

State of Wisconsin\Government Accountability Board

Post Office Box 2973
17 West Main Street, Suite 310
Madison, WI 53701-2973
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE THOMAS CANE
Chair

KEVIN J. KENNEDY
Director and General Counsel

DATE: For the January 15, 2009, Meeting

TO: Members, Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel
Wisconsin Government Accountability Board

Prepared and Presented by:
Michael Haas
Staff Counsel

SUBJECT: Preliminary List of Possible 2009 Legislative Initiatives

Task

Compile a list of items to be considered for possible legislative initiatives regarding elections-related statutes for the Board's consideration.

Process

Elections Division staff members submitted ideas for potential legislative changes, which are listed below. Also included are several ideas submitted by local clerks and other interested parties. For purposes of this memorandum, a brief summary of the suggested changes and topics to review is provided, along with a notation regarding the primary relevant statutes which would need to be amended.

Request

Staff is seeking the Board's direction and authorization to continue researching these topics for the purpose of pursuing legislative initiatives and changes designed to improve the efficiency and effectiveness of elections administration in Wisconsin. As noted below, in some instances staff is requesting the Board's approval to proceed with drafting legislation, and in other instances staff is seeking the Board's input regarding continuing to research potential legislative options and the policy decisions involved. The items are generally listed in order of staff's judgment of their priority and importance.

Proposed Initiatives for Legislative Consideration

1. Initiate Early Voting

Create and amend multiple sections of the Wisconsin Statutes to allow for or require true early voting in which ballots are processed prior to Election Day, replacing much of the current system of absentee voting in which election officials process all ballots on Election Day. *Various sections in Chapters 5, 6, 7, 8, and 10.*

Staff has conducted extensive research on this issue and is preparing a comprehensive report for the Board's consideration. Several significant policy and legal considerations will need to be addressed as part of any effort to institute early voting in Wisconsin

2. Absentee Voting

A. Policy Issues

The items in this subsection involve policy matters related to absentee voting that require further study after being raised during the 2008 General Election.

1. Mandate minimum hours for absentee voting statewide. §6.87.
2. Allow for the processing of absentee ballots prior to Election Day, so that absentee ballots are recorded as final votes and absentee voters do not have the option to also vote on Election Day. §6.88(3)(a).
3. Terminate in-person absentee voting prior to the Monday before Election Day. §6.87(6).
4. Clarify whether or not a power-of-attorney agent can sign a voter's registration application or absentee application. §6.86(2), (3).
5. Assure privacy for in-person absentee voters. §6.87.

B. Technical Issues

The following items are primarily technical issues to clarify and improve existing procedures for absentee voting, which involve minimal policy considerations, and for which drafting of legislative proposals may begin.

1. Establish consistent deadlines for absentee requests submitted by email and facsimile. §6.86(1)(ac), (b).
2. Refine requirements regarding address information for voters and witnesses. §6.87(2), (4).
3. Specifically authorize a special voting deputy assisting an elector who is an occupant of a nursing home, retirement home or community-based residential facility to sign as both a witness and as an elector assisting the voter. §6.875(6)(c).
4. Specify that both special voting deputies must sign as witnesses. §6.875(6)(c).

3. Improve Accommodation of Voting by Military and Overseas Electors

Legislation is being drafted to address some of the following issues. Staff anticipates and recommends that G.A.B.'s role should be to work with legislators who are initiating action on these matters as well as state agencies and veterans organizations.

- A. Explore the use of remote access voting by military and overseas electors. §6.24.
- B. Implement initiatives to simplify the voting process for military and overseas electors. §6.24.
- C. Address the requirement that overseas voters obtain the signature of a U.S. citizen as a witness. §6.24.

4. Clarify Requirements for Retention of Election Data

Staff will be working to initiate legislative changes regarding the following items based upon the Board's prior review and authorization.

- A. Revise requirements related to retention period for election materials for federal and state elections. §7.23(1).
- B. Clarify categories of data to be preserved. §7.23(1).
- C. Require manufacturers to either escrow all programming data or provide a mechanism for election officials to preserve programming data. §5.095.

5. Update and Simplify Voter Registration Procedures

The following items require further study and policy determinations, but they have been raised as issues for G.A.B. consideration.

- A. Restructure registration periods to provide clerks more time to process applications and prepare for Election Day. This item would also be related to and affect any changes regarding procedures for absentee voters and overseas and military voters. §§6.28, 6.29.
- B. Explore alternative methods to accomplish voter mailings to make them more uniform and cost-effective for all parties.
- C. Eliminate the requirement to record financial account numbers on poll lists and instead record those numbers, as well as other proof of residency documentation, on the registration form, and require redacting it in the case of an open records request. §6.79(4).
- D. Explore permitting additional items that may or may not be used as proof of residence given changes in technology and documentation, such as electronic bank statements displayed on a personal electronic device. §6.34(3).
- E. Consider prohibiting Special Registration Deputies from receiving compensation based on hourly or daily wages, in addition to the current prohibition on compensation based on the number of voter registrations obtained. §§6.26, 12.03(3)(ze).
- F. Require that Special Registration Deputies for high schools with students residing in multiple jurisdictions be appointed by the G.A.B., rather than requiring their appointment by the clerk of each municipality. §6.26(2)(am), 6.28(2)(b).
- G. Clarify that Special Registration Deputies at high schools may register voters only during the in-person registration period, to eliminate a possible interpretation that registrations at high schools may continue up to election day. §6.28.

6. **Revise and Clarify Recount Process**

Based on the Board's review of the recount manual and lessons learned in the fall recounts, amend various provisions of Chapter 9 related to the recount process, including the following items.

- A. Revise deadlines for filing recount petitions, convening recount canvass, and appealing recount decisions to circuit court. §9.01.(1)(ar)(3), (b), and (6).
- B. Permit substitute notice of recount on candidates and allow recount to commence upon reasonable attempt of service and open meeting notice. §9.01(2).
- C. Require analysis of absentee application and permit drawdown of defective applications. §9.01(1)(b)(2) and (1)(b)(4)(b).
- D. Prioritize drawdown of improperly initialed ballots, starting with pool of ballots with no initials, then ballots with one initial. §9.01(1)(b)(4)(d).
- E. Consider increasing the cost of recounts between .5% and 2% margin from \$5 per ward to a higher amount. §9.01(1)(ag)(1m).
- F. Clarify that the G.A.B. has the authority to issue orders regarding the conduct of election officials during the recount process without the filing of a formal complaint, except that the Board may not review the recount result or substantive decisions of the recount board. §5.06(10).

7. **Update and Simplify SVRS Procedures**

Staff considers these items to be technical in nature and helpful for elections administration.

- A. After general elections, extend the deadline for local clerks to process voter information in SVRS from 30 to 45 days with the option to apply to the G.A.B. Director for further extensions. §§6.33(5)(a), 7.15(4).
- B. Add voter telephone numbers and email addresses to the list of items that are exempt from release on voter lists. §6.36(1)(b)1.

8. **Establish Automated and Simplified Registration and Voting Processes**

Staff considers the following items to be "outside the box" ideas that would require further analysis, and is seeking Board authorization to conduct further study.

- A. Provide for simultaneous registration of voters upon obtaining a drivers license or registering at a Wisconsin university or college.
- B. Establish an online registration system for voters with a Wisconsin driver's license or identification card.
- C. Explore the feasibility of a vote-by-mail system.

9. **Standardize Process Resulting From Extension of Polling Hours by Circuit and Federal Courts**

Staff considers this item to be a technical change.

Specify that the same notation shall appear resulting from an extension of voting hours by a circuit court as currently required after a federal court. §6.96.

10. Revise Timeline for Filling Municipal Judge Vacancy by Election

Staff considers this item to be a technical change.

Permit a vacancy in the office of municipal judge that occurs after December 1 and before the spring election, as a result of the resignation of an incumbent who is not on the ballot to succeed himself or herself, to be filled at the regularly scheduled spring election, rather than at the second succeeding spring election, consistent with the procedures for other judges. §§17.23(1)(bm), 8.50(4)(fm).

11. Clarify Treatment of Annexed Wards

Staff considers this item to be a technical change.

Mandate that a ward in a city or village resulting from an annexation shall not have lines which cross the boundaries of an assembly district, consistent with the same requirement for townships. Also, when a county does not adjust boundaries for county supervisor districts to reflect an annexation, require municipalities to create a separate voting ward. §§5.15(7), 5.15(2)(f)4, 66.0217(8)(b).

12. Ease Requirement to Record Votes for Write-in Candidates

Eliminate requirement for clerks to record certain write-in ballots of prank candidates or unregistered write-in candidates.

13. Expand Time Allowed for Pre-Election Test

Staff considers this item to be a technical change.

Permit municipalities of over 10,000 persons to begin the pre-Election tests of voting machines 15 calendar days prior to Election Day, rather than 10 days. §5.84(1).

14. Clarify Authority to Publish Election Notices as Inserts

Staff considers this item to be a technical change.

Expand the category of Chapter 10 election notices that may be published as inserts to include B, C, D and E notices, and specify that newspapers must charge rates consistent with commercial rates for election notices published as advertising inserts. §§5.94, 985.08(7).

15. Use of Poll Lists

- A. Permit municipalities using a central count absentee process to use one original poll list and one original absentee ballot log instead of two original poll lists. §7.52(2).
- B. Explore the use of electronic poll lists or the use of one poll list when issuing the voter number. §6.79(1m).