



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

November 8, 2013 – Offered by Representative BERNIER.

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

Currently, the municipal clerk or board of election commissioners of each municipality is directed to dispatch two special voting deputies to conduct absentee voting in person for each election at each nursing home located in the municipality upon application for an absentee ballot by one or more qualified electors who are occupants of the home. Participation in the special absentee voting is limited to occupants of the home. The clerk or board may also dispatch special voting deputies to any community-based residential facility, retirement home, adult family home, or residential care apartment complex located in the municipality to conduct absentee voting for occupants of the facility, home, or complex if the clerk or board finds that a significant number of occupants of the facility, home, or complex may

need assistance in voting or meet certain other specified criteria upon application for an absentee ballot by one or more qualified electors who are occupants of the facility, home, or complex. This substitute amendment provides that the clerk or board of election commissioners of a municipality shall dispatch two special voting deputies to each community-based residential facility, adult family home, and residential care apartment complex located in the municipality to conduct absentee voting in person for occupants of the facility, home, or complex at each election upon application by one or more qualified electors who are occupants of the facility, home, or complex, except that the clerk or board need not dispatch special voting deputies to visit any facility, home, or complex unless there are at least five registered electors of the municipality who are occupants of the facility, home, or complex. Under the substitute amendment, a municipal clerk or board of election commissioners retains discretion as to whether to dispatch special voting deputies to retirement homes.

Currently, a municipal clerk or board of election commissioners who dispatches special voting deputies to a facility, home, or complex must post a notice of the visit by the deputies at the facility, home, or complex at least 24 hours in advance of the time of the visit. This substitute amendment requires this notice to be posted at the facility, home, or complex where absentee voting is to be conducted at least five working days in advance of the visit. The substitute amendment also directs each municipal clerk and board of election commissioners to provide public notice of each visit by special voting deputies to a residential care facility to a local news medium and to those news media that have filed a written request to receive such notices at least five working days before each visit. In addition, the substitute amendment requires the clerk or board to post the notice on the Internet. Under the substitute amendment, a municipal clerk or board of election commissioners whose municipality does not maintain an Internet site need not comply with the Internet posting requirement.

Under current law, an occupant of a facility, home, or complex where special voting deputies are dispatched who is a qualified elector and who applies for an absentee ballot by mail must cast the ballot at the facility, home, or complex.

This substitute amendment provides that if a qualified elector who is an occupant of a facility, home, or complex requests an absentee ballot for an election, and the municipal clerk or board of election commissioners of the municipality in which the facility, home, or complex is located dispatches special voting deputies to that facility, home, or complex, the deputies must personally deliver the ballot to the elector at the facility, home, or complex if they have not finished visiting the facility, home, or complex when the request is received. The substitute amendment prohibits special voting deputies from accepting an absentee ballot submitted by an elector whose ballot was not issued to the elector by the deputies. The substitute amendment provides, however, that as an alternative to absentee voting inside a facility, home, or complex, an elector who is an occupant of such a facility, home, or complex may 1) vote in person at the polling place serving his or her residence or by absentee ballot in person at the office of the municipal clerk or board of election commissioners serving his or her residence; or 2) if the elector maintains a residence

outside the facility, home, or complex, vote by applying for and casting an absentee ballot by mail at that residence.

Currently, the municipal clerk or board of election commissioners of a municipality may dispatch special voting deputies to a retirement home located in the municipality if the clerk or board finds that a significant number of occupants of the home lack adequate transportation to the appropriate polling place, a significant number of the occupants may need assistance in voting, there are a significant number of occupants of the home aged 60 or over, or there are a significant number of indefinitely confined electors who are occupants of the home. This substitute amendment provides that if a retirement home to which a municipal clerk or board of election commissioners does not dispatch special voting deputies is located on the same grounds as a facility, home, or complex to which the clerk dispatches special voting deputies, the clerk must obtain from the management of the retirement home the names and addresses of the occupants of the home. An occupant of the retirement home may vote in person at the polling place serving his or her residence or may cast an absentee ballot in the same manner as provided for other electors of the municipality.

Current law provides that when voting at a facility, home, or complex is completed, the special voting deputies must promptly deliver the absentee ballots and any absentee ballot applications to the municipal clerk or board of election commissioners of the municipality where the facility, home, or complex is located, either personally or by first class mail. If delivery is made in person, the delivery must be made no later than noon on election day. This substitute amendment provides that upon completion of voting on each day at each facility, home, or complex, the deputies must seal the absentee ballot envelopes and any absentee ballot applications inside a carrier envelope and must sign their names to the seal. The deputies must place the envelope inside a ballot container or bag. Under the substitute amendment, when the deputies have finished visiting all facilities, homes, and complexes to which they are dispatched, the deputies must deliver the container or bag as expeditiously as possible to the municipal clerk or board of election commissioners of the municipality, but not later than noon on election day.

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

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

2 6.87 (4) (b) 5. Unless subd. 3. or 4. applies, if the absentee elector resides in a
3 qualified retirement home, as defined in s. 6.875 (1) (at), ~~—a—qualified~~
4 ~~community—based residential facility, as defined in s. 6.875 (1) (as), a residential care~~
5 ~~apartment complex that is certified or registered under s. 50.034 (1), or an adult~~

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

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

13 **6.875 (title) Absentee voting in certain homes, residential care**
14 **facilities, and complexes retirement homes.**

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

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

18 6.875 (1) (ab) “~~Qualified adult~~ Adult family home” means a facility that is
19 certified or licensed to operate as an adult family home under s. 50.032 or 50.033 ~~that~~
20 ~~qualifies under sub. (2) (d) to utilize the procedures under this section.~~

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

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

23 6.875 (1) (asm) “~~Qualified residential~~ Residential care apartment complex”
24 means a facility that is certified or registered to operate as a residential care

1 apartment complex under s. 50.034 (1) ~~that qualifies under sub. (2) (d) to utilize the~~
2 ~~procedures under this section.~~

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

4 6.875 (1) (bm) “Residential care facility” means an adult family home,
5 community–based residential facility, nursing home, or residential care apartment
6 complex.

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

8 6.875 (1) (d) “Working day” has the meaning given in s. 227.01 (14).

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

10 6.875 (2) (a) The Absentee voting in person inside residential care facilities and
11 qualified retirement homes shall be conducted by municipalities only in the manner
12 prescribed in this section. At any residential care facility or qualified retirement
13 home where a municipality dispatches special voting deputies to conduct absentee
14 voting in person under this section, the procedures prescribed in this section are the
15 exclusive means of absentee voting in person inside that facility or home for electors
16 who are occupants of ~~nursing homes, qualified community–based residential~~
17 ~~facilities, qualified retirement homes, qualified residential care apartment~~
18 ~~complexes, and qualified adult family homes~~ the facility or home.

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

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

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

23 6.875 (3) (a) An occupant of a ~~nursing home or qualified retirement home,~~
24 ~~qualified community–based residential facility, qualified residential care apartment~~
25 ~~complex, or qualified adult family home~~ or residential care facility who qualifies as

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

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

22 6.875 (3) (b) If a retirement home that is not a qualified retirement home is
23 located within a municipality on the same grounds as one or more residential care
24 facilities to which the municipal clerk or board of election commissioners of the
25 municipality dispatches special voting deputies to conduct voting at an election, the

1 municipal clerk or board of election commissioners shall obtain from the
2 management of the retirement home the names and addresses of the occupants of the
3 home. An occupant of the retirement home may vote in person at the polling place
4 serving his or her residence or may apply for and cast an absentee ballot at the
5 election in the same manner as provided for other electors of the municipality where
6 he or she resides.

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

8 6.875 (4) (a) For the purpose of absentee voting in ~~nursing homes~~, qualified
9 retirement homes, ~~qualified community-based residential facilities~~, qualified
10 ~~residential care apartment complexes~~, and ~~qualified adult family homes~~ and
11 residential care facilities, the municipal clerk or board of election commissioners of
12 each municipality in which one or more ~~nursing homes~~, qualified retirement homes,
13 ~~qualified community-based residential facilities~~, ~~qualified residential care~~
14 ~~apartment complexes~~, or ~~qualified adult family homes~~ or residential care facilities
15 are located shall appoint at least 2 special voting deputies for the municipality. Upon
16 Except as provided in par. (am), upon application under s. 6.86 (1), (2), or (2m) by one
17 or more qualified electors who are occupants of a home, or facility, ~~or complex~~, the
18 municipal clerk or board of election commissioners of the municipality in which the
19 home, or facility, ~~or complex~~ is located shall dispatch 2 special voting deputies to visit
20 the home, or facility, ~~or complex~~ for the purpose of supervising absentee voting
21 procedure by occupants of the home, or facility, ~~or complex~~. The clerk or board of
22 election commissioners shall maintain a list, available to the public upon request, of
23 each home, or facility, ~~or complex~~ where an elector has requested an absentee ballot
24 special voting deputies are dispatched. The list shall include the date and time the
25 deputies intend to visit each home, or facility, ~~or complex~~. The 2 deputies designated

1 to visit each ~~nursing home, qualified retirement home, qualified community-based~~
2 ~~residential facility, qualified residential care apartment complex, and qualified adult~~
3 ~~family home~~ and residential care facility shall be affiliated with different political
4 parties whenever deputies representing different parties are available.

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

6 6.875 (4) (am) The municipal clerk or board of election commissioners of a
7 municipality need not dispatch special voting deputies to visit any residential care
8 facility unless there are at least 5 registered electors of the municipality who are
9 occupants of the facility.

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

11 6.875 (4) (ar) As an alternative to absentee voting inside a residential care
12 facility or qualified retirement home, an elector who is an occupant of the facility or
13 home may:

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

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

20 (at) Except as provided in par. (ar), if a qualified elector of a municipality who
21 is an occupant of a residential care facility or qualified retirement home in that
22 municipality requests an absentee ballot for an election and the municipal clerk or
23 board of election commissioners dispatches special voting deputies to that facility or
24 home, the clerk or board of election commissioners shall give the absentee ballot to
25 the special voting deputies who shall personally deliver the ballot to the elector at

1 the time of their visit if they have not finished visiting the facility or home when the
2 request is received.

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

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

16 (6) (a) Special voting deputies in each municipality shall, not later than 5 p.m.
17 on the ~~Friday 6th working day~~ preceding an election, arrange one or more convenient
18 times with the administrator of each ~~nursing home~~, qualified retirement home,
19 ~~qualified community-based residential facility~~, ~~qualified residential care apartment~~
20 ~~complex~~, ~~and qualified adult family home~~ and residential care facility in the
21 municipality from which one or more occupants have filed an application under s.
22 ~~6.86 to conduct absentee voting for the election~~ that the deputies are scheduled to
23 visit. The time may be no earlier than the 4th Monday preceding the election and
24 no later than 5 p.m. on the Monday preceding the election. The municipal clerk shall
25 give notice of each visit by special voting deputies to a qualified retirement home or

1 residential care facility in the same manner that notices of public meetings are
2 provided by presiding officers under s. 19.84 (1) (b) at least 5 working days in advance
3 of each visit, indicating the date and time of the visit. The municipal clerk also shall
4 post a notice at the home, or facility, or complex and on the Internet indicating the
5 date and time that absentee voting will take place at that home, or facility, or
6 complex. The notice shall be posted as soon as practicable after arranging the visit
7 but in no case less than ~~24 hours~~ 5 working days before the visit. A municipal clerk
8 whose municipality does not maintain an Internet site need not comply with the
9 Internet posting requirement. At the designated time, 2 deputies appointed under
10 sub. (4) shall visit the home, or facility, or complex.

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

20 (c) 1. Upon their visit to the home, or facility, or complex under par. (a), the
21 deputies shall personally offer each elector who has filed a proper application for an
22 absentee ballot the opportunity to cast his or her absentee ballot. In lieu of providing
23 a copy of proof of identification under s. 6.87 (4) (b) 1. with his or her absentee ballot,
24 the elector may submit with his or her ballot a statement signed by both deputies that
25 contains the name and address of the elector and verifies that the name and address

1 are correct. The deputies shall enclose the statement in the certificate envelope. If
2 an elector presents proof of identification under s. 6.87 (4) (b) 1., the deputies shall
3 make a copy of the document presented by the elector and shall enclose the copy in
4 the certificate envelope. If an elector is present who has not filed a proper application
5 for an absentee ballot, the 2 deputies may accept an application from the elector and
6 shall issue a ballot to the elector if the elector is qualified, the elector presents proof
7 of identification, whenever required, or submits a statement containing his or her
8 name and address under this subdivision, and the application is proper. The
9 deputies shall each witness the certification and may, upon request of the elector,
10 assist the elector in marking the elector's ballot. The deputies shall not accept an
11 absentee ballot submitted by an elector whose ballot was not issued to the elector by
12 the deputies. All voting shall be conducted in the presence of the deputies. Upon
13 request of the elector, a relative of the elector who is present in the room may assist
14 the elector in marking the elector's ballot. No individual other than a deputy may
15 witness the certification and no individual other than a deputy or relative of an
16 elector may render voting assistance to the elector.

17 2. Upon the request of a relative of an occupant of a ~~nursing home~~, qualified
18 retirement home, ~~qualified community-based residential facility~~, ~~qualified~~
19 ~~residential care apartment complex~~, or ~~qualified adult family home~~ or residential
20 care facility, the administrator of the home, or facility, ~~or complex~~ may notify the
21 relative of the time or times at which special voting deputies will conduct absentee
22 voting at the home, or facility, ~~or complex~~ and permit the relative to be present in the
23 room where the voting is conducted.

24 (d) Upon completion of the voting on each day at each residential care facility
25 or qualified retirement home, the deputies shall ~~promptly~~ seal the absentee ballot

1 envelopes and any any absentee ballot applications inside a carrier envelope and
2 shall seal the carrier envelope and sign their names to the seal. The deputies shall
3 place the envelope inside a ballot bag or container. When the deputies have finished
4 visiting all residential care facilities and qualified retirement homes to which they
5 are dispatched, the deputies shall deliver, either personally or by 1st class mail, any
6 absentee ballot applications and the sealed certificate envelope containing each
7 ballot the ballot bag or container to the clerk or board of election commissioners of
8 the municipality in which the elector casting the ballot resides as expeditiously as
9 possible, within such time as will permit delivery to the polling place serving the
10 elector's residence on election day. Personal delivery may be made by the deputies,
11 but no later than noon on election that day.

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

17 (7) One observer from each of the 2 recognized political parties whose candidate
18 for governor or president received the greatest number of votes in the municipality
19 at the most recent general election may accompany the deputies to each home, or
20 ~~facility, or complex~~ where absentee voting will take place under this section. The
21 observers may observe the process of absentee ballot distribution in the common
22 areas of the home, or facility, ~~or complex~~. Each party wishing to have an observer
23 present shall submit the name of the observer to the clerk or board of election
24 commissioners no later than the close of business on the last business day prior to
25 the visit.

