



2013 SENATE BILL 404

November 11, 2013 – Introduced by Senators LASSA, L. TAYLOR, HARRIS and LEHMAN, cosponsored by Representatives WRIGHT, OHNSTAD, RINGHAND, MASON, MILROY, C. TAYLOR, WACHS, SARGENT, HEBL, VRUWINK, SINICKI, BERCEAU and BEWLEY. Referred to Elections and Urban Affairs.

1 **AN ACT** *to amend* 6.86 (1) (ar), 6.87 (1), 6.87 (2), 6.87 (4) (b) 1., 6.875 (6) (e) and
2 6.97 (3); and *to create* 6.86 (1) (au) of the statutes; **relating to:** voting at the
3 entrance to an in-person absentee voting location by an elector with a
4 disability.

Analysis by the Legislative Reference Bureau

Under current law, an elector who, as a result of a disability, is unable to enter a polling place (“assisted elector”) may request to receive a ballot at the entrance of the polling place and may also request to receive assistance with marking that ballot from an assisting individual. The assisted elector must give his or her name and address to an election official and provide proof of residence if he or she would otherwise be required to provide proof of residence to receive a ballot. Unless the assisted elector is registering in person on the day of the election, an election official who receives a request from an assisted elector must verify that the assisted elector’s name and address conform to the elector’s name and address on the poll list. The election official must also, generally, require the elector to enter his or her signature on the poll list or on a separate list maintained for new, late, or same-day registrants. If the election official issues a ballot for the assisted elector, the election official must accompany the assisting individual to the entrance to the polling place. After the assisted elector or assisting individual has marked and folded the assisted elector’s ballot, the assisting individual must immediately take the ballot into the polling place and give the ballot to an election official. The election official must announce in the polling place that he or she has a ballot offered by a person requiring

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assistance, and must ask whether anyone in the polling place objects to the issuance of a ballot for the elector. The ballots of challenged electors are marked and may be reviewed during the canvassing process. A ballot may be disqualified only if the municipal clerk, the board of election commissioners, or a challenging elector demonstrates beyond a reasonable doubt that the person does not qualify as an elector or is not properly registered.

Under current law, a Wisconsin voter may vote by absentee ballot, by mail, or in person for any election. This bill extends the accommodations available to electors who, as a result of a disability, are unable to enter a polling place on election day to electors who, as a result of a disability, are unable to enter a municipal clerk's office or alternate site used for the purpose of absentee voting in person. The responsibilities assigned to election officials under current law are assigned to the clerk or deputy clerk, or to a person designated by and under the employment or control of the clerk or deputy clerk, in this bill.

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

1 **SECTION 1.** 6.86 (1) (ar) of the statutes is amended to read:

2 6.86 (1) (ar) Except as authorized in s. 6.875 (6), the municipal clerk shall not
3 issue an absentee ballot unless the clerk receives a written application therefor from
4 ~~a qualified an~~ elector of the municipality who qualifies under par. (a). The clerk shall
5 retain each absentee ballot application until destruction is authorized under s. 7.23
6 (1). Except as authorized in s. 6.79 (6) and (7), if ~~a qualified an~~ elector qualifying
7 under par. (a) applies for an absentee ballot in person at the clerk's office, the clerk
8 shall not issue the elector an absentee ballot unless the elector presents proof of
9 identification. The clerk shall verify that the name on the proof of identification
10 presented by the elector conforms to the name on the elector's application and shall
11 verify that any photograph appearing on that document reasonably resembles the
12 elector. The clerk shall then enter his or her initials on the certificate envelope
13 indicating that the absentee elector presented proof of identification to the clerk.

14 **SECTION 2.** 6.86 (1) (au) of the statutes is created to read:

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1 6.86 (1) (au) 1. An absentee elector who, as a result of a disability, is unable to
2 enter the office of the municipal clerk, or an alternate site under s. 6.855 if applicable,
3 may submit a written application for and elect to receive an absentee ballot at the
4 entrance to the clerk's office or alternate site. When the municipal clerk or a deputy
5 clerk authorized by the municipal clerk is informed that an absentee elector is at the
6 entrance to the clerk's office or alternate site, the clerk or deputy clerk shall distinctly
7 announce that "... (state the person's name), an elector who is applying in person to
8 obtain an absentee ballot at this (office) (alternate absentee ballot site) and who, as
9 a result of a disability, is unable to enter this (office) (absentee ballot site) without
10 assistance, has asked to receive a ballot at the entrance to this (office) (absentee
11 ballot site)." The inspector shall then ask, "Does anyone object to the issuance of this
12 ballot?" If an objection is made, the clerk or deputy clerk shall issue the ballot and
13 shall receive the ballot under s. 6.95.

14 2. The municipal clerk or deputy clerk shall allow the absentee elector to be
15 assisted in marking an absentee ballot by any individual selected by the elector,
16 except the elector's employer or an agent of that employer or an officer or agent of a
17 labor organization that represents the elector. The individual selected by the elector
18 shall, except as authorized in s. 6.79 (6) and (7), present to the municipal clerk or
19 deputy clerk proof of identification for the assisted absentee elector as specified
20 under par. (ar), which proof of identification shall be verified by the clerk or deputy
21 clerk in the manner provided under par. (ar). The clerk or deputy clerk shall then
22 enter his or her initials on the certificate envelope indicating that the absentee
23 elector presented proof of identification to the clerk. If the proof of identification does
24 not constitute proof of residence under s. 6.34, the individual selected by the elector
25 shall also provide proof of residence under s. 6.34 for the assisted absentee elector,

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1 whenever required. The clerk shall then issue a ballot to the individual selected by
2 the absentee elector and shall accompany the individual to the entrance to the clerk's
3 office or alternate site where assistance to the elector is to be given. If the absentee
4 elector requires assistance in marking the ballot, either the clerk or deputy clerk or
5 the assisting individual may assist the absent elector, but the clerk or deputy clerk
6 shall witness the ballot as provided in s. 6.87. The absentee elector or the individual
7 selected by the elector shall secure the absentee ballot in its certificate envelope.

8 3. The clerk or deputy clerk or a person designated by and under the
9 employment or control of the clerk or deputy clerk shall then immediately take the
10 ballot into the clerk's office or alternate site and shall distinctly announce that he or
11 she has "a ballot offered by (state the person's name), an elector who has voted
12 in-person absentee and who, as a result of a disability, is unable to enter this (office)
13 (alternate absentee ballot site) without assistance." The clerk or deputy clerk shall
14 then ask, "Does anyone object to the reception of this absentee ballot?" If an objection
15 is made, the clerk or deputy clerk shall receive the ballot under s. 6.95. If no objection
16 is made, the clerk or deputy clerk shall proceed under s. 6.88. If the absentee elector
17 received assistance under this paragraph, the clerk or deputy clerk shall note that
18 fact on the list under s. 6.89 and shall enter the name and address of the person
19 providing assistance to the absent elector.

20 **SECTION 3.** 6.87 (1) of the statutes is amended to read:

21 6.87 (1) Upon proper request made within the period prescribed in s. 6.86, the
22 municipal clerk or a deputy clerk authorized by the municipal clerk shall write on
23 the official ballot, in the space for official endorsement, the clerk's initials and official
24 title. Unless application is made in person under s. 6.86 (1) (ar) or (au), the absent
25 elector is exempted from providing proof of identification under sub. (4) (b) 2. or 3.,

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1 or the applicant is a military or overseas elector, the absent elector shall enclose a
2 copy of his or her proof of identification or any authorized substitute document with
3 his or her application. The municipal clerk shall verify that the name on the proof
4 of identification conforms to the name on the application. The clerk shall not issue
5 an absentee ballot to an elector who is required to enclose a copy of proof of
6 identification or an authorized substitute document with his or her application
7 unless the copy is enclosed and the proof is verified by the clerk.

8 **SECTION 4.** 6.87 (2) of the statutes is amended to read:

9 6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place
10 the ballot in an unsealed envelope furnished by the clerk. The envelope shall have
11 the name, official title and post-office address of the clerk upon its face. The other
12 side of the envelope shall have a printed certificate which shall include a space for
13 the municipal clerk or deputy clerk to enter his or her initials indicating that if the
14 absentee elector voted in person under s. 6.86 (1) (ar) or (au), the elector presented
15 proof of identification to the clerk and the clerk verified the proof presented. The
16 certificate shall also include a space for the municipal clerk or deputy clerk to enter
17 his or her initials indicating that the elector is exempt from providing proof of
18 identification because the individual is a military or overseas elector or is exempted
19 from providing proof of identification under sub. (4) (b) 2. or 3. The certificate shall
20 be in substantially the following form:

21 [STATE OF ...

22 County of ...]

23 or

24 [(name of foreign country and city or other jurisdictional unit)]

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1 I,, certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false
2 statements, that I am a resident of the [... ward of the] (town) (village) of, or of
3 the aldermanic district in the city of, residing at* in said city, the county
4 of, state of Wisconsin, and am entitled to vote in the (ward) (election district) at
5 the election to be held on; that I am not voting at any other location in this election;
6 that I am unable or unwilling to appear at the polling place in the (ward) (election
7 district) on election day or have changed my residence within the state from one ward
8 or election district to another later than 28 days before the election. I certify that I
9 exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her)
10 presence and in the presence of no other person marked the ballot and enclosed and
11 sealed the same in this envelope in such a manner that no one but myself and any
12 person rendering assistance under s. 6.86 (1) (au) or 6.87 (5), Wis. Stats., if I
13 requested assistance, could know how I voted.

14 Signed

15 Identification serial number, if any:

16 The witness shall execute the following:

17 I, the undersigned witness, subject to the penalties of s. 12.60 (1) (b), Wis.
18 Stats., for false statements, certify that I am an adult U.S. citizen and that the above
19 statements are true and the voting procedure was executed as there stated. I am not
20 a candidate for any office on the enclosed ballot (except in the case of an incumbent
21 municipal clerk). I did not solicit or advise the elector to vote for or against any
22 candidate or measure.

23(Name)

24(Address)**

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1 * — An elector who provides an identification serial number issued under s.
2 6.47 (3), Wis. Stats., need not provide a street address.

3 ** — If this form is executed before 2 special voting deputies under s. 6.875 (6),
4 Wis. Stats., both deputies shall witness and sign.

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

6 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, the elector voting
7 absentee shall make and subscribe to the certification before one witness who is an
8 adult U.S. citizen. The absent elector, in the presence of the witness, shall mark the
9 ballot in a manner that will not disclose how the elector's vote is cast. The elector
10 shall then, still in the presence of the witness, fold the ballots so each is separate and
11 so that the elector conceals the markings thereon and deposit them in the proper
12 envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the
13 ballot so that the elector conceals the markings thereon and deposit the ballot in the
14 proper envelope. If proof of residence under s. 6.34 is required and the document
15 enclosed by the elector under this subdivision does not constitute proof of residence
16 under s. 6.34, the elector shall also enclose proof of residence under s. 6.34 in the
17 envelope. Proof of residence is required if the elector is not a military elector or an
18 overseas elector and the elector registered by mail and has not voted in an election
19 in this state. If the elector requested a ballot by means of facsimile transmission or
20 electronic mail under s. 6.86 (1) (ac), the elector shall enclose in the envelope a copy
21 of the request which bears an original signature of the elector. The elector may
22 receive assistance under sub. (5) or s. 6.86 (1) (au). The return envelope shall then
23 be sealed. The witness may not be a candidate. The envelope shall be mailed by the
24 elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.
25 If the envelope is mailed from a location outside the United States, the elector shall

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1 affix sufficient postage unless the ballot qualifies for delivery free of postage under
2 federal law. Failure to return an unused ballot in a primary does not invalidate the
3 ballot on which the elector's votes are cast. Return of more than one marked ballot
4 in a primary or return of a ballot prepared under s. 5.655 or a ballot used with an
5 electronic voting system in a primary which is marked for candidates of more than
6 one party invalidates all votes cast by the elector for candidates in the primary.

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

8 6.875 (6) (e) If a qualified an elector who is registered to vote whenever required
9 and who qualifies under ss. 6.20 and 6.85 as an absent elector is not able to cast his
10 or her ballot on 2 separate visits by the deputies to the home, facility, or complex, the
11 deputies shall so inform the municipal clerk or executive director of the board of
12 election commissioners, who may then send the ballot to the elector no later than 5
13 p.m. on the Friday preceding the election.

14 **SECTION 7.** 6.97 (3) of the statutes is amended to read:

15 6.97 (3) (a) Whenever an elector who votes by provisional ballot under sub. (1)
16 or (2) because the elector does not provide proof of identification under s. 6.79 (2) or
17 6.86 (1) (ar) or (au) later appears at the polling place where the ballot is cast before
18 the closing hour and provides the proof of identification, the inspectors shall remove
19 the elector's ballot from the separate carrier envelope, shall note on the poll list that
20 the elector's provisional ballot is withdrawn, and shall deposit the elector's ballot in
21 the ballot box. If the inspectors have notified the municipal clerk or executive
22 director of the board of election commissioners that the elector's ballot was cast
23 under this section, the inspectors shall notify the clerk or executive director that the
24 elector's provisional ballot is withdrawn.

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1 (b) Whenever the municipal clerk or executive director of the municipal board
2 of election commissioners is informed by the inspectors that a ballot has been cast
3 under this section, the clerk or executive director shall promptly provide written
4 notice to the board of canvassers of each municipality, special purpose district, and
5 county that is responsible for canvassing the election of the number of ballots cast
6 under this section in each ward or election district. The municipal clerk or executive
7 director then shall determine whether each individual voting under this section is
8 qualified to vote in the ward or election district where the individual's ballot is cast.
9 If the elector is required to provide proof of identification under s. 6.79 (2) or 6.86 (1)
10 (ar) or (au) and fails to do so, the elector bears the burden of correcting the omission
11 by providing the proof of identification at the polling place before the closing hour or
12 at the office of the municipal clerk or board of election commissioners no later than
13 4 p.m. on the Friday after the election. The municipal clerk or executive director
14 shall make a record of the procedure used to determine the validity of each ballot cast
15 under this section. If, prior to 4 p.m. on the Friday after the election, the municipal
16 clerk or executive director determines that the individual is qualified to vote in the
17 ward or election district where the individual's ballot is cast, the municipal clerk or
18 executive director shall notify the board of canvassers for each municipality, special
19 purpose district and county that is responsible for canvassing the election of that
20 fact.

21 (c) A ballot cast under this section by an elector for whom proof of identification
22 is required under s. 6.79 (2) or 6.86 (1) (ar) or (au) shall not be counted unless the
23 municipal clerk or executive director of the board of election commissioners provides
24 timely notification that the elector has provided proof of identification under this
25 section.

