

## **Record of Committee Proceedings**

### **Joint Committee for Review of Administrative Rules**

#### **Wisconsin Elections Commission**

Directives regarding special voting deputies and absentee voting at care facilities approved by the Commission at its March 2, 2021 meeting.

March 05, 2021

#### **Executive Session Held by Paper Ballot**

Present: (10) Senator Nass; Representative Neylon; Senators Stroebel, Bradley, Roys and Larson; Representatives August, Spiros, Subeck and Hebl.

Absent: (0) None.

Excused: (0) None.

Moved that, pursuant to s. 227.26 (2) (b), Stats., the Joint Committee for Review of Administrative Rules determines that the following directives of the Wisconsin Elections Commission, approved at its March 2, 2021 meeting, meet the definition of a rule under s. 227.01 (13), Stats., and directs the agency to promulgate the directives as an emergency rule within 30 days:

Specific to the April 6, 2021 election, Clerks shall contact all eligible facilities in their municipality no later than March 12, 2021 to determine whether special voting deputies will be admitted. If SVD's are permitted, SVD's should schedule their SVD visits immediately in the allowable SVD period and consolidate such visits to the greatest extent possible, so that there are at least 14 days prior to the election for any voter who does not vote with SVD assistance may receive and return their absentee ballot. These visits should be scheduled no later than March 19, 2021. SVDs and observers must comply with any requirements of the care facility and of state and local health departments to conduct the visits safely, recognizing the importance of preserving a resident's right to vote.

If the clerk is informed that SVD's will not be permitted entry to the facility, the SVD's should schedule two tele-visits with the administrator of the facility. These tele-visits should be scheduled immediately in the allowable SVD period so that if attempted visits are denied that there are at least 14 days prior to the election for the voter to receive and return their absentee ballot. SVD's should use the tele-visit to confirm that SVD's are not permitted to enter the facility. If SVDs are denied access to the

facility, then clerks must proceed to the provisions of Wis. Stat. §6.875(6)(e) and send voters their ballots.

As required by s. 227.26 (2) (b), Stats., the Wisconsin Elections Commission has 30 days to comply with the Joint Committee for Review of Administrative Rules' directive and must complete promulgation of the emergency rule by publishing it no later than April 4, 2021 or cease issuance of its current direction to clerks relating to SVDs and absentee voting at residential care facilities.

Ayes: (7) Senator Nass; Representative Neylon;  
Senators Stroebel and Bradley;  
Representatives August, Spiros and Hebl.

Noes: (3) Senators Roys and Larson; Representative  
Subeck.

MOVED, THAT, PURSUANT TO S. 227.26 (2) (B), STATS., THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES DETERMINES THAT THE FOLLOWING DIRECTIVES OF THE WISCONSIN ELECTIONS COMMISSION, APPROVED AT ITS MARCH 2, 2021 MEETING, MEET THE DEFINITION OF A RULE UNDER S. 227.01 (13), STATS., AND DIRECTS THE AGENCY TO PROMULGATE THE DIRECTIVES AS AN EMERGENCY RULE WITHIN 30 DAYS:

SPECIFIC TO THE APRIL 6, 2021 ELECTION, CLERKS SHALL CONTACT ALL ELIGIBLE FACILITIES IN THEIR MUNICIPALITY NO LATER THAN MARCH 12, 2021 TO DETERMINE WHETHER SPECIAL VOTING DEPUTIES WILL BE ADMITTED. IF SVD'S ARE PERMITTED, SVD'S SHOULD SCHEDULE THEIR SVD VISITS IMMEDIATELY IN THE ALLOWABLE SVD PERIOD AND CONSOLIDATE SUCH VISITS TO THE GREATEST EXTENT POSSIBLE, SO THAT THERE ARE AT LEAST 14 DAYS PRIOR TO THE ELECTION FOR ANY VOTER WHO DOES NOT VOTE WITH SVD ASSISTANCE MAY RECEIVE AND RETURN THEIR ABSENTEE BALLOT. THESE VISITS SHOULD BE SCHEDULED NO LATER THAN MARCH 19, 2021. SVDS AND OBSERVERS MUST COMPLY WITH ANY REQUIREMENTS OF THE CARE FACILITY AND OF STATE AND LOCAL HEALTH DEPARTMENTS TO CONDUCT THE VISITS SAFELY, RECOGNIZING THE IMPORTANCE OF PRESERVING A RESIDENT'S RIGHT TO VOTE.

IF THE CLERK IS INFORMED THAT SVD'S WILL NOT BE PERMITTED ENTRY TO THE FACILITY, THE SVD'S SHOULD SCHEDULE TWO TELE-VISITS WITH THE ADMINISTRATOR OF THE FACILITY. THESE TELE-VISITS SHOULD BE SCHEDULED IMMEDIATELY IN THE ALLOWABLE SVD PERIOD SO THAT IF ATTEMPTED VISITS ARE DENIED THAT THERE ARE AT LEAST 14 DAYS PRIOR TO THE ELECTION FOR THE VOTER TO RECEIVE AND RETURN THEIR ABSENTEE BALLOT. SVD'S SHOULD USE THE TELE-VISIT TO CONFIRM THAT SVD'S ARE NOT PERMITTED TO ENTER THE FACILITY. IF SVDS ARE DENIED ACCESS TO THE FACILITY, THEN CLERKS MUST PROCEED TO THE PROVISIONS OF WIS. STAT. §6.875(6)(E) AND SEND VOTERS THEIR BALLOTS.

AS REQUIRED BY S. 227.26 (2) (B), STATS., THE WISCONSIN ELECTIONS COMMISSION HAS 30 DAYS TO COMPLY WITH THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES' DIRECTIVE AND MUST COMPLETE PROMULGATION OF THE EMERGENCY RULE BY PUBLISHING IT NO LATER THAN APRIL 4, 2021 OR CEASE ISSUANCE OF ITS CURRENT DIRECTION TO CLERKS RELATING TO SVDS AND ABSENTEE VOTING AT RESIDENTIAL CARE FACILITIES.

MOTION PASSED, Ayes 7, Noes 3

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Adam Field  
Committee Clerk