



## 2009 ASSEMBLY BILL 406

August 31, 2009 – Introduced by Representatives KESSLER, BERCEAU and PASCH, cosponsored by Senators COGGS, HANSEN and KREITLOW. Referred to Committee on Elections and Campaign Reform.

1     **AN ACT** *to renumber* 7.52 (6) (a); *to renumber and amend* 7.52 (5) and 7.52  
2           (6) (b); and *to amend* 6.925 and 6.93 of the statutes; **relating to:** challenging  
3           the ballots of electors at polling places.

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### ***Analysis by the Legislative Reference Bureau***

Currently, any elector may challenge for cause the right of any other elector to vote at a polling place if the challenger knows or suspects that the challenged elector is not a qualified elector. The inspectors of election (poll workers) must then administer oaths to both the challenger and the challenged elector concerning the challenged elector's qualifications. If the inspectors receive the ballot of any elector who has been challenged, they must mark the ballot with the elector's serial number. If canvassing an election, a board of canvassers may review and decide any challenge and may count or reject a challenged ballot accordingly. If a petition for a recount is filed, the board of canvassers may again review and decide whether a challenged ballot is cast by a qualified elector and may count or reject the ballot accordingly. An elector may also challenge the ballot of an absent elector before the inspectors at a polling place or before a board of absentee ballot canvassers in municipalities where absent ballots are not canvassed at polling places. The challenged elector need not be present when the challenge is made.

This bill provides that only an elector who resides in the same ward or election district as the one in which a challenged elector resides may challenge the ballot of that elector. The bill directs the inspectors or board of absentee ballot canvassers to

**ASSEMBLY BILL 406**

require the challenging elector to provide proof of residence, as defined by law, when making a challenge.

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

1           **SECTION 1.** 6.925 of the statutes is amended to read:

2           **6.925 Elector making challenge in person.** Any elector of a ward or election  
3 district may challenge for cause any person offering to vote who resides in the same  
4 ward or election district and whom the elector knows or suspects is not a qualified  
5 elector. The inspectors shall require the challenging elector to provide proof of  
6 residence under s. 6.34 before accepting a challenge from the challenging elector. If  
7 a person is challenged as unqualified by an elector, one of the inspectors may  
8 administer the oath or affirmation to the challenged elector under s. 6.92 and ask the  
9 challenged elector the questions under that section which are appropriate to test the  
10 elector's qualifications. In addition, one of the inspectors shall administer the  
11 following oath or affirmation to the challenging elector: "You do solemnly swear (or  
12 affirm) that you reside in the same ward or election district as the challenged person  
13 and will fully and truly answer all questions put to you regarding the challenged  
14 person's place of residence and qualifications as an elector of this election"; and shall  
15 then ask questions which are appropriate as determined by the board, by rule, to test  
16 the qualifications of the challenged elector.

17           **SECTION 2.** 6.93 of the statutes is amended to read:

18           **6.93 Challenging the absent elector.** The vote of any absent elector may be  
19 challenged for cause by any person who resides in the same ward or election district  
20 as the absent elector and the inspectors of election shall have all the power and  
21 authority given them to hear and determine the legality of the ballot the same as if

**ASSEMBLY BILL 406**

1 the ballot had been voted in person. In municipalities where absentee ballots are  
2 canvassed under s. 7.52, the vote of an absentee elector may be challenged as  
3 provided in s. 7.52 (5).

4 **SECTION 3.** 7.52 (5) of the statutes is renumbered 7.52 (5) (a) and amended to  
5 read:

6 7.52 (5) (a) The vote of any absent elector may be challenged for cause by an  
7 elector who resides in the same ward or election district as the challenged elector and  
8 the board of absentee ballot canvassers shall have all the power and authority given  
9 the inspectors to hear and determine the legality of the ballot the same as if the ballot  
10 had been voted in person. Before reviewing a challenge made by an elector, the board  
11 of absentee ballot canvassers shall require the challenging elector to provide proof  
12 of residence under s. 6.34.

13 **SECTION 4.** 7.52 (6) (a) of the statutes is renumbered 7.52 (6).

14 **SECTION 5.** 7.52 (6) (b) of the statutes is renumbered 7.52 (5) (b) and amended  
15 to read:

16 7.52 (5) (b) ~~Any elector may challenge for cause any absentee ballot.~~ For the  
17 purpose of deciding upon ballots that are challenged for any reason, the board of  
18 absentee ballot canvassers may call before it any person whose absentee ballot is  
19 challenged if the person is available to be called. If the person challenged refuses to  
20 answer fully any relevant questions put to him or her by the board of absentee ballot  
21 canvassers under s. 6.92, the board of absentee ballot canvassers shall reject the  
22 person's vote. If the challenge is not withdrawn after the person offering to vote has  
23 answered the questions, one of the members of the board of absentee ballot  
24 canvassers shall administer to the person the following oath or affirmation: "You do  
25 solemnly swear (or affirm) that: you are 18 years of age; you are a citizen of the United

**ASSEMBLY BILL 406**

1 States; you are now and for 10 days have been a resident of this ward except under  
2 s. 6.02 (2), stats.; you have not voted at this election; you have not made any bet or  
3 wager or become directly or indirectly interested in any bet or wager depending upon  
4 the result of this election; you are not on any other ground disqualified to vote at this  
5 election.” If the person challenged refuses to take the oath or affirmation, the  
6 person’s vote shall be rejected. If the person challenged answers fully all relevant  
7 questions put to the elector by the board of absentee ballot canvassers under s. 6.92,  
8 takes the oath or affirmation, and fulfills the applicable registration requirements,  
9 and if the answers to the questions given by the person indicate that the person meets  
10 the voting qualification requirements, the person’s vote shall be received.

**SECTION 6. Initial applicability.**

11  
12 (1) This act first applies with respect to elections held on the effective date of  
13 this subsection.

14 (END)