

2003 SENATE BILL 76

March 18, 2003 – Introduced by Senators DARLING, STEPP, LEIBHAM, S. FITZGERALD, LAZICH, REYNOLDS, SCHULTZ and COWLES, cosponsored by Representatives LADWIG, JENSEN, SERATTI, LEMAHIEU, J. WOOD, JESKEWITZ, STONE, GUNDERSON, KRAWCZYK, MONTGOMERY, M. LEHMAN, OWENS, VRAKAS, BIES, HAHN, ALBERS, MCCORMICK, GROTHMAN, NASS and OTT. Referred to Committee on Education, Ethics and Elections.

1 **AN ACT** *to renumber and amend* 6.87 (3) (b); and *to amend* 6.22 (2) (b), 6.24
2 (4) (d), 6.87 (2) (form), 6.87 (3) (a), 6.87 (3) (c) and (d) and 6.87 (4) of the statutes;
3 **relating to:** mailing, transmittal, and witnessing of absentee ballots.

Analysis by the Legislative Reference Bureau

Currently, each municipal clerk and board of election commissioners is directed to mail an absentee ballot requested by an elector to the residence of the elector unless the elector specifies a different mailing address. However, no elector may specify that an absentee ballot shall be mailed to the address of a candidate, political party, or other campaign finance registrant. If a clerk or board is reliably informed of a facsimile transmission number or electronic mail address where an eligible elector who has applied for an absentee ballot is able to receive the ballot and there may not be sufficient time before an election to send and receive the ballot through the mail, the clerk or board may transmit the ballot to the elector at the facsimile transmission number or electronic mail address.

This bill provides that a municipal clerk or board of election commissioners may only mail an absentee ballot to the permanent or temporary residence of an absent elector. Under the bill, if a clerk or board transmits an absentee ballot to an elector, the clerk or board may only transmit the ballot to an address located at the permanent or temporary residence of the elector.

Under current law, an elector who votes absentee must complete a certification before a witness indicating that the elector is qualified to vote the absentee ballot and that the elector has voted the absentee ballot in the manner prescribed by law.

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This bill deletes the requirement that an elector voting absentee must complete a certification before one witness and, instead, requires an elector to complete a certification before two witnesses or swear an affidavit before a person who is authorized to administer oaths.

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

1 **SECTION 1.** 6.22 (2) (b) of the statutes is amended to read:

2 6.22 **(2)** (b) Notwithstanding s. 6.87 (4), a military elector shall make and
3 subscribe to the certification under s. 6.87 (2) before ~~a witness who is an adult U.S.~~
4 ~~citizen~~ 2 witnesses who are adult U.S. citizens.

5 **SECTION 2.** 6.24 (4) (d) of the statutes is amended to read:

6 6.24 **(4)** (d) An overseas elector who is not registered may request both a
7 registration form and an absentee ballot at the same time, and the municipal clerk
8 shall send the ballot automatically if the registration form is received within the time
9 prescribed in s. 6.28 (1). The board shall prescribe a special certificate form for the
10 envelope in which the absentee ballot for overseas electors is contained, which shall
11 be substantially similar to that provided under s. 6.87 (2). Notwithstanding s. 6.87
12 (4), an overseas elector shall make and subscribe to the special certificate form before
13 ~~a witness who is an adult U.S. citizen~~ 2 witnesses who are adult U.S. citizens.

14 **SECTION 3.** 6.87 (2) (form) of the statutes is amended to read:

15 6.87 **(2)** (form)

16 [STATE OF ...

17 County of ...]

18 or

19 [(name of foreign country and city or other jurisdictional unit)]

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1 I,, certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false
2 statements, that I am a resident of the [... ward of the] (town) (village) of, or of
3 the aldermanic district in the city of, residing at* in said city, the county
4 of, state of Wisconsin, and am entitled to vote in the (ward) (election district) at
5 the election to be held on; that I am not voting at any other location in this election;
6 that I am unable or unwilling to appear at the polling place in the (ward) (election
7 district) on election day or have changed my residence within the state from one ward
8 or election district to another within 10 days before the election. I certify that I
9 exhibited the enclosed ballot unmarked to the witness (2 witnesses), that I then in
10 (~~his~~) (~~her~~) their presence and in the presence of no other person marked the ballot
11 and enclosed and sealed the same in this envelope in such a manner that no one but
12 myself and any person rendering assistance under s. 6.87 (5), Wis. Stats., if I
13 requested assistance, could know how I voted.

14 Signed

15 Identification serial number, if any:

16 The witness (2 witnesses) shall execute the following:

17 I We, the undersigned witness witnesses, subject to the penalties of s. 12.60 (1)
18 (b), Wis. Stats., for false statements, certify that the above statements are true and
19 the voting procedure was executed as there stated. ~~I am not~~ Neither of us is a
20 candidate for any office on the enclosed ballot (except in the case of an incumbent
21 municipal clerk). I We did not solicit or advise the elector to vote for or against any
22 candidate or measure.

23(Name)

24(Address)

25(Name)

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1 (Address)**

2 * — An elector who provides an identification serial number issued under s.
3 6.47 (3), Wis. Stats., need not provide a street address.

4 ** — If this form is executed before 2 special voting deputies under s. 6.875 (6),
5 Wis. Stats., both deputies shall witness and sign.

6 **SECTION 4.** 6.87 (3) (a) of the statutes is amended to read:

7 6.87 (3) (a) Except as authorized under par. (d) and as otherwise provided in
8 s. 6.875, the municipal clerk shall mail the absentee ballot postage prepaid for return
9 to the elector's permanent or temporary residence ~~unless otherwise of the elector, as~~
10 directed by the elector, or shall deliver it to the elector personally at the clerk's office.

11 **SECTION 5.** 6.87 (3) (b) of the statutes is renumbered 6.87 (3) (e) and amended
12 to read:

13 6.87 (3) (e) ~~No elector may direct that a ballot be sent to the address of a~~
14 ~~candidate, political party or other registrant under s. 11.05 unless the elector~~
15 ~~permanently or temporarily resides at that address.~~ Upon receipt of reliable
16 information that an address given by an elector is not eligible to receive ballots under
17 this paragraph, the municipal clerk shall refrain from sending mailing or
18 transmitting ballots to that address. Whenever possible, the municipal clerk shall
19 notify an elector if his or her ballot cannot be mailed or transmitted to the address
20 directed by the elector.

21 **SECTION 6.** 6.87 (3) (c) and (d) of the statutes are amended to read:

22 6.87 (3) (c) If an elector's ballot is mailed to a location other than the elector's
23 permanent residence, it shall be prepaid for return when mailed within the United
24 States. If the ballot is delivered to the elector at the clerk's office, the ballot shall be
25 voted at the office and may not be removed therefrom.

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1 (d) A municipal clerk of a municipality may, if the clerk is reliably informed by
2 an absent elector of a facsimile transmission number or electronic mail address
3 located at the permanent or temporary residence of the elector where the elector can
4 receive an absentee ballot, transmit a facsimile or electronic copy of the absent
5 elector's ballot to that elector in lieu of mailing under this subsection if, in the
6 judgment of the clerk, the time required to send the ballot through the mail may not
7 be sufficient to enable return of the ballot by the time provided under sub. (6). An
8 elector may receive an absentee ballot under this subsection only if the elector has
9 filed a valid application for the ballot under sub. (1). If the clerk transmits an
10 absentee ballot under this paragraph, the clerk shall also transmit a facsimile or
11 electronic copy of the text of the material that appears on the certificate envelope
12 prescribed in sub. (2), together with instructions prescribed by the board. The
13 instructions shall require the absent elector to make and subscribe to the
14 certification as required under sub. (4) and to enclose the absentee ballot in a
15 separate envelope contained within a larger envelope, that shall include the
16 completed certificate. The elector shall then mail the absentee ballot with postage
17 prepaid to the municipal clerk. An absentee ballot received under this paragraph
18 shall not be counted unless it is transmitted and cast in the manner prescribed in this
19 paragraph and in accordance with the instructions provided by the board.

20 **SECTION 7.** 6.87 (4) of the statutes is amended to read:

21 6.87 (4) Except as otherwise provided in s. 6.875, the elector voting absentee
22 shall make and subscribe to the certification before ~~one witness~~ 2 witnesses. The
23 absent elector, in the presence of the ~~witness~~ 2 witnesses, shall mark the ballot in a
24 manner that will not disclose how the elector's vote is cast. The elector shall then,
25 still in the presence of the ~~witness~~ 2 witnesses, fold the ballots if they are paper

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1 ballots so each is separate and so that the elector conceals the markings thereon and
2 deposit them in the proper envelope. If a consolidated ballot under s. 5.655 is used,
3 the elector shall fold the ballot if it is a paper ballot so that the elector conceals the
4 markings thereon and deposit the ballot in the proper envelope. The elector may
5 receive assistance under sub. (5). The return envelope shall then be sealed. The
6 ~~witness~~ 2 witnesses may not be a candidate. The envelope shall be mailed by the
7 elector, postage prepaid, or delivered in person, to the municipal clerk issuing the
8 ballot or ballots. Failure to return an unused ballot in a primary does not invalidate
9 the ballot on which the elector's votes are cast. Return of more than one marked
10 ballot in a primary or return of a ballot prepared under s. 5.655 or a ballot used with
11 an electronic voting system in a primary which is marked for candidates of more than
12 one party invalidates all votes cast by the elector for candidates in the primary.

SECTION 8. Initial applicability.

14 (1) The treatment of sections 6.22 (2) (b), 6.24 (4) (d) and 6.87 (2) (form) and (4)
15 of the statutes first applies to absentee ballots distributed to electors for the 2004
16 September primary election.

17 (END)