



State of Wisconsin
2021 - 2022 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 2,
TO SENATE BILL 205**

June 7, 2021 - Offered by Senator STROEBEL.

1 **AN ACT** *to renumber and amend* 6.875 (4) (b); *to amend* 6.875 (4) (am), 6.875
2 (6) (a), 6.875 (6) (c) 2., 6.875 (7), 7.315 (1) (a) and 12.60 (1) (a); and *to create*
3 6.875 (4) (b) 2., 6.875 (6) (f), 6.875 (8) and 12.13 (3m) of the statutes; **relating**
4 **to:** absentee voting in certain residential care facilities and retirement homes
5 and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a municipal clerk is required, under certain circumstances, to dispatch special voting deputies to a residential care facility or qualified retirement home so that the occupants of the facility or home may cast an absentee ballot in person with the special voting deputies rather than vote in person at the appropriate polling place or request and complete an absentee ballot by mail. Under current law, a retirement home is a facility occupied as a primary residence by 10 or more unrelated individuals. A qualified retirement home is a retirement home that has a significant number of occupants who lack adequate transportation to the polling place, need assistance in voting, are aged 60 or over, or are indefinitely confined.

Current law requires a municipality that appoints special voting deputies to appoint at least two special voting deputies for the municipality and the deputies

must be eligible voters of the county where the municipality is located. In addition, the two deputies designated to visit each qualified retirement home and residential care facility must be affiliated with different political parties whenever deputies representing different parties are available. Current law prohibits individuals employed at a residential care facility or qualified retirement home in the municipality, or any member of the individual's immediate family, from serving as a special voting deputy.

Under this bill, the municipal clerk may appoint any individual who is employed at a qualified retirement home or residential care facility in the municipality to serve as an absentee voting assistant to assist in the procedures for voting at the home or facility in the event that special voting deputies are denied entry into the home or facility. An absentee voting assistant may carry out the same duties as a special voting deputy and must be an eligible voter of the county where the home or facility is located. An absentee voting assistant must complete a two-hour online training prescribed by the Elections Commission and take the same oath of office as a special voting deputy appointed under current law. In addition, the absentee voting assistants appointed to each facility or home must be affiliated with different political parties whenever assistants representing different parties are available. Under the bill, the administrator of each facility or home must provide at least two employees to serve as absentee voting assistants. The bill also modifies current law so that no current or former employee of a qualified retirement home or residential care facility may serve as a special voting deputy.

Under current law, the municipal clerk need not dispatch special voting deputies to a residential care facility unless there are at least five registered voters who are occupants of the facility. The bill requires the clerk to dispatch special voting deputies to any residential care facility where there is at least one registered voter who is an occupant of the facility.

Under current law, the special voting deputies must, not later than 5 p.m. on the sixth working day preceding an election, arrange with the administrator of the qualified retirement home or residential care facility one or more convenient times to visit the home or facility. The administrator of the home or facility may, upon the request of a relative of an occupant of the home or facility notify the relative of the time or times at which special voting deputies will conduct absentee voting at the home or facility. Current law also requires that the visits may be no earlier than the fourth Monday preceding the election and no later than 5 p.m. on the Monday preceding the election.

Under the bill, the special voting deputies must make arrangements to visit the qualified retirement homes or residential care facilities no later than 5 p.m. on the 11th working day preceding the election and the visits may be no earlier than the fourth Monday preceding the election and no later than 5 p.m. on the sixth working day preceding the election. This bill also requires the administrator to provide notice of the dates and times when the deputies or absentee voting assistants will be assisting voters at the home or facility to the relatives for whom the home or facility has contact information. In addition, under the bill, no administrator of a qualified retirement home or residential care facility may deny a special voting deputy from

entering the home or facility unless the governor declares a public health emergency within 60 days preceding the election for which the deputies are appointed or the Department of Health Services or the federal Centers for Medicare or Medicaid Services recommends that the family members of the occupants of a home or facility be denied access to the home or facility.

The bill also provides that an employee of a qualified retirement home or residential care facility who coerces an occupant of the home or facility to apply for or not apply for an absentee ballot or cast or refrain from casting a ballot or who coerces an occupant to cast a ballot for or against a particular candidate or ballot question is guilty of a Class I felony.

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

1 **SECTION 1.** 6.875 (4) (am) of the statutes is amended to read:

2 6.875 (4) (am) The municipal clerk or board of election commissioners of a
3 municipality ~~need not~~ shall dispatch special voting deputies to visit any residential
4 care facility ~~unless where there are~~ is at least ~~5~~ one registered electors elector of the
5 municipality who ~~are occupants~~ is an occupant of the facility.

6 **SECTION 2.** 6.875 (4) (b) of the statutes is renumbered 6.875 (4) (b) 1. and
7 amended to read:

8 6.875 (4) (b) 1. Nominations for the special voting deputy positions described
9 in par. (a) may be submitted by the 2 recognized political parties whose candidates
10 for governor or president received the greatest numbers of votes in the municipality
11 at the most recent general election. The deputies shall be specially appointed to
12 carry out the duties under par. (a) for the period specified in s. 7.30 (6) (a). The clerk
13 or board of election commissioners may revoke an appointment at any time. No
14 individual who is employed or retained, ~~or within the 2 years preceding appointment~~
15 ~~has been employed or retained,~~ at a qualified retirement home or residential care
16 facility in the municipality, or any member of the individual's immediate family, as
17 defined in s. 19.42 (7), may be appointed to serve as a deputy.

1 **SECTION 3.** 6.875 (4) (b) 2. of the statutes is created to read:

2 6.875 (4) (b) 2. No individual who is employed or retained at a qualified
3 retirement home or residential care facility in the municipality who is not an
4 absentee voting assistant appointed under sub. (8) may assist an occupant of the
5 home or facility in requesting, completing, or returning the occupant's absentee
6 ballot.

7 **SECTION 4.** 6.875 (6) (a) of the statutes is amended to read:

8 6.875 (6) (a) Special voting deputies in each municipality shall, not later than
9 5 p.m. on the 6th 11th working day preceding an election, arrange one or more
10 convenient times with the administrator of each qualified retirement home and
11 residential care facility in the municipality that the deputies are scheduled to visit.
12 The time may be no earlier than the 4th Monday preceding the election and no later
13 than 5 p.m. on the ~~Monday~~ 6th working day preceding the election. The municipal
14 clerk shall give notice of each visit by special voting deputies to a qualified retirement
15 home or residential care facility in the same manner that notices of public meetings
16 are provided by presiding officers under s. 19.84 (1) (b) at least 5 working days in
17 advance of each visit, indicating the date and time of the visit. The municipal clerk
18 also shall post a notice at the home or facility and on the Internet indicating the date
19 and time that absentee voting will take place at that home or facility. The notice shall
20 be posted as soon as practicable after arranging the visit but in no case less than 5
21 working days before the visit. A municipal clerk whose municipality does not
22 maintain an Internet site need not comply with the Internet posting requirement.
23 At the designated time, 2 deputies appointed under sub. (4) shall visit the home or
24 facility.

25 **SECTION 5.** 6.875 (6) (c) 2. of the statutes is amended to read:

1 6.875 (6) (c) 2. ~~Upon the request of a relative of an occupant of a qualified~~
2 ~~retirement home or residential care facility, the administrator of the home or facility~~
3 ~~may notify the relative of the time or times at which special voting deputies will~~
4 ~~conduct absentee voting at the home or facility and permit the~~ The administrator of
5 a qualified retirement home or residential care facility shall provide notice of the
6 dates and times when the deputies or absentee voting assistants appointed under
7 sub. (8) will be facilitating absentee voting at the home or facility to each relative of
8 an occupant for whom the home or facility has contact information. The relative to
9 may be present in the room where the voting is conducted.

10 **SECTION 6.** 6.875 (6) (f) of the statutes is created to read:

11 6.875 (6) (f) No administrator of a qualified retirement home or residential care
12 facility may deny special voting deputies from entering the home or facility unless
13 the governor declares a public health emergency under s. 323.10 within 60 days
14 preceding the election for which the deputies are appointed or guidance issued by the
15 department of health services or the federal Centers for Medicare and Medicaid
16 Services recommends that the family members of the occupants of a home or facility
17 be denied entry to the home or facility.

18 **SECTION 7.** 6.875 (7) of the statutes is amended to read:

19 6.875 (7) One observer from each of the 2 recognized political parties whose
20 candidate for governor or president received the greatest number of votes in the
21 municipality at the most recent general election may accompany the deputies to each
22 home or facility where absentee voting will take place under this section. In addition,
23 one relative, or the legal guardian, of each occupant of the home or facility may
24 accompany the deputies to observe the absentee voting. The observers may observe
25 the process of absentee ballot distribution in the common areas of the home or facility.

1 Each party or occupant wishing to have an observer present shall submit the name
2 of the observer to the clerk or board of election commissioners no later than the close
3 of business on the last business day prior to the visit.

4 **SECTION 8.** 6.875 (8) of the statutes is created to read:

5 6.875 (8) (a) The municipal clerk or board of election commissioners of each
6 municipality in which one or more qualified retirement homes or residential care
7 facilities are located may appoint any individual who is employed or retained at a
8 qualified retirement home or residential care facility in the municipality to serve as
9 an absentee voting assistant to assist in the procedures for voting at the home or
10 facility in the event that special voting deputies appointed under sub. (4) (a) are
11 denied entry into the home or facility, as provided under sub. (6) (f). The
12 administrator of each such home or facility shall provide at least 2 employees to serve
13 as absentee voting assistants.

14 (b) Absentee voting assistants appointed under par. (a) shall comply with the
15 duties for special voting deputies under this section and complete a 2-hour online
16 training, as prescribed by the commission under s. 7.315 (1) (a). An absentee voting
17 assistant appointed under par. (a) shall be a qualified elector of the county where the
18 municipality is located.

19 (c) Prior to entering upon his or her duties, each individual appointed to serve
20 as an absentee voting assistant under par. (a) shall file the oath required by s. 7.30
21 (5). In the oath, the individual shall swear that he or she is qualified to act as an
22 absentee voting assistant under this subsection, that he or she has read the statutes
23 governing absentee voting, that he or she understands the proper absentee voting
24 procedure, that he or she understands the penalties for noncompliance with the
25 procedure under s. 12.13, and that his or her sacred obligation will be to fully and

1 fairly implement the absentee voting law and seek to have the intent of the electors
2 ascertained. In addition, the oath shall state that the individual realizes that any
3 error in conducting the voting procedure may result in invalidation of an elector's
4 vote under s. 7.51 (2) (e) and that the individual realizes that absentee voting is a
5 privilege and not a constitutional right. The form of the oath shall be prescribed by
6 the commission.

7 (d) The municipal clerk or board of election commissioners shall appoint at
8 least 2 individuals employed or retained by the qualified retirement home or
9 residential care facility to serve as absentee voting assistants under par. (a). The
10 absentee voting assistants for each home or facility shall be affiliated with different
11 political parties whenever absentee voting assistants representing different parties
12 are available.

13 **SECTION 9.** 7.315 (1) (a) of the statutes is amended to read:

14 7.315 (1) (a) The commission shall, by rule, prescribe the contents of the
15 training that municipal clerks must provide to inspectors, other than chief
16 inspectors, ~~and~~ to special voting deputies appointed under s. 6.875 (4), and to
17 absentee voting assistants appointed under s. 6.875 (8).

18 **SECTION 10.** 12.13 (3m) of the statutes is created to read:

19 12.13 (3m) ABSENTEE VOTING IN CERTAIN RESIDENTIAL CARE FACILITIES AND
20 RETIREMENT HOMES. No employee of a qualified retirement home, as defined in s.
21 6.875 (1) (at), or residential care facility, as defined in s. 6.875 (1) (bm), may coerce
22 an occupant of the home or facility to apply for or not apply for an absentee ballot or
23 cast or refrain from casting a ballot or coerce an occupant to cast a ballot for or against
24 a particular candidate or ballot question.

25 **SECTION 11.** 12.60 (1) (a) of the statutes is amended to read:

