
Wisconsin Legislative Council

AMENDMENT MEMO



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2021 Senate Bill 214

Senate Substitute Amendment 1

CURRENT LAW

A municipality generally canvasses absentee ballots at its polling places on Election Day. However, current law allows a municipality to use an absentee ballot board of canvassers to canvass absentee ballots, and also allows municipalities to count ballots at an alternate, centralized location using a procedure commonly referred to as “central count.” A municipality may adopt the procedure if its city council, village board, or town board enacts an ordinance to do so. Under current law, the canvassing of absentee ballots at either a polling place or a central count location cannot begin before polls open on Election Day.

2021 SENATE BILL 214

Senate Bill 214 allows certain municipalities to begin canvassing of absentee ballots on the day before an election. Under the bill, a municipality that uses an absentee ballot board of canvassers to canvass absentee ballots at an alternate location, other than the polling place, may begin canvassing absentee ballots between 7 a.m. and 10 p.m. on the day before the election, and then reconvene on Election Day. The bill creates security requirements relating to the automatic tabulating equipment and ballots, including a requirement to use tamper-evident seals and store equipment and ballots in a double-locked location.

The bill also criminalizes finding out or sharing information on the accumulating results from the canvassed absentee ballots prior to the close of polls on Election Day, and makes such action a Class I felony. Similarly, the bill makes it a Class I felony for an election official to refuse or neglect to perform specified duties relating to absentee ballot.

Senate Bill 214 also changes the existing deadline requiring municipal clerks to mail absentee ballots to voters 47 days prior to an election. Under the bill, a clerk must mail absentee ballots to military and overseas voters (MOVE voters) at least 45 days before an election, and must mail absentee ballots to all other voters at least 21 days before an election.

Next, the bill prohibits election officials from giving presidential-only ballots to any voter other than those qualifying under specific statutes. The bill also changes the dates during which independent candidates for president may circulate nomination papers to match the circulation dates for other candidates, and permits municipalities with fewer than 35,000 residents to share polling places.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 allows canvassing of absentee ballots on the day before an election, but differs from the original bill. Under the substitute amendment, municipalities using an absentee ballot board of canvassers **must** begin canvassing at 7 a.m. on the day prior to an election and may not recess until 10 p.m., or until there are no further absentee ballots to process. All other municipalities have the **option** to begin canvassing absentee ballots on the day prior to an election.

The substitute amendment also imposes a reporting requirement on any municipality that begins canvassing absentee ballots the day before an election. These municipalities must post a statement at the clerk's office and on the internet at all of the following times: (1) after the canvass recesses on the day before the election; (2) at least every four hours during voting on Election Day; and (3) at least every hour between the close of polls and completion of the canvass. The statement must show the number of absentee ballots already canvassed, and the number of absentee ballots that have yet to be canvassed. The clerk must also make this statement available to any person upon request.

Unlike the original bill, Senate Substitute Amendment 1 prohibits use of automatic tabulating equipment on the day before the election. The substitute amendment only permits municipalities to perform absentee ballot processing tasks that do not involve the voting machines.

The substitute amendment removes the provision allowing municipalities with fewer than 35,000 residents to combine polling places. Additionally, as under the original bill, the substitute amendment criminalizes finding out or sharing information on accumulating results prior to Election Day and an election official's neglect to perform specified duties, alters deadlines for mailing absentee ballots, restricts use of presidential-only ballots, and changes the dates during which independent candidates for president may circulate nomination papers.

BILL HISTORY

Senate Substitute Amendment 1 was offered by Senator Stafsholt on February 21, 2022. On February 22, 2022, the Senate adopted Senate Substitute Amendment 1 and passed the bill, as amended, on a vote of Ayes, 20; Noes, 13.

KBO:ksm