



## WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

### Absentee Voting

Absentee voting refers to voting that occurs somewhere other than the polling place at a time other than Election Day. In Wisconsin, individuals may vote absentee for any reason. Eligible voters may cast absentee ballots by mail or by voting in person at the municipal clerk's office.

This Information Memorandum explains the concept of absentee voting, eligibility for absentee voting, methods of absentee voting, and the counting of absentee ballots.

#### **WHAT IS ABSENTEE VOTING?**

Absentee voting is a voting method that allows eligible voters to cast ballots prior to election day instead of casting ballots at the polling place. Absentee voters receive a printed ballot which they mark with their votes, seal in an envelope, and mail or hand to the municipal clerk.

The right to vote is enshrined in the U.S. and Wisconsin Constitutions. However, the right to vote absentee is not. Absentee voting is considered a privilege created by the Legislature for the convenience of the electorate.<sup>1</sup>

#### **ELIGIBILITY FOR ABSENTEE VOTING**

The criteria for absentee voting eligibility is the same as the criteria for general voting eligibility. An individual is eligible to vote in a particular district if he or she: (a) is a citizen; (b) is aged 18 or older; (c) has resided in the district for 28 consecutive days; (d) is not incarcerated or on supervision or probation for a felony; and (e) has not been adjudicated incompetent by a court.

Any eligible voter who is “unable or unwilling” to appear at the polling place on Election Day may vote absentee. Wisconsin law does not require an elector to have a particular justification for voting absentee.

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<sup>1</sup> The Legislative policy regarding absentee voting reads in relevant part: “The legislature finds that voting is a constitutional right, the vigorous exercise of which should be strongly encouraged. In contrast, voting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place.” [s. 6.84 (1), Stats.]

Not all states take a similar approach. Some states only allow absentee voting for specified reasons, such as illness or disability, absence from the district on Election Day, or observance of a religious holiday.

## **METHODS FOR ABSENTEE VOTING**

An individual may request an absentee ballot in person, by written request, by automatic absentee ballot, or by qualifying under special circumstances. If the individual is not already a registered voter, then he or she must also complete the registration process before receiving an absentee ballot.

### ***IN PERSON***

An eligible voter may apply for and receive an absentee ballot by appearing in person at the municipal clerk's office.<sup>2</sup> The clerk will hand the voter an absentee ballot, and the voter will vote the ballot, seal the ballot inside a special envelope, complete the certifications on the outside of the envelope, and hand the ballot to the clerk.

In-person absentee voting is available for a 12-day period prior to the election. A person may vote at the clerk's office from the third Monday before the election until 5 p.m., or until the clerk's office closes, on the Friday before the election. In-person absentee voting is not available on the Monday before Election Day or on Election Day itself.

### ***WRITTEN REQUESTS***

An eligible voter may apply for an absentee ballot by mailing, emailing, or faxing a written request to the municipal clerk. The clerk will then mail an absentee ballot to the voter.<sup>3</sup> The voter must vote the ballot in the presence of a witness, seal the ballot inside a special envelope, complete certifications on the outside of the envelope, and hand-deliver or mail the ballot back to the clerk.

A clerk will mail absentee ballots to voters who submit a written request by 5:00 p.m. on the 5<sup>th</sup> day before the election, which is typically the Thursday before Election Day. To be counted, a voted absentee ballot must be postmarked by Election Day and must be received by 4 p.m. on the Friday after the election.

### ***AUTOMATIC ABSENTEE BALLOTS***

An eligible voter may apply to receive absentee ballots automatically, without requesting an absentee ballot at each election. All voters may request that an absentee ballot be mailed to

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<sup>2</sup> A municipality may also choose to designate an alternative site for absentee voting, rather than conducting absentee voting activities at the municipal clerk's office. Additionally, the word "clerk" in this Information Memorandum refers to either a municipal clerk or a Board of Election Commissioners.

<sup>3</sup> Municipal clerks must send absentee ballots to voters by mail, unless the voter is a military or overseas voter. Military and overseas voters may receive absentee ballots by mail, email, or fax.

them automatically for every election held during that calendar year. “Indefinitely confined” voters, those who have difficulty traveling to the polling place because of age, illness, infirmity, or disability, may request that an absentee ballot be mailed to them for every election going forward.

### ***QUALIFICATION UNDER SPECIAL CIRCUMSTANCES***

Alternative procedures for obtaining and voting an absentee ballot apply to individuals in particular circumstances. Alternative procedures apply to voters who: (a) are in the military; (b) are overseas; (c) are hospitalized; (d) live in nursing homes or care facilities; or (e) are serving on a sequestered jury.

#### ***Military Voters<sup>4</sup>***

A military voter may apply for and vote an absentee ballot from the municipality in which the voter lived before entering the military. A military voter may apply for an absentee ballot like any other Wisconsin voter, or alternatively, may submit a Federal Post Card Application (FPCA) or Federal Absentee Write-In Ballot (FWAB) with an accompanying Voter’s Declaration/Affirmation. After receiving an absentee voter application or one of the federal documents, the municipal clerk will mail, email, or fax an absentee ballot to the military voter.

A military voter may vote absentee either by returning the absentee ballot sent by the municipal clerk, or by submitting a FWAB with the voter’s choices written in. A military voter will automatically receive absentee ballots for all elections held in the municipality during that calendar year.

#### ***Overseas Voters<sup>5</sup>***

An overseas voter who lived in Wisconsin before permanently moving outside the United States and the voter’s children may apply for and vote an absentee ballot in Wisconsin. However, an overseas voter may only vote in elections for President, U.S. Senate, and U.S. Congress, and cannot vote in state and local elections. An overseas voter may apply for an absentee ballot by submitting a request by mail, email, or fax. After receiving an absentee ballot application, the municipal clerk will mail, email, or fax a ballot to the overseas voter.

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<sup>4</sup> A military voter, or “military elector,” is defined by one section of the statutes as a member of a uniformed service, a merchant marine, a civilian employee attached to a uniform service and serving outside the United States, a peace corps volunteer, or the spouse or dependent of those listed who reside with or accompany them. [s. 6.22 (1) (b), Stats.] This definition applies to certain voting related-activities. A different section of the statutes, s. 6.34 (1) (a), Stats., contains a narrower definition of “military elector” and applies to other voting-related activities. Readers should reference the statutes to determine which definition of “military elector” applies to a particular voting activity.

<sup>5</sup> An overseas voter, or “overseas elector,” is defined by one section of the statutes as an elector who is a U.S. citizen who has attained age 18 by the date of the election and is not otherwise disqualified from voting, who does not qualify as a resident of this state, but was last domiciled in this state or whose parent was last domiciled in this state immediately prior to departure from the United States, and is not registered to vote or voting in any other state, territory, or possession. [s. 6.24 (1), Stats.] This definition applies to certain voting-related activities. A different section of the statutes, s. 6.34 (1) (b), Stats., applies to other voting-related activities. Readers should reference the statutes to determine which definition of “overseas elector” applies to a particular voting activity.

An overseas voter may vote absentee either by returning an absentee ballot sent by the municipal clerk, or by submitting a FWAB with the voter's choices written in. An overseas voter will automatically receive absentee ballots for all federal elections held during that calendar year.

### ***Hospitalized Voters***

A hospitalized voter may use an agent, such as a family member, to apply for and obtain an absentee ballot. The voter must complete an absentee ballot application indicating that he or she is hospitalized that the agent presents to the municipal clerk. After the agent presents identification (ID), provides his or her address, and attests that the ballot is for the hospitalized voter, the clerk will issue the agent an absentee ballot. The agent delivers the ballot to the hospitalized voter, witnesses the ballot, and returns the ballot to the clerk or polling place.

### ***Residents of Nursing Homes and Care Facilities***

A voter who lives in a nursing home or certain other care facilities may obtain and vote an absentee ballot delivered by Special Voting Deputies (SVDs). SVDs are individuals appointed by the municipality to conduct absentee voting in eligible care facilities during the three weeks preceding an election. The SVDs witness a resident's absentee ballot and return the voted ballot to the clerk.

### ***Sequestered Jurors***

A voter serving on a sequestered jury may vote an absentee ballot at the courthouse. If the voter submits an absentee ballot application between 5:00 p.m. on the Friday before Election Day and 5 p.m. on Election Day indicating that the voter is sequestered, the municipal clerk must deliver a ballot to the court and deposit it with the judge. The judge must recess court and provide the ballot to the voter, witness the ballot, and return the ballot to the clerk for delivery to the polling place.

## **COUNTING OF ABSENTEE BALLOTS**

Absentee ballots are processed and counted at the same time as ballots cast in person at the polls. Absentee ballots remain sealed inside their certificate envelopes until municipal clerks deliver the ballots to polling places on Election Day.<sup>6</sup> The ballots are delivered to the polling place where the ballots are publicly opened and processed by the poll workers.

Poll workers remove each absentee ballot individually from the carrier envelope or container and announce the name and address of the absentee voter. The poll workers verify that the certificate on the outside of the absentee envelope is sufficient and that the envelope was delivered unopened. The poll workers then remove the absentee ballot from the envelope,

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<sup>6</sup> Absentee ballots are delivered to a central count location instead of to the polling place in municipalities that use central count procedures.

record the voter's name on the poll list, and run the ballot through the electronic voting equipment or place the ballot in the ballot box.

Not all absentee ballots will arrive at the polling place by Election Day. Wisconsin law requires that any absentee ballot postmarked by Election Day and received by 4 p.m. on the Friday after the election be counted. These late-arriving absentee ballots are opened and processed by the Monday following the election and are included in the official election returns.

### **GOVERNMENT ACCOUNTABILITY BOARD**

The Government Accountability Board (GAB) is the state agency that administers and enforces Wisconsin elections laws. The GAB website contains information and forms related to absentee voting and can be found at: <http://gab.wi.gov/voters/absentee>.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

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