



State of Wisconsin  
2011 - 2012 LEGISLATURE



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stays

**ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2011 SENATE BILL 116**

SEP 6, 35

Rezen

1 AN ACT *to repeal* 6.22 (4) (g), 6.221 (1), 6.221 (3) (b), 6.25 (2), 6.25 (3), 6.865 (3),  
2 6.865 (3m) (a), 6.865 (3m) (c) and 7.15 (1) (cs); *to renumber* 6.221 (4); *to*  
3 *renumber and amend* 5.02 (18), 6.221 (title), 6.221 (2), 6.221 (3) (a), 6.221 (5),  
4 6.221 (6), 6.25 (1) and 6.865 (3m) (b); *to consolidate, renumber and amend*  
5 6.25 (4) (intro.), (a) and (b); *to amend* 5.05 (13) (title), 5.15 (4) (a), 5.15 (6) (b),  
6 5.25 (3), 5.62 (title), 5.62 (1) (a), 5.62 (1) (b), 5.62 (2), 5.62 (3), 6.22 (4) (a), 6.22  
7 (4) (c), 6.22 (4) (e), 6.22 (4) (f), 6.22 (5), 6.22 (6), 6.24 (1), 6.24 (2), 6.24 (4) (c), 6.36  
8 (1) (a), 6.50 (8), 6.86 (1) (a) (intro.), 6.86 (1) (a) 3., 6.86 (1) (ac), 6.86 (1) (b), 6.865  
9 (title), 6.869, 6.87 (3) (d), 6.87 (6), 6.875 (3), 6.88 (1), 6.88 (3) (b), 7.08 (2) (b), 7.10  
10 (3) (a), 7.15 (1) (cm), 7.15 (1) (j), 7.51 (5) (b), 7.52 (3) (b), 7.60 (5) (a), 7.70 (3) (a),  
11 8.10 (1), 8.15 (title), 8.15 (1), 8.16 (7), 8.17 (1) (b), 8.17 (4), 8.17 (5) (b), 8.19 (3),  
12 8.20 (8) (a), 8.20 (8) (am), 8.37, 8.50 (intro.), 8.50 (1) (d), 8.50 (2), 8.50 (3) (a), 8.50  
13 (3) (b), 8.50 (3) (c), 8.50 (4) (b), 8.50 (4) (fm), 9.01 (1) (a) 1., 9.01 (1) (ag) 1., 9.01

1 (1) (ag) 1m., 9.01 (1) (ag) 2., 9.01 (1) (b) (intro.), 10.01 (2) (d), 10.01 (2) (e), 10.06  
2 (1) (f), 10.06 (1) (h), 10.06 (1) (i), 10.06 (2) (gm), 10.06 (2) (h), 10.06 (2) (j), 10.06  
3 (3) (cm), 11.06 (12) (a) 1., 11.26 (17) (d), 11.31 (7) (a), 13.123 (3) (b) 1. a., 38.16  
4 (3) (br) 1., 59.08 (7) (b), 59.10 (3) (cm) 2., 59.605 (3) (a) 1., 60.30 (1e) (b), 62.13  
5 (6) (b), 66.0217 (7) (a) 3., 66.0219 (4) (b), 66.0227 (3), 66.0305 (6) (b), 66.0307 (4)  
6 (e) 2., 66.0602 (4) (a), 66.0619 (2m) (b), 66.0921 (2), 66.1113 (2) (g), 66.1113 (2)  
7 (h), 67.05 (6m) (b), 67.12 (12) (e) 5., 86.21 (2) (a), 92.11 (4) (c), 117.22 (2) (e),  
8 120.02 (1), 120.02 (2) (a), 120.02 (4), 121.91 (3) (a), 125.05 (1) (b) 5., 197.04 (1)  
9 (b), 229.824 (15) and 995.20; and **to create** 5.05 (13) (c) and (d), 6.22 (2) (e), 6.24  
10 (4) (e), 6.25 (1) (b) and 6.25 (1) (c) of the statutes; **relating to:** the dates of the  
11 September primary and certain other election occurrences and absentee voting.

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### ***Analysis by the Legislative Reference Bureau***

This substitute amendment changes the date of the September primary from the 2nd Tuesday in September to the 2nd Tuesday in August and renames it to be the “Partisan Primary”. The substitute amendment also changes the dates of related election events to accommodate the change in the date of the primary. In elections for national office or special elections that are held concurrently with the general election, the substitute amendment provides for absentee ballots to be available to electors for at least a 47-day period before the election. Currently, the length of this period varies but it is generally a shorter period.

The substitute amendment also makes various changes in the laws pertaining to absentee voting. Most of the changes relate to absentee voting by military and overseas electors of this state. State law contains different definitions of the terms “military elector” and “overseas elector.” One set of definitions mirrors the definitions found in federal law. Under federal law, a “military elector” includes: 1) a member of a uniformed service on active duty who, by reason of that duty, is absent from the residence where the member is otherwise qualified to vote; 2) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the residence where the member is otherwise qualified to vote; and 3) the spouse or dependent of any such member who, by reason of the duty or service of the member, is absent from the residence where the person is otherwise qualified to vote. The federal definition of “overseas elector” includes an elector who resides outside the United States and who is qualified under federal law to vote in elections for national office in this state because the elector last resided in this state immediately prior to

the elector's departure from the United States. The other set of definitions applies for certain state purposes and includes all the persons who are included in the federal definitions but also includes other persons. The state definition of the term "military elector" includes: 1) members of a uniformed service who are not on active duty or who are not absent from their residences by reason of their service or both; 2) members of the merchant marine who are not absent from their residences; 3) civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States; 4) Peace Corps volunteers; and 5) spouses and dependents of these persons who are residing with or accompanying them. The state definition of "overseas elector" includes children of persons who qualify as overseas electors under federal law who are U.S. citizens at least 18 years of age, who are not disqualified from voting in this state, and who are not residents of this state. Significant provisions of the substitute amendment include:

1. Current law permits a military or overseas elector, as defined in state law, to cast a vote in any general election in which a federal office is to be filled by writing in the name of a candidate on a blank absentee ballot form prescribed by the U.S. government and returning the ballot to the appropriate municipal clerk or board of election commissioners. This substitute amendment permits a military elector, as defined by state law, to cast such a ballot at any election, including any primary election, at which a federal, state, or local office is to be filled and permits an overseas elector, as defined by state law, to cast such a ballot at any election, including any primary election, at which a federal office is to be filled. The substitute amendment also provides that a completed and signed federal write-in absentee ballot serves as an application for an absentee ballot and need not be accompanied by a separate application, as required currently.

2. The substitute amendment directs the Government Accountability Board (GAB), with the assistance of county and municipal clerks and boards of election commissioners, to designate at least one freely accessible means of electronic communication which shall be used to: 1) permit a military or overseas elector, as defined by federal law, to request a voter registration or absentee ballot application and to indicate whether he or she wishes to receive the application electronically or by mail; and 2) permit a municipal clerk or board of election commissioners to transmit an application to a military or overseas elector, as defined by federal law, electronically or by mail, as requested by the elector, together with related voting, balloting and election information. The substitute amendment also directs GAB, with the assistance of county and municipal clerks and boards of elections commissioners, to maintain a freely accessible system whereby a military or overseas elector, as defined by federal law, who casts an absentee ballot may ascertain whether the ballot has been received by the appropriate municipal clerk or board. No similar provisions exist currently.

3. Currently, an absentee ballot cast by an elector is void unless it is received at the polling place for the elector's residence by 8 p.m. on election night. However, state law provides that if an elector is a military elector, as defined by federal law, the elector has an additional ten days after the general election and seven days after

the September primary for the elector's ballot to be received by his or her municipality if the ballot is postmarked by election day. This substitute amendment provides instead that all absentee electors except those voting in person have until 4 p.m. on the Friday after an election for their ballots to be received if the ballots are postmarked by election day.

4. Currently, the municipal clerk or board of election commissioners of each municipality must, upon request of any absentee elector, transmit an absentee ballot to the elector by electronic mail or facsimile transmission. This bill authorizes and requires a municipal clerk or board to transmit an absentee ballot electronically only to a military or overseas elector, as defined in federal law, upon request of such an elector.

5. Currently, an elector who is a military elector, as defined by state law, or an overseas elector, as defined by state law, and who applies for an absentee ballot no later than 30 days before an election may cast a blank write-in ballot at that election in lieu of the official printed ballot, for any candidates for federal office whose offices are contested at that election. The ballot is valid only if it is submitted from a location outside the United States. This substitute amendment permits such an elector to cast a blank write-in absentee ballot after official printed ballots become available if he or she applies for an absentee ballot no later than the latest time permitted for application for an absentee ballot under state law. The substitute amendment also permits a military elector to cast such a ballot even if the ballot is submitted from a location inside the United States, including the elector's permanent residence.

6. Currently, a military or overseas elector, as defined in state law, may cast a blank write-in absentee ballot under state law. In the case of military electors, the ballot may be used to vote for any candidate for state or local office. In the case of overseas electors, the ballot may only be used to vote for candidates for national office. This substitute amendment discontinues the state write-in absentee ballot for both groups of electors.

7. Currently, with certain exceptions, a military elector who requests an absentee ballot receives absentee ballots automatically for all elections unless the elector fails to return any absentee ballot during the entire period encompassed by two successive general elections. Under this substitute amendment, with certain exceptions, a military elector who requests an absentee ballot receives absentee ballots automatically for all elections held in the same calendar year in which the request is made.

8. Currently, GAB must prescribe uniform instructions for absentee voters. This substitute amendment provides that the instructions must include the specific means of electronic communication that absentee voters may use to file an application for an absentee ballot, to request a voter registration form, or to change their registrations.

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

1           **SECTION 1.** 5.02 (18) of the statutes, as affected by 2011 Wisconsin Act 32, is  
2           renumbered 5.02 (12s) and amended to read:

3           5.02 (12s) “~~September~~ Partisan primary” means the primary held the 2nd  
4           Tuesday in ~~September~~ August to nominate candidates to be voted for at the general  
5           election.

6           **SECTION 2.** 5.05 (13) (title) of the statutes is amended to read:

7           5.05 (13) (title) TOLL-FREE ELECTION INFORMATION ~~EXCHANGE~~ AND REQUESTS.

8           **SECTION 3.** 5.05 (13) (c) and (d) of the statutes are created to read:

9           5.05 (13) (c) The board shall maintain a freely accessible system under which  
10          a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s.  
11          6.34 (1) (b), who casts an absentee ballot may ascertain whether the ballot has been  
12          received by the appropriate municipal clerk.

13          (d) The board shall designate and maintain at least one freely accessible means  
14          of electronic communication which shall be used for the following purposes:

15           1. To permit a military elector, as defined in s. 6.34 (1) (a), or an overseas elector,  
16           as defined in s. 6.34 (1) (b), to request a voter registration application or an  
17           application for an absentee ballot at any election at which the elector is qualified to  
18           vote in this state.

19           2. To permit a military elector or an overseas elector under subd. 1. to designate  
20           whether the elector wishes to receive the applications under subd. 1. electronically  
21           or by mail.

22           3. To permit a municipal clerk to transmit to a military elector or an overseas  
23           elector under subd. 1. a registration application or absentee ballot application  
24           electronically or by mail, as directed by the elector under subd. 2., together with  
25           related voting, balloting, and election information.

1           **SECTION 4.** 5.15 (4) (a) of the statutes, as affected by 2011 Wisconsin Act 39, is  
2 amended to read:

3           5.15 (4) (a) Except as provided in par. (c), the division ordinance or resolution  
4 shall number all wards in the municipality with unique whole numbers in  
5 consecutive order, beginning with the number one, shall designate the polling place  
6 for each ward, and shall describe the boundaries of each ward consistent with the  
7 conventions set forth in s. 4.003. The ordinance or resolution shall be accompanied  
8 by a list of the block numbers used by the U.S. bureau of the census that are wholly  
9 or partly contained within each ward, with any block numbers partly contained  
10 within a ward identified, and a map of the municipality which illustrates the revised  
11 ward boundaries. If the legislature, in an act redistricting legislative districts under  
12 article IV, section 3, of the constitution, or in redistricting congressional districts,  
13 establishes a district boundary within a municipality that does not coincide with the  
14 boundary of a ward established under the ordinance or resolution of the  
15 municipality, the municipal governing body shall, no later than ~~May 15~~ <sup>10</sup> ~~April 1~~ of the  
16 2nd year following the year of the federal decennial census on which the act is based,  
17 amend the ordinance or resolution to the extent required to effect the act. The  
18 amended ordinance or resolution shall designate the polling place for any ward that  
19 is created to effect the legislative act. Nothing in this paragraph shall be construed  
20 to compel a county or city to alter or redraw supervisory or aldermanic districts.

21           **SECTION 5.** 5.15 (6) (b) of the statutes is amended to read:

22           5.15 (6) (b) No later than ~~60 days before each September primary and general~~  
23 ~~election, and no later than 30 days before each other election,~~ the governing body of  
24 any municipality may by resolution combine 2 or more wards for voting purposes to  
25 facilitate using a common polling place. Whenever wards are so combined, the

1 circulated no sooner than ~~August~~ July 1 and may be filed not later than 5 p.m. on the  
2 first Tuesday in ~~September~~ August preceding a presidential election.

3 SECTION 74. 8.37 of the statutes is amended to read:

4 **8.37 Filing of referenda petitions or questions.** Unless otherwise required  
5 by law, all proposed constitutional amendments and any other measure or question  
6 that is to be submitted to a vote of the people, or any petitions requesting that a  
7 measure or question be submitted to a vote of the people, if applicable, shall be filed  
8 with the official or agency responsible for preparing the ballots for the election no  
9 later than ~~42~~ 70 days prior to the election at which the amendment, measure or  
10 question will appear on the ballot. No later than the end of the next business day  
11 after a proposed measure is filed with a school district clerk under this section, the  
12 clerk shall file a copy of the measure or question with the clerk of each county having  
13 territory within the school district.

14 SECTION 75. 8.50 (intro.) of the statutes is amended to read:

15 **8.50 Special elections.** (intro.) Unless otherwise provided, this section  
16 applies to filling vacancies in the U.S. senate and house of representatives, executive  
17 state offices except the offices of governor, lieutenant governor, and district attorney,  
18 judicial and legislative state offices, county, city, village, and town offices, and the  
19 offices of municipal judge and member of the board of school directors in school  
20 districts organized under ch. 119. State legislative offices may be filled in  
21 anticipation of the occurrence of a vacancy whenever authorized in sub. (4) (e). No  
22 special election may be held after February 1 preceding the spring election unless it  
23 is held on the same day as the spring election, nor after ~~September 1~~ August 1  
24 preceding the general election unless it is held on the same day as the general  
25 election, until the day after that election. If the special election is held on the day

1 of the general election, the primary for the special election, if any, shall be held on  
2 the day of the ~~September~~ partisan primary. If the special election is held on the day  
3 of the spring election, the primary for the special election, if any, shall be held on the  
4 day of the spring primary.

5 **SECTION 76.** 8.50 (1) (d) of the statutes is amended to read:

6 8.50 (1) (d) When the election concerns a national ~~or state office~~ office or a  
7 special election for state office is held concurrently with the general election, the  
8 board shall transmit to each county clerk a certified list of all persons for whom  
9 nomination papers have been filed in its office at least 62 days before the special  
10 primary, and in other cases the board shall transmit the list to each county clerk at  
11 least 22 days before the special primary, ~~a certified list of all persons for whom~~  
12 ~~nomination papers have been filed in its office.~~ If no primary is required, the list shall  
13 be transmitted at least 42 days prior to the day of the special election unless the  
14 special election concerns a national office or is held concurrently with the general  
15 election, in which case the list shall be transmitted at least 62 days prior to the day  
16 of the special election. Immediately upon receipt of the certified list, the county clerk  
17 shall prepare his or her ballots. For a county special election, the county clerk shall  
18 certify the candidates and prepare the ballots. If there is a primary, the county clerk  
19 shall publish one type B notice in a newspaper under ch. 10. When a primary is held,  
20 as soon as possible after the primary, the county clerk shall certify the candidates and  
21 prepare the ballots for the following special election. The clerk shall publish one type  
22 B notice in a newspaper under ch. 10 for the election.

23 **SECTION 77.** 8.50 (2) of the statutes is amended to read:

24 8.50 (2) DATE OF SPECIAL ELECTION. (a) The date for the special election shall  
25 be not less than 62 nor more than 77 days from the date of the order except when the



1 December 25, the day of holding the ~~September~~ partisan primary election, and the  
2 day of holding the general election in November are legal holidays. On Good Friday  
3 the period from 11 a.m. to 3 p.m. shall uniformly be observed for the purpose of  
4 worship. In every 1st class city the day of holding any municipal election is a legal  
5 holiday, and in every such city the afternoon of each day upon which a primary  
6 election is held for the nomination of candidates for city offices is a half holiday and  
7 in counties having a population of 500,000 or more the county board may by  
8 ordinance provide that all county employees shall have a half holiday on the day of  
9 such primary election and a holiday on the day of such municipal election, and that  
10 employees whose duties require that they work on such days be given equivalent  
11 time off on other days. Whenever any legal holiday falls on Sunday, the succeeding  
12 Monday shall be the legal holiday.

13 **SECTION 130. Initial applicability.**

14 (1) The treatment of sections 6.24 (4) (c), 6.86 (1) (a) 3., 6.865 (title), (3), and  
15 (3m) (a), (b), and (c), and 7.15 (1) (j) of the statutes first applies with respect to  
16 requests for absentee ballots made for voting at elections held on or after the effective  
17 date of this subsection.

18 **SECTION 131. Effective dates.** This act takes effect on the day after  
19 publication, except as follows:

20 (1) The treatment of sections 6.24 (4) (c), 6.86 (1) (a) 3., 6.865 (title), (3), and  
21 (3m) (a), (b), and (c), and 7.15 (1) (j) of the statutes and SECTION 130 (1) of this act take  
22 effect on the 90th day beginning after publication.

23 (END)