



State of Wisconsin  
2011 - 2012 LEGISLATURE



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ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2011 SENATE BILL 116

SEP 25 27

1 AN ACT *to repeal* 6.22 (4) (g), 6.221 (1), 6.221 (3) (b), 6.25 (2), 6.25 (3), 6.865 (3),  
2 6.865 (3m) (a), 6.865 (3m) (c) and 7.15 (1) (cs); *to renumber* 6.221 (4); *to*  
3 *renumber and amend* 5.02 (18), 6.221 (title), 6.221 (2), 6.221 (3) (a), 6.221 (5),  
4 6.221 (6), 6.25 (1) and 6.865 (3m) (b); *to consolidate, renumber and amend*  
5 6.25 (4) (intro.), (a) and (b); *to amend* 5.05 (13) (title), 5.15 (4) (a), 5.15 (6) (b),  
6 5.25 (3), 5.62 (title), 5.62 (1) (a), 5.62 (1) (b), 5.62 (2), 5.62 (3), 6.22 (4) (a), 6.22  
7 (4) (c), 6.22 (4) (e), 6.22 (4) (f), 6.22 (5), 6.22 (6), 6.24 (1), 6.24 (2), 6.24 (4) (c), 6.36  
8 (1) (a), 6.50 (8), 6.86 (1) (a) (intro.), 6.86 (1) (a) 3., 6.86 (1) (ac), 6.86 (1) (b), 6.865  
9 (title), 6.869, 6.87 (3) (d), 6.87 (6), 6.875 (3), 6.88 (1), 6.88 (3) (b), 7.08 (2) (b), 7.10  
10 (3) (a), 7.15 (1) (cm), 7.15 (1) (j), 7.51 (5) (b), 7.52 (3) (b), 7.60 (5) (a), 7.70 (3) (a),  
11 8.10 (1), 8.15 (title), 8.15 (1), 8.16 (7), 8.17 (1) (b), 8.17 (4), 8.17 (5) (b), 8.19 (3),  
12 8.20 (8) (a), 8.20 (8) (am), 8.37, 8.50 (intro.), 8.50 (1) (d), 8.50 (2), 8.50 (3) (a), 8.50  
13 (3) (b), 8.50 (3) (c), 8.50 (4) (b), 8.50 (4) (fm), 9.01 (1) (a) 1., 9.01 (1) (ag) 1., 9.01

1 (1) (ag) 1m., 9.01 (1) (ag) 2., 9.01 (1) (b) (intro.), 10.01 (2) (d), 10.01 (2) (e), 10.06  
2 (1) (f), 10.06 (1) (h), 10.06 (1) (i), 10.06 (2) (gm), 10.06 (2) (h), 10.06 (2) (j), 10.06  
3 (3) (cm), 11.06 (12) (a) 1., 11.26 (17) (d), 11.31 (7) (a), 13.123 (3) (b) 1. a., 38.16  
4 (3) (br) 1., 59.08 (7) (b), 59.10 (3) (cm) 2., 59.605 (3) (a) 1., 60.30 (1e) (b), 62.13  
5 (6) (b), 66.0217 (7) (a) 3., 66.0219 (4) (b), 66.0227 (3), 66.0305 (6) (b), 66.0307 (4)  
6 (e) 2., 66.0602 (4) (a), 66.0619 (2m) (b), 66.0921 (2), 66.1113 (2) (g), 66.1113 (2)  
7 (h), 67.05 (6m) (b), 67.12 (12) (e) 5., 86.21 (2) (a), 92.11 (4) (c), 117.22 (2) (e),  
8 120.02 (1), 120.02 (2) (a), 120.02 (4), 121.91 (3) (a), 125.05 (1) (b) 5., 197.04 (1)  
9 (b), 229.824 (15), 343.50 (5m), 343.50 (7) and 995.20; and **to create** 5.05 (13) (c)  
10 and (d), 6.22 (2) (e), 6.24 (4) (e), 6.25 (1) (b) and 6.25 (1) (c) of the statutes;  
11 **relating to:** the dates of the September primary and certain other election  
12 occurrences, absentee voting, and the fee for duplicate identification cards  
13 issued by the Department of Transportation.

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### ***Analysis by the Legislative Reference Bureau***

This substitute amendment changes the date of the September primary from the 2nd Tuesday in September to the 2nd Tuesday in August and renames it to be the “Partisan Primary”. The substitute amendment also changes the dates of related election events to accommodate the change in the date of the primary. In elections for national office or special elections that are held concurrently with the general election, the substitute amendment provides for absentee ballots to be available to electors for at least a 47-day period before the election. Currently, the length of this period varies but it is generally a shorter period.

The substitute amendment also 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. 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 a military elector, as defined by state law, to cast such a ballot at any election, including any primary election, at which a federal, state, or local office is to be filled and permits an overseas elector, as defined by state law, to cast such a ballot at any election, including any primary election, at which a federal office is to be filled. The substitute amendment also provides that a completed and signed federal write-in absentee ballot serves as an application for an absentee ballot and need not be accompanied by a separate application, as required currently.

2. The 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, as defined by federal law, 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.

3. 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 seven 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 provides instead that all absentee electors except those voting in person have until 4 p.m. on the Friday after an election for their ballots to be received if the ballots are postmarked by election day.

4. Currently, the municipal clerk or board of election commissioners of each municipality must, upon request of any absentee elector, transmit an absentee ballot to the elector by electronic mail or facsimile transmission. This bill authorizes and requires a municipal clerk or board to transmit an absentee ballot electronically only to a military or overseas elector, as defined in federal law, upon request of such an elector.

5. 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.

6. Currently, a military or overseas elector, as defined in state law, may cast a blank write-in absentee ballot under state law. In the case of military electors, the ballot may be used to vote for any candidate for state or local office. In the case of overseas electors, the ballot may only be used to vote for candidates for national office. This substitute amendment discontinues the state write-in absentee ballot for both groups of electors.

7. Currently, with certain exceptions, a military elector who requests an absentee ballot receives absentee ballots automatically for all elections unless the elector fails to return any absentee ballot during the entire period encompassed by two successive general elections. Under this substitute amendment, with certain exceptions, a military elector who requests an absentee ballot receives absentee ballots automatically for all elections held in the same calendar year in which the request is made.

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.

Under current law, as created in 2011 Wisconsin Act 23, the Department of Transportation (DOT) may not charge a fee to an applicant for the initial issuance, renewal, or reinstatement of an identification card if the applicant is a U.S. citizen who will be at least 18 years of age on the date of the next election and the applicant requests that the identification card be provided without charge for purposes of voting.

This substitute amendment includes the issuance of a duplicate identification card by DOT in this fee exception.

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

1           **SECTION 1.** 5.02 (18) of the statutes, as affected by 2011 Wisconsin Act 32, is  
2 renumbered 5.02 (12s) and amended to read:

3           5.02 (12s) “~~September~~ Partisan primary” means the primary held the 2nd  
4 Tuesday in ~~September~~ August to nominate candidates to be voted for at the general  
5 election.

6           **SECTION 2.** 5.05 (13) (title) of the statutes is amended to read:

7           5.05 (13) (title) TOLL-FREE ELECTION INFORMATION ~~EXCHANGE~~ AND REQUESTS.

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

9           5.05 (13) (c) The board shall maintain a freely accessible system under which  
10 a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s.  
11 6.34 (1) (b), who casts an absentee ballot may ascertain whether the ballot has been  
12 received by the appropriate municipal clerk.

13           (d) The board shall designate and maintain at least one freely accessible means  
14 of electronic communication which shall be used for the following purposes:

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

1 in municipalities where absentee ballots are canvassed under s. 7.52, if the  
2 municipal clerk receives an absentee ballot on election day, the clerk shall secure the  
3 ballot and cause the ballot to be delivered to the polling place serving the elector's  
4 residence before the closing hour. Except as provided in s. ~~6.221~~ 7.515 (3), any ballot  
5 not mailed or delivered as provided in this subsection may not be counted.

6 SECTION 52. 6.875 (3) of the statutes, as affected by 2011 Wisconsin Act 23, is  
7 amended to read:

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TYPING  
errors -  
data  
base  
is  
correct

8 6.875 (3) An occupant of a nursing home or qualified retirement home,  
9 qualified community-based residential facility, qualified residential care apartment  
10 complex, or qualified adult family ~~who~~ <sup>home ← plain</sup> who qualifies as an absent elector and desires  
11 to receive an absentee ballot shall make application under s. 6.86 (1), (2), or (2m) with  
12 the municipal clerk or board of election commissioners of the municipality in which  
13 the elector is a resident. The clerk or board of election commissioners of a  
14 municipality receiving an application from an elector who is an occupant of a nursing  
15 home or qualified retirement home, qualified community-based residential facility,  
16 qualified residential ~~apartment~~ <sup>care ← plain</sup> apartment complex, or qualified adult family home located  
17 in a different municipality shall, as soon as possible, notify and ~~transmit~~ send an  
18 absentee ballot for the elector to the clerk or board of election commissioners of the  
19 municipality in which the home, facility, or complex is located. The clerk or board  
20 of election commissioners of a municipality receiving an application from an elector  
21 who is an occupant of a nursing home or qualified retirement home, qualified  
22 community-based residential facility, qualified residential care apartment complex,  
23 or qualified adult family home located in the municipality but who is a resident of  
24 a different municipality shall, as soon as possible, notify and request ~~transmission~~  
25 of an absentee ballot from the clerk or board of election commissioners of the

1 municipality in which the elector is a resident. The clerk or board of election  
2 commissioners shall make a record of all absentee ballots to be ~~transmitted~~ sent,  
3 delivered, and voted under this section.

4 **SECTION 53.** 6.88 (1) of the statutes is amended to read:

5 6.88 (1) When an absentee ballot arrives at the office of the municipal clerk,  
6 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,  
7 unopened, in a carrier envelope which shall be securely sealed and endorsed with the  
8 name and official title of the clerk, and the words "This envelope contains the ballot  
9 of an absent elector and must be opened in the same room where votes are being cast  
10 at the polls during polling hours on election day or, in municipalities where absentee  
11 ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of  
12 absentee ballot canvassers under s. 7.52, stats.". If the elector is a military elector,  
13 as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), and the  
14 ballot was received by the elector by facsimile transmission or electronic mail and is  
15 accompanied by a separate certificate, the clerk shall enclose the ballot in a  
16 certificate envelope and securely append the completed certificate to the outside of  
17 the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep  
18 the ballot in the clerk's office or at the alternate site, if applicable until delivered, as  
19 required in sub. (2).

20 **SECTION 54.** 6.88 (3) (b) of the statutes is amended to read:

21 6.88 (3) (b) When the inspectors find that a certification is insufficient, that the  
22 applicant is not a qualified elector in the ward or election district, that the ballot  
23 envelope is open or has been opened and resealed, that the ballot envelope contains  
24 more than one ballot of any one kind or, except in municipalities where absentee  
25 ballots are canvassed under s. 7.52, that the certificate of ~~an~~ a military or overseas

1 elector who received an absentee ballot by facsimile transmission or electronic mail  
2 is missing, or if proof is submitted to the inspectors that an elector voting an absentee  
3 ballot has since died, the inspectors shall not count the ballot. The inspectors shall  
4 endorse every ballot not counted on the back, "rejected (giving the reason)". The  
5 inspectors shall reinsert each rejected ballot into the certificate envelope in which  
6 it was delivered and enclose the certificate envelopes and ballots, and securely seal  
7 the ballots and envelopes in an envelope marked for rejected absentee ballots. The  
8 inspectors shall endorse the envelope, "rejected ballots" with a statement of the ward  
9 or election district and date of the election, signed by the chief inspector and one of  
10 the inspectors representing each of the 2 major political parties and returned to the  
11 municipal clerk in the same manner as official ballots voted at the election.

12 **SECTION 55.** 7.08 (2) (b) of the statutes is amended to read:

13 7.08 (2) (b) The certified list of candidates for president and vice president  
14 nominated at a national convention by a party entitled to a September partisan  
15 primary ballot or for whom electors have been nominated under s. 8.20 shall be sent  
16 as soon as possible after the closing date for filing nomination papers, but no later  
17 than the deadlines established in s. 10.06.

18 **SECTION 56.** 7.10 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 45,  
19 is amended to read:

20 7.10 (3) (a) The county clerk shall distribute the ballots to the municipal clerks  
21 no later than ~~51~~<sup>48</sup> days before each September partisan primary and general election  
22 and no later than 22 days before each other primary and election. Election forms  
23 prepared by the board shall be distributed at the same time. If the board transmits  
24 an amended certification under s. 7.08 (2) (a) or if the board or a court orders a ballot  
25 error to be corrected under s. 5.06 (6) or 5.72 (3) after ballots have been distributed,

1 the county clerk shall distribute corrected ballots to the municipal clerks as soon as  
2 possible.

3 **SECTION 57.** 7.15 (1) (cm) of the statutes, as affected by 2011 Wisconsin Acts  
4 23 and 45, is amended to read:

5 7.15 (1) (cm) Prepare official absentee ballots for delivery to electors requesting  
6 them, and except as provided in this paragraph, send ~~or transmit~~ an official absentee  
7 ballot to each elector who has requested a ballot by mail, and to each military elector,  
8 as defined in s. 6.34 (1) (a), and overseas elector, as defined in s. 6.34 (1) (b), who has  
9 requested a ballot by mail, electronic mail, or facsimile transmission no later than  
10 the ~~30th~~ 47th day before each ~~September~~ partisan primary and general election and  
11 no later than the 21st day before each other primary and election if the request is  
12 made before that day; otherwise, the municipal clerk shall send or transmit an  
13 official absentee ballot within one day of the time the elector's request for such a  
14 ballot is received. The clerk shall send or transmit an absentee ballot for the  
15 presidential preference primary to each elector who has requested that ballot no  
16 later than the 47th day before the presidential preference primary if the request is  
17 made before that day, or, if the request is not made before that day, within one day  
18 of the time the request is received.

19 **SECTION 58.** 7.15 (1) (cs) of the statutes is repealed.

20 **SECTION 59.** 7.15 (1) (j) of the statutes, as affected by 2011 Wisconsin Act 23,  
21 is amended to read:

22 7.15 (1) (j) Send ~~or transmit~~ an absentee ballot automatically to each ~~person~~  
23 elector and send or transmit an absentee ballot to each military elector, as defined  
24 in s. 6.34 (1) (a), and each overseas elector, as defined in s. 6.34 (1) (b), making an

1 holiday, and in every such city the afternoon of each day upon which a primary  
2 election is held for the nomination of candidates for city offices is a half holiday and  
3 in counties having a population of 500,000 or more the county board may by  
4 ordinance provide that all county employees shall have a half holiday on the day of  
5 such primary election and a holiday on the day of such municipal election, and that  
6 employees whose duties require that they work on such days be given equivalent  
7 time off on other days. Whenever any legal holiday falls on Sunday, the succeeding  
8 Monday shall be the legal holiday.

9 **SECTION 132. Initial applicability.**

10 (1) The treatment of sections 6.24 (4) (c), 6.86 (1) (a) 3., 6.865 (title), (3), and  
11 (3m) (a), (b), and (c), and 7.15 (1) (j) of the statutes first applies with respect to  
12 requests for absentee ballots made for voting at elections held on or after the effective  
13 date of this subsection.

14 (2) The treatment of section 343.50 (5m) and (7) of the statutes first applies to  
15 applications for duplicate identification cards received by the department of  
16 transportation on the effective date of this subsection.

17 **SECTION 133. Effective dates.** This act takes effect on the day after  
18 publication, except as follows:

19 (1) The treatment of sections 6.24 (4) (c), 6.86 (1) (a) 3., 6.865 (title), (3), and  
20 (3m) (a), (b), and (c), and 7.15 (1) (j) of the statutes and SECTION 132 (1) of this act take  
21 effect on the 90th day beginning after publication.

22 (2) The treatment of section 343.50 (5m) and (7) of the statutes and SECTION 132  
23 (2) of this act take effect on the 30th day after the day of publication.

24 (END)