

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3312/1dn
RJM:cmh:km

September 8, 1999

1. This bill raises two issues with respect to absentee voting by overseas and military electors. Currently, overseas electors may only vote in elections for national office, including the September primary, whereas military electors may vote in any election. Under ss. 6.22 and 6.24, stats., these electors may receive standard absentee ballots listing the names of the candidates for each office for which these electors are allowed to vote. In addition, because overseas and military electors may not receive these standard absentee ballots in time to vote in the applicable election, under s. 6.25, stats., these electors may also receive write-in absentee ballots that list only the offices for which the electors may vote at the upcoming election. Because write-in absentee ballots do not list any candidates, they can be mailed to overseas and military electors earlier than standard absentee ballots and, thus, can more easily be returned on time.

With certain exceptions, federal law requires states to allow overseas and military electors to cast their votes for candidates for national office by using federal write-in absentee ballots. Federal write-in absentee ballots allow overseas and military electors either to write in a candidate or to write in the political party whose eventual candidate the electors choose. See 42 USC 1973ff-2 (c) (1) and s. 6.25 (1), stats. In addition, under s. 6.25 (2) and (3), stats., this state permits overseas and military electors to use a similar state write-in absentee ballot for any applicable election.

This draft does not eliminate the authority for overseas and military electors using a state or federal write-in absentee ballot to write in a political party rather than a candidate. Eliminating this authority would require some overseas and military electors to write in a candidate at a time when the candidates for the election may not be known. In addition, federal approval is required in order to eliminate this authority as it applies to the use of a state or federal write-in absentee ballot in elections for national office. See 42 USC 1973ff-2 (e).

Please let me know if this draft is inconsistent with your intent or if you want to discuss the procedure for obtaining this federal approval.

2. Another option would be to eliminate the state write-in absentee ballot altogether. However, this option is not recommended because, under 42 USC 1973ff-2, overseas electors could continue to use the federal write-in absentee ballot. This change would cause administrative problems if the electors wrote in incorrect or improperly named offices. Furthermore, the electors would still be authorized to write in a political party rather than a candidate.

3. The only purpose for using a separate presidential ballot is to ensure that electors cast separate votes in the presidential election and in state elections. Thus, a separate presidential ballot is unnecessary if straight party ticket voting is eliminated and separate votes are required for each office. This bill eliminates the separate presidential ballot. Please let me know if this treatment is not consistent with your intent.

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