



2009 ASSEMBLY BILL 330

June 29, 2009 - Introduced by Representatives TURNER, BIES, CULLEN, HEBL, HILGENBERG, KESSLER, MILROY, MOLEPSKE JR., ROYS, SCHNEIDER, VRUWINK, YOUNG and ZEPNICK, cosponsored by Senators COGGS, ERPENBACH, HOLPERIN, LEHMAN, OLSEN, TAYLOR and VINEHOUT. Referred to Committee on Elections and Campaign Reform.

1 **AN ACT to repeal** 6.22 (2) (b); and **to amend** 6.22 (4) (d), 6.24 (4) (d), 6.24 (6), 6.87
2 (2) and (4), 7.08 (1) (c) and 9.01 (1) (b) 2. of the statutes; **relating to:**
3 requirements for electors who vote by absentee ballot.

Analysis by the Legislative Reference Bureau

Currently, an elector who casts an absentee ballot must make and subscribe to a certificate before one witness who must be an adult U.S. citizen. The certificate affirms the elector's residency and voting eligibility and affirms that the ballot is voted in secret.

This bill permits any elector who is a "military elector" or an "overseas elector" and who certifies to that fact to vote an absentee ballot without obtaining a witness. Current law defines a "military elector" as: 1) a member of a uniformed service; 2) a member of the merchant marine of the United States; 3) a civilian employee of the United States or civilian officially attached to a uniformed service who is serving outside the United States; 4) a peace corps volunteer; or 5) a spouse or dependent of any of those listed in the above categories residing with or accompanying him or her. An individual who is not a civilian employee of the United States need not be located outside the United States to be considered a "military elector." Current law also defines an "overseas elector" as a U.S. citizen: 1) who is not disqualified from voting; 2) who has attained or will attain the age of 18 by the date of an election at which the citizen proposes to vote and who does not qualify as a resident of this state, but who was last domiciled in this state or whose parent was last domiciled in this state immediately prior to the parent's departure from the United States; and 3) who is not registered to vote or voting in any other state, territory, or possession.

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The bill also deletes a requirement that every absentee voter must certify that he or she is unable or unwilling to appear at the polling place for his or her residence on election day or has changed his or her residence within the state within ten days of the election and, if a city resident, must certify the aldermanic district in which he or she resides and replaces it with a requirement that every absentee elector must certify that he or she is eligible to vote absentee.

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

1 **SECTION 1.** 6.22 (2) (b) of the statutes is repealed.

2 **SECTION 2.** 6.22 (4) (d) of the statutes is amended to read:

3 6.22 (4) (d) The board shall prescribe the instructions for marking and
4 returning ballots and the municipal clerk shall enclose instructions with each ballot
5 and shall also enclose supplemental instructions for local elections. The instructions
6 shall include a definition of the term “military elector.” The envelope, return
7 envelope and instructions may not contain the name of any candidate appearing on
8 the enclosed ballots other than that of the municipal clerk affixed in the fulfillment
9 of his or her duties.

10 **SECTION 3.** 6.24 (4) (d) of the statutes is amended to read:

11 6.24 (4) (d) An overseas elector who is not registered may request both a
12 registration form and an absentee ballot at the same time, and the municipal clerk
13 shall send the ballot automatically if the registration form is received within the time
14 prescribed in s. 6.28 (1). The board shall prescribe a special certificate form for the
15 envelope in which the absentee ballot for overseas electors is contained, which shall
16 be substantially similar to that provided under s. 6.87 (2). ~~An overseas elector shall~~
17 ~~make and subscribe to the special certificate form before a witness who is an adult~~
18 ~~U.S. citizen.~~

19 **SECTION 4.** 6.24 (6) of the statutes is amended to read:

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1 6.24 (6) INSTRUCTIONS AND HANDLING. The municipal clerk shall send a ballot,
2 as soon as available, to each overseas elector by whom a request has been made. The
3 board shall prescribe the instructions for marking and returning ballots and the
4 municipal clerk shall enclose such instructions with each ballot. The instructions
5 shall include a definition of the term “overseas elector.” The envelope, return
6 envelope and instructions may not contain the name of any candidate appearing on
7 the enclosed ballots other than that of the municipal clerk affixed in the fulfillment
8 of his or her duties. Except as authorized in s. 6.87 (3), the municipal clerk shall mail
9 the material, with sufficient postage to ensure that the elector receives the ballot,
10 unless the material qualifies for mailing free of postage under federal free postage
11 laws. If the return envelope qualifies for mailing free of postage under federal free
12 postage laws, the clerk shall affix the appropriate legend required by U.S. postal
13 regulations. Otherwise, the municipal clerk shall pay the postage required for
14 return when the ballot is mailed from within the United States. If the ballot is not
15 mailed by the overseas elector from within the United States, the overseas elector
16 shall provide return postage.

17 **SECTION 5.** 6.87 (2) and (4) of the statutes are amended to read:

18 6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place
19 the ballot in an unsealed envelope furnished by the clerk. The envelope shall have
20 the name, official title and post-office address of the clerk upon its face. The other
21 side of the envelope shall have a printed certificate in ~~substantially the following~~
22 ~~form:~~

23 [STATE OF

24 County of]

25 or

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

2 ~~I,, certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false~~
3 ~~statements, that I am a resident of the [.... ward of the] (town) (village) of, or of~~
4 ~~the aldermanic district in the city of, residing at* in said city, the county~~
5 ~~of, state of Wisconsin, and am entitled to vote in the (ward) (election district) at~~
6 ~~the election to be held on; that I am not voting at any other location in this election;~~
7 ~~that I am unable or unwilling to appear at the polling place in the (ward) (election~~
8 ~~district) on election day or have changed my residence within the state from one ward~~
9 ~~or election district to another within 10 days before the election. I certify that I~~
10 ~~exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her)~~
11 ~~presence and in the presence of no other person marked the ballot and enclosed and~~
12 ~~sealed the same in this envelope in such a manner that no one but myself and any~~
13 ~~person rendering assistance under s. 6.87 (5), Wis. Stats., if I requested assistance,~~
14 ~~could know how I voted.~~

15 ~~Signed~~

16 ~~Identification serial number, if any:~~

17 ~~The witness shall execute the following:~~

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

24 ~~....(Name)~~

25 ~~....(Address)**~~

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1 *— the form prescribed by the board. The board shall prescribe a separate form
2 of the certificate for use by military electors, overseas electors, and other absent
3 electors. The form shall specify the street address of the elector and the state and
4 county, or the foreign country or other jurisdictional unit, in which it is executed. The
5 signer shall certify, subject to the penalties under s. 12.60 (1) (b), for false statements,
6 that he or she resides at the specified address in a specified county and city, village,
7 or town; that the signer is not voting at any other location in this election; that the
8 signer is eligible to vote absentee; and that the signer has exhibited the enclosed
9 ballot unmarked to the witness, whenever a witness is required, and in the presence
10 of no person other than any required witness marked the ballot and sealed the
11 envelope so that no one but the signer and any person rendering assistance under
12 sub. (5), if the signer requested assistance, could know how the signer voted. If the
13 signer is a military elector or an overseas elector, the signer shall so certify. The
14 signer shall then sign his or her name and provide his or her identification serial
15 number under s. 6.47 (3), if any. The witness, whenever required, shall then certify,
16 subject to the penalties of s. 12.60 (1) (b) for false statements, that the witness is an
17 adult U.S. citizen and that the signer's statements are true and the voting procedure
18 was executed in the manner certified by the signer. The witness shall further certify
19 that the witness is not a candidate for any office on the ballot, unless the witness is
20 a municipal clerk who witnesses the ballot in his or her official capacity, and the
21 witness did not solicit or advise the elector to vote for or against any candidate or
22 measure. The witness shall then sign his or her name and provide his or her address.
23 An elector who provides an identification serial number issued under s. 6.47 (3), Wis.
24 Stats., need not provide a street address. **— If this the form is executed before 2

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1 special voting deputies under s. 6.875 (6), ~~Wis. Stats.~~, both deputies shall witness and
2 sign the form.

3 (4) Except as otherwise provided in s. 6.875 and this subsection, the elector
4 voting absentee shall make and subscribe to the certification before one witness who
5 is an adult U.S. citizen. If the absent elector is a military elector, as defined in s. 6.22
6 (1) (b), or an overseas elector, as defined in s. 6.24 (1), no witness is required. The
7 absent elector, in the presence of the witness, when required, shall mark the ballot
8 in a manner that will not disclose how the elector's vote is cast. The elector shall then,
9 still in the presence of the witness, when required, fold the ballots so each is separate
10 and so that the elector conceals the markings thereon and deposit them in the proper
11 envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the
12 ballot so that the elector conceals the markings thereon and deposit the ballot in the
13 proper envelope. If proof of residence is required, the elector shall enclose proof of
14 residence under s. 6.34 in the envelope. Proof of residence is required if the elector
15 is not a military elector or an overseas elector, as defined in s. 6.34 (1), and the elector
16 registered by mail and has not voted in an election in this state. If the elector
17 requested a ballot by means of facsimile transmission or electronic mail under s. 6.86
18 (1) (ac), the elector shall enclose in the envelope a copy of the request which bears an
19 original signature of the elector. The elector may receive assistance under sub. (5).
20 The return envelope shall then be sealed. The witness may not be a candidate. The
21 envelope shall be mailed by the elector, or delivered in person, to the municipal clerk
22 issuing the ballot or ballots. If the envelope is mailed from a location outside the
23 United States, the elector shall affix sufficient postage unless the ballot qualifies for
24 delivery free of postage under federal law. Failure to return an unused ballot in a
25 primary does not invalidate the ballot on which the elector's votes are cast. Return

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1 of more than one marked ballot in a primary or return of a ballot prepared under s.
2 5.655 or a ballot used with an electronic voting system in a primary which is marked
3 for candidates of more than one party invalidates all votes cast by the elector for
4 candidates in the primary.

5 **SECTION 6.** 7.08 (1) (c) of the statutes is amended to read:

6 7.08 (1) (c) Prescribe forms required by ss. 6.24 (3) and (4), 6.30 (4), 6.33 (1),
7 6.40 (1) (a), 6.47 (1) (am) 2. and (3), 6.55 (2), ~~and 6.86 (2) to (3), and 6.87 (2)~~. All such
8 forms shall contain a statement of the penalty applicable to false or fraudulent
9 registration or voting through use of the form. Forms are not required to be furnished
10 by the board.

11 **SECTION 7.** 9.01 (1) (b) 2. of the statutes is amended to read:

12 9.01 (1) (b) 2. The board of canvassers shall then examine the absentee ballot
13 envelopes. Any defective absentee ballot envelopes shall be laid aside, properly
14 marked and carefully preserved. The number of voters shall be reduced by the
15 number of ballot envelopes set aside under this subdivision. An absentee ballot
16 envelope is defective only if it is not witnessed ~~or, if a witness is required for the voter~~
17 casting the ballot, if it is not signed by the voter, or if the certificate accompanying
18 an absentee ballot that the voter received by facsimile transmission or electronic
19 mail is missing.

20 **SECTION 8. Initial applicability.**

21 (1) This act first applies with respect to absentee ballots for elections held on
22 the effective date of this subsection.

23 **SECTION 9. Effective date.**

