
Wisconsin Legislative Council

AMENDMENT MEMO



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2021 Senate Bill 205

Senate Substitute Amendment 2 and Senate Amendment 1 to Senate Substitute Amendment 2

2021 SENATE BILL 205

Senate Bill 205 makes changes to absentee voting procedures using Special Voting Deputies (SVDs) that occur in certain long-term care facilities. The bill requires the administrator of a qualified retirement home or residential care facility to notify relatives of residents, for whom the facility has contact information, of the dates and times when SVDs will be visiting the facility if the resident intends to vote at that election. The administrator may also provide notice to any other relative upon request.

The bill also criminalizes certain election-related behavior by employees of facilities served by SVDs. Specifically, the bill makes it a Class I Felony for an employee to do any of the following: (1) influence a resident to apply for or not apply for an absentee ballot; (2) influence a resident to cast or refrain from casting a ballot; or (3) influence a resident's decision for whom to cast a ballot.

SENATE SUBSTITUTE AMENDMENT 2

Senate Substitute Amendment 2 creates a new type of election official called "absentee voting assistants," (AVAs) who are employees of a qualified retirement home or residential care facility and assist residents in voting at the facility under specific circumstances. SVDs generally conduct absentee voting in residential care facilities and qualified retirement homes, and the substitute amendment specifies that these facilities cannot deny SVDs entry unless one of the following occurs: (1) the Governor declares a public health emergency within 60 days before the election; or (2) the Wisconsin Department of Health Services or the federal Centers for Medicare and Medicaid Services recommends that family members of residents of the facility be denied entry to the facility. AVAs assist residents with voting only if SVDs are denied entry to the facility for one of these reasons.

A residential care facility or qualified retirement home must provide at least two employees to serve as AVAs, and clerks must appoint at least two employees at each facility. The appointed AVAs must be affiliated with different political parties whenever available. To serve as an AVA, an employee must complete a two-hour online training, be a qualified voter of the county, and file an oath including specified content. The substitute amendment also prohibits employees of a residential care facility or qualified retirement home from assisting a resident in requesting, completing, or returning the resident's absentee ballot unless the employee is appointed as an AVA.

In addition, the substitute amendment changes the time periods during which SVDs must visit facilities to conduct absentee voting. Under the amendment, the SVDS must contact facilities to arrange visits no later than 5 p.m. on the 11th working day prior to an election (rather than the 6th), and must conduct the visits no later than 5 p.m. on the 6th working day before the election (rather than the Monday before). The substitute amendment also maintains the current law prohibition on facility employees serving as

SVDs, but unlike current law, allows former facility employees to serve as SVDs if they meet all other qualifications.

Similar to the original bill, the substitute amendment requires the administrator of a qualified retirement home or residential care facility to notify all relatives of facility residents for whom it has contact information of dates and times that SVP and AVA voting will occur at the facility. The substitute amendment also provides that one relative of a facility resident, or the resident's legal guardian, may accompany SVDs to observe absentee voting. Each resident who wishes to have an observer present must submit the name to the clerk by the close of business on the last business day prior to the visit.

Finally, similar to the bill, the substitute amendment criminalizes certain election-related behavior by facility employees. However, the amendment replaces the word "coerce" with the word "influence" in describing prohibited behavior. Under the substitute amendment, a facility employee commits a Class I felony if he or she does any of the following: (1) coerces a resident to apply for or not apply for an absentee ballot; (2) coerces a resident to cast or refrain from casting a ballot; or (3) coerces a resident to cast a ballot for or against a particular candidate or ballot question.

SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 2

Current law requires a clerk to dispatch SVDs to conduct absentee voting at a residential care facility only if there are at least five registered voters of the municipality at the facility. Senate Substitute Amendment 2 lowers the threshold so that a clerk must dispatch SVDs to any residential care facility with at least one registered voter from the municipality. Senate Amendment 1 removes the language lowering the threshold and maintains current law.

BILL HISTORY

Senator Stroebel offered Senate Substitute Amendment 2 on June 7, 2021, and Senate Amendment 1 to Senate Substitute Amendment 2 on June 9, 2021. On June 9, 2021, the full Senate adopted Senate Amendment 1 to Senate Substitute Amendment 2, and Senate Substitute Amendment 2, as amended. The Senate then passed Senate Bill 205, as amended, on a vote of Ayes, 20; Noes, 12.

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