

State of Wisconsin



2013 Assembly Bill 396

Date of enactment: **March 27, 2014**

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2013 WISCONSIN ACT 159

AN ACT to repeal 6.875 (1) (as), 6.875 (2) (b) and 6.875 (2) (d); to renumber 6.875 (1) (a); to renumber and amend 6.875 (1) (ap) and 6.875 (3); to amend 6.87 (4) (b) 5., 6.875 (title), 6.875 (1) (asm), 6.875 (2) (a), 6.875 (4) (a), 6.875 (4) (b), (6) and (7), 12.03 (2) (b) 3. and 12.13 (2) (b) 6m.; and to create 6.875 (1) (bm), 6.875 (1) (d), 6.875 (3) (b), 6.875 (4) (am) and 6.875 (4) (ar) and (at) of the statutes; relating to: absentee voting at residential care facilities.

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

SECTION 1. 6.87 (4) (b) 5. of the statutes is amended to read:

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

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

SECTION 2. 6.875 (title) of the statutes is amended to read:

6.875 (title) Absentee voting in certain homes, residential care facilities, and complexes retirement homes.

SECTION 3. 6.875 (1) (a) of the statutes is renumbered 6.875 (1) (ae).

SECTION 4. 6.875 (1) (ap) of the statutes is renumbered 6.875 (1) (ab) and amended to read:

6.875 (1) (ab) “~~Qualified adult~~ **Adult** family home” means a facility that is certified or licensed to operate as an adult family home under s. 50.032 or 50.033 ~~that qualifies under sub. (2) (d) to utilize the procedures under this section.~~

SECTION 5. 6.875 (1) (as) of the statutes is repealed.

SECTION 6. 6.875 (1) (asm) of the statutes is amended to read:

6.875 (1) (asm) “~~Qualified residential~~ **Residential** care apartment complex” means a facility that is certified or registered to operate as a residential care apartment complex under s. 50.034 (1) ~~that qualifies under sub. (2) (d) to utilize the procedures under this section.~~

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

SECTION 7. 6.875 (1) (bm) of the statutes is created to read:

6.875 (1) (bm) "Residential care facility" means an adult family home, community-based residential facility, nursing home, or residential care apartment complex.

SECTION 8. 6.875 (1) (d) of the statutes is created to read:

6.875 (1) (d) "Working day" has the meaning given in s. 227.01 (14).

SECTION 9. 6.875 (2) (a) of the statutes is amended to read:

6.875 (2) (a) The Absentee voting in person inside residential care facilities and qualified retirement homes shall be conducted by municipalities only in the manner prescribed in this section. At any residential care facility or qualified retirement home where a municipality dispatches special voting deputies to conduct absentee voting in person under this section, the procedures prescribed in this section are the exclusive means of absentee voting in person inside that facility or home for electors who are occupants of nursing homes, qualified community-based residential facilities, qualified retirement homes, qualified residential care apartment complexes, and qualified adult family homes the facility or home.

SECTION 10. 6.875 (2) (b) of the statutes is repealed.

SECTION 11. 6.875 (2) (d) of the statutes is repealed.

SECTION 12. 6.875 (3) of the statutes is renumbered 6.875 (3) (a) and amended to read:

6.875 (3) (a) An occupant of a ~~nursing home or qualified retirement home, qualified community-based residential facility, qualified residential care apartment complex, or qualified adult family home or residential care facility~~ who qualifies as an absent elector and desires to receive an absentee ballot shall make application under s. 6.86 (1), (2), or (2m) with the municipal clerk or board of election commissioners of the municipality in which the elector is a resident. The Except as provided in sub. (4) (ar), the clerk or board of election commissioners of a municipality receiving an application from an elector who is an occupant of a ~~nursing home or qualified retirement home, qualified community-based residential facility, qualified residential care apartment complex, or qualified adult family home or residential care facility~~ located in a different municipality shall, as soon as possible, notify and send an absentee ballot for the elector to the clerk or board of election commissioners of the municipality in which the home, or facility, or complex is located. The Except as provided in sub. (4) (ar), the clerk or board of election commissioners of a municipality receiving an application from an elector who is an occupant of a ~~nursing home or qualified retirement home, qualified community-based residential facility, qualified residential care apartment complex, or qualified adult family home or residential care facility~~ located in the municipality but who is a resident of a different municipality shall, as soon as possible, notify and request an

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

SECTION 13. 6.875 (3) (b) of the statutes is created to read:

6.875 (3) (b) An occupant of a retirement home may vote in person at the polling place serving his or her residence or may apply for and cast an absentee ballot at the election in the same manner as provided for other electors of the municipality where he or she resides. If a retirement home that is not a qualified retirement home is located within a municipality on the same grounds as one or more residential care facilities to which the municipal clerk or board of election commissioners of the municipality dispatches special voting deputies to conduct voting at an election, the municipal clerk or board of election commissioners shall obtain from the management of the retirement home the names and addresses of the occupants of the home. The municipal clerk or board of election commissioners shall then provide the names and addresses to the special voting deputies to verify which residents are eligible to cast their ballots with the special voting deputies.

SECTION 14. 6.875 (4) (a) of the statutes is amended to read:

6.875 (4) (a) For the purpose of absentee voting in ~~nursing homes, qualified retirement homes, qualified community-based residential facilities, qualified residential care apartment complexes, and qualified adult family homes~~ and residential care facilities, the municipal clerk or board of election commissioners of each municipality in which one or more ~~nursing homes, qualified retirement homes, qualified community-based residential facilities, qualified residential care apartment complexes, or qualified adult family homes~~ or residential care facilities are located shall appoint at least 2 special voting deputies for the municipality. Upon ~~Except as provided in par. (am), upon~~ application under s. 6.86 (1), (2), or (2m) by one or more qualified electors who are occupants of a home, or facility, or complex, the municipal clerk or board of election commissioners of the municipality in which the home, or facility, or complex is located shall dispatch 2 special voting deputies to visit the home, or facility, or complex for the purpose of supervising absentee voting procedure by occupants of the home, or facility, or complex. The clerk or board of election commissioners shall maintain a list, available to the public upon request, of each home, or facility, or complex where an elector has requested an absentee ballot special voting deputies are dispatched. The list shall include the date and time the deputies intend to visit each home, or facility, or complex. The 2 deputies designated to visit each ~~nursing home, qualified retirement home, qualified community-based residential facility, qualified residen-~~

tial care apartment complex, and qualified adult family home and residential care facility shall be affiliated with different political parties whenever deputies representing different parties are available.

SECTION 15. 6.875 (4) (am) of the statutes is created to read:

6.875 (4) (am) The municipal clerk or board of election commissioners of a municipality need not dispatch special voting deputies to visit any residential care facility unless there are at least 5 registered electors of the municipality who are occupants of the facility.

SECTION 16. 6.875 (4) (ar) and (at) of the statutes are created to read:

6.875 (4) (ar) As an alternative to absentee voting inside a residential care facility or qualified retirement home, an elector who is an occupant of the facility or home may:

1. Vote in person at the polling place serving his or her residence under s. 6.79 (2) or in person at the office of the municipal clerk or board of election commissioners of the municipality where he or she resides under s. 6.86 (1) (a) 2.; or

2. If the elector maintains a residence outside the facility or home, vote by applying for and casting an absentee ballot by mail under s. 6.86 (1) (a) 1. at that residence.

(at) Except as provided in par. (ar), if a qualified elector of a municipality who is an occupant of a residential care facility or qualified retirement home in that municipality requests an absentee ballot for an election and the municipal clerk or board of election commissioners dispatches special voting deputies to that facility or home, the clerk or board of election commissioners shall give the absentee ballot to the special voting deputies who shall personally deliver the ballot to the elector at the time of their visit if they have not finished visiting the facility or home when the request is received.

SECTION 17. 6.875 (4) (b), (6) and (7) of the statutes are amended to read:

6.875 (4) (b) Nominations for the special voting deputy positions described in par. (a) may be submitted by the 2 recognized political parties whose candidates for governor or president received the greatest numbers of votes in the municipality at the most recent general election. The deputies shall be specially appointed to carry out the duties under par. (a) for the period specified in s. 7.30 (6) (a). The clerk or board of election commissioners may revoke an appointment at any time. No individual who is employed or retained, or within the 2 years preceding appointment has been employed or retained, at a nursing home, qualified retirement home, ~~qualified community-based residential facility, qualified residential care apartment complex, or qualified adult family home~~ or residential care facility in the municipality, or any member of the individual's immediate family, as defined in s. 19.42 (7), may be appointed to serve as a deputy.

(6) (a) Special voting deputies in each municipality shall, not later than 5 p.m. on the ~~Friday 6th working day~~ preceding an election, arrange one or more convenient times with the administrator of each ~~nursing home, qualified retirement home, qualified community-based residential facility, qualified residential care apartment complex, and qualified adult family home and residential care facility~~ in the municipality from which one or more occupants have filed an application under s. 6.86 to conduct absentee voting for the election ~~that the deputies are scheduled to visit~~. The time may be no earlier than the 4th Monday preceding the election and no later than 5 p.m. on the Monday preceding the election. ~~The municipal clerk shall give notice of each visit by special voting deputies to a qualified retirement home or residential care facility in the same manner that notices of public meetings are provided by presiding officers under s. 19.84 (1) (b) at least 5 working days in advance of each visit, indicating the date and time of the visit.~~ The municipal clerk also shall post a notice at the home, or facility, or complex and on the Internet indicating the date and time that absentee voting will take place at that home, or facility, or complex. The notice shall be posted as soon as practicable after arranging the visit but in no case less than ~~24 hours~~ 5 working days before the visit. A municipal clerk whose municipality does not maintain an Internet site need not comply with the Internet posting requirement. At the designated time, 2 deputies appointed under sub. (4) shall visit the home, or facility, or complex.

(b) The municipal clerk or executive director of the board of election commissioners shall issue a supply of absentee ballots to the deputies sufficient to provide for the number of valid applications for an absentee ballot received by the clerk, and a reasonable additional number of ballots. The deputies may exercise the authority granted to the chief inspector under s. 7.41 to regulate the conduct of observers. For purposes of the application of s. 7.41, the home, or facility, or complex shall be treated as a polling place. The municipal clerk or executive director shall keep a careful record of all ballots issued to the deputies and shall require the deputies to return every ballot issued to them.

(c) 1. Upon their visit to the home, or facility, or complex under par. (a), the deputies shall personally offer each elector who has filed a proper application for an absentee ballot the opportunity to cast his or her absentee ballot. In lieu of providing a copy of proof of identification under s. 6.87 (4) (b) 1. with his or her absentee ballot, the elector may submit with his or her ballot a statement signed by both deputies that contains the name and address of the elector and verifies that the name and address are correct. The deputies shall enclose the statement in the certificate envelope. If an elector presents proof of identification under s. 6.87 (4) (b) 1., the deputies shall make a copy of the document presented by the elector and shall enclose the copy in the certificate envelope.

lope. If an elector is present who has not filed a proper application for an absentee ballot, the 2 deputies may accept an application from the elector and shall issue a ballot to the elector if the elector is qualified, the elector presents proof of identification, whenever required, or submits a statement containing his or her name and address under this subdivision, and the application is proper. The deputies shall each witness the certification and may, upon request of the elector, assist the elector in marking the elector's ballot. The deputies shall not accept an absentee ballot submitted by an elector whose ballot was not issued to the elector by the deputies. All voting shall be conducted in the presence of the deputies. Upon request of the elector, a relative of the elector who is present in the room may assist the elector in marking the elector's ballot. No individual other than a deputy may witness the certification and no individual other than a deputy or relative of an elector may render voting assistance to the elector.

2. Upon the request of a relative of an occupant of a ~~nursing home, qualified retirement home, qualified community-based residential facility, qualified residential care apartment complex, or qualified adult family home~~ or residential care facility, the administrator of the home, ~~or facility, or complex~~ may notify the relative of the time or times at which special voting deputies will conduct absentee voting at the home, ~~or facility, or complex~~ and permit the relative to be present in the room where the voting is conducted.

(d) Upon completion of the voting on each day at each residential care facility or qualified retirement home, the deputies shall promptly seal the absentee ballot envelopes and any absentee ballot applications inside a carrier envelope and shall seal the carrier envelope and sign their names to the seal. The deputies shall place the envelope inside a ballot bag or container. As soon as possible after visiting each residential care facility or retirement home, but not later than 18 hours after the visit, the deputies shall deliver, either personally or by 1st class mail, any absentee ballot applications and the sealed certificate envelope containing each ballot the ballot bag or container to the clerk or board of election commissioners of the municipality in which the elector casting the ballot resides, ~~within such time as will permit delivery to the~~

~~polling place serving the elector's residence on election day. Personal delivery may be made by the deputies no later than noon on election day.~~

(e) If a qualified elector is not able to cast his or her ballot on 2 separate visits by the deputies to the home, ~~or facility, or complex~~, the deputies shall so inform the municipal clerk or executive director of the board of election commissioners, who may then send the ballot to the elector no later than 5 p.m. on the Friday preceding the election.

(7) One observer from each of the 2 recognized political parties whose candidate for governor or president received the greatest number of votes in the municipality at the most recent general election may accompany the deputies to each home, ~~or facility, or complex~~ where absentee voting will take place under this section. The observers may observe the process of absentee ballot distribution in the common areas of the home, ~~or facility, or complex~~. Each party wishing to have an observer present shall submit the name of the observer to the clerk or board of election commissioners no later than the close of business on the last business day prior to the visit.

SECTION 18. 12.03 (2) (b) 3. of the statutes is amended to read:

12.03 (2) (b) 3. No person may engage in electioneering within 100 feet of an entrance to or within a ~~nursing home, qualified retirement home, qualified community-based residential facility, qualified residential care apartment complex, or qualified adult family home~~ or residential care facility while special voting deputies are present at the home or facility under s. 6.875 (6).

SECTION 19. 12.13 (2) (b) 6m. of the statutes is amended to read:

12.13 (2) (b) 6m. Obtain an absentee ballot for voting in a ~~nursing home or qualified retirement home, qualified community-based residential facility, qualified residential care apartment complex, or qualified adult family home~~ or residential care facility under s. 6.875 (6) and fail to return the ballot to the issuing officer.

SECTION 20. Initial applicability.

(1) This act first applies with respect to elections held after the effective date of this subsection.

SECTION 21m. Effective date.

(1) This act takes effect on May 1, 2014.