



**SENATE SUBSTITUTE AMENDMENT 2,
TO 2009 SENATE BILL 640**

April 9, 2010 – Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT** *to repeal* 6.865 (3) and 6.865 (3m) (c); *to renumber and amend* 6.86
2 (2m); *to consolidate, renumber and amend* 6.25 (4) (intro.), (a) and (b); *to*
3 *amend* 5.05 (13) (title), 6.22 (4) (a), 6.22 (4) (e), 6.22 (6), 6.221 (1), 6.221 (3) (b),
4 6.24 (4) (c), 6.25 (1), 6.36 (1) (a), 6.86 (1) (a) (intro.), 6.86 (1) (a) 3., 6.86 (1) (ac),
5 6.86 (1) (b), 6.86 (1) (b), 6.865 (title), 6.865 (3m) (a), 6.865 (3m) (b), 6.869, 6.87
6 (3) (d), 6.87 (4) and 7.15 (1) (j); and *to create* 5.05 (13) (c) and (d), 6.22 (2) (e)
7 and 6.24 (4) (e) of the statutes; **relating to:** absentee voting.

Analysis by the Legislative Reference Bureau

This substitute amendment makes various changes in the laws pertaining to absentee voting. Most of the changes relate to absentee voting by military and overseas electors of this state. State law contains different definitions of the terms “military elector” and “overseas elector.” One set of definitions mirrors the definitions found in federal law. Under federal law, a “military elector” includes 1) a member of a uniformed service on active duty who, by reason of that duty, is absent from the residence where the member is otherwise qualified to vote; 2) a member of the merchant marine who, by reason of service in the merchant marine, is absent

from the residence where the member is otherwise qualified to vote; and 3) the spouse or dependent of any such member who, by reason of the duty or service of the member, is absent from the residence where the person is otherwise qualified to vote. The federal definition of “overseas elector” includes an elector who resides outside the United States and who is qualified under federal law to vote in elections for national office in this state because the elector last resided in this state immediately prior to the elector’s departure from the United States. The other set of definitions applies for certain state purposes and includes all the persons who are included in the federal definitions but also includes other persons. The state definition of the term “military elector” includes 1) members of a uniformed service who are not on active duty or who are not absent from their residences by reason of their service or both; 2) members of the merchant marine who are not absent from their residences; 3) civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States; 4) Peace Corps volunteers; and 5) spouses and dependents of these persons who are residing with or accompanying them. The state definition of “overseas elector” includes children of persons who qualify as overseas electors under federal law who are U.S. citizens at least 18 years of age, who are not disqualified from voting in this state, and who are not residents of this state. Significant provisions of the substitute amendment include:

1. Currently, an elector who requests an absentee ballot in person or by mail must make written application and must sign the application. However, if an elector requests an absentee ballot by electronic mail or facsimile transmission, the elector need not file a written application but must enclose with his or her returned ballot a copy of a request for an absentee ballot together with his or her original signature. This substitute amendment deletes the requirement for electors who apply for an absentee ballot by electronic mail or facsimile transmission to provide a request and original signature.

2. Under current law, any qualified absentee elector may request an absentee ballot by means of electronic mail or facsimile transmission. If an elector so requests, the elector must mail with his or her voted absentee ballot a copy of an absentee ballot application containing his or her original signature. In addition, an absentee elector may request that his or her absentee ballot be transmitted to him or her by electronic mail or facsimile transmission and a municipal clerk or board of election commissioners may transmit the ballot as requested. This substitute amendment provides that the municipal clerk or board of election commissioners must transmit the ballot if the clerk or board receives a valid request.

3. Current law permits a military or overseas elector, as defined in state law, to cast a vote in any general election in which a federal office is to be filled by writing in the name of a candidate on a blank absentee ballot form prescribed by the U.S. government and returning the ballot to the appropriate municipal clerk or board of election commissioners. This substitute amendment permits such a ballot to be cast at any election, including any primary election, at which a federal office is to be filled.

4. This substitute amendment directs the Government Accountability Board (GAB), with the assistance of county and municipal clerks and boards of election commissioners, to designate at least one freely accessible means of electronic

communication which shall be used to: 1) permit a military or overseas elector, as defined by federal law, to request a voter registration or absentee ballot application and to indicate whether he or she wishes to receive the application electronically or by mail; and 2) permit a municipal clerk or board of election commissioners to transmit an application to a military or overseas elector, as defined by federal law, electronically or by mail, as requested by the elector, together with related voting, balloting and election information. The substitute amendment also directs GAB, with the assistance of county and municipal clerks and boards of elections commissioners, to maintain a freely accessible system whereby a military or overseas elector who casts an absentee ballot may ascertain whether the ballot has been received by the appropriate municipal clerk or board. No similar provisions exist currently.

5. Under current federal law, states are required to transmit absentee ballots to military and overseas electors no later than 45 days before each federal election at which the electors are entitled to vote, if the electors have requested their ballots by that time. However, a state may request a hardship waiver from the federal government, for a single election only, if the state's primary election date does not permit compliance with this requirement and the state takes other actions to ensure expeditious delivery of absentee ballots to military and overseas electors. This substitute amendment directs the legal counsel to GAB to request a hardship waiver on behalf of this state for the 2010 September primary and general election and, if the waiver is not granted, report that fact to the appropriate standing committees of the legislature. In addition, the substitute amendment directs GAB to report to the same committees no later than January 1, 2011, concerning the timeline used by this state for the absentee voting process and the feasibility of making adjustments to enable compliance with the timeline prescribed by federal law.

6. Currently, an absentee ballot cast by an elector is void unless it is received at the polling place for the elector's residence by 8 p.m. on election night. However, state law provides that if an elector is a military elector, as defined by federal law, the elector has an additional ten days after the general election and 7 days after the September primary for the elector's ballot to be received by his or her municipality if the ballot is postmarked by election day. This substitute amendment extends a similar ten-day dispensation to military electors voting in the presidential preference primary or a special federal election.

7. Currently, an elector who is a military elector, as defined by state law, or an overseas elector, as defined by state law, and who applies for an absentee ballot no later than 30 days before an election may cast a blank write-in ballot at that election in lieu of the official printed ballot, for any candidates for federal office whose offices are contested at that election. The ballot is valid only if it is submitted from a location outside the United States. This substitute amendment permits such an elector to cast a blank write-in absentee ballot after official printed ballots become available if he or she applies for an absentee ballot no later than the latest time permitted for application for an absentee ballot under state law. The substitute amendment also permits a military elector to cast such a ballot even if the ballot is submitted from a location inside the United States, including the elector's permanent residence.

8. Currently, GAB must prescribe uniform instructions for absentee voters. This substitute amendment provides that the instructions must include the specific means of electronic communication that absentee voters may use to file an application for an absentee ballot, to request a voter registration form, or to change their registrations.

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

1 **SECTION 1.** 5.05 (13) (title) of the statutes is amended to read:

2 5.05 (13) (title) TOLL-FREE ELECTION INFORMATION ~~EXCHANGE~~ AND REQUESTS.

3 **SECTION 2.** 5.05 (13) (c) and (d) of the statutes are created to read:

4 5.05 (13) (c) Maintain a freely accessible system under which a military elector
5 or an overseas elector, as defined in s. 6.34 (1), who casts an absentee ballot may
6 ascertain whether the ballot has been received by the appropriate municipal clerk.

7 (d) Designate and maintain at least one freely accessible means of electronic
8 communication which shall be used for the following purposes:

9 1. To permit a military elector or an overseas elector, as defined in s. 6.34 (1),
10 to request a voter registration application or an application for an absentee ballot at
11 any election at which the elector is qualified to vote in this state.

12 2. To permit a military elector or an overseas elector under subd. 1. to designate
13 whether the elector wishes to receive the applications under subd. 1. electronically
14 or by mail.

15 3. To permit a municipal clerk to transmit to a military elector or an overseas
16 elector under subd. 1. a registration application or absentee ballot application
17 electronically or by mail, as directed by the elector under subd. 2., together with
18 related voting, balloting, and election information.

19 **SECTION 3.** 6.22 (2) (e) of the statutes is created to read:

1 6.22 (2) (e) A military elector may file an application for an absentee ballot by
2 means of electronic mail or facsimile transmission in the manner prescribed in s. 6.86
3 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the elector
4 an absentee ballot or, if the elector so requests, shall transmit an absentee ballot to
5 the elector by means of electronic mail or facsimile transmission in the manner
6 prescribed in s. 6.87 (3) (d).

7 **SECTION 4.** 6.22 (4) (a) of the statutes is amended to read:

8 6.22 (4) (a) A request for an absentee ballot by an individual who qualifies as
9 a military elector shall be treated as a request for an absentee ballot for all elections
10 unless the individual otherwise requests. Upon receiving a timely request for an
11 absentee ballot under par. (b) by an individual who qualifies as a military elector, the
12 municipal clerk shall send or transmit to the elector an absentee ballot for all
13 elections that occur in the municipality or portion thereof where the elector resides
14 beginning on the date that the clerk receives the request.

15 **SECTION 5.** 6.22 (4) (e) of the statutes is amended to read:

16 6.22 (4) (e) Whenever the material is mailed, the material shall be prepared
17 and mailed to make use of the federal free postage laws. If the material does not
18 qualify for mailing without postage under federal free postage laws, the municipal
19 clerk shall pay the postage required for mailing to the military elector. If the return
20 envelope qualifies for mailing free of postage under federal free postage laws, the
21 clerk shall affix the appropriate legend required by U.S. postal regulations.
22 Otherwise the municipal clerk shall pay the postage required for return when the
23 ballot is mailed from within the United States. If the ballot is not mailed by the
24 military elector from within the United States the military elector shall provide

1 return postage. ~~The mailing list established under this subsection shall be kept~~
2 ~~current in the same manner as provided in s. 6.86 (2) (b).~~

3 **SECTION 6.** 6.22 (6) of the statutes is amended to read:

4 6.22 (6) MILITARY ELECTOR LIST. Each municipal clerk shall keep an up-to-date
5 list of all eligible military electors who reside in the municipality; ~~city clerks shall~~
6 ~~keep the lists by wards~~ in the format prescribed by the board. The list shall contain
7 the name, latest-known military residence and military mailing address of each
8 military elector. The list shall indicate whether each elector whose name appears on
9 the list is a military elector, as defined in s. ~~6.36 (2) (e)~~ 6.34 (1), and has so certified
10 under s. 6.865 (3m). All persons over 18 years of age or who will be 18 years old prior
11 to an election shall be listed and remain on the list for the duration of their tour of
12 duty. The list shall be kept current through all possible means. Each clerk shall
13 exercise reasonable care to avoid duplication of names or listing anyone who is not
14 eligible to vote. Each clerk shall distribute ~~2 copies of~~ one copy of the list to the
15 appropriate ward each polling place in the municipality for use on election day.

16 **SECTION 7.** 6.221 (1) of the statutes is amended to read:

17 6.221 (1) In this section, “military elector” has the meaning given in s. ~~6.36 (2)~~
18 ~~(e)~~ 6.34 (1) and active duty status for any election is determined as of election day.

19 **SECTION 8.** 6.221 (3) (b) of the statutes is amended to read:

20 6.221 (3) (b) At the general election, the presidential preference primary, or a
21 special election for national office, a ballot that is cast under s. 6.22 by an elector who
22 is a military elector, that is received by mail from the U.S. postal service, and that
23 is postmarked no later than election day shall be counted as provided in this section
24 if it is received by a municipal clerk no later than 5 p.m. on the 10th day after the
25 election.

1 **SECTION 9.** 6.24 (4) (c) of the statutes is amended to read:

2 6.24 (4) (c) Upon receipt of a timely application from an individual who
3 qualifies as an overseas elector and who has registered to vote in a municipality
4 under sub. (3), the municipal clerk of the municipality shall send an absentee ballot
5 to the individual for all subsequent elections for national office to be held during the
6 year in which the ballot is requested, except as otherwise provided in this paragraph,
7 unless the individual otherwise requests or until the individual no longer qualifies
8 as an overseas elector. of the municipality. The clerk shall not send an absentee ballot
9 for an election if the overseas elector's name appeared on the registration list in
10 eligible status for a previous election following the date of the application but no
11 longer appears on the list in eligible status. The municipal clerk shall ensure that
12 the envelope containing the absentee ballot is clearly marked as not forwardable.
13 If an overseas elector who files an application under this subsection no longer resides
14 at the same address that is indicated on the application form, the elector shall so
15 notify the municipal clerk. The municipal clerk shall discontinue mailing absentee
16 ballots to an overseas elector under this subsection if the elector fails to return any
17 absentee ballot mailed to the elector. The municipal clerk shall notify the elector of
18 any such action not taken at the elector's request within 5 days, if possible. An
19 overseas elector who fails to cast an absentee ballot but who remains qualified to
20 receive absentee ballots under this subsection may then receive absentee ballots for
21 subsequent elections by notifying the municipal clerk that the elector wishes to
22 continue receiving absentee ballots for subsequent elections.

23 **SECTION 10.** 6.24 (4) (e) of the statutes is created to read:

24 6.24 (4) (e) An overseas elector may file an application for an absentee ballot
25 by means of electronic mail or facsimile transmission in the manner prescribed in s.

1 6.86 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the
2 elector an absentee ballot or, if the elector so requests, shall transmit an absentee
3 ballot to the elector by means of electronic mail or facsimile transmission in the
4 manner prescribed in s. 6.87 (3) (d).

5 **SECTION 11.** 6.25 (1) of the statutes is amended to read:

6 6.25 (1) Any individual who qualifies as a military elector under s. 6.22 (1) (b)
7 or an overseas elector under s. 6.24 (1) and who transmits an application for an
8 official absentee ballot for ~~a general election~~ an election for national office, including
9 a primary election, no later than ~~30 days before election day~~ the latest time specified
10 for the elector in s. 6.86 (1) (b) may, in lieu of the official ballot, cast a federal write-in
11 absentee ballot prescribed under 42 USC 1973ff-2 for any candidate or for all of the
12 candidates of any recognized political party for national office listed on the official
13 ballot at ~~the general~~ that election if the federal write-in absentee ballot is received
14 by the appropriate municipal clerk no later than the applicable time prescribed in
15 s. ~~6.221 (3)~~ 6.87 (6).

16 **SECTION 12.** 6.25 (4) (intro.), (a) and (b) of the statutes are consolidated,
17 renumbered 6.25 (4) and amended to read:

18 6.25 (4) A write-in absentee ballot issued under sub. (1), (2) or (3) is valid only
19 if ~~all of the following apply: (a) The ballot is submitted from a location outside the~~
20 ~~United States. (b) The~~ the elector submitting the ballot does not submit an official
21 ballot within the time prescribed in s. 6.87 (6) and, if the elector is an overseas elector,
22 the ballot is submitted from a location outside the United States.

23 **SECTION 13.** 6.36 (1) (a) of the statutes is amended to read:

24 6.36 (1) (a) The board shall compile and maintain electronically an official
25 registration list. The list shall contain the name and address of each registered

1 elector in the state, the date of birth of the elector, the ward and aldermanic district
2 of the elector, if any, and, for each elector, a unique registration identification number
3 assigned by the board, the number of a valid operator's license issued to the elector
4 under ch. 343, if any, or the last 4 digits of the elector's social security account
5 number, if any, any identification serial number issued to the elector under s. 6.47
6 (3), the date of any election in which the elector votes, an indication of whether the
7 elector is a military elector, as defined in ~~sub. (2)(e)~~ s. 6.34 (1), who has so certified
8 under s. 6.865 (3m), an indication of whether the elector is an overseas elector, as
9 defined in s. 6.24 (1), any information relating to the elector that appears on the
10 current list transmitted to the board by the department of corrections under s. 301.03
11 (20m), an indication of any accommodation required under s. 5.25 (4) (a) to permit
12 voting by the elector, an indication of the method by which the elector's registration
13 form was received, and such other information as may be determined by the board
14 to facilitate administration of elector registration requirements.

15 **SECTION 14.** 6.86 (1) (a) (intro.) of the statutes is amended to read:

16 6.86 (1) (a) (intro.) Any elector of a municipality who is registered to vote
17 whenever required and who qualifies under ss. 6.20 and 6.85 as an absent elector
18 may make written application to the municipal clerk of that municipality for an
19 official ballot by one of the following methods:

20 **SECTION 15.** 6.86 (1) (a) 3. of the statutes is amended to read:

21 6.86 (1) (a) 3. By ~~signing a statement~~ filing a request to receive absentee ballots
22 under sub. (2) or (2m) (a) or s. 6.22 (4) or 6.24 (4).

23 **SECTION 16.** 6.86 (1) (ac) of the statutes is amended to read:

24 6.86 (1) (ac) Any elector qualifying under par. (a) may make written application
25 to the municipal clerk for an official ballot by means of facsimile transmission or

1 electronic mail. Any application under this paragraph shall need not contain a copy
2 of the applicant's original signature. ~~An elector requesting a ballot under this~~
3 ~~paragraph shall return with the voted ballot a copy of the request bearing an original~~
4 ~~signature of the elector as provided in s. 6.87 (4).~~

5 **SECTION 17.** 6.86 (1) (b) of the statutes is amended to read:

6 6.86 (1) (b) Except as provided in this section, if application is made by mail,
7 the application, signed by the elector, shall be received no later than 5 p.m. on the
8 5th day immediately preceding the election. If application is made in person, the
9 application shall be made no later than 5 p.m. on the day preceding the election. If
10 Except as provided in par. (c), if the elector is making written application for an
11 absentee ballot at the September primary ~~or, the general election, the presidential~~
12 ~~preference primary, or a special election for national office,~~ and the application
13 indicates that the elector is a military elector, as defined in s. 6.36 (2) (c), the
14 application shall be received by the municipal clerk no later than 5 p.m. on election
15 day. If the application indicates that the reason for requesting an absentee ballot is
16 that the elector is a sequestered juror, the application shall be received no later than
17 5 p.m. on election day. If the application is received after 5 p.m. on the Friday
18 immediately preceding the election, the municipal clerk or the clerk's agent shall
19 immediately take the ballot to the court in which the elector is serving as a juror and
20 deposit it with the judge. The judge shall recess court, as soon as convenient, and
21 give the elector the ballot. The judge shall then witness the voting procedure as
22 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
23 shall deliver it to the polling place or, in municipalities where absentee ballots are
24 canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application

1 is made under sub. (2) or (2m), the application may be received no later than 5 p.m.
2 on the Friday immediately preceding the election.

3 **SECTION 18.** 6.86 (1) (b) of the statutes, as affected by 2009 Wisconsin Act ...
4 (this act), is amended to read:

5 6.86 (1) (b) Except as provided in this section, if application is made by mail,
6 the application, signed by the elector, shall be received no later than 5 p.m. on the
7 5th day immediately preceding the election. If application is made in person, the
8 application shall be made no later than 5 p.m. on the day preceding the election.
9 Except as provided in par. (c), if the elector is making written application for an
10 absentee ballot at the September primary, the general election, the presidential
11 preference primary, or a special election for national office, and the application
12 indicates that the elector is a military elector, as defined in s. ~~6.36(2)(e)~~ 6.34(1), the
13 application shall be received by the municipal clerk no later than 5 p.m. on election
14 day. If the application indicates that the reason for requesting an absentee ballot is
15 that the elector is a sequestered juror, the application shall be received no later than
16 5 p.m. on election day. If the application is received after 5 p.m. on the Friday
17 immediately preceding the election, the municipal clerk or the clerk's agent shall
18 immediately take the ballot to the court in which the elector is serving as a juror and
19 deposit it with the judge. The judge shall recess court, as soon as convenient, and
20 give the elector the ballot. The judge shall then witness the voting procedure as
21 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
22 shall deliver it to the polling place or, in municipalities where absentee ballots are
23 canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application
24 is made under sub. (2) or (2m), the application may be received no later than 5 p.m.
25 on the Friday immediately preceding the election.

1 **SECTION 19.** 6.86 (2m) of the statutes is renumbered 6.86 (2m) (a) and amended
2 to read:

3 **6.86 (2m) (a)** ~~An~~ Except as provided in this subsection, any elector other than
4 an elector who is ~~eligible to receive absentee ballots under sub. (2)~~ receives an
5 absentee ballot under s. 6.22 (4) or 6.24 (4) (c) may by written application filed with
6 the municipal clerk of the municipality where the elector resides require that an
7 absentee ballot be sent to the elector automatically for every election that is held
8 within the same calendar year in which the application is filed. The application form
9 and instructions shall be prescribed by the board, and furnished upon request to any
10 elector by each municipal clerk. The municipal clerk shall thereupon mail an
11 absentee ballot to the elector for all elections that are held in the municipality during
12 the same calendar year that the application is filed, except that the clerk shall not
13 send an absentee ballot for an election if the elector's name appeared on the
14 registration list in eligible status for a previous election following the date of the
15 application but no longer appears on the list in eligible status. The municipal clerk
16 shall ensure that the envelope containing the absentee ballot is clearly marked as
17 not forwardable. If an elector who files an application under this subsection no
18 longer resides at the same address that is indicated on the application form, the
19 elector shall so notify the municipal clerk. The municipal clerk shall discontinue
20 mailing absentee ballots to an elector under this subsection upon receipt of reliable
21 information that the elector no longer qualifies ~~for the service~~ as an elector of the
22 municipality. In addition, the municipal clerk shall discontinue mailing absentee
23 ballots to an elector under this subsection if the elector fails to return any absentee
24 ballot mailed to the elector. The municipal clerk shall notify the elector of any such
25 action not taken at the elector's request within 5 days, if possible. An elector who

1 fails to cast an absentee ballot but who remains qualified to receive absentee ballots
2 under this subsection may then receive absentee ballots for subsequent elections by
3 notifying the municipal clerk that the elector wishes to continue receiving absentee
4 ballots for subsequent elections.

5 (b) If a municipal clerk is notified by an elector that the elector's residence is
6 changed to another municipality within this state, the municipal clerk shall forward
7 the request to the municipal clerk of that municipality and that municipal clerk shall
8 honor the request, except as provided in this subsection.

9 **SECTION 20.** 6.865 (title) of the statutes is amended to read:

10 **6.865 (title) Federal absentee ballot requests ballots.**

11 **SECTION 21.** 6.865 (3) of the statutes is repealed.

12 **SECTION 22.** 6.865 (3m) (a) of the statutes is amended to read:

13 6.865 (3m) (a) ~~Except as provided in par. (c), if any elector who certifies~~ If an
14 individual who will be a military elector on election day applies for an absentee
15 ballot, the individual may certify that he or she will be a military elector on election
16 day ~~requests an absentee ballot, the municipal clerk shall send or transmit to the~~
17 ~~elector an absentee ballot for all elections that occur in the municipality or portion~~
18 ~~thereof where the elector resides beginning on the date that the clerk receives the~~
19 ~~request and ending on the day after the 3rd successive general election that follows~~
20 ~~receipt of the request, unless the elector otherwise requests. In addition, the~~
21 ~~municipal clerk shall continue to send or transmit to the elector an absentee ballot~~
22 ~~for all elections ending on the day after the 3rd successive general election that~~
23 ~~follows any election at which the elector returns an absentee ballot under this section~~
24 ~~or renews his or her request under par. (c) and the municipal clerk shall treat the~~
25 ballot as provided under s. 6.221.

1 **SECTION 23.** 6.865 (3m) (b) of the statutes is amended to read:

2 6.865 **(3m)** (b) A military elector may indicate an alternate address on his or
3 her absentee ballot application. If the elector’s ballot is returned as undeliverable
4 prior to the deadline for receipt and return of absentee ballots under ~~sub. (3)~~ s. 6.87
5 (6) and the elector remains eligible to receive absentee ballots under this subsection,
6 the municipal clerk shall immediately send or transmit an absentee ballot to the
7 elector at the alternate address.

8 **SECTION 24.** 6.865 (3m) (c) of the statutes is repealed.

9 **SECTION 25.** 6.869 of the statutes is amended to read:

10 **6.869 Uniform instructions.** The board shall prescribe uniform instructions
11 for municipalities to provide to absentee voters. The instructions shall include the
12 specific means of electronic communication that an absentee elector may use to file
13 an application for an absentee ballot and, if the absentee elector is required to
14 register, to request a registration form or change his or her registration. The
15 instructions also shall include information concerning the procedure for correcting
16 errors in marking a ballot and obtaining a replacement for a spoiled ballot. The
17 procedure shall, to the extent possible, respect the privacy of each elector and
18 preserve the confidentiality of each elector’s vote.

19 **SECTION 26.** 6.87 (3) (d) of the statutes is amended to read:

20 6.87 **(3)** (d) A municipal clerk ~~may~~ shall, if the clerk is reliably informed by an
21 absent elector of a facsimile transmission number or electronic mail address where
22 the elector can receive an absentee ballot, transmit a facsimile or electronic copy of
23 the absent elector’s ballot to that elector in lieu of mailing under this subsection ~~if,~~
24 ~~in the judgment of the clerk, the time required to send the ballot through the mail~~
25 ~~may not be sufficient to enable return of the ballot by the time provided under sub.~~

1 ~~(6).~~ An elector may receive an absentee ballot ~~under this subsection~~ only if the elector
2 has filed a valid application for the ballot under s. 6.86 (1). If the clerk transmits an
3 absentee ballot ~~under this paragraph~~ to an absent elector electronically, the clerk
4 shall also transmit a facsimile or electronic copy of the text of the material that
5 appears on the certificate envelope prescribed in sub. (2), together with instructions
6 prescribed by the board. The instructions shall require the absent elector to make
7 and subscribe to the certification as required under sub. (4) and to enclose the
8 absentee ballot in a separate envelope contained within a larger envelope, that shall
9 include the completed certificate. The elector shall then affix sufficient postage
10 unless the absentee ballot qualifies for mailing free of postage under federal free
11 postage laws and shall mail the absentee ballot to the municipal clerk. Except as
12 authorized in s. 6.97 (2), an absentee ballot received ~~under this paragraph~~ from an
13 elector who receives the ballot electronically shall not be counted unless it is cast in
14 the manner prescribed in this paragraph and sub. (4) and in accordance with the
15 instructions provided by the board.

16 **SECTION 27.** 6.87 (4) of the statutes is amended to read:

17 6.87 (4) Except as otherwise provided in s. 6.875, the elector voting absentee
18 shall make and subscribe to the certification before one witness who is an adult U.S.
19 citizen. The absent elector, in the presence of the witness, shall mark the ballot in
20 a manner that will not disclose how the elector's vote is cast. The elector shall then,
21 still in the presence of the witness, fold the ballots so each is separate and so that the
22 elector conceals the markings thereon and deposit them in the proper envelope. If
23 a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so that
24 the elector conceals the markings thereon and deposit the ballot in the proper
25 envelope. If proof of residence is required, the elector shall enclose proof of residence

1 under s. 6.34 in the envelope. Proof of residence is required if the elector is not a
2 military elector or an overseas elector, as defined in s. 6.34 (1), and the elector
3 registered by mail and has not voted in an election in this state. ~~If the elector~~
4 ~~requested a ballot by means of facsimile transmission or electronic mail under s. 6.86~~
5 ~~(1) (ac), the elector shall enclose in the envelope a copy of the request which bears an~~
6 ~~original signature of the elector.~~ The elector may receive assistance under sub. (5).
7 The return envelope shall then be sealed. The witness may not be a candidate. The
8 envelope shall be mailed by the elector, or delivered in person, to the municipal clerk
9 issuing the ballot or ballots. If the envelope is mailed from a location outside the
10 United States, the elector shall affix sufficient postage unless the ballot qualifies for
11 delivery free of postage under federal law. Failure to return an unused ballot in a
12 primary does not invalidate the ballot on which the elector's votes are cast. Return
13 of more than one marked ballot in a primary or return of a ballot prepared under s.
14 5.655 or a ballot used with an electronic voting system in a primary which is marked
15 for candidates of more than one party invalidates all votes cast by the elector for
16 candidates in the primary.

17 **SECTION 28.** 7.15 (1) (j) of the statutes is amended to read:

18 7.15 (1) (j) Send an absentee ballot automatically to each person making an
19 authorized request therefor in accordance with s. 6.22 (4), 6.24 (4) (c), or 6.86 (2) or
20 (2m).

21 **SECTION 29. Nonstatutory provisions.**

22 (1) HARDSHIP WAIVER REQUEST; STUDY OF ABSENTEE VOTING TIMELINE.

23 (a) Prior to the 2010 September primary, the legal counsel to the Government
24 Accountability Board shall apply on behalf of this state to the presidential designee
25 under 42 USC 1973ff-1 (g) for a determination that this state is unable to meet the

1 requirement under 42 USC 1973ff-1 (a) (8) with respect to transmittal of absentee
2 ballots to military and overseas electors at the 2010 September primary and general
3 election. The application shall include a description of this state's efforts to enable
4 delivery of absentee ballots to military and overseas electors as expeditiously as
5 possible. If the waiver is not granted, the legal counsel shall promptly report the
6 response of the designee to the appropriate standing committees of the legislature
7 in the manner prescribed in section 13.172 (3) of the statutes.

8 (b) No later than January 1, 2011, the Government Accountability Board shall
9 report to the appropriate standing committees of the legislature, in the manner
10 prescribed in section 13.172 (3) of the statutes, concerning the timeline used by this
11 state for the absentee voting process and the feasibility of making adjustments to
12 enable compliance with the timeline prescribed in 42 USC 1973ff-1 (a) (8) (A).

13 **SECTION 30. Initial applicability.**

14 (1) The treatment of sections 6.24 (4) (c), 6.86 (1) (a) 3. and (b) (by SECTION 18)
15 and (2m), 6.865 (title), (3), and (3m) (a), (b), and (c), and 7.15 (1) (j) of the statutes first
16 applies with respect to requests for absentee ballots made for voting at elections held
17 on or after the effective date of this subsection.

18 **SECTION 31. Effective dates.** This act takes effect on the day after publication,
19 except as follows:

20 (1) The treatment of sections 6.24 (4) (c), 6.86 (1) (a) 3. and (b) (by SECTION 18)
21 and (2m), 6.865 (title), (3), and (3m) (a), (b), and (c), and 7.15 (1) (j) of the statutes and
22 SECTION 30 (1) of this act take effect on the 90th day beginning after publication.

23 **(END)**