The State of Wisconsin

EXECUTIVE DEPARTMENT

EXECUTIVE ORDER #73

Relating to a Special Session of the Legislature to Provide for an All-Mail Spring Election and Special Election for the 7th Congressional District during the COVID-19 Pandemic

WHEREAS, in December, 2019, a novel strain of the coronavirus was detected, now named COVID-19, and it has spread throughout the world, including every state in the United States;

WHEREAS, on January 30, 2020, the World Health Organization declared COVID-19 to be a Public Health Emergency of International Concern;

WHEREAS, on March 12, 2020, in Executive Order #72, I declared a public health emergency to direct all resources needed to respond to and contain COVID-19 in Wisconsin;

WHEREAS, on March 13, 2020, President Donald Trump proclaimed a National Emergency concerning COVID-19;

WHEREAS, on March 22, 2020, the Wisconsin Supreme Court delayed all jury trials until May 22, 2020, due to the health risks posed by COVID-19 to the public;

WHEREAS, as of April 2, 2020, 1,730 Wisconsinites have tested positive for COVID-19, 461 Wisconsinites have been hospitalized due to COVID-19and 31 Wisconsinites have passed away as a result of COVID-19, 213,144 individuals in the United States have tested positive for COVID-19, and 4,513 have passed away as a result of COVID-19, and, worldwide, more than 1,000,000 people have tested positive for COVID-19, and more than 55,000 people have passed away as a result of COVID-19;

WHEREAS, Section 5.02(21) of the Wisconsin Statutes mandates that the spring election be held on the first Tuesday in April to elect judicial, educational and municipal officers, nonpartisan county officers and sewerage commissioners, and to express preferences for the person to be the presidential candidate for each party in a year in which electors for president and vice president are to be elected. The State of Wisconsin's Spring 2020 election is scheduled for April 7, 2020;

WHEREAS, the Spring 2020 election includes a broad variety of important matters, including: presidential preference primaries for both major national political parties; a State-wide referendum on a proposed amendment to the Wisconsin Constitution; 132 county, school district, and local referenda; an election for a seat as a justice of the Wisconsin Supreme Court; elections for 3 seats as judges of the Wisconsin Court of Appeals; elections for 34 seats as judges of county circuit courts; elections for 102 seats as judges of municipal courts; elections for 1,596 county supervisors and officers; elections for 763

alders, mayors, and other city offices; elections for 464 village board trustees, board members, and other offices; elections for 291 town supervisors, clerks, and other offices; elections for 565 seats on the boards of common, union, and unified school districts; and elections for 12 seats as supervisors on the boards of sanitary districts;

WHEREAS, the Seventh Congressional District has a special election scheduled for May 12, 2020;

WHEREAS, the State of Wisconsin has a highly decentralized election system under which elections are overseen by the Wisconsin Elections Commission, but are administered by 1,850 municipal clerks or election commissions and 72 county clerks;

WHEREAS, in the weeks leading up to election days, Wisconsin's 1,850 municipal clerks or election commissions and 72 county clerks collectively administer in-person absentee voting and the mailing of mail-in absentee ballots;

WHEREAS, voters face significant risks of exposure to someone infected with Covid-19 by engaging in the process of in-person voting;

WHEREAS, poll workers face even greater risks of exposure to COVID-19, because serving as poll workers will require them to come into close proximity with dozens, if not hundreds, of voters as they facilitate those voters casting in-person ballots;

WHEREAS, the extensive work of conducting an election in Wisconsin typically requires assistance from approximately 30,000 poll workers;

WHEREAS, due to staffing challenges created by the COVID-19 public health emergency, municipalities across the state project significant shortfalls of thousands of poll workers necessary to administer the Spring 2020 election;

WHEREAS, shortfalls in the number of poll workers are requiring municipalities around the state to consolidate polling places, which will necessarily mean larger crowds and greater exposure for those poll workers administering each polling place, as well as for those Wisconsinites who visit those polling places to cast in-person ballots;

WHEREAS, even with the aforementioned consolidations of polling locations, as of April 2, 2020, the Wisconsin Elections Commission estimates that municipalities still need an additional 5,250 poll workers;

WHEREAS, no Wisconsinite should ever have to choose between exercising their constitutional right to vote and being safe, secure, and healthy;

WHEREAS, mayors, clerks, and other municipal officials from communities across the state have alerted leaders in both the executive and legislative branches of state government to insurmountable challenges that preclude holding a safe, fair, and meaningful Spring 2020 election on April 7, 2020;

WHEREAS, as Wisconsinites respond to the current public health emergency by conforming their conduct to Emergency Order #12 and social distancing guidance, municipal clerks are already reporting an unprecedented increase in requests for mail-in absentee ballots;

WHEREAS, an increased number of mail-in absentee ballots creates additional complexities at every stage of the election administration process;

WHEREAS, municipalities across the state have been unable to keep pace with the increased requests for mail-in absentee ballots;

WHEREAS, the process of canvassing mail-in absentee ballots is more complex, labor-intensive, and time-consuming that canvassing votes cast in person;

WHEREAS, on April 2, 2020, Judge William M. Conley, District Judge for the Western District of Wisconsin, ordered absentee ballots in the Spring election on April 7 may be received until 4:00 p.m. on April 13, 2020, absentee ballot requests may be made until 5:00 p.m. on April 3, 2020, and absentee voters may be relieved of the witness signature if they provide affirmation that they are unable to safely obtain such a signature;

WHEREAS, the intervening parties in the aforementioned case immediately appealed the case to the U.S. Court of Appeals for the Seventh Circuit, potentially jeopardizing the commonsense relief ordered by Judge Conley and creating further uncertainty;

WHEREAS, in light of the current public health emergency, it is incumbent upon the State of Wisconsin to take all reasonable steps to protect the constitutional right to vote;

WHEREAS, additional poll consolidations throughout Wisconsin in the past 24 hours and the continuing spread of COVID-19 necessitates drastic and immediate changes to our election laws to protect the public; and

WHEREAS, only a change in the law by the Wisconsin Legislature can provide certainty and avoid the health risks posed to the people of Wisconsin by conducting in-person voting on April 7.

NOW, THEREFORE, I, TONY EVERS, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and the Laws of the State, specifically Article IV, Section 11 and Article V, Section 4 of the Wisconsin Constitution, hereby require the convening of a special session of the Legislature at the Capitol in the City of Madison, to commence at 4:00 pm on April 4, 2020, solely to consider and act upon legislation to do the following:

1. Extend the Spring 2020 election to May 19, 2020, and provide that all registered voters who have not yet been sent an absentee ballot or cast their ballot through in-person absentee voting be sent an absentee ballot.

2. Provide that, except as provided in this paragraph, no further in-person voting be permitted for the Spring Election. Require each municipal clerk or election commission to provide a window of not less than eight (8) hours between now and May 19, 2020, during which they will open at least one specified polling place per municipality for the purpose of (a) allowing disabled electors to cast in-person ballots using assistive technology and (b) providing assistance to those voters who cannot read or write or have difficulty reading, writing, or understanding English. The hours during which and the location(s) at which each municipal clerk or election commission will hold in-person voting for this limited purpose will be publicly noticed for at least 48 hours before those hours begin. These windows of opportunity for in-person voting are limited only to those electors who, by reason of disability or difficulty reading, writing, or understanding English, are unable to cast a mail-in absentee ballot. These windows of opportunity for limited in-person voting will be conducted in accordance with best practices for public health identified by the Department of Health Service.

3. Provide that, due to the current public health emergency and social distancing guidance, absentee ballots do not need to be witnessed and signed by another adult U.S. citizen.

4. Provide that, to be counted, all mail-absentee ballots must be received by municipal election authorities not later than May 26, 2020, whether those ballots are conveyed to municipal election authorities through the U.S. Postal Service, by another delivery service, or by deposit in any drop-box location publicly noticed by the municipal clerk as an acceptable depository.

5. Provide that every municipality is authorized to conduct a centralized canvass of votes cast in the Spring 2020 election, consistent with Wis. Stat. § 7.52, without regard to whether the municipality has adopted an ordinance to this end.

6. Provide that every municipality is authorized to begin the process of counting ballots for the Spring 2020 election as soon as the municipality has sent out all mail-in absentee ballots for the Spring 2020 election. All counting shall be conducted in a manner that is available to observers. No partial or interim results may be reported or released to anyone prior to 8:00 pm on May 19, 2020.

7. Provide that, given the necessary delay in the Spring 2020 election, those individuals currently serving in an office to be filled based upon the results of the Spring 2020 election ballot are authorized to continue fulfilling the duties of those offices, and exercising the privileges of those offices, until three business days after county, municipal, and school district clerks issue certificates of election, pursuant to Wis. Stat. §§ 7.53(4), 7.60(6), and 120.06(10), once the deadline to file a petition for recount and appeal of recount has passed. On the third business day after issuance of the certificate of election for any given office on the Spring 2020 election ballot, the term of the newly elected official in that office shall begin. Notwithstanding the delayed beginning of the term for such offices, the terms of all such offices shall expire as if the Spring 2020 election occurred as initially scheduled and all terms of office began as would be anticipated under such circumstances.

8. Provide that the May 12 Special Election for the 7th Congressional District be extended to May 19, 2020, and be run in accordance with the above provisions.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done in the City of Madison this third day of April in the year of two thousand twenty.

TONY EVERS
Governor

By the Governor:

DOUGLAS LA FOLLETTE
Secretary of State