



2019 ASSEMBLY BILL 861

February 4, 2020 - Introduced by Representatives DUCHOW, SKOWRONSKI, FELZKOWSKI, HORLACHER, KITCHENS, MAGNAFICI, NOVAK, SCHRAA, SINICKI, SORTWELL, SPIROS and THIESFELDT, cosponsored by Senators BERNIER and KAPENGA. Referred to Committee on Campaigns and Elections.

1 **AN ACT to renumber 6.87 (1); to renumber and amend 6.87 (4) (a); to amend**
2 **6.86 (1) (ac) and 6.87 (3) (d); and to create 6.87 (4) (c) of the statutes; relating**
3 **to:** authorizing certain overseas and military voters to vote absentee by
4 electronic transmission and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill requires the Elections Commission to promulgate rules authorizing overseas voters who are service members or civilian employees of the U.S. Department of Defense or a DOD contractor to vote absentee by electronic transmission. Under current law, such voters must return their absentee ballots by mail.

The commission's rules must include all of the following requirements:

1. A voter may vote absentee by electronic transmission only if the voter waives the right to a secret ballot.

2. When an absentee ballot is received by electronic transmission, the person receiving the transmission must examine it to determine that all pages have been received and are legible and may not reveal how the voter voted.

3. The absentee ballot must be sealed in an envelope marked with the voter's name and stored with other returned absentee ballots.

4. The commission must establish an online portal allowing a voter to access, complete, and electronically sign his or her ballot online by use of a valid federal common access card (CAC). The CAC is a "smart" card used as a standard

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identification for active duty uniformed service personnel, civilian employees of DOD, and eligible DOD contractor personnel.

For further information see the *state* 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:

1 **SECTION 1.** 6.86 (1) (ac) of the statutes is amended to read:

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

12 **SECTION 2.** 6.87 (1) of the statutes is renumbered 6.87 (1r).

13 **SECTION 3.** 6.87 (3) (d) of the statutes is amended to read:

14 6.87 (3) (d) A municipal clerk shall, if the clerk is reliably informed by a military
15 elector, ~~as defined in s. 6.34 (1),~~ or an overseas elector, regardless of whether the
16 elector qualifies as a resident of this state under s. 6.10, of a facsimile transmission
17 number or electronic mail address where the elector can receive an absentee ballot,
18 transmit a facsimile or electronic copy of the elector's ballot to that elector in lieu of
19 mailing under this subsection. An elector may receive an absentee ballot only if the
20 elector is a military elector or an overseas elector and has filed a valid application

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1 for the ballot as provided in s. 6.86 (1). If the clerk transmits an absentee ballot to
2 a military or overseas elector electronically, the clerk shall also transmit a facsimile
3 or electronic copy of the text of the material that appears on the certificate envelope
4 prescribed in sub. (2), together with instructions prescribed by the commission. The
5 instructions shall require the military or overseas elector to make and subscribe to
6 the certification as required under sub. (4) (b) and to enclose the absentee ballot in
7 a separate envelope contained within a larger envelope, that shall include the
8 completed certificate. The elector shall then affix sufficient postage unless the
9 absentee ballot qualifies for mailing free of postage under federal free postage laws
10 and shall mail the absentee ballot to the municipal clerk. Except as authorized in
11 s. 6.97 (2) or in rules promulgated under sub. (4) (c), an absentee ballot received from
12 a military or overseas elector who receives the ballot electronically shall not be
13 counted unless it is cast in the manner prescribed in this paragraph and sub. (4) (b)
14 and in accordance with the instructions provided by the commission.

15 **SECTION 4.** 6.87 (4) (a) of the statutes is renumbered 6.87 (1g) and amended to
16 read:

17 6.87 (1g) In this ~~subsection~~ section, “military elector” has the meaning given
18 in s. 6.34 (1).

19 **SECTION 5.** 6.87 (4) (c) of the statutes is created to read:

20 6.87 (4) (c) Notwithstanding any requirement that an absentee ballot, the
21 certification required under par. (b), or other absentee voting materials be enclosed
22 or sealed in an envelope and transmitted by mail, the commission shall promulgate
23 rules authorizing military electors who are service members and overseas electors
24 who are civilian employees of the federal department of defense or a contractor of the

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1 federal department of defense to vote absentee by electronic transmission. The rules
2 promulgated under this paragraph shall include all of the following requirements:

3 1. An elector may vote absentee by electronic transmission only if the elector
4 waives the right to a secret ballot and signs a statement in substantially the
5 following form:

6 I understand that by returning this ballot by electronic transmission, my voted
7 ballot will not be secret. I hereby waive my right to a secret ballot in this election.

8 2. When an absentee ballot is received by electronic transmission, the person
9 receiving the transmission shall examine it to determine that all pages have been
10 received and are legible. The person receiving the electronic transmission may not
11 reveal how the elector voted.

12 3. The absentee ballot shall be sealed in an envelope marked with the elector's
13 name and stored with other returned absentee ballots.

14 4. The commission shall establish an online portal allowing an elector to access,
15 complete, and electronically sign his or her ballot online by use of a valid federal
16 common access card.

17 (END)