



## Legislative Fiscal Bureau

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February 16, 2005

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 63/Senate Bill 42: Requiring Voter Identification in Order to Vote

Assembly Bill 63 (AB 63) and Senate Bill 42 (SB 42) are companion bills that would create a new identification requirement for voters and would repeal current law provisions that establish procedures by which a voter may have his or her residence corroborated by a fellow elector. AB 63 was referred to the Assembly Committee on Campaigns and Elections, which offered Assembly Amendment 1. The bill, as amended, was recommended for passage on a vote of 4-2 and was then referred to the Joint Committee on Finance. SB 42 was initially referred to the Senate Committee on Labor and Election Process Reform and was then withdrawn from that Committee and referred to the Joint Committee on Finance.

### SUMMARY OF THE BILLS

The bills would establish new voter identification requirements applicable to various voting-related events. This summary describes these changes, first by setting forth current voter eligibility requirements and then by presenting the new identification and proof of residency requirements. The summary then describes the impact of these proposed modifications on current registration procedures, voting at the polling place procedures, and absentee voting procedures. The descriptive portion of the summary concludes with information related to the types of documentation that would constitute acceptable forms of identification.

#### General Voter Eligibility Requirements

**Current Law.** An individual is generally eligible to vote in Wisconsin (is an "elector") if he or she: (1) is a U.S. citizen; (2) is age 18 or older; and (3) has resided in an election district or ward for 10 days before any election. An otherwise eligible elector who moves within Wisconsin later

than 10 days before an election must vote in his or her previous ward or election district. If the elector can qualify with the 10-day residence requirement at the new address, the individual may vote at the new ward or election district. If a person is otherwise qualified to vote in Wisconsin except for meeting the 10-day residency requirement prior to a presidential election, the individual may vote for the offices of President and Vice President, but no other offices.

An otherwise qualified military elector from Wisconsin retains eligibility to vote in this state while in military service. Further, any U. S. citizen at least 18 years of age, who does not qualify as a resident of Wisconsin but was last domiciled in the state immediately prior to his or her parent's departure from the United States is eligible to vote in Wisconsin as an "overseas elector" in any election for national office. An overseas elector also includes an individual who resides outside the U.S. and is qualified under federal law to vote in elections to national office in Wisconsin because the elector was domiciled in the state immediately prior to his or her departure from the country.

An individual may not vote in Wisconsin if the person: (1) is incapable of understanding the objectives of the elective process or is under guardianship pursuant to the order of a court; (2) was convicted of treason, felony or bribery and has not had his or her civil rights restored through pardon or completion of his or her sentence; or (3) has made or become interested, directly or indirectly, in any bet or wager depending upon the result of the election.

Commencing with the 2006 spring primary election, every eligible individual must register (with certain limited exceptions for new residents voting in a presidential election, military electors, and former residents) before being allowed to vote in any election. Effective January 1, 2006, municipal clerks must collect on a registration form the following standardized information from each applicant for registration: (1) name; (2) date; (3) residence location; (4) citizenship; (5) date of birth; (6) age; (7) the number of a valid Department of Transportation (DOT) driver's license issued to the individual or the last four digits of the individual's Social Security number; (8) whether the individual has resided within the ward or election district for at least 10 days; (9) whether the individual has lost his or her right to vote; and (10) whether the individual is currently registered to vote at any other location.

The registration form must also include: (1) the applicant's signature; (2) any applicable ward and aldermanic district where the elector resides and any other information required to determine the offices and referenda for which the individual is certified to vote; (3) a space for the municipal clerk to record whether the form was received by mail; and (4) a space for the municipal clerk to record the identifying serial number on voting identification cards that are issued to victims of domestic abuse in order to preserve their confidential voter listings.

Registration in person for any election closes at 5 p.m. on the second Wednesday preceding the election (with certain exceptions for late registrations in person, registrations at the polling place on election day, and registrations by hospitalized electors). Registrations made by mail must be delivered to the office of the municipal clerk or postmarked no later than the second Wednesday preceding the election. An application for registration in person or by mail may be accepted for

placement on the registration list after the specified deadline, if the municipal clerk determines that the registration list can be revised to incorporate the registration in time for the election.

**AB 63/SB 42.** No change.

### **Proof of Residence**

**Current Law.** An individual is required to provide proof of residence under the following circumstances: (1) late pre-election voter registration in person; (2) certification to prior voter registration on election day; (3) election day voter registration at the polling place and (4) voting by new residents for the offices of President and Vice President.

Acceptable proof of residence includes: (1) a driver's license issued by DOT; (2) a DOT identification card; (3) any other official identification card or license issued by a Wisconsin governmental entity or by an employer (other than a business card); (4) a credit card; (5) a library card; (6) a check-cashing or courtesy card issued by a merchant; (7) a real estate bill or receipt for the current or preceding year; (8) a current residential lease; (9) a university, college or technical institute fee card or identification card; (10) an airplane pilot's license; or (11) a utility bill covering service for not earlier than 90 days before election day. Any such document must include a current and complete name and residential address to be deemed an acceptable proof of residence.

If an individual cannot provide acceptable proof of residence, the person may have his or her residence corroborated in a certified statement signed by another elector of the municipality, which contains the current street address of the corroborating elector. If residence is corroborated in such a manner, the corroborating elector must also provide acceptable proof of residence as outlined above.

First-time voters who registered by mail are required to provide identification prior to voting in a federal election. Acceptable identification consists of either: (1) a current, valid piece of identification with a photograph of the elector; or (2) a copy of a utility bill, bank statement, paycheck, or a check or related document issued by a governmental unit that shows the elector's current name and address.

**AB 63/SB 42.** The bills would generally repeal those provisions that authorize an individual to establish his or her residence through the corroboration of another elector residing in the municipality. Late pre-election registrants would still be authorized to have their residence corroborated by another elector residing in the municipality. However, the registrant would still have to comply with all requirements for voting at the polling place on election day, including the new identification requirements established under the bills.

## **Late Pre-Election Voter Registration in Person**

**Current Law.** Late registrations in person are accepted at the office of the municipal clerk up to the later of 5 p.m. or the close of business on the day before an election. Late pre-election registrants must provide acceptable proof of residence or have that residence corroborated by another elector of the municipality.

**AB 63/SB 42.** No change except that the late registrant would still have to comply with all requirements for voting at the polling place on election day, including the new identification requirements established under the bills.

## **Election Day Voter Registration**

**Current Law.** An individual may register to vote at the polling place on election day. An individual registering to vote in such a manner must complete a registration form and certify that he or she: (1) is a qualified elector; (2) has resided in the municipality for at least 10 days immediately prior to the election; (3) is not disqualified from voting; and (4) has not previously voted at this election. In addition, the individual must provide acceptable proof of residence or have such residency corroborated by another elector of the municipality.

**AB 63/SB 42.** An individual registering to vote at the polling place on election day would generally be required to present one of the following: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. However, where an individual had received a citation from a law enforcement officer in any jurisdiction that was dated within 60 days of the date of an election and the individual was required to surrender his or her DOT issued driver's license due to the citation, the individual would be authorized to present an original copy of the citation in lieu of the driver's license for identification purposes.

If the presented document does not represent acceptable proof of residence (for example, identification cards issued by a U.S. uniformed service do not include an individual's address), the individual would also be required to provide such proof. AB 63/SB 42 would repeal current provisions authorizing an individual under these circumstances to establish his or her residence through the corroboration of another elector residing in the municipality.

## **Certifying to Prior Voter Registration on Election Day**

**Current Law.** If an individual's name does not appear on the voter registration list on election day, but the individual asserts that he or she is registered to vote, the person may certify in writing that he or she: (1) is a qualified elector; (2) has resided in the municipality for at least 10 days immediately prior to the election; (3) is not disqualified from voting; (4) has not previously voted at the election; and (5) is properly registered to vote in the election. The individual must then provide acceptable proof of residence or have his or her residence corroborated by another elector

of the municipality. Upon providing such acceptable proof or corroboration, the individual must be given the right to vote.

**AB 63/SB 42.** Any individual seeking to vote under this provision on election day would generally be required to present one of the following: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. However, where an individual had received a citation from a law enforcement officer in any jurisdiction that was dated within 60 days of the date of an election and the individual was required to surrender his or her DOT issued driver's license due to the citation, the individual would be authorized to present an original copy of the citation in lieu of the driver's license for identification purposes.

If the presented document does not represent acceptable proof of residence, the individual would also be required to provide such proof. AB 63/SB 42 would repeal current provisions authorizing an individual under these circumstances to establish his or her residence through the corroboration of another elector residing in the municipality.

### **Voting at the Polling Place**

**Current Law.** Effective January 1, 2006, for all persons registered to vote in Wisconsin, an individual must state his or her full name and address before receiving a ballot. Election officials must verify that the stated name and address are the same as those on the poll list. If an individual refuses to give his or her name and address, the individual generally may not be permitted to vote. However, if a victim of domestic abuse has a confidential listing, such an individual may present his or her voting identification card or give his or her name and voter identification serial number in lieu of stating his or her name and address. If the individual's name and identification serial number appear on the confidential portion of the poll list, the election inspectors must issue a ballot to the individual.

Beginning January 1, 2006, identification is required in an election for national office if the individual is not a military or an overseas voter and the individual registers by mail and has not previously voted in an election for national office in Wisconsin. In the case of an individual voting in person, identification means either: (1) a current and valid piece of identification containing a photograph of the individual; or (2) a copy of a utility bill, bank statement, paycheck, or a check or other document issued by a unit of government that shows the current name and address of the individual. In the case of an individual voting by absentee ballot, any of the above forms of identification is acceptable, except that the individual may include a copy rather than the original of an identification containing a photograph of the individual. The relevant local election official must post at each polling place instructions prescribed by the Elections Board for individuals who have registered by mail, for whom identification is required.

If the poll list indicates that identification is required, the election officials must require the individual to provide identification. If identification is provided, the officials must verify that the

name and address on the identification provided is the same as the name and address shown on the registration list. If identification is required and not provided, the officials must offer the opportunity for the individual to vote provisionally.

If an individual votes provisionally, the election inspectors must indicate on the poll list that the individual is required to provide identification but did not do so. The inspectors must advise such an individual that he or she may provide the identification to the appropriate local election official. The inspectors must also promptly notify the appropriate local election official of the name, address, and ballot serial number of the individual.

When an individual provides acceptable proof of residence (as required for late pre-election voter registration in person, certifying to prior voter registration on election day, election day voter registration, or voting by new residents for the offices of President and Vice President), the election officials must enter the type of identifying document provided on the poll list. If the document submitted as proof of identity or residence includes a number that applies only to the individual holding that document, the election officials must also enter that number on the list. If a municipal elector corroborates the registration identity or residence of an individual, the election officials must also enter the name and address of the corroborating elector on the poll list next to the name of the individual who has been vouched for.

**AB 63/SB 42.** Any individual seeking to vote on election day would generally be required to present: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued by a U.S. uniformed service; or (3) a valid identification card issued by DOT. (Victims of domestic abuse with a confidential listing would be authorized to present a voting identification card in lieu of providing the required identification.) However, where an individual had received a citation from a law enforcement officer in any jurisdiction that was dated within 60 days of the date of an election and the individual was required to surrender his or her DOT issued driver's license due to the citation, the individual would be authorized to present an original copy of the citation in lieu of the driver's license for identification purposes. The bills would also repeal the current law provision that permits an individual to establish his or her residence through the corroboration of another elector residing in the municipality.

If an individual failed to present the personal identification required under AB 63/SB 42, or if the name or photograph appearing on the personal identification could not be verified by election officials, the individual would not be permitted to vote but could cast a provisional ballot. Election inspectors would be required to enter on the poll list that the individual was required to provide personal identification but did not do so. The inspectors would then have to advise the individual that he or she could provide the personal identification to the appropriate municipal election official. The provisional ballot would be maintained in a separate carrier envelope.

For an individual failing to provide personal identification when required, the person would bear the burden of correcting the omission by providing the necessary identification (or a copy) either at the polling place before the polls close or at the office of the appropriate municipal election

official before 4 p.m. on the day following the election. A provisional ballot cast by such an individual would not be counted unless the appropriate municipal election official was notified that the individual provided the required personal identification within these time constraints.

Where an individual voted by provisional ballot due to a failure to present personal identification when required and subsequently returned to the polling place with the necessary identification before the polls close, the election inspectors would be required to: (1) remove the individual's provisional ballot from the separate carrier envelope containing provisional ballots; (2) note on the poll list that the individual's provisional ballot is withdrawn; and (3) deposit the individual's ballot in the ballot box. If the appropriate municipal election official had previously been notified that the individual had cast a provisional ballot, the election inspectors would have to notify the official that the individual's provisional ballot was withdrawn.

Instructions prescribed by the State Elections Board and posted at all polling places on election day would be required to include instructions to voters with respect to these new voter identification requirements.

### **Voting by New Residents for the Offices of President and Vice-President**

**Current Law.** If an individual is otherwise qualified to vote except that he or she has been a resident of the state for less than 10 days prior to the date of the presidential election, the person may still vote for the offices of President and Vice President, but no other offices. Any such individual may apply for a presidential ballot not sooner than nine days nor later than 5 p.m. on the day before the election, or may apply for a presidential ballot at the proper polling place in the ward or election district in which the elector resides on election day. An individual voting in this manner must complete an affidavit swearing that the person: (1) is a U.S. citizen; (2) is at least 18 years of age; (3) has resided in the state for less than ten days; (4) is qualified to vote for the offices of President and Vice President; and (5) will not vote at any other place during the election. The affidavit must also indicate the person's prior residence as well as current Wisconsin residence. The individual must also complete a cancellation card stating the intention to vote for the offices of President and Vice President in Wisconsin and canceling voting privileges at the person's previous residence. The municipal clerk must immediately forward the cancellation card to the proper election official at the applicant's prior residence.

A municipal clerk must require an individual seeking to vote under this provision to provide acceptable proof of residence or have his or her residence corroborated by another elector of the municipality.

**AB 63/SB 42.** The bills would repeal the current law provisions that a new state resident applying in person for a presidential ballot from the municipal clerk prior to election day or at the polling place on election day provide acceptable proof of residence, as outlined above. The bills would also repeal the current law provision authorizing a new state resident to provide acceptable proof of residence through the corroboration of another elector residing in the municipality. The

bills would not alter the current requirements governing the information the new resident must provide in his or her sworn affidavit as a part of the application for a presidential ballot.

Any new resident applying in person for a presidential ballot from the municipal clerk prior to election day or at the polling place on election day would generally be required to present: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. The municipal clerk or election inspector would have to verify both that the name on the provided identification was the same as the name on the individual's application and that any photograph appearing on the document reasonably resembled the individual. Where an individual had received a citation from a law enforcement officer in any jurisdiction that was dated within 60 days of the date of an election and the individual was required to surrender his or her DOT issued driver's license due to the citation, the individual would be authorized to present an original copy of the citation in lieu of the driver's license for identification purposes.

### **General Absentee Voting Provisions**

**Current Law.** Any registered voter in Wisconsin who is otherwise eligible may vote by absentee ballot if the elector is unable or unwilling for any reason to appear at the polling place in his or her ward. A municipal clerk generally may not issue an absentee ballot to an elector unless the clerk first receives a written application for the ballot. An individual who changes residence within Wisconsin by moving to a different ward or municipality later than 10 days before an election may vote by absentee ballot in the ward or municipality where the person was qualified to vote before moving.

Subject to a possible \$1,000 fine and six months imprisonment, an individual voting absentee must certify all of the following: (1) the elector's current Wisconsin residence; (2) that the elector is entitled to vote in the municipality for the upcoming election; (3) that the elector will not vote at any other place during the election; (4) that the elector is unable or unwilling to appear at the polling place on election day or has changed residence within the state from one ward or election district to another within 10 days of the election; (5) that the elector exhibited to a required witness that the enclosed ballot was received unmarked; and (6) that the elector marked the ballot in the presence only of the witness and sealed the ballot in the provided envelope such that no one but the elector (or legally authorized assistant) could know how the individual voted.

The elector voting absentee must generally make the above certification and sign it before a witness. (As spelled out below, for absentee voting in nursing homes and related types of facilities, the required certification may be made before more than one witness.) The elector must mark the ballot in the presence of the witness in such a manner as to preserve the confidentiality of the voter's choice. In the presence of the same witness, the absentee voter must fold the ballot without showing the ballot markings and place the ballot in the proper envelope. Where an elector voting absentee is unable to read, has difficulty in reading, writing or understanding English or cannot mark the ballot due to a disability, the person may select someone (other than the voter's employer,

employer's agent, or an officer or agent of a labor organization that represents the voter) to assist in marking the ballot. The person providing the assistance must then sign a certification on the back of the ballot.

If the individual has registered by mail and has not previously voted in an election for national office in Wisconsin, the elector voting absentee must enclose identification in the envelope. For this type of absentee voter, identification means either: (1) a copy of a current and valid piece of identification containing a photograph of the individual; or (2) a copy of a utility bill, bank statement, paycheck, or a check or other document issued by a unit of government that shows the current name and address of the individual. Identification is not required if an individual is a military or overseas voter.

The return envelope must then be sealed and witnessed by a person who may not be a candidate. The envelope must then be mailed by the elector or delivered in person to the municipal clerk issuing the ballot.

While the polls are open on election day, the election inspectors in the ward or election district where the elector has voted absentee must open the carrier envelope containing the sealed ballots and announce the name or confidential domestic abuse identification serial number of the absentee voter. The inspectors must note on the poll list by the elector's name that the person has cast an absentee ballot, provided the inspectors find that the: (1) absentee ballot certification has been properly executed; (2) individual is a qualified elector of the ward or election district; and (3) elector has not voted in the election. The inspectors must open the envelope containing the ballot (without destroying the certification), remove the ballot, and verify that it has been endorsed by the issuing clerk. Where the poll list indicates that identification is required and none is enclosed, or the name or address on the identification documents provided do not match those on the poll list, the absentee ballot must be treated as a provisional ballot. Otherwise, the inspectors must then deposit the ballot into the proper ballot box and enter the absentee voter's name or voting number on the poll list.

**AB 63/SB 42.** If an individual applies for an absentee ballot in person at the municipal clerk's office, the clerk would generally not be permitted to issue the individual an absentee ballot unless the individual presented: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. (Victim of domestic abuse with a confidential listing would be authorized to present a voting identification card in lieu of providing the required identification.) However, where an individual had received a citation from a law enforcement officer in any jurisdiction that was dated within 60 days of the date of an election and the individual was required to surrender his or her DOT issued driver's license due to the citation, the individual would be authorized to present an original copy of the citation in lieu of the driver's license for identification purposes. The Elections Board would be required to include in its uniform instructions for absentee voters information on these new procedures for receiving an absentee ballot when applying in person.

For an individual failing to provide personal identification when required, the person would bear the burden of correcting the omission by providing the necessary identification (or a copy) either at the polling place before the polls close or at the office of the appropriate municipal election official before 4 p.m. on the day following the election. A provisional ballot cast by such an individual would not be counted unless the appropriate municipal election official was notified that the individual provided the required personal identification within these time constraints.

Where an individual voted by provisional ballot due to a failure to present personal identification when required and subsequently returned to the polling place with the necessary identification before the polls close, the election inspectors would be required to: (1) remove the individual's provisional ballot from the separate carrier envelope containing provisional ballots; (2) note on the poll list that the individual's provisional ballot is withdrawn; and (3) deposit the individual's ballot in the ballot box. If the appropriate municipal election official had previously been notified that the individual had cast a provisional ballot, the election inspectors would have to notify the official that the individual's provisional ballot was withdrawn.

Under the bills, an elector voting absentee would generally be required to enclose a copy of his or her DOT driver's license, DOT identification card, or U.S. uniformed service identification card in the absentee ballot envelope provided. However, the bills would create the following exceptions to this requirement:

*Military and Overseas Electors.* This requirement would not apply to military or overseas electors. For purposes of this exception, a "military elector" would mean: (1) an active duty member of a uniformed service who is absent from his or her voting residence because of that active duty; (2) a member of the merchant marine who is otherwise qualified to vote and is away from his or her voting residence; or (3) the spouse or dependent of any of the preceding who, by reason of the duty or service of the member, is absent from the residence where the spouse or dependent is otherwise qualified to vote. An "overseas elector" would mean an individual who resides outside the United States and who is qualified under federal law to vote in elections for national office in Wisconsin because the individual was last domiciled in Wisconsin immediately prior to the individual's departure from the United States.

*Absentee Ballot Received by Mail in Previous Election.* This requirement would not apply to a subsequent request by mail for an absentee ballot where an individual had received by mail an absentee ballot for a previous election, had provided a copy of a required license or identification with that previous ballot, and had not since changed his or her name or address.

*Citation Resulting in the Suspension of a DOT Driver's License.* If an individual had received a citation dated within 60 days of the election from a law enforcement officer in any jurisdiction and was required to surrender his or her operator's license at that time to the law enforcement officer, the individual would be authorized to enclose a copy of the citation in lieu of a DOT driver's license when voting by mail. The original copy of the citation could be presented where the individual was voting in person at the office of the municipal clerk.

*Victims of Domestic Abuse.* This requirement would not apply to a victim of domestic abuse with a confidential listing prescribed under s. 6.47 of the statutes.

When processing absentee ballots on election day, election inspectors would be required to treat absentee ballots that otherwise qualify to be counted, as provisional ballots if the absentee voter did not provide a copy of his or her DOT driver's license or identification card or a copy of his or her U.S. uniformed service identification card when required. The election inspectors would also be required to treat the absentee ballot as a provisional ballot if they could not verify the name on the copy submitted by the absentee voter. The election inspectors would be required to indicate on the poll list the fact that the individual was required to provide a copy of acceptable personal identification but did not do so.

### **Absentee Voting By Those Indefinitely Confined**

**Current Law.** Where an individual is indefinitely confined due to age, physical illness or infirmity or is disabled for an indefinite period, the person may sign a statement to that effect and require that an absentee ballot be sent automatically to the individual for every election. A municipality must provide an application form and instructions for this purpose upon the request of any indefinitely confined individual. An individual who ceases to be indefinitely confined must notify the municipal clerk to that effect.

**AB 63/SB 42.** In lieu of providing a DOT driver's license or identification card or U.S. uniformed service identification card, an indefinitely confined individual receiving absentee ballots automatically would be authorized to submit with his or her absentee ballot a statement signed by the same individual who witnessed voting of the ballot. The statement would have to contain the name and address of the absentee voter and verify that such information is correct.

### **Absentee Voting By Hospitalized Individuals**

**Current Law.** A registered voter who is hospitalized may apply for and obtain an official ballot through an agent. The agent may apply for and obtain a ballot for the hospitalized individual by presenting a form prescribed by the Elections Board: (1) containing the required information supplied by the hospitalized individual; (2) signed by the hospitalized individual; (3) signed by another resident of the hospitalized individual's municipality corroborating the information provided on the form; and (4) including the corroborating individual's full name and address.

A hospitalized individual who is not registered to vote, may register through the agent at the same time that the individual applies for a ballot. To register the hospitalized individual, the agent must present a completed registration form with the required information supplied by the hospitalized individual and that person's signature. If the individual is unable to sign due to a physical disability, the individual may authorize another elector to sign on his or her behalf, in which case the person signing must attest that the application is made and authorized by the named

hospitalized individual, who is unable to sign the form due to physical disability. The agent must present this statement, all other required information, and acceptable proof of the hospitalized individual's residence. Acceptable proof may include corroboration by another elector of the hospitalized individual's municipality. A person providing such corroboration must also provide his or her full name and address. An agent must also present acceptable proof of any corroborating elector's residence.

**AB 63/SB 42.** Prior to obtaining an official ballot through an agent, a hospitalized registered voter would generally be required to present through the agent: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. The municipal clerk would be required to make a copy of the document presented by the agent and enclose the copy in the absentee ballot envelope. (Victims of domestic abuse with a confidential listing would be authorized to present a voting identification card through the agent in lieu of providing the required identification.) Where an individual had received a citation from a law enforcement officer in any jurisdiction that was dated within 60 days of the date of an election and the individual was required to surrender his or her DOT issued driver's license due to the citation, the hospitalized individual would be authorized to present an original copy of the citation through an agent in lieu of the driver's license for identification purposes. The bills would also repeal the current law provision that permits a hospitalized individual to establish his or her residence through the corroboration of another elector residing in the municipality.

### **Absentee Voting By Those in Nursing Homes and Related Facilities**

**Current Law.** For the purpose of absentee voting in nursing homes, qualified retirement homes, and qualified community-based residential facilities, the appropriate election official in each municipality in which such a facility is located must appoint at least two special voting deputies. Prior to 5 p.m. on the Friday preceding the election, these deputies must arrange one or more convenient times for absentee voting with the administrator of each facility from which one or more applications for absentee voting has been filed. The time arranged cannot be earlier than the fourth Monday before the election nor later than 5 p.m. on the Monday before the election.

Upon request of a relative of an occupant of such a facility, the facility administrator may notify the relative of the time or times when the special voting deputies will conduct absentee voting at the facility and permit the relative to be in the room where the voting is conducted. At the designated time, the two special voting deputies must visit the facility with a supply of absentee ballots sufficient for the number of valid applications received (as well as a reasonable additional number of ballots). The municipal election official must accurately account for all ballots issued and require the deputies to return every ballot issued to them. The special voting deputies must offer each individual who has applied to vote absentee the opportunity to cast an absentee ballot. If an individual is present at the facility who has not filed a proper application for voting absentee, the special voting deputies may also accept an application from any such individual at the facility who

wishes to vote, if the deputies determine that the individual is qualified and the application is proper.

The special voting deputies must each witness the individual's completion of the certification required to vote absentee and may, upon the request of the individual, assist in marking the individual's ballot. An individual may request a relative present in the room to assist the individual in marking the ballot. All voting must be conducted in the presence of the deputies. No person other than a deputy may witness the certification, and no person other than a deputy or relative of an individual may render voting assistance to the individual.

Following the voting, the deputies must promptly deliver or mail all absentee ballot applications and the sealed envelopes containing each ballot to the appropriate municipal election official so that the materials may be delivered to the appropriate polling place on election day.

If an individual is not able to cast a ballot during the visits of the special voting deputies to the facility, the deputies must inform the appropriate municipal election official who may then send the ballot to the individual no later than 5 p.m. on the Friday preceding the election.

**AB 63/SB 42.** Special voting deputies would generally be prohibited from providing an absentee ballot to an individual in a nursing home or related facility unless the person presented: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued by a U.S. uniformed service; or (3) a valid identification card issued by DOT. The deputies would be required to make a copy of any such document and enclose the copy in the certificate envelope. (Victims of domestic abuse with a confidential listing would be authorized to present a voting identification card in lieu of providing the required identification.) Where an individual had received a citation from a law enforcement officer in any jurisdiction that was dated within 60 days of the date of an election and the individual was required to surrender his or her DOT issued driver's license due to the citation, the individual would be authorized to present an original copy of the citation in lieu of the driver's license for identification purposes.

#### **Voter Identification: Law Enforcement Citation in Lieu of Surrendered Driver's License**

**Current Law.** No provision.

**AB 63/SB 42.** The bills would specify that where an individual receives a citation from a law enforcement officer in any jurisdiction, the citation requires the surrender of the individual's DOT issued driver's license, and the citation is dated within 60 days of an election, the individual would be authorized to present an original copy of the citation in lieu of the driver's license for voter identification purposes. An individual would be authorized to make this substitution when: (1) making application for a presidential ballot when the person had resided in Wisconsin for less than 10 days before the presidential election; (2) receiving an absentee ballot in person or by an agent from a municipal clerk; (3) voting absentee (in which case a copy of the citation could be

submitted); (4) certifying to prior voter registration on election day; (5) registering to vote on election day; and (6) voting at the polling place on election day.

The bills would provide that if an individual voted at a polling place by presenting a citation instead of a DOT-issued driver's license, the election inspectors would first be required to write on the back of the ballot before giving it to the voter, the individual serial number assigned to the ballot and the notation "s. 6.965" [of the statutes]. Where voting machines were being used, the bills stipulate that the individual's vote could only be received as an absentee ballot furnished by the municipal clerk. The notation "s. 6.965" would have to be written on the back of the ballot by inspectors before the it could be given to the elector. Where a municipal clerk received an absentee ballot from an individual who presented a citation (or a copy), the clerk would be required to note on the certificate envelope "ballot under s. 6.965, stats." The election inspectors would then be required to open and write on the back of the submitted absentee ballot the individual's serial number assigned to the ballot and the notation "s. 6.965." A notation would also have to be entered in the poll list indicating the fact that the individual had voted by using a citation rather than a DOT-issued driver's license.

### **Department of Transportation Identification Cards**

**Current Law.** Any resident of Wisconsin who does not possess a valid driver's license may apply to DOT for an identification card. Among other things, the DOT-issued identification card includes the person's full name, date of birth, residence address, photograph, and facsimile signature. A \$9 fee is assessed for both the issuance and renewal of the card. Cards are valid for four years from the applicant's next birthday after the date of issuance of the card.

**AB 63/SB 42.** DOT would be required to issue and renew an identification card, without charge, upon the request of an applicant. Further, the bills would authorize DOT to issue an identification card *without* a photograph of the applicant, if the individual: (1) requested that an identification card be provided without charge; (2) provided DOT with an affidavit stating that the individual had a sincerely held religious belief against being photographed; (3) identified the religion to which the individual belonged or the tenets to which the individual adhered; and (4) stated that the tenets of the religion prohibit the individual from being photographed.

### **Effective Date and Initial Applicability**

The bills would take effect the later of January 1, 2006, or the day after publication. The personal identification requirements of the bills would first apply with respect to the 2006 spring primary election.

### **Summary of Personal Identification and Residence Corroboration Provisions**

The attachment summarizes the personal identification requirements under AB 63/SB 42 applicable to different voter groups with respect to registering to vote, voting absentee, and voting

on election day. The attachment also identifies changes to current law relating to the ability of certain individuals to establish residence by the corroboration of another municipal elector.

## **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 (AA 1) would make the following clarifying changes to AB 63:

First, the current law penalty for falsely corroborating another individual's residency information would be deleted in light of the fact that the provisions of AB 63 would delete the ability of one individual to corroborate the residency information of another individual.

Second, AA 1 would clarify that where a new resident applied in person at the office of a municipal clerk for a presidential ballot and presented required personal identification that did not constitute acceptable proof of residence, the individual would also be required to present acceptable proof of residence.

Third, AA 1 would clarify that individuals involved in late pre-election voter registrations would not be permitted to utilize corroboration by another municipal elector to establish proof of residence.

Finally, AA 1 would make minor technical and correcting changes to the bill draft.

A similar clarifying amendment would be required to make comparable technical and correcting changes to SB 42.

## **FISCAL EFFECT**

**Department of Transportation.** The fiscal effect of AB 63/SB 42 includes an increase in costs incurred by DOT's Division of Motor Vehicles, both on a one-time and ongoing basis, and an ongoing reduction in transportation fund revenue. The ongoing increase in costs and revenue reduction are related to the provision in the bills that would require DOT to issue identification cards at no fee if the card applicant requests to have a free card. An additional one-time cost would be associated with the provision that requires DOT to issue an identification card with no photograph for certain persons for religious reasons. The magnitude of the ongoing effects depends on: (1) the number of identification card applicants who request a card at no charge who would otherwise pay the fee (revenue loss); and (2) the number of people who apply for a card who would otherwise not do so (increased cost). In both cases, developing estimates involves some amount of speculation since there are no data that would allow these amounts to be precisely estimated. The estimate of the one-time costs are based on the cost to modify the Department's identification card issuance system.

DOT's fiscal note on the bills assumes that 80% of the applicants for new or renewal identification cards will request a free card. Based on new and renewal identification card data from 2004, DOT estimates, therefore, that 97,266 card applicants would be issued a free card each year, which would result in an annual, estimated transportation fund revenue loss of \$875,400 (97,266 x \$9 identification card issuance fee). As noted, the 80% assumption is somewhat speculative. The Department notes that if a significant number of identification card applicants who pay the \$9 fee for a card complain later that they were unaware that they could receive a card at no charge, the Department may adopt a policy of issuing all cards at no charge. In this case, the annual revenue loss associated with the bills would increase to \$1,094,200.

In addition to the people who would have applied for an original or renewal card even without the bills' provisions, DOT assumes that a certain number of people would apply for the card solely to become eligible to vote or because of the fee waiver, thereby increasing DOT's card issuance costs. Using 2000 census data and current driver's license and identification card data, DOT estimates that there are 122,797 Wisconsin residents who are age 18 or older and who do not currently have an identification card or a driver's license. The Department's fiscal estimate assumes that 20% of these people, or 24,560, would apply for a free identification card. It is estimated that the increase in workload associated with the issuance of additional cards would require the equivalent of 3.0 FTE positions at an approximate cost of \$130,200. In addition, the cost of printing the additional cards, which DOT pays on a per-card basis to a private vendor, is estimated at \$26,000, raising the total ongoing cost to \$156,200 per year.

In addition to the ongoing costs associated with the bills, DOT indicates that the provision that requires the issuance of an identification card without a photograph to certain persons for religious reasons would require the Department's issuance system to be modified to include a field that indicates whether or not an identification card has a photograph. The total one-time cost of this modification is estimated at \$58,800. Of this amount, \$12,000 is the amount that would be paid to the private vendor that provides the card issuance equipment for modifications to that equipment and \$46,800 would be for data processing to modify the Department's database to "recognize" the validity of cards without a photo. The estimate of data processing costs is based on an estimate of the amount of time that would be required to make the change, the current daily charge levied by DOA for use of the state's mainframe computing system, and the typical daily rate paid to contract for programmers to do the work.

The Department's fiscal estimate expresses the estimated additional costs and revenue reductions on an annualized basis. However, since the bills would not become effective until six months into the 2005-06 fiscal year, the actual transportation fund revenue loss in that year can be expected to be approximately half of the annualized amount, or \$437,700. Similarly, there may be reason to believe that the full, annualized cost associated with issuing identification cards to persons who would not otherwise apply for one will not be borne in 2005-06. The first statewide elections that would be affected by the bills' provisions would be in the spring of 2006. However, given that the statewide primary and general elections of 2006 (in September and November of that year, which fall in fiscal year 2006-07) are likely to have higher participation rates, it may be reasonable

to assume that only a portion of the estimated additional workload will occur in 2005-06. If, for instance, just one-quarter of the estimated number of people who would apply for an identification card solely due to the bills' provisions do so prior to July 1, 2006, then the additional, cost in 2005-06 would be \$39,100. When added to the one-time costs, the total costs in that year under these assumptions would be \$97,900.

It should be noted that DOT's fiscal estimate assumes that the demand for identification cards among people who would not otherwise obtain one will continue at a constant level in subsequent years. However, it would seem likely that a portion of the demand for identification cards among people who are inclined to vote but who do not have a form of photo identification will fall after these people obtain an identification card in response to the bills' requirements. In the second and subsequent years, therefore, the additional costs would be less, since only people who newly enter this category (such as elderly people who decide to stop driving and let their driver's license expire in that year due to age or people who have their license revoked in that year) would be inclined to get an identification card. However, the higher costs associated with the first group of identification card applicants (or some portion of the higher costs) would recur after four years when this group's cards must be renewed.

Given the effective date of the bills' provisions and the likelihood that the demand for new cards will decline after the 2006 general elections, it may be reasonable to assume that the Department's additional costs associated with the issuance of new cards in the 2005-07 biennium will equal the Department's estimate of annual costs for this purpose. That is, instead of the Department incurring costs of \$156,200 in each year of the biennium, this amount will be incurred over both years. Under the assumptions outlined above, the Department's costs for issuing additional identification cards, not including the one-time costs of \$58,800 associated with data processing modifications, would be \$39,100 in 2005-06 and \$117,100 in 2006-07.

AB 63/SB 42 do not provide additional funding to cover the Department's additional costs, so these costs would have to be absorbed within the SEG appropriation for the Division of Motor Vehicles.

**Elections Board.** According to Elections Board staff, the agency and local election officials would incur costs under AB 63/SB 42 for: (1) poll worker training; (2) voter education; and (3) notice and form revision. These costs would be incurred to provide the necessary education and training to election officials and the public regarding the new personal identification requirements and other changes under the bills. The Elections Board's estimate of costs includes: (1) \$50,000 GPR for a voter education initiative before the fall 2006 elections; (2) \$23,700 GPR for a statewide election official training initiative; (3) \$5,000 GPR for information and training materials; and (4) \$3,500 GPR for revising, printing and distributing notices and forms. AB 63/SB 42 do not provide additional funding to the Board for these costs.

However, it is possible that the federal funding received by the state under the Help America Vote Act (HAVA) could be utilized by the Elections Board to address these costs. To the

extent that HAVA funds could be employed for these purposes, the Board could have to begin the federal process for making changes to the current State Election Administration Plan.

Prepared by: Paul Onsager and Jon Dyck  
Attachment

## ATTACHMENT

### Summary of Major Personal Identification and Residency Corroboration Provisions Under AB 63/SB 42

Election Event	Treatment of Special Voter Groups	All Other Voters
Voter Registration -- No Later than the 2 <sup>nd</sup> Wednesday Preceding the Election (In Person or by Mail)	<b>No change to current law.</b> Current law provides that new residents voting only for the offices of President and Vice President, military electors, and certain former residents are not required to register to vote.	<b>No change to current law.</b> Current law provides that personal identification is not required to register to vote, and proof of residence need not be provided. An individual must sign a registration form providing information as to: (1) name; (2) date; (3) residence location; (4) citizenship; (5) date of birth; (6) age; (7) the number of a valid DOT driver's license issued to the individual or the last four digits of the individual's social security number; (8) whether the individual has resided within the ward or election district for at least 10 days; (9) whether the individual has lost his or her right to vote; and (10) whether the individual is currently registered to vote at any other location.
Late Pre-Election Voter Registration in Person		<b>No change to current law.</b> Current law does not require an individual to provide personal identification in order to register to vote in person. Late registrations in person may not be accepted later than 5 p.m. or the close of business (whichever is later) on the day before an election at the office of the municipal clerk. Late registrants must provide acceptable proof of residence or have their residence corroborated by another resident of the municipality. [Note that AA 1 to AB 63 would delete this corroboration provision.]
Late Pre-Election Voter Registration by Mail		<b>No change to current law.</b> Current law does not require an individual to provide personal identification in order to register to vote by mail. Proof of residence is also not required. Registration applications received by mail after the 2nd Wednesday preceding the election may be accepted for placement on the registration list, if the municipal clerk determines that the registration list can be revised to incorporate the registration in time for the election.
Voting by New Residents for the Offices of President and Vice President		Require the individual to present: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. Under certain circumstances, an individual would be permitted to present an original copy of a citation in lieu of a surrendered driver's license issued by DOT. Delete the requirement that such an individual provide proof of residence, either documentary or

Election Event	Treatment of Special Voter Groups	All Other Voters
		by corroboration. Such individuals, however, would still be required to swear to their Wisconsin residence as a part of the application for an official presidential ballot. [Note that AA 1 to AB 63 would provide that if the required personal identification did not constitute acceptable proof of residence, the individual would also be required to present acceptable proof of residence.]
Receiving an Absentee Ballot in Person or By Agent	A victim of domestic abuse with a confidential listing would be permitted to present his or her identification card in lieu of providing the required personal identification.	Require the individual to present: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. Hospitalized individuals applying for an absentee ballot by agent would also be required to present personal identification through their agents. Hospitalized individuals would no longer be able to establish residence through the corroboration of another individual residing in the municipality. Special voting deputies would be prohibited from providing absentee ballots to individuals in nursing homes, qualified retirement homes, and qualified community-based residential facilities unless the individuals presented the required personal identification. Under certain circumstances, these individuals would be permitted to present an original copy of a citation in lieu of a surrendered driver's license issued by DOT.
Receiving an Absentee Ballot By Mail		<b>No change to current law.</b>
Voting Absentee	Military and overseas electors would not be required to provide a copy of personal identification with their absentee ballots. A victim of domestic abuse with a confidential listing would be permitted to present his or her identification card in lieu of providing the required copy of personal identification. Individuals indefinitely confined because of age, physical illness or infirmity could submit in lieu of personal identification a statement signed by the same individual who witnessed voting of the absentee ballot, containing the name and address of the absentee voter and verifying that the name and address of the absentee voter are correct.	Require the individual to provide with his or her absentee ballot a copy of his or her: (1) DOT driver's license; (2) DOT identification card; or (3) U.S. uniformed service identification card. Under certain circumstances, an individual would be permitted to present an original copy of a citation (or a copy thereof) in lieu of a surrendered driver's license issued by DOT. If an individual had received an absentee ballot from the municipal clerk by mail for a previous election, had provided a copy of the required personal identification with that ballot, and had not changed his or her name or address since providing that identification, the individual would not be required to provide a copy of required personal identification with a subsequent completed absentee ballot.

<b>Election Event</b>	<b>Treatment of Special Voter Groups</b>	<b>All Other Voters</b>
Certifying to Prior Voter Registration on Election Day		Require the individual to present: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. Under certain circumstances, an individual would be permitted to present an original copy of a citation in lieu of a surrendered driver's license issued by DOT. If the document did not represent acceptable proof of residence, the individual would also have to provide acceptable proof of residence. Such individuals would no longer be able to establish residence through the corroboration of another individual residing in the municipality.
Election Day Voter Registration		Require the individual to present: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. Under certain circumstances, an individual would be permitted to present an original copy of a citation in lieu of a surrendered driver's license issued by DOT. If the document did not represent acceptable proof of residence, the individual would also have to provide acceptable proof of residence. Such individuals would no longer be able to establish residence through the corroboration of another individual residing in the municipality.
Voting at the Polling Place	A victim of domestic abuse with a confidential listing would be permitted to present his or her identification card in lieu of providing the required personal identification.	Require the individual to present: (1) a valid driver's license issued by DOT; (2) a valid, current identification card issued to the individual by a U.S. uniformed service; or (3) a valid identification card issued by DOT. Under certain circumstances, an individual would be permitted to present an original copy of a citation in lieu of a surrendered driver's license issued by DOT. Individuals would no longer be able to establish residence through the corroboration of another individual residing in the municipality.