



2013 ASSEMBLY BILL 396

October 1, 2013 - Introduced by Representatives BERNIER, STROEBEL, BIES, KESTELL, PRIDEMORE, KLEEFISCH, MURPHY and CRAIG, cosponsored by Senators GROTHMAN, LAZICH, VUKMIR, TIFFANY, MOULTON and DARLING. Referred to Committee on Campaigns and Elections.

1 **AN ACT** *to repeal* 6.875 (1) (as), 6.875 (2) (a) and (b) and 6.875 (2) (d); *to*
2 *renumber* 6.875 (1) (a) and 6.875 (2) (c); *to renumber and amend* 6.875 (1)
3 (ap); *to amend* 6.87 (4) (b) 5., 6.875 (title), 6.875 (1) (asm), 6.875 (1) (at), 6.875
4 (3) and (4) (a), 6.875 (4) (b), (6) (a), (b), (c) 1. and 2. and (e) and (7), 12.03 (2) (b)
5 3. and 12.13 (2) (b) 6m.; and *to create* 6.875 (1) (bm), 6.875 (1) (d) and 6.875 (4)
6 (am) of the statutes; **relating to:** absentee voting at residential care facilities.

Analysis by the Legislative Reference Bureau

Currently, the municipal clerk or board of election commissioners of each municipality is directed to dispatch two special voting deputies to conduct absentee voting in person for each election at each nursing home located in the municipality upon application for an absentee ballot by one or more qualified electors who are occupants of the home. Participation in the special absentee voting is limited to occupants of the home. The clerk or board may also dispatch special voting deputies to any community-based residential facility, retirement home, adult family home, or residential care apartment complex located in the municipality to conduct absentee voting for occupants of the facility, home, or complex if the clerk or board finds that a significant number of occupants of the facility, home, or complex may need assistance in voting or meet certain other specified criteria upon application for an absentee ballot by one or more qualified electors who are occupants of the facility, home, or complex. This bill provides that the clerk or board of election commissioners

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shall dispatch two special voting deputies to each community-based residential facility, adult family home, and residential care apartment complex located in the municipality to conduct absentee voting in person for occupants of the facility, home, or complex at each election upon application by one or more qualified electors who are occupants of the facility, home, or complex, except that the clerk or board need not dispatch special voting deputies to visit any facility, home, or complex unless there are at least five registered electors who are occupants of the facility, home, or complex. The bill does not change current law as it relates to dispatching special voting deputies to retirement homes.

Currently, a municipal clerk or board of election commissioners who dispatches special voting deputies to a facility, home, or complex must post a notice of the visit by the deputies at the facility, home, or complex at least 24 hours in advance of the time of the visit. This bill requires this notice to be posted at the home or facility where absentee voting is to be conducted at least five working days in advance of the visit. The bill also directs each municipal clerk and board of election commissioners to provide public notice of each visit by special voting deputies to a residential care facility to a local news medium and to those news media that have filed a written request to receive such notices at least five working days before each visit. In addition, the bill requires the clerk or board to post the notice on the Internet. Under the bill, a municipal clerk or board of election commissioners whose municipality does not maintain an Internet site need not comply with the Internet posting requirement.

For further information see the *local* 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:

1 **SECTION 1.** 6.87 (4) (b) 5. of the statutes is amended to read:

2 6.87 (4) (b) 5. Unless subd. 3. or 4. applies, if the absentee elector resides in a
3 qualified retirement home, as defined in s. 6.875 (1) (at), ~~—a qualified~~
4 ~~community-based residential facility, as defined in s. 6.875 (1) (as), a residential care~~
5 ~~apartment complex that is certified or registered under s. 50.034 (1), or an adult~~
6 ~~family home that is certified under s. 50.032 or licensed under s. 50.033 or a~~
7 residential care facility, as defined in s. 6.875 (1) (bm), and the municipal clerk or
8 board of election commissioners of the municipality where the ~~complex, facility, or~~
9 home is located does not send special voting deputies to visit the ~~complex, facility, or~~

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1 home at the election under s. 6.875, the elector may, in lieu of providing proof of
2 identification, submit with his or her absentee ballot a statement signed by the same
3 individual who witnesses voting of the ballot that contains the certification of an
4 authorized representative of the ~~complex~~, facility, or home that the elector resides in
5 the ~~complex~~, facility, or home and the ~~complex~~, facility, or home is certified or
6 registered as required by law, that contains the name and address of the elector, and
7 that verifies that the name and address are correct.

8 **SECTION 2.** 6.875 (title) of the statutes is amended to read:

9 **6.875 (title) Absentee voting in certain homes, residential care**
10 **facilities, and complexes retirement homes.**

11 **SECTION 3.** 6.875 (1) (a) of the statutes is renumbered 6.875 (1) (ae).

12 **SECTION 4.** 6.875 (1) (ap) of the statutes is renumbered 6.875 (1) (ab) and
13 amended to read:

14 6.875 (1) (ab) “~~Qualified adult~~ Adult family home” means a facility that is
15 certified or licensed to operate as an adult family home under s. 50.032 or 50.033 that
16 ~~qualifies under sub. (2) (d) to utilize the procedures under this section.~~

17 **SECTION 5.** 6.875 (1) (as) of the statutes is repealed.

18 **SECTION 6.** 6.875 (1) (asm) of the statutes is amended to read:

19 6.875 (1) (asm) “~~Qualified residential~~ Residential care apartment complex”
20 means a facility that is certified or registered to operate as a residential care
21 apartment complex under s. 50.034 (1) ~~that qualifies under sub. (2) (d) to utilize the~~
22 ~~procedures under this section.~~

23 **SECTION 7.** 6.875 (1) (at) of the statutes is amended to read:

24 6.875 (1) (at) “Qualified retirement home” means a retirement home that
25 qualifies under sub. (2) (e) to utilize the procedures under this section.

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1 **SECTION 8.** 6.875 (1) (bm) of the statutes is created to read:

2 6.875 (1) (bm) “Residential care facility” means an adult family home,
3 community-based residential facility, nursing home, or residential care apartment
4 complex.

5 **SECTION 9.** 6.875 (1) (d) of the statutes is created to read:

6 6.875 (1) (d) “Working day” has the meaning given in s. 227.01 (14).

7 **SECTION 10.** 6.875 (2) (a) and (b) of the statutes are repealed.

8 **SECTION 11.** 6.875 (2) (c) of the statutes is renumbered 6.875 (2).

9 **SECTION 12.** 6.875 (2) (d) of the statutes is repealed.

10 **SECTION 13.** 6.875 (3) and (4) (a) of the statutes are amended to read:

11 6.875 (3) An occupant of a ~~nursing home~~ or qualified retirement home,
12 ~~qualified community-based residential facility, qualified residential care apartment~~
13 ~~complex, or qualified adult family home~~ or residential care facility who qualifies as
14 an absent elector and desires to receive an absentee ballot shall make application
15 under s. 6.86 (1), (2), or (2m) with the municipal clerk or board of election
16 commissioners of the municipality in which the elector is a resident. The clerk or
17 board of election commissioners of a municipality receiving an application from an
18 elector who is an occupant of a ~~nursing home~~ or qualified retirement home, ~~qualified~~
19 ~~community-based residential facility, qualified residential care apartment complex,~~
20 ~~or qualified adult family home~~ or residential care facility located in a different
21 municipality shall, as soon as possible, notify and send an absentee ballot for the
22 elector to the clerk or board of election commissioners of the municipality in which
23 the home, or ~~facility, or complex~~ is located. The clerk or board of election
24 commissioners of a municipality receiving an application from an elector who is an
25 occupant of a ~~nursing home~~ or qualified retirement home, ~~qualified~~

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1 ~~community-based residential facility, qualified residential care apartment complex,~~
2 ~~or qualified adult family home~~ or residential care facility located in the municipality
3 but who is a resident of a different municipality shall, as soon as possible, notify and
4 request an absentee ballot from the clerk or board of election commissioners of the
5 municipality in which the elector is a resident. The clerk or board of election
6 commissioners shall make a record of all absentee ballots to be sent, delivered, and
7 voted under this section.

8 (4) (a) For the purpose of absentee voting in ~~nursing homes,~~ qualified
9 retirement homes, ~~qualified community-based residential facilities,~~ qualified
10 ~~residential care apartment complexes,~~ and ~~qualified adult family homes~~ and
11 residential care facilities, the municipal clerk or board of election commissioners of
12 each municipality in which one or more ~~nursing homes,~~ qualified retirement homes,
13 ~~qualified community-based residential facilities,~~ ~~qualified residential care~~
14 ~~apartment complexes,~~ or ~~qualified adult family homes~~ or residential care facilities
15 are located shall appoint at least 2 special voting deputies for the municipality. Upon
16 Except as provided in par. (am), upon application under s. 6.86 (1), (2), or (2m) by one
17 or more qualified electors who are occupants of a home, or facility, ~~or complex,~~ the
18 municipal clerk or board of election commissioners of the municipality in which the
19 home, or facility, ~~or complex~~ is located shall dispatch 2 special voting deputies to visit
20 the home, or facility, ~~or complex~~ for the purpose of supervising absentee voting
21 procedure by occupants of the home, or facility, ~~or complex~~. The clerk or board of
22 election commissioners shall maintain a list, available to the public upon request, of
23 each home, or facility, ~~or complex~~ where an elector has requested an absentee ballot
24 special voting deputies are dispatched. The list shall include the date and time the
25 deputies intend to visit each home, or facility, ~~or complex~~. The 2 deputies designated

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1 to visit each ~~nursing home, qualified retirement home, qualified community-based~~
2 ~~residential facility, qualified residential care apartment complex, and qualified adult~~
3 ~~family home~~ and residential care facility shall be affiliated with different political
4 parties whenever deputies representing different parties are available.

5 **SECTION 14.** 6.875 (4) (am) of the statutes is created to read:

6 6.875 (4) (am) The municipal clerk or board of election commissioners need not
7 dispatch special voting deputies to visit any residential care facility unless there are
8 at least 5 registered electors who are occupants of the facility.

9 **SECTION 15.** 6.875 (4) (b), (6) (a), (b), (c) 1. and 2. and (e) and (7) of the statutes
10 are amended to read:

11 6.875 (4) (b) Nominations for the special voting deputy positions described in
12 par. (a) may be submitted by the 2 recognized political parties whose candidates for
13 governor or president received the greatest numbers of votes in the municipality at
14 the most recent general election. The deputies shall be specially appointed to carry
15 out the duties under par. (a) for the period specified in s. 7.30 (6) (a). The clerk or
16 board of election commissioners may revoke an appointment at any time. No
17 individual who is employed or retained, or within the 2 years preceding appointment
18 has been employed or retained, at a ~~nursing home, qualified retirement home,~~
19 ~~qualified community-based residential facility, qualified residential care apartment~~
20 ~~complex, or qualified adult family home~~ or residential care facility in the
21 municipality, or any member of the individual's immediate family, as defined in s.
22 19.42 (7), may be appointed to serve as a deputy.

23 (6) (a) Special voting deputies in each municipality shall, not later than 5 p.m.
24 on the ~~Friday~~ 6th working day preceding an election, arrange one or more convenient
25 times with the administrator of each ~~nursing home, qualified retirement home,~~

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1 ~~qualified community-based residential facility, qualified residential care apartment~~
2 ~~complex, and qualified adult family home~~ and residential care facility in the
3 municipality from which one or more occupants have filed an application under s.
4 6.86 to conduct absentee voting for the election that the deputies are scheduled to
5 visit. The time may be no earlier than the 4th Monday preceding the election and
6 no later than 5 p.m. on the Monday preceding the election. The municipal clerk shall
7 give notice of each visit by special voting deputies to a qualified retirement home or
8 residential care facility in the same manner that notices of public meetings are
9 provided by presiding officers under s. 19.84 (1) (b) at least 5 working days in advance
10 of each visit, indicating the date and time of the visit. The municipal clerk also shall
11 post a notice at the home, or facility, or complex and on the Internet indicating the
12 date and time that absentee voting will take place at that home, or facility, or
13 ~~complex~~. The notice shall be posted as soon as practicable after arranging the visit
14 but in no case less than ~~24 hours~~ 5 working days before the visit. A municipal clerk
15 whose municipality does not maintain an Internet site need not comply with the
16 Internet posting requirement. At the designated time, 2 deputies appointed under
17 sub. (4) shall visit the home, or facility, or complex.

18 (b) The municipal clerk or executive director of the board of election
19 commissioners shall issue a supply of absentee ballots to the deputies sufficient to
20 provide for the number of valid applications for an absentee ballot received by the
21 clerk, and a reasonable additional number of ballots. The deputies may exercise the
22 authority granted to the chief inspector under s. 7.41 to regulate the conduct of
23 observers. For purposes of the application of s. 7.41, the home, or facility, or complex
24 shall be treated as a polling place. The municipal clerk or executive director shall

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1 keep a careful record of all ballots issued to the deputies and shall require the
2 deputies to return every ballot issued to them.

3 (c) 1. Upon their visit to the home, or facility, ~~or complex~~ under par. (a), the
4 deputies shall personally offer each elector who has filed a proper application for an
5 absentee ballot the opportunity to cast his or her absentee ballot. In lieu of providing
6 a copy of proof of identification under s. 6.87 (4) (b) 1. with his or her absentee ballot,
7 the elector may submit with his or her ballot a statement signed by both deputies that
8 contains the name and address of the elector and verifies that the name and address
9 are correct. The deputies shall enclose the statement in the certificate envelope. If
10 an elector presents proof of identification under s. 6.87 (4) (b) 1., the deputies shall
11 make a copy of the document presented by the elector and shall enclose the copy in
12 the certificate envelope. If an elector is present who has not filed a proper application
13 for an absentee ballot, the 2 deputies may accept an application from the elector and
14 shall issue a ballot to the elector if the elector is qualified, the elector presents proof
15 of identification, whenever required, or submits a statement containing his or her
16 name and address under this subdivision, and the application is proper. The
17 deputies shall each witness the certification and may, upon request of the elector,
18 assist the elector in marking the elector's ballot. All voting shall be conducted in the
19 presence of the deputies. Upon request of the elector, a relative of the elector who
20 is present in the room may assist the elector in marking the elector's ballot. No
21 individual other than a deputy may witness the certification and no individual other
22 than a deputy or relative of an elector may render voting assistance to the elector.

23 2. Upon the request of a relative of an occupant of a ~~nursing home~~, qualified
24 retirement home, ~~qualified community-based residential facility~~, ~~qualified~~
25 ~~residential care apartment complex~~, ~~or qualified adult family home~~ or residential

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1 ~~care facility~~, the administrator of the home, or facility, ~~or complex~~ may notify the
2 relative of the time or times at which special voting deputies will conduct absentee
3 voting at the home, or facility, ~~or complex~~ and permit the relative to be present in the
4 room where the voting is conducted.

5 (e) If a qualified elector is not able to cast his or her ballot on 2 separate visits
6 by the deputies to the home, or facility, ~~or complex~~, the deputies shall so inform the
7 municipal clerk or executive director of the board of election commissioners, who may
8 then send the ballot to the elector no later than 5 p.m. on the Friday preceding the
9 election.

10 **(7)** One observer from each of the 2 recognized political parties whose candidate
11 for governor or president received the greatest number of votes in the municipality
12 at the most recent general election may accompany the deputies to each home, or
13 ~~facility, or complex~~ where absentee voting will take place under this section. The
14 observers may observe the process of absentee ballot distribution in the common
15 areas of the home, or facility, ~~or complex~~. Each party wishing to have an observer
16 present shall submit the name of the observer to the clerk or board of election
17 commissioners no later than the close of business on the last business day prior to
18 the visit.

19 **SECTION 16.** 12.03 (2) (b) 3. of the statutes is amended to read:

20 12.03 **(2)** (b) 3. No person may engage in electioneering within 100 feet of an
21 entrance to or within a ~~nursing home~~, qualified retirement home, ~~qualified~~
22 ~~community-based residential facility~~, ~~qualified residential care apartment complex~~,
23 ~~or qualified adult family home~~ or residential care facility while special voting
24 deputies are present at the home or facility under s. 6.875 (6).

25 **SECTION 17.** 12.13 (2) (b) 6m. of the statutes is amended to read:

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1 12.13 **(2)** (b) 6m. Obtain an absentee ballot for voting in a ~~nursing home or~~
2 qualified retirement home, ~~qualified community-based residential facility, qualified~~
3 ~~residential care apartment complex, or qualified adult family home~~ or residential
4 care facility under s. 6.875 (6) and fail to return the ballot to the issuing officer.

5 **SECTION 18. Initial applicability.**

6 (1) This act first applies with respect to elections held at least 60 days after the
7 effective date of this subsection.

8 (END)