

State of Wisconsin



2021 Senate Bill 935

Date of enactment:
Date of publication*:

2021 WISCONSIN ACT

AN ACT *to renumber* 6.875 (4) (b) and 6.875 (6) (e); *to renumber and amend* 6.87 (6d), 6.87 (9) and 7.51 (1); *to amend* 6.87 (2) (intro.), 6.875 (4) (a), 6.875 (6) (a), 6.875 (6) (c) 2., 7.03 (1) (d), 7.30 (3) (a), 7.315 (1) (a), 7.53 (2) (cm) and 12.60 (1) (a); and *to create* 6.87 (6d) (a) to (L), 6.87 (9) (b), 6.875 (4) (b) 2., 6.875 (6) (e) 2., 6.875 (8), 7.30 (7), 7.51 (1) (b), 12.085, 12.13 (2) (b) 9., 12.13 (2) (b) 10., 12.13 (2) (b) 11., 12.13 (3) (zp) and 12.13 (3m) of the statutes; **relating to:** certain kinds of election fraud, private resources and contracts for election administration, who may perform tasks related to election administration, defects on absentee ballot certificates, returning absentee ballots to the office of the municipal clerk, appointment of election officials, allowing an employee of a residential care facility or qualified retirement home to serve as a personal care voting assistant during a public health emergency or an incident of infectious disease, and providing a penalty.

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

SECTION 1. 6.87 (2) (intro.) of the statutes is amended to read:

6.87 (2) (intro.) Except as authorized under sub. (3) (d), the municipal clerk shall place the ballot in an unsealed envelope furnished by the clerk. The envelope shall have the name, official title and post-office address of the clerk upon its face. The other side of the envelope shall have a printed certificate which shall include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that if the absentee elector voted in person under s. 6.86 (1) (ar), the elector presented proof of identification to the clerk and the clerk verified the proof presented. The certificate shall also include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that the elector is exempt from providing proof of identification because the individual is a military elector or an overseas elector who does not qualify as a resident of this state under s. 6.10 or is exempted from

providing proof of identification under sub. (4) (b) 2. or 3. The certificate shall include a distinct field for each item required to be entered under sub. (6d) and shall be in substantially the following form:

SECTION 2. 6.87 (6d) of the statutes is renumbered 6.87 (6d) (intro.) and amended to read:

6.87 (6d) (intro.) ~~If a certificate is missing the address of a witness, the ballot~~ An absentee ballot with no certificate or with a certificate that does not include all of the following may not be counted:

SECTION 3. 6.87 (6d) (a) to (L) of the statutes are created to read:

- 6.87 (6d) (a) The elector's printed first name.
- (b) The elector's printed last name.
- (c) The elector's house or apartment number.
- (d) The elector's street name.
- (e) The elector's municipality.
- (f) The elector's signature.
- (g) The witness's printed first name.
- (h) The witness's printed last name.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

- (i) The witness's house or apartment number.
- (j) The witness's street name.
- (k) The witness's municipality.
- (L) The witness's signature.

SECTION 4. 6.87 (9) of the statutes is renumbered 6.87 (9) (a) and amended to read:

6.87 (9) (a) If a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may return the ballot to the elector, inside the sealed envelope when an envelope is received, together with a new envelope if necessary, whenever time permits the elector to correct the defect and return the ballot within the period authorized under sub. (6), and the clerk shall post a notification of the defect on the elector's voter information page on the Internet site that is used by electors for original registration under s. 6.30 (5). The clerk may also attempt to notify the elector of the defect by other means.

SECTION 5. 6.87 (9) (b) of the statutes is created to read:

6.87 (9) (b) No person other than the elector, or the witness with respect to the witness certificate, may correct a defect in the elector's absentee ballot certificate. Whoever violates this paragraph is guilty of a misdemeanor punishable by a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.

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

6.875 (4) (a) For the purpose of absentee voting in qualified retirement homes and residential care facilities, the municipal clerk or board of election commissioners of each municipality in which one or more qualified retirement homes or residential care facilities are located shall appoint at least 2 special voting deputies for the municipality. Except as provided in par. (am), upon application under s. 6.86 (1), (2), or (2m) by one or more qualified electors who are occupants of a home or facility, the municipal clerk or board of election commissioners of the municipality in which the home or facility is located shall dispatch 2 special voting deputies to visit the home or facility for the purpose of supervising absentee voting procedure by occupants of the home or facility. The clerk or board of election commissioners shall maintain a list, available to the public upon request, of each home or facility where special voting deputies are dispatched. The list shall include the date and time the deputies intend to visit each home or facility. The 2 deputies designated to visit each qualified retirement home and residential care facility shall be affiliated with different political parties whenever deputies representing different parties are available. No qualified retirement home or residential care facility may deny entry to a special voting deputy appointed under this paragraph except if the home or facility is closed to the public during a public health emergency and except if the home or facility is closed to the public during an incident of infectious dis-

ease, if the administrator of the home or facility has signed a verifiable statement documenting the incident and filed the statement with the municipal clerk or board of election commissioners. During a public health emergency or an incident of infectious disease, if a qualified retirement home or residential care facility is closed to the public, the home or facility shall allow a personal care voting assistant appointed under sub. (8) to supervise the absentee voting procedure used by occupants of the home or facility.

SECTION 7. 6.875 (4) (b) of the statutes is renumbered 6.875 (4) (b) 1.

SECTION 8. 6.875 (4) (b) 2. of the statutes is created to read:

6.875 (4) (b) 2. No individual who is employed or retained at a qualified retirement home or residential care facility in the municipality who is not a personal care voting assistant appointed under sub. (8) (a) 1. may assist an occupant of the home or facility in completing the occupant's absentee ballot, but may assist only in distributing the absentee ballots in their unopened envelopes to the occupants who requested the ballots.

SECTION 9. 6.875 (6) (a) of the statutes is amended to read:

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

SECTION 10. 6.875 (6) (c) 2. of the statutes is amended to read:

6.875 (6) (c) 2. ~~Upon the request of a relative of an occupant of a qualified retirement home or residential care facility, the administrator of the home or facility may notify the relative of the time or times at which special voting deputies will conduct absentee voting at the home or facility and permit the~~ The administrator of a qualified

retirement home or residential care facility shall provide notice of the dates and times when the deputies or absentee voting assistants appointed under sub. (8) will be facilitating absentee voting at the home or facility to each relative of an occupant for whom the home or facility has contact information. The relative to may be present in the room where the voting is conducted.

SECTION 11. 6.875 (6) (e) of the statutes is renumbered 6.875 (6) (e) 1.

SECTION 12. 6.875 (6) (e) 2. of the statutes is created to read:

6.875 (6) (e) 2. If a qualified elector is not able to cast his or her ballot on 2 separate visits by the deputies to the home or facility because access to the home or facility is restricted due to a public health emergency or an incident of infectious disease, the deputies shall so inform the municipal clerk or executive director of the board of election commissioners, who may then send the ballot to the elector no later than 5 p.m. on the Friday preceding the election.

SECTION 13. 6.875 (8) of the statutes is created to read:

6.875 (8) (a) 1. For an election held during a public health emergency or an incident of infectious disease that results in restricting access to a qualified retirement home or residential care facility, the municipal clerk or board of election commissioners of each municipality in which one or more qualified retirement homes or residential care facilities are located may appoint any individual who is employed or retained at a qualified retirement home or residential care facility in the municipality to serve as a personal care voting assistant.

2. Personal care voting assistants appointed under subd. 1. shall comply with the duties for special voting deputies and complete a 2-hour online training, as prescribed by the commission under s. 7.315 (1) (a). A personal care voting assistant appointed under subd. 1. need not be a qualified elector of the county where the municipality is located, but shall be a qualified elector in this state. No personal care voting assistant appointed under subd. 1. may assist with or facilitate the registration of any resident of a qualified retirement home or residential care facility.

3. Prior to entering upon his or her duties, each individual appointed to serve as a personal care voting assistant under subd. 1. shall file the oath required by s. 7.30 (5). In the oath, the individual shall swear that he or she is qualified to act as a personal care voting assistant under this subsection, that he or she has read the statutes governing absentee voting, that he or she understands the proper absentee voting procedure, that he or she understands the penalties under s. 12.13 for noncompliance with the procedure, and that his or her sacred obligation will be to fully and fairly implement the absentee voting law and seek to have the intent of the electors ascertained. In addition, the oath shall state that the individual realizes

that any error in conducting the voting procedure may result in invalidation of an elector's vote under s. 7.51 (2) (e) and that the individual realizes that absentee voting is a privilege and not a constitutional right. The form of the oath shall be prescribed by the commission.

4. The municipal clerk or board of election commissioners shall appoint at least 2 individuals employed or retained by the qualified retirement home or residential care facility to serve as personal care voting assistants under subd. 1. The 2 personal care voting assistants for each home or facility shall be affiliated with different political parties whenever personal care voting assistants representing different parties are available.

(b) A personal care voting assistant appointed under par. (a) 1. shall complete documentation, on a form prescribed by the commission, that provides the assistant's name, the name of each elector in the qualified retirement home or residential care facility for whom the personal care voting assistant provides assistance, and the type of assistance provided to the elector. The personal care voting assistant shall also include the information contained on the form on the return envelope.

(c) The form prescribed under par. (b) shall be a document separate from the absentee ballot certificate and shall be delivered by the administrator of the home or facility to the municipal clerk or board of election commissioners. Absentee ballots completed with the assistance of personal care voting assistants shall be mailed to the municipal clerk or board of election commissioners, except that the municipal clerk or board of election commissioners may make arrangements with the administrator of the home or facility to have an election official, other than a personal care voting assistant, collect the ballots at the home or facility and return them to the clerk or board.

SECTION 14. 7.03 (1) (d) of the statutes is amended to read:

7.03 (1) (d) Except as otherwise provided in par. (a), special voting deputies appointed under s. 6.875 (4), personal care voting assistants appointed under s. 6.875 (8), and other officials and trainees who attend training sessions under s. 6.875 (8) (a) 2., 7.15 (1) (e), or 7.25 (5) may also be compensated by the municipality where they serve at the option of the municipality.

SECTION 15. 7.30 (3) (a) of the statutes is amended to read:

7.30 (3) (a) Not less than 30 days before any election the governing body or board of election commissioners of any municipality, by resolution, may authorize the municipal clerk or executive director of the board of election commissioners to select and employ tabulators for any election. Such authorization applies to the elections specified in the resolution, and if not specified, applies until the authorization is modified or revoked. Each tabulator shall sign the official oath and return it to the municipal clerk before the election.

SECTION 16. 7.30 (7) of the statutes is created to read:

7.30 (7) PROHIBITED EMPLOYMENT. (a) In this subsection:

1. "Committee" has the meaning given in s. 11.0101 (6).
2. "Issue advocacy" means communication that provides information about political or social issues and is made to influence the outcome of an election.
3. "Issue advocacy group" means any organization whose sole or primary purpose is to engage in issue advocacy.

(b) No person who is an employee of any of the following may be appointed as an election official:

1. A committee.
2. A political organization required to register with the federal elections commission.
3. An issue advocacy group.

SECTION 17. 7.315 (1) (a) of the statutes is amended to read:

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

SECTION 18. 7.51 (1) of the statutes is renumbered 7.51 (1) (a) and amended to read:

7.51 (1) (a) Immediately after the polls close the inspectors except any inspector appointed under s. 7.30 (1) (b) shall proceed to canvass publicly all votes received at the polling place. In any municipality where an electronic voting system is used, the municipal governing body or board of election commissioners may provide or authorize the municipal clerk or executive director of the board of election commissioners to provide for the adjournment of the canvass to one or more central counting locations for specified polling places in the manner prescribed in subch. III of ch. 5. No central counting location may be used to count votes at a polling place where an electronic voting system is not employed. The Except as provided in par. (b), the canvass, whether conducted at the polling place or at a central counting location, shall continue without adjournment until the canvass of all ballots cast and received on or before election day is completed and the return statement is made or, in municipalities where absentee ballots are canvassed under s. 7.52, until the canvass of all absentee ballots cast and received on or before election day is completed and the return statement for those ballots is made. The inspectors shall not permit access to the name of any elector who has obtained a confidential listing under s. 6.47 (2) during the canvass, except as authorized in s. 6.47 (8).

SECTION 19. 7.51 (1) (b) of the statutes is created to read:

7.51 (1) (b) The municipal board of canvassers may recess the canvass under par. (a) as the result of a natural

disaster, if an inspector is ill or otherwise incapacitated, or if the physical condition of the canvass location is unsuitable for continuing the canvass. The board shall reconvene as soon as possible to complete the canvass of all ballots cast and received on or before election day and make the return statement.

SECTION 20. 7.53 (2) (cm) of the statutes is amended to read:

7.53 (2) (cm) If one or more temporary vacancies on the municipal board of canvassers reduces the number of members to less than 3, the municipal clerk shall appoint a member to fill each vacancy, except in cities of more than 500,000 population. In cities of more than 500,000 population, the executive director of the board of election commissioners shall serve as a member of the board of canvassers to fill a temporary vacancy on that board. If the municipal board of canvassers recesses as provided under s. 7.51 (1) (b) because an inspector is ill or otherwise incapacitated, the municipal clerk or the executive director of the board of election commissioners shall immediately appoint an individual to temporarily serve as a member of the municipal board of canvassers.

SECTION 21. 12.085 of the statutes is created to read:

12.085 Private resources for election administration. (1) DEFINITIONS. In this section:

- (a) "Election administration" means preparing for, facilitating, conducting, or administering an election.
- (b) "Private resources" means moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity, but does not include employees receiving paid leave to act as tabulators or election officials.
- (c) "State agency" means an association, authority, board, department, commission, independent agency, institution, office, society, or other body in state government created or authorized to be created by the constitution or any law.

(2) BAN ON PRIVATE RESOURCES FOR ELECTION ADMINISTRATION. (a) No official or agent of a state agency, county, or municipality may apply for or accept any donation or grant of private resources for purposes of election administration, except as expressly authorized under chs. 5 to 12.

(b) No official or agent of a state agency, county, or municipality may enter into a contract related to election administration that includes any of the following:

1. Any requirement governing election administration.
2. The transfer of any duty or power related to election administration to a person not having that duty or power under the laws of this state.

(c) No individual other than an election official or a vendor of an electronic voting system that is approved under s. 5.91 may perform any task in election administration.

SECTION 22. 12.13 (2) (b) 9. of the statutes is created to read:

12.13 (2) (b) 9. Intentionally assist or cause the casting or counting of a vote or the receipt of a registration that is invalid for any reason in addition to those specified in subd. 3.

SECTION 23. 12.13 (2) (b) 10. of the statutes is created to read:

12.13 (2) (b) 10. Intentionally assist or cause the rejection of or failure to otherwise count a valid vote or the rejection of a valid registration.

SECTION 24. 12.13 (2) (b) 11. of the statutes is created to read:

12.13 (2) (b) 11. Intentionally fail to promptly report a violation under this subsection to the commission and to the district attorney for the county in which the violation occurred.

SECTION 25. 12.13 (3) (zp) of the statutes is created to read:

12.13 (3) (zp) Assist in counting or tabulating votes at an election unless the person is a resident of this state, an election official who is trained to the extent provided

by law, and has signed the official oath and returned it to the municipal clerk with respect to that election.

SECTION 26. 12.13 (3m) of the statutes is created to read:

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

(b) No employee of a qualified retirement home, as defined in s. 6.875 (1) (at), or residential care facility, as defined in s. 6.875 (1) (bm), may coerce an occupant of the home or facility to register or not to register to vote.

SECTION 27. 12.60 (1) (a) of the statutes is amended to read:

12.60 (1) (a) Whoever violates s. ~~12.085~~, 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. ~~or 9., 10., or 11.~~ (3) (a), (e), (f), (j), (k), (L), (m), (y) ~~or (z).~~ or (zp), or (3m) is guilty of a Class I felony.