

RESEARCH APPENDIX

Date Transfer Requested: 11/30/2018 (Per: CMH)

☞ **Appendix C** ... has been added to the **2017 LRB-6072**

Appendix A ☞ LRB 17-6015

Appendix C ☞ LRB 17-6019

Appendix B ☞ LRB 17-6017

2017 DRAFTING REQUEST

Bill

For: Robin Vos (608) 266-9171

Drafter: jkreye

By: steve

Secondary Drafters:

Date: 11/14/2018

May Contact:

Same as LRB:

Submit via email: YES
 Requester's email: Rep.Vos@legis.wisconsin.gov
 Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov
 steve.fawcett@legis.wisconsin.gov
 michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Time for applying for an absentee ballot in-person

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 11/15/2018				
/P1		anienaja 11/15/2018	lparisi 11/15/2018		State S&L

FE Sent For:

<END>

Kreye, Joseph

From: Kreye, Joseph
Sent: Thursday, November 15, 2018 10:18 AM
To: Fawcett, Steve
Cc: Gallagher, Michael
Subject: RE: early voting

I can make it the 3rd Saturday.

From: Fawcett, Steve
Sent: Thursday, November 15, 2018 10:12 AM
To: Kreye, Joseph <Joseph.Kreye@legis.wisconsin.gov>
Cc: Gallagher, Michael <Michael.Gallagher@legis.wisconsin.gov>
Subject: RE: early voting

Can you make it 3rd Saturday so there is a 14 day window? If not, I guess that 15 days isn't much different than 14.

From: Kreye, Joseph
Sent: Thursday, November 15, 2018 9:36 AM
To: Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>
Cc: Gallagher, Michael <Michael.Gallagher@legis.wisconsin.gov>
Subject: early voting

Good morning Steve,

Rick gave me instructions to modify the period for making an application for an absentee ballot in-person (early voting) so that it begins no sooner than two weeks before election day.

Prior to 2011 Act 23 the beginning of the period for early voting was unspecified. However, the statute at that time [s. 6.86 (1) (b)] required that the process end no later than 5 p.m. on the day before the election.

2011 Act 23 changed the period so that it begins no sooner than the opening of business on the 3rd Monday preceding the election and no later than 5 p.m. or the close of business on the Friday preceding the election.

2013 Act 146 changed the period again so that it begins no sooner than the opening of business on the 3rd Monday preceding the election and no later than 7 p.m. on the Friday preceding the election. That is the 12-day period that is still current law.

However, in 2016, the United States District Court for the Western District of Wisconsin ordered that "the state-imposed limits on the time for in-person absentee voting, with the exception of the prohibition applicable to the Monday before election day, are unconstitutional." [See *One Wisconsin Now et al. v. Thomsen et al*, 15-cv-324, 198 F. Supp. 3d 896]

So by way of court order, the period for voting absentee in-person ends on the Friday preceding the election. The limitation under current law that requires that the period begin no earlier than the 3rd Monday preceding the election—resulting in a 12-day period—is currently unenforceable, as are the limitations that prohibit early voting on the weekends and between the hours of 8 a.m. and 7 p.m. on weekdays. An appeal has been pending before the 7th Circuit Court of Appeals for quite some time. Oral arguments were heard in February of this year.

I can modify the statute so that the early voting period begins no sooner than the 3rd Friday before the election. That would result in a 15-day period. Please let me know if this is consistent with your intent or if you wish to otherwise modify your request.

Joe

Joseph T. Kreye
Legal Services Manager
Legislative Reference Bureau
608 504-5857



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-6019/P1

JK... GMM

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
Xref
Pw f

in 11-15-18

Gen.

1 AN ACT ...; relating to: the beginning of the period for applying for an absentee
2 ballot in-person.

SP

Analysis by the Legislative Reference Bureau

Under current law, a qualified elector may apply for an absentee ballot in-person no earlier than the 3rd Monday preceding the election and no later than the Friday preceding the election. Under this bill, a qualified elector may apply for an absentee ballot in-person no earlier than the 3rd Saturday preceding the election and no later than the Friday preceding the election.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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

3 SECTION 1. 6.86 (1) (b) of the statutes is amended to read:

4 ~~6.86 (1) (b)~~ Except as provided in this section, if application is made by mail,
5 the application shall be received no later than 5 p.m. on the 5th day immediately
6 preceding the election. If application is made in person, the application shall be
7 made no earlier than the opening of business on the 3rd Monday ~~Saturday~~ preceding

7

1 the election and no later than 7 p.m. on the Friday preceding the election. No
2 application may be received on a legal holiday. An application made in person may
3 only be received Monday to ~~Friday~~ ^{Saturday} between the hours of 8 a.m. and 7 p.m. each day.
4 A municipality shall specify the hours in the notice under s. 10.01 (2) (e). The
5 municipal clerk or an election official shall witness the certificate for any in-person
6 absentee ballot cast. Except as provided in par. (c), if the elector is making written
7 application for an absentee ballot at the partisan primary, the general election, the
8 presidential preference primary, or a special election for national office, and the
9 application indicates that the elector is a military elector, as defined in s. 6.34 (1), the
10 application shall be received by the municipal clerk no later than 5 p.m. on election
11 day. If the application indicates that the reason for requesting an absentee ballot is
12 that the elector is a sequestered juror, the application shall be received no later than
13 5 p.m. on election day. If the application is received after 5 p.m. on the Friday
14 immediately preceding the election, the municipal clerk or the clerk's agent shall
15 immediately take the ballot to the court in which the elector is serving as a juror and
16 deposit it with the judge. The judge shall recess court, as soon as convenient, and
17 give the elector the ballot. The judge shall then witness the voting procedure as
18 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
19 shall deliver it to the polling place or, in municipalities where absentee ballots are
20 canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application
21 is made under sub. (2) or (2m), the application may be received no later than 5 p.m.
22 on the Friday immediately preceding the election.

NOTE: In *One Wisconsin Now et al. v. Thomsen et al.*, 15-cv-324, 198 F. Supp. 3d 896, the United States District Court, Western District of Wisconsin ordered that "the state-imposed limits on the time for in-person absentee voting, with the exception of the prohibition applicable to the Monday before election day, are unconstitutional."

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; 2013 a. 146; 2015 a. 118 s. 266 (10); 2015 a. 209, 261.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-6019/P1
JK:amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 6.86 (1) (b) of the statutes; **relating to:** the beginning of the
2 period for applying for an absentee ballot in-person.

Analysis by the Legislative Reference Bureau

Under current law, a qualified elector may apply for an absentee ballot in-person no earlier than the third Monday preceding the election and no later than the Friday preceding the election. Under this bill, a qualified elector may apply for an absentee ballot in-person no earlier than the third Saturday preceding the election and no later than the Friday preceding the election.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

3 **SECTION 1.** 6.86 (1) (b) of the statutes is amended to read:
4 6.86 (1) (b) Except as provided in this section, if application is made by mail,
5 the application shall be received no later than 5 p.m. on the 5th day immediately
6 preceding the election. If application is made in person, the application shall be
7 made no earlier than the opening of business on the 3rd Monday Saturday preceding

1 the election and no later than 7 p.m. on the Friday preceding the election. No
2 application may be received on a legal holiday. An application made in person may
3 only be received Monday to ~~Friday~~ Saturday between the hours of 8 a.m. and 7 p.m.
4 each day. A municipality shall specify the hours in the notice under s. 10.01 (2) (e).
5 The municipal clerk or an election official shall witness the certificate for any
6 in-person absentee ballot cast. Except as provided in par. (c), if the elector is making
7 written application for an absentee ballot at the partisan primary, the general
8 election, the presidential preference primary, or a special election for national office,
9 and the application indicates that the elector is a military elector, as defined in s. 6.34
10 (1), the application shall be received by the municipal clerk no later than 5 p.m. on
11 election day. If the application indicates that the reason for requesting an absentee
12 ballot is that the elector is a sequestered juror, the application shall be received no
13 later than 5 p.m. on election day. If the application is received after 5 p.m. on the
14 Friday immediately preceding the election, the municipal clerk or the clerk's agent
15 shall immediately take the ballot to the court in which the elector is serving as a juror
16 and deposit it with the judge. The judge shall recess court, as soon as convenient,
17 and give the elector the ballot. The judge shall then witness the voting procedure as
18 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
19 shall deliver it to the polling place or, in municipalities where absentee ballots are
20 canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application
21 is made under sub. (2) or (2m), the application may be received no later than 5 p.m.
22 on the Friday immediately preceding the election.

23 (END)