

## Summary of 2011 – 2012 Election Related Legislative Changes

- **2011 Wisconsin Act 23** - Relating to: requiring certain identification in order to vote at a polling place or obtain an absentee ballot, verification of the addresses of electors, absentee voting procedure in certain residential care apartment complexes and adult family homes, identification cards issued by the Department of Transportation, creating an identification certificate issued by the Department of Transportation, requiring the exercise of rule-making authority, and providing a penalty.
- **2011 Wisconsin Act 39** - Relating to: division of municipalities into wards and redistricting of supervisory and aldermanic districts and appointing a panel to hear challenges to the apportionment of a congressional or legislative district, and hearing certain appeals.
- **2011 Wisconsin Act 43** - Relating to: legislative redistricting.
- **2011 Wisconsin Act 44** - Relating to: congressional redistricting.
- **2011 Wisconsin Act 45** - Relating to: the date of the presidential preference primary and certain other election occurrences.
- **2011 Wisconsin Act 62** - Relating to: creating the office of county comptroller for Milwaukee County.
- **2011 Wisconsin Act 75** - Relating to: the dates of the September primary and certain other election occurrences and absentee voting.
- **2011 Wisconsin Act 115** - Relating to: county and municipal canvassing procedures, provisional ballot information, the deadline for filing a recount petition, terms of town officers, the date of the annual town meeting, and technical revisions to certain election laws.
- **2011 Wisconsin Act 130** - Relating to: requiring the county clerk to organize the first election of officers following the incorporation of a city or village.
- **2011 Wisconsin Act 227** - Relating to: return of absentee ballots and voting in person by electors who have voted by absentee ballot in the same election.
- **2011 Wisconsin Act 240** - Relating to: voter registration at high schools and certain tribal schools.

Please note that this information was compiled by using information from the Legislative Reference Bureau. Additional information regarding these legislative changes may be found at the following link

<http://docs.legis.wi.gov/2011/related/acts>

### **2011 Wisconsin Act 23 - Changes to Election Laws (Voter Photo ID)**

Effective Date: Most Provisions went into effect June 10, 2011. Straight Party ticket voting first applies to 2012 General Election. Voter Photo ID went into effect for the 2012 Spring Primary, but the provisions requiring electors to present a Photo ID before obtaining a ballot are currently enjoined by court order.

#### **PROOF OF IDENTIFICATION -- The provisions in this section are currently enjoined by court order and are not in effect.**

- An elector is required to present proof of identification to vote at a polling place or by absentee ballot. Act 23 also created several exceptions to the requirement that electors present proof of identification when voting and addressed issues regarding the photo ID requirement and residents who reside in a qualified retirement home, qualified CBRF, residential care apartment complex, or adult family home where special voting deputies are not sent.
- If an elector is required to provide proof of identification or a copy thereof and fails to do so, and the elector votes by provisional ballot, the elector bears the burden of correcting the omission by providing the proof of identification or copy thereof at the polling place before the closing hour or at the office of

the municipal clerk or board of election commissioners no later than 4 p.m. on the Friday after the election.

- An absentee ballot envelope certificate is required to include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that if an absentee elector voted in person, the elector presented proof of identification to the clerk and the clerk verified the proof of identification presented. The certificate must also include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that the elector is exempt from providing proof of identification.
- The Government Accountability Board (G.A.B.) is required to conduct a public information campaign in conjunction with the first regularly scheduled primary and election at which the voter identification requirements of the Act initially apply for the purpose of informing prospective voters of the new voter identification requirements. The Act also requires G.A.B. to engage in outreach to identify and contact groups of electors who may need assistance in obtaining or renewing a document that constitutes proof of identification for voting and provide assistance in obtaining or renewing that document.
- An elector may obtain a free identification card from DOT if the applicant is eligible to obtain an identification card and if the elector is a U.S. citizen who will be at least 18 years of age on the date of the next election and the elector requests that the card be provided without charge for purposes of voting.

**The remaining provisions of Act 23 described below have not been enjoined and are in effect.**

#### **SIGNATURE REQUIREMENT**

- An elector must enter his or her signature on the poll list, supplemental list, or other separate list when voting in person at an election, unless exempt by reason of the elector's physical disability. Each registration list prepared for use as a poll list at a polling place or for purposes of canvassing absentee ballots must contain a space for the elector's signature, or, if another person signed the elector's registration form for the elector by reason of the elector's physical disability, the word "exempt." G.A.B. must, by rule, prescribe the space and location for entry of each elector's signature on the poll list, which must provide for entry of the signature without changing the orientation of the poll list from the orientation used by the election officials.

#### **RESIDENCY**

- The residency requirement increased from 10 days before an election to 28 consecutive days before an election. The Act also provides that an individual who moves within this state later than 28 days before an election must vote at his or her previous ward or election district if the individual is otherwise qualified.

#### **REGISTRATION**

- The use of corroboration as an alternative to providing proof of residence was eliminated when registering to vote.
- An elector of a municipality who has not previously filed a registration form or whose name does not appear on the registration list of the municipality may register after the close of registration (the third Wednesday preceding an election) but not later than 5 p.m. or the close of business, whichever is later, on the Friday before an election at the office of the municipal clerk.

- The provisions regarding appointment and revocation of appointments, of special registration deputies by G.A.B. are revoked. In addition, the appointment of each individual who serves as a special registration deputy on the effective date of the Act solely as the result of action of G.A.B. is revoked.
- Registration forms must also be designed to obtain the location of the elector's previous residence immediately before moving to the current residence location. Further, the Act requires that registration forms be designed to obtain the number of an elector's *current* and valid operator's license. The Act also requires that the form contain a statement that falsifying information on the form is a Class I felony.
- Proof of residence for college students must include either of the following documents:
  - An identification card issued by a university, college, or technical college that contains a photograph of the cardholder, together with a fee payment receipt issued to the cardholder by the university, college, or technical college dated no earlier than nine months before the date of the election at which the receipt is presented.
  - An identification card issued by a university, college, or technical college that contains a photograph of the cardholder if the university, college, or technical college that issued the card provides a certified and current list of students who reside in housing sponsored by the university, college, or technical college and who are U.S. citizens to the municipal clerk prior to the election showing the current address of the students and if the municipal clerk, special registration deputy, or inspector verifies that the student presenting the card is included on the list.
- The G.A.B. or any municipal clerk or board of election commissioners may transfer any information in the registration list to which access is restricted to a law enforcement agency, to be used for law enforcement purposes. Further, the Act provides that G.A.B. may transfer any information in the registration list to which access is restricted to a subunit of the state government of another state to be used for official purposes.
- The municipal clerk may update any entries in the registration list that change on the date of an election, other than a general election, within 30 days after the date of that election and may update any entries that change on the date of a general election within 45 days after the date of that election. In addition, the Act provides that G.A.B. legal counsel may, upon request of a municipal clerk, permit the clerk to update entries that change on the date of a general election within 60 days after that election.

### **ABSENTEE VOTING**

- If an elector makes an application for an absentee ballot in person, the application must be made no earlier than the opening of business on the third Monday preceding the election and no later than 5 p.m. or the close of business, whichever is later, on the Friday preceding the election.
- If a hospitalized elector is unable to sign the G.A.B. form due to physical disability, the elector may authorize another elector to sign on his or her behalf. Any elector signing an application on another elector's behalf must attest to a statement that the application is made on request and by authorization of the named elector, who is unable to sign the application due to physical disability. The agent must present this statement along with all other information required under current law.

- The municipal clerk must discontinue mailing or transmitting absentee ballots to an elector if the elector fails to return any absentee ballot mailed or transmitted to the elector. In addition, an elector who fails to cast an absentee ballot but who remains qualified to receive absentee ballots may receive absentee ballots for subsequent elections by notifying the municipal clerk that the elector wishes to continue receiving absentee ballots for subsequent elections.
- The G.A.B. must prescribe uniform instructions to absentee voters. The instructions must include information concerning the procedure for correcting errors in marking a ballot, obtaining a replacement for a spoiled ballot and information concerning whether proof of identification is required to be presented or enclosed.
- The absentee voting procedures are applied to absentee voting by occupants of qualified residential care apartment complexes and qualified adult family homes. Specifically, the Act provides that the municipal clerk or board of election commissioners of any municipality where a residential care apartment complex or adult family home is located may adopt the procedures for absentee voting in any such complex or home located in the municipality if the clerk or board finds that there are a significant number of the occupants of the complex or home who lack adequate transportation to the appropriate polling place, who may need assistance in voting, who are aged 60 or over, or who are indefinitely confined.
- The prohibition against electioneering is extended to qualified residential care apartment complexes and qualified adult family homes and applies the prohibition against failing to return a ballot to voting in qualified residential care apartment complexes and qualified adult family homes.

#### **STRAIGHT PARTY TICKET**

- The authority for any elector, other than an overseas or military elector, to vote a straight party ticket is eliminated. Under federal law, an overseas or military elector may vote a straight party ticket on a write-in absentee ballot for national offices.

#### **CHALLENGING VOTERS**

- An inspector is required to challenge any elector for cause any person offering to vote who does not adhere to any voting requirement under ch. 6, Stats.

#### **ELECTION MATERIAL**

- Poll lists created for any election may be destroyed 22 months after the election at which they were created.

### **2011 Wisconsin Act 39 – Redistricting**

Effective Date: Generally August 9, 2011

**2011 Wisconsin Act 39** relates to the division of municipalities into wards and redistricting of supervisory and aldermanic districts and appointing a panel to hear challenges to the apportionment of a congressional or legislative district, and hearing certain appeals.

## **2011 Wisconsin Act 43 - Legislative Redistricting**

Effective Date: August 24, 2011

**2011 Wisconsin Act 43** contains the legislative redistricting plan enacted by the Legislature that reconfigures the 132 Wisconsin legislative districts, based on the 2010 Census. Appended to the Act are population data and maps related to the new districts. With respect to regular elections, Act 43 first applies to offices filled at the 2012 general election. With respect to special or recall elections, Act 43 first applies to offices filled or contested concurrently with the 2012 general election.

## **2011 Wisconsin Act 44 - Congressional Redistricting**

Effective Date: August 24, 2011

**2011 Wisconsin Act 44** contains the congressional redistricting plan enacted by the Legislature that reconfigures the eight Wisconsin congressional districts, based on the 2010 Census. Appended to the Act are population data and maps related to the new districts. With respect to regular elections, Act 44 first applies to offices filled at the 2012 general election. With respect to special or recall elections, Act 44 first applies to offices filled or contested concurrently with the 2012 general election.

## **2011 Wisconsin Act 45 - Presidential Preference Primary**

Effective Date: October 15, 2011

### **Date of Presidential Preference Primary**

- Presidential Preference primary moved from the third Tuesday in February to the *first Tuesday in April*. Under the Act, the presidential preference primary takes place as part of the spring election rather than the spring primary.

### **Certified List of Primary Candidates**

- G.A.B. must transmit to each county clerk a certified list of candidates for president who have qualified to have their names appear on the presidential preference primary ballot as soon as possible after the last Tuesday in January of each year in which there is a presidential election.

### **Preparation of Presidential Preference Primary Ballots**

- County clerks are required to prepare a special ballot showing only the candidates in the presidential preference primary.

### **Distribution of Presidential Preference Primary Ballots**

- County clerks are required to distribute the special ballots showing only the candidates for the presidential preference primary no later than 48 days before the presidential preference primary.

### **Distribution of Absentee Ballots by Municipal Clerks**

- Municipal clerks are required to transmit an absentee ballot for the presidential preference primary to each elector who has requested that ballot no later than the 47th day before the presidential preference

primary, if the request is made before that day. If the request is not made before that day, the municipal clerk must transmit the absentee ballot within one day of the time the request is received.

#### **Party Participation in Presidential Preference Primary**

- The state chairperson of each recognized political party listed on the official ballot at the last gubernatorial election whose candidate for Governor received at least 10% of the total votes cast for that office may certify to G.A.B. no later than 5 p.m. on the second Tuesday in December of the year before the presidential election that the party will participate in the presidential preference primary.

#### **Committee Certification of Candidate Names for the Presidential Preference Primary**

- The committee must convene on the first Tuesday in January of the year of the presidential election.

#### **Petitions for Nomination to Appear on Presidential Preference Primary Ballot**

- Any person seeking nomination for the Office of the President of the United States may submit a petition to G.A.B. no later than 5 p.m. on the last Tuesday in January of each presidential election year to have the person's name appear on the presidential preference ballot. The petition may be circulated no sooner than the first Tuesday in January of the presidential election year.

#### **Withdrawal of Candidacy from Presidential Preference Primary**

- The name of a person who had been placed in nomination by a committee would appear on the Wisconsin presidential preference ballot unless the person files a disclaimer with G.A.B. no later than 5 p.m. on the last Tuesday in January of the presidential election year.

#### **Results of the Presidential Preference Primary**

- G.A.B. is required to notify each state party organization chairperson of the results no later than May 15 following the presidential preference primary.

#### **Election Notices**

- Changes the statutory provisions regarding basic election notices to account for the change in the date of the presidential preference primary and the holding of the presidential preference primary at the time of the spring election rather than the spring primary.

### **2011 Wisconsin Act 62—Creation of Office of County Comptroller**

Effective Date: November 15, 2011

- Creates elected office of County Comptroller in counties with a population of 750,000 or more
- Office of County Comptroller will be elected at the spring election for a 4-year term starting April 2012
- Outlines the duties and responsibilities of office of County Comptroller
- Specifies eligibility requirements for the office of County Comptroller
- Provides that the County Corporation Counsel in counties with a population of 750,000 or more must review and countersign all contracts to verify the contracts comply with all statutes, rules, ordinances, and the county's ethics policy.

- Requires the Milwaukee County Executive, upon enactment of the 2012 fiscal year budget for Milwaukee County, to certify to the Secretary of Administration the amount of total appropriations for the functions of the Milwaukee County Treasurer and County Comptroller derived from property tax revenues, sales tax revenues, and fees paid to either office.
- Specifies that Milwaukee County may not exceed the certified amount in paying for the functions of County Treasurer and County Comptroller during Milwaukee County's 2012 fiscal year

## **2011 Wisconsin Act 75—September Primary, Absentee Voting, Electronic Communication System, Polling Places, Special Elections, Duplicate Identification Cards and Other Election Occurrences (MOVE Act Changes)**

Effective Date: December 2, 2011, but the Act contains specific effective dates for some provisions

### **September Primary**

- Renames the "September primary" as the "partisan primary" and changes the date of the primary to the *second Tuesday in August*
- Nomination papers may be circulated no sooner than April 15 preceding the general election and may be filed no later than 5 p.m. on June 1 preceding the partisan primary

### **Distribution of Ballots to Clerks**

- Requires that county clerks distribute ballots to municipal clerks no later than 48 days before each partisan primary and general election

### **Distribution of Absentee Ballots to Electors**

- Requires that municipal clerks send an official absentee ballot to each elector who has requested a ballot no later than the 47th day before each partisan primary and general election

### **Absentee Ballot Application Signature**

- Removes the requirement that the absentee ballot application contain a copy of the applicant's original signature

### **Deadline for Absentee Ballot Applications by Military Electors**

- Absentee ballot requests by military electors away from home must be received by the municipal clerk no later than 5 p.m. on election day for the presidential preference primary, special election for national office, September primary, and general election

### **Electronic Transmission of Ballots**

- Limits transmission of electronic absentee ballots to military (away from home) or overseas voters

### **Automatic Absentee Ballots**

#### *Military Electors*

- Allows a military elector to receive absentee ballots for all elections that occur in the municipality or portion thereof where the elector resides in the same calendar year in which the request is received, unless the elector otherwise requests
- Repeals the requirement to send automatic absentee ballots to military electors

#### *Overseas Electors*

- Provides that clerks may not send an absentee ballot for an election if the name of the overseas elector no longer appears on the registration list in eligible status

- Repeals the provision for requesting absentee ballots for two general elections

### **Electronic Communication System**

- Requires that the G.A.B. maintain a freely accessible system where a military or overseas elector who casts an absentee ballot can ascertain whether the ballot has been received by the municipal clerk.
- Requires the G.A.B. to designate and maintain a freely accessible means of electronic communications to be used for allowing a military or overseas elector to request a voter registration or absentee ballot application, designate whether the elector wishes to receive the applications electronically or by mail, and permit a municipal clerk to transmit the applications electronically or by mail with related voting, balloting, and election information

### **Write-In Absentee Ballots**

#### *Federal Write-In Absentee Ballots*

- Military electors may submit the Federal Write-In Absentee Ballot (FWAB) for any election.
- Completed and signed FWAB serves as an application for an absentee ballot

#### **State Write-In Absentee Ballots**

- Discontinues the State Write-In Absentee Ballot (SWAB)

#### *Validity*

- FWAB is valid only if the elector submitting the ballot does not submit an official ballot and, if the elector is an overseas elector, the elector resides outside the United States

### **Late Counting of Absentee Ballots**

Extends late counting to any absentee elector if the absentee ballot is received by mail from the U.S. Postal Service and is postmarked no later than Election Day if it received by the clerk no later than 4 p.m. on the Friday after the election

### **Military Elector List**

- Requires a municipal clerk to keep the military elector list in the format prescribed the G.A.B. and distribute a copy of the list to each polling place for use on election day

### **Instructions**

- Requires that the uniform instructions for absentee voters include the specific means of electronic communication that an absentee elector may use to file or change a voter registration or absentee ballot application

### **Election Notices**

#### *G.A.B. Notices*

- The Board must send the Type A notice to each county clerk on or before the 2nd Tuesday in April preceding the partisan primary and general election
- The Board must send the Type notice to each county clerk on or before the 3<sup>rd</sup> Tuesday in March preceding the partisan primary and general election
- The Board must send a Type B notice to each county clerk certifying the list of candidates for the partisan primary as soon as possible after the deadline for determining ballot arrangement for the partisan primary on June 10

#### *County Clerk Notices*

- The county clerk shall send notice of the partisan primary and general election to municipal clerks on the 1<sup>st</sup> Tuesday in April
- The county clerk shall publish a Type A notice based on the G.A.B. notice by the 2<sup>nd</sup> Tuesday in April preceding a partisan primary and general election

### **Polling Places**

Must establish polling places for each election at least 30 days before the election

- No later than 30 days before each election, the governing body of a municipality may by resolution combine two or more wards for voting in a common polling place

### **Special Elections**

- Provides that when a special election concerns a national office or a special election for state office is held concurrently with the general election, the G.A.B. must transmit to each county clerk a certified list of all persons for whom nomination papers have been filed in its office at least 62 days before the special primary.
- In other cases, the G.A.B. must transmit the list to each county clerk at least 22 days before the special primary.
- If no primary is required, the G.A.B. must transmit the list to each county clerk at least 42 days before the special election. If the special election concerns a national office or is held concurrently with the general election, the list must be transmitted at least 62 days before the special election.

### **Date of Special Elections**

- If a special election is held concurrently with the general election or a special election is held to fill a national office, the special election may be ordered not earlier than 122 days prior to the partisan primary or special primary and not later than 92 days prior to that primary

### **Nomination Papers**

- Nomination papers for a special election must be filed no later than *June 1* preceding the partisan primary when a special election is held concurrently with a general election.

### **Special Elections for U.S. Senator or Representative**

- A vacancy in the Office of U.S. Senator or Representative occurring prior to the 2nd Tuesday in April in the year of the general election must be filled at a special primary and election. A vacancy in those offices occurring between the 2nd Tuesday in April and the 2nd Tuesday in May in the year of the general election must be filled at the partisan primary and general election

### **Referenda**

- Requires that the amendment, measure, or question be filed with the official or agency responsible for preparing the ballots for the election no later than *70 days* prior to the election

### **Redistricting**

- Changes the deadline of May 15 of the 2nd year following the year of the federal census to April 10 of the 2nd year following the year of the federal census

### **Duplicate Identification Cards**

- No fee for a duplicate state identification card if the elector could obtain a free state identification card, is a qualified elector, and requests the card be provided without charge.
- This provision applied to the initial issuance, renewal, or reinstatement of an identification card.

## **2011 Wisconsin Act 115—County and Municipal Canvassing Procedures, Delivery of Election Materials, Posting of Provisional Ballot Information, Town Meeting and Town Officer Term Date Changes and Election Deadlines**

Effective Date: February 21, 2012

### **Canvassing Timeline Changes**

- Changes the deadlines applicable to boards of canvassers
- The municipal boards of canvassers must meet no later than 9 a.m. on the Monday following an election and must report any required returns to the county and school district by 4 p.m. that day
- County boards of canvassers and school district boards of canvassers must meet no later than 9 a.m. on the Tuesday following an election. School district boards of canvassers must complete their canvasses by 4 p.m. that day.

### **Delivery of Election Materials**

- Changes several provisions relating to the delivery of election materials
- A municipal clerk must deliver late-arriving absentee and verified provisional ballots and related materials to the county clerk and must deliver certain election materials to the school district clerk by 4 p.m. on the Monday following the election
- Specifies that county clerks must return specific election materials to a municipal or school district clerk upon completion of a central count

### **Posting of Provisional Ballot Information**

- Requires municipal clerks to post information regarding the number of outstanding provisional ballots
- Requires municipal clerks to post the number of electors who cast provisional ballots and, as of the closing hour for all polling places, have not yet returned to satisfy relevant voting requirements so that their provisional ballots may be verified

### **Recount Deadline Changes**

- Changes the deadline for filing a recount petition and the date by which the vote margin between the petitioner and leading candidate is determined
- A recount petition must be filed not earlier than completion of the canvass after any valid absentee ballots and provisional ballots are canvassed, and not later than 5 p.m. on the 3<sup>rd</sup> business day following the last meeting of the relevant board of canvassers after any valid absentee and provisional ballots are canvassed
- The vote margin between the petitioner and leading candidate, which impacts the required payment by a candidate requesting a recount, is determined after canvassing of valid absentee and provisional ballots

### **Town Meeting and Officer Term Date Changes**

- Changes the date of annual town meetings and the date on which the terms of elected town officers begin by one week.
- Changes these dates from the 2<sup>nd</sup> Tuesday in April to the 3<sup>rd</sup> Tuesday in April. The Act also allows a town board to enact an ordinance extending town officer terms that expire on the 2<sup>nd</sup> Tuesday of April in 2012 or 2013 by one week so that the expiration of current terms corresponds with the beginning date of new officer terms

## **2011 Wisconsin Act 130—First Election Following Incorporation of City or Village**

Effective Date: April 5, 2012, and first applies to a city or village that is incorporated on that date

- Following the incorporation of a city or village, the clerk of the circuit court of the county in which the incorporation petition was filed must organize the first election for officers of the city or village
- Transfers the responsibility for organizing the first election to the county clerk of the county in which the incorporation petition was filed

## **2011 Wisconsin Act 227—Absentee Ballots and Voting In Person and by Absentee Ballot**

Effective Date: April 20, 2012

### **Return of Absentee Ballots by Clerks**

- Prohibits a municipal clerk from returning an absentee ballot to a voter once the voter mails or personally delivers the absentee ballot to the clerk, except under specified circumstances
- A clerk may return an absentee ballot to a voter if the ballot has an improperly completed certificate or no certificate and there is time for the voter to correct the defect and return the ballot
- A clerk may also issue a new absentee ballot to a voter if the voter returns a spoiled or damaged absentee ballot to the clerk and the clerk believes that the ballot was issued to that voter

### **Voting by Absentee Ballot and In Person**

- Prohibits a voter who submits an absentee ballot from also voting at the polls
- A voter who mails or personally delivers an absentee ballot to the municipal clerk at an election is not permitted to vote in person at the same election on Election Day

### **Electronic Applications for Absentee Ballots and Proof of Identification**

- Requires an individual who applies for an absentee ballot by fax or email to enclose a copy of his or her proof of identification with the application, rather than enclosing the proof of identification with the completed ballot

## **2011 Wisconsin Act 240—Elimination of Requirement to Appoint Special Registration Deputy to High Schools**

Effective Date: April 20, 2012

- Eliminates the requirement for municipal clerks to appoint special school registration deputies at public high schools and the requirement for municipal clerks to either appoint deputies at, or send deputies to, private high schools and tribal schools