2019 SENATE BILL 794

February 11, 2020 – Introduced by Senators BERNIER and KAPENGA, cosponsored by Representatives DUCHOW, SKOWRONSKI, FELZKOWSKI, HORLACHER, KITCHENS, MAGNAFICI, NOVAK, SCHRAA, SINICKI, SORTWELL, SPIROS, THIESFELDT, C. TAYLOR, PLUMER and EDMING. Referred to Committee on Elections, Ethics and Rural Issues.

AN ACT to renumber 6.87 (1); to renumber and amend 6.87 (4) (a); to amend 6.86 (1) (ac) and 6.87 (3) (d); and to create 6.87 (4) (c) of the statutes; relating to: authorizing certain overseas and military voters to vote absentee by 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
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:_

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

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

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

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

6.87 (3) (d) A municipal clerk shall, if the clerk is reliably informed by a military elector, as defined in s. 6.34 (1), or an overseas elector, regardless of whether the elector qualifies as a resident of this state under s. 6.10, of a facsimile transmission number or electronic mail address where the elector can receive an absentee ballot, transmit a facsimile or electronic copy of the elector’s ballot to that elector in lieu of mailing under this subsection. An elector may receive an absentee ballot only if the elector is a military elector or an overseas elector and has filed a valid application
for the ballot as provided in s. 6.86 (1). If the clerk transmits an absentee ballot to
a military or overseas elector electronically, the clerk shall also transmit a facsimile
or electronic copy of the text of the material that appears on the certificate envelope
prescribed in sub. (2), together with instructions prescribed by the commission. The
instructions shall require the military or overseas elector to make and subscribe to
the certification as required under sub. (4) (b) and to enclose the absentee ballot in
a separate envelope contained within a larger envelope, that shall include the
completed certificate. The elector shall then affix sufficient postage unless the
absentee ballot qualifies for mailing free of postage under federal free postage laws
and shall mail the absentee ballot to the municipal clerk. Except as authorized in
s. 6.97 (2) or in rules promulgated under sub. (4) (c), an absentee ballot received from
a military or overseas elector who receives the ballot electronically shall not be
counted unless it is cast in the manner prescribed in this paragraph and sub. (4) (b)
and in accordance with the instructions provided by the commission.

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

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

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

6.87 (4) (c) Notwithstanding any requirement that an absentee ballot, the
certification required under par. (b), or other absentee voting materials be enclosed
or sealed in an envelope and transmitted by mail, the commission shall promulgate
rules authorizing military electors who are service members and overseas electors
who are civilian employees of the federal department of defense or a contractor of the
federal department of defense to vote absentee by electronic transmission. The rules 
promulgated under this paragraph shall include all of the following requirements:

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

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

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

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

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

(END)