



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2584/1
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2011 SENATE BILL 298

November 21, 2011 – Introduced by Senators HANSEN and TAYLOR, cosponsored by Representatives TURNER, GRIGSBY, BERCEAU and SINICKI. Referred to Committee on Transportation and Elections.

1 **AN ACT to amend** 6.87 (2), 6.87 (4) (b) 1., 6.87 (9), 6.88 (1), 6.88 (3) (a) and 7.52
2 (3) (a) of the statutes; **relating to:** enclosure of absentee ballots in privacy
3 envelopes.

Analysis by the Legislative Reference Bureau

Currently, when an elector votes by absentee ballot, whether by mail or in person at the office of a municipal clerk or board of election commissioners or alternate absentee ballot site, the elector's ballot is enclosed inside a certificate envelope the face of which contains a certificate in a form specified by law that affirms the elector's eligibility. The certificate is signed by the elector. When the certificate envelope is mailed, transmitted, or delivered to the election officials, the absentee ballot is retained inside the certificate envelope until it is delivered to the elector's polling place or to a board of absentee ballot canvassers on election day.

This bill directs election officials to provide a privacy envelope for each absentee ballot. Under the bill, the privacy envelope containing the ballot is then placed inside the certificate envelope. If a municipal clerk or board of election commissioners receives an absentee ballot by electronic mail or by facsimile transmission, the clerk or board encloses the ballot in a privacy envelope before enclosing it in a certificate envelope.

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For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 6.87 (2) of the statutes, as affected by 2011 Wisconsin Act 23, is
2 amended to read:

3 6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place
4 the ballot in a privacy envelope and shall place the envelope containing the ballot in
5 an unsealed certificate envelope furnished by the clerk. The certificate envelope
6 shall have the name, official title and post-office address of the clerk upon its face.
7 The other side of the envelope shall have a printed certificate which shall include a
8 space for the municipal clerk or deputy clerk to enter his or her initials indicating
9 that if the absentee elector voted in person under s. 6.86 (1) (ar), the elector presented
10 proof of identification to the clerk and the clerk verified the proof presented. The
11 certificate shall also include a space for the municipal clerk or deputy clerk to enter
12 his or her initials indicating that the elector is exempt from providing proof of
13 identification because the individual is a military or overseas elector or is exempted
14 from providing proof of identification under sub. (4) (b) 2. or 3. The certificate shall
15 be in substantially the following form:

16 [STATE OF

17 County of]

18 or

19 [(name of foreign country and city or other jurisdictional unit)]

20 I, ..., certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false
21 statements, that I am a resident of the [... ward of the] (town) (village) of ..., or of

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1 the aldermanic district in the city of, residing at* in said city, the county
2 of, state of Wisconsin, and am entitled to vote in the (ward) (election district) at
3 the election to be held on; that I am not voting at any other location in this election;
4 that I am unable or unwilling to appear at the polling place in the (ward) (election
5 district) on election day or have changed my residence within the state from one ward
6 or election district to another later than 28 days before the election. I certify that I
7 exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her)
8 presence and in the presence of no other person marked the ballot and enclosed and
9 sealed the same in this envelope in such a manner that no one but myself and any
10 person rendering assistance under s. 6.87 (5), Wis. Stats., if I requested assistance,
11 could know how I voted.

12 Signed

13 Identification serial number, if any:

14 The witness shall execute the following:

15 I, the undersigned witness, subject to the penalties of s. 12.60 (1) (b), Wis.
16 Stats., for false statements, certify that I am an adult U.S. citizen and that the above
17 statements are true and the voting procedure was executed as there stated. I am not
18 a candidate for any office on the enclosed ballot (except in the case of an incumbent
19 municipal clerk). I did not solicit or advise the elector to vote for or against any
20 candidate or measure.

21(Name)

22(Address)**

23 * — An elector who provides an identification serial number issued under s.
24 6.47 (3), Wis. Stats., need not provide a street address.

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1 ** — If this form is executed before 2 special voting deputies under s. 6.875 (6),
2 Wis. Stats., both deputies shall witness and sign.

3 **SECTION 2.** 6.87 (4) (b) 1. of the statutes, as affected by 2011 Wisconsin Act 23,
4 is amended to read:

5 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, the elector voting
6 absentee shall make and subscribe to the certification before one witness who is an
7 adult U.S. citizen. The absent elector, in the presence of the witness, shall mark the
8 ballot in a manner that will not disclose how the elector's vote is cast. The elector
9 shall then, still in the presence of the witness, fold the ballots so each is separate and
10 so that the elector conceals the markings thereon and shall place them in a privacy
11 envelope and deposit them that envelope in the proper envelope. If a consolidated
12 ballot under s. 5.655 is used, the elector shall fold the ballot so that the elector
13 conceals the markings thereon and deposit the ballot in the ~~proper~~ privacy envelope
14 and then into the certificate envelope. Except as authorized in subds. 2. to 5. and s.
15 6.875 (6) and notwithstanding s. 343.43 (1) (f), if the elector has not enclosed a copy
16 of his or her proof of identification with his or her application, the elector shall
17 enclose a copy of the proof of identification in the manner provided in sub. (1) in the
18 certificate envelope, unless the elector is a military elector or an overseas elector or
19 the elector has a confidential listing under s. 6.47 (2). If proof of residence under s.
20 6.34 is required and the document enclosed by the elector under this subdivision does
21 not constitute proof of residence under s. 6.34, the elector shall also enclose proof of
22 residence under s. 6.34 in the certificate envelope. Proof of residence is required if
23 the elector is not a military elector or an overseas elector and the elector registered
24 by mail and has not voted in an election in this state. If the elector requested a ballot
25 by means of facsimile transmission or electronic mail under s. 6.86 (1) (ac), the elector

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1 shall enclose in the certificate envelope a copy of the request which bears an original
2 signature of the elector. The elector may receive assistance under sub. (5). The
3 return envelope shall then be sealed. The witness may not be a candidate. The
4 envelope shall be mailed by the elector, or delivered in person, to the municipal clerk
5 issuing the ballot or ballots. If the envelope is mailed from a location outside the
6 United States, the elector shall affix sufficient postage unless the ballot qualifies for
7 delivery free of postage under federal law. Failure to return an unused ballot in a
8 primary does not invalidate the ballot on which the elector's votes are cast. Return
9 of more than one marked ballot in a primary or return of a ballot prepared under s.
10 5.655 or a ballot used with an electronic voting system in a primary which is marked
11 for candidates of more than one party invalidates all votes cast by the elector for
12 candidates in the primary.

13 **SECTION 3.** 6.87 (9) of the statutes is amended to read:

14 6.87 (9) If a municipal clerk receives an absentee ballot with an improperly
15 completed certificate or with no certificate, the clerk may return the ballot to the
16 elector, inside the sealed envelope when an envelope is received, together with a new
17 envelope and privacy envelope if necessary, whenever time permits the elector to
18 correct the defect and return the ballot within the period authorized under sub. (6).

19 **SECTION 4.** 6.88 (1) of the statutes is amended to read:

20 6.88 (1) When an absentee ballot arrives at the office of the municipal clerk,
21 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,
22 unopened, in a carrier envelope which shall be securely sealed and endorsed with the
23 name and official title of the clerk, and the words "This envelope contains the ballot
24 of an absent elector and must be opened in the same room where votes are being cast
25 at the polls during polling hours on election day or, in municipalities where absentee

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1 ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of
2 absentee ballot canvassers under s. 7.52, stats.”. If the ballot was received by the
3 elector by facsimile transmission or electronic mail and is accompanied by a separate
4 certificate, the clerk shall enclose the ballot in a privacy envelope and shall then
5 enclose that envelope in a certificate envelope and securely append the completed
6 certificate to the outside of the envelope before enclosing the ballot in the carrier
7 envelope. The clerk shall keep the ballot in the clerk’s office or at the alternate site,
8 if applicable until delivered, as required in sub. (2).

9 **SECTION 5.** 6.88 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 23, is
10 amended to read:

11 6.88 (3) (a) Except in municipalities where absentee ballots are canvassed
12 under s. 7.52, at any time between the opening and closing of the polls on election day,
13 the inspectors shall, in the same room where votes are being cast, in such a manner
14 that members of the public can hear and see the procedures, open the carrier
15 envelope only, and announce the name of the absent elector or the identification
16 serial number of the absent elector if the elector has a confidential listing under s.
17 6.47 (2). When the inspectors find that the certification has been properly executed,
18 the applicant is a qualified elector of the ward or election district, and the applicant
19 has not voted in the election, they shall enter an indication on the poll list next to the
20 applicant’s name indicating an absentee ballot is cast by the elector. They shall then
21 open the envelope containing the ballot in a manner so as not to deface or destroy the
22 certification thereon. The inspectors shall take out the ballot out of the privacy
23 envelope containing the ballot without unfolding it or permitting it to be unfolded or
24 examined. Unless the ballot is cast under s. 6.95, the inspectors shall verify that the
25 ballot has been endorsed by the issuing clerk. If the poll list indicates that proof of

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1 residence under s. 6.34 is required and no proof of residence is enclosed or the name
2 or address on the document that is provided is not the same as the name and address
3 shown on the poll list, or if the elector is not a military elector, as defined in s. 6.34
4 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), and the elector is required
5 to provide a copy of proof of identification under s. 6.87 (4) (b) 1. and no copy of the
6 proof of identification is enclosed or the name on the document cannot be verified by
7 the inspectors, the inspectors shall proceed as provided under s. 6.97 (2). The
8 inspectors shall then deposit the ballot into the proper ballot box and enter the
9 absent elector's name or voting number after his or her name on the poll list in the
10 same manner as if the elector had been present and voted in person.

11 **SECTION 6.** 7.52 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 23, is
12 amended to read:

13 7.52 (3) (a) The board of absentee ballot canvassers shall first open the carrier
14 envelope only, and, in such a manner that a member of the public, if he or she desired,
15 could hear, announce the name of the absent elector or the identification serial
16 number of the absent elector if the elector has a confidential listing under s. 6.47 (2).
17 When the board of absentee ballot canvassers finds that the certification has been
18 properly executed and the applicant is a qualified elector of the ward or election
19 district, the board of absentee ballot canvassers shall enter an indication on the poll
20 list next to the applicant's name indicating an absentee ballot is cast by the elector.
21 The board of absentee ballot canvassers shall then open the envelope containing the
22 ballot in a manner so as not to deface or destroy the certification thereon. The board
23 of absentee ballot canvassers shall take out the ballot out of the privacy envelope
24 containing the ballot without unfolding it or permitting it to be unfolded or
25 examined. Unless the ballot is cast under s. 6.95, the board of absentee ballot

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1 canvassers shall verify that the ballot has been endorsed by the issuing clerk. If the
2 poll list indicates that proof of residence is required and no proof of residence is
3 enclosed or the name or address on the document that is provided is not the same as
4 the name and address shown on the poll list, or if the elector is not a military elector,
5 as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), and the
6 elector is required to provide, or to provide a copy of, proof of identification under s.
7 6.87 (4) (b) 1. and no copy of the proof of identification is enclosed or the name on the
8 document cannot be verified by the canvassers, the board of absentee ballot
9 canvassers shall proceed as provided under s. 6.97 (2). The board of absentee ballot
10 canvassers shall mark the poll list number of each elector who casts an absentee
11 ballot on the back of the elector's ballot. The board of absentee ballot canvassers shall
12 then deposit the ballot into the proper ballot box and enter the absent elector's name
13 or poll list number after his or her name on the poll list.

SECTION 7. Initial applicability.

14
15 (1) This act first applies with respect to elections held on and after the effective
16 date of this subsection.

17 (END)