

State of Wisconsin \ Government Accountability Board

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MEMORANDUM

DATE: May 15, 2012

TO: Wisconsin Municipal Clerks
City of Milwaukee Election Commission
Wisconsin County Clerks
Milwaukee County Election Commission

FROM: Nathaniel E. Robinson
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Government Accountability Board

SUBJECT: Central Count Absentee Guideline

Special Note: This guideline contains revisions formally adopted by the Government Accountability Board at its May 15, 2012 meeting and provides updates to procedures due to legislation affecting absentee voting as prescribed in 2011 Wisconsin Act 227.

Guideline—Central Count Absentee

This guideline was originally adopted by the Government Accountability Board at its December 13, 2011 meeting and was revised at the May 15, 2012 meeting. The guideline provides some basic information for municipalities who want to utilize a municipal board of absentee ballot canvassers for counting absentee ballots on Election Day. Section 7.52, Wis. Stats., permits the governing body of a municipality to provide for the canvassing of all absentee ballots on Election Day by a municipal board of absentee ballot canvassers.

This guideline also provides the basic requirements for establishing procedures for utilizing a municipal board of absentee ballot canvassers to count absentee ballots on Election Day. There are a number of administrative procedures clerks will have to develop to ensure individuals do not vote absentee and in person for the same election. In addition, these administrative procedures will ensure that votes cast by absentee ballot are properly reported for the canvass of election results.

Establishing a Municipal Board of Absentee Ballot Canvassers

If the governing body decides to provide for the canvassing of all absentee ballots on Election Day by a municipal board of absentee ballot canvassers, it must adopt an ordinance. Section 7.52 (1), Wis. Stats. The municipal clerk is required to notify the Elections Division in writing

before the municipality adopts the ordinance and consult with the Elections Division staff concerning administration of a central location for counting absentee ballots.

The governing body must also establish a municipal board of absentee ballot canvassers. Section 7.53 (2m), Wis. Stats. The municipal board of absentee ballot canvassers is the municipal clerk and two other qualified electors of the municipality appointed by the clerk. They serve two-year terms beginning January 1st of odd-numbered years.

Polling Place Procedures for Municipalities with a Municipal Board of Absentee Canvassers

In general, a voter who did not receive an absentee ballot by mail or who chose not to return an absentee ballot is able to vote in person at the polling place on Election Day. However, a voter who returned an absentee ballot with an incomplete or no certificate envelope (or who did not receive or return a replacement envelope) cannot vote in person at the polling place on Election Day. Voters with incomplete or no certificate envelopes may only correct the envelope up to and including Election Day (correction occurring at the central count location on Election Day and with the original witness.)

At the polling place, if a voter has an absentee designation in the poll book, the election inspector must check the absentee ballot log to determine whether the absentee ballot was received. If the absentee ballot log reflects that the voter's absentee ballot was received, the election inspector shall inform the voter that he or she cannot vote in person at the polling place pursuant to Wis. Stat. §6.86(6).

If there is no indication in the absentee ballot log regarding receipt of the voter's absentee ballot, the election inspector shall ask the voter: "Did you mail or personally deliver your absentee ballot to the clerk's office?" If the voter answers this question in the affirmative, the election inspector shall inform the voter that he or she cannot vote in person at the polling place pursuant to Wis. Stat. §6.86(6). If the voter answers this question in the negative, the election inspector shall permit the voter to vote in person at the polling place.

Please note: A voter who did not receive a replacement ballot by mail or who chose not to return a replacement ballot for a spoiled or damaged ballot is able to vote in person at the polling place. The absentee ballot log (GAB 124) should indicate the first ballot was cancelled and a second ballot was issued.

General Election Day Procedures for Municipal Board of Absentee Ballot Canvassers

The municipal board of absentee ballot canvassers shall publicly convene between 7 a.m. and 10 p.m. on Election Day to count the absentee ballots for the municipality. The municipal clerk shall give at least a 48-hour notice of the meeting of the municipal board of absentee ballot canvassers.

Any member of the public has the right to observe the proceedings of the municipal board of absentee ballot canvassers just as they do at the polling place.

Election inspectors may be appointed to assist the municipal board of absentee ballot canvassers with counting the absentee ballots for the municipality. If appointed, there must be

an odd number of inspectors, and there must be at least three inspectors present at all times while absentee ballots are counted.

Prior to the polls opening at 7 a.m. on Election Day, the municipal clerk shall identify and announce an Internet website at which an absentee informational statement shall later be posted. No later than 8 p.m. on Election Day, the municipal clerk shall post an absentee informational statement in the clerk's office and on the Internet website as identified by the clerk. The statement shall list the number of absentee ballots that have been issued and the number of absentee ballots that have been returned by the close of the polls on Election Day. The statement shall not include the name or address of absentee voters.

Reconciliation of Poll Lists (or Absentee Log)

After any canvass of the absentee ballots is completed under §7.52, Wis. Stats., the board of canvassers shall reconcile the poll list of the electors who vote by absentee ballot (or absentee log) with the corresponding poll list of the electors who vote in person to ensure that no elector is allowed to cast more than one ballot. §§7.53(1) and (2)(d), Wis. Stats. The purpose of marking the poll list number of each elector on the back of the elector's ballot before depositing it in the ballot box or voting equipment is to provide for easy identification and later rejection of the absentee ballot after the reconciliation of the poll list of the electors who vote by absentee ballot (or absentee log) with the corresponding poll list of the electors who vote in person, pursuant to §§6.86(6) and 7.53(1) and (2)(d), Wis. Stats.

If an elector who votes in person has also submitted an absentee ballot, the absentee ballot is void and only the in person vote shall be counted. §7.53(2)(d), Wis. Stats. The reconciliation will identify electors who mail or personally deliver an absentee ballot to the municipal clerk and also vote in person at the same election on Election Day, which is contrary to §6.86(6), Wis. Stats. The board of canvassers shall prepare a list of electors for which an absentee ballot was voided because the elector voted in person on Election Day. The board of canvassers shall provide this list to the municipal clerk. Immediately following the election, the municipal clerk shall provide this list to the district attorney for review of whether any electors violated §12.13(1)(e), Wis. Stats.

Voter Lists

The municipal board of absentee ballot canvassers shall use two duplicate SVRS-generated copies of a single poll list for the entire municipality, or the SVRS-generated absentee ballot log for the entire municipality. The list shall be annotated with voter numbers beginning with the number 1, along with an indication the voter cast an absentee ballot. If the voter's name does not appear on the poll list, the name and voter number shall be recorded on the supplemental poll list.

Procedures for Processing Absentee Ballots

No earlier than 7:00 a.m. on Election Day, the municipal board of absentee ballot canvassers shall open the carrier envelope or container in which the absentee ballots were delivered to the central count absentee ballot site so that a member of the public may observe the opening.

The municipal clerk shall group absentee ballots with incomplete or no certificates. The municipal board of absentee canvassers shall not process absentee ballots with incomplete or no certificates until 8 p.m. on Election Day. Electors shall have the opportunity to correct an insufficiency on their certificate envelope at the central count location until 8 p.m. on Election Day. The elector shall bring the original witness to the central count location to correct an insufficiency on their certificate envelope. The municipal board of absentee canvassers shall provide a replacement certificate envelope to the elector, as necessary. After 8 p.m. on Election Day absentee ballots with incomplete or no certificates shall be processed as outlined below.

As each ballot is processed, the municipal board of absentee ballot canvassers shall announce the name of the absentee voter so that any member of the public present may hear the voter's name. The municipal board of absentee ballot canvassers shall carefully examine the certificate to determine if it is signed and witnessed and the elector is a registered voter in the reporting unit for which the absentee ballot is being processed.

The municipal board of absentee ballot canvassers shall compare the certificate envelope to the list of ineligible voters provided by the Department of Corrections. If the absentee voter's name appears on the list, the municipal board of absentee ballot canvassers shall challenge the absentee ballot.

The municipal board of absentee ballot canvassers shall carefully open the certificate envelope, remove the ballot from the certificate envelope and verify that the ballot has been initialed by the municipal clerk or a deputy clerk. NOTE: If the ballot does not contain the initials of either the municipal clerk or a deputy clerk, the omission is noted on the Inspectors' Statement (Form GAB-104), and the ballot is processed. An absentee ballot is not rejected solely because the initials of the clerk or deputy clerk are missing.

The municipal board of absentee ballot canvassers shall mark the voter number on the back of the ballot and on the poll list, or SVRS-generated absentee ballot log, along with the indication the voter cast an absentee ballot.

If the poll list indicates the voter was required to provide proof of residence as a first-time voter, the municipal board of absentee ballot canvassers shall record the type of document provided on the poll list. If no proof of residence was provided, the municipal board of absentee ballot canvassers shall treat the absentee ballot as a provisional ballot.

The municipal board of absentee ballot canvassers may not count the absentee ballot and shall mark the ballot as "Rejected" if:

- The voter is not a registered elector of the reporting unit;
- The absentee certificate envelope was open or had been opened and resealed;
- The absentee certificate envelope contains more than one ballot of any one kind;
- The certificate of a military or overseas elector who received an absentee ballot by Fax or e-mail is missing;
- Proof is submitted that the elector has died.

The municipal board of absentee ballot canvassers may not count the ballot and shall mark the ballot as “Rejected” **after 8 p.m. on Election Day** if:

- The certification is insufficient (not signed or witnessed) or missing.

The reason for rejection shall be recorded on the certificate envelope and on the Inspectors’ Statement (Form GAB-104) by the municipal board of absentee ballot canvassers. The rejected absentee ballots shall be placed in the brown envelope for rejected absentee ballots (Form GAB-102).

After recording the voter number for a properly cast absentee ballot, the municipal board of absentee ballot canvassers shall deposit the absentee ballot in the ballot box or vote tabulating device. The used certificate envelopes shall be placed in the white envelope for used certificate envelopes (Form GAB-103).

Follow the Same General Procedures to Process Absentee Ballots as Used at the Polling Place

The municipal board of absentee ballot canvassers shall follow the same general procedures, and use the same forms as are used at the polling place when processing, counting and securing absentee ballots. Duplicate original tally sheets and a single Inspectors’ Statement (Form GAB-104) must be maintained for each reporting unit. Rejected absentee ballots and used certificate envelopes are not required to be maintained by reporting unit. Rejected absentee ballots may be placed in a single Rejected Absentee Ballot envelope or container. Used certificate envelopes may be placed in a single Used Certificate envelope or container.

Challenging Absentee Ballots

An absentee ballot may be challenged in the same manner as it would be challenged at the polling place. Any qualified elector of Wisconsin may challenge an absentee ballot.

The municipal board of absentee ballot canvassers shall challenge an absentee ballot cast by an elector whose name appears on the ineligible voter list. The municipal board of absentee ballot canvassers shall follow the challenge procedures set out in the Election Day Manual and GAB Chapter 9, Wis. Admin. Code using the GAB 104-C to document the challenge.

An election inspector shall challenge an absentee ballot cast by an elector to whom the municipal clerk issued a replacement absentee ballot as a result of a spoiled or damaged original ballot, when the municipal clerk or clerk staff did not believe the voter was the person to whom the original ballot was issued. The municipal clerk or clerk staff shall attach a note to the absentee ballot certificate indicating the basis for the belief that the voter requesting the replacement ballot was not the person who requested the original ballot. The election inspectors may rely on the municipal clerk’s note to challenge an absentee ballot and shall follow the challenge procedures set out in the Election Day Manual and GAB Chapter 9, Wis. Admin. Code. The election inspectors shall use the GAB 104-C to document the challenge and specifically enter information documenting the municipal clerk’s evidence/belief as the basis for the challenge.

Completing and Delivering Forms

The municipal board of absentee ballot canvassers shall carefully record the votes for each reporting unit on duplicate original tally sheets, which are signed by the board of absentee ballot canvassers and anyone who assisted in the counting. Municipalities utilizing an optical scan voting system shall use two machine printouts as tally sheets. However, write-in votes must be recorded on duplicate original tally sheets (Form GAB-105). The ballots and materials shall be delivered to the municipal clerk following processing and counting of the absentee ballots, and after completing, recording and securing the required forms.

Miscellaneous Issues

Automatic tabulating devices must be properly set up, programmed and tested before Election Day to count absentee ballots by reporting unit for the entire municipality.

Detailed training, including checklists and instructions shall be provided to the municipal board of absentee ballot canvassers by the municipal clerk.

Questions and Comments

If clerks have questions on the utilization of a municipal board of absentee ballot canvassers to count absentee ballots contact the Elections Division staff. We also encourage you to identify issues and detail procedures so that the central count absentee ballot process can be improved and shared with all clerks.