

# State of Wisconsin\Government Accountability Board

Post Office Box 7984  
212 East Washington Avenue, Third Floor  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wisconsin.gov](mailto:gab@wisconsin.gov)  
<http://gab.wi.gov>



JUDGE DAVID G. DEININGER  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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Prepared Remarks of Kevin J. Kennedy  
Director and General Counsel  
Wisconsin Government Accountability Board  
2011 Senate Bill 381

Presented by G.A.B. Staff Counsel Shane Falk

Wisconsin Senate Committee on Transportation and Elections  
The Honorable Mary Lazich, Chairperson

Room 330 Southwest, State Capitol  
Thursday, January 19, 2012  
10:00 a.m.

Chairperson Lazich and Committee Members:

Thank you for the opportunity to provide information in support of 2011 Senate Bill 381. This legislation was developed at the request of the Government Accountability Board (G.A.B.) in consultation with local election officials and legislative staff. This legislation is time sensitive and a key component to implementing the voter identification law (2011 Wisconsin Act 23) and the law providing greater opportunity for military and overseas voters to participate in Wisconsin elections (2011 Wisconsin Act 75).

The purpose of the legislation is to provide effective and efficient post-election canvassing procedures for local election officials. As a result of recent legislation creating a voter identification requirement (2011 Wisconsin Act 23) and enhancing the ability of military and overseas voters to participate in Wisconsin elections (2011 Wisconsin Act 75), the timelines for completing post-election activities of local election officials need to be revised to accommodate the receipt and tabulation of late arriving absentee ballots and provisional ballots.

Current law requires municipal clerks to complete their work of transmitting election returns to county clerks by 4 pm on the day following the election. Municipal and school district boards of canvassers must also certify the results of municipal and school district elections within 24 hours after the polls close under current provisions. However, Wisconsin law now requires municipal clerks to include absentee ballots received up to 4 pm on the Friday after the election in the official election results. In addition municipal clerks must also include provisional ballots from voters who provide the required identification by 4 pm on the Friday following the election in the official election results.

This requires more flexibility for municipal and county clerks in arranging for the receipt of election returns and convening the appropriate boards of canvassers to certify the election results. The post-election canvassing process has a number of checks and balances built-in to ensure election returns are transmitted to the appropriate election official in a timely and secure manner. These procedures also establish a quick time frame for boards of canvassers to determine the winning candidates and certify the official election results.

### **What the Legislation Does.**

By adding 3 days to the time for including absentee and provisional ballots in the official vote totals, local election officials need more flexibility in completing their post-election activities. This legislation provides that flexibility while ensuring a quick resolution of the election and protecting the integrity of the vote tabulation and election certification processes.

The legislation gives municipal boards of canvassers additional time to meet following Election Day to count late arriving absentee ballots and provisional ballots and include the totals in the official results. Municipal clerks are also authorized to transmit the supplemental returns from late arriving absentee ballots and provisional ballots to the school district and county boards of canvassers.

The legislation gives school district and county boards of canvassers additional time to meet following Election Day to include returns from late arriving absentee ballots and provisional ballots in the official results.

In all cases, the boards of canvassers may meet earlier if there are no late arriving absentee ballots or provisional ballots or they have been received before the 4 pm Friday deadline.

In order to ensure candidates and the public have information about the possible impact of late arriving absentee ballots and provisional ballots in a close election; the municipal clerk is required to post information about outstanding provisional ballots after the polls close. Current law already requires posting information about outstanding absentee ballots.

### **Why It is Important to Act**

The recent changes requiring counting late arriving absentee ballots and provisional ballots require these changes so county, municipal and school district clerks have clear direction on how to include supplemental vote totals in the official results. Current law does not provide the flexibility needed to implement these changes which are vital parts of the voter identification law (2011 Wisconsin Act 23) and the law providing greater opportunity for military and overseas voters to participate in Wisconsin elections (2011 Wisconsin Act 75). These changes go into effect for the 2012 elections, so it is essential to act quickly to provide direction to local election officials and avoid uncertainty about the certification of election results.

### **Request for Immediate Action**

The Government Accountability Board staff sought input from local election officials and consulted with them on these proposed changes as they were developed in cooperation with legislative staff. Post-election requirements for local election officials are very detailed and require clear communication and close coordination among several levels of election officials: municipal, school district, county and state. This makes drafting these changes complex.

As a result of the detailed work that went into the preparation of this legislation, local election officials will have clear direction on how to fully implement changes from other key pieces of legislation enacted into law this session.

The time to act is now so Wisconsin voters enjoy the benefits of the voter identification law and military and overseas voters can fully participate in Wisconsin elections.

Shane Falk of the G.A.B. staff will be available to answer your questions about 2011 Senate Bill 381.

Thank you for your immediate action on this vital piece of legislation.

Respectfully submitted,

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive, flowing style.

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