

1 **AN ACT** *to repeal* 12.13 (4); *to amend* 6.875 (4) and (6) and 12.60 (1) (c); and *to*
2 *create* 6.875 (7) of the statutes; **relating to:** absentee voting in nursing homes,
3 qualified retirement homes, and qualified community–based residential facilities.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the joint legislative council’s special committee on election law review.

Under current law, there is a separate procedure for absentee voting by residents of nursing homes, qualified community–based residential facilities, and qualified retirement homes. If a resident of such a facility requests an absentee ballot, the clerk will arrange a time to send 2 special deputies to the facility to facilitate the residents in voting absentee.

This draft requires the municipal clerk to maintain a list, available to the public, of all of the facilities where an absentee ballot has been requested, including when the special deputies will be visiting the facility. In addition, the clerk must post a notice at the facility indicating when the special deputies will be visiting. The draft also allows one inspector from each of the recognized political parties whose candidate for governor or president received the greatest numbers of votes in the municipality at the most recent general election to send an observer with the deputies.

This draft contains an effective date of January 1, 2006.

4 **SECTION 1.** 6.875 (4) and (6) of the statutes are amended to read:
5 6.875 (4) For the purpose of absentee voting in nursing homes and qualified retirement
6 homes and qualified community–based residential facilities, the municipal clerk or board of
7 election commissioners of each municipality in which one or more nursing homes or qualified
8 retirement homes or qualified community–based residential facilities are located shall appoint
9 at least 2 special voting deputies for the municipality. Upon application under s. 6.86 (1) or

1 (2) by one or more qualified electors who are occupants of such a nursing home or qualified
2 retirement home or qualified community-based residential facility, the clerk or board of
3 election commissioners shall dispatch 2 special voting deputies to visit the home or qualified
4 community-based residential facility for the purpose of supervising absentee voting
5 procedure by occupants of the home or qualified community-based residential facility. The
6 clerk shall maintain a list, available to the public upon request, of each nursing home or
7 qualified retirement home or qualified community-based residential facility where an elector
8 has requested an absentee ballot. The list shall include the date and time the deputies intend
9 to visit each facility. The 2 deputies designated to visit each nursing home or qualified
10 retirement home and qualified community-based residential facility shall be affiliated with
11 different political parties whenever deputies representing different parties are available.
12 Nominations for deputy positions may be submitted by the 2 recognized political parties
13 whose candidates for governor or president received the greatest numbers of votes in the
14 municipality at the most recent general election. The deputies shall be specially appointed to
15 carry out duties under this section for the period specified in s. 7.30 (6) (a). The clerk or board
16 of election commissioners may revoke an appointment at any time. No individual who is
17 employed or retained, or within the 2 years preceding appointment has been employed or
18 retained at a nursing home or qualified retirement home or qualified community-based
19 residential facility in the municipality, or any member of the immediate family of such an
20 individual as defined in s. 19.42 (7), may be appointed to serve as a deputy.

21 (6) Special voting deputies in each municipality shall, not later than 5 p.m. on the Friday
22 preceding an election, arrange one or more convenient times with the administrator of each
23 nursing home, qualified retirement home, and qualified community-based residential facility
24 in the municipality from which one or more occupants have filed an application under s. 6.86

1 to conduct absentee voting for the election. The time may be no earlier than the 4th Monday
2 preceding the election and no later than 5 p.m. on the Monday preceding the election. [~~Upon~~
3 ~~request of a relative of an occupant of a nursing home or qualified retirement home or qualified~~
4 ~~community-based residential facility, the administrator may notify the relative of the time or~~
5 ~~times at which special voting deputies will conduct absentee voting at the home or facility, and~~
6 ~~permit the relative to be present in the room where the voting is conducted.] The municipal
7 clerk shall post a notice at the facility indicating the date and time that absentee voting will
8 take place at that facility. The notice shall be posted no sooner than 10 and no later than 7 days
9 before the visit. At the designated time, 2 deputies appointed under sub. (4) shall visit the
10 home or facility. The municipal clerk or executive director of the board of election
11 commissioners shall issue a supply of absentee ballots to the deputies sufficient to provide for
12 the number of valid applications received by the clerk, and a reasonable additional number of
13 ballots. The municipal clerk or executive director shall keep a careful record of all ballots
14 issued to the deputies and shall require the deputies to return every ballot issued to them. The
15 deputies shall personally offer each elector who has filed a proper application the opportunity
16 to cast his or her absentee ballot. If an elector is present who has not filed a proper application,
17 the 2 deputies may accept an application from the elector and shall issue a ballot to the elector
18 if the elector is qualified and the application is proper. The deputies shall each witness the
19 certification and may, upon request of the elector, assist the elector in marking the elector's
20 ballot. Upon request of the elector, a relative of the elector who is present in the room may
21 assist the elector in marking the elector's ballot. All voting shall be conducted in the presence
22 of the deputies. No individual other than a deputy may witness the certification and no
23 individual other than a deputy or relative of an elector may render voting assistance to the
24 elector. Upon completion of the voting, the deputies shall promptly deliver, either personally~~

1 or by 1st class mail, any absentee ballot applications and the sealed certificate envelope
2 containing each ballot to the clerk or board of election commissioners of the municipality in
3 which the elector casting the ballot resides, within such time as will permit delivery to the
4 polling place serving the elector's residence on election day. Personal delivery may be made
5 by the deputies no later than noon on election day. If a qualified elector is not able to cast his
6 or her ballot on 2 separate visits by the deputies to the home or facility, they shall so inform
7 the 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 election.

NOTE: This SECTION modifies current law to require the municipal clerks keep a list of the facilities that special deputies are going to visit and the time and date of the scheduled visit. The list must be made available to the public upon request. In addition, this SECTION requires the municipal clerk to post a notice in each facility indicating the date and time of absentee voting. The notice must be posted at least 7 and no more than 10 days before a visit.

COMMENT: Current law allows visits of the special voting deputies to be arranged up until 5 p.m. on the Friday before the election. This draft, however, proposes requiring the notice to be posted 7 days before a visit. Should the time for the notice be shortened? Should there be an earlier deadline for requesting absentee ballots for nursing homes etc., so that each facility can be scheduled within the 7 to 10 day window?

9 **SECTION 2.** 6.875 (7) of the statutes is created to read:

10 6.875 (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 at the most
12 recent general election may accompany the deputies to each facility where absentee voting
13 will take place under this section. The observers may observe the process of absentee ballot
14 distribution in the common areas of the facility. Each party wishing to have an observer
15 present shall submit the name of the observer to the clerk or board of election commissioners
16 one day prior to the visit.

NOTE: This SECTION authorizes one observer from each political party to observe the process of absentee voting.

1 **SECTION 3.** 12.13 (4) of the statutes is repealed.

2 **SECTION 4.** 12.60 (1) (c) of the statutes is amended to read:

3 12.60 (1) (c) Whoever violates s. 12.13 (3) (am) ~~or (4)~~ may be required to forfeit not
4 more than \$500.

NOTE: SECTIONS 3 and 4 repeal the prohibition on revealing the time that absentee voting will take place in a nursing or retirement home and the corresponding penalty.

5 **SECTION 5. Effective date.** This act takes effect on January 1, 2006.

6 (END)