



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 396**

1 **AN ACT** *to repeal* 6.875 (1) (as), 6.875 (2) (b) and 6.875 (2) (d); *to renumber* 6.875
2 (1) (a); *to renumber and amend* 6.875 (1) (ap) and 6.875 (3); *to amend* 6.87
3 (4) (b) 5., 6.875 (title), 6.875 (1) (asm), 6.875 (2) (a), 6.875 (4) (a), 6.875 (4) (b),
4 (6) and (7), 12.03 (2) (b) 3. and 12.13 (2) (b) 6m.; and *to create* 6.875 (1) (bm),
5 6.875 (1) (d), 6.875 (3) (b), 6.875 (4) (am) and 6.875 (4) (ar) and (at) of the
6 statutes; **relating to:** absentee voting at residential care facilities.

Analysis by the Legislative Reference Bureau

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

7 **SECTION 1.** 6.87 (4) (b) 5. of the statutes is amended to read:
8 6.87 (4) (b) 5. Unless subd. 3. or 4. applies, if the absentee elector resides in a
9 qualified retirement home, as defined in s. 6.875 (1) (at), ~~—a—qualified~~

1 ~~community-based residential facility, as defined in s. 6.875 (1) (as), a residential care~~
2 ~~apartment complex that is certified or registered under s. 50.034 (1), or an adult~~
3 ~~family home that is certified under s. 50.032 or licensed under s. 50.033 or a~~
4 residential care facility, as defined in s. 6.875 (1) (bm), and the municipal clerk or
5 board of election commissioners of the municipality where the ~~complex, facility, or~~
6 home is located does not send special voting deputies to visit the ~~complex, facility, or~~
7 home at the election under s. 6.875, the elector may, in lieu of providing proof of
8 identification, submit with his or her absentee ballot a statement signed by the same
9 individual who witnesses voting of the ballot that contains the certification of an
10 authorized representative of the ~~complex, facility, or home~~ that the elector resides in
11 the ~~complex, facility, or home~~ and the ~~complex, facility, or home~~ is certified or
12 registered as required by law, that contains the name and address of the elector, and
13 that verifies that the name and address are correct.

14 **SECTION 2.** 6.875 (title) of the statutes is amended to read:

15 **6.875 (title) Absentee voting in certain homes, residential care**
16 **facilities, and complexes retirement homes.**

17 **SECTION 3.** 6.875 (1) (a) of the statutes is renumbered 6.875 (1) (ae).

18 **SECTION 4.** 6.875 (1) (ap) of the statutes is renumbered 6.875 (1) (ab) and
19 amended to read:

20 6.875 (1) (ab) “~~Qualified adult~~ Adult family home” means a facility that is
21 certified or licensed to operate as an adult family home under s. 50.032 or 50.033 ~~that~~
22 ~~qualifies under sub. (2) (d) to utilize the procedures under this section.~~

23 **SECTION 5.** 6.875 (1) (as) of the statutes is repealed.

24 **SECTION 6.** 6.875 (1) (asm) of the statutes is amended to read:

1 6.875 (1) (asm) ~~“Qualified residential~~ Residential care apartment complex”
2 means a facility that is certified or registered to operate as a residential care
3 apartment complex under s. 50.034 (1) ~~that qualifies under sub. (2) (d) to utilize the~~
4 ~~procedures under this section.~~

5 **SECTION 7.** 6.875 (1) (bm) of the statutes is created to read:

6 6.875 (1) (bm) “Residential care facility” means an adult family home,
7 community-based residential facility, nursing home, or residential care apartment
8 complex.

9 **SECTION 8.** 6.875 (1) (d) of the statutes is created to read:

10 6.875 (1) (d) “Working day” has the meaning given in s. 227.01 (14).

11 **SECTION 9.** 6.875 (2) (a) of the statutes is amended to read:

12 6.875 (2) (a) ~~The Absentee voting in person inside residential care facilities and~~
13 ~~qualified retirement homes shall be conducted by municipalities only in the manner~~
14 ~~prescribed in this section. At any residential care facility or qualified retirement~~
15 ~~home where a municipality dispatches special voting deputies to conduct absentee~~
16 ~~voting in person under this section, the~~ procedures prescribed in this section are the
17 exclusive means of absentee voting in person inside that facility or home for electors
18 who are occupants of ~~nursing homes, qualified community-based residential~~
19 ~~facilities, qualified retirement homes, qualified residential care apartment~~
20 ~~complexes, and qualified adult family homes~~ the facility or home.

21 **SECTION 10.** 6.875 (2) (b) of the statutes is repealed.

22 **SECTION 11.** 6.875 (2) (d) of the statutes is repealed.

23 **SECTION 12.** 6.875 (3) of the statutes is renumbered 6.875 (3) (a) and amended
24 to read:

1 6.875 (3) (a) An occupant of a ~~nursing home or~~ qualified retirement home,
2 ~~qualified community-based residential facility, qualified residential care apartment~~
3 ~~complex, or qualified adult family home~~ or residential care facility who qualifies as
4 an absent elector and desires to receive an absentee ballot shall make application
5 under s. 6.86 (1), (2), or (2m) with the municipal clerk or board of election
6 commissioners of the municipality in which the elector is a resident. ~~The~~ Except as
7 provided in sub. (4) (ar), the clerk or board of election commissioners of a
8 municipality receiving an application from an elector who is an occupant of a ~~nursing~~
9 ~~home or~~ qualified retirement home, ~~qualified community-based residential facility,~~
10 ~~qualified residential care apartment complex, or qualified adult family home~~ or
11 residential care facility located in a different municipality shall, as soon as possible,
12 notify and send an absentee ballot for the elector to the clerk or board of election
13 commissioners of the municipality in which the home, or facility, ~~or complex~~ is
14 located. ~~The~~ Except as provided in sub. (4) (ar), the clerk or board of election
15 commissioners of a municipality receiving an application from an elector who is an
16 occupant of a ~~nursing home or~~ qualified retirement home, ~~qualified~~
17 ~~community-based residential facility, qualified residential care apartment complex,~~
18 ~~or qualified adult family home~~ or residential care facility located in the municipality
19 but who is a resident of a different municipality shall, as soon as possible, notify and
20 request an absentee ballot from the clerk or board of election commissioners of the
21 municipality in which the elector is a resident. The clerk or board of election
22 commissioners shall make a record of all absentee ballots to be sent, delivered, and
23 voted under this section.

24 **SECTION 13.** 6.875 (3) (b) of the statutes is created to read:

1 6.875 (3) (b) An occupant of a retirement home may vote in person at the polling
2 place serving his or her residence or may apply for and cast an absentee ballot at the
3 election in the same manner as provided for other electors of the municipality where
4 he or she resides. If a retirement home that is not a qualified retirement home is
5 located within a municipality on the same grounds as one or more residential care
6 facilities to which the municipal clerk or board of election commissioners of the
7 municipality dispatches special voting deputies to conduct voting at an election, the
8 municipal clerk or board of election commissioners shall obtain from the
9 management of the retirement home the names and addresses of the occupants of the
10 home. The municipal clerk or board of election commissioners shall then provide the
11 names and addresses to the special voting deputies to verify which residents are
12 eligible to cast their ballots with the special voting deputies.

13 **SECTION 14.** 6.875 (4) (a) of the statutes is amended to read:

14 6.875 (4) (a) For the purpose of absentee voting in ~~nursing homes~~, qualified
15 retirement homes, ~~qualified community-based residential facilities~~, ~~qualified~~
16 ~~residential care apartment complexes~~, and ~~qualified adult family homes~~ and
17 residential care facilities, the municipal clerk or board of election commissioners of
18 each municipality in which one or more ~~nursing homes~~, qualified retirement homes,
19 ~~qualified community-based residential facilities~~, ~~qualified residential care~~
20 ~~apartment complexes~~, or ~~qualified adult family homes~~ or residential care facilities
21 are located shall appoint at least 2 special voting deputies for the municipality. ~~Upon~~
22 Except as provided in par. (am), upon application under s. 6.86 (1), (2), or (2m) by one
23 or more qualified electors who are occupants of a home, or ~~facility, or complex~~, the
24 municipal clerk or board of election commissioners of the municipality in which the
25 home, or ~~facility, or complex~~ is located shall dispatch 2 special voting deputies to visit

1 the home, or facility, ~~or complex~~ for the purpose of supervising absentee voting
2 procedure by occupants of the home, or facility, ~~or complex~~. The clerk or board of
3 election commissioners shall maintain a list, available to the public upon request, of
4 each home, or facility, ~~or complex~~ where ~~an elector has requested an absentee ballot~~
5 special voting deputies are dispatched. The list shall include the date and time the
6 deputies intend to visit each home, or facility, ~~or complex~~. The 2 deputies designated
7 to visit each ~~nursing home~~, qualified retirement home, ~~qualified community-based~~
8 ~~residential facility~~, ~~qualified residential care apartment complex~~, and ~~qualified adult~~
9 ~~family home~~ and residential care facility shall be affiliated with different political
10 parties whenever deputies representing different parties are available.

11 **SECTION 15.** 6.875 (4) (am) of the statutes is created to read:

12 6.875 (4) (am) The municipal clerk or board of election commissioners of a
13 municipality need not dispatch special voting deputies to visit any residential care
14 facility unless there are at least 5 registered electors of the municipality who are
15 occupants of the facility.

16 **SECTION 16.** 6.875 (4) (ar) and (at) of the statutes are created to read:

17 6.875 (4) (ar) As an alternative to absentee voting inside a residential care
18 facility or qualified retirement home, an elector who is an occupant of the facility or
19 home may:

20 1. Vote in person at the polling place serving his or her residence under s. 6.79
21 (2) or in person at the office of the municipal clerk or board of election commissioners
22 of the municipality where he or she resides under s. 6.86 (1) (a) 2.; or

23 2. If the elector maintains a residence outside the facility or home, vote by
24 applying for and casting an absentee ballot by mail under s. 6.86 (1) (a) 1. at that
25 residence.

1 (at) Except as provided in par. (ar), if a qualified elector of a municipality who
2 is an occupant of a residential care facility or qualified retirement home in that
3 municipality requests an absentee ballot for an election and the municipal clerk or
4 board of election commissioners dispatches special voting deputies to that facility or
5 home, the clerk or board of election commissioners shall give the absentee ballot to
6 the special voting deputies who shall personally deliver the ballot to the elector at
7 the time of their visit if they have not finished visiting the facility or home when the
8 request is received.

9 **SECTION 17.** 6.875 (4) (b), (6) and (7) of the statutes are amended to read:

10 6.875 (4) (b) Nominations for the special voting deputy positions described in
11 par. (a) may be submitted by the 2 recognized political parties whose candidates for
12 governor or president received the greatest numbers of votes in the municipality at
13 the most recent general election. The deputies shall be specially appointed to carry
14 out the duties under par. (a) for the period specified in s. 7.30 (6) (a). The clerk or
15 board of election commissioners may revoke an appointment at any time. No
16 individual who is employed or retained, or within the 2 years preceding appointment
17 has been employed or retained, at a ~~nursing home~~, qualified retirement home,
18 ~~qualified community-based residential facility~~, ~~qualified residential care apartment~~
19 ~~complex~~, ~~or qualified adult family home~~ or residential care facility in the
20 municipality, or any member of the individual's immediate family, as defined in s.
21 19.42 (7), may be appointed to serve as a deputy.

22 **(6)** (a) Special voting deputies in each municipality shall, not later than 5 p.m.
23 on the ~~Friday 6th working day~~ preceding an election, arrange one or more convenient
24 times with the administrator of each ~~nursing home~~, qualified retirement home,
25 ~~qualified community-based residential facility~~, ~~qualified residential care apartment~~

1 ~~complex, and qualified adult family home~~ and residential care facility in the
2 municipality from which one or more occupants have filed an application under s.
3 ~~6.86 to conduct absentee voting for the election~~ that the deputies are scheduled to
4 visit. The time may be no earlier than the 4th Monday preceding the election and
5 no later than 5 p.m. on the Monday preceding the election. The municipal clerk shall
6 give notice of each visit by special voting deputies to a qualified retirement home or
7 residential care facility in the same manner that notices of public meetings are
8 provided by presiding officers under s. 19.84 (1) (b) at least 5 working days in advance
9 of each visit, indicating the date and time of the visit. The municipal clerk also shall
10 post a notice at the home, or facility, or complex and on the Internet indicating the
11 date and time that absentee voting will take place at that home, or facility, or
12 complex. The notice shall be posted as soon as practicable after arranging the visit
13 but in no case less than ~~24 hours~~ 5 working days before the visit. A municipal clerk
14 whose municipality does not maintain an Internet site need not comply with the
15 Internet posting requirement. At the designated time, 2 deputies appointed under
16 sub. (4) shall visit the home, or facility, or complex.

17 (b) The municipal clerk or executive director of the board of election
18 commissioners shall issue a supply of absentee ballots to the deputies sufficient to
19 provide for the number of valid applications for an absentee ballot received by the
20 clerk, and a reasonable additional number of ballots. The deputies may exercise the
21 authority granted to the chief inspector under s. 7.41 to regulate the conduct of
22 observers. For purposes of the application of s. 7.41, the home, or facility, or complex
23 shall be treated as a polling place. The municipal clerk or executive director shall
24 keep a careful record of all ballots issued to the deputies and shall require the
25 deputies to return every ballot issued to them.

1 (c) 1. Upon their visit to the home, or facility, ~~or complex~~ under par. (a), the
2 deputies shall personally offer each elector who has filed a proper application for an
3 absentee ballot the opportunity to cast his or her absentee ballot. In lieu of providing
4 a copy of proof of identification under s. 6.87 (4) (b) 1. with his or her absentee ballot,
5 the elector may submit with his or her ballot a statement signed by both deputies that
6 contains the name and address of the elector and verifies that the name and address
7 are correct. The deputies shall enclose the statement in the certificate envelope. If
8 an elector presents proof of identification under s. 6.87 (4) (b) 1., the deputies shall
9 make a copy of the document presented by the elector and shall enclose the copy in
10 the certificate envelope. If an elector is present who has not filed a proper application
11 for an absentee ballot, the 2 deputies may accept an application from the elector and
12 shall issue a ballot to the elector if the elector is qualified, the elector presents proof
13 of identification, whenever required, or submits a statement containing his or her
14 name and address under this subdivision, and the application is proper. The
15 deputies shall each witness the certification and may, upon request of the elector,
16 assist the elector in marking the elector's ballot. The deputies shall not accept an
17 absentee ballot submitted by an elector whose ballot was not issued to the elector by
18 the deputies. All voting shall be conducted in the presence of the deputies. Upon
19 request of the elector, a relative of the elector who is present in the room may assist
20 the elector in marking the elector's ballot. No individual other than a deputy may
21 witness the certification and no individual other than a deputy or relative of an
22 elector may render voting assistance to the elector.

23 2. Upon the request of a relative of an occupant of a ~~nursing home~~, qualified
24 retirement home, ~~qualified community-based residential facility~~, ~~qualified~~
25 ~~residential care apartment complex~~, ~~or qualified adult family home~~ or residential

1 ~~care facility, the administrator of the home, or facility, or complex~~ may notify the
2 relative of the time or times at which special voting deputies will conduct absentee
3 voting at the home, or facility, ~~or complex~~ and permit the relative to be present in the
4 room where the voting is conducted.

5 (d) Upon completion of the voting on each day at each residential care facility
6 or qualified retirement home, the deputies shall ~~promptly~~ seal the absentee ballot
7 envelopes and any absentee ballot applications inside a carrier envelope and shall
8 seal the carrier envelope and sign their names to the seal. The deputies shall place
9 the envelope inside a ballot bag or container. As soon as possible after visiting each
10 residential care facility or retirement home, but not later than 18 hours after the
11 visit, the deputies shall deliver, ~~either personally or by 1st class mail,~~ any absentee
12 ballot applications and the sealed certificate envelope containing each ballot the
13 ballot bag or container to the clerk or board of election commissioners of the
14 municipality in which the elector casting the ballot resides, ~~within such time as will~~
15 ~~permit delivery to the polling place serving the elector's residence on election day.~~
16 ~~Personal delivery may be made by the deputies no later than noon on election day.~~

17 (e) If a qualified elector is not able to cast his or her ballot on 2 separate visits
18 by the deputies to the home, or facility, ~~or complex,~~ the deputies shall so inform the
19 municipal clerk or executive director of the board of election commissioners, who may
20 then send the ballot to the elector no later than 5 p.m. on the Friday preceding the
21 election.

22 (7) One observer from each of the 2 recognized political parties whose candidate
23 for governor or president received the greatest number of votes in the municipality
24 at the most recent general election may accompany the deputies to each home, or
25 ~~facility, or complex~~ where absentee voting will take place under this section. The

1 observers may observe the process of absentee ballot distribution in the common
2 areas of the home, or facility, ~~or complex~~. Each party wishing to have an observer
3 present shall submit the name of the observer to the clerk or board of election
4 commissioners no later than the close of business on the last business day prior to
5 the visit.

6 **SECTION 18.** 12.03 (2) (b) 3. of the statutes is amended to read:

7 12.03 (2) (b) 3. No person may engage in electioneering within 100 feet of an
8 entrance to or within a ~~nursing home~~, qualified retirement home, ~~qualified~~
9 ~~community-based residential facility~~, ~~qualified residential care apartment complex~~,
10 ~~or qualified adult family home~~ or residential care facility while special voting
11 deputies are present at the home or facility under s. 6.875 (6).

12 **SECTION 19.** 12.13 (2) (b) 6m. of the statutes is amended to read:

13 12.13 (2) (b) 6m. Obtain an absentee ballot for voting in a ~~nursing home~~ ~~or~~
14 ~~qualified retirement home~~, ~~qualified community-based residential facility~~, ~~qualified~~
15 ~~residential care apartment complex~~, ~~or qualified adult family home~~ or residential
16 care facility under s. 6.875 (6) and fail to return the ballot to the issuing officer.

17 **SECTION 20. Initial applicability.**

18 (1) This act first applies with respect to elections held after the effective date
19 of this subsection.

20 **SECTION 21m. Effective date.**

21 (1) This act takes effect on May 1, 2014.

22 (END)