only rather than for two years. The bill does not prohibit such a pupil from being appointed to serve at future elections.

### Poll Closing Procedures When Voters Waiting to Vote

Under current law, any elector waiting to vote, whether within the polling booth or in the line outside the booth at the time the polls officially close must be permitted to vote.

The bill requires each municipal clerk to designate an official of the municipality who must position himself or herself at the end of the line of individuals waiting to vote at the time the polls officially close as a way to mark the end of the line. The bill provides that the official may be a poll worker at the polling place, an employee of the municipal clerk, or a police officer.

### Conduct of Election Observers

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 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.

Currently, any person who refuses to obey a lawful order of a poll worker made for the purpose of enforcing the election laws, who engages in disorderly behavior at or near a polling place, or who interrupts

or disturbs the voting or canvassing proceedings may be fined not more than \$1,000, or imprisoned for not more than six months, or both.

The bill directs the Elections Board to promulgate rules regarding the proper conduct of observers at polling places, municipal clerk's offices, or alternate absentee ballot sites, including the interaction of observers with election officials at polling places. The bill requires the rules to be submitted to the Legislative Council Staff for review by the 60th day beginning after publication of the bill as an act.

#### Proof of Residence Required of Certain Voters

Under current law, effective January 1, 2006, a person, other than a military elector or an overseas elector, who registers to vote by mail and who has not previously voted in an election for national office in Wisconsin must provide identification, as specified by law, before being allowed to vote at an election for national office. A person who is required to provide identification before voting but who fails to do so may cast a provisional ballot which may be counted if the person subsequently presents identification before 4 p.m. on the day after the election.

The bill creates a proof of residence requirement applicable to all persons other than military or overseas electors who register to vote by mail and have not voted in an election in this state.

#### Election Threats

Current law, in s. 12.09 of the statutes, prevents the making of various election threats. Violations of that section are punishable as a Class I felony (a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both).

Presently, s. 12.09, Stats., is drafted as one paragraph consisting of three distinct components, each of which prohibits different conduct. The provision reads as follows:

No person may personally or through an agent make use of or threaten to make use of force, violence or restraint in order to induce or compel any person to vote or refrain from voting at an election; or, by abduction, duress or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise at an election; or by any act compel, induce or prevail upon an elector either to vote or refrain from voting at any election for or against a particular candidate or referendum.

The bill, in order to improve the readability of the provision, repeals the provision and recreates it with three succinct subsections. The bill makes no substantive changes to the law and violations would still be subject to the same penalties as provided under current law.

#### Prohibition on Certain Election-Related Material

Current law defines "electioneering" as any activity which is intended to influence voting at an election. Under current law, "electioneering" is prohibited at or near the entrances to polling places on election day. Specifically, the law prohibits an election official from engaging in "electioneering" on election day. In addition, the law prohibits any person from engaging in "electioneering" during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place. This restriction, though, does not apply to the placement of any material on the bumper of a motor vehicle that is located on such property on election day. A municipal clerk, poll worker, or law enforcement officer is authorized to remove posters or other advertising that violates the prohibitions on "electioneering."

Persons who violate the above prohibitions on electioneering may be fined not more than \$1,000, or imprisoned for not more than six months, or both. In addition, any election official who is convicted of violating the electioneering prohibitions is disqualified from acting as an election official for a term of five years from the time of the conviction.

The bill modifies the statutory language regarding “electioneering” to provide that the prohibition on electioneering also applies to electioneering at a polling place.

In addition, the bill prohibits the posting or distribution of election-related material during polling hours on any public property on election day at a polling place or within 100 feet of an entrance to a building containing a polling place. Similarly, the bill prohibits such conduct in relation to the municipal clerk’s office or an alternate absentee ballot site during hours that absentee ballots may be cast therein. For purposes of the bill, “election-related material” means any written matter which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place or voting by absentee ballot. The prohibition would not apply to material posted or distributed by the municipal clerk or other election officials or to a bumper sticker on a motor vehicle. The bill authorizes a municipal clerk, election inspector, or law enforcement officer to remove or confiscate unauthorized election-related material. Finally, the bill provides that a violation of the election-related material prohibition is punishable by a forfeiture not to exceed \$100.

#### Map of Area Served by Polling Place

The bill requires that the municipal clerk or board of election commissioners in municipalities with multiple polling places to prominently post at each polling place a map of the geographic area served by each polling place for that election. The map must display the boundaries of the ward or wards served by the polling place for that election.

#### Lists of Felons Ineligible to Vote

Under current law, any person who is convicted of a felony is not eligible to vote. However, if the person is pardoned or the person completes his or her sentence, the person's voting rights are restored. A person who is on probation, parole, or extended supervision has not completed his or her sentence. Under current law, there is no procedure that election officials must use to identify felons who are ineligible to vote and to prevent them from voting.

The bill directs the Department of Corrections (DOC) to transmit electronically to the Elections Board, on a continuous basis, a list containing the names of each person who has been convicted of a felony under the laws of this state and whose voting rights have not been restored, together with the date on which DOC expects his or her voting rights to be restored. The bill directs the board to enter the information received from DOC on the statewide voter registration list and to maintain the information on that list so that the information is kept current. Under the bill, the information is open to public inspection.

The bill also directs the Elections Board to enter on the poll list prepared for each election a notation after the name of any elector who is ineligible to vote on that date because the person's name appears on the current list that DOC provides. In addition, the bill directs the board to provide for each polling place at each election a list of persons whose names do not appear on the registration list but whose names appear on the current list that DOC provides and whose addresses are located within the area served by the polling place. These lists are open to public inspection.

The bill requires poll workers to check the lists and to inform any person whose name appears on the lists that they are ineligible to register to vote or to vote. A person whose name appears on a list and who claims to be eligible to vote may still be allowed to vote, but the person must vote by ballot. The ballot is marked for later examination and it may be reviewed and discounted during a canvass or recount if the appropriate board of canvassers determines that the person who cast the ballot is ineligible to vote.

The bill also requires every person who registers to vote to affirm specifically that he or she has not been convicted of a felony for which he or she has not been pardoned and, if so, whether the person is incarcerated or on probation, parole, or extended supervision resulting from that conviction. Currently, the law requires a person who registers at a polling place only to affirm that he or she is not disqualified on any ground from voting, and does not require any similar affirmation from other late registrants.

In addition, the bill directs the Elections Board to conduct a postelection audit after each election to determine whether any ineligible felons have been allowed to register and vote after the close of registration. If so, the board is directed to enter a notation reflecting this ineligibility on the registration list and to provide the names of these felons to the district attorney.

Finally, the bill requires DOC to create a form for notifying individuals of their ineligibility to vote. When an inmate who is disqualified from voting is released on parole or extended supervision, the DOC must use the form to notify the person that he or she may not vote until his or her civil rights are restored. The person and a witness must sign the form. The same procedure must be followed for each probationer, and by the court every time it imposes a sentence or places a defendant on probation for a conviction that disqualifies him or her from voting.

#### Additional Poll Worker: Greeter

Under current law, there must be at least three inspectors (poll workers) at each polling place. Municipalities may increase that number and may appoint special registration deputies on a nonpartisan basis to register voters at polling places on election day. Inspectors must be appointed from lists containing the names of eligible electors submitted by party committeemen and committeewomen. If no names or insufficient names are submitted, inspectors are appointed on a nonpartisan basis. Certain high school pupils may also be appointed to serve as inspectors. The party whose candidate for president or governor received the most votes in the area served by the polling place at the most recent general election is entitled to one more appointment than the other party. Alternate officials must also be appointed in a sufficient number to maintain adequate staffing.

The bill provides that each municipality may appoint an additional inspector on a nonpartisan basis who serves as a greeter and substitutes for other inspectors who must leave the voting room temporarily. Under the bill, the additional inspector is not entitled to participate in the canvassing process.

### **POST-ELECTION PROCEDURES**

#### Time for Delivery of Election Material

Currently, by 2 p.m. on the day after an election, the municipal clerk must deliver the ballots, statements, tally sheets, lists, and envelopes for the clerk's municipality concerning any county, technical college district, state, or national election to the county clerk. In addition, current law requires the municipal clerk to arrange for delivery of these materials concerning a school district election to the school district clerk, but does not specify a time by which that delivery must take place. The bill sets the deadline for delivery of these materials at 4 p.m. on the day after an election.

#### Post-Election Inspectors' Statements

Under current law, after ballots have been counted and votes recorded at the polling place on appropriate tally sheets, inspectors' statements must be completed in duplicate, and all materials secured and routed to the appropriate clerk. The bill deletes the requirement that inspectors' statements be completed in duplicate. Instead, under the bill, the municipal clerk must make copies of the inspectors' statement for delivery to the county or school district clerk, or both. The municipal clerk must retain the original statement.

#### County and Municipal Clerk Serving on Board of Canvassers

Generally, under current law, the municipal and county board of canvassers is composed of the municipal or county clerk and two appointed members. No person may serve on the board if he or she is a candidate at an election to be canvassed. The bill allows the county and municipal clerk to continue to serve on the respective board of canvassers if the clerk is a candidate as long as he or she has no opponent on the ballot, or, in the event of a recount, the office the clerk is seeking is not a subject of the recount.

### Grounds for Recall of Certain Local Elective Offices

Under current law, a petition for the recall of a city, village, town, or school district officer, in addition to other requirements, must state a reason for the recall that is related to the official responsibilities of the officer. Current law also provides for the removal of elective village, town, and school district officers and certain elective city officers, for cause, after notice and a hearing. Under current law, inefficiency, neglect of duty, official misconduct, or malfeasance in office constitute cause for removal from office.

The bill requires a petition for the recall of a city, village, town, or school district officer to contain a statement of the grounds that constitute each cause for the recall. Under the bill, "cause" means official misconduct or malfeasance in office.

### Retention of Unused Ballots After an Election

The bill provides that unused ballots from an election may not be discarded or destroyed until at least the day after the latest day for the filing of a recount petition for any office on the ballots. In addition, the bill authorizes the county clerk to store any such unused ballots upon request of a municipal clerk of a municipality within the county and authorizes the county clerk to destroy the ballots pursuant to provisions of the bill.

### Recount Procedures

Under current law, the state Elections Board is required to prescribe standard forms and procedures for the making of recounts. Additionally, when a recount is being conducted, if the ballots are in readable form such that automatic tabulating equipment may be used to count the ballots, the board of canvassers conducting the recount may choose to recount the ballots without the aid of automatic tabulating equipment. If automatic tabulating equipment is to be used, the equipment must be tested prior to the recount.

The bill requires the procedures developed by the Elections Board to require boards of canvassers in recounts involving more than one board of canvassers to consult with the Elections Board staff prior to beginning any recount to ensure that uniform procedures are used, to the extent practicable, in conducting such recounts.

In addition, the bill requires boards of canvassers to use automatic tabulating equipment to recount ballots that are in machine-readable form. The bill provides, however, that a candidate, or elector if the recount is for a referendum question, may petition the circuit court for an order requiring ballots in readable form to be counted by hand or by another method approved by the court. The petition must be filed by the close of business on the next business day after the last day for filing a petition for a recount. To prevail, the petitioner must establish by clear and convincing evidence that due to an irregularity, defect, or mistake committed during the voting or canvassing process the results of a recount using automatic tabulating equipment will produce incorrect recount results and that there is a substantial probability that recounting the ballots by hand or another method will produce a more correct result and change the outcome of the election. The court with whom the petition is filed must hear the matter as expeditiously as possible, without a jury. Only if the court determines that the petitioner has made the required showing may the court order a recount of the ballots by hand or other method. The procedure created by the bill does not affect the ability of an aggrieved candidate or elector under current law to appeal the outcome of a recount to circuit court upon completion of the recount.

### Post-Election Audits

The bill requires the Elections Board, by no later than December 31, 2006, to prepare recommendations with regard to random post-election audits of local election practices to be conducted in the fall of odd-numbered years. The recommendations must include recommendations on how election practices in a given municipality may be reviewed by election officials of other, similar-sized municipalities and how such audits may be funded by the state. The recommendations must be submitted to the Legislature.

Effective Date

All changes to the law proposed by the bill take effect on July 1, 2006, or on the day after publication, whichever is later.



## Appendix 1

### Committee and Joint Legislative Council Votes

The following draft was recommended by the Special Committee on Election Law Review to the Joint Legislative Council for introduction in the 2005-06 Session of the Legislature.

- WLC: 0266/1, relating to administration of elections; granting rule-making authority; and providing a penalty was recommended by a vote of Ayes, 10 (Senator Leibham; Representatives Freese and Wieckert; and Public Members Bhend, Buechel, Dunn, Hesse, Nickolaus, Troupis, and Wittenwyler); Noes, 2 (Senator Erpenbach and Representative Schneider); and NonVoting, 1 (Public Member Kennedy).

On January 18, 2006, the Joint Legislative Council voted to introduce LRB-3947/1 (WLC: 0266/1) as amended by the provisions of a memorandum to Chair Leibham of the same date. The provisions of the memorandum were as follows:

1. **Residential Lease.** The draft would be changed to include a residential lease in the list of items that could be used as “proof of residence” for purposes of voter registration.
2. **Deadline for Late, In-Person Registration.** The provisions of the draft changing the deadline for late, in-person registration in the clerk’s office from the day before the election to the Friday before the election would be eliminated. Accordingly, the deadline would remain as 5 p.m. or the close of business, whichever is later, on the day before the election.
3. **Prepaid Postage on Voter Registration Forms.** The draft would be changed to restore the provisions of current law that require voter registration forms to contain prepaid return postage.
4. **Proof of Residence at Registration, “Roving” Registration Deputies, and Legibility of Registration Forms.** The draft would be revised to retain current law as to when proof of residence is required at registration. The draft would be changed to restore the provisions of current law that authorize “roving” registration deputies but would require them to be trained. A “roving” deputy would be required to sign and print his or her name on the registration form affirming that the deputy has accepted the form. These requirements would also apply to same day voter registration deputies. Additionally, all voter registrations collected by “roving” deputies would be subject to audit by the municipal clerk before the registrant is added to the statewide voter registration list using a process similar to that required with same day registration. Finally, due to the increased accountability placed on “roving” deputies by this amendment, the draft would be revised to remove the specific direction that registration forms be reviewed for legibility before being accepted.
5. **Deadline for Request for Absentee Ballots.** The provisions of the draft changing the deadline for the receipt of absentee ballot applications from the Friday before an election to the 6<sup>th</sup> day before an election would be changed to set the deadline at the 5<sup>th</sup> day before an election.
6. **Prepaid Return Postage for Absentee Ballots.** The draft would be modified to restore the requirement under current law that absentee ballots be sent by municipal clerks with prepaid return postage.
7. **Absentee Ballots to Permanent or Temporary Address.** The draft would be modified to restore current law regarding the mailing of absentee ballots by eliminating the requirement that absentee ballots only be mailed to an elector’s permanent or temporary residence.

8. **Alternate Absentee Ballot Site.** The provisions of the draft concerning the alternate absentee ballot site would be revised to provide that the site chosen be publicly accessible, as near as practicable to the clerk's office, and not be located to provide a partisan advantage. Also, when the site is chosen, public notice of the site must be posted in the clerk's office and on the Internet.
9. **Uniform Registration Cards.** A new provision would be added to require registrations be done on Uniform Registration Cards created by the Elections Board.
10. **Effective Date.** The effective date would be changed to July 1, 2006.

The vote to introduce the legislation into the Senate was as follows:

*Co-Chair Wieckert moved, seconded by Sen. Schultz, that LRB-3947/1, relating to administration of elections; providing exemptions from and extending the time limit for emergency rule procedures; granting rule-making authority; and providing penalties, be approved by the Joint Legislative Council with amendments described in the memorandum dated January 18, 2006. The motion passed on a roll call vote as follows: Ayes, 19 (Sens. Lasee, Brown, Fitzgerald, Grothman, Kapanke, Miller, Risser, Robson, Schultz and Zien; and Reps. Wieckert, Ainsworth, Freese, Huebsch, Kaufert, Kreuser, Nischke, Pocan and Schneider); Noes, 1 (Sen. Decker); and Excused, 2 (Reps. Gard and Travis).*

*[Reps. Gard and Travis noted that had they been present, they would have voted "aye" on LRB-3947/1.]*

## Appendix 2

### Joint Legislative Council s. 13.81, Stats.

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#### Co-Chair

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**JOHN GARD**  
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**ANN NISCHKE**  
202 W. College Avenue  
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This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.



### Election Law Review

Senator Joseph K. Leibham, **Chair**  
3618 River Ridge Drive  
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Representative Stephen J. Freese  
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Representative Steve Wieckert  
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James Troupis  
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**STUDY ASSIGNMENT:** The committee is directed to examine the election process and the administration of elections in the state, other than campaign financing law. The special committee shall specifically examine the implementation of the federal Help America Vote Act of 2002 (HAVA), state oversight of elections in Wisconsin, and the recount process. The special committee may also examine other election-related issues such as voter registration and identification, new technologies for voting, the adequacy of staffing at polling places, and the adequacy of training received by pollworkers.

**16 MEMBERS:** 2 Senators, 3 Representatives, and 8 Public Members.

**LEGISLATIVE COUNCIL STAFF:** Robert J. Conlin, Senior Staff Attorney, Nicholas Zavos, Staff Attorney, and Tracey Uselman, Support Staff.



### Committee Materials List

#### October 25, 2005, Mail Ballot

Bill draft on mail ballot:

[WLC: 0266/1](#), relating to administration of elections; granting rule-making authority; and providing a penalty

#### September 29, 2005 Meeting

- [Memorandum](#), Drafts Under Consideration (9-22-05)
- [Letter](#), submitted by Attorney Barbara Zack Quindel
- [Email](#), submitted by Sandy Ingram, City Clerk, City of Cedarburg
- [Letter](#), submitted by Kit Halloran O'Meara
- [Report](#), *An Evaluation: Voter Registration, Elections Board*, submitted by the Legislative Audit Bureau. (September 2005)
- [Report Highlights](#), *An Evaluation: Voter Registration, Elections Board*, submitted by the Legislative Audit Bureau. (September 2005)

#### August 4, 2005 Meeting

- [Memorandum](#), Drafts Under Consideration (7-25-05)
- Letters submitted by Paul Malishcke:
  - [Letter](#) dated May 10, 2005
  - [Letter](#) dated May 15, 2005
- [Report](#), Election 2004 Review and Recommendations by The Nation's Elections Administrators, National Task Force on Election Reform, created and sponsored by The Election Center, National Association of Election Officials
- [Report](#), Report on the Compensation, Recruitment and Training of Election Officials, submitted by Kevin Kennedy, Executive Director, Election Board (June 2005)
- [Report](#), Impediments Faced by Elderly Voters and Voters with Disabilities, submitted by Kevin Kennedy, Executive Director, Election Board (June 2005)
- [Report](#), City of Milwaukee Election Task Force Official Report (June 27-2005)
- [Letter](#), submitted by Senator Ron Brown (August 2, 2005)
- [Letter](#), Governor Jim Doyle (August 12, 2005)

## May 2, 2005 Meeting

- [Memorandum](#), **Drafts Under Consideration** (4-22-05)
- [Letter](#), from Sharon Robinson, Executive Director, Election Commission, City of Milwaukee
- [Letter](#), from Janice Dunn, Office of the Election Commission
- [Press Release](#), **Governor Doyle Unveils Statewide Election Reform Package**
- [Memorandum](#), from Kevin J. Kennedy, Executive Director
- [WLC: 0165/1](#), relating to eliminating registration at high schools, through special registration deputies, and at the office of the register of deeds
- [WLC: 0167/1](#), relating to the method of compensation of special voter registration deputies and providing a penalty
- [WLC: 0168/1](#), relating to registering to vote by mail
- [WLC: 0169/1](#), relating to conducting registration at offices of the county clerk and the county election commissioners
- [WLC: 0170/1](#), relating to the date of appointment and term of office for election officials
- [WLC: 0173/1](#), relating to polling hours
- [WLC: 0174/1](#), relating to filing of declarations of candidacy and recording of votes received by write-in candidates in certain elections
- [WLC: 0178/1](#), relating to requiring a municipal clerk to establish a policy for the orderly closing of polling places
- [WLC: 0179/1](#), relating to the conduct of election observers, and granting rule-making authority
- [WLC: 0180/1](#), relating to the deadline for delivery of materials from the municipal canvass to the county clerk
- [WLC: 0181/1](#), relating to identification required for certain voters who register by mail
- [WLC: 0182/1](#), relating to election threats
- [WLC: 0188/1](#), relating to the fee for receiving a copy of the statewide voter registration list
- [WLC: 0189/1](#), relating to time for sending address verification cards
- [WLC: 0190/1](#), relating to registration with out-of-state driver's licenses
- [WLC: 0193/1](#), relating to electioneering at a polling place, the posting or distribution of election-related material, and providing for a penalty
- [WLC: 0194/1](#), relating to registration of homeless individuals
- [WLC: 0195/1](#), relating to election inspector statements
- [WLC: 0197/1](#), relating to proof of residence required of certain voters those registering to vote at

the polls

- [WLC: 0198/1](#), relating to the establishment of satellite offices for absentee voting
- [WLC: 0202/1](#), relating to the county clerk serving on the board of canvassers

## March 23, 2005 Meeting

- [Memo No. 9](#), **Proposal for Consolidation of City and County Election Functions** (3-23-05)
- [WLC: 0143/1](#), relating to the deadline for registration to vote
- [WLC: 0144/1](#), relating to eliminating corroboration as proof of residence for voter registration
- [WLC: 0145/1](#), relating to requiring two registration deputies for polling place registration
- [WLC: 0146/1](#), relating to the minimum GPA required of a high school student to be a pollworker
- [WLC: 0147/1](#), relating to the term of a pollworker who is a high school student
- [WLC: 0148/1](#), relating to the elimination of prepaid postage on voter registration cards
- [WLC: 0153/1](#), relating to qualification of circulators of nomination papers and petitions
- [WLC: 0154/1](#), relating to notice of certain school referenda
- [WLC: 0155/1](#), relating to requiring the use of printed ballots with electronic voting systems
- [WLC: 0156/1](#), relating to report on election contingency planning
- [WLC: 0157/1](#), relating to the timing of local referenda elections
- [WLC: 0163/1](#), relating to establishment of an election apparatus oversight committee
- [WLC: 0164/1](#), relating to publication of election notices in local government newsletters
- [WLC: 0168/1](#), relating to registering to vote by mail
- Handouts from Sharon Robinson, Director, City of Milwaukee, Department of Administration and Chair of the City of Milwaukee Election Commission Task Force:
  - [Election Management Team](#)
  - [City of Milwaukee Election Commission Task Force](#)

## March 2, 2005 Meeting

- [Memo No. 6](#), **Post-Election Issues from the November 17, 2004 Meeting** (2-23-05)
- [Memo No. 7](#), **Contents of Statewide Voter Registration List** (2-23-05)
- [Memo No. 8](#), **Recount Draw Down Procedures** (2-23-05)
- [Resolutions](#) from Village of Valders and City of Chilton regarding changes to absentee voting laws,

submitted by Representative Ziegelbauer

- [Materials](#) submitted from the City of Milwaukee Election Task Force
- [Memo](#), from Paul Malischke, regarding training of pollworkers
- [Material](#) submitted by Mike Wittenwyler, regarding election day transportation
- [Memo](#), from Janice Mueller, State Auditor, to the Joint Legislative Audit Committee, regarding proposed audit of voter registration address verification background information
- [Report](#), *2004 Presidential Election Review, Report from Non-Partisan Observers of Voting in the General Election in the City of Milwaukee on November 2, 2004*, by the Legal Committee of Milwaukee Election Protection
- [WLC: 0096/1](#), relating to requiring a witness for absentee voting to be an adult U.S. citizen
- [WLC: 0101/1](#), relating to requesting an absentee ballot by electronic mail or facsimile transmission
- [WLC: 0102/1](#), relating to returning absentee ballots and providing a penalty
- [WLC: 0104/1](#), relating to late voter registration in the municipal clerk's office
- [WLC: 0105/1](#), relating to observation and electioneering activities in the office of the municipal clerk
- [WLC: 0106/1](#), relating to ballots for military electors
- [WLC: 0107/1](#), relating to late arriving military ballots
- [WLC: 0117/1](#), relating to requesting an absentee ballot by mail
- [WLC: 0118/1](#), relating to the mailing of absentee ballots
- [WLC: 0124/1](#), relating to the recording of absentee ballots
- [WLC: 0126/1](#), relating to absentee voting in nursing homes, qualified retirement homes, and qualified community-based residential facilities
- [WLC: 0129/1](#), relating to requesting and casting an absentee ballot
- [Memo](#), from Wisconsin Coalition for Advocacy, Wisconsin Council on Developmental Disabilities, and Wisconsin Coalition of Independent Living Centers
- Packet of Materials distributed by Chair Leibham:
  - [Letter](#), from Carolyn K. Stephens
  - [Letter](#), from Mayor Carl Stolte, City of Reedsburg
  - [Letter](#), City Clerk Sandra Ingram, City of Cedarburg
  - [Resolution No. 127](#), City of West Bend
  - [Memorandum](#), from City Clerk Margaret Ciccone, Superior
  - [Resolution No. 1441](#), City of Chilton

- [Letter](#), from Senator Sheila Harsdorf
- [Letter](#), from Senator Ron Brown

## January 5, 2005 Meeting

- [Letter](#) to Kevin Kennedy, from William and Mary Bunge (undated)
- [Memo](#) from Beverly Speer, Wisconsin Democracy Campaign (1-4-05)
- [Wisconsin Voter Lists](#), submitted by Barry Ashenfelter, Wisconsin Voter Lists
- [Letter](#) to Senator Ron Brown, from Don Norrell, City of Eau Claire (12-15-04)

## December 15, 2004 Meeting

- [Memo No. 3](#), **Election Issues Raised by Committee Members to Date** (12-7-04)
- [Memo No. 4](#), **Pre-Election Issues From November 17, 2004 Meeting** (12-8-04)
- [Memo No. 5](#), **Election Day Issues From November 17, 2004 Meeting** (12-8-04)
- [Report of the U.S. Election Assistance Commission on Best Practices for Facilitating Voting by U.S. Citizens Covered by the Uniformed and Overseas Citizens Absentee Voting Act](#) (September 2004)

## November 17, 2004 Meeting

- [Memo No. 2](#), **Committee Member Suggestions for Committee Discussion** (11-10-04)
- [Memorandum](#), **Voting Systems by County** (11-10-04)
  - [Enclosure](#), **Voting Systems by County**
- [Publication](#), **Election Recount Procedures, April 1991**, prepared by the Wisconsin State Elections Board

## October 13, 2004 Meeting

- [Staff Brief 04-7](#), **Overview of the Election Law in Wisconsin** (10-6-04)
- [Memo No. 1](#), **Committee Member Suggestions for Committee Discussion** (10-6-04)
- [Information Memorandum 2004-2](#), **2003 Wisconsin Act 265, New Law Relating to Election Administration** (4-27-04)
- [Wisconsin State Plan: Help America Vote Act of 2002](#), prepared by the Wisconsin State Elections Board (8-19-03)
- [Summary](#), **State Requirements for Voter Identification**, prepared by the National Conference of State Legislatures (9-15-04)
- [Memorandum](#), **Proposed Changes in Election Law for Consideration by the Legislative Council Special Committee on Election Law Review**, submitted by Kevin Kennedy, Executive

Director, Wisconsin State Elections Board (10-8-04)

- [Public Law 107-252](#)
- [Summary](#) of HAVA Receipts and Initial Spending Estimates
- [HAVA Implementation Status](#) (10-12-04)
- [Election Day Manual](#)
- [Elections Directory](#)