

No. 251, A.]

[Published July 28, 1961.

**CHAPTER 301**

AN ACT to amend 11.55, 11.57, 11.58, 11.59, 11.62, 11.63 and 11.67 of the statutes, relating to applications for ballots, delivery of ballot blank, form of envelope for ballot, execution of affidavit, deposit of ballot in ballot box, challenge of mail vote and providing penalties.

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

SECTION 1. 11.55 of the statutes is amended to read:

11.55 Any elector, as defined in s. 11.54 may, not more than 60 nor less than 3 days, or if application is made in person not later than during

the regular office hours of the day, prior to such primary or election, make application for an official ballot either: (a) to the county clerk of such county, or to the clerk of his city, village or town, or the secretary of the board of election commissioners under s. 11.66, in the case of any state, congressional, or county primary or election, (b) to the clerk of his city, village or town, or said secretary under s. 11.66, in case of any local primary or election, \* \* \* (c) to the clerk of any school district or any other municipal or quasi-corporation in case of any such primary or election, or (d) to the clerk of any school district which elects officers under s. 40.27, during regular office hours or such other hours as such offices are open to transact business.

SECTION 2. 11.57, 11.58 and 11.59 of the statutes are amended to read:

11.57 Upon receipt of such request not less than 3 days prior to such election, such clerk or such secretary under s. 11.66, or his deputy or deputies, or duly authorized representative, shall write on the back and on the outside of the official ballot in the space for the official indorsement of the ballot clerk, his initials or name and his official title and shall mail to the applicant, postage prepaid, said official ballot or ballots if more than one are to be voted at said election, or such officer or such secretary or duly authorized representative, shall deliver said ballot or ballots to the applicant personally at the office of the clerk, or of the city board of election commissioners under s. 10.02 (4), not less than one secular day before said election. Any such ballot not mailed or delivered personally as herein stated shall not be counted.

11.58 (1) Such clerk, or secretary under s. 11.66 or duly authorized representative, shall enclose such ballot or ballots in an envelope unsealed to be furnished by him, which envelope shall bear upon the face thereof the name, official title and post-office address of such clerk, and upon the other side a printed affidavit in substantially the following form:

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } SS.

I, \_\_\_\_\_, do solemnly swear that I am a resident of the \_\_\_\_\_ precinct of the (town) (village) of \_\_\_\_\_ or of the \_\_\_\_\_ ward in the city of \_\_\_\_\_, residing at \_\_\_\_\_ in said city, and the county of \_\_\_\_\_ and state of Wisconsin, and am entitled to vote in such precinct at the election to be held on \_\_\_\_\_. That I cannot appear at the polling place in said precinct on the day of said election because \* \* \* I expect to be absent from the city, town or village \* \* \* or because of sickness \* \* \* or physical disability \* \* \* or religious reasons \* \* \*. I further swear that I marked the enclosed ballot in secret, except where assistance was requested by me in such voting as provided in section 11.58, Wisconsin Statutes.

Signed \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_, and I hereby certify that the affiant exhibited the enclosed ballot to me unmarked; that he then in my presence and in the presence of no other person, and in such manner that I could not see his vote, marked such ballot and enclosed and sealed the same in this envelope, except where assistance was requested in such voting as provided in section 11.58, Wisconsin Statutes; that the affiant was not solicited or advised by me to vote for or against any candidate or measure.

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(2) *In the event an officer authorized by law to administer oaths is requested by a voter who is unable to read, or who by reason of physical disability is unable to mark his ballot, to assist in such voting, such officer may so assist such voter; such officer shall sign his name to a certification on the back of each such ballot similar in form to that provided in s. 6.23 (14).*

11.59 Such absent or sick or disabled voter shall make and subscribe to the affidavit provided for in s. 11.58 before the clerk to whom the ballot is returned, before any other officer authorized by law to administer oaths or before any master of a vessel plying the Great Lakes, and such voter shall thereupon in the presence of such officer and of no other person, mark such ballot or ballots, but in such manner that such officer cannot know how such ballot is marked, and such ballot or ballots shall then in the presence of such officer be folded by such voter so that each ballot will be separate and so as to conceal the marking, and be, in the presence of such officer, deposited in such envelope, *except as provided in s. 11.58*. The unused ballot or ballots shall be placed in the envelope provided for unused ballots and deposited with the voted ballot in the return envelope, which shall then be sealed. Said envelope shall be mailed by such voter, postage prepaid, to the officer issuing the ballot, or if more convenient it may be delivered in person.

SECTION 3. 11.62 and 11.63 of the statutes are amended to read:

11.62 At any time between the opening and closing of the polls on such election day the inspectors of election of said precinct shall open the outer or carrier envelope only, and announce the absent \* \* \* voter's name. In case the inspectors find the affidavit executed, that the applicant is a duly qualified elector of the precinct and that the applicant has not voted in person at said election, they shall open the envelope containing such voter's ballot in such manner as not to deface or destroy the affidavit thereon and take out the ballot or ballots therein contained without unfolding or permitting the same to be unfolded or examined and, after verification that the ballot has been indorsed by the issuing county, town, city \* \* \* ; village clerk, or the secretary under s. 11.66, deposit the same in the proper ballot box or boxes and enter the absent \* \* \* voter's name \* \* \* or voting number after his name on the poll book or list, the same as if he had been present and voted in person. In case such affidavit is found to be insufficient, or that the applicant is not a duly qualified elector in such precinct, or that the ballot envelope is open, or has been opened and resealed, or that the ballot envelope contains more than one ballot of any one kind, \* \* \* or if the ballot does not contain the name or initials of the clerk of the issuing town, city, village or county, or the secretary under s. 11.66, such vote shall not be accepted or counted. Every ballot not counted shall be indorsed on the back thereof "rejected" (giving reason therefor). \* \* \* Each rejected \* \* \* ballot shall be reinserted in the affidavit envelope in which it was originally delivered and such affidavit envelopes and ballots shall be enclosed and securely sealed in an envelope clearly marked for rejected absentee ballots on which the inspectors shall indorse "defective ballots" with a statement of the precinct in which and the date of the election at which they were cast, signed by the inspectors and returned to the same officer and in the same manner as by law provided for the return and preservation of official ballots voted at such election. All absentee affidavit envelopes which have been opened and ballots deposited in the ballot boxes must also be returned in a carrier envelope which is clearly marked "used absentee affidavit envelopes" and shall be returned to the officer who issued such absentee ballots.

11.63 The vote of any absent \* \* \* voter may be challenged for cause and the inspectors of election shall have all the power and authority given

by law to hear and determine the legality of such ballot as if the ballot were cast by the voter in person.

SECTION 4. 11.67 of the statutes is amended to read:

11.67 If any person \* \* \* wilfully \* \* \* *swears* falsely to any such affidavit he shall be guilty of perjury and shall upon conviction thereof be punished as *provided by law* in such cases \* \* \*. If any person who, having procured an official ballot or ballots as heretofore provided, \* \* \* wilfully \* \* \* *neglects or refuses* to cast or return same \* \* \* *as* heretofore provided, or \* \* \* wilfully \* \* \* *violates* any provision of ss. 11.54 to 11.67, \* \* \* he shall be \* \* \* *finned* not to exceed \$100, or \* \* \* *imprisoned* in the county jail not to exceed 30 days. If any county, city, village or town clerk or any election officer \* \* \* *wilfully refuses or neglects* to perform any of the duties prescribed by said sections, or \* \* \* *violates* any of the provisions thereof, he shall \* \* \* *be finned* not less than \$100 nor more than \$1,000, or \* \* \* *imprisoned* not to exceed 90 days.

Approved July 21, 1961.

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