

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB330)

Received: **09/17/2009**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Turner (608) 266-0731**

By/Representing: **Nancy McAdams**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Turner@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

AA to AB-330

Instructions:

Per Kevin Kennedy ltr, 9/16/09.

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|---------------------|------------------------|----------------|------------------------|------------------------|-----------------|
| /? | jkuesel 09/22/2009 | jdyer 09/23/2009 | | _____ | | | |
| /1 | | | rschluet 09/23/2009 | _____ | sbasford 09/23/2009 | sbasford 09/23/2009 | |
| /2 | jkuesel 10/07/2009 | jdyer 10/07/2009 | mduchek 10/07/2009 | _____ | lparisi 10/07/2009 | lparisi 10/07/2009 | |

FE Sent For:

<END>

DNORBT on 2

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|--------------|-----------------------|---------------------|------------------------|----------------|------------------------|------------------------|-----------------|
| 1/2 | jkuesel 09/22/2009 | jdyer 09/23/2009 | | | | | |
| 1/2 | jkuesel 10/7/09 | 10/8 jld | rschluet 09/23/2009 | 10/8 PH | sbasford 09/23/2009 | sbasford 09/23/2009 | |

FE Sent For:

10/8 PH/jk
<END>

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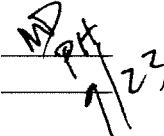
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|--------------|--------------------|-----------------|--|---|------------------|-----------------|-----------------|
| 1/1 | jkuesel 9/24/09 | 19/23jld |  9/23/09 |  1/23 | | | |

FE Sent For:

<END>

Kuesel, Jeffery

To: McAdams, Nancy
Subject: RE: Amendment to 2009 AB 330

Nancy,
I don't have the letter yet. However, I'll put this on my agenda. I'll get back to you if there is any question or problem.

Jeffery Kuesel
Managing Attorney
Wisconsin Legislative Reference Bureau
P.O.Box 2037
Madison WI 53701-2037
(608) 266-6778
jeffery.kuesel@legis.state.wi.us

From: McAdams, Nancy
Sent: Thursday, September 17, 2009 12:08 PM
To: Kuesel, Jeffery
Subject: Amendment to 2009 AB 330

Dear Jeff:

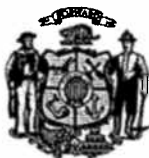
Rep. Turner asked me to contact you and request an amendment to this bill according to the suggestions made by Kevin Kennedy in his 9-16-09 letter (on which you were copied) following the public hearing in the Assembly Committee on Elections and Campaign Reform this week. I'm sure you're busy, but if you could draft the amendment in the next week or two, that would be ideal. If you have any questions or concerns, please let me know.

Sincerely,

Nancy McAdams
Office of State Rep. Robert Turner
223 North Capitol
P.O. Box 8953
Madison, WI 53708-8953
Phone: 608-266-0731
Fax: 608-282-3661

State of Wisconsin\Government Accountability Board

Post Office Box 7984
212 East Washington Avenue, Third Floor
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



KEVIN J. KENNEDY
Director and General Counsel

September 16, 2009

SEP 16 2009

The Honorable Robert Turner
Room 223 North, State Capitol
Madison, WI 53702

Dear Representative Turner,

Thank you for involving me in the drafting of the legislation facilitating voting for military and overseas electors. 2009 Assembly Bill 330. The Government Accountability Board has directed its staff to work with the Legislature to meet this objective. Based on the questions from Committee members at today's hearing, I suggest you consider asking for an amendment that makes the following changes to the legislation:

- Maintain the requirement for an adult witness but eliminate the citizenship requirement.

It was clear from comments at the hearing that there was a consensus for an adult witness on all absentee ballot envelopes. It also appears the legislation in its present form would only help permanent overseas electors who have difficulty finding an adult U. S. citizen to serve as a witness. Citizens temporarily overseas would not be eligible for the use of a ballot without a witness because they are absentee voters but not "overseas electors" as defined by law. In addition, it was clear that Committee members believed a military elector would have ample opportunity to locate an adult witness for their absentee voting.

- Add language to §6.88 (3)(b) clarifying the circumstances under which a certification is insufficient, similar to the language in §9.01(1)(b)2., detailing under what circumstances an absentee ballot envelope should be rejected at a recount. Specifically, the absentee ballot envelope should be rejected, and therefore a certification is insufficient, if it is not signed by the voter or not witnessed. These clarifications of certification insufficiency would be in addition to existing directions contained in §6.88(3)(b) concerning when not to count an absentee ballot at the polling place or absentee ballot counting location, including the voter not being a qualified elector, the envelope being opened, more than one ballot in the envelope, the certificate accompanying an absentee ballot that the voter received by facsimile transmission or electronic mail is missing, or the voter has since died.

I have not suggested a change to address the concern raised by Representatives Ott, Pridemore and Stone that eliminating the language in the absentee certificate defining an absentee voter loosens the current policy in order to encourage absentee voting. I believe the certification by the voter that he or she is eligible to vote absentee simplifies the certificate, making it easier for the voter to understand and keeps the certificate concise. The certificate does not contain a message either promoting or discouraging absentee voting, and simplifying the certificate language would not change the qualification for absentee voting. The voter will request an

absentee ballot based on the current requirement, which is that the voter is unable or unwilling to appear at the polling place on Election Day. Perhaps the LRB explanation can clarify the change does not alter the current policy on who may vote absentee.

I have also not proposed any changes requested by Mr. Malischke concerning privacy of absentee voting in the clerk's office or directing the G.A.B. to add provisions on securing absentee ballots to its voting security rules, GAB Chapter 5. When the privacy issue was presented to the G.A.B., many local election officials said this mandate would be difficult to implement given that absentee voting may occur in the clerk's home or in an older location that lacks sufficient room to provide a private voting area. Increased private voting accommodations for absentee voters may be accomplished by the G.A.B. taking a proactive approach in its training sessions to emphasize the importance of facilitating privacy during the in-person absentee voting process. A statutory mandate may be difficult to enforce and will engender much angst at the local level.

The version of GAB Chapter 5 currently in the rule promulgation process and which will be submitted to the Legislature already includes a general reference to security provisions for handling voted and un-voted ballots. Our staff will recommend some specific provisions for securing absentee voting materials including ballots at all applicable steps, including chain of custody provisions for transfer from the clerk's office to the polling place or absentee vote counting location.

Please let me know if you need any additional information. I can be reached at 608-261-8683 or kevin.kennedy@wi.gov.

Sincerely,



Kevin J. Kennedy
Director and General Counsel
Government Accountability Board

C: Jeff Kuesel, Legislative Reference Bureau



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa0752/7 1

JTK:...

JLD

Wanted THU 9/29

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 330

LPS -
check
components
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At the locations indicated, amend the bill as follows:

1. Page 2, line 1: delete that line and substitute:

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

6.22 (2) (b) A military elector shall make and subscribe to the certification

under s. 6.87 (2) before ~~a~~ an adult witness who is an adult U.S. citizen.

History: 1971 c. 304 s. 29 (2); 1971 c. 336 s. 37; 1973 c. 334 s. 57; 1975 c. 85 ss. 10, 66 (3); 1977 c. 394; 1979 c. 89, 311; 1981 c. 391; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1995 a. 313; 1999 a. 182; 2001 a. 16; 2005 a. 149, 451.

2. Page 2, line 16: delete the material beginning with "An" and ending with

"~~witness~~" on line 17 and substitute "An overseas elector shall make and subscribe to

the special certificate form before ~~a~~ an adult witness".

3. Page 5, line 9: delete "whenever a witness is required".

4. Page 5, line 10: delete "any required" and substitute "the".

5. Page 5, line 15: delete "whenever required".

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6. Page 5, line 17: delete "U.S. citizen".

7. Page 6, line 3: delete "and this subsection".

8. Page 6, line 4: delete the material beginning with "witness" and ending with "required." on line 6 and substitute "adult witness who is an adult U.S. citizen".

9. Page 6, line 7: delete "when required.".

10. Page 7, line 4: after that line insert:

"SECTION 5m. 6.88 (3) (b) of the statutes is amended to read:

6.88 (3) (b) When the inspectors find that a certification is insufficient, that the applicant is not a qualified elector in the ward or election district, the certification is not signed by the applicant or the witness, that the ballot envelope is open or has been opened and resealed, that the ballot envelope contains more than one ballot of any one kind or, except in municipalities where absentee ballots are canvassed under s. 7.52, that the certificate of an elector who received an absentee ballot by facsimile transmission or electronic mail is missing, or if proof is submitted to the inspectors that an elector voting an absentee ballot has since died, the inspectors shall not count the ballot. The inspectors shall endorse every ballot not counted on the back, "rejected (giving the reason)". The inspectors shall reinsert each rejected ballot into the certificate envelope in which it was delivered and enclose the certificate envelopes and ballots, and securely seal the ballots and envelopes in an envelope marked for rejected absentee ballots. The inspectors shall endorse the envelope, "rejected ballots" with a statement of the ward or election district and date of the election, signed by the chief inspector and one of the inspectors representing each of

PLAN PERIOD

1 the 2 major political parties and returned to the municipal clerk in the same manner

2 as official ballots voted at the election.”
↑ ↑

History: 1971 c. 304 s. 29 (2); 1975 c. 85, 199; 1977 c. 394 ss. 43, 53; 1979 c. 232, 260; 1983 a. 183, 484; 1987 a. 391; 1999 a. 49, 182; 2001 a. 38, 109; 2003 a. 265; 2005 a. 451.

3 **11.** Page 7, line 11: delete lines 11 to 19. ✓

4 (END)

Kuesel, Jeffery

From: McAdams, Nancy
Sent: Monday, September 28, 2009 9:06 AM
To: Kuesel, Jeffery
Subject: RE: LRB09a0752, AA to AB 330, Request for redraft

Hi Jeff,

Yes, the requirement for absentee voters who are in the state will still need an adult citizen witness. I will send the stripes back to you.

Nancy McAdams

From: Kuesel, Jeffery
Sent: Sunday, September 27, 2009 4:22 PM
To: McAdams, Nancy
Subject: RE: LRB09a0752, AA to AB 330, Request for redraft

Nancy,

I will redraft the amendment. I assume that you are retaining the adult citizen witness requirement for absentee electors who are not out of the country.

Please send the jacketed copies back to the LRB front desk.

Jeffery Kuesel

Managing Attorney

Wisconsin Legislative Reference Bureau

P.O.Box 2037

Madison WI 53701-2037

(608) 266-6778

jeffery.kuesel@legis.state.wi.us

From: McAdams, Nancy
Sent: Friday, September 25, 2009 10:45 AM
To: Kuesel, Jeffery
Cc: Rep.Turner; Kennedy, Kevin - GAB
Subject: LRB09a0752, AA to AB 330, Request for redraft

Dear Jeff:

I spoke with Kevin Kennedy earlier today about the amendment that you drafted to Assembly Bill 330. Upon his advice, the amendment should be changed reflect the following requirements:

- An adult witness for absentee ballots for Wisconsin overseas electors
- An adult witness for absentee ballots for Wisconsin citizens temporarily out of the country
- An adult witness **who is a US citizen** for Wisconsin military electors

Thanks very much for your patience.

Sincerely,

Nancy McAdams
Office of State Rep. Robert Turner
223 North Capitol
P.O. Box 8953
Madison, WI 53708-8953
Phone: 608-266-0731
Fax: 608-282-3661



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa0752/1 2
JTK:jld:rs

THU 10/8

ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 330

1 At the locations indicated, amend the bill as follows:

2 Fix component

1. Page 2, line 1: delete that line and substitute

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

6.22 (2) (b) A military elector shall make and subscribe to the certification under s. 6.87 (2) before ~~a~~ an adult witness who is an adult U.S. citizen."

2. Page 2, line 16: delete the material beginning with "An" and ending with "witness" on line 17 and substitute "An overseas elector shall make and subscribe to the special certificate form before ~~a~~ an adult witness".

3. Page 5, line 9: delete " whenever a witness is required."

4. Page 5, line 10: delete "any required" and substitute "the".

5. Page 5, line 15: delete ", whenever required,".

6. Page 5, line 17: delete "U.S. citizen".

JWC
1-9
Insert
1-12

INSERT 1-10

✓
FMS
2-1
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③

7. Page 6, line 3: delete "and this subsection".

~~8. Page 6, line 4: delete the material beginning with "witness" and ending with "required." on line 6 and substitute "adult witness who is an adult U.S. citizen."~~

~~9. Page 6, line 7: delete "when required."~~

10. Page 7, line 4: after that line insert:

"SECTION 5m. 6.88 (3) (b) of the statutes is amended to read:

6.88 (3) (b) When the inspectors find that a certification is insufficient, that the applicant is not a qualified elector in the ward or election district, the certification is not signed by the applicant or the witness, that the ballot envelope is open or has been opened and resealed, that the ballot envelope contains more than one ballot of any one kind or, except in municipalities where absentee ballots are canvassed under s. 7.52, that the certificate of an elector who received an absentee ballot by facsimile transmission or electronic mail is missing, or if proof is submitted to the inspectors that an elector voting an absentee ballot has since died, the inspectors shall not count the ballot. The inspectors shall endorse every ballot not counted on the back, "rejected (giving the reason)". The inspectors shall reinsert each rejected ballot into the certificate envelope in which it was delivered and enclose the certificate envelopes and ballots, and securely seal the ballots and envelopes in an envelope marked for rejected absentee ballots. The inspectors shall endorse the envelope, "rejected ballots" with a statement of the ward or election district and date of the election, signed by the chief inspector and one of the inspectors representing each of the 2 major political parties and returned to the municipal clerk in the same manner as official ballots voted at the election."

1 **11.** Page 7, line 11: delete lines 11 to 19.

2 (END)

d-note
↓

LPS - insert +
check insert +
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please

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0752/2ins
JTK.....

1. Page 3, line 16: after that line insert:

“SECTION 4m. 6.86 (1) (ae) of the statutes is created to read:

6.86 (1) (ae) If the absent elector is an overseas elector or an elector other than a military elector who is applying for an absentee ballot from a location outside the United States, the application shall so state.”

2. Page 5, line 2: delete “military electors, overseas electors, and” and substitute “overseas electors, by absent electors other than military electors who are applying for an absentee ballot from a location outside the United States, and by”.

3. Page 5, line 13: delete “a military elector or an overseas elector” and substitute “an overseas elector or an absent elector other than a military elector who is applying for an absentee ballot from a location outside the United States”.

4. Page 5, line 17: after “citizen” insert “or if the elector is an overseas elector or an absent elector other than a military elector who is applying for an absentee ballot from a location outside the United States, that the witness is an adult”.

5. Page 5, line 20: delete “ballot” and substitute “certification”.

6. Page 6, line 5: delete the material beginning with “~~and~~” and ending with “or” on line 6. military

7. Page 6, line 6: after “(1),” insert “or an elector other than a military elector who is applying for an absentee ballot from a location outside the United States”.

INSERT
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INSERT
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INSERT
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INSERT
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*
(end ins 1-9)

(end ins 1-10)

(end ins 1-12)

(end ins 2-1)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0752/2dn

JTK:...

date

Jld

Representative Turner: ✓

Under this amendment, if an absentee elector is an overseas elector or an elector who is applying for an absentee ballot from a location outside the United States, the individual who witnesses the elector's certification of qualifications may be any adult. Currently, the individual must be an adult U.S. citizen. The witness must certify that he or she is an adult, that his or her statements are true, and the voting procedure was executed in the manner certified by the signer. The witness must also certify that he or she is not a candidate for any office on the ballot (except municipal clerk) and the witness did not solicit or advise the absent elector to vote for or against any candidate or measure. While not a guarantee, the current requirement that the witness be a U.S. citizen helps to ensure that the witness will be literate in the English language. If the witness is not literate in the English language, his or her certification could be meaningless. You may wish to consider including a requirement that the witness be literate in the English language and shall so certify.

*
that

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0752/2dn
JTK:jld:md

October 7, 2009

Representative Turner:

Under this amendment, if an absent elector is an overseas elector or an elector who is applying for an absentee ballot from a location outside the United States, the individual who witnesses the elector's certification of qualifications may be any adult. Currently, the individual must be an adult U.S. citizen. The witness must certify that he or she is an adult, that his or her statements are true, and that the voting procedure was executed in the manner certified by the signer. The witness must also certify that he or she is not a candidate for any office on the ballot (except municipal clerk) and the witness did not solicit or advise the absent elector to vote for or against any candidate or measure. While not a guarantee, the current requirement that the witness be a U.S. citizen helps to ensure that the witness will be literate in the English language. If the witness is not literate in the English language, his or her certification could be meaningless. You may wish to consider including a requirement that the witness be literate in the English language and shall so certify.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778