



2011 ASSEMBLY BILL 738

March 15, 2012 - Introduced by Representatives C. TAYLOR, ZAMARRIPA, HULSEY, SEIDEL, KESSLER, POPE-ROBERTS, PASCH, MASON, POCAN, BERCEAU, ROYS, RINGHAND, DOYLE, MOLEPSKE JR, SINICKI, BEWLEY, HEBL, FIELDS and TURNER, cosponsored by Senators TAYLOR, HOLPERIN, RISSER and VINEHOUT. Referred to Committee on Election and Campaign Reform.

1 **AN ACT to amend** 5.02 (16c), 5.86 (3), 6.79 (2) (a), 6.82 (1) (a), 7.08 (1) (c), 7.51
2 (5) (a) 4., 7.51 (5) (b) and 7.515 (6) (b); and **to create** 5.02 (6m) (h) and 110.085
3 of the statutes; **relating to:** mobile examining stations operated by the
4 Department of Transportation for processing operator's license and
5 identification card applications and use of an affidavit by certain electors as
6 proof of identification for voting.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Transportation (DOT) to operate examining stations (DMV service centers) in each county. Also under current law, as created in 2011 Wisconsin Act 32 (the Biennial Budget Act), DOT must provide in each county, directly or by contract, at least 20 hours per week of services relating to operator's licenses and identification cards.

Also under current law, DOT issues driving receipts and identification card receipts, which serve as a temporary operator's license or identification card while an application is being processed by DOT. An unexpired driving receipt or identification card receipt may be used as proof of identification for voting.

This bill requires DOT to operate mobile DMV service centers at which DOT receives applications for operator's licenses and identification cards and issues driving receipts and identification card receipts. These mobile DMV service centers must be used to provide services to persons who, because of age or physical disability,

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have difficulty traveling to, or waiting for customer assistance at, permanent DMV service centers. DOT must maximize the use of these mobile DMV service centers in the four weeks immediately preceding an election and on the day of an election. At these mobile DMV service centers, DOT must provide priority service to applicants seeking proof of identification for voting.

Currently, with certain exceptions, an individual who votes in an election must present proof of identification in order to vote. The proof may consist of one of a number of documents specified by law that contains the name of the individual to whom the document was issued, which name conforms to the individual's voter registration, if the individual is registered to vote, and, with limited exceptions, that contains a photograph of the individual. With certain exceptions, an individual who casts an absentee ballot by mail must enclose a copy of his or her proof of identification with his or her absentee ballot application.

This bill provides that if an individual is not able to present any of the documents specified by law because the individual has not been able to obtain one of those documents through diligent efforts, the individual may use an affidavit in the form prescribed by the Government Accountability Board as proof of identification if the affidavit specifies the individual's name and address, affirms the individual's identity, and states that the address given is the individual's residence.

For further information see the *state* 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.** 5.02 (6m) (h) of the statutes is created to read:

2 5.02 (**6m**) (h) If an individual is not able to present any of the documents
3 specified in pars. (a) to (f) because the individual has not been able to obtain one of
4 those documents through diligent efforts, an affidavit in the form prescribed by the
5 board specifying the individual's identity and stating that the address given is the
6 individual's residence.

7 **SECTION 2.** 5.02 (16c) of the statutes, as created by 2011 Wisconsin Act 23, is
8 amended to read:

9 5.02 (**16c**) "Proof of identification" means identification that contains the name
10 of the individual to whom the document was issued, which name conforms to the
11 individual's voter registration form, if the individual is required to register to vote,

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1 and that contains a photograph of the individual, except as authorized in sub. (6m)
2 (h) or s. 343.14 (3m) or 343.50 (4g).

3 **SECTION 3.** 5.86 (3) of the statutes, as created by 2011 Wisconsin Act 115, is
4 amended to read:

5 5.86 (3) Upon completion of the central count at a county seat, the county clerk
6 shall return any ballots, statements, tally sheets, ~~or envelopes,~~ and affidavits
7 relating solely to a municipal election to the appropriate municipal clerk and any
8 ballots, statements, tally sheets, ~~or envelopes,~~ and affidavits relating solely to a
9 school district election to the school district clerk. In addition, the county clerk shall
10 report the results of the central count of votes for each office or referendum by ward
11 or by combined wards authorized under s. 5.15 (6) (b) to the municipal clerk of the
12 municipality where the votes are cast.

13 **SECTION 4.** 6.79 (2) (a) of the statutes, as affected by 2011 Wisconsin Act 23, is
14 amended to read:

15 6.79 (2) (a) Unless information on the poll list is entered electronically, the
16 municipal clerk shall supply the inspectors with 2 copies of the most current official
17 registration list or lists prepared under s. 6.36 (2) (a) for use as poll lists at the polling
18 place. Except as provided in subs. (6) and (7), each eligible elector, before receiving
19 a serial number, shall state his or her full name and address and present to the
20 officials proof of identification. The officials shall verify that the name on the proof
21 of identification presented by the elector conforms to the name on the poll list or
22 separate list and shall verify that any photograph appearing on that document
23 reasonably resembles the elector. If the elector uses an affidavit as proof of
24 identification, the officials shall retain the affidavit. The officials shall then require
25 the elector to enter his or her signature on the poll list, supplemental list, or separate

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1 list maintained under par. (c) unless the elector is exempt from the signature
2 requirement under s. 6.36 (2) (a). The officials shall verify that the name and address
3 stated by the elector conform to the elector's name and address on the poll list.

4 **SECTION 5.** 6.82 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 23, is
5 amended to read:

6 6.82 (1) (a) When any inspectors are informed that an eligible elector is at the
7 entrance to the polling place who as a result of disability is unable to enter the polling
8 place, they shall permit the elector to be assisted in marking a ballot by any
9 individual selected by the elector, except the elector's employer or an agent of that
10 employer or an officer or agent of a labor organization which represents the elector.
11 Except as authorized in s. 6.79 (6) and (7), the individual selected by the elector shall
12 present to the inspectors proof of identification and, if the proof of identification does
13 not constitute proof of residence under s. 6.34, shall also provide proof of residence
14 under s. 6.34 for the assisted elector, whenever required, and all other information
15 necessary for the elector to obtain a ballot under s. 6.79 (2). The inspectors shall
16 verify that the name on the proof of identification presented by the person assisting
17 the elector conforms to the elector's name on the poll list or separate list and shall
18 verify that any photograph appearing on that document reasonably resembles the
19 elector. If the elector uses an affidavit as proof of identification, the officials shall
20 retain the affidavit. The inspectors shall then issue a ballot to the individual selected
21 by the elector and shall accompany the individual to the polling place entrance where
22 the assistance is to be given. If the ballot is a paper ballot, the assisting individual
23 shall fold the ballot after the ballot is marked by the assisting individual. The
24 assisting individual shall then immediately take the ballot into the polling place and
25 give the ballot to an inspector. The inspector shall distinctly announce that he or she

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1 has “a ballot offered by (stating person’s name), an elector who, as a result of
2 disability, is unable to enter the polling place without assistance”. The inspector
3 shall then ask, “Does anyone object to the reception of this ballot?” If no objection
4 is made, the inspectors shall record the elector’s name under s. 6.79 and deposit the
5 ballot in the ballot box, and shall make a notation on the poll list: “Ballot received
6 at poll entrance”.

7 **SECTION 6.** 7.08 (1) (c) of the statutes is amended to read:

8 7.08 (1) (c) Prescribe forms required by ss. 5.02 (6m) (h), 6.24 (3) and (4), 6.30
9 (4), 6.33 (1), 6.40 (1) (a), 6.47 (1) (am) 2. and (3), 6.55 (2), and 6.86 (2) to (3). All such
10 forms shall contain a statement of the penalty applicable to false or fraudulent
11 registration or voting through use of the form. Forms are not required to be furnished
12 by the board.

13 **SECTION 7.** 7.51 (5) (a) 4. of the statutes is amended to read:

14 7.51 (5) (a) 4. The inspectors shall immediately deliver all ballots, statements,
15 tally sheets, lists, and envelopes, and affidavits to the municipal clerk.

16 **SECTION 8.** 7.51 (5) (b) of the statutes, as affected by 2011 Wisconsin Acts 75
17 and 115, is amended to read:

18 7.51 (5) (b) The municipal clerk shall deliver all ballots, statements, tally
19 sheets, lists, and envelopes relating to a school district election to the school district
20 clerk, excluding any absentee ballots that are received after the closing hour on
21 election night and any provisional ballots, by 4 p.m. on the day following each such
22 election and shall deliver to the school district clerk any amended statements, tally
23 sheets, and lists for additional provisional and absentee ballots canvassed under s.
24 6.97 (4) or 7.515 (6) (b) no later than 4 p.m. on the Monday after the election. The
25 municipal clerk shall deliver to the county clerk the ballots, statements, tally sheets,

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1 lists, ~~and envelopes,~~ and affidavits for his or her municipality relating to any county,
2 technical college district, state, or national election no later than 4 p.m. on the day
3 following each such election or, in municipalities where absentee ballots are
4 canvassed under s. 7.52, by 4 p.m. on the 2nd day following each such election, and
5 shall deliver to the county clerk any additional provisional and absentee ballots
6 canvassed under s. 6.97 (4) or 7.515 (6) (b) together with amended statements, tally
7 sheets, lists, ~~and envelopes,~~ and affidavits no later than 4 p.m. on the Monday after
8 the election. The person delivering the returns shall be paid out of the municipal
9 treasury. Each clerk shall retain ballots, statements, tally sheets, ~~or envelopes~~ and
10 affidavits received by the clerk until destruction is authorized under s. 7.23 (1).

11 **SECTION 9.** 7.515 (6) (b) of the statutes, as affected by 2011 Wisconsin Acts 75
12 and 115, is amended to read:

13 7.515 (6) (b) Whenever a board of canvassers receives notification from a
14 municipal clerk under par. (a), the board of canvassers shall meet no later than 9 a.m.
15 on the Monday after the election. The board of canvassers shall proceed to open and
16 record the names of the absentee electors whose ballots have been received. If the
17 ballot cast by an absentee elector is otherwise valid, the board of canvassers shall
18 count the ballot and adjust the statements, certifications, and determinations
19 accordingly. If the municipal clerk transmits returns of the election to the county
20 clerk, the municipal clerk shall transmit to the county clerk a copy of the amended
21 returns together with all additional ballots ~~and,~~ envelopes, and affidavits reviewed
22 by the board of canvassers and with amended tally sheets.

23 **SECTION 10.** 110.085 of the statutes is created to read:

24 **110.085 Mobile examining stations.** The department shall operate mobile
25 examining stations, at which the department shall receive applications for operator's

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1 licenses under ch. 343 and identification cards under s. 343.50 and issue driving
2 receipts under s. 343.11 and identification card receipts under s. 343.50 (1) (c). These
3 mobile examining stations shall be used to provide services to persons who, because
4 of age or physical disability, have difficulty traveling to, or waiting for customer
5 assistance at, permanent examining stations of the department. The department
6 shall maximize the use of these mobile examining stations in the 4 weeks
7 immediately preceding an election and on the day of an election. At these mobile
8 examining stations, the department shall provide priority service to applicants
9 seeking proof of identification for voting.

SECTION 11. Initial applicability.

10
11 (1) The treatment of sections 5.02 (6m) (h) and (16c), 5.86 (3), 6.79 (2) (a), 6.82
12 (1) (a), 7.08 (1) (c), 7.51 (5) (a) 4. and (b), and 7.515 (6) (b) of the statutes first applies
13 with respect to voting at the first election to be held following the effective date of this
14 subsection for which declarations of candidacy are due for filing on or after the
15 effective date of this subsection.

16 **SECTION 12. Effective dates.** This act takes effect on the day after publication,
17 except as follows:

18 (1) The treatment of section 110.085 of the statutes takes effect on the first day
19 of the 7th month beginning after publication.

20 (END)