

2011 DRAFTING REQUEST

Bill

Received: **08/04/2011**

Received By: **jkuesel**

Wanted: **As time permits**

Companion to LRB:

For: **Dave Hansen (608) 266-5670**

By/Representing: **Jay Wadd**

May Contact:

Drafter: **jkuesel**

Subject: **Elections - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Privacy envelopes provided for absentee ballots

Instructions:

Per attached E mail, 7/28/11.

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 10/12/2011	mduchek 10/13/2011		_____			Local
/1			jfrantze 10/13/2011	_____	mbarman 10/13/2011	lparisi 10/18/2011	

FE Sent For:

*at intro
11/21*

<END>

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12/1	jkuesel 10/12/11	10/12/11 MD	10/13	RZ 10/13			

FE Sent For:

<END>

Kuesel, Jeffery

From: Wadd, Jay
Sent: Thursday, July 28, 2011 11:12 AM
To: Kuesel, Jeffery
Subject: Drafting Request

Hi, Jeff,

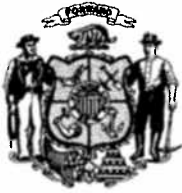
Senator Hansen would like a bill drafted to require that a "privacy" envelope be provided for each absentee ballot to better protect the right of being able to cast a secret ballot. I'm not sure if the next step would be to require a specific process for opening and counting the ballots but for now I think we can start with just requiring the extra ballot.

Please let me know if you have any questions.

Thanks,

Jay

Jay Wadd
Office of Senator Dave Hansen
608-266-5670



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2584/7

JTK

Wanted Thu 10/13 - Am

et med

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1

AN ACT ^{Gen} relating to: enclosure of absentee ballots in privacy envelopes.

Analysis by the Legislative Reference Bureau

Currently, when an elector votes by absentee ballot, whether by mail or in person at the office of a municipal clerk or board of election commissioners or alternate absentee ballot site, the elector's ballot is enclosed inside a certificate envelope the face of which contains a certificate in a form specified by law that affirms the elector's eligibility. The certificate is signed by the elector. When the certificate envelope is mailed, transmitted, or delivered to the election officials, the absentee ballot is retained inside the envelope until it is delivered to the elector's polling place or to a board of absentee ballot canvassers on election day.

This bill directs election officials to provide a privacy envelope for each absentee ballot. Under the bill, the privacy envelope containing the ballot is then placed inside the certificate envelope. If a municipal clerk or board of election commissioners receives an absentee ballot by electronic mail or by facsimile transmission, the clerk or board encloses the ballot in a privacy envelope before enclosing it in a certificate envelope.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

2 SECTION 1. 6.87 (2) of the statutes, as affected by 2011 Wisconsin Act 23, is
3 amended to read:

1 6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place
 2 the ballot in a privacy envelope and shall place the envelope containing the ballot in
 3 an unsealed ^{certificate} envelope furnished by the clerk. The ^{certificate} envelope shall have the name,
 4 official title and post-office address of the clerk upon its face. The other side of the
 5 envelope shall have a printed certificate which shall include a space for the
 6 municipal clerk or deputy clerk to enter his or her initials indicating that if the
 7 absentee elector voted in person under s. 6.86 (1) (ar), the elector presented proof of
 8 identification to the clerk and the clerk verified the proof presented. The certificate
 9 shall also include a space for the municipal clerk or deputy clerk to enter his or her
 10 initials indicating that the elector is exempt from providing proof of identification
 11 because the individual is a military or overseas elector or is exempted from providing
 12 proof of identification under sub. (4) (b) 2. or 3. The certificate shall be in
 13 substantially the following form:

14 [STATE OF

15 County of]

16 or

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

18 I,, certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false
 19 statements, that I am a resident of the [.... ward of the] (town) (village) of, or of
 20 the aldermanic district in the city of, residing at* in said city, the county
 21 of, state of Wisconsin, and am entitled to vote in the (ward) (election district) at
 22 the election to be held on; that I am not voting at any other location in this election;
 23 that I am unable or unwilling to appear at the polling place in the (ward) (election
 24 district) on election day or have changed my residence within the state from one ward
 25 or election district to another later than 28 days before the election. I certify that I

1 exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her)
2 presence and in the presence of no other person marked the ballot and enclosed and
3 sealed the same in this envelope in such a manner that no one but myself and any
4 person rendering assistance under s. 6.87 (5), Wis. Stats., if I requested assistance,
5 could know how I voted.

6 Signed

7 Identification serial number, if any:

8 The witness shall execute the following:

9 I, the undersigned witness, subject to the penalties of s. 12.60 (1) (b), Wis.
10 Stats., for false statements, certify that I am an adult U.S. citizen and that the above
11 statements are true and the voting procedure was executed as there stated. I am not
12 a candidate for any office on the enclosed ballot (except in the case of an incumbent
13 municipal clerk). I did not solicit or advise the elector to vote for or against any
14 candidate or measure.

15(Name)

16(Address)**

17 * — An elector who provides an identification serial number issued under s.
18 6.47 (3), Wis. Stats., need not provide a street address.

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

History: 1971 c. 242; 1971 c. 304 s. 29 (1), (2); 1975 c. 85; 1975 c. 93 s. 119 (2); 1975 c. 199; 1977 c. 394; 1979 c. 232, 260, 311, 355; 1983 a. 36, 484, 538; 1985 a. 304; 1991 a. 316; 1999 a. 49, 182; 2001 a. 16, 38, 109; 2002 a. 265; 2005 a. 451; 2011 a. 23.

21 **SECTION 2. 6.87 (4) (b) 1.** of the statutes, as affected by 2011 Wisconsin Act 23,

22 is amended to read:

23 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, the elector voting
24 absentee shall make and subscribe to the certification before one witness who is an

1 adult U.S. citizen. The absent elector, in the presence of the witness, shall mark the
2 ballot in a manner that will not disclose how the elector's vote is cast. The elector
3 shall then, still in the presence of the witness, fold the ballots so each is separate and
4 so that the elector conceals the markings thereon and shall place them in a privacy
5 envelope and deposit them that envelope in the proper envelope. If a consolidated
6 ballot under s. 5.655 is used, the elector shall fold the ballot so that the elector
7 conceals the markings thereon and deposit the ballot in the ~~proper~~ ^{privacy envelope and then into the certificate} envelope. Except
8 as authorized in subds. 2. to 5. and s. 6.875 (6) and notwithstanding s. 343.43 (1) (f),
9 if the elector has not enclosed a copy of his or her proof of identification with his or
10 her application, the elector shall enclose a copy of the proof of identification in the
11 manner provided in sub. (1) in the ^{certificate} ~~envelope~~, unless the elector is a military elector
12 or an overseas elector or the elector has a confidential listing under s. 6.47 (2). If proof
13 of residence under s. 6.34 is required and the document enclosed by the elector under
14 this subdivision does not constitute proof of residence under s. 6.34, the elector shall
15 also enclose proof of residence under s. 6.34 in the ^{certificate} ~~envelope~~. Proof of residence is
16 required if the elector is not a military elector or an overseas elector and the elector
17 registered by mail and has not voted in an election in this state. If the elector
18 requested a ballot by means of facsimile transmission or electronic mail under s. 6.86
19 (1) (ac), the elector shall enclose in the ^{certificate} ~~envelope~~ a copy of the request which bears an
20 original signature of the elector. The elector may receive assistance under sub. (5).
21 The return envelope shall then be sealed. The witness may not be a candidate. The
22 envelope shall be mailed by the elector, or delivered in person, to the municipal clerk
23 issuing the ballot or ballots. If the envelope is mailed from a location outside the
24 United States, the elector shall affix sufficient postage unless the ballot qualifies for
25 delivery free of postage under federal law. Failure to return an unused ballot in a

1 primary does not invalidate the ballot on which the elector's votes are cast. Return
2 of more than one marked ballot in a primary or return of a ballot prepared under s.
3 5.655 or a ballot used with an electronic voting system in a primary which is marked
4 for candidates of more than one party invalidates all votes cast by the elector for
5 candidates in the primary.

History: 1971 c. 242; 1971 c. 304 s. 29 (1), (2); 1975 c. 85; 1975 c. 93 s. 119 (2); 1975 c. 199; 1977 c. 394; 1979 c. 232, 260, 311, 355; 1983 a. 36, 484, 538; 1985 a. 304; 1991 a. 316; 1999 a. 49, 182; 2001 a. 16, 38, 109; 2003 a. 265; 2005 a. 451; 2011 a. 23.

6 **SECTION 3. 6.87 (9) of the statutes is amended to read:**

7 **6.87 (9)** If a municipal clerk receives an absentee ballot with an improperly
8 completed certificate or with no certificate, the clerk may return the ballot to the
9 elector, inside the sealed envelope when an envelope is received, together with a new
10 envelope and privacy envelope if necessary, whenever time permits the elector to
11 correct the defect and return the ballot within the period authorized under sub. (6).

History: 1971 c. 242; 1971 c. 304 s. 29 (1), (2); 1975 c. 85; 1975 c. 93 s. 119 (2); 1975 c. 199; 1977 c. 394; 1979 c. 232, 260, 311, 355; 1983 a. 36, 484, 538; 1985 a. 304; 1991 a. 316; 1999 a. 49, 182; 2001 a. 16, 38, 109; 2003 a. 265; 2005 a. 451; 2011 a. 23.

12 **SECTION 4. 6.88 (1) of the statutes is amended to read:**

13 **6.88 (1)** When an absentee ballot arrives at the office of the municipal clerk,
14 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,
15 unopened, in a carrier envelope which shall be securely sealed and endorsed with the
16 name and official title of the clerk, and the words "This envelope contains the ballot
17 of an absent elector and must be opened in the same room where votes are being cast
18 at the polls during polling hours on election day or, in municipalities where absentee
19 ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of
20 absentee ballot canvassers under s. 7.52, stats.". If the ballot was received by the
21 elector by facsimile transmission or electronic mail and is accompanied by a separate
22 certificate, the clerk shall enclose the ballot in a privacy envelope and shall then
23 enclose that envelope in a certificate envelope and securely append the completed

1 certificate to the outside of the envelope before enclosing the ballot in the carrier
2 envelope. The clerk shall keep the ballot in the clerk's office or at the alternate site,
3 if applicable until delivered, as required in sub. (2).

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; 2011 a. 23.

4 **SECTION 5.** 6.88 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 23, is
5 amended to read:

6 6.88 (3) (a) Except in municipalities where absentee ballots are canvassed
7 under s. 7.52, at any time between the opening and closing of the polls on election day,
8 the inspectors shall, in the same room where votes are being cast, in such a manner
9 that members of the public can hear and see the procedures, open the carrier
10 envelope only, and announce the name of the absent elector or the identification
11 serial number of the absent elector if the elector has a confidential listing under s.
12 6.47 (2). When the inspectors find that the certification has been properly executed,
13 the applicant is a qualified elector of the ward or election district, and the applicant
14 has not voted in the election, they shall enter an indication on the poll list next to the
15 applicant's name indicating an absentee ballot is cast by the elector. They shall then
16 open the envelope containing the ballot in a manner so as not to deface or destroy the
17 certification thereon. The inspectors shall take out the ballot out of the privacy
18 envelope containing the ballot without unfolding it or permitting it to be unfolded or
19 examined. Unless the ballot is cast under s. 6.95, the inspectors shall verify that the
20 ballot has been endorsed by the issuing clerk. If the poll list indicates that proof of
21 residence under s. 6.34 is required and no proof of residence is enclosed or the name
22 or address on the document that is provided is not the same as the name and address
23 shown on the poll list, or if the elector is not a military elector, as defined in s. 6.34
24 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), and the elector is required

1 to provide a copy of proof of identification under s. 6.87 (4) (b) 1. and no copy of the
2 proof of identification is enclosed or the name on the document cannot be verified by
3 the inspectors, the inspectors shall proceed as provided under s. 6.97 (2). The
4 inspectors shall then deposit the ballot into the proper ballot box and enter the
5 absent elector's name or voting number after his or her name on the poll list in the
6 same manner as if the elector had been present and voted in person.

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; 2011 a. 23.

7 **SECTION 6. 7.52 (3) (a)** of the statutes, as affected by 2011 Wisconsin Act 23, is
8 amended to read:

9 **7.52 (3) (a)** The board of absentee ballot canvassers shall first open the carrier
10 envelope only, and, in such a manner that a member of the public, if he or she desired,
11 could hear, announce the name of the absent elector or the identification serial
12 number of the absent elector if the elector has a confidential listing under s. 6.47 (2).
13 When the board of absentee ballot canvassers finds that the certification has been
14 properly executed and the applicant is a qualified elector of the ward or election
15 district, the board of absentee ballot canvassers shall enter an indication on the poll
16 list next to the applicant's name indicating an absentee ballot is cast by the elector.
17 The board of absentee ballot canvassers shall then open the envelope containing the
18 ballot in a manner so as not to deface or destroy the certification thereon. The board
19 of absentee ballot canvassers shall take out the ballot out of the privacy envelope
20 containing the ballot without unfolding it or permitting it to be unfolded or
21 examined. Unless the ballot is cast under s. 6.95, the board of absentee ballot
22 canvassers shall verify that the ballot has been endorsed by the issuing clerk. If the
23 poll list indicates that proof of residence is required and no proof of residence is
24 enclosed or the name or address on the document that is provided is not the same as

1 the name and address shown on the poll list, or if the elector is not a military elector,
2 as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), and the
3 elector is required to provide, or to provide a copy of, proof of identification under s.
4 6.87 (4) (b) 1. and no copy of the proof of identification is enclosed or the name on the
5 document cannot be verified by the canvassers, the board of absentee ballot
6 canvassers shall proceed as provided under s. 6.97 (2). The board of absentee ballot
7 canvassers shall mark the poll list number of each elector who casts an absentee
8 ballot on the back of the elector's ballot. The board of absentee ballot canvassers shall
9 then deposit the ballot into the proper ballot box and enter the absent elector's name
10 or poll list number after his or her name on the poll list.

History: 2005 a. 451; 2011 a. 23.

11 **SECTION 7. Initial applicability.**

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

14 (END)

Parisi, Lori

From: Kuesel, Jeffery
Sent: Tuesday, October 18, 2011 4:23 PM
To: Parisi, Lori
Subject: FW: LRB-2584 jacket and EM copy

From: Wadd, Jay
Sent: Tuesday, October 18, 2011 2:40 PM
To: Kuesel, Jeffery
Subject: RE: LRB-2584

Jeff,

Thanks for the draft LRB-2584/1. Would you please have it jacketed for introduction and could you or someone email me a copy so I can include it in our sponsor memo?

Thanks,

Jay

From: Kuesel, Jeffery
Sent: Thursday, September 29, 2011 8:32 AM
To: Wadd, Jay
Subject: RE: LRB-2584

Jay,

I still have several drafts in front of this one, but will try to get to it within 10 days.

Jeff Kuesel

From: Wadd, Jay
Sent: Wednesday, September 28, 2011 11:30 AM
To: Kuesel, Jeffery
Subject: LRB-2584

Hi, Jeff,

Can you tell me how long it will be before we get a draft back on LRB-2584, secure envelopes for absentee ballots?

Thanks,

Jay

Jay Wadd
Office of Senator Dave Hansen
608-266-5670

Barman, Mike

From: Barman, Mike
Sent: Monday, October 31, 2011 3:04 PM
To: Wadd, Jay
Subject: FW: LRB-2584

Attachments: 11-2584/1



11-25841.pdf (42
KB)

This draft was jacketed a (per your request) and sent to your office on October 18th. Let us know if you are unable to locate it.

Mike Barman (Lead Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

From: Kuesel, Jeffery
Sent: Monday, October 31, 2011 2:55 PM
To: Barman, Mike
Subject: FW: LRB-2584

From: Wadd, Jay
Sent: Monday, October 31, 2011 1:41 PM
To: Kuesel, Jeffery
Subject: RE: LRB-2584

Hi, Jeff,

Not sure if I asked for this already, if I did please accept my apologies. Would you please email me a copy of LRB-2584/1 as well as have it jacketed for introduction in the Senate?

Thanks,

Jay

From: Kuesel, Jeffery
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To: Wadd, Jay
Subject: RE: LRB-2584

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