



2011 ASSEMBLY BILL 525

February 3, 2012 – Introduced by Representatives J. OTT, STONE, A. OTT, PETERSEN, ZIEGELBAUER, PRIDEMORE, VAN ROY, MARKLEIN, STRACHOTA, BROOKS, LEMAHIEU, RIVARD, ENDSLEY, KESTELL and BIES, cosponsored by Senators LAZICH, GROTHMAN and VUKMIR. Referred to Committee on Election and Campaign Reform.

1 **AN ACT to repeal** 6.87 (9); **to amend** 6.18, 6.86 (1) (ac), 6.86 (3) (a) 1., 6.869, 6.87
2 (1), 6.87 (4) (b) 1., 6.87 (4) (b) 2., 6.87 (4) (b) 3., 6.87 (4) (b) 5., 6.88 (3) (a), 6.97
3 (2), 6.97 (3), 7.08 (12) and 7.52 (3) (a); and **to create** 6.86 (6) of the statutes;
4 **relating to:** return of absentee ballots, submittal of proof of identification with
5 absentee ballot applications, and voting in person by electors who have voted
6 by absentee ballot in the same election.

Analysis by the Legislative Reference Bureau

Currently, if a qualified elector casts an absentee ballot, whether by mail or in person, the municipal clerk or board of election commissioners of the municipality where the elector resides delivers the ballot in an absentee ballot envelope to the polling place serving the elector's residence. There is no authorization for a municipality to return an absentee ballot to an elector once the ballot has been cast. The election inspectors (poll workers), upon receiving the absentee ballot of a qualified elector, mark the poll list to indicate that the elector has voted when they count the ballot. No elector is permitted to vote more than once in the same election. If a municipality elects to canvass its absentee ballots centrally using a board of absentee ballot canvassers, the board of absentee ballot canvassers marks a separate poll list containing the names of the qualified electors of the municipality to indicate the electors who have cast absentee ballots. The municipal board of canvassers is then required to reconcile the poll list marked at each polling place with the poll list

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marked by the board of absentee ballot canvassers to ensure that no person is permitted to vote more than once. If the municipal board of canvassers finds that an elector who has voted in person has also cast an absentee ballot, the absentee ballot is void.

This bill provides that if an elector mails or personally delivers an absentee ballot to the municipal clerk or board of election commissioners, the clerk or board shall not return the ballot to the elector. The bill also provides that an elector who mails or personally delivers an absentee ballot to the municipal clerk or board of election commissioners at an election is not permitted to vote in person at the same election on election day.

Currently, if a municipal clerk or board of election commissioners receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk or board may return the ballot to the elector, inside the sealed envelope when an envelope is received, together with a new envelope if necessary, whenever time permits the elector to correct the defect and mail the ballot back to the clerk or board by election day. This bill deletes this provision.

Currently, with certain exceptions, an individual who votes in an election must present proof of identification in order to vote. The proof may consist of a number of documents specified by law and must contain certain information specified by law. An individual who votes by absentee ballot to whom the requirement applies must generally enclose a copy of his or her proof of identification with his or her absentee ballot application. However, if the individual requests an absentee ballot by electronic mail or facsimile transmission, the individual instead provides a copy of his or her proof of identification with his or her absentee ballot. This bill deletes the procedure under which a copy of an individual's proof of identification is provided with the individual's absentee ballot rather than with the individual's absentee ballot application, thus requiring every individual to whom the identification requirement applies to enclose a copy of his or her proof of identification with the individual's absentee ballot application.

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

1 **SECTION 1.** 6.18 of the statutes, as affected by 2011 Wisconsin Act 23, is
2 amended to read:

3 **6.18 Former residents.** If ineligible to qualify as an elector in the state to
4 which the elector has moved, any former qualified Wisconsin elector may vote an
5 absentee ballot in the ward of the elector's prior residence in any presidential election
6 occurring within 24 months after leaving Wisconsin by requesting an application

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1 form and returning it, properly executed, to the municipal clerk of the elector's prior
2 Wisconsin residence. When requesting an application form for an absentee ballot,
3 the applicant shall specify the applicant's eligibility for only the presidential ballot.
4 Unless application is made under s. 6.86 (1) (ae), or the applicant is exempted from
5 providing proof of identification under s. 6.87 (4) (b) 2. or 3., or the applicant is a
6 military or overseas elector, the elector shall enclose a copy of his or her proof of
7 identification or any authorized substitute document with his or her application.
8 The municipal clerk shall verify that the name on the proof of identification conforms
9 to the name on the application. The clerk shall not issue a ballot to an elector who
10 is required to enclose a copy of proof of identification or an authorized substitute
11 document with his or her application unless the copy is enclosed and the proof is
12 verified by the clerk. The application form shall require the following information
13 and be in substantially the following form:

14 This form shall be returned to the municipal clerk's office. Application must be
15 received in sufficient time for ballots to be mailed and returned prior to any
16 presidential election at which applicant wishes to vote. Complete all statements in
17 full.

18 APPLICATION FOR PRESIDENTIAL
19 ELECTOR'S ABSENTEE BALLOT
20 (To be voted at the Presidential Election
21 on November, (year)

22 I, hereby swear or affirm that I am a citizen of the United States, formerly
23 residing at in the ward aldermanic district (city, town, village) of, County
24 of for 28 consecutive days prior to leaving the State of Wisconsin. I, do solemnly
25 swear or affirm that I do not qualify to register or vote under the laws of the State

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1 of(State you now reside in) where I am presently residing. A citizen must be a
 2 resident of: State(Insert time) County(Insert time) City, Town or Village
 3(Insert time), in order to be eligible to register or vote therein. I further swear or
 4 affirm that my legal residence was established in the State of(the State where you
 5 now reside) on Month Day Year.

6 Signed

7 Address(Present address)

8(City)(State)

9 Subscribed and sworn to before me this day of (year)

10(Notary Public, or other officer authorized to administer oaths.)

11(County)

12 My Commission expires

13 MAIL BALLOT TO:

14 NAME

15 ADDRESS

16 CITY STATE ZIP CODE

17 *Penalties for Violations.* Whoever swears falsely to any absent elector affidavit
 18 under this section may be fined not more than \$1,000 or imprisoned for not more than
 19 6 months or both. Whoever intentionally votes more than once in an election may
 20 be fined not more than \$10,000 or imprisoned for not more than 3 years and 6 months
 21 or both.

22(Municipal Clerk)

23(Municipality)

24 **SECTION 2.** 6.86 (1) (ac) of the statutes, as affected by 2011 Wisconsin Act 75,
 25 is amended to read:

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1 6.86 (1) (ac) Any elector qualifying under par. (a) may make written application
2 to the municipal clerk for an official ballot by means of facsimile transmission or
3 electronic mail. Any application under this paragraph need not contain a copy of the
4 applicant's original signature. An elector requesting a ballot under this paragraph
5 shall return with the voted ballot a copy of the request bearing an original signature
6 of the elector as provided in s. 6.87 (4). Except as authorized in ss. 6.87 (4) (b) 2. to
7 5. and 6.875 (6), and notwithstanding s. 343.43 (1) (f), the elector shall transmit a
8 copy of his or her proof of identification in the manner provided in s. 6.87 (1) unless
9 the elector is a military elector or an overseas elector or the elector has a confidential
10 listing under s. 6.47 (2).

11 **SECTION 3.** 6.86 (3) (a) 1. of the statutes, as affected by 2011 Wisconsin Act 23,
12 is amended to read:

13 6.86 (3) (a) 1. Any elector who is registered and who is hospitalized, may apply
14 for and obtain an official ballot by agent. The agent may apply for and obtain a ballot
15 for the hospitalized absent elector by presenting a form prescribed by the board and
16 containing the required information supplied by the hospitalized elector and signed
17 by that elector, unless the elector is unable to sign due to physical disability. In this
18 case, the elector may authorize another elector to sign on his or her behalf. Any
19 elector signing an application on another elector's behalf shall attest to a statement
20 that the application is made on request and by authorization of the named elector,
21 who is unable to sign the application due to physical disability. The agent shall
22 present this statement along with all other information required under this
23 subdivision. Except as authorized for an elector who has a confidential listing under
24 s. 6.47 (2) or as authorized under s. 6.87 (4) (b) 4., the agent shall present any proof
25 of identification required under sub. (1) (ar) ~~and s. 6.87 (4) (b) 1.~~ The form shall

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1 include a space for the municipal clerk or deputy clerk to enter his or her initials
2 indicating that the agent presented proof of identification to the clerk on behalf of the
3 elector.

4 **SECTION 4.** 6.86 (6) of the statutes is created to read:

5 6.86 (6) If an elector mails or personally delivers an absentee ballot to the
6 municipal clerk, the municipal clerk shall not return the ballot to the elector. An
7 elector who mails or personally delivers an absentee ballot to the municipal clerk at
8 an election is not permitted to vote in person at the same election on election day.

9 **SECTION 5.** 6.869 of the statutes, as affected by 2011 Wisconsin Act 23, is
10 amended to read:

11 **6.869 Uniform instructions.** The board shall prescribe uniform instructions
12 for municipalities to provide to absentee electors. The instructions shall include the
13 specific means of electronic communication that an absentee elector may use to file
14 an application for an absentee ballot and, if the absentee elector is required to
15 register, to request a registration form or change his or her registration. The
16 instructions shall include information concerning whether proof of identification is
17 required to be presented or enclosed ~~under s. 6.86 (1) (ar) or 6.87 (4) (b) 1.~~ The
18 instructions shall also include information concerning the procedure for correcting
19 errors in marking a ballot and obtaining a replacement for a spoiled ballot. The
20 procedure shall, to the extent possible, respect the privacy of each elector and
21 preserve the confidentiality of each elector's vote.

22 **SECTION 6.** 6.87 (1) of the statutes, as affected by 2011 Wisconsin Act 23, is
23 amended to read:

24 6.87 (1) Upon proper request made within the period prescribed in s. 6.86, the
25 municipal clerk or a deputy clerk authorized by the municipal clerk shall write on

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1 the official ballot, in the space for official endorsement, the clerk's initials and official
2 title. Unless application is made under ~~s. 6.86 (1) (ae)~~ or in person under s. 6.86 (1)
3 (ar), the absent elector is exempted from providing proof of identification under sub.
4 (4) (b) 2. or 3., or the applicant is a military or overseas elector, the absent elector shall
5 enclose a copy of his or her proof of identification or any authorized substitute
6 document with his or her application. The municipal clerk shall verify that the name
7 on the proof of identification conforms to the name on the application. The clerk shall
8 not issue an absentee ballot to an elector who is required to enclose a copy of proof
9 of identification or an authorized substitute document with his or her application
10 unless the copy is enclosed and the proof is verified by the clerk.

11 **SECTION 7.** 6.87 (4) (b) 1. of the statutes, as affected by 2011 Wisconsin Act 23,
12 is amended to read:

13 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, the elector voting
14 absentee shall make and subscribe to the certification before one witness who is an
15 adult U.S. citizen. The absent elector, in the presence of the witness, shall mark the
16 ballot in a manner that will not disclose how the elector's vote is cast. The elector
17 shall then, still in the presence of the witness, fold the ballots so each is separate and
18 so that the elector conceals the markings thereon and deposit them in the proper
19 envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the
20 ballot so that the elector conceals the markings thereon and deposit the ballot in the
21 proper envelope. ~~Except as authorized in subds. 2. and 5. and s. 6.875 (6) and~~
22 ~~notwithstanding s. 343.43 (1) (f), if the elector has not enclosed a copy of his or her~~
23 ~~proof of identification with his or her application, the elector shall enclose a copy of~~
24 ~~the proof of identification in the manner provided in sub. (1) in the envelope, unless~~
25 ~~the elector is a military elector or an overseas elector or the elector has a confidential~~

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1 ~~listing under s. 6.47 (2).~~ If proof of residence under s. 6.34 is required and the
2 document enclosed by the elector under this subdivision does not constitute proof of
3 residence under s. 6.34, the elector shall also enclose proof of residence under s. 6.34
4 in the envelope. Proof of residence is required if the elector is not a military elector
5 or an overseas elector and the elector registered by mail and has not voted in an
6 election in this state. If the elector requested a ballot by means of facsimile
7 transmission or electronic mail under s. 6.86 (1) (ac), the elector shall enclose in the
8 envelope a copy of the request which bears an original signature of the elector. The
9 elector may receive assistance under sub. (5). The return envelope shall then be
10 sealed. The witness may not be a candidate. The envelope shall be mailed by the
11 elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.
12 If the envelope is mailed from a location outside the United States, the elector shall
13 affix sufficient postage unless the ballot qualifies for delivery free of postage under
14 federal law. Failure to return an unused ballot in a primary does not invalidate the
15 ballot on which the elector's votes are cast. Return of more than one marked ballot
16 in a primary or return of a ballot prepared under s. 5.655 or a ballot used with an
17 electronic voting system in a primary which is marked for candidates of more than
18 one party invalidates all votes cast by the elector for candidates in the primary.

19 **SECTION 8.** 6.87 (4) (b) 2. of the statutes, as created by 2011 Wisconsin Act 23,
20 is amended to read:

21 6.87 (4) (b) 2. Unless subd. 3. applies, if the absentee elector has applied for and
22 qualified to receive absentee ballots automatically under s. 6.86 (2) (a), the elector
23 may, in lieu of providing ~~a copy of~~ proof of identification as required under subd. 1.,
24 submit with his or her absentee ballot a statement signed by the same individual who

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1 witnesses voting of the ballot which contains the name and address of the elector and
2 verifies that the name and address are correct.

3 **SECTION 9.** 6.87 (4) (b) 3. of the statutes, as created by 2011 Wisconsin Act 23,
4 is amended to read:

5 6.87 (4) (b) 3. If the absentee elector has received an absentee ballot from the
6 municipal clerk by mail for a previous election, has provided ~~a copy of~~ proof of
7 identification ~~as required under subd. 1.~~ with that ballot, and has not changed his
8 or her name or address since providing that proof of identification, the elector is not
9 required to provide ~~a copy of the~~ proof of identification ~~required under subd. 1.~~

10 **SECTION 10.** 6.87 (4) (b) 5. of the statutes, as created by 2011 Wisconsin Act 23,
11 is amended to read:

12 6.87 (4) (b) 5. Unless subd. 3. or 4. applies, if the absentee elector resides in a
13 qualified retirement home, as defined in s. 6.875 (1) (at), a qualified
14 community-based residential facility, as defined in s. 6.875 (1) (as), a residential care
15 apartment complex that is certified or registered under s. 50.034 (1), or an adult
16 family home that is certified under s. 50.032 or licensed under s. 50.033 and the
17 municipal clerk or board of election commissioners of the municipality where the
18 complex, facility, or home is located does not send special voting deputies to visit the
19 complex, facility, or home at the election under s. 6.875, the elector may, in lieu of
20 providing proof of identification ~~required under subd. 1.~~, submit with his or her
21 absentee ballot a statement signed by the same individual who witnesses voting of
22 the ballot that contains the certification of an authorized representative of the
23 complex, facility, or home that the elector resides in the complex, facility, or home and
24 the complex, facility, or home is certified or registered as required by law, that

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1 contains the name and address of the elector, and that verifies that the name and
2 address are correct.

3 **SECTION 11.** 6.87 (9) of the statutes is repealed.

4 **SECTION 12.** 6.88 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 23,
5 is amended to read:

6 6.88 (3) (a) Except in municipalities where absentee ballots are canvassed
7 under s. 7.52, at any time between the opening and closing of the polls on election day,
8 the inspectors shall, in the same room where votes are being cast, in such a manner
9 that members of the public can hear and see the procedures, open the carrier
10 envelope only, and announce the name of the absent elector or the identification
11 serial number of the absent elector if the elector has a confidential listing under s.
12 6.47 (2). When the inspectors find that the certification has been properly executed,
13 the applicant is a qualified elector of the ward or election district, and the applicant
14 has not voted in the election, they shall enter an indication on the poll list next to the
15 applicant's name indicating an absentee ballot is cast by the elector. They shall then
16 open the envelope containing the ballot in a manner so as not to deface or destroy the
17 certification thereon. The inspectors shall take out the ballot without unfolding it
18 or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95,
19 the inspectors shall verify that the ballot has been endorsed by the issuing clerk. If
20 the poll list indicates that proof of residence under s. 6.34 is required and no proof
21 of residence is enclosed or the name or address on the document that is provided is
22 not the same as the name and address shown on the poll list, ~~or if the elector is not~~
23 ~~a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s.~~
24 ~~6.34 (1) (b), and the elector is required to provide a copy of proof of identification~~
25 ~~under s. 6.87 (4) (b) 1. and no copy of the proof of identification is enclosed or the name~~

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1 on the document cannot be verified by the inspectors, the inspectors shall proceed as
2 provided under s. 6.97 (2). The inspectors shall then deposit the ballot into the proper
3 ballot box and enter the absent elector's name or voting number after his or her name
4 on the poll list in the same manner as if the elector had been present and voted in
5 person.

6 **SECTION 13.** 6.97 (2) of the statutes, as affected by 2011 Wisconsin Act 23, is
7 amended to read:

8 6.97 (2) Whenever any individual who votes by absentee ballot is required to
9 provide proof of residence in order to be permitted to vote and does not provide the
10 required proof of residence under s. 6.34, the inspectors shall treat the ballot as a
11 provisional ballot under this section. ~~Whenever any individual, other than a military~~
12 ~~elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b),~~
13 ~~an individual who has a confidential listing under s. 6.47 (2), or an individual who~~
14 ~~is exempted under s. 6.87 (4) or s. 6.875 (6), votes by absentee ballot and does not~~
15 ~~enclose a copy of the proof of identification under s. 6.87 (4) (b) 1., the inspectors shall~~
16 ~~similarly treat the ballot as a provisional ballot under this section.~~ Upon removing
17 the ballot from the envelope, the inspectors shall write on the back of the ballot the
18 serial number of the individual corresponding to the number kept at the election on
19 the poll list or other list maintained under s. 6.79 and the notation "s. 6.97". The
20 inspectors shall indicate on the list the fact that the individual is required to provide
21 proof of residence or to provide, or provide a copy of, proof of identification as required
22 under s. 6.87 (4) (b) 1. but did not do so. The inspectors shall promptly notify the
23 municipal clerk or executive director of the municipal board of election
24 commissioners of the name, address, and serial number of the individual. The
25 inspectors shall then place the ballot inside an envelope on which the name and

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1 serial number of the elector is entered and shall place the envelope in a separate
2 carrier envelope.

3 **SECTION 14.** 6.97 (3) of the statutes, as affected by 2011 Wisconsin Act 23, is
4 amended to read:

5 6.97 (3) (a) Whenever an elector who votes by provisional ballot under sub. (1)
6 or (2) because the elector does not provide proof of identification ~~or a copy thereof~~
7 under s. 6.79 (2), or 6.86 (1) (ar), ~~or s. 6.87 (4) (b) 1.~~ later appears at the polling place
8 where the ballot is cast before the closing hour and provides the proof of identification
9 ~~or a copy thereof~~, the inspectors shall remove the elector's ballot from the separate
10 carrier envelope, shall note on the poll list that the elector's provisional ballot is
11 withdrawn, and shall deposit the elector's ballot in the ballot box. If the inspectors
12 have notified the municipal clerk or executive director of the board of election
13 commissioners that the elector's ballot was cast under this section, the inspectors
14 shall notify the clerk or executive director that the elector's provisional ballot is
15 withdrawn.

16 (b) Whenever the municipal clerk or executive director of the municipal board
17 of election commissioners is informed by the inspectors that a ballot has been cast
18 under this section, the clerk or executive director shall promptly provide written
19 notice to the board of canvassers of each municipality, special purpose district, and
20 county that is responsible for canvassing the election of the number of ballots cast
21 under this section in each ward or election district. The municipal clerk or executive
22 director then shall determine whether each individual voting under this section is
23 qualified to vote in the ward or election district where the individual's ballot is cast.
24 If the elector is required to provide proof of identification ~~or a copy thereof~~ under s.
25 6.79 (2), or 6.86 (1) (ar), ~~or 6.87 (4) (b) 1.~~ and fails to do so, the elector bears the burden

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1 of correcting the omission by providing the proof of identification ~~or copy thereof~~ at
2 the polling place before the closing hour or at the office of the municipal clerk or board
3 of election commissioners no later than 4 p.m. on the Friday after the election. The
4 municipal clerk or executive director shall make a record of the procedure used to
5 determine the validity of each ballot cast under this section. If, prior to 4 p.m. on the
6 Friday after the election, the municipal clerk or executive director determines that
7 the individual is qualified to vote in the ward or election district where the
8 individual's ballot is cast, the municipal clerk or executive director shall notify the
9 board of canvassers for each municipality, special purpose district and county that
10 is responsible for canvassing the election of that fact.

11 (c) A ballot cast under this section by an elector for whom proof of identification
12 ~~or a copy thereof~~ is required under s. 6.79 (2), or 6.86 (1) (ar), ~~or 6.87 (4)(b) 1.~~ shall
13 not be counted unless the municipal clerk or executive director of the board of
14 election commissioners provides timely notification that the elector has provided
15 proof of identification ~~or a copy thereof~~ under this section.

16 **SECTION 15.** 7.08 (12) of the statutes, as created by 2011 Wisconsin Act 23, is
17 amended to read:

18 7.08 (12) ASSISTANCE IN OBTAINING PROOF OF IDENTIFICATION. Engage in outreach
19 to identify and contact groups of electors who may need assistance in obtaining or
20 renewing a document that constitutes proof of identification for voting ~~under s. 6.79~~
21 ~~(2) (a), 6.86 (1) (ar), or 6.87 (4) (b) 1.,~~ and provide assistance to the electors in
22 obtaining or renewing that document.

23 **SECTION 16.** 7.52 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 23,
24 is amended to read:

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1 7.52 (3) (a) The board of absentee ballot canvassers shall first open the carrier
2 envelope only, and, in such a manner that a member of the public, if he or she desired,
3 could hear, announce the name of the absent elector or the identification serial
4 number of the absent elector if the elector has a confidential listing under s. 6.47 (2).
5 When the board of absentee ballot canvassers finds that the certification has been
6 properly executed and the applicant is a qualified elector of the ward or election
7 district, the board of absentee ballot canvassers shall enter an indication on the poll
8 list next to the applicant's name indicating an absentee ballot is cast by the elector.
9 The board of absentee ballot canvassers shall then open the envelope containing the
10 ballot in a manner so as not to deface or destroy the certification thereon. The board
11 of absentee ballot canvassers shall take out the ballot without unfolding it or
12 permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the
13 board of absentee ballot canvassers shall verify that the ballot has been endorsed by
14 the issuing clerk. If the poll list indicates that proof of residence is required and no
15 proof of residence is enclosed or the name or address on the document that is provided
16 is not the same as the name and address shown on the poll list, ~~or if the elector is not~~
17 ~~a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s.~~
18 ~~6.34 (1) (b), and the elector is required to provide, or to provide a copy of, proof of~~
19 ~~identification under s. 6.87 (4) (b) 1. and no copy of the proof of identification is~~
20 ~~enclosed or the name on the document cannot be verified by the canvassers, the board~~
21 of absentee ballot canvassers shall proceed as provided under s. 6.97 (2). The board
22 of absentee ballot canvassers shall mark the poll list number of each elector who
23 casts an absentee ballot on the back of the elector's ballot. The board of absentee
24 ballot canvassers shall then deposit the ballot into the proper ballot box and enter
25 the absent elector's name or poll list number after his or her name on the poll list.

ASSEMBLY BILL 525**1 SECTION 17. Initial applicability.**

2 (1) The treatment of sections 6.18, 6.86 (1) (ac) and (3) (a) 1., 6.869, 6.87 (1) and
3 (4) (b) 1., 2., 3., and 5., 6.88 (3) (a), 6.97 (2) and (3), 7.08 (12), and 7.52 (3) (a) of the
4 statutes first applies with respect to absentee ballot applications filed on the effective
5 date of this subsection.”.

6 (END)