

## Checks And Balances In Wisconsin: The Post-Election Day Process

American elections serve as a model for the world, thanks to our rigorous system of checks and balances and our neighbors serving as election workers faithfully carrying out those duties.

Working in teams made up of people from both parties, poll workers and election officials count, canvass, and audit votes — whether they are cast in-person or by mail. These election workers verify voters' identities. They inspect ballots. They resolve errors. They confirm that every legal ballot is counted as voters intended them.

When these checks and balances are complete, then the final phase of our election process happens: certification. This is the straightforward step in the process where election officials declare the winners. The multiple layers of checks and balances involved in the casting, counting, canvassing, and audit stages ensure that results are accurate prior to the final stage of certification.

**This memo details the safeguards specific to the counting and canvassing processes and describes how county and state certification must occur following all of the checks and balances earlier in the election process.** For greater detail about verifying mail ballot applications and ballots and a detailed timeline, [please visit the rest of our series on checks and balances in Wisconsin elections](#).

Importantly, this is nonpartisan educational research intended for 501(c)(3)-compliant purposes only. It is *not* to be used for any partisan, political, or electioneering activities by any organization.

### Counting: Technology and Bipartisan Oversight Work to Triple-check Results for Accuracy

Wisconsin law mandates specific processes for counting votes. Each of these processes requires participation by a team of bipartisan election officers and includes equipment testing and periodic reconciliation of results.

#### Quality-Tested Technology Leads to Trustworthy Results

Election workers count ballots using automatic tabulation equipment at each polling location or at a central counting location.<sup>1</sup> Wisconsin law requires that 10 days prior to the use of the tabulation machines, the equipment must be tested for correctness and

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<sup>1</sup> WI Stat § 5.84(1)

accuracy.<sup>2</sup> Automatic tabulation at a polling location is performed once polls close.<sup>3</sup> The tabulation equipment totals the results and provides a results tape, or vote tally, that election inspectors must record on multiple official forms.<sup>4</sup>

### **Both Parties Participate Throughout the Process**

Polling places and central count locations must have a presiding chief election inspector with at least five other inspectors supporting the location.<sup>5</sup> Any member of the public may act as an observer.<sup>6</sup> Upon completion of the vote tally, the election inspectors complete an "inspector's statement," stating any discrepancy between the number of votes and number of voters.<sup>7</sup> Next, officials publicly announce the results from the statement.<sup>8</sup>

After tallying is complete, the election inspectors transmit or deliver all ballots, statements, tally sheets, and other election materials to the municipal clerk.<sup>9</sup> The municipal clerk reports the returns to the county clerk on election night.<sup>10</sup>

### **Transparent Processes Instill Confidence**

All municipalities with a population of 7,500 or more are required to use voting machines or electronic voting systems in every ward in the municipality at every election.<sup>11</sup> However, any municipality may elect to use paper ballots and voting booths instead when certain conditions are met.<sup>12</sup> Additionally, any municipality can petition the commission to use paper ballots and voting booths for a specific election.<sup>13</sup>

When paper ballots are used at a polling site where electronic voting systems are also used, the paper ballots are deposited in a separate box and must be counted at that polling place.<sup>14</sup> State law does not specify how hand counts must occur.<sup>15</sup> The Wisconsin Elections Commission recommends that one election official should read each ballot while a second election official observes, and two other election officials mark the votes on the official tally sheets.<sup>16</sup> At the end of the hand count, tally sheets are compared for accuracy and totals documented for each candidate.<sup>17</sup>

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<sup>2</sup> WI Stat § 5.84(1)

<sup>3</sup> WI Stat § 7.51(1)

<sup>4</sup> WI Stat § 7.51(g)

<sup>5</sup> WI Stat § 7.30

<sup>6</sup> WI Stat § 7.41

<sup>7</sup> WI Stat § 7.51(2)

<sup>8</sup> WI Stat § 7.51(4)(a)

<sup>9</sup> WI Stat § 7.51(4)(c), (5)(b)

<sup>10</sup> WI Stat § 7.51(4)(c)

<sup>11</sup> WI Stat § 5.40(1),(3)

<sup>12</sup> WI Stat § 5.40(3)

<sup>13</sup> WI Stat § 5.40(5m)

<sup>14</sup> WI Stat § 7.51(3)(c)

<sup>15</sup> Election Day Manual for Wisconsin Election Officials August 2024 page 114

<sup>16</sup> Election Day Manual for Wisconsin Election Officials August 2024 page 114

<sup>17</sup> Election Day Manual for Wisconsin Election Officials August 2024 page 114

## **Canvassing: Results Checked and Compiled at Three Levels**

Canvassing is the process of compiling vote totals reported in returns from throughout a jurisdiction. In Wisconsin, canvassing occurs at the municipal, county, and state level. The canvass statement is the official determination of the outcome of the election. The election is not complete until the canvass has been completed.<sup>18</sup>

### **Municipal Canvass: Ensuring Accuracy at Each Polling Place**

The municipal board of Canvassers meets after each election – regardless of whether there were municipal offices or municipal referenda on the ballot – to make the official determination of the outcome of the municipal election. Generally, the election inspectors can serve as the municipal board of canvassers when the municipality only has one polling place.<sup>19</sup> If a municipality uses more than one polling place, then the Municipal Board of Canvassers consists of the municipal clerk and two qualified voters of the municipality appointed by the clerk.<sup>20</sup>

In municipalities with one polling place, if there are no provisional ballots or absentee ballots to be canvassed, the board completes and signs the canvass statement on election night.<sup>21</sup> If there are provisional ballots to be canvassed, the board must reconvene no later than 9 a.m. on the Monday after the election.<sup>22</sup> Absentee ballots may not be counted until after polls close.<sup>23</sup> In municipalities with more than one polling place, the municipal board of canvassers begins canvassing once all returns are received and no later than 9 a.m. on the Monday after the election. Upon ascertainment of the results, the municipal clerk publicly reads the candidate that won each position and the number of votes tallied.<sup>24</sup>

### **County Canvass: Bipartisan Determination of County Results**

The county canvass is conducted by the county board of canvassers, which is composed of the county clerk and two qualified electors of the county who are appointed by the clerk with one being from a different political party than the clerk.<sup>25</sup>

No later than 9 a.m. on the Tuesday after each election, the county board of canvassers publicly examines the returns and reviews the tally sheets and inspectors' statements from the municipal clerks.<sup>26</sup> The county board of canvassers prepares duplicate statements showing the numbers of votes cast for the offices of president, vice president, state officials, U.S. senators and representatives, state legislators, and others. Each statement shows the total number of votes cast in the county for each office. They append to each

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<sup>18</sup> WI Stats §§ 7.53(4), 9.01(1)(a)(1)

<sup>19</sup> WI Stat § 7.53(1)(a)

<sup>20</sup> WI Stat § 7.53(2)(a)(1)

<sup>21</sup> WI Stat § 7.53(2)(a)(d)

<sup>22</sup> WI Stat § 7.53(1)(a)

<sup>23</sup> Election Day Manual for Wisconsin Election Officials, **August 2024** page 90

<sup>24</sup> WI Stat § 7.53(1)(a)

<sup>25</sup> WI Stat § 7.60(2)

<sup>26</sup> WI Stat § 7.60(3)

statement a tabulation of the votes cast at each election district, ward, or combination of wards in each county. Each statement and determination is signed by each canvasser and provided to the county clerk or board of election commissioners.<sup>27</sup> Additionally, the county board of canvassers prepares a written determination, providing the names of the persons elected to any county office.<sup>28</sup> On election night, the clerk posts all returns by ward or reporting unit on a website no later than two hours after receiving the returns.<sup>29</sup>

### **State Canvass: Election Commission Publicly Examines All County Results**

The state canvass is conducted by the elections commission chairperson or their designee.<sup>30</sup> The chairperson publicly examines the statements of the county board of canvassers and makes statements of the number of votes cast for each office. The chairperson must canvass the returns and make the certifications on or before: the second Tuesday after a spring primary; May 15 after a spring election; the third Wednesday after a partisan primary; and December 1 after a general election.<sup>31</sup> The state canvass must be completed within 10 days after its commencement.<sup>32</sup>

### **Certification: The Voters Have Spoken**

Immediately after the county canvass, the county clerk delivers or transmits a certified copy of each statement of returns for the president, vice president, state officials, senators, representatives in congress, state legislators, and selected others to the elections commission.<sup>33</sup> The statement of returns lists the returns for each office by ward.<sup>34</sup>

The county clerk must deliver or transmit the certified statement to the elections commission no later than nine days after each primary, except the August partisan primary, no later than 10 days after the partisan primary and any other election except the general election, and no later than 14 days after the general election.<sup>35</sup>

After the certified statements and returns are received, the chairperson of the commission examines the results and prepares a certified statement of the total number of votes cast for each candidate.<sup>36</sup> The chairperson delivers each statement and determination to the commission.<sup>37</sup>

Immediately after the time has expired to file a petition for a recount, the municipal or county clerk issues a certificate of election to each person who is elected to municipal or county office and the commission issues a certificate of election to each person who is

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<sup>27</sup> WI Stat § 7.60(4)

<sup>28</sup> WI Stat § 7.60(4)(b)

<sup>29</sup> WI Stat § 7.60(4)(c)

<sup>30</sup> WI Stat § 7.70(3)(a)

<sup>31</sup> WI Stat § 7.70(3)(a)

<sup>32</sup> WI Stat § 7.70(3)(c)

<sup>33</sup> WI Stat § 7.60(4)(a)

<sup>34</sup> WI Stat § 7.60(4)(c)

<sup>35</sup> WI Stat § 7.60(5)(a)

<sup>36</sup> WI Stat § 7.70(3)(d)

<sup>37</sup> WI Stat § 7.70(3)(b)

declared elected in other races.<sup>38</sup> In either case, the issuing party does not need to wait for time to expire if there is no aggrieved party.<sup>39</sup>

The commission must also prepare a similar certificate addressed to the U.S. House of Representatives, signed by the commission administrator, stating the names of all elected persons to the U.S. House of Representatives. The commission must also send a certificate of election, signed by the governor, to the president of the U.S. Senate stating the names of those elected.<sup>40</sup> For presidential electors, the commission also sends to the U.S. administrator of general services a certificate, signed by the governor, showing the determination of the results of the canvass and the names of those elected.<sup>41</sup> The governor also prepares and sends six duplicate originals of the certificate and delivers them to one of the presidential electors on or before the first Monday after the second Wednesday in December.<sup>42</sup>

When a petition for recount is filed, no certificate of election can be issued until the recount has been completed and the time allowed for filing an appeal has passed.<sup>43</sup>

**Secure Democracy Foundation** is a nonpartisan, 501(c)(3) nonprofit organization building stronger elections, state by state. Our work is state-focused, informed by election policy insights from a national perspective, and realized by seizing common ground.

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<sup>38</sup> WI Stats § 7.60(6), 7.70 (5)

<sup>39</sup> WI Stats § 7.60(6), 7.70(5)

<sup>40</sup> WI Stat § 7.70(5)

<sup>41</sup> WI Stat § 7.70(5)

<sup>42</sup> WI Stat § 7.70(5)(b)

<sup>43</sup> WI Stat § 7.70(5)(a)