

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1406/1dn
RJM&JTK:kmg:rs

January 18, 2001

Representative Walker:

1. This draft generally requires a person to present a Wisconsin driver's license or Wisconsin identification card, or have his or her identity corroborated, in order to vote. However, a person who has obtained a confidential listing on a registration list may, instead, present a voting identification card issued by the municipality in which the person resides. Please let us know if this exception is inconsistent with your intent.
2. This draft does not affect the method of obtaining an absentee ballot or the procedure for absentee voting. Under this draft, electors voting absentee need not present an I.D. to vote but electors voting at the polls must present an I.D. or have their identity corroborated. This more strict treatment of electors who vote at the polls may be subject to a challenge under the Equal Protection provisions of the Wisconsin or U.S. Constitution. Although there may well be a constitutional, rational basis for this disparate treatment, if you intend to avoid the issue entirely, you may want to consider requiring any absent elector (other than a military and overseas elector) to obtain an absentee ballot in person and to present an I.D. or have his or her identity corroborated.
3. The draft applies the I.D. requirement to new residents voting in the presidential election under s. 6.15, stats., and to electors voting under s. 6.55 (3), stats., who claim to be registered but whose names do not appear on the registration list. Please review the treatment of these statutes and let us know if you desire any changes.
4. This draft alters slightly the procedure under s. 6.15, stats., whereby electors who have resided in Wisconsin for less than 10 days may vote for president and vice president only. Presently, application may be made in person or in writing at the office of the municipal clerk or at the proper polling place on election day. If application is made at the office of the municipal clerk, the elector may either vote there at that time, vote there later before the day of the election, or vote at the polling place on election day. Because the identification procedure under this draft is more thorough than the one currently provided, we did not think it would be appropriate for an elector to go through that procedure twice for the purpose of casting one ballot. Therefore, under this draft, the elector either applies at the office of the municipal clerk or at the polling place. If the elector applies in person at the office of the municipal clerk, the elector provides identification at that office and votes there at the time of application. If the elector makes written application to the municipal clerk, no identification need be presented (consistent with the absentee balloting procedure). If the elector applies at

his or her polling place, the elector provides identification at the polling place and votes there. Please let us know if this is not in accord with your intent.

5. The requirements for an elector to provide photo identification in order to vote, or to obtain a corroborator, may be held to deny equal protection to an elector who has no photo identification and who is unable to find and convince another elector of his or her municipality who is able to corroborate the elector's identity to accompany the elector to the polls. Because free photo identification is not available under the draft, and under the 24th Amendment to the U.S. Constitution, the right to vote in federal elections cannot be taxed by requiring a voter to purchase and maintain photo identification, the corroboration procedure becomes the critical qualifier in some cases. It may be argued that the absentee voting option should cure this defect, but that depends upon finding that a separate absentee voting procedure does not deny equal protection and that there is a rational basis for requiring some voters to vote absentee.

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