



State of Wisconsin  
2001 - 2002 LEGISLATURE

-130113  
LRB-130112

RJM&JTK&JK:cs:km

Friday 1-26

RJR

DUOTE

DOA:.....Uecker - Various election law changes

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

Do NOT GEN

1 AN ACT ...; relating to: administration of elections, granting rule-making  
2 authority, providing a penalty, and making an appropriation.

*Analysis by the Legislative Reference Bureau*

STATE GOVERNMENT

OTHER STATE GOVERNMENT

***Elections administration***

*Voter registration.*

Under current law, every municipality with a population of greater than 5,000 is required to maintain a voter registration list. This bill expands current law to require voter registration in every municipality. This bill also establishes a centralized, state-wide voter registration list that is compiled and maintained by the state elections board (board). Under the bill, the centralized registration list must be electronically accessible by any person, but no person other than the board or an authorized election official may change the list. The bill permits the board to change the list only for the purpose of deleting the registration of certain individuals who have registered to vote in another state, territory, or possession or whose registrations are required to be cancelled as the result of a municipal canvass required under current law. Under this bill, each municipal clerk must electronically enter valid registrations or changes of registration on the centralized list maintained by the board. The town clerk of any town having a population of not more than 5,000

may designate the county clerk of the county where the town is located as the town clerk's agent for entry of this data onto the centralized list. Each municipality must retain the original registrations or changes of registration as provided under current law. Under the bill, the original forms are controlling whenever there is a discrepancy between the centralized list and the original forms.

Currently, if registration is required, any individual who qualifies as an elector of a municipality but who is not registered to vote may register in person at various locations within the applicable municipality or may mail to the appropriate municipal clerk a completed registration form. With certain exceptions, the deadline for voter registration is 5 p.m. on the second Wednesday preceding the election. Registrations made by mail must be delivered to the office of the municipal clerk or board of election commissioners or postmarked not later than this deadline. However, under current law, voters may also register in person at the office of the municipal clerk or board of election commissioners up to 5 p.m. on the day before the election or, in most cases, may register at the proper polling place on election day. In addition, voters may register at any time after the deadline if the municipal clerk determines that the registration list can be revised to incorporate the registration in time for the election.

Currently, an individual who makes a late or election day registration must complete a registration form and a certification of eligibility and must present acceptable proof of residence. If an individual attempting to vote under these late registration or election day registration procedures is not able to present acceptable proof of residence, as an alternative, current law permits another qualified elector who resides in the same municipality to corroborate the information contained in the individual's registration form or certification. The corroborating elector currently must provide acceptable proof of residence. Currently, there is no limit on the number of times a person may act as a corroborating elector.

This bill requires any elector who registers to vote under the late registration or election day registration procedures to present a valid Wisconsin driver's license or valid Wisconsin identification card containing the elector's photograph and current street address (preferred identification). If the elector is unable to present preferred identification, the bill permits the elector to present any identification card that contains the photograph and current street address of the elector (alternate identification). If the elector is unable to present preferred or alternate identification, the bill permits the elector to present any identification card that contains the name and photograph of the elector and an identifying number. For each elector that presents an identification card that is not preferred or alternate identification, the registration official must record on the elector's registration form the type of identification card presented and the identifying number listed on the card.

Any elector who is unable to present any satisfactory identification may have his or her identity and registration information corroborated by another elector as provided under current law. However, under this bill, a corroborating elector may not corroborate more than two registrations in one day. The bill also requires a corroborating elector to present identification.

This bill makes certain other changes to the laws relating to voter registration. The bill permits the town clerk of any town with a population of not more than 5,000 to designate the county clerk of the county where the town is located as the town clerk's agent for receiving registrations under the late registration procedure. The bill also permits the board, by rule, to specify additional information that must be provided on registration forms. In addition, the bill provides that any election official who fails to exercise due care to lawfully register an elector to vote is subject to a forfeiture (civil penalty) of not more than \$1,000.

*Identification required to vote.*

With certain limited exceptions, before being permitted to vote at any polling place, an elector currently must provide his or her name and address. If registration is required in order to vote and the elector is not registered, the elector must provide a specified form of proof of residence in order to register. If registration is not required, the elector may be required to provide this proof. Where registration is not required, the election officials keep a poll list indicating which electors have voted. Where registration is required, elections officials create a poll list by marking a prepared registration list.

With certain limited exceptions, this bill requires each elector attempting to vote at any polling place to present preferred identification. If the elector is unable to present preferred identification, the bill permits the elector to present alternate identification. If the elector is unable to present preferred or alternate identification, the bill permits the elector to present any identification card that contains the name and photograph of the elector and an identifying number. Any elector who is unable to present any identification authorized under the bill may have his or her identity and address corroborated in a statement signed by any other elector who resides in the municipality and who has not, during that day, corroborated the identity and address of more than one other person.

The bill requires the election officials to verify that the name and address on the identification provided by an elector or corroborated for an elector are the same as the elector's name and address on the poll list. The elections officials must also verify that the photograph contained in any identification presented reasonably resembles the elector. If the elector presents an identification card that is not preferred or alternate identification or that contains an address that is different from that on the poll list, the bill requires the elections officials to verify that the name and identifying number on the identification presented are the same as the elector's name on the poll list and identifying number on any identification card that the poll list indicates the elector is able to present. If the poll list does not indicate the elector is able to present an identification card or if the identifying number presented is different from that indicated in the poll list, the elections officials must enter on the poll list, after the elector's name, the type of identification presented and the identifying number contained in that identification.

This bill does not affect absentee voting or voting by military electors.

*Supervision of local election practices.*

Currently, following each general election, a municipality where registration is required must complete a canvass to identify each qualified elector who has failed

to vote within the previous 4 years, attempt to notify each such elector, and revise and correct its registration list accordingly. This bill requires each municipality to complete this canvass within 90 days following the general election. In addition, if a municipality has not completed the canvass within 120 days following the general election, this bill permits the board to conduct the canvass and submit a statement to the municipality for the costs incurred. If a municipality fails to reimburse the board for the costs within 30 days after receiving the statement, the bill permits the board to direct that the municipality's next shared revenue payment from the state be reduced by the amount of the costs.

In addition, under the bill, if an inspector (poll worker) repeatedly and materially fails to substantially comply with the election laws or rules of the board in performing his or her functions, the board may remove the inspector and appoint a qualified replacement inspector to serve the remainder of the inspector's unexpired term. The replacement inspector must be compensated by the municipality on the same basis as other inspectors and, like other inspectors, is subject to the supervision of the municipal clerk or board of election commissioners but, unlike most other inspectors, may be appointed without regard to party affiliation. The bill also permits the board to appoint a special master to assume all functions of the municipal clerk or board of election commissioners if the board finds that a municipality has repeatedly and materially failed to substantially comply with the election laws or rules of the board in administering elections. The initial term of the special master may not exceed one year, but is renewable for additional periods of not more than one year if the board finds that the municipality is incapable of substantial compliance or unwilling to substantially comply with the election laws or rules. The bill requires the board to submit a statement to the municipality for the costs incurred relating to the special master. If a municipality fails to reimburse the board for the costs within 30 days after receiving the statement, the bill permits the board to direct that the municipality's next shared revenue payment from the state be reduced by the amount of the costs.

Under current law, the board may promulgate rules to interpret or implement the laws relating to the conduct and administration of elections and election campaigns. This bill expands the board's rule-making authority, permitting the board to promulgate rules to promote the efficient and fair conduct of elections.

*Prohibited election practices by election officials.*

This bill doubles the maximum penalty that applies to an election official who, with respect to an election for which the election official has a duty, violates certain laws relating to false representations affecting elections, election restrictions on employers, or the denial of government benefits or other election laws specified in the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

## SECTION 6

1 as otherwise authorized under this paragraph, every municipality having a  
2 population of 35,000 or more shall maintain separate returns for each ward so  
3 combined. In municipalities having a population of less than 35,000, the governing  
4 body may provide in the resolution that returns shall be maintained only for each  
5 group of combined wards at any election. Whenever a governing body provides for  
6 common ballot boxes and ballots or voting machines, separate returns shall be  
7 maintained for each separate ballot required under ss. 5.62 and 5.64 at the  
8 September primary and general election. The municipal clerk shall transmit a copy  
9 of the resolution to the county clerk of each county in which the municipality is  
10 contained. In municipalities having a population of less than 35,000, the resolution  
11 shall remain in effect for each election until modified or rescinded, or until a new  
12 division is made under this section. Whenever a municipality combines wards or  
13 discontinues any ward combination under this paragraph, the municipal clerk shall  
14 promptly notify the board in writing or by electronic transmission.

15 SECTION 7. 5.40 (6) of the statutes is amended to read:

16 5.40 (6) A municipality which utilizes voting machines or an electronic voting  
17 system at a polling place may permit use of the machines or system by electors voting  
18 under s. 6.15 only as authorized under s. 6.15 (3) (b).

19 SECTION 8. 6.15 (2) (title) of the statutes is amended to read:

20 6.15 (2) (title) APPLICATION FOR BALLOT PROCEDURE AT CLERK'S OFFICE.

21 SECTION 9. 6.15 (2) (a) <sup>(Intro.)</sup> of the statutes is amended to read:

22 6.15 (2) (a) <sup>(Intro.)</sup> The elector's request for the application form may be made to the  
23 proper municipal clerk either in person or in writing ~~any time during the 10-day~~  
24 ~~period in which the elector's residence requirement is incomplete, but not later than~~  
25 ~~the applicable deadline for making application for an absentee ballot.~~ Except as

1 provided in par. (e), application may be made not sooner than 9 days nor later than  
2 5 p.m. on the day before the election, or may be made at the proper polling place in  
3 for the ward or election district in which the elector resides. The application form  
4 shall be returned to the municipal clerk after the affidavit has been signed in the  
5 presence of the clerk or any officer authorized by law to administer oaths. The  
6 affidavit shall be in substantially the following form:

7 STATE OF WISCONSIN

8 County of ....

9 I, ....., do solemnly swear that I am a citizen of the United States; that prior to  
10 establishing Wisconsin residence, my legal residence was in the .... (town) (village)  
11 (city) of ....., state of ....., residing at .... (street address); that on the day of the next  
12 presidential election, I shall be at least 18 years of age and that I have been a legal  
13 resident of the state of Wisconsin since ....., .... (year), residing at .... (street address),  
14 in the [... ward of the ... aldermanic district of] the (town) (village) (city) of ....., county  
15 of .....; that I have resided in the state less than 10 days, that I am qualified to vote  
16 for president and vice president at the election to be held November ....., .... (year),  
17 that I am not voting at any other place in this election and that I hereby make  
18 application for an official presidential ballot, in accordance with section 6.15 of the  
19 Wisconsin statutes.

20 Signed .....

21 P.O. Address .....

22 Subscribed and sworn to before me this .... day of ....., .... (year)

23 ....(Name)

24 ....(Title)

25 SECTION 10. 6.15 (2) (bm) of the statutes is created to read:



SEC #. RP; 6.15 (3) (a) (Title).

1 the name and identifying number on the identification card are the same as the  
2 person's name on the application and the identifying number on any identification  
3 card that the person's application indicates he or she is able to present. If the person's  
4 application does not indicate that he or she is able to present an identification card  
5 or if the identifying number on the identification card is different from the  
6 identifying number indicated in the person's application, the clerk shall record the  
7 type of identification and the identifying number contained in that identification.

8 **SECTION 12.** 6.15 (2) (e) of the statutes is created to read:

9 6.15 (2) (e) If the elector makes application in writing but does not appear in  
10 person, and the clerk receives a properly completed application and cancellation card  
11 from the elector, the clerk shall provide the elector with a ballot. If the ballot is to be  
12 mailed, the application must be received no later than 5 p.m. on the Friday before  
13 the election. In order to be counted, the ballot must be received by the municipal  
14 clerk no later than 5 p.m. on the day before the election.

15 **SECTION 13.** 6.15 (3) (a) 1., 2. and 3. of the statutes are renumbered 6.15 (2) (d)  
16 1r., 2. and 3., and 6.15 (2) (d) 1r., as renumbered, is amended to read:

17 6.15 (2) (d) 1r. Upon proper completion of the application and cancellation card,  
18 and verification and recording of the elector's identification under subd. 1g., if  
19 required, the municipal clerk shall inform the elector that he or she may vote for the  
20 presidential electors not sooner than 9 days nor later than 5 p.m. on the day before  
21 the election at the office of the municipal clerk, or at a specified polling place on  
22 election day. When voting at the municipal clerk's office, the applicant shall provide  
23 identification and permit the elector to cast his or her ballot for president and vice  
24 president. The elector shall then mark or punch the ballot in the clerk's presence in  
25 a manner that will not disclose his or her vote. Unless the ballot is utilized with an

1 of the corroborator on the face of the certificate. The certificate shall be numbered  
2 serially and prepared in duplicate. The municipal clerk shall preserve one copy in his  
3 or her office. The certificate shall indicate the name and address of the elector and,  
4 if the elector is unable to present preferred or alternate identification, the certificate  
5 shall indicate the type of identification, if any, the elector is able to present and the  
6 identifying number contained in that identification.

7 **SECTION 51.** 6.55 (2) (d) of the statutes is amended to read:

8 6.55 (2) (d) A registered elector who has changed his or her name but resides  
9 at the same address, and has not notified the municipal clerk under s. 6.40 (1) (c),  
10 shall notify the inspector of the change before voting. The inspector shall then notify  
11 the municipal clerk at the time which materials are returned under s. 6.56 (1). If an  
12 elector ~~changes~~ has changed both a name and address, the elector shall ~~complete a~~  
13 ~~registration form~~ register at the polling place or other registration location under  
14 pars. (a) and (b).

15 **SECTION 52.** 6.55 (3) of the statutes is amended to read:

16 6.55 (3) Any qualified elector in the ward or election district where the elector  
17 desires to vote whose name does not appear on the registration list where  
18 ~~registration is required~~ but who claims to be registered to vote in the election may  
19 request permission to vote at the polling place for that ward or election district.  
20 When the request is made, the inspector shall require the person to give his or her  
21 name and address. If the elector is not at the polling place which serves the ward or  
22 election district where the elector resides, the inspector shall provide the elector with  
23 directions to the correct polling place. If the elector is at the correct polling place, the  
24 elector shall then execute the following written statement: "I, ....., hereby certify that  
25 to the best of my knowledge, I am a qualified elector, having resided at .... for at least



1 10 days immediately preceding this election, and that I am not disqualified on any  
 2 ground from voting, and I have not voted at this election and am properly registered  
 3 to vote in this election." The person shall be required to provide present preferred  
 4 identification or, if the person is unable to present preferred identification, alternate  
 5 identification. If the person is unable to present preferred or alternate identification,  
 6 the person shall present any identification card that contains the name and  
 7 photograph of the person and an identifying number. If any identification presented  
 8 by the person is not acceptable proof of residence as provided under sub. (7), the  
 9 person shall also present acceptable proof of residence and shall then be given the  
 10 right to vote. If acceptable proof is presented, the elector need not have the  
 11 information corroborated by any other elector. If identification authorized under this  
 12 subsection or acceptable proof of residence is not presented, the statement shall be  
 13 certified by the elector and shall be corroborated in a statement that is signed by  
 14 another any other elector who resides in the municipality and who has not, during  
 15 that day, corroborated the registration information of more than one other person  
 16 and that contains the current street address of the corroborator. The corroborator  
 17 shall then provide identification in the same manner as if the corroborator were  
 18 executing the certification under this subsection and shall provide acceptable proof  
 19 of residence as provided in sub. (7). Whenever the question of identity or residence  
 20 cannot be satisfactorily resolved and the elector cannot be permitted to vote, an  
 21 inspector shall telephone the office of the municipal clerk to reconcile the records at  
 22 the polling place with those at the office.

23 SECTION 53. 6.55 (7) (c) 1. of the statutes is amended to read:

24 6.55 (7) (c) 1. A Wisconsin motor vehicle An operator's license issued under ch.  
 25 343.

*if the identification is not acceptable proof of residence as provided under sub. (7),*

1 SECTION 54. 6.55 (7) (c) 2. of the statutes is amended to read:

2 6.55 (7) (c) 2. ~~A Wisconsin~~ An identification card issued under s. 125.08, 1987  
3 stats s. 343.50. (except 6.79 (title))

4 SECTION 55. 6.79 (intro.) of the statutes is renumbered 6.79 (1m) and amended  
5 to read: (CS)

6 6.79 (1m) SEPARATE POLL LISTS. Two election officials at each election ward shall be in charge of and  
7 shall maintain 2 separate poll lists of containing information relating to all persons  
8 voting. The municipal clerk may elect to maintain the information on the poll list  
9 lists manually or electronically. If the list is lists are maintained electronically, the  
10 officials shall enter the information into an electronic data recording system that  
11 enables retrieval of a printed copy of the poll list at the polling place. The system  
12 employed is subject to the approval of the board.

13 SECTION 56. 6.79 (1) of the statutes is repealed.

~~SECTION 56. 6.79 (1) of the statutes is repealed. SEPARATE POLL LISTS.~~

14 SECTION 57. 6.79 (2) of the statutes is repealed and recreated to read:

15 6.79 (2) VERIFICATION OF IDENTITY AND ADDRESS AND MAINTENANCE OF POLL LISTS.

16 (a) Unless information on the poll list is entered electronically, the municipal clerk  
17 shall supply the inspectors with 2 copies of the most current original registration list  
18 or lists prepared under s. 6.36 (1) for use as poll lists at the polling place. Except as  
19 provided in sub. (6), each person, before receiving a serial number, shall state his or  
20 her full name and address and shall present preferred identification or, if the person  
21 is unable to present preferred identification, alternate identification. Except as  
22 provided in sub. (6), if the person is unable to present preferred or alternate  
23 identification, the person shall present any identification card that contains the  
24 name and photograph of the person and an identifying number. If a person is unable  
25 to present any identification authorized under this paragraph, the person's identity



1 a vote, but the official may not in any manner advise or indicate a particular voting  
2 choice.

3 **SECTION 92.** 12.13 (2) (b) 9. of the statutes is created to read:

4 12.13 (2) (b) 9. Fail to exercise due care to lawfully register an elector to vote.

5 **SECTION 93.** 12.60 (1) (b) of the statutes is amended to read:

6 12.60 (1) (b) ~~Whoever~~ Except as provided in sub. (3), whoever violates s. 12.03,  
7 12.05, 12.07, 12.08 or 12.13 (2) (b) 8., (3) (b), (c), (d), (g), (i), (n) to (x), (zm) or (zn) may  
8 be fined not more than \$1,000, or imprisoned not more than 6 months or both.

9 **SECTION 94.** 12.60 (1) (bm) of the statutes is created to read:

10 12.60 (1) (bm) Whoever violates s.12.13 (2) (b) 9. may be required to forfeit not  
11 more than \$1,000.

12 **SECTION 95.** 12.60 (1) (c) of the statutes is amended to read:

13 12.60 (1) (c) ~~Whoever~~ Except as provided in sub. (3), whoever violates s. 12.13  
14 (3) (am) or (4) may be required to forfeit not more than \$500. ✓

15 **SECTION 96.** 12.60 (1) (d) of the statutes is amended to read:

16 12.60 (1) (d) ~~Whoever~~ Except as provided in sub. (3), whoever violates s. 12.13  
17 (3) (h) may be required to forfeit not more than \$100. ✓

18 **SECTION 97.** 12.60 (3) of the statutes is renumbered 12.60 (3) (b). ✓

19 **SECTION 98.** 12.60 (3) (a) of the statutes is created to read:

20 12.60 (3) (a) ~~Except as otherwise provided in this paragraph,~~ an election official  
21 who violates a statute listed under sub. (1) (b), (c), or (d) with respect to an election  
22 for which that election official has a duty may be required to forfeit not more than  
23 twice the amount specified for the violation under sub. (1) (b), (c), or (d). This  
24 paragraph does not apply to a violation of s. 12.03 or 12.13 (2).

25 **SECTION 99.** 20.510 (1) (b) of the statutes is created to read:

**SECTION 105**

1 elections board under ss. 5.64 (2) and 7.08 (1) (a). The clerk of each affected school  
2 district shall file with the secretary of the board a certified statement prepared by  
3 the school district board of canvassers of the results of the referendum in that school  
4 district.

5 **SECTION 106.** 120.06 (5) of the statutes is repealed.

6 **SECTION 107.** 125.05 (2) (h) of the statutes is amended to read:

7 125.05 (2) (h) *Number of electors.* The number of electors in a residence district  
8 shall equal not less than the number of names with residences in the district which  
9 appear on ~~a~~ the registration list, as defined in s. 5.02 (17). ~~If there is no registration~~  
10 ~~list, the number of electors shall equal the number of names with residences in the~~  
11 ~~district which appear on a poll list as defined in s. 5.02 (14) compiled at the last~~  
12 ~~gubernatorial or presidential election, whichever is most recent, for the residence~~  
13 district on the date that the remonstrance, consent, or counter petition is filed. A  
14 person whose name does not appear on a registration list ~~or poll list~~ may not sign a  
15 protest petition, consent or counter petition.

16 **SECTION 108.** 230.08 (2) (oe) of the statutes is created to read:

17 230.08 (2) (oe) Special masters employed by the elections board under s. 7.08

18 (7).

19 **SECTION 0415. Effective dates; elections board.**

20 (1) ELECTIONS ADMINISTRATION. The treatment of sections 5.02 (1), (1a), (15m),  
21 and (17), 5.05 (1) (f), 5.15 (6) (b), 5.40 (6), 6.15 (2) (title), (a), (bm), (d) lg., and (e), (3)  
22 (a) 1., 2., and 3., 6.20, 6.24 (3), (4) (a) and (c), and (8), 6.27 (1) and (2) to (5), 6.28 (1),  
23 (2) (b), and (3), 6.29 (1) and (2) (a) and (b), 6.33 (title), (1), (2) (a), and (5), 6.35 (2),  
24 (3), (5) and (6), 6.36 (1), (2) (a), and (3), 6.47 (2) and (3), 6.50 (1) (intro.), (2m) (a) and  
25 (b), (2s), and (10), 6.54, 6.55 (2) (a) 1. (intro.), (b), (c) 1. and 2., and (d), (3), and (7) (c)

1 1. and 2., 6.79 (intro.), (1), (2), (3), (4), (5), and (6) (title), (a), (am), and (b), 6.82 (1)  
 2 (a), 6.86 (3) (a), 6.88 (3) (a), 6.94, 6.95, 7.08 (1) (c), (5), (6), and (7), 7.10 (1) (b) and  
 3 (7), 7.15 (1) (intro.), (c), and (e) and (4), 7.30 (1), (2), and (4) (b) 2., 7.33 (2), 7.37 (7),  
 4 7.51 (2) (a), (c), and (e), (4) (a), and (5), 9.01 (1) (b) 1., 10.02 (3) (a), 12.13 (2) (b) 9., 12.60  
 5 (1) ~~wa~~ (bm) ~~and~~ ~~and~~, 20.510 (1) (b) and (gm), 20.923 (6) (bb), 59.05 (2), 79.02 (2)  
 6 (b) and (3), 117.20 (2), 120.06 (5), 125.05 (2) (h), and 230.08 (2) (oe) of the statutes,  
 7 the repeal of section 6.15 (3) (b) (title) ~~of the statutes~~, ~~the renumbering of section~~  
 8 ~~12.60 (3) of the statutes~~, ~~the renumbering and amendment of section 6.15 (3) (b) of~~  
 9 ~~the statutes~~, ~~and the creation of section 12.60 (3) (a) of the statutes~~, takes effect on  
 10 January 1, 2002.

11

(END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1301/2dn  
RJM&JTK&JK:es:km

~~January 10, 2001~~

*Deborah Uecker:*

*This draft incorporates the deletion of the provision dealing with prohibited practices by election officials. The draft also includes some minor, technical corrections. The remainder of this drafter's note is taken from the previous version of the draft.*

1. This draft does not affect the method of obtaining an absentee ballot or the procedure for absentee voting (other than to require registration by overseas electors who vote in municipalities where registration does not apply currently). 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.

2. 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.

3. 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.

4. The requirements contained in the proposed treatment of ss. 6.15, 6.29 and 6.55, stats., for an elector to provide photo identification in order to vote or to register to vote other than in the normal manner before the close of registration, 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.

~~5. Proposed s. 12.60 (3) (a), stats., doubles the penalty for violation of certain election laws by an election official if the violation concerns a law with respect to which the official has a duty. While there are certainly some fact situations under which the rational basis for this policy can be readily defended under the 14th Amendment, enforcement of this penalty may nevertheless require a showing of a rational relationship between the offense and the status of the violator as an election official. For example, if an election official campaigns outside the door to the polling place where the official works, this is directly contrary to his or her responsibilities as an official, which are to prevent such campaigning. On the other hand, if an election official who happens to be an employer refuses to give his or her employees time off for voting, the relationship is less clear.~~

5. This bill includes a delayed effective date of January 1, 2002, in order to avoid the confusion that may occur if this bill takes effect during an election cycle. As an alternative, you may want to delay only the effect of certain provisions, such as those affecting registration.

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1301/3dn  
RJM&JTK:cs:pg

January 25, 2001

Deborah Uecker:

This draft incorporates the deletion of the provision dealing with prohibited practices by election officials. The draft also includes some minor, technical corrections. The remainder of this drafter's note is taken from the previous version of the draft.

1. This draft does not affect the method of obtaining an absentee ballot or the procedure for absentee voting (other than to require registration by overseas electors who vote in municipalities where registration does not apply currently). 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.

2. 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.

3. 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.

4. The requirements contained in the proposed treatment of ss. 6.15, 6.29 and 6.55, stats., for an elector to provide photo identification in order to vote or to register to vote other than in the normal manner before the close of registration, 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.

5. This bill includes a delayed effective date of January 1, 2002, in order to avoid the confusion that may occur if this bill takes effect during an election cycle. As an alternative, you may want to delay only the effect of certain provisions, such as those affecting registration.

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