



**SENATE SUBSTITUTE AMENDMENT 1,
TO 2011 SENATE BILL 271**

February 14, 2012 – Offered by Senator LAZICH.

1 **AN ACT** *to amend* 6.18, 6.86 (1) (ac), 6.86 (3) (a) 1., 6.869, 6.87 (1), 6.87 (4) (b) 1.,
2 6.87 (4) (b) 2., 6.87 (4) (b) 3., 6.87 (4) (b) 5., 6.88 (3) (a), 6.97 (title), 6.97 (2), 6.97
3 (3), 7.08 (12) and 7.52 (3) (a); and *to create* 6.86 (6) of the statutes; **relating**
4 **to:** return of absentee ballots, submittal of proof of identification with absentee
5 ballot applications, and voting in person by electors who have voted by absentee
6 ballot in the same election.

Analysis by the Legislative Reference Bureau

Currently, if a qualified elector casts an absentee ballot, whether by mail or in person, the municipal clerk or board of election commissioners of the municipality where the elector resides delivers the ballot in an absentee ballot envelope to the polling place serving the elector's residence. There is no authorization for a municipality to return an absentee ballot to an elector once the ballot has been voted and accepted by a clerk or board. The election inspectors (poll workers), upon receiving the absentee ballot of a qualified elector, mark the poll list to indicate that the elector has voted when they count the ballot. No elector is permitted to vote more than once in the same election. If a municipality elects to canvass its absentee ballots centrally using a board of absentee ballot canvassers, the board of absentee ballot

canvassers marks a separate poll list containing the names of the qualified electors of the municipality to indicate the electors who have cast absentee ballots. The municipal board of canvassers is then required to reconcile the poll list marked at each polling place with the poll list marked by the board of absentee ballot canvassers to ensure that no person is permitted to vote more than once. If the municipal board of canvassers finds that an elector who has voted in person has also cast an absentee ballot, the absentee ballot is void.

This substitute amendment provides that if an elector mails or personally delivers an absentee ballot to the municipal clerk or board of election commissioners, the clerk or board shall not return the ballot to the elector, except as currently authorized for defective or spoiled ballots or ballots with incomplete certificates. The substitute amendment also provides that an elector who mails or personally delivers an absentee ballot to the municipal clerk or board of election commissioners at an election is not permitted to vote in person at the same election on election day.

Currently, with certain exceptions, an individual who votes in an election must present proof of identification in order to vote. The proof may consist of a number of documents specified by law and must contain certain information specified by law. An individual who votes by absentee ballot to whom the requirement applies must generally enclose a copy of his or her proof of identification with his or her absentee ballot application. However, if the individual requests an absentee ballot by electronic mail or facsimile transmission, the individual instead provides a copy of his or her proof of identification with his or her absentee ballot. This substitute amendment deletes the procedure under which a copy of an individual's proof of identification is provided with the individual's absentee ballot rather than with the individual's absentee ballot application, thus requiring every individual to whom the identification requirement applies to enclose a copy of his or her proof of identification with the individual's absentee ballot application.

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

1 **SECTION 1.** 6.18 of the statutes, as affected by 2011 Wisconsin Act 23, is
2 amended to read:

3 **6.18 Former residents.** If ineligible to qualify as an elector in the state to
4 which the elector has moved, any former qualified Wisconsin elector may vote an
5 absentee ballot in the ward of the elector's prior residence in any presidential election
6 occurring within 24 months after leaving Wisconsin by requesting an application
7 form and returning it, properly executed, to the municipal clerk of the elector's prior

1 Wisconsin residence. When requesting an application form for an absentee ballot,
2 the applicant shall specify the applicant's eligibility for only the presidential ballot.
3 Unless application is made under s. 6.86 (1) (ac), or the applicant is exempted from
4 providing proof of identification under s. 6.87 (4) (b) 2. or 3., or the applicant is a
5 military or overseas elector, the elector shall enclose a copy of his or her proof of
6 identification or any authorized substitute document with his or her application.
7 The municipal clerk shall verify that the name on the proof of identification conforms
8 to the name on the application. The clerk shall not issue a ballot to an elector who
9 is required to enclose a copy of proof of identification or an authorized substitute
10 document with his or her application unless the copy is enclosed and the proof is
11 verified by the clerk. The application form shall require the following information
12 and be in substantially the following form:

13 This form shall be returned to the municipal clerk's office. Application must be
14 received in sufficient time for ballots to be mailed and returned prior to any
15 presidential election at which applicant wishes to vote. Complete all statements in
16 full.

17 APPLICATION FOR PRESIDENTIAL
18 ELECTOR'S ABSENTEE BALLOT
19 (To be voted at the Presidential Election
20 on November, (year)

21 I, hereby swear or affirm that I am a citizen of the United States, formerly
22 residing at in the ward aldermanic district (city, town, village) of, County
23 of for 28 consecutive days prior to leaving the State of Wisconsin. I, do solemnly
24 swear or affirm that I do not qualify to register or vote under the laws of the State
25 of(State you now reside in) where I am presently residing. A citizen must be a

1 resident of: State(Insert time) County(Insert time) City, Town or Village
2(Insert time), in order to be eligible to register or vote therein. I further swear or
3 affirm that my legal residence was established in the State of(the State where you
4 now reside) on Month Day Year.

5 Signed

6 Address(Present address)

7(City)(State)

8 Subscribed and sworn to before me this day of (year)

9(Notary Public, or other officer authorized to administer oaths.)

10(County)

11 My Commission expires

12 MAIL BALLOT TO:

13 NAME

14 ADDRESS

15 CITY STATE ZIP CODE

16 *Penalties for Violations.* Whoever swears falsely to any absent elector affidavit
17 under this section may be fined not more than \$1,000 or imprisoned for not more than
18 6 months or both. Whoever intentionally votes more than once in an election may
19 be fined not more than \$10,000 or imprisoned for not more than 3 years and 6 months
20 or both.

21(Municipal Clerk)

22(Municipality)

23 **SECTION 2.** 6.86 (1) (ac) of the statutes, as affected by 2011 Wisconsin Act 75,
24 is amended to read:

1 6.86 (1) (ac) Any elector qualifying under par. (a) may make written application
2 to the municipal clerk for an official ballot by means of facsimile transmission or
3 electronic mail. Any application under this paragraph need not contain a copy of the
4 applicant's original signature. An elector requesting a ballot under this paragraph
5 shall return with the voted ballot a copy of the request bearing an original signature
6 of the elector as provided in s. 6.87 (4). Except as authorized in ss. 6.87 (4) (b) 2. to
7 5. and 6.875 (6), and notwithstanding s. 343.43 (1) (f), the elector shall transmit a
8 copy of his or her proof of identification in the manner provided in s. 6.87 (1) unless
9 the elector is a military elector or an overseas elector or the elector has a confidential
10 listing under s. 6.47 (2).

11 **SECTION 3.** 6.86 (3) (a) 1. of the statutes, as affected by 2011 Wisconsin Act 23,
12 is amended to read:

13 6.86 (3) (a) 1. Any elector who is registered and who is hospitalized, may apply
14 for and obtain an official ballot by agent. The agent may apply for and obtain a ballot
15 for the hospitalized absent elector by presenting a form prescribed by the board and
16 containing the required information supplied by the hospitalized elector and signed
17 by that elector, unless the elector is unable to sign due to physical disability. In this
18 case, the elector may authorize another elector to sign on his or her behalf. Any
19 elector signing an application on another elector's behalf shall attest to a statement
20 that the application is made on request and by authorization of the named elector,
21 who is unable to sign the application due to physical disability. The agent shall
22 present this statement along with all other information required under this
23 subdivision. Except as authorized for an elector who has a confidential listing under
24 s. 6.47 (2) or as authorized under s. 6.87 (4) (b) 4., the agent shall present any proof
25 of identification required under sub. (1) (ar) ~~and s. 6.87 (4) (b) 1.~~ The form shall

1 include a space for the municipal clerk or deputy clerk to enter his or her initials
2 indicating that the agent presented proof of identification to the clerk on behalf of the
3 elector.

4 **SECTION 4.** 6.86 (6) of the statutes is created to read:

5 6.86 (6) Except as authorized in sub. (5) and s. 6.87 (9), if an elector mails or
6 personally delivers an absentee ballot to the municipal clerk, the municipal clerk
7 shall not return the ballot to the elector. An elector who mails or personally delivers
8 an absentee ballot to the municipal clerk at an election is not permitted to vote in
9 person at the same election on election day.

10 **SECTION 5.** 6.869 of the statutes, as affected by 2011 Wisconsin Act 23, is
11 amended to read:

12 **6.869 Uniform instructions.** The board shall prescribe uniform instructions
13 for municipalities to provide to absentee electors. The instructions shall include the
14 specific means of electronic communication that an absentee elector may use to file
15 an application for an absentee ballot and, if the absentee elector is required to
16 register, to request a registration form or change his or her registration. The
17 instructions shall include information concerning whether proof of identification is
18 required to be presented or enclosed ~~under s. 6.86 (1) (ar) or 6.87 (4) (b) 1.~~ The
19 instructions shall also include information concerning the procedure for correcting
20 errors in marking a ballot and obtaining a replacement for a spoiled ballot. The
21 procedure shall, to the extent possible, respect the privacy of each elector and
22 preserve the confidentiality of each elector's vote.

23 **SECTION 6.** 6.87 (1) of the statutes, as affected by 2011 Wisconsin Act 23, is
24 amended to read:

1 **6.87 (1)** Upon proper request made within the period prescribed in s. 6.86, the
2 municipal clerk or a deputy clerk authorized by the municipal clerk shall write on
3 the official ballot, in the space for official endorsement, the clerk's initials and official
4 title. Unless application is made ~~under s. 6.86 (1) (ac) or in person under s. 6.86 (1)~~
5 ~~(ar)~~, the absent elector is exempted from providing proof of identification under sub.
6 ~~(4) (b) 2. or 3.~~, or the applicant is a military or overseas elector, the absent elector shall
7 enclose a copy of his or her proof of identification or any authorized substitute
8 document with his or her application. The municipal clerk shall verify that the name
9 on the proof of identification conforms to the name on the application. The clerk shall
10 not issue an absentee ballot to an elector who is required to enclose a copy of proof
11 of identification or an authorized substitute document with his or her application
12 unless the copy is enclosed and the proof is verified by the clerk.

13 **SECTION 7.** 6.87 (4) (b) 1. of the statutes, as affected by 2011 Wisconsin Act 23,
14 is amended to read:

15 **6.87 (4) (b) 1.** Except as otherwise provided in s. 6.875, the elector voting
16 absentee shall make and subscribe to the certification before one witness who is an
17 adult U.S. citizen. The absent elector, in the presence of the witness, shall mark the
18 ballot in a manner that will not disclose how the elector's vote is cast. The elector
19 shall then, still in the presence of the witness, fold the ballots so each is separate and
20 so that the elector conceals the markings thereon and deposit them in the proper
21 envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the
22 ballot so that the elector conceals the markings thereon and deposit the ballot in the
23 proper envelope. ~~Except as authorized in subds. 2. and 5. and s. 6.875 (6) and~~
24 ~~notwithstanding s. 343.43 (1) (f), if the elector has not enclosed a copy of his or her~~
25 ~~proof of identification with his or her application, the elector shall enclose a copy of~~

1 ~~the proof of identification in the manner provided in sub. (1) in the envelope, unless~~
2 ~~the elector is a military elector or an overseas elector or the elector has a confidential~~
3 ~~listing under s. 6.47 (2).~~ If proof of residence under s. 6.34 is required and the
4 document enclosed by the elector under this subdivision does not constitute proof of
5 residence under s. 6.34, the elector shall also enclose proof of residence under s. 6.34
6 in the envelope. Proof of residence is required if the elector is not a military elector
7 or an overseas elector and the elector registered by mail and has not voted in an
8 election in this state. If the elector requested a ballot by means of facsimile
9 transmission or electronic mail under s. 6.86 (1) (ac), the elector shall enclose in the
10 envelope a copy of the request which bears an original signature of the elector. The
11 elector may receive assistance under sub. (5). The return envelope shall then be
12 sealed. The witness may not be a candidate. The envelope shall be mailed by the
13 elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.
14 If the envelope is mailed from a location outside the United States, the elector shall
15 affix sufficient postage unless the ballot qualifies for delivery free of postage under
16 federal law. Failure to return an unused ballot in a primary does not invalidate the
17 ballot on which the elector's votes are cast. Return of more than one marked ballot
18 in a primary or return of a ballot prepared under s. 5.655 or a ballot used with an
19 electronic voting system in a primary which is marked for candidates of more than
20 one party invalidates all votes cast by the elector for candidates in the primary.

21 **SECTION 8.** 6.87 (4) (b) 2. of the statutes, as created by 2011 Wisconsin Act 23,
22 is amended to read:

23 **6.87 (4) (b) 2.** Unless subd. 3. applies, if the absentee elector has applied for and
24 qualified to receive absentee ballots automatically under s. 6.86 (2) (a), the elector
25 may, in lieu of providing ~~a copy of proof of identification as required under subd. 1.,~~

1 submit with his or her absentee ballot a statement signed by the same individual who
2 witnesses voting of the ballot which contains the name and address of the elector and
3 verifies that the name and address are correct.

4 **SECTION 9.** 6.87 (4) (b) 3. of the statutes, as created by 2011 Wisconsin Act 23,
5 is amended to read:

6 6.87 (4) (b) 3. If the absentee elector has received an absentee ballot from the
7 municipal clerk by mail for a previous election, has provided ~~a copy of~~ proof of
8 identification ~~as required under subd. 1.~~ with that ballot, and has not changed his
9 or her name or address since providing that proof of identification, the elector is not
10 required to provide ~~a copy of the~~ proof of identification ~~required under subd. 1.~~

11 **SECTION 10.** 6.87 (4) (b) 5. of the statutes, as created by 2011 Wisconsin Act 23,
12 is amended to read:

13 6.87 (4) (b) 5. Unless subd. 3. or 4. applies, if the absentee elector resides in a
14 qualified retirement home, as defined in s. 6.875 (1) (at), a qualified
15 community-based residential facility, as defined in s. 6.875 (1) (as), a residential care
16 apartment complex that is certified or registered under s. 50.034 (1), or an adult
17 family home that is certified under s. 50.032 or licensed under s. 50.033 and the
18 municipal clerk or board of election commissioners of the municipality where the
19 complex, facility, or home is located does not send special voting deputies to visit the
20 complex, facility, or home at the election under s. 6.875, the elector may, in lieu of
21 providing proof of identification ~~required under subd. 1.~~, submit with his or her
22 absentee ballot a statement signed by the same individual who witnesses voting of
23 the ballot that contains the certification of an authorized representative of the
24 complex, facility, or home that the elector resides in the complex, facility, or home and
25 the complex, facility, or home is certified or registered as required by law, that

1 contains the name and address of the elector, and that verifies that the name and
2 address are correct.

3 **SECTION 11.** 6.88 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 23,
4 is amended to read:

5 6.88 (3) (a) Except in municipalities where absentee ballots are canvassed
6 under s. 7.52, at any time between the opening and closing of the polls on election day,
7 the inspectors shall, in the same room where votes are being cast, in such a manner
8 that members of the public can hear and see the procedures, open the carrier
9 envelope only, and announce the name of the absent elector or the identification
10 serial number of the absent elector if the elector has a confidential listing under s.
11 6.47 (2). When the inspectors find that the certification has been properly executed,
12 the applicant is a qualified elector of the ward or election district, and the applicant
13 has not voted in the election, they shall enter an indication on the poll list next to the
14 applicant's name indicating an absentee ballot is cast by the elector. They shall then
15 open the envelope containing the ballot in a manner so as not to deface or destroy the
16 certification thereon. The inspectors shall take out the ballot without unfolding it
17 or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95,
18 the inspectors shall verify that the ballot has been endorsed by the issuing clerk. If
19 the poll list indicates that proof of residence under s. 6.34 is required and no proof
20 of residence is enclosed or the name or address on the document that is provided is
21 not the same as the name and address shown on the poll list, ~~or if the elector is not~~
22 ~~a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s.~~
23 ~~6.34 (1) (b), and the elector is required to provide a copy of proof of identification~~
24 ~~under s. 6.87 (4) (b) 1. and no copy of the proof of identification is enclosed or the name~~
25 ~~on the document cannot be verified by the inspectors,~~ the inspectors shall proceed as

1 provided under s. 6.97 (2). The inspectors shall then deposit the ballot into the proper
2 ballot box and enter the absent elector's name or voting number after his or her name
3 on the poll list in the same manner as if the elector had been present and voted in
4 person.

5 **SECTION 12.** 6.97 (title) of the statutes, as affected by 2011 Wisconsin Act 23,
6 is amended to read:

7 **6.97 (title) Voting procedure for individuals not providing required**
8 **proof of residence or identification.**

9 **SECTION 13.** 6.97 (2) of the statutes, as affected by 2011 Wisconsin Act 23, is
10 amended to read:

11 6.97 (2) Whenever any individual who votes by absentee ballot is required to
12 provide proof of residence in order to be permitted to vote and does not provide the
13 required proof of residence under s. 6.34, the inspectors shall treat the ballot as a
14 provisional ballot under this section. ~~Whenever any individual, other than a military~~
15 ~~elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b),~~
16 ~~an individual who has a confidential listing under s. 6.47 (2), or an individual who~~
17 ~~is exempted under s. 6.87 (4) or s. 6.875 (6), votes by absentee ballot and does not~~
18 ~~enclose a copy of the proof of identification under s. 6.87 (4) (b) 1., the inspectors shall~~
19 ~~similarly treat the ballot as a provisional ballot under this section.~~ Upon removing
20 the ballot from the envelope, the inspectors shall write on the back of the ballot the
21 serial number of the individual corresponding to the number kept at the election on
22 the poll list or other list maintained under s. 6.79 and the notation "s. 6.97". The
23 inspectors shall indicate on the list the fact that the individual is required to provide
24 proof of residence ~~or to provide, or provide a copy of, proof of identification as required~~
25 ~~under s. 6.87 (4) (b) 1.~~ but did not do so. The inspectors shall promptly notify the

1 municipal clerk or executive director of the municipal board of election
2 commissioners of the name, address, and serial number of the individual. The
3 inspectors shall then place the ballot inside an envelope on which the name and
4 serial number of the elector is entered and shall place the envelope in a separate
5 carrier envelope.

6 **SECTION 14.** 6.97 (3) of the statutes, as affected by 2011 Wisconsin Act 23, is
7 amended to read:

8 6.97 (3) (a) Whenever an elector who votes by provisional ballot under sub. (1)
9 or (2) because the elector does not provide proof of identification ~~or a copy thereof~~
10 under s. 6.79 (2), or 6.86 (1) (ar), ~~or s. 6.87 (4) (b) 1.~~ later appears at the polling place
11 where the ballot is cast before the closing hour and provides the proof of identification
12 ~~or a copy thereof~~, the inspectors shall remove the elector's ballot from the separate
13 carrier envelope, shall note on the poll list that the elector's provisional ballot is
14 withdrawn, and shall deposit the elector's ballot in the ballot box. If the inspectors
15 have notified the municipal clerk or executive director of the board of election
16 commissioners that the elector's ballot was cast under this section, the inspectors
17 shall notify the clerk or executive director that the elector's provisional ballot is
18 withdrawn.

19 (b) Whenever the municipal clerk or executive director of the municipal board
20 of election commissioners is informed by the inspectors that a ballot has been cast
21 under this section, the clerk or executive director shall promptly provide written
22 notice to the board of canvassers of each municipality, special purpose district, and
23 county that is responsible for canvassing the election of the number of ballots cast
24 under this section in each ward or election district. The municipal clerk or executive
25 director then shall determine whether each individual voting under this section is

1 qualified to vote in the ward or election district where the individual's ballot is cast.
2 If the elector is required to provide proof of identification ~~or a copy thereof~~ under s.
3 6.79 (2), or 6.86 (1) (ar), ~~or 6.87 (4) (b) 1.~~ and fails to do so, the elector bears the burden
4 of correcting the omission by providing the proof of identification ~~or copy thereof~~ at
5 the polling place before the closing hour or at the office of the municipal clerk or board
6 of election commissioners no later than 4 p.m. on the Friday after the election. The
7 municipal clerk or executive director shall make a record of the procedure used to
8 determine the validity of each ballot cast under this section. If, prior to 4 p.m. on the
9 Friday after the election, the municipal clerk or executive director determines that
10 the individual is qualified to vote in the ward or election district where the
11 individual's ballot is cast, the municipal clerk or executive director shall notify the
12 board of canvassers for each municipality, special purpose district and county that
13 is responsible for canvassing the election of that fact.

14 (c) A ballot cast under this section by an elector for whom proof of identification
15 ~~or a copy thereof~~ is required under s. 6.79 (2), or 6.86 (1) (ar), ~~or 6.87 (4)(b) 1.~~ shall
16 not be counted unless the municipal clerk or executive director of the board of
17 election commissioners provides timely notification that the elector has provided
18 proof of identification ~~or a copy thereof~~ under this section.

19 **SECTION 15.** 7.08 (12) of the statutes, as created by 2011 Wisconsin Act 23, is
20 amended to read:

21 **7.08 (12) ASSISTANCE IN OBTAINING PROOF OF IDENTIFICATION.** Engage in outreach
22 to identify and contact groups of electors who may need assistance in obtaining or
23 renewing a document that constitutes proof of identification for voting ~~under s. 6.79~~
24 ~~(2) (a), 6.86 (1) (ar), or 6.87 (4) (b) 1.,~~ and provide assistance to the electors in
25 obtaining or renewing that document.

1 **SECTION 16.** 7.52 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 23,
2 is amended to read:

3 7.52 **(3)** (a) The board of absentee ballot canvassers shall first open the carrier
4 envelope only, and, in such a manner that a member of the public, if he or she desired,
5 could hear, announce the name of the absent elector or the identification serial
6 number of the absent elector if the elector has a confidential listing under s. 6.47 (2).
7 When the board of absentee ballot canvassers finds that the certification has been
8 properly executed and the applicant is a qualified elector of the ward or election
9 district, the board of absentee ballot canvassers shall enter an indication on the poll
10 list next to the applicant's name indicating an absentee ballot is cast by the elector.
11 The board of absentee ballot canvassers shall then open the envelope containing the
12 ballot in a manner so as not to deface or destroy the certification thereon. The board
13 of absentee ballot canvassers shall take out the ballot without unfolding it or
14 permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the
15 board of absentee ballot canvassers shall verify that the ballot has been endorsed by
16 the issuing clerk. If the poll list indicates that proof of residence is required and no
17 proof of residence is enclosed or the name or address on the document that is provided
18 is not the same as the name and address shown on the poll list, ~~or if the elector is not~~
19 ~~a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s.~~
20 ~~6.34 (1) (b), and the elector is required to provide, or to provide a copy of, proof of~~
21 ~~identification under s. 6.87 (4) (b) 1. and no copy of the proof of identification is~~
22 ~~enclosed or the name on the document cannot be verified by the canvassers, the board~~
23 of absentee ballot canvassers shall proceed as provided under s. 6.97 (2). The board
24 of absentee ballot canvassers shall mark the poll list number of each elector who
25 casts an absentee ballot on the back of the elector's ballot. The board of absentee

1 ballot canvassers shall then deposit the ballot into the proper ballot box and enter
2 the absent elector's name or poll list number after his or her name on the poll list.

3 **SECTION 17. Initial applicability.**

4 (1) The treatment of sections 6.18, 6.86 (1) (ac) and (3) (a) 1., 6.869, 6.87 (1) and
5 (4) (b) 1., 2., 3., and 5., 6.88 (3) (a), 6.97 (2) and (3), 7.08 (12), and 7.52 (3) (a) of the
6 statutes first applies with respect to absentee ballot applications filed on the effective
7 date of this subsection.

8 (END)