



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2005 Senate Bill 612**

**Assembly Amendments  
3 to 8**

*Memo published: April 7, 2006*

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2005 Senate Bill 612, introduced by the Joint Legislative Council, relates to administration of elections and it was. The Assembly Committee on Campaigns and Elections adopted the following amendments to the engrossed Senate bill:

### **Assembly Amendment 3**

Assembly Amendment 3 substitutes the provisions relating to absentee ballots as contained in Assembly Bill 377 for the similar provisions contained in Senate Bill 612. Currently, for the absentee ballot of any elector to be counted, the ballot must be received at the polling place serving the elector's residence no later than the closing hour. This amendment provides that the absentee ballots of certain electors defined as "military electors" under the bill must be counted at the September primary and general (November) election if the ballots are received by mail bearing a postmark dated on or before election day and the ballots are received by the municipal clerk or board of election commissioners of the municipality where the elector resides no later than seven days after the September primary or no later than 10 days after the general election. The amendment provides that if a postmark is missing or illegible, and the ballot is received by mail, the ballot is presumed to be received by election day, unless established by a preponderance of the evidence to the contrary.

Under the amendment, a "military elector" is any individual who, as of election day, is: (1) a member of a uniform service on active duty and who, by reason of that duty, is absent from his or her residence; (2) a member of the merchant marine and who, by reason of service in the merchant marine is absent from his or her residence; or (3) the spouse or dependent of any such member and who, by reason of service of the member, is absent from his or her residence. The amendment differs from the Senate version in that it applies *only* to the September primary and general (November) election and not to the spring elections. It also utilizes a narrower statutory definition of "military elector" which has the effect of excluding Peace Corps volunteers and civilian employees of the United States and civilian official attached to a uniform service who are serving outside the state as well as spouses and dependents of members of these groups who reside with or accompany them.

Since the pendency of late ballots may result in changes to original election returns, the amendment directs each municipal clerk and board of election commissioners to post at the clerk's or board's office and on the Internet, and to make available to any person upon request, a statement of the number of ballots of military electors to whom absentee ballots have been sent but whose ballots have not been returned as of election night. Under the amendment, upon receiving a late absentee ballot that is eligible to be counted, a municipal clerk or a board of election commissioners is required to notify the board or boards of canvassers that canvassed the original returns, which must then reconvene, canvass the late ballots and issue amended returns. The amendment also slightly adjusts canvassing deadlines to accommodate the revised canvassing process, but does not adjust a deadline for mailing or transmittal of absentee ballots for the general election (which may be affected by any delay in finalizing the September primary canvass). The amendment does not adjust a deadline for filing a petition for recount. However, the bill provides that a pending recount shall not proceed until immediately after the original canvass, reflecting any amended returns, is complete.

The current deadline for application for an absentee ballot to be received by mail is 5:00 p.m. on the Friday before election day. The amendment advances the deadline at the September primary and general election, for military electors only, to 5:00 p.m. on election day.

Under current law, electors who wish to vote by absentee ballot must request a ballot for each election individually, except that a military elector or an overseas elector (U.S. citizen residing outside the United States) may request to receive an absentee ballot for the next two general elections at the same time. In addition, an elector who was indefinitely confined may request to receive absentee ballots automatically for every election and may continue to receive those ballots as long as they are cast or the elector renews his or her request. With certain exceptions, the amendment directs each municipal clerk or board of election commissioner who receives an absentee ballot from a military elector to send the elector absentee ballots for the next three general elections and all other elections beginning with the date of the request and ending with the third successive general election following receipt of the request regardless of whether the ballots are cast, unless the elector otherwise requests. With certain exceptions, if the elector casts an absentee ballot, that elector continues to receive absentee ballots for all elections until after the third successive general election following the last election at which the elector cast a ballot.

#### **Assembly Amendment 4**

Under current law, a pupil who is 16 or 17 years of age, who is enrolled in grades 9 to 12 in a public or private school, and who has at least a 3.0 grade point average (GPA) may serve as an inspector (poll worker) at the polling place serving the pupil's residence. Approval of the pupil's parent or guardian and of the school principal is required.

Senate Bill 612 eliminated the minimum GPA requirement and instead authorized school boards to develop criteria for approving students to serve as poll workers. The Senate bill also modified the term of service for one election only, rather than for two years.

Assembly Amendment 4 modifies the Senate version to allow any pupil who has at least a 3.0 GPA or the equivalent to serve as a poll worker. In addition, a school board or governing body of a private school is authorized to establish criteria for service by a pupil who does not have at least a 3.0 GPA or the equivalent. The amendment also provides that the municipal clerk is not required to obtain

written authorization from the principal of the school where the pupil is enrolled for the pupil to serve as a poll worker. However, if a pupil does not have at least a 3.0 GPA or the equivalent, the amendment requires a municipal clerk to obtain written certification from the principal of the school where the pupil is enrolled that the pupil meets any criteria established by the school board or governing body for service as a poll worker.

#### **Assembly Amendment 5**

Assembly Amendment 5 relates to the conduct of election observers and the rule-making granted to the Elections Board. Senate Bill 612 directs the Elections Board to promulgate rules regarding the proper conduct of observers at polling places, municipal clerk's offices, or alternative absentee ballot sites, including the interaction of observers with election officials at polling places. The Senate bill further required the rules to be submitted to the Legislative Council staff for review by the 60<sup>th</sup> day beginning after publication of the Act.

Assembly Amendment 5 makes the rule-making of the board *permissive* rather than mandatory. It also requires that the rules, if promulgated, must be consistent with the requirements of s. 7.41 (2), Stats., which requires designated observation areas to be positioned so as to permit any authorized individual to readily observe all public aspects of the voting process.

#### **Assembly Amendment 6**

Assembly Amendment 6 relates to absentee ballots. This amendment provides that an eligible elector may, by written application filed with the municipal clerk in the municipality where the elector resides, require that an absentee ballot be sent to the elector automatically for every election that is held within the *same calendar year* in which the application is filed. The amendment provides that the form and instructions shall be prescribed by the board, and furnished upon request to any elector by each municipal clerk. The amendment directs the municipal clerk to mail an absentee ballot to the elector for all elections that are held in a municipality during the same calendar year that the application is filed, except that the clerk shall not send an absentee ballot for an election if the elector's name appeared on the registration list in eligible status for a previous election following the date of the application but no longer appears on the list in eligible status. The municipal clerk must also ensure that the envelope containing the absentee ballot is clearly marked as not forwardable and provides that if an elector who files an application under the subsection no longer resides at the same address that is indicated on the application form, the elector must so notify the municipal clerk.

In addition, the amendment requires the municipal clerk to discontinue mailing absentee ballots to an elector under this subsection upon receipt of reliable information that the elector no longer qualifies for the service. The clerk must notify the elector of any such action not taken at the elector's request within five days, if possible. Further, if a municipal clerk is notified by an elector that the elector's residence is changed to another municipality within this state, the municipal clerk must forward the request to the municipal clerk of that municipality and that municipal clerk must honor the request, except as provided under the provisions of the amendment.

### Assembly Amendment 7

Assembly Amendment 7, which is identical to Assembly Bill 998, as amended and passed by the Assembly, amends the campaign finance law to allow registrants under that law to make donations to charitable organizations or the common school fund. Currently, with certain exceptions, a registrant under the campaign finance law is generally prohibited from making a disbursement (expenditure) from moneys solicited for political purposes for a purpose that is other than political. However, a registrant that receives a contribution from an unregistered nonresident, an unlawful corporate contribution, an anonymous contribution exceeding \$10, or a cash contribution exceeding \$50 may donate the contribution to a charitable organization or to the state common school fund. In addition, residual moneys in a campaign treasury when a registrant ceases financial activity may be treated likewise.

Assembly Amendment 7 provides that a registrant may make a donation from a campaign treasury to a charitable organization or to the common school fund at any time for any reason.

Assembly Amendment 7 also provides that registrants who make a donation to a charitable organization or the common school fund from the registrant's campaign treasury must, no later than *five days* after the donation, notify the registrant's filing officer in writing of the name of the donee and the date of the donation and provide an explanation for not retaining the amount donated in the registrant's campaign treasury.

### Assembly Amendment 8

Assembly Amendment 8 relates to the signatures necessary for recall petitions. Current law requires that a petition for recall of a state, congressional, legislative, judicial or county officer must be signed by electors equal to at least 25% of the vote cast for the **Governor** at the last election within the same district or territory as that of the officeholder being recalled. A petition for the recall of a city, village, town, or school district officer must be signed by electors equal to at least 25% of the vote cast for the **President** at the last election within the same district or territory as that of the officeholder being recalled.

Assembly Amendment 8 makes the recall voting thresholds the same regardless of whether the officer being recalled is a state or local official. Thus, the amendment would require a petition for the recall of an officer to be signed by electors equal to at least 25% of the vote cast for the Office of Governor at the last election within the same district or territory as that of the officeholder being recalled.

Current law provides that the last day that a petition for the recall of a state, congressional, legislative, judicial, or county officer may be offered for filing is 5:00 p.m. on the *60<sup>th</sup> day* commencing after registration. The last date that a petition for the recall of a city, village, town, or school district officer may be offered for filing is 5:00 p.m. on the *30<sup>th</sup> day* commencing after registration. The amendment provides that the last date that a petition for the recall of an officer may be filed is 5:00 p.m. on the *60<sup>th</sup> day* commencing after registration, thus extending by 30 days the date a petition for the recall of a city, village, town, or school district officer may be offered.

The amendment provides that the standards would first apply with respect to petitions for a recall that are initially circulated on the effective date of the act.

### Legislative History

Senate Bill 612 was introduced on February 20, 2006, by the Joint Legislative Council and referred to the Senate Committee on Labor and Elections Process Reform. The Senate committee held a public hearing on February 22, 2006. Senate Amendments 1 and 3 were adopted on votes of Ayes, 5; Noes, 0. The bill was recommended for passage, as amended, on a vote of Ayes, 5; Noes, 0.

*Senate Amendment 1* clarifies the two-year training requirement for various election officials and further clarifies that certain sections of the training for elections officials first apply to the elections held in 2008. In addition, Senate Amendment 1 provides that if an electronic voting system is used in which ballots are distributed to electors, and the board of canvassers makes a determination of elector intent under the statutes, then the board of canvassers must **add** to the result generated by the automatic tabulating equipment, any votes that are counted by the board of canvassers in making this determination.

*Senate Amendment 3* removes the provision from the bill that requires a petition for the recall of a city, village, town, or school district officer to contain a statement of the grounds that constitute each cause for recall and also removes a provision that defined “cause” to mean official misconduct or malfeasants in office. By eliminating this provision, current law will continue to apply to the recall of these local elective offices.

In the Assembly, the bill was initially referred to the Assembly Committee on Rules and placed on the calendar of March 9, 2006 by that committee. However, on March 9, 2006, the bill was referred to the Assembly Committee on Campaigns and Elections by a vote of Ayes, 56; Noes, 38. The committee met in executive session on March 30, 2006. The votes on the various amendments were as follows:

- Assembly Amendment 3 was adopted on a vote of Ayes, 3; Noes, 1.
- Assembly Amendment 4 was adopted on a vote of Ayes, 4; Noes, 0.
- Assembly Amendment 5 was adopted on a vote of Ayes, 4; Noes, 0.
- Assembly Amendment 6 was adopted on a vote of Ayes, 3; Noes, 1.
- Assembly Amendment 7 was adopted on a vote of Ayes, 4; Noes, 0.
- Assembly Amendment 8 was adopted on a vote of Ayes, 4; Noes, 0.

The committee voted to concur in the Senate bill as amended on a vote of Ayes, 4; Noes, 0.

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