

No. 650, A.]

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**CHAPTER 459.**

AN ACT to provide for the use of voting machines for elections in this state.

*The people of the state of Wisconsin represented in senate and assembly do enact as follows:*

**Wisconsin Voting Machine Commission created; appointment and oath of.** SECTION 1. Be it enacted that there is hereby constituted a body to be known as the Wisconsin Voting Machine Commission. It shall consist of three members, competent and responsible persons, two of whom shall be mechanical experts, not more than two of whom shall be members of the same political party, and none of whom shall have any pecuniary interest in any voting machine. Their term of office shall be five years from the date of appointment. They and their successors shall be appointed by the governor, who shall have power to remove a commissioner at any time and to fill all vacancies. The first commissioners shall be appointed within thirty days after the taking effect of this act. The commissioners shall qualify by taking an oath in writing to support the constitution of the United States and of the state of Wisconsin and to faithfully and honestly discharge their duties, and filing the same in the office of the secretary of state; and all such examinations shall be public.

**Submission of machines for examination; approval of.** SECTION 2. Any person or corporation, owning or being interested in any voting machine, may apply to said commission to examine such machine, and report on its accuracy, efficiency and capacity. The commissioners shall examine the machine and make and file a report thereon in the office of the secretary of state. They shall state in the report whether the kind of machine so examined complies with the requirements of this act and can be safely used by voters at elections under the conditions prescribed in this act. If the report be in the affirmative upon said questions, the machine shall be deemed approved by the commission, and machines of its kind may be adopted for use at elections as herein provided. When the machine has been so approved, any improvement or change that does not

impair its accuracy, efficiency or capacity, shall not render necessary a re-examination or re-approval thereof; any form of voting machine not so approved, cannot be used at any election. Each commissioner shall be entitled to one hundred dollars for his compensation and expenses in making such examination and report, to be paid by the person or corporation applying for such examination, which may be demanded in advance of making the examination. The commission may, if it consents so to do, go to any point in the state for the purpose of examining a machine, but it shall not be compelled to make an examination at any place other than the capital of the state.

**Qualifications required of machines.** SECTION 3. No machine or machine system shall be approved by the commission unless it be so constructed as to afford every elector a reasonable opportunity to vote for any person for any office or for or against any proposition for whom, or for or against which he is by law entitled to vote and enable him to do this in secrecy; and it must be so constructed as to preclude an elector from voting for any candidate for the same office or upon any question more than once, and from voting for any person for any office for whom he is not by law entitled to vote. The machine or machine system may be provided with one lever or device, by the use of which an elector may vote for all candidates of one party, if he so desires, but it must admit of his voting a split ticket as he may desire. It must also be so constructed as to register or record each and every vote cast. For presidential electors one device may be provided for voting for all the candidates of one party at one time by the use of such device, opposite or adjacent to which shall be a ballot on the machine containing the names of all of the candidates for all presidential electors of that party and a vote registered or recorded by the use of such device shall be counted for each of such candidates on said ballot. The machine must be constructed so that it cannot be tampered with or manipulated for any fraudulent purpose; and the machine must be so locked, arranged, or constructed that during the progress of the voting, no person can see or know the number of votes registered or recorded for any candidate.

**Powers of council, etc., to purchase.** SECTION 4. The common council of any city, the trustees of any village and the town board of any town may adopt and purchase for use in the various precincts, any voting machine approved in the man-

ner above set forth in this act, by the voting machine commission and none other. If it shall be impracticable to supply each and every election district with a voting machine or voting machines at any election following the adoption of such machines in a city, village or town, as many may be supplied as it is practicable to procure, and the same shall be used in such precinct of the municipality, as the proper officers may order. The proper officers of any city, village or town may, not later than the first day of September, in any year in which a general election is held, unite two or more precincts into one for the purpose of using therein at such election a voting machine, and the notice of such uniting shall be given in the manner prescribed by law for the change of election districts.

**Payment for.** SECTION 5. Payment for voting machines purchased may be provided for in such manner as is deemed for the best interests of the city, village or town and may borrow money for that purpose.

**How placed in voting booth; duty of inspectors.** SECTION 6. The room in which the election is held shall have a railing separating that part of the room to be occupied by the election officers from that part of the room occupied by the voting machine. The exterior of the voting machine and every part of the polling place shall be in plain view of the inspectors. The machine shall be so placed that no person on the opposite side of the railing can see or determine how the voter casts his vote, and that no person can so see or determine from the outside of the room. After the opening of the polls the inspectors shall not allow any person to pass within the railing to that part of the room where the machine is situated except for the purpose of voting and except as provided in the next succeeding section of this act; and they shall not permit more than one voter at a time to be in such part of the room. They shall not themselves remain or permit any person to remain in any position that would permit him or them to see or ascertain how the voter votes or how he has voted. No voter shall remain within the voting machine booth or compartment longer than one minute, and if he should refuse to leave it after that lapse of time, he shall at once be removed by the inspectors.

**Assistance to physically disabled voter; penalty for deceiving.** SECTION 7. If any voter shall, in the presence of the election board, declare that he is unable to read or write the English

language or that by reason of physical disability or total blindness he is unable to register or record his vote upon the machine, he shall be assisted as provided by section 54 of the statutes of 1898. Any person who shall deceive any elector in registering or recording his vote under this section, or who shall register or record his vote in any other way than as requested by such person, or who shall give information to any person as to what ticket or for what person or persons such person voted, shall be punished as provided in section 4545 statutes of 1898.

**Ballots, how provided for; sample ballots; posting of.** SECTION 8. Ballots shall be provided by the respective city and county clerks for all the candidates to be voted for at an election and of suitable size to fit the space provided for that purpose on or in the machine and each shall be placed on or in the machine adjacent to or on the registering or recording device therefor. The ballots shall be placed on or in the machine in the order of arrangement provided by section 39 of the statutes of 1898, except that they may be vertical columns or horizontal rows. Ballots for all questions must be provided in the same manner and must be arranged on or in the machine in the places provided for such purpose. The officers charged with the duty of providing ballots for any polling place, shall provide therefor five sample ballots which shall be exact copies of the official ballots which are caused to be printed by them, but on different colored paper from the official ballots; said sample ballots shall be arranged in the form of a diagram showing the entire front of voting machine as it will appear after the ballots are arranged thereon for voting on election day. Such sample ballots shall be posted by the inspectors of the precinct, near the entrance of the election booth and shall there be open to public inspection during the whole of election day. In addition to said sample ballots, the proper officers may furnish in connection therewith, instruction cards, diagrams of the front of the machine with ballots pasted thereon, at least two of which shall also be posted up near the voting place, if furnished. All ballots shall be published as now provided by law. The ballots for the machines, and also sample ballots, shall be furnished the inspectors at least one day before the election.

**Duty of inspectors as to ballots; setting of machine.** SECTION 9. The inspectors of each election precinct in which a voting machine is to be used shall cause the proper ballots to be put upon each machine corresponding with the sample ballots here-

in provided for, and the machines in every way put in order, set and adjusted, ready for use in voting when delivered at the precinct, and for the purpose of so labeling the machines, putting in order, setting and adjusting the same, they may employ one or more competent persons who shall be paid the same compensation as the inspectors. And they shall cause the machine so labeled, in order and set and adjusted, to be delivered at the voting precinct, together with all necessary furniture and appliances that go with the same, in the room where the election is to be held in the precinct, in time for the opening of the polls on election day. The inspectors shall compare the ballots on the machine with the sample ballot, see that they are correct, examine and see that all the counters, if any, in the machine are set at zero, and that the machine is otherwise in perfect order, and they shall not thereafter permit the machine to be operated or moved except by electors in voting, and they shall also see that all necessary arrangements and adjustments are made for voting irregular ballots on the machine, if such machine be so designed.

**Irregular ballots; names not on official, how voted.** SECTION 10. In case a voting machine be adopted which provides for the registry or recording of votes for candidates whose names are not on the official ballot, such ballots shall be denominated irregular ballots. A person whose name appears on a ballot or on or in a machine or machine system, shall not be voted for, for the same office or on or in any irregular device for casting an irregular ticket, and any such vote shall not be counted, except for the office of presidential electors, and an elector may vote in or on such irregular device for one or more persons nominated by one party with one or more persons nominated by any or all other parties, or for one or more persons nominated by one or more parties with one or more persons not in nomination, or he may vote in such irregular device a presidential electoral ticket composed entirely of names of persons not in nomination.

**Locking of machine at close of polls; determining result.** SECTION 11. As soon as the polls of the election are closed, the inspectors shall immediately lock the machine, or remove the recording device so as to provide against voting, and open the registering or recording compartments in the presence of any person desiring to attend the same and shall proceed to ascertain the number of votes cast for each person voted for at the election, and to canvass, record, announce and return the same as provided by law.

**Sealing of machine after count; return of irregular ballots and tally sheets.** SECTION 12. The inspectors as soon as the count is completed and fully ascertained, shall seal, close, lock the machine, or remove the record so as to provide against voting or being tampered with, and in case of a machine so sealed or locked, it shall so remain for a period of at least thirty days, unless opened by order of a court of competent jurisdiction. When irregular ballots have been voted, the inspectors shall return them in a properly sealed package endorsed "irregular ballots," and indicating the precinct and county and file such package with the county clerk. It shall be preserved for six months after such election and may be opened and its contents examined only upon an order of a court of competent jurisdiction; at the end of such six months, unless ordered otherwise by the court, such package and its contents shall be destroyed by the county clerk. All tally sheets taken from such machine, if any, shall be returned in the same manner.

**Election laws made applicable to machine system.** SECTION 13. All laws of this state applicable to elections where voting is done in another manner than by machine, and all penalties prescribed for violation of such laws shall apply to elections and precincts where voting machines are used in so far as they are not in conflict with the provisions of this act.

**Penalty for officers' neglect of duty.** SECTION 14 Any public officer or any election officer upon whom any duty is imposed by this act or who shall wilfully neglect or omit to perform such duties, or do any act prohibited herein for which punishment is not otherwise provided herein, shall upon conviction, be imprisoned in the state prison for not less than one year or more than three years or be fined in any sum not exceeding one thousand dollars, or may be punished by both such imprisonment and fine.

**Penalty for tampering with machine after placed in booth.** SECTION 15. Any person not being an election officer who, during any election or before any election, after a voting machine has had placed upon it the ballots for such election, who shall tamper with such machines, disarrange, deface, injure or impair the same in any manner, or mutilate, injure, or destroy any ballot placed thereon or to be placed thereon or any other appliance used in connection with such machine, shall be imprisoned in the state prison for a period of not more than ten years or be fined not more than one thousand dollars or be punished by both such fine and imprisonment.

**Penalty for tampering with to affect result.** SECTION 16. Whoever, being an inspector of election with intent to permit or cause any voting machine to fail to correctly register or record any vote cast thereon, tampers with or disarranges such machine in any way, or any part or appliance thereof, or who causes or consents to said machine being used for voting at any election with knowledge of the fact that the same is not in order, or not perfectly set and adjusted, so that it will correctly register or record all votes cast thereon or who, for the purpose of defrauding or deceiving any voter or of causing it to be doubtful for what ticket or candidate or candidates or proposition any vote is cast, or of causing it to appear upon said machine that votes cast for one ticket, candidate or proposition were cast for another ticket, candidate or proposition, removes, changes or mutilates any ballot on said machine, or any part thereof, or does any other like thing shall be imprisoned in the state prison not more than ten years or fined not exceeding one thousand dollars, or punished by both such fine and imprisonment.

**Penalty for incorrect return of result.** SECTION 17. Any inspector or clerk of an election who shall purposely cause the vote registered or recorded on or in such machine to be incorrectly taken down as to any candidate or proposition voted on, or who shall knowingly cause to be made or signed any false statement, certificate, or return of any kind, of such vote, or who shall knowingly consent to such things, or any of them being done, shall be imprisoned in the state prison not more than ten years, or fined not more than one thousand dollars, or punished by both such fine and imprisonment.

**Election by experimental use of machine declared valid.** SECTION 18. The proper officers authorized by this act to adopt voting machines, may provide for the experimental use at an election in one or more precincts, of a machine approved by the Wisconsin Voting Machine Commission without a formal adoption or purchase thereof and its use at such election shall be as valid for all purposes as if formally adopted.

SECTION 19. This act shall take effect and be in force, from and after its passage and publication.

Approved May 14, 1901.