

2013 DRAFTING REQUEST

Bill

Received: 7/22/2013 Received By: tkuczens
Wanted: As time permits Same as LRB:
For: Julie Lassa (608) 266-3123 By/Representing: Jessica Ford-Kelly
May Contact: Drafter: tkuczens
Subject: Elections - miscellaneous Addl. Drafters:
Extra Copies: jk, jtk

Submit via email: YES
Requester's email: Sen.Lassa@legis.wisconsin.gov
Carbon copy (CC) to: tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Access for persons with disabilities to in-person absentee voting

Instructions:

See attached

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>
/?	tkuczens 7/24/2013			_____			
/P1	tkuczens 9/19/2013	evinz 9/20/2013	phenry 9/20/2013	_____	srose 7/30/2013		
/1				_____	sbasford 9/20/2013	lparisi 11/6/2013	

FE Sent For:

↳ Not
Needed

<END>

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Received: **7/22/2013** Received By: **tkuczens**
Wanted: **As time permits** Same as LRB:
For: **Julie Lassa (608) 266-3123** By/Representing: **Jessica Ford-Kelly**
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Extra Copies: **jk, jtk**

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Carbon copy (CC) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Access ^{for} to persons with disabilities ^{to} for in-person absentee voting ✓

Instructions:

See attached

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/?	tkuczens 7/24/2013			_____			
/P1		evinz 7/29/2013	jmurphy 7/30/2013	_____	srose 7/30/2013		
FE Sent For:		1 eev 9/20/13	9/20/13				

<END>

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Pre Topic:

No specific pre topic given

Topic:

Access to persons with ~~disabilities~~ ^{disabilities} for in-person absentee voting

Instructions:

See attached

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>
/?	tkuczens	pl eeV 7/25/13	pl eeV 7/29/13	_____	_____	_____	_____
FE Sent For:				_____	_____	_____	_____

<END>

Kuczenski, Tracy

From: Ford-Kelly, Jessica
Sent: Wednesday, May 15, 2013 11:38 AM
To: Kuczenski, Tracy
Subject: Drafting request regarding curbside voting

In the statutes it states that electors who are unable to enter a polling place due to a disability may receive a ballot at the entrance of the polling place, Wis. Stat. 6.82(1).

However, in October of 2012 the GAB determined that this should also include in-person absentee voting at the Clerk's Office. Can you please draft up the GAB opinion to allow disabled individuals access vote absentee in their Clerk's office? Thank you.

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 126 South
P.O. Box 7882
Madison, WI 53708
1-800-925-7491 tollfree
608-266-3123 local
608-282-3564 fax

6.855 Alternate absentee ballot site

6.84 Methode for obtaining absentee ballot

6.87 Absentee voting procedure

6.855 (4) re: disabilities

6.875 (6)(c)

6.97 (3)(a) & (c)

State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

DATE: October 26, 2012

TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
City of Milwaukee Election Commission
Milwaukee County Election Commission

FROM: Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board

SUBJECT: Information on Expiration Date for Driver License / State ID and Curbside Voting
During In-Person Absentee

The Government Accountability Board (G.A.B.) Staff have received requests for information regarding the administrative processes for collecting the expiration date for a driver license/State ID and the applicability of curbside voting for in-person absentee voting. This correspondence provides guidance on both of these two topics.

Expiration Date for Driver License / State ID

The G.A.B. received a request for clarification indicating whether an expiration date as provided on the Voter Registration Application (GAB-131) is mandated and whether clerks should prohibit registration from voters without the expiration date. G.A.B. staff provides the following administrative processes that ensure voters that are unable to provide a Driver License/State ID expiration date are still allowed to register.

Background: State and Federal law requires determining if driver licenses are current and valid. To accommodate this requirement, the expiration date was added to the GAB-131 as a required field to assist in assessing whether the Department of Motor Vehicles (DMV) license or ID card is suspended, revoked or expired. If the license is suspended, revoked or expired, the applicant must provide the last four digits of their social security account number in addition to their DMV license number.

There are situations where voters may be unable to provide an expiration date. For example, the DMV does not produce driver licenses or state ID cards immediately upon request. Instead, the applicant is provided a receipt that is valid for 45 days, and the license or ID is mailed to the applicant. These DMV issued receipts do not indicate when the driver license/ID card expires. Further, there are voters that may register in the clerk's office or on Election Day that have memorized their driver license or state ID number. Note that registrants are not required to produce the product. Providing the number verbally is perfectly acceptable as long as the applicant does not use their memorized driver license or state ID number as proof of residence.

Administrative Process: The reason that the expiration date is required is to determine whether the product is current and valid and whether the last four digits of the social security account number are required. As voters may not have the expiration date with them at the time of registration, G.A.B. staff recommend that these limited cases are treated the following ways:

1. While election officials must determine whether the driver license is current and valid, the expiration date may not be the only way this can be determined. Staff recommends that election

officials ask voters that do not know their expiration date: *Is your driver license suspended, revoked or expired?*

2. Voters that respond that their license is not suspended, revoked or expired should be recorded by election officials as “voter affirmed” on the GAB-131 in the expiration date section.
3. Voters that respond that their license is suspended, revoked or expired (or voters who do not know) shall be required to provide the last four digits of their social security number. If the voter cannot or will not provide the last four digits of their social security number, the voter should not be allowed to register.
4. This information should also be recorded on the GAB-104 Inspectors’ Statement.

Curbside Voting During In-Person Absentee

G.A.B. Staff have determined that the curbside voting procedures normally employed only on Election Day should now include voting at the municipal clerk’s office during the in-person absentee time period.

Background: An elector who, as a result of disability, is unable to enter the polling place (or in-person absentee location) may elect to receive a ballot at the entrance of the polling place. Wis. Stat. § 6.82(1). The elector may receive assistance in marking the ballot, if required, from an election inspector, or from any other person of the voter’s choice (except the elector’s employer or an agent of the elector’s labor union).

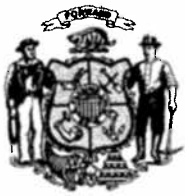
Administrative Process:

1. The election inspectors announce at the in-person absentee voting location, “(State the elector’s name), who is unable to enter this room has asked to receive a curbside ballot. Does anyone object to the issuance of this ballot?” If an objection is made, the election official shall instruct the challenger to challenge the ballot at the polling place.
2. The clerk or a deputized election official shall initial the ballot and two deputized election officials shall take the ballot to the elector. If the voter requires assistance in marking the ballot, either one of the officials delivering the ballot to the voter or a person accompanying the voter may assist. A deputized election official must witness the ballot.
3. When the voter has completed the ballot, the deputized election officials return to the in-person absentee voting location and announce, “We have a ballot offered by (stating the elector’s name), an elector who, as a result of disability, is unable to enter the polling place without assistance.”
4. The election officials shall secure the absentee certificate envelope containing the ballot in the carrier envelope/container.
5. If assistance was provided, “assisted” is also noted on the absentee ballot log along with the name and address of the person providing assistance.
6. This incident should be recorded on the Absentee Ballot Log.

Please contact the G.A.B. HelpDesk if you have any question regarding this communication at (608) 261-2028 or gabhhelpdesk@wi.gov. Thank you.

cc: Kevin J. Kennedy
Director and General Counsel
Government Accountability Board

Ross D. Hein
Elections Supervisor
Government Accountability Board



LRB-27212 P1
TKK:.....
RWR
d-note
insert

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAJ
xref ↓

7/24/13

soon

Pruf
7/29
jm

gen cat

1 **AN ACT** relating to: voting at the entrance to an in-person absentee voting
2 location by an elector with a disability.

Analysis by the Legislative Reference Bureau

✓ This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

3 **SECTION 1.** 6.86 (1) (ar) of the statutes is amended to read:
4 6.86 (1) (ar) Except as authorized in s. 6.875 (6), the municipal clerk shall not
5 issue an absentee ballot unless the clerk receives a written application therefor from
6 a ~~qualified~~ an elector of the municipality who qualifies under par. (a). The clerk shall
7 retain each absentee ballot application until destruction is authorized under s. 7.23
8 (1). Except as authorized in s. 6.79 (6) and (7), if a ~~qualified~~ an elector qualifying
9 under par. (a) applies for an absentee ballot in person at the clerk's office, the clerk

1 shall not issue the elector an absentee ballot unless the elector presents proof of
 2 identification. The clerk shall verify that the name on the proof of identification
 3 presented by the elector conforms to the name on the elector's application and shall
 4 verify that any photograph appearing on that document reasonably resembles the
 5 elector. The clerk shall then enter his or her initials on the certificate envelope
 6 indicating that the absentee elector presented proof of identification to the clerk.

History: 1975 c. 85 ss. 37, 38, 65; 1975 c. 90, 199, 200, 275, 422; 1977 c. 394 ss. 14, 40, 41; 1979 c. 232, 311; 1981 c. 391; 1983 a. 183, 484; 1985 a. 304 ss. 69, 156; 1987 a. 391; 1995 a. 313; 1999 a. 182; 2001 a. 51; 2003 a. 265; 2005 a. 451; 2011 a. 23, 75, 115, 227.

7 **SECTION 2. 6.86 (1) (au)** of the statutes is created to read:

8 6.86 (1) (au) 1. An absentee elector who, as a result of a disability, is unable
 9 to enter the office of the municipal clerk, or an alternate site under s. 6.855 if
 10 applicable, may submit a written application for and elect to receive an absentee
 11 ballot at the entrance to the clerk's office or alternate site. When the municipal clerk
 12 or a deputy clerk authorized by the municipal clerk is informed that an absentee
 13 elector is at the entrance to the clerk's office ^c or alternate site, the clerk or deputy
 14 clerk shall distinctly announce that " (State the person's name), an elector who
 15 is applying in person to obtain an absentee ballot at this (office) (alternate absentee
 16 ballot site) and who, as a result of ^a disability, is unable to enter this (office) (absentee
 17 ballot site) without assistance, has asked to receive a ballot at the entrance to this
 18 (office) (absentee ballot site)." ^g The inspector shall then ask, "Does anyone object to
 19 the issuance of this ballot?" If an objection is made, the clerk or deputy clerk shall
 20 instruct the challenger to challenge the ballot at the polling place.

***NOTE: I borrowed the language regarding a challenge to the issuance of the absentee ballot from the memorandum issued by the Government Accountability Board on October 26, 2012. However, it is not clear from the memorandum whether the challenge could be made on that day at the clerk's office or alternate site, or whether the challenge would need to be taken to the polling place on the date of the election. Please advise.

1 2. The municipal clerk or deputy clerk shall allow the absentee elector to be
2 assisted in marking an absentee ballot by any individual selected by the elector,
3 except the elector's employer or an agent of that employer or an officer or agent of a
4 labor organization ^{that} ~~which~~ represents the elector. The individual selected by the
5 elector shall, except as authorized in s. 6.79 (6) and (7), present to the municipal clerk
6 or deputy clerk proof of identification for the assisted absentee elector as specified
7 under par. (ar), which proof of identification shall be verified by the clerk or deputy
8 clerk in the manner provided under par. (ar). The clerk or deputy clerk shall then
9 enter his or her initials on the certificate envelope indicating that the absentee
10 elector presented proof of identification to the clerk. If the proof of identification does
11 not constitute proof of residence under s. 6.34, the individual selected by the elector
12 shall also provide proof of residence under s. 6.34 for the assisted absentee elector,
13 whenever required. The clerk shall ~~shall~~ then issue a ballot to the individual selected
14 by the absentee elector and shall accompany the individual to the entrance to the
15 clerk's office or alternate site where assistance to the elector is to be given. If the
16 absentee elector requires assistance in marking the ballot, either the clerk or deputy
17 clerk or the assisting individual may assist the absent elector, but the clerk or deputy
18 clerk shall witness the ballot as provided in ^{S.} 6.87. The absentee elector or the
19 individual selected by the elector shall secure the absentee ballot in its certificate
20 envelope.

21 3. ^{the} clerk or deputy clerk shall then immediately take the ballot into the
22 clerk's office or alternate site and shall distinctly announce that he or she has "an
23 ballot offered by ^{state the} (stating person's name), an elector who has voted in-person
24 absentee and who, as a result of ^a disability, is unable to enter this (office) (alternate
25 absentee ballot site) without assistance. The clerk or deputy clerk shall then ask,

1 “Does anyone object to the reception of this absentee ballot?” If an objection is made,
2 the clerk or deputy clerk shall instruct the challenger to challenge the ballot at the
3 polling place. If no objection is made, the clerk or deputy clerk shall proceed under
4 s. 6.88. If the absentee elector received assistance under this paragraph, the clerk
5 or deputy clerk shall note that fact on the absentee ballot log and shall enter the
6 name and address of the person providing assistance to the absent elector.

† ****NOTE: In this subdivision, I use the term “absentee ballot log,” as this is the
phrase used in the GAB memorandum; however, this phrase does not appear elsewhere
in the statutes. Is this phrase necessary? If so, is it clear? Or should some other more
accurate phrase be used in its place?

7 **SECTION 3.** 6.87 (1) of the statutes is amended to read:

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

History: 1971 c. 242; 1971 c. 304 s. 29 (1), 70; 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, 100; 2003 a. 265; 2005 a. 451; 2011 a. 23, 75, 227.

20 **SECTION 4.** 6.87 (2) of the statutes is amended to read:

21 6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place
22 the ballot in an unsealed envelope furnished by the clerk. The envelope shall have

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

11 [STATE OF

12 County of]

13 or

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

15 I,, certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false
 16 statements, that I am a resident of the [... ward of the] (town) (village) of, or of
 17 the aldermanic district in the city of, residing at in said city, the county
 18 of, state of Wisconsin, and am entitled to vote in the (ward) (election district) at
 19 the election to be held on; that I am not voting at any other location in this election;
 20 that I am unable or unwilling to appear at the polling place in the (ward) (election
 21 district) on election day or have changed my residence within the state from one ward
 22 or election district to another later than 28 days before the election. I certify that I
 23 exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her)
 24 presence and in the presence of no other person marked the ballot and enclosed and
 25 sealed the same in this envelope in such a manner that no one but myself and any

1 person rendering assistance under s. 6.86 (1) (au) or 6.87 (5), Wis. Stats., if I
2 requested assistance, could know how I voted.

3 Signed

4 Identification serial number, if any:

5 The witness shall execute the following:

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

12(Name)

13(Address)**

14 * — An elector who provides an identification serial number issued under s.
15 6.47 (3), Wis. Stats., need not provide a street address.

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

Insert 6-18

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, 208; 2003 a. 265; 2005 a. 451; 2011 a. 23, 75, 227.

18 **SECTION 5.** 6.875 (6) (e) of the statutes is amended to read:

19 6.875 (6) (e) If a qualified an elector who is registered to vote whenever required
20 and who qualifies under ss. 6.20 and 6.85 as an absent elector is not able to cast his
21 or her ballot on 2 separate visits by the deputies to the home, facility, or complex, the
22 deputies shall so inform the municipal clerk or executive director of the board of

1 election commissioners, who may then send the ballot to the elector no later than 5
2 p.m. on the Friday preceding the election.

3 **History:** 1985 a. 304; 1987 a. 391; 1989 a. ~~393~~; 1997 a. 127, 188, 237; 1999 a. 32, 182; 2001 a. 16, 109; 2005 a. 149, 451; 2007 a. 96; 2011 a. 23, 75.

3 **SECTION 6. 6.97 (3)** of the statutes is amended to read:

4 6.97 (3) (a) Whenever an elector who votes by provisional ballot under sub. (1)
5 or (2) because the elector does not provide proof of identification under s. 6.79 (2) or
6 6.86 (1) (ar) [✓] or (au) later appears at the polling place where the ballot is cast before
7 the closing hour and provides the proof of identification, the inspectors shall remove
8 the elector's ballot from the separate carrier envelope, shall note on the poll list that
9 the elector's provisional ballot is withdrawn, and shall deposit the elector's ballot in
10 the ballot box. If the inspectors have notified the municipal clerk or executive
11 director of the board of election commissioners that the elector's ballot was cast
12 under this section, the inspectors shall notify the clerk or executive director that the
13 elector's provisional ballot is withdrawn.

14 (b) Whenever the municipal clerk or executive director of the municipal board
15 of election commissioners is informed by the inspectors that a ballot has been cast
16 under this section, the clerk or executive director shall promptly provide written
17 notice to the board of canvassers of each municipality, special purpose district, and
18 county that is responsible for canvassing the election of the number of ballots cast
19 under this section in each ward or election district. The municipal clerk or executive
20 director then shall determine whether each individual voting under this section is
21 qualified to vote in the ward or election district where the individual's ballot is cast.
22 If the elector is required to provide proof of identification under s. 6.79 (2) or 6.86 (1)
23 (ar) or [✓](au) and fails to do so, the elector bears the burden of correcting the omission
24 by providing the proof of identification at the polling place before the closing hour or

SECTION 6

1 at the office of the municipal clerk or board of election commissioners no later than
 2 4 p.m. on the Friday after the election. The municipal clerk or executive director
 3 shall make a record of the procedure used to determine the validity of each ballot cast
 4 under this section. If, prior to 4 p.m. on the Friday after the election, the municipal
 5 clerk or executive director determines that the individual is qualified to vote in the
 6 ward or election district where the individual's ballot is cast, the municipal clerk or
 7 executive director shall notify the board of canvassers for each municipality, special
 8 purpose district and county that is responsible for canvassing the election of that
 9 fact.

10 (c) A ballot cast under this section by an elector for whom proof of identification
 11 is required under s. 6.79 (2) or 6.86 (1) (ar) or (au) shall not be counted unless the
 12 municipal clerk or executive director of the board of election commissioners provides
 13 timely notification that the elector has provided proof of identification under this
 14 section.

History: 2003 a. 265; 2005 a. 253, 451; 2009 a. 180; 2011 a. 23, 115, 227.
History: her with amended tally sheets and all additional ballots reviewed by the board of canvassers.

(END)

15

Insert 8- END

d-note

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2721/P1ins
TKK:.....

INSERT 8-END

1 **SECTION 1. Initial applicability.**

2 (1) This act first applies with respect to elections held at least 60 days after the

3 effective date of this subsection.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2721/Plins
TKK:.....

✓
INSERT 6-18

1 SECTION 1. 6.87 (4) (b) 1. of the statutes is amended to read:

2 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, the elector voting
3 absentee shall make and subscribe to the certification before one witness who is an
4 adult U.S. citizen. The absent elector, in the presence of the witness, shall mark the
5 ballot in a manner that will not disclose how the elector's vote is cast. The elector
6 shall then, still in the presence of the witness, fold the ballots so each is separate and
7 so that the elector conceals the markings thereon and deposit them in the proper
8 envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the
9 ballot so that the elector conceals the markings thereon and deposit the ballot in the
10 proper envelope. If proof of residence under s. 6.34 is required and the document
11 enclosed by the elector under this subdivision does not constitute proof of residence
12 under s. 6.34, the elector shall also enclose proof of residence under s. 6.34 in the
13 envelope. Proof of residence is required if the elector is not a military elector or an
14 overseas elector and the elector registered by mail and has not voted in an election
15 in this state. If the elector requested a ballot by means of facsimile transmission or
16 electronic mail under s. 6.86 (1) (ac), the elector shall enclose in the envelope a copy
17 of the request which bears an original signature of the elector. The elector may
18 receive assistance under sub. (5) or s. 6.86 (1) (au). The return envelope shall then
19 be sealed. The witness may not be a candidate. The envelope shall be mailed by the
20 elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.
21 If the envelope is mailed from a location outside the United States, the elector shall
22 affix sufficient postage unless the ballot qualifies for delivery free of postage under

1 federal law. Failure to return an unused ballot in a primary does not invalidate the
2 ballot on which the elector's votes are cast. Return of more than one marked ballot
3 in a primary or return of a ballot prepared under s. 5.655 or a ballot used with an
4 electronic voting system in a primary which is marked for candidates of more than
5 one party invalidates all votes cast by the elector for 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, 75, 227.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2721/1dn = P1

TKK:l:....
eev

date

Senator Lassa:

You may wish to have Kevin Kennedy or Michael Haas at the Government
Accountability Board review this draft.

If you are comfortable with the draft as written, I will prepare an analysis and the draft
for introduction.

Tracy K. Kuczenski
Legislative Attorney
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2721/P1dn
TKK:eev:ev

July 29, 2013

Senator Lassa:

You may wish to have Kevin Kennedy or Michael Haas at the Government Accountability Board review this draft.

If you are comfortable with the draft as written, I will prepare an analysis and the draft for introduction.

Tracy K. Kuczenski
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Kuczenski, Tracy

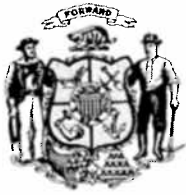
From: Ford-Kelly, Jessica
Sent: Wednesday, September 11, 2013 5:15 PM
To: Kuczenski, Tracy
Subject: Change to LRB 2721/P1dn
Attachments: 13-2721_P1.pdf; 13-2721_P1dn.pdf

Page three line 20.

Spoke with Kevin Kennedy. He does not think that that just having the Clerk or Deputy clerk perform the task of taking a ballot to a clerk's office or alternative site is workable...too much workload.

Can we state that the clerk or deputy clerk can designate somebody under their employment or control to assist in issuing a ballot?

Also, on page 4 in your notes...Kevin said you can use statute 6.89 instead of "absentee ballot log".



RMK
insert

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

9/19/13

soon

Regen

1 AN ACT *to amend* 6.86 (1) (ar), 6.87 (1), 6.87 (2), 6.87 (4) (b) 1., 6.875 (6) (e) and
 2 6.97 (3); and *to create* 6.86 (1) (au) of the statutes; **relating to:** voting at the
 3 entrance to an in-person absentee voting location by an elector with a
 4 disability.

Analysis by the Legislative Reference Bureau

Insert analysis

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

5 SECTION 1. 6.86 (1) (ar) of the statutes is amended to read:
 6 6.86 (1) (ar) Except as authorized in s. 6.875 (6), the municipal clerk shall not
 7 issue an absentee ballot unless the clerk receives a written application therefor from
 8 a qualified an elector of the municipality who qualifies under par. (a). The clerk shall
 9 retain each absentee ballot application until destruction is authorized under s. 7.23

1 (1). Except as authorized in s. 6.79 (6) and (7), if a ~~qualified~~ an elector qualifying
 2 under par. (a) applies for an absentee ballot in person at the clerk's office, the clerk
 3 shall not issue the elector an absentee ballot unless the elector presents proof of
 4 identification. The clerk shall verify that the name on the proof of identification
 5 presented by the elector conforms to the name on the elector's application and shall
 6 verify that any photograph appearing on that document reasonably resembles the
 7 elector. The clerk shall then enter his or her initials on the certificate envelope
 8 indicating that the absentee elector presented proof of identification to the clerk.

9 SECTION 2. 6.86 (1) (au) of the statutes is created to read:

10 6.86 (1) (au) 1. An absentee elector who, as a result of a disability, is unable to
 11 enter the office of the municipal clerk, or an alternate site under s. 6.855 if applicable,
 12 may submit a written application for and elect to receive an absentee ballot at the
 13 entrance to the clerk's office or alternate site. When the municipal clerk or a deputy
 14 clerk authorized by the municipal clerk is informed that an absentee elector is at the
 15 entrance to the clerk's office or alternate site, the clerk or deputy clerk shall distinctly
 16 announce that ".... (state the person's name), an elector who is applying in person
 17 to obtain an absentee ballot at this (office) (alternate absentee ballot site) and who,
 18 as a result of a disability, is unable to enter this (office) (absentee ballot site) without
 19 assistance, has asked to receive a ballot at the entrance to this (office) (absentee
 20 ballot site)." The inspector shall then ask, "Does anyone object to the issuance of this
 21 ballot?" If an objection is made, the clerk or deputy clerk shall instruct the challenger
 22 to challenge the ballot at the polling place.

le ***NOTE: I borrowed the language regarding a challenge to the issuance of the
 absentee ballot from the memorandum issued by the Government Accountability Board
 on October 26, 2012. However, it is not clear from the memorandum whether the
 challenge could be made on that day at the clerk's office or alternate site, or whether the

16
21
22

Issue the ballot and shall
under 506095

challenge would need to be taken to the polling place on the date of the election. Please advise.

1 2. The municipal clerk or deputy clerk shall allow the absentee elector to be
2 assisted in marking an absentee ballot by any individual selected by the elector,
3 except the elector's employer or an agent of that employer or an officer or agent of a
4 labor organization that represents the elector. The individual selected by the elector
5 shall, except as authorized in s. 6.79 (6) and (7), present to the municipal clerk or
6 deputy clerk proof of identification for the assisted absentee elector as specified
7 under par. (ar), which proof of identification shall be verified by the clerk or deputy
8 clerk in the manner provided under par. (ar). The clerk or deputy clerk shall then
9 enter his or her initials on the certificate envelope indicating that the absentee
10 elector presented proof of identification to the clerk. If the proof of identification does
11 not constitute proof of residence under s. 6.34, the individual selected by the elector
12 shall also provide proof of residence under s. 6.34 for the assisted absentee elector,
13 whenever required. The clerk shall then issue a ballot to the individual selected by
14 the absentee elector and shall accompany the individual to the entrance to the clerk's
15 office or alternate site where assistance to the elector is to be given. If the absentee
16 elector requires assistance in marking the ballot, either the clerk or deputy clerk or
17 the assisting individual may assist the absent elector, but the clerk or deputy clerk
18 shall witness the ballot as provided in s. 6.87. The absentee elector or the individual
19 selected by the elector shall secure the absentee ballot in its certificate envelope.

20 3. The clerk or deputy clerk shall then immediately take the ballot into the
21 clerk's office or alternate site and shall distinctly announce that he or she has "a
22 ballot offered by ... (state the person's name), an elector who has voted in-person
23 absentee and who, as a result of a disability, is unable to enter this (office) (alternate

*or a person designated by and under the employment or control of
the clerk or deputy clerk*

1 absentee ballot site) without assistance.” The clerk or deputy clerk shall then ask,
 2 “Does anyone object to the reception of this absentee ballot?” If an objection is made,
 3 the clerk or deputy clerk shall ^{receive} instruct the challenger to challenge the ballot at the ^{under}
 4 polling place. ^{SO 6095} If no objection is made, the clerk or deputy clerk shall proceed under
 5 s. 6.88. If the absentee elector received assistance under this paragraph, the clerk
 6 or deputy clerk shall note that fact on the ^{list under SO 6089} absentee ballot log and shall enter the
 7 name and address of the person providing assistance to the absent elector.

le *****NOTE:** In this subdivision, I use the term “absentee ballot log,” as this is the phrase used in the GAB memorandum; however, this phrase does not appear elsewhere in the statutes. Is this phrase necessary? If so, is it clear? Or should some other more accurate phrase be used in its place?

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

21 **SECTION 4.** 6.87 (2) of the statutes is amended to read:
 22 6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place
 23 the ballot in an unsealed envelope furnished by the clerk. The envelope shall have

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

11 [STATE OF

12 County of]

13 or

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

15 I,, certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false
16 statements, that I am a resident of the [... ward of the] (town) (village) of, or of
17 the aldermanic district in the city of, residing at* in said city, the county
18 of, state of Wisconsin, and am entitled to vote in the (ward) (election district) at
19 the election to be held on; that I am not voting at any other location in this election;
20 that I am unable or unwilling to appear at the polling place in the (ward) (election
21 district) on election day or have changed my residence within the state from one ward
22 or election district to another later than 28 days before the election. I certify that I
23 exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her)
24 presence and in the presence of no other person marked the ballot and enclosed and
25 sealed the same in this envelope in such a manner that no one but myself and any

1 person rendering assistance under s. 6.86 (1) (au) or 6.87 (5), Wis. Stats., if I
2 requested assistance, could know how I voted.

3 Signed

4 Identification serial number, if any:

5 The witness shall execute the following:

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

12(Name)

13(Address)**

14 * — An elector who provides an identification serial number issued under s.
15 6.47 (3), Wis. Stats., need not provide a street address.

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

18 **SECTION 5.** 6.87 (4) (b) 1. of the statutes is amended to read:

19 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, the elector voting
20 absentee shall make and subscribe to the certification before one witness who is an
21 adult U.S. citizen. The absent elector, in the presence of the witness, shall mark the
22 ballot in a manner that will not disclose how the elector's vote is cast. The elector
23 shall then, still in the presence of the witness, fold the ballots so each is separate and
24 so that the elector conceals the markings thereon and deposit them in the proper
25 envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the

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

20 **SECTION 6.** 6.875 (6) (e) of the statutes is amended to read:

21 6.875 (6) (e) If a qualified an elector who is registered to vote whenever required
22 and who qualifies under ss. 6.20 and 6.85 as an absent elector is not able to cast his
23 or her ballot on 2 separate visits by the deputies to the home, facility, or complex, the
24 deputies shall so inform the municipal clerk or executive director of the board of

1 election commissioners, who may then send the ballot to the elector no later than 5
2 p.m. on the Friday preceding the election.

3 **SECTION 7.** 6.97 (3) of the statutes is amended to read:

4 6.97 (3) (a) Whenever an elector who votes by provisional ballot under sub. (1)
5 or (2) because the elector does not provide proof of identification under s. 6.79 (2) or
6 6.86 (1) (ar) or (au) later appears at the polling place where the ballot is cast before
7 the closing hour and provides the proof of identification, the inspectors shall remove
8 the elector's ballot from the separate carrier envelope, shall note on the poll list that
9 the elector's provisional ballot is withdrawn, and shall deposit the elector's ballot in
10 the ballot box. If the inspectors have notified the municipal clerk or executive
11 director of the board of election commissioners that the elector's ballot was cast
12 under this section, the inspectors shall notify the clerk or executive director that the
13 elector's provisional ballot is withdrawn.

14 (b) Whenever the municipal clerk or executive director of the municipal board
15 of election commissioners is informed by the inspectors that a ballot has been cast
16 under this section, the clerk or executive director shall promptly provide written
17 notice to the board of canvassers of each municipality, special purpose district, and
18 county that is responsible for canvassing the election of the number of ballots cast
19 under this section in each ward or election district. The municipal clerk or executive
20 director then shall determine whether each individual voting under this section is
21 qualified to vote in the ward or election district where the individual's ballot is cast.
22 If the elector is required to provide proof of identification under s. 6.79 (2) or 6.86 (1)
23 (ar) or (au) and fails to do so, the elector bears the burden of correcting the omission
24 by providing the proof of identification at the polling place before the closing hour or
25 at the office of the municipal clerk or board of election commissioners no later than

1 4 p.m. on the Friday after the election. The municipal clerk or executive director
2 shall make a record of the procedure used to determine the validity of each ballot cast
3 under this section. If, prior to 4 p.m. on the Friday after the election, the municipal
4 clerk or executive director determines that the individual is qualified to vote in the
5 ward or election district where the individual's ballot is cast, the municipal clerk or
6 executive director shall notify the board of canvassers for each municipality, special
7 purpose district and county that is responsible for canvassing the election of that
8 fact.

9 (c) A ballot cast under this section by an elector for whom proof of identification
10 is required under s. 6.79 (2) or 6.86 (1) (ar) or (au) shall not be counted unless the
11 municipal clerk or executive director of the board of election commissioners provides
12 timely notification that the elector has provided proof of identification under this
13 section.

14 **SECTION 8. Initial applicability.**

15 (1) This act first applies with respect to elections held at least 60 days after the
16 effective date of this subsection.

17 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2721/P1ins
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INSERT ANALYSIS

Under current law, an elector who, as a result of a disability, is unable to enter a polling place ("assisted elector") may request to receive a ballot at the entrance of the polling place and may also request to receive assistance with marking that ballot from an assisting individual. The assisted elector must give his or her name and address to an election official and provide proof of residence if he or she would otherwise be required to provide proof of residence to receive a ballot. Unless the assisted elector is registering in person on the day of the election, an election official who receives a request from an assisted elector must verify that the assisted elector's name and address conform to the elector's name and address on the poll list. The election official must also, generally, require the elector to enter his or her signature on the poll list or on a separate list maintained for new, late, or same-day registrants. If the election official issues a ballot for the assisted elector, the election official must accompany the assisting individual to the entrance to the polling place. After the assisted elector or assisting individual has marked and folded the assisted elector's ballot, the assisting individual must immediately take the ballot into the polling place and give the ballot to an election official. The election official must announce in the polling place that he or she has a ballot offered by a person requiring assistance, and must ask whether anyone in the polling place objects to the issuance of a ballot for the elector. The ballots of challenged electors are marked and may be reviewed during the canvassing process. A ballot may be disqualified only if the municipal clerk, board of election commissioners or a challenging elector demonstrates beyond a reasonable doubt that the person does not qualify as an elector or is not properly registered.

Under current law, a Wisconsin voter may vote by absentee ballot, by mail or in person for any election. This bill extends the accommodations available to electors who, as a result of a disability, are unable to enter a polling place on election day to electors who, as a result of a disability, are unable to enter a municipal clerk's office or alternate site used for the purpose of absentee voting in person. The responsibilities assigned to election officials under current law are assigned to the clerk or deputy clerk, or to a person designated by and under the employment or control of the clerk or deputy clerk, in this bill.

Parisi, Lori

From: Ford-Kelly, Jessica
Sent: Wednesday, November 06, 2013 1:43 PM
To: LRB.Legal
Subject: Draft Review: LRB -2721/1 Topic: Access for persons with disabilities to in-person absentee voting

Please Jacket LRB -2721/1 for the SENATE.