2011 DRAFTING REQUEST

Assembly Amendment (AA-ASA(LRBs0142/1)-AB161)

Received: **06/10/2011**

Received By: **jkuesel**

Wanted: **As time permits**

Companion to LRB:

For: **Gary Tauchen (608) 266-3097**

By/Representing: **Jessica Karls-Ruplinger**

May Contact:

Drafter: **jkuesel**

Subject: **Elections - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Tauchen@legis.wisconsin.gov**

Carbon copy (CC:) to: **jessica.karls@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Clerks may decide whether to send ballots electronically to nonfederal electors

---

Instructions:

Permit municipal clerks and boards of election commissioners to decide whether to send an absentee ballot to an elector who is not a military or overseas electorm, as defined by federal law.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkuesel 06/10/2011	csicilia 06/12/2011		_____ _____			
/1	chanaman 06/13/2011	chanaman 06/13/2011	phenry 06/13/2011	_____ _____	lparisi 06/13/2011	lparisi 06/13/2011	
/2			mduchek 06/13/2011	_____ _____	mbarman 06/13/2011	mbarman 06/13/2011	

FE Sent For:

<END>

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/?	jkuesel 06/10/2011	csicilia 06/12/2011		_____ _____			
/1			phenry 06/13/2011	_____ _____	lparisi 06/13/2011	lparisi 06/13/2011	

/2 jkuesel/2gjs 6/13/11 6/13

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incorrect - changed

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manually e-mailed

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/?	jkuesel 06/10/2011	csicilia 06/12/2011		_____ _____			
/1		/2 g3	phenry 06/13/2011	_____ _____	lparisi 06/13/2011	lparisi 06/13/2011	

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/? /1	jkuesel 6/10/11	/1 gjs 6/12/11					

FE Sent For:

<END>

(DN 072)

State of Wisconsin
2011 - 2012 LEGISLATURE

LRBa1222/1
JTK:...:...

Mon 6/14 - NOON

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT (LRBs0142/1),

TO 2011 ASSEMBLY BILL 161

At the locations indicated, amend the substitute amendment as follows:

1. Page 11, line 21: delete "or, if" and substitute ". If".

2. Page 11, line 22: after "requests," insert "the municipal clerk".

3. Page 11, line 22: after "to the elector" insert "or, if the elector is not a military elector, as defined in s. 6.34 (1) (a) and the elector so requests, may transmit an absentee ballot to the elector".

4. Page 11, line 4: delete the material beginning with "<u>, if</u>" and ending with "<u>shall</u>" on line 5.

5. Page 12, line 9: after "<u>requests</u>" insert "<u>. The municipal clerk shall transmit the ballot</u> ~~if required or permitted by the clerk~~ <u>under sub. (2) (e)</u>".

if the clerk is required or elects to do so

immediately send or
PLAIN

fix component

that line

6. Page 12, line 15: delete the material beginning with "if" and ending with "par." and substitute ", if required or permitted by the clerk under sub. (2) (e),".

7. Page 14, line 25: delete the material beginning with "a" and ending with "overseas" on page 15, line 1 and substitute "an absentee".

8. Page 17, line 14: delete the material beginning with ", or" and ending with "transmit" on line 15.

the clerk is required or elects to do so

9. Page 17, line 16: delete "upon the individual's request".

10. Page 17, line 29: after "municipality." insert "If the individual is an overseas elector, as defined in s. 6.34 (1) (b), the municipal clerk shall transmit the ballot to the elector, and if the individual is not an overseas elector, as defined in s. 6.34 (1) (b), the clerk may transmit the ballot to the elector, if the elector so requests in the manner prescribed in s. 6.87 (3) (d).".

11. Page 18, line 7: delete the material beginning with "the" and ending with "and" on line 8 and substitute "if required or permitted by the clerk under par. (c)".

#. Page 18, line 8, after "requests," insert "and the clerk is required or elects to do so,"

12. Page 24, line 4: after "ballot," insert "and may, if the clerk is so informed by any other absent elector,".

13. Page 24, line 6: delete the material beginning with "is" and ending with "and" on line 7.

14. Page 24, line 8: delete the material beginning with "an" and ending with "overseas" on line 9 and substitute "an absentee".

15. Page 24, line 12: delete "absent military or overseas" and substitute "absent".

16. Page 24, line 18: delete "an a military or overseas" and substitute "an".

#. Page 18, line 8: after "requests," insert "and the clerk is required or elects to do so under par. (c),"

¶ #. Page 28, line 16: after "and" insert "send or transmit an ~~absentee ballot~~ official absentee ballot".

17. Page 26, line 4: delete the material beginning with that line and ending with page 27, line 11.

18. Page 28, line 16: delete the material beginning with "military" and ending with "(b)," on line 17 and substitute "other absentee elector".

19. Page 28, line 18: after "transmission" insert ", if required or ~~permitted by~~ the clerk under s. 6.87 (3) (d),".

20. Page 29, line 3: delete "making" and substitute "~~making~~ and to each other elector ~~permitted by the clerk~~ under s. 6.87 (3) (d) who makes".

21. Page 29, line 19: delete the material beginning with that line and ending with page 30, line 12.

(END)

if the clerk is required or elects to do so

¶ #. Page 29, line 1: after "~~person~~" (strike) insert "~~making~~" (strike).

¶ # Page 29, line 2: ~~after~~ "and" insert "if the elector, so requests,"

scored commas

the clerk is required or elects to do so

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1122/1dn
JTK:...

– date –

Rep. Tauchen:

The treatment of s. 6.87 (3) (d), stats. by this amendment, to the effect that a municipal clerk or board of election commissioners may elect to send an absentee ballot electronically to an elector who is not a military or overseas elector, as federally defined, raises a potential equal protection issue in that it could result in availability of late absentee voting to vary from municipality to municipality, from time to time, or from elector to elector. It would be easier to defend an approach that applied the same policy to all nonfederally defined military or overseas electors. If you would like to discuss this issue further, please let me know.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Kuesel, Jeffery

From: Karls-Ruplinger, Jessica
Sent: Friday, June 10, 2011 2:21 PM
To: Kuesel, Jeffery
Cc: Larson, Brian
Subject: Assembly Bill 161

Jeff,

This email is a follow-up to our conversation earlier today. The Assembly Committee on Election and Campaign Reform requested an amendment to Assembly Substitute Amendment 1 (LRBs0142/1) to Assembly Bill 161 that will be introduced as Assembly Amendment 1 to Assembly Substitute Amendment 1. Assembly Amendment 1 should provide that a municipal clerk may, if the clerk is reliably informed by an absent elector of a facsimile transmission number or electronic mail address where the elector can receive an absentee ballot, transmit a facsimile or electronic copy of the absent elector's ballot to that elector in lieu of mailing under this subsection if, in the judgment of the clerk, the time required to send the ballot through the mail may not be sufficient to enable return of the ballot by the time provided under sub. (6). [Retain the law that existed prior to Act 23.] However, Assembly Amendment 1 should provide that for military and overseas electors, a municipal clerk is required to transmit a facsimile or electronic copy of the elector's ballot. [Use the language in ASA 1.]

Further, the committee made changes to LRBa1218/1, drafted by Rep. Roys, and introduced LRBa1218/2 as Assembly Amendment 2 to Assembly Substitute Amendment 1. LRBa1218/2 (now Assembly Amendment 2) should change the provisions in LRBa1218/1 relating to nomination papers to reflect a period of January 1 to the 2nd Tuesday in February to circulate nomination papers for the partisan primary.

Jessica

Jessica Karls-Ruplinger
Senior Staff Attorney
Wisconsin Legislative Council
(608) 266-2230
Jessica.Karls@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1222/1dn
JTK:cjs:ph

June 13, 2011

Rep. Tauchen:

The treatment of s. 6.87 (3) (d), stats. by this amendment, to the effect that a municipal clerk or board of election commissioners may elect to send an absentee ballot electronically to an elector who is not a military or overseas elector, as federally defined, raises a potential equal protection issue in that it could result in availability of late absentee voting to vary from municipality to municipality, from time to time, or from elector to elector. It would be easier to defend an approach that applied the same policy to all nonfederally defined military or overseas electors. If you would like to discuss this issue further, please let me know.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Kuesel, Jeffery

From: Karls-Ruplinger, Jessica
Sent: Monday, June 13, 2011 2:32 PM
To: Kuesel, Jeffery
Cc: Arrowood, Craig
Subject: FW: LRB 11a1222/1

Attachments: 11a1222/1

Jeff,

I reviewed this amendment, and I have two comments. First, item 1 of the amendment references a change to page 11, line 4, but the referenced language does not exist on that line. Second, for the changes to s. 6.87 (3) (d), Stats., in item 13 of the amendment, the committee agreed that the clerk may transmit the ballot to an absentee elector *if, in the judgment of clerk, the time required to send the ballot through the mail may not be sufficient to enable return of the ballot by the time provided under sub. (6)* (i.e., s. 6.87 (6), Stats.). The inclusion of the italicized language would make it consistent with pre-Act 23 language, and that's what the committee wanted. Is it possible to change these two items before the amendment is introduced?

Jessica

Jessica Karls-Ruplinger
Senior Staff Attorney
Wisconsin Legislative Council
(608) 266-2230
Jessica.Karls@legis.wisconsin.gov

From: Parisi, Lori
Sent: Monday, June 13, 2011 9:58 AM
To: Karls-Ruplinger, Jessica
Subject: LRB 11a1222/1

11a12221.pdf (33 KB)

Lori Parisi
Program Assistant
State of WI Legislative Reference Bureau
1 East Main Suite 200
Madison, WI., 53703
Phone(608)266-3561 Fax(608)264-6948

State of Wisconsin
2011 - 2012 LEGISLATURE

LRBa1222/1
JTK:cjs:ph

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT (LRBs0142/1),

TO 2011 ASSEMBLY BILL 161

At the locations indicated, amend the substitute amendment as follows:

1. Page 8, line 4: delete the material beginning with "<u>, if</u>" and ending with "<u>shall</u>" on line 5.

2. Page 11, line 21: delete "or, if" and substitute ". If".

3. Page 11, line 22: after "requests," insert "the municipal clerk".

4. Page 11, line 22: after "to the elector" insert ", or, if the elector is not a military elector, as defined in s. 6.34 (1) (a) and the elector so requests, may transmit an absentee ballot to the elector,".

5. Page 12, line 9: after "<u>requests</u>" insert "<u>. The municipal clerk shall transmit the ballot if the clerk is required or elects to do so under sub. (2) (e)</u>".

6. Page 12, line 15: delete that line and substitute "immediately send or, if the clerk is required or elects to do so under sub. (2) (e),".

7. Page 14, line 25: delete the material beginning with "a" and ending with "overseas" on page 15, line 1, and substitute "an absentee".

8. Page 17, line 14: delete the material beginning with ", or" and ending with "transmit" on line 15.

9. Page 17, line 16: delete "upon the individual's request".

10. Page 17, line 20: after "municipality." insert "If the individual is an overseas elector, as defined in s. 6.34 (1) (b), the municipal clerk shall transmit the ballot to the elector, and if the individual is not an overseas elector, as defined in s. 6.34 (1) (b), the clerk may transmit the ballot to the elector, if the elector so requests, in the manner prescribed in s. 6.87 (3) (d).".

11. Page 18, line 7: delete the material beginning with "the" and ending with "and" on line 8.

12. Page 18, line 8: after "requests," insert "and the clerk is required or elects to do so under par. (c),".

for that other elector

13. Page 24, line 4: after "ballot," insert "and may, if the clerk is so informed by any other absent elector,".

and if, in the judgment of the clerk, the time required to send the ballot through the mail may not be sufficient to enable return of the ballot by the time provided under Sub. (6)

14. Page 24, line 6: delete the material beginning with "is" and ending with "and" on line 7.

15. Page 24, line 8: delete the material beginning with "an" and ending with "overseas" on line 9 and substitute "an absentee".

1 **16.** Page 24, line 12: delete "~~absent~~ military or overseas" and substitute
2 "absent".

3 **17.** Page 24, line 18: delete "~~an~~ a military or overseas" and substitute "an".

4 **18.** Page 26, line 4: delete the material beginning with that line and ending
5 with page 27, line 11.

6 **19.** Page 28, line 16: after "and" insert "send or transmit an official absentee
7 ballot".

8 **20.** Page 28, line 16: delete the material beginning with "military" and ending
9 with "(b),," on line 17 and substitute "other absentee elector".

10 **21.** Page 28, line 18: after "transmission" insert ", if the clerk is required or
11 elects to do so under s. 6.87 (3) (d),,".

12 **22.** Page 29, line 1: after "~~person~~" insert "~~making~~".

13 **23.** Page 29, line 2: after "and" insert ", if the elector so requests,,".

14 **24.** Page 29, line 3: delete "making" and substitute "and to each other elector
15 if the clerk is required or elects to do so under s. 6.87 (3) (d) who makes".

16 **25.** Page 29, line 19: delete the material beginning with that line and ending
17 with page 30, line 12.

18 **(END)**