

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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October 2, 2001

This bill is generally the same as 1999 AB-598, except that this bill will first apply to the 2002 general election. Also, some of the technical changes contained in 1999 AB-598 were enacted in 1999 Act 182. Those changes are therefore not included in this bill.

Like 1999 AB-598, this bill raises an issue with respect to absentee voting by overseas and military electors. Currently, overseas electors may vote only 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.

Also, 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 bill 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 us know if this bill is inconsistent with your intent or if you want to discuss the procedure for obtaining this federal approval.

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.

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