53.23 Special precinct election board.

1. The election board of the absentee ballot and special voters precinct shall be appointed by the commissioner in the manner prescribed by sections 49.12 and 49.13, except that the number of precinct election officials appointed to the board shall be sufficient to complete the counting of absentee ballots by 10:00 p.m. on election day.

2. The board's powers and duties shall be the same as those provided in chapter 50 for precinct election officials in regular precinct polling places. However, the election board of the special precinct shall receive from the commissioner and count all absentee ballots for all precincts in the county; when two or more political subdivisions in the county hold elections simultaneously the special precinct election board shall count absentee ballots cast in all of the elections so held. The tally list shall be recorded on forms prescribed by the state commissioner.

3. *a.* The commissioner shall set the convening time for the board, allowing a reasonable amount of time to complete counting all absentee ballots by 10:00 p.m. on election day.

b. (1) The commissioner may direct the board to meet on the day before the election for the purpose of reviewing the absentee voters' affidavits appearing on the sealed envelopes. If in the commissioner's judgment this procedure is necessary due to the number of absentee ballots received, the members of the board may open the sealed affidavit envelopes and remove the secrecy envelope containing the ballot, but under no circumstances shall a secrecy envelope or a return envelope marked with an affidavit be opened before the board convenes on election day, except as provided in paragraph *"c"*. If the affidavit envelopes are opened before election day pursuant to this paragraph *"b"*, the observers appointed by each political party, as defined in section 43.2, shall witness the proceedings. Each political party may appoint up to five observers under this paragraph *"b"*. The observers shall be appointed by the county chairperson or, if the county chairperson fails to make an appointment, by the state chairperson. However, if either or both political parties fail to appoint an observer, the commissioner may continue with the proceedings.

(2) If the board finds any ballot not enclosed in a secrecy envelope and the ballot is folded in such a way that any of the votes cast on the ballot are visible, the two special precinct election officials, one from each of the two political parties referred to in section 49.13, subsection 2, shall place the ballot in a secrecy envelope. No one shall examine the ballot, except as provided in paragraph *"c"*.

c. For the general election, the commissioner may convene the special precinct election board on the day before the election to begin counting absentee ballots. However, if in the preceding general election the counting of absentee ballots was not completed by 10:00 p.m. on election day, the commissioner shall convene the special precinct election board on the day before the next general election to begin counting absentee ballots. The board shall not release the results of its tabulation pursuant to this paragraph until the count is completed on election day.

4. The room where members of the special precinct election board are engaged in counting absentee ballots on the day before the election pursuant to subsection 3, paragraph *"c"*, or during the hours the polls are open shall be policed so as to prevent any person other than those whose presence is authorized by this subsection from obtaining information about the progress of the count. The only persons who may be admitted to that room are the members of the board, five challengers representing each political party, one observer representing any nonparty political organization or any candidate nominated by petition pursuant to chapter 45 or any other nonpartisan candidate in a city or school election appearing on the ballot of the election in progress, one observer representing persons supporting a public measure appearing on the ballot and one observer representing persons opposed to such measure, and the commissioner or the commissioner's designee. It shall be unlawful for any of these persons to communicate or attempt to communicate, directly or indirectly, information regarding the progress of the count at any time while the board is convened pursuant to subsection 3, paragraph *"c"*, or at any time before the polls are closed.

5. The special precinct election board shall preserve the secrecy of all absentee and provisional ballots. After the affidavits on the envelopes have been reviewed and the

qualifications of the persons casting the ballots have been determined, those that have been accepted for counting shall be opened. The ballots shall be removed from the affidavit envelopes or return envelopes marked with the affidavit, as applicable, without being unfolded or examined, and then shall be thoroughly intermingled, after which they shall be unfolded and tabulated. If secrecy folders or envelopes are used with provisional paper ballots, the ballots shall be removed from the secrecy folders after the ballots have been intermingled.

6. The special precinct election board shall not release the results of its tabulation on election day until all of the ballots it is required to count on that day have been counted, nor release the tabulation of provisional ballots accepted and counted under chapter 50 until that count has been completed.

[SS15, §1137-j; C24, 27, 31, 35, 39, §**949;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.23]

90 Acts, ch 1238, §30; 92 Acts, ch 1163, §13; 95 Acts, ch 189, §16; 97 Acts, ch 170, §73; 2005 Acts, ch 19, §23; 2007 Acts, ch 59, §29, 38; 2007 Acts, ch 215, §232; 2008 Acts, ch 1115, §104; 2009 Acts, ch 140, §1; 2014 Acts, ch 1101, §22, 23, 32; 2017 Acts, ch 110, §9, 10

Referred to in §9E.6, 39A.1, 39A.4, 39A.5, 48A.7A, 50.20, 50.22, 50.50, 53.20, 53.30, 53.31, 53.49