

Wisconsin Voter Eligibility Requirements



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Wisconsin Voter Eligibility Requirements

In April, 1986, Wisconsin voters amended Article III to the Wisconsin Constitution. Article III creates a right for Wisconsin residents to vote provided that the eligibility requirements of Article III are satisfied. On June 9, 2011, 2011 Assembly Bill 7 related to requiring photo identification in order to vote, and making other election administration changes, was published as 2011 Act 23.

In March and July of 2012, two Dane County Circuit Courts in separate actions granted permanent injunctions against the enforcement of the photo identification requirement of Act 23. The courts found the photo identification requirement to violate Article III of the Wisconsin Constitution. Both decisions were appealed by the Attorney General to the Court of Appeals. One of the decisions was reversed on appeal, and both cases went before the state Supreme Court. In July, 2014, the state Supreme Court issued a decision in each case to uphold the photo identification provisions of Act 23, and vacated the remaining state circuit court injunction. In one of the cases, the decision to uphold the law was made by ordering changes to the interpretation and administration of state Department of Transportation (DOT) administrative rules. The majority opinion explains that the decision "employs a saving construction of § Trans 102.15(3)(b), conforms to Act 23's mandate and relieves a severe burden on the right to vote that would otherwise exist." The court expressed concern regarding fees charged by governmental agencies for documents, such as birth certificates, that are required to receive a state-issued identification card for the purpose of voting. Specifically, Act 23 changed state law to prohibit DOT from charging a fee to an applicant for the initial issuance or reinstatement of an identification card if the applicant requests the free card for the purpose of voting, but did not

address fees charged for secondary documents needed to obtain an identification card. The Supreme Court decision addressed such secondary documents and required DOT to use its discretion in issuing identification cards for the purpose of voting "in a constitutionally sufficient manner" in granting an exception to an individual who does not possess identifying documents that would require payment of a fee to obtain, and who submits a petition to be granted an exception. Therefore, with respect to state law, the Court ruled that with this change regarding administrative rules, the photo identification provisions of Act 23 may be enforced.

In addition to the litigation in state court, two legal challenges to the provisions of Act 23 were filed in federal court. On April 29, 2014, a federal judge considered the cases jointly and issued a permanent injunction against the enforcement of the photo identification provisions of Act 23. On May 12, 2014, the state Attorney General appealed the decision to the U.S. 7th Circuit Court of Appeals. On September 12, 2014, the federal appeals court issued an order which stayed the remaining injunction against enforcement of photo identification requirements. This decision would have allowed the photo identification requirements to become enforceable. However, the plaintiffs in the cases then requested relief from the U.S. Supreme Court. On October 9, 2014, the U.S. Supreme Court issued an order vacating the September 12, 2014, stay of the permanent federal injunction. Therefore, the photo identification provisions of 2011 Act 23 may not be enforced until further action by the Supreme Court. As of this writing, the U.S. Supreme Court has not yet made a decision with regard to hearing the federal cases.

This informational paper discusses the eligi-

bility requirements to vote under Wisconsin law as affected by the passage of 2011 Act 23, in particular the photo identification requirement. This paper summarizes the photo identification requirement as adopted under Act 23, although, as has been noted above, as of this writing the state is permanently enjoined from implementing or enforcing this provision pursuant to a federal court order. The state may not enforce the photo identification provisions of Act 23 until the federal injunction is lifted. Finally, this paper provides information regarding the resources provided to the Government Accountability Board (GAB) under 2011 Act 32 (the 2011-13 biennial budget) to implement the provisions of Act 23.

Right to Vote Under the Wisconsin Constitution

In April, 1986, Wisconsin voters approved amending Article III to the Wisconsin Constitution. Article III, Sections 1 through 3 provide as follows:

"Electors. Section 1. Every United States citizen age 18 or older who is a resident of an election district in this state is a qualified elector of that district.

Implementation. Section 2. Laws may be enacted:

1. Defining residency.
2. Providing for registration of electors.
3. Providing for absentee voting.
4. Excluding from the right of suffrage persons:
 - a. Convicted of a felony, unless restored to civil rights.

b. Adjudged by a court to be incompetent or partially incompetent, unless the judgment specifies that the person is capable of understanding the objective of the elective process or the judgment is set aside.

5. Subject to ratification by the people at a general election, extending the right of suffrage to additional classes.

Secret Ballot. Section 3. All votes shall be by secret ballot."

Article III creates a right for Wisconsin residents to vote provided that the individual: (a) is a U.S. citizen; (b) is age 18 or older; (c) is a resident of a Wisconsin election district as residency is defined under implementing legislation; and (d) is not denied the right to vote on the grounds of a felony conviction or incompetency or partial incompetency as determined by a court.

Article III also provides that the Legislature may adopt laws implementing the right to vote under Article III by: (a) defining residency; (b) providing for registration of electors; (c) providing for absentee voting; (d) denying convicted felons and individuals adjudged to be incompetent or partially incompetent the right to vote; and (e) extending the right to vote to additional classes of individuals, subject to statewide ratification at a general election. [This summary of Article III does not address any inherent authority of the Legislature to regulate elections that Wisconsin courts have found or may find the Legislature possesses under other provisions of the Wisconsin Constitution.]

General Voter Eligibility Requirements

Under Wisconsin statute, an individual is generally eligible to vote in Wisconsin (is an "eligible elector") if he or she:

1. is a U.S. citizen;
2. is 18 years of age or older; and
3. has resided in the election district or ward in which he or she desires to cast his or her ballot for 28 days before the election.

The provisions of 2011 Act 23 changed the residency requirement to vote from 10 days before any election to 28 consecutive days before any election. An otherwise eligible elector who moves within or to Wisconsin later than 28 days before an election must generally vote in his or her previous election district or ward. If an elector qualifies under the 28 consecutive day prior to an election residence requirement at the new address, the individual may vote at the new election district or ward if the other voter eligibility requirements are satisfied. If a person is otherwise qualified to vote in Wisconsin except for meeting the 28 consecutive day residency requirement prior to a presidential election, the individual may vote for the offices of President and Vice President, but no other office.

Under Wisconsin statute, an individual may not vote in Wisconsin if the person: (a) is incapable of understanding the objectives of the election process; (b) is under guardianship pursuant to the order of a court (unless the court has determined that the individual is competent to exercise the right to vote); (c) 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 (d) has made or become interested, directly or indirectly, in any bet or wager depending upon the result of the election. No person may be denied the right to vote on grounds that the individual is incapable of understanding the objectives of the election process unless the person has been adjudicated incompetent in Wisconsin.

Under Wisconsin law "military elector" means any of the following (including spouses

and dependents who reside with or accompany the following): (a) members of a uniformed service; (b) members of the U.S. merchant marine; (c) civilian employees of the U.S. and civilians officially attached to a uniformed service who are serving outside the U.S.; and (d) Peace corps volunteers. A military elector generally retains the right to vote in the ward or election district in which he or she last resided before becoming a military elector.

Further, an "overseas elector" may vote in any election for national office, but may not vote in an election for state or local office. An overseas elector must vote in the ward or election district in which the elector was last domiciled or in which the elector's parent was last domiciled prior to departure from the United States. An "overseas elector" is an individual who: (a) is a U.S. citizen who is not disqualified from voting under Wisconsin law; (b) is at least 18 years old; (c) does not qualify as a Wisconsin resident under state election laws; (d) was last domiciled in Wisconsin, or whose parent was last domiciled in Wisconsin immediately prior to the parent's departure from the United States; and (e) is not registered to vote or voting in any other state, territory or possession.

General Voter Registration

An 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. Municipal clerks must collect on a registration form the following standardized information from each applicant for registration: (a) name; (b) date; (c) current residence location; (d) immediate prior residence location; (e) citizenship; (f) date of birth; (g) age; (h) 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; (i) whether the individual has resided within the ward or election district for at least 28 consecutive days before the election; (j) whether the individual is disqualified from voting as a result of a felony conviction or for any other reason; and (k) whether the individual is currently registered to vote at any other location.

The registration form must also include: (a) the applicant's signature; (b) a space for the election official to sign affirming that he or she accepted the form; (c) 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; (d) a space for the municipal clerk to record the type of identifying document submitted as proof of residence, the name of the entity or institution that issued the document, and a specified number of digits of any identifying number associated with the document for the individual; (e) a space for the municipal clerk to record whether the form was received by mail; and (f) a space for the municipal clerk to record the identifying serial number on voting identification cards that are issued to victims of domestic abuse, sexual assault, or stalking in order to preserve their confidential voter listings.

Registration in person for any election closes at 5 p.m. on the third 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 third Wednesday preceding the election.

Proof of Residence

Under 2011 Act 23, an individual must have

resided for 28 consecutive days before an election in a Wisconsin election district or ward in order to be eligible to vote in that election district or ward for state or local election. Prior to Act 23, the residency requirement was 10 days before an election.

As a part of establishing residency, a new resident to the election district or ward is required to provide proof of residency when registering to vote. The election official must record the type of document submitted as proof of residence, the name of the entity or institution that issued the document, and a specified number of digits of any identifying number associated with the document for the individual.

Acceptable proof of residence includes: (a) a driver's license issued by DOT; (b) a DOT identification card; (c) any other official identification card or license issued by a Wisconsin governmental entity; (d) any other official identification card or license issued by an employer in the normal course of business (other than a business card) that contains a photograph of the cardholder or license holder; (e) a bank statement; (f) a paycheck; (g) a check or other document issued by a unit of government; (h) a real estate bill or receipt for the current or preceding year; (i) a current residential lease; or (j) a utility bill covering service for not earlier than 90 days before registration. Any such document must include a current and complete name and residential address to be deemed an acceptable proof of residence.

Prior to Act 23, a university, college, or technical college fee or identification card that contained a photograph of the cardholder was acceptable proof of residence if it included a current and complete name and residential address. Alternatively, if the university, college, or technical college fee or identification card did not include both the current and complete name and residential address of the student, the fee or identification card would nonetheless be considered

proof of residence if the university, college, or technical college that issued the card provided a certified and current list of students who resided in its housing to the municipal clerk prior to the election showing the current address of the students and if an election official verified that the student presenting the card was on the list.

Under Act 23, a university, college, or technical college identification card that contains a photograph of the cardholder represents acceptable proof of residency if accompanied by a fee payment receipt issued to the cardholder by the university, college, or technical college dated no earlier than nine months before the date of election at which the receipt is presented.

Under Act 23, for university, college, or technical college students who live in university, college, or technical college housing, the requirement for a fee payment receipt can be avoided if the university, college, or technical college that issued the card provides a certified and current list of students in its housing who are U.S. citizens to the municipal clerk prior to the election showing the current address of the students provided the election official verifies that the student presenting the card is on the list. In order to satisfy the proof of residency requirement under this latter alternative, the student would still need to present an identification card issued by the university, college, or technical college that contained a photograph of the cardholder.

When an individual registers to vote, he or she must attest to U.S. citizenship. A false attestation of U.S. citizenship, or falsification of any other information, when registering to vote is punishable under Wisconsin law as a Class I felony. In addition, Act 23 requires that a university, college, or technical college independently verify the U.S. citizenship of students on the list that it would forward to election officials. The statutes do not specify how a university, college, or technical college must verify citizenship. [A

Class I felony is punishable by a fine not to exceed \$10,000; imprisonment not to exceed three years and six months (confinement in prison not to exceed one year and six months, and extended supervision not to exceed two years); or both.]

Prior to Act 23, if an individual could not provide one of the acceptable forms of proof of residence identified above, an individual could still satisfy the proof of residency requirement by having his or her residence corroborated in a certified statement signed by another elector of the municipality, which contained the current street address of the corroborating elector. If residence was corroborated in this manner, the corroborating elector was required to provide acceptable proof of residence as outlined above. Act 23 eliminated this alternative procedure for an individual to establish residency.

Proof of Identification

Generally. The provisions of 2011 Act 23 created a proof of identification requirement for electors voting at the polling place or by absentee ballot (subject to some limited exceptions). As noted previously, as of this writing a federal injunction against the enforcement of the photo identification requirement of Act 23 is in effect.

Act 23 provides that the following documents issued to an individual are "identification" for purposes of proving identification in order to be permitted to vote:

1. a driver's license issued by DOT (either unexpired or expired after the date of the most recent general election);
2. an unexpired driving receipt issued by DOT;

3. an identification card issued by DOT (either unexpired or expired after the date of the most recent general election);

4. an unexpired identification card receipt issued by DOT;

5. an identification card issued by a U.S. uniformed service (either unexpired or expired after the date of the most recent general election);

6. a U.S. passport (either unexpired or expired after the date of the most recent general election);

7. a certificate of U.S. naturalization that was issued not earlier than two years before the date of an election at which it is presented;

8. an identification card issued by a federally recognized Indian tribe in Wisconsin; and

9. an unexpired identification card issued by an accredited university or college in Wisconsin that contains the date of issuance and signature of the individual to whom it is issued containing an expiration date which is no later than two years after the date of issuance if the student establishes that he or she is enrolled at the university or college on the date that the card is presented.

Act 23 provides varying acceptance for expired forms of identification. There is no explicit limit provided for in the statutes as to how long any identification card issued by a federally recognized Indian tribe in this state may be accepted for purposes of proof of identification. Expired driver's licenses and identification cards issued by DOT, as well as identification cards from a U.S. uniformed service and U.S. passports may continue to be utilized for purposes of proof of identification if the document expired after the date of the most recent general election (and until the next general election takes place). An expired university or college identification card may never be utilized for purposes of proof of identifica-

tion. While a certificate of naturalization does not expire, the statute only permits it to be utilized as proof of identification if it was issued not earlier than two years before the date of an election at which it is presented.

"Proof of identification" in order to be permitted to vote means "identification" (as explained above) that includes the name of the individual to whom the document was issued, which name conforms to the individual's voter registration form, if the individual is required to register to vote, and that contains a photograph of the individual (unless a DOT driver's license or identification card is issued without a photograph due to a sincerely held religious belief against being photographed).

Exceptions to Proof of Identification Requirement. Act 23 created the following exceptions to the general requirement that electors must present proof of identification in order to vote:

1. A military elector is not required to provide a copy of proof of identification when voting absentee.

2. An overseas elector is likewise not required to provide a copy of proof of identification when voting absentee.

3. A victim of domestic abuse, sexual assault, or stalking with a confidential listing may present his or her confidential identification card, or give his or her name and confidential identification serial number, in lieu of presenting proof of identification.

4. If an absentee elector has received an absentee ballot from the municipal clerk by mail for a previous election, provided proof of identification with that ballot, and since then has not changed his or her name or address, the elector is not required to again provide proof of identifica-

tion for subsequent absentee ballots (unless his or her name or address changes).

5. In lieu of providing proof of identification, an elector who has applied for and qualified to receive absentee ballots automatically and who is indefinitely confined because of age, physical illness, or infirmity, or is disabled for an indefinite period may submit with the absentee ballot a statement signed by the same individual who witnessed voting of the ballot which contains the name and address of the elector and verifies that the name and address are correct.

6. An absentee elector who resides in a nursing home, qualified retirement home, community-based residential facility, residential care apartment complex, or adult family home to which special voting deputies are sent by the municipality may, in lieu of providing a copy of proof of identification, submit with the absentee ballot a statement signed by both special voting deputies that contains the name and address of the elector and verifies that the name and address are correct.

7. An absentee elector who resides in a qualified retirement home, community-based residential facility, residential care apartment complex, or adult family home to which special voting deputies are not sent by the municipality may, in lieu of providing a copy of proof of identification, submit with the absentee ballot a statement signed by the same individual who witnessed voting of the ballot (that also contains the required certification of an authorized representative of the residence) that contains the name and address of the elector, and verifies that the name and address are correct.

8. An elector who receives a citation or notice of intent to revoke or suspend a DOT driver's license from a law enforcement officer in any jurisdiction that is dated within 60 days of the date of an election, and is required to surrender the driver's license or driving receipt at the time

the citation or notice is issued, may enclose a copy of the citation or notice if voting by mail, or may present an original copy of the citation or notice in lieu of the driver's license or driving receipt if voting in person.

Department of Transportation Identification Cards

The Department of Transportation generally charges \$18 for the issuance, renewal, or reinstatement of an identification card. In addition, DOT charges a \$10 fee for the issuance of an original identification card or duplicate identification card or for the renewal or reinstatement of an identification card. Under Act 23, DOT may not assess these fees to an applicant for the initial issuance or reinstatement of an identification card if the applicant: (a) is a U.S. citizen; (b) will be at least 18 years of age on the date of the next election; and (c) requests that the identification card be provided without charge for purposes of voting.

An identification card may be issued to an applicant without a photograph being taken of the applicant if the individual provides to DOT an affidavit: (a) stating that the individual has a sincerely held religious belief against being photographed; (b) identifying the religion to which he or she belongs or the tenets of which he or she adheres to; and (c) stating that the tenets of the religion prohibit him or her from being photographed.

While Act 23 waives the fees associated with the issuance, renewal, or reinstatement of an identification card if the individual requests that it be provided without charge for purposes of voting, such an individual must still satisfy the other requirements for issuance of a DOT identification card. In order to receive a Wisconsin identification card from DOT, an applicant must present documentation for the following: (a) proof of

identity; (b) proof of name and date of birth; (c) proof of Wisconsin residency; and (d) proof of U.S. citizenship (or legal presence in the United States, although only U.S. citizens are eligible to vote). Pursuant to the July, 2014, state Supreme Court decision, if an applicant does not have required documentation for which the applicant would be charged a fee by a governmental agency, DOT must use its administrative discretion to provide a method by which the applicant can verify the required information without paying a fee.

Any of the following documents may serve as proof of identity: (a) a previously-issued driver's license with a photograph or photo identification card issued by Wisconsin or another state (which may be expired, but not more than eight years prior to the date of application); (b) military discharge papers; (c) U.S. Government and Military Dependent identification card; (d) certified copy of a marriage certificate or judgment of divorce; (e) a social security card; (f) a form of valid photo identification issued by any U.S. university, college, or technical college; (g) any document permitted under proof of name and date of birth, if it bears a photograph; (h) an Internal Revenue Service (IRS) Wage and Tax Statement (Form W-2), if it includes the applicant's name, address, and social security number; (i) an IRS 1099 form (for social security benefits, dividends, interest, or other miscellaneous income); (j) a paystub with the applicant's name and social security number; (k) a valid U.S. passport or passport card; or (l) a Transportation Worker Identification Credential card (issued by the U.S. Department of Homeland Security's Transportation Security Administration).

Any of the following documents may serve as proof of name and date of birth: (a) certified birth certificate issued by Wisconsin or another state; (b) a current U.S. passport; (c) a U.S. certificate of naturalization or citizenship; (d) a U.S. Armed Forces identification card; or (e) a copy of a court order with a court seal related to adoption or di-

voiced or name or gender change that contains the person's full legal name, date of birth, and the person's prior name. [Other documents, such as alien registration or refugee card are also accepted, although these documents are not valid for persons who are eligible to vote.]

Any of the following documents may serve as proof of Wisconsin residency: (a) a pay check, stub, or earning statement with the employer's name and address issued within the past 90 days; (b) a utility bill for water, gas, electricity, or land-line telephone service; (c) a cellular phone bill issued in the past 90 days; (d) an account statement from a bank or financial institution issued in the past 90 days; (e) a deed or title, mortgage, rental or lease agreement for a Wisconsin property; (f) a homeowner's, renter's, or vehicle insurance policy dated within one year of application; (g) any government-issued correspondence or product issued within the past year; (h) Department of Corrections documentation issued within the past 90 days; (i) certified school record or transcript issued within the past 90 days; (j) college enrollment documentation; (k) a photo identification card issued by a Wisconsin accredited university, college, or technical college that includes the person's address, date of issuance, and expiration date no later than two years after the date of issuance; (l) an employee photo identification card issued by a current employer, containing the employer's name and address; or (m) homeless shelter documentation.

For proof of U.S. citizenship or legal presence, the person must present a birth certificate issued by a U.S. state or local government, a valid U.S. passport, or a U.S. certification of citizenship or naturalization. [Other documents that are accepted are applicable to noncitizens who are legally present in the United States, although these are not applicable to a person who has voting eligibility.]

Late Pre-Election Voter Registration in Person

Registration in person for any election closes at 5 p.m. on the third 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 third Wednesday preceding the election.

Late registrations in person (after the third Wednesday preceding the election) are accepted at the office of the municipal clerk up to the later of 5 p.m. or the close of business on the Friday before an election. All registrants, including late pre-election registrants, must provide acceptable proof of residence.

Election Day Voter Registration

An individual may register to vote at the polling place on election day. In addition to the information normally required to be provided in any voter registration form, the individual registering on election day must certify that he or she: (a) is a qualified elector; (b) has resided in the ward or election district for at least 28 consecutive days immediately prior to the election; and (c) has not previously voted at the election. In addition, the individual must provide acceptable proof of residence, which must be documented by the election official with regard to the type of document, issuing entity or institution, and a specified number of digits of any identifying number associated with the document for the individual. Any falsification of information in the registration form is subject to punishment as a Class I felony. [A Class I felony is punishable by a fine not to exceed \$10,000; imprisonment not to exceed three years and six months (confinement in prison not to exceed one year and six months, and extended supervision not to exceed two years); or both.]

Voting at the Polling Place

Under Act 23, for all persons registered to vote in Wisconsin, an individual must state his or her full name and address and present proof of identification before receiving a ballot. Election officials must verify that the stated name and address conforms to those on the poll list. Election officials must also verify that the name on the proof of identification conforms to the name on the poll list and must verify that the photograph on the proof of identification reasonably resembles the elector. Election officials must then require the elector to sign the poll list unless a physical disability precludes the elector from signing.

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, sexual assault, or stalking 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 and presenting proof of identification. If the individual's name and identification serial number appear on the confidential portion of the poll list, election officials must issue a ballot to the individual. Voters with confidential listings must generally still sign the poll list.

Under Act 23, if proof of identification is not provided by the elector, if the name appearing on the presented document does not conform to the name on the poll list, or if any photograph appearing on the document does not reasonably resemble the elector, the elector may cast a provisional ballot. A provisional ballot will be counted

if the elector provides the required proof of identification at the polling place before the closing hour, or at the office of the municipal clerk or board of election commissioners no later than 4 p.m. on the Friday after the election.

If the poll list indicates that proof of residence is required, election officials must require the individual to provide proof of residence. [This may arise, for example, if an elector has registered to vote by mail but has not yet voted in any election in Wisconsin.] If proof of residence is provided, the officials must verify that the name and address on the provided proof of residence is the same as the name and address shown on the registration list. If proof of residence is required and not provided, the officials must offer the opportunity for the individual to vote provisionally. The provisional ballot will be counted if residence is subsequently established no later than 4 p.m. on the Friday after the election.

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

If an individual is otherwise qualified to vote except that he or she has been a resident of the state for less than 28 consecutive 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. Such an individual may apply for a presidential ballot not sooner than 27 days before, 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: (a) is a U.S. citizen; (b) is at least 18 years of age; (c) has resided in the state for less than 28 consecutive days; (d) is qualified to vote for the offices of President and Vice-President; and (e) 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.

Under Act 23, when making application for an absentee ballot in person at the office of the municipal clerk, the individual must also present proof of identification and proof of residency. However, as noted previously, a federal injunction remains in effect barring the state from enforcing the photo identification requirements of Act 23.

General Absentee Voting Provisions

General Provisions. 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 or election district. A municipal clerk generally may not issue an absentee ballot to an elector unless the clerk first receives a written application for the ballot.

Any elector may make written application to the municipal clerk for an absentee ballot by fax or email. The fax or email need not contain a copy of the applicant's original signature. When the elector returns the completed absentee ballot, the elector must include a copy of the original request for an absentee ballot with an original signature of the elector. Under Act 23, the elector must also generally include a copy of his or her proof of identification.

Under Act 23, if a qualified elector applies for an absentee ballot in person at the clerk's office, the clerk generally may not issue the elector an absentee ballot unless the elector presents proof of identification. An individual who changes residence within Wisconsin by moving to a different ward or municipality later than 28 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 for falsification of information, an individual voting absentee must certify all of the following: (a) the elector's current Wisconsin residence; (b) that the elector is entitled to vote in the ward or election district for the upcoming election; (c) that the elector will not vote at any other place during the election; (d) 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 later than 28 days before the election; (e) that the elector exhibited to a required witness that the enclosed ballot was received unmarked; and (f) 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 one witness who is an adult U.S. citizen. (As indicated 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 in Wisconsin, the elector voting absentee must enclose proof of residence in the envelope. Proof of residence is not required if an individual is a military or overseas voter.

The return envelope must then be sealed and witnessed by a person other than a candidate. The envelope must then be mailed by the elector or delivered in person to the municipal clerk issuing the ballot.

Except for municipalities with a board of absentee ballot canvassers, 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: (a) absentee ballot certification has been properly executed; (b) individual is a qualified elector of the ward or election district; and (c) individual 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. The inspectors must then deposit the ballot into the proper ballot box and enter the absentee voter's name or voting number after his or her name on the poll list as if the individual had been present and voted in person. Where the poll list indicates that proof of residence is required and none is enclosed, or the name or address on the provided proof of residence documents do not match those on the poll

list, the absentee ballot must be treated as a provisional ballot. The provisional ballot will be counted if residence is subsequently established no later than 4 p.m. on the Friday after the election.

Identification. Under Act 23, the elector must generally include with his or her absentee ballot application a copy of his or her proof of identification unless an exception discussed under the "Proof of Identification" section applies. The municipal clerk must verify that the name on the proof of identification conforms to the name on the application. The municipal clerk may not issue an absentee ballot to an elector who is required to enclose a copy of proof of identification or an authorized substitute document with the absentee ballot application unless the copy is enclosed and the proof is verified by the clerk.

Also under Act 23, if a qualified elector applies for an absentee ballot in person at the municipal clerk's office, the clerk may not issue the elector an absentee ballot unless the elector presents proof of identification. The clerk must verify that the name on the proof of identification presented by the elector conforms to the name on the elector's application and must further verify that any photograph appearing on the document reasonably resembles the elector. The municipal clerk must then enter his or her initials on the certificate envelope indicating that the absentee elector presented proof of identification to the clerk. However, as noted previously, a federal injunction remains in effect prohibiting the state from enforcing the photo identification requirements of Act 23.

Absentee Voting by Those Indefinitely Confined

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.

Registration and Absentee Voting by Hospitalized Individuals

A registered voter who is hospitalized may apply for and obtain an official ballot through an agent (someone who can represent an individual's interests). The agent may apply for and obtain a ballot for the hospitalized individual by presenting a form prescribed by the Government Accountability Board containing the required information supplied by the hospitalized individual and signed by the hospitalized individual. 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 on behalf of and authorized by the named hospitalized individual, who is unable to sign the form due to physical disability. The agent must present this statement along with all other required information. Under Act 23, the agent must also present any required proof of identification.

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 on

behalf of 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.

Absentee Voting by Individuals in Nursing Homes and Related Facilities

For the purpose of absentee voting in nursing homes, qualified retirement homes, community-based residential facilities, residential care apartment complexes, and adult family homes, the municipal clerk or board of election commissioners in which such a facility is located must appoint at least two special voting deputies for the municipality. 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, and which has at least five registered voters of the municipality who are occupants of the facility. 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, 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 number of additional 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 personally offer each individual who has applied to vote absentee the opportunity to cast an absentee ballot. Under Act 23, in lieu of providing a copy of proof of identification with the absentee ballot, the elector may submit with the ballot a statement signed by both special voting deputies that contains the name and address of the elector and verifies that the name and address are correct. The deputies must enclose this statement or a copy of any provided proof of identification in the certificate envelope. 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: (a) the individual is qualified to vote; (b) the application is proper; and (c) proof of identification is provided in the manner required for absentee voters generally, or through the alternative method identified above. However, as noted previously, a federal permanent injunction against the enforcement of the photo identification requirement of Act 23 remains in effect at this time.

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 certificate 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 two separate 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.

Residents of such facilities who wish to instead vote in person or vote absentee, from an address outside the facility, may do so under procedures established for voters in general.

Public Information and Outreach

Act 23 provides that eligible electors voting absentee prior to the 2012 spring primary would not be required to provide proof of identification. The act further provides that election officials would be required to request proof of identification from eligible electors voting in a polling place prior to the 2012 spring primary, but if the eligible elector did not possess the required proof of identification the elector's ballot would nonetheless be counted without providing proof of identification and without the requirement to cast his or her ballot provisionally. For any such eligible elector voting without required proof of identification in a polling place prior to the spring 2012 primary, the election official would be required to provide the eligible elector with written information prescribed by the Government Accountability Board (GAB) briefly describing the photo identification requirement and informing the eligible elector that he or she will be required to comply with the new requirement at future elections beginning with the 2012 spring primary unless an exemption applies.

Act 23 further provides that, "In conjunction with the first regularly scheduled primary and election at which the voter identification requirements of this act initially apply, the government accountability board shall conduct a

public informational campaign for the purpose of informing prospective voters of the voter identification requirements of this act."

Finally, Act 23 directs GAB on an ongoing basis to engage in outreach to: (a) identify and contact groups of electors who may need assistance in obtaining or renewing a document that constitutes proof of identification for voting; and (b) provide assistance to electors in obtaining or renewing a document that constitutes proof of identification for voting.

Resources to Implement 2011 Act 23

The 2011-13 biennial budget act (2011 Act 32) provided \$1.8 million general purpose revenue (GPR) in 2011-12 in a biennial appropriation, and 5.0 two-year project positions to GAB to implement the provisions of Act 23. In addition, Act 32 deleted the program under GAB which reimbursed municipalities for the additional costs (or any portion of those costs) incurred to adjust polling hours to begin at 7 a.m., at any election held after April 29, 2006, and the associated expenditure authority of \$82,600 annually. Instead, Act 32 provided \$82,600 annually to a new GPR annual voter identification training appropriation for costs incurred by the Board to train county and municipal clerks concerning voter identification requirements under Act 23.

The 2011-13 biennial budget act also provided that no later than July 1, 2011, and prior to making any expenditures for public information and outreach under Act 23, the Board was required to submit to the Co-Chairs of the Joint Committee on Finance, in writing, a plan identifying the specific proposed purposes for the expenditures and the proposed amounts to be expended for each purpose. On July 1, 2011, GAB submitted the required written plan to the Joint Committee on Finance. In addition to providing

Table 1: Budget Summary for Act 23 Implementation

Public Information, Outreach, and Training/Education	
Public Information Multi-Media Campaign	\$436,100
Public Outreach Campaign	150,000
Training/Education/Technical Assistance	<u>165,200</u>
Subtotal	\$751,300
Program Support	
Personnel (Salary and Fringe Benefits)	\$599,300
Staff Travel	30,000
Equipment	10,000
Administrative Expense	<u>59,400</u>
Subtotal	\$698,700
Statewide Voter Registration System (SVRS)	
Modifications for Implementing Photo ID	<u>\$515,200</u>
 Total	 \$1,965,200

information on proposed expenditures for public information and outreach under Act 23, the submitted plan provided information on how the Board would expend the \$1,965,200 provided to the Board, under the 2011-13 budget, to implement Act 23. No objections were raised to the plan and on July 15, 2011, the Joint Committee on Finance approved the plan. Table 1 summarizes the spending plan to implement Act 23 that was approved by the Joint Committee on Finance.

Public Information, Outreach, and Training/Education. Under the approved plan, Board staff would develop the content of the public informational ad campaign that was provided \$436,100 in funding during 2011-13. However, the Board would retain an advertising and public relations firm under one of the existing state contracts to: (a) identify target audiences and demographics; (b) tailor campaign themes to reach these audiences; (c) produce advertisements; (d) develop strategies and budgets for the use of paid media including radio, print, outdoor and online advertising; and (e) oversee media buys and place advertisements. The Board also planned to retain broadcasting services under an existing state contract to schedule non-commercial sus-

taining announcements for television and radio airing. The campaign would consist of television, radio, billboards, transit, online and print ads. The Board estimated that the program could generate over 70 million impressions or viewings by the public. Finally, the Board indicated that in addition to utilizing paid media, the Board would seek to make extensive use of free media, such as public service announcements, news releases, news conferences, and interviews with the media.

Under the plan, \$150,000 was also approved over a two-year period for expenditure for public outreach to identify and contact groups of electors who may need assistance in obtaining or renewing a document that constitutes proof of identification for voting, and providing assistance to electors in obtaining or renewing that document. Board staff indicated that, in order to comply with this provision, it would work with local community groups and social service programs to reach out to various groups of people to provide this assistance. As with the public informational campaign, Board staff would be responsible for developing the content of the outreach campaign.

Again, the Board would utilize one of the existing state contracts for advertising and public relations services to obtain assistance in developing and deploying the outreach campaign. The firm would be responsible for such things as: (a) developing a short video explaining how to obtain or renew the required identification for voting; (b) developing a PowerPoint presentation that could be customized for different target audiences; (c) creating banners to be used at events; (d) creating posters; and (e) creating brochures and other printed materials for distribution to community resource centers, senior citizen housing and retirement facilities, colleges, churches, physician offices, grocery stores, restaurants, libraries, and government buildings. The Board indicated that the likely targets of the outreach campaign would include the elderly, rural and urban populations, individuals with disabilities, minority groups, and college students.

Finally, Board staff noted that the funding for training, education, and technical assistance (\$165,200) would complement the public information and outreach efforts to inform the public of the requirements under Act 23. These latter training and educational efforts would primarily target local election officials and be conducted by Board staff.

Statewide Voter Registration System. Under the plan approved by the Joint Committee on Finance, the Board may utilize \$515,200 during 2011-13 to modify the statewide voter registration system (SVRS) to account for law changes under 2011 Act 23. Under the federal Help America Vote Act of 2002 (HAVA), each state must have in place a uniform, centralized, and interactive computerized statewide voter registration list system at the state level by January 1, 2004. The SVRS required by HAVA must: (a) contain the name and registration information of every legally registered voter in the state; (b) assign a unique identifier to each legally registered voter; (c) serve as the statewide single system for storing and managing the official list of registered voters; (d) permit any state or local election official in the state to obtain immediate electronic access to the information or list; (e) permit all voter registration information obtained by a local election official to be electronically entered into the database on an expedited basis at the time the information is provided to the local official; (f) be coordinated with other state agency databases to verify the accuracy of the information provided on applications for voter registration; and (g) provide adequate technological security measures to prevent unauthorized access to the computerized list.

The federal HAVA Act requires that the list be continuously maintained to ensure that: (a) the name of each registered voter appears on the computerized list; (b) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and (c) duplicate names are eliminated from the computerized

list. The state is required to ensure that its voter registration records are accurate and updated regularly, including: (a) a system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters; and (b) safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. The federal act requires that the SVRS verify the accuracy of the information provided by voter registration applicants.

Under Act 23, the following electors are exempt from providing proof of identification: (a) absentee voters voting by mail, if the absentee voter received an absentee ballot by mail for a previous election, provided a copy of proof of identification with that ballot, and has not changed his or her name or address since providing that proof of identification; (b) a military elector voting by absentee ballot; (c) an overseas elector voting by absentee ballot; (d) an elector with a confidential listing as a result of domestic abuse, sexual assault, or stalking; (e) electors presenting a copy of a citation or notice of intent to revoke or suspend a DOT driver's license or license receipt dated within 60 days of an election; (f) an absentee elector who is indefinitely confined because of age, physical illness, or infirmity, or who is disabled for an indefinite period, and who has applied for and qualified to receive absentee ballots automatically; and (g) an absentee elector who resides in a nursing home, qualified retirement home, community-based residential facility, residential care apartment, complex, or adult family home. Under the approved plan, the SVRS would be modified so that the voter list and absentee ballot log printouts used on election day indicate if the elector is required to provide proof of identification. This permits election officials to identify electors to whom the proof of identification requirement does not apply.

In addition, the following changes were planned for the SVRS: (a) a new "ID Required"

field would be added to the SVRS; (b) a number of SVRS reports would be updated; (c) the Voter Public Access website associated with the SVRS would be modified to display the "Proof of Residence Required" and "Statutory ID Required" fields; (d) the SVRS would be modified to reflect that an elector may no longer establish residency through a corroborating witness; and (e) the SVRS would be modified to reflect new voting procedures for certain electors in a nursing home, qualified retirement home, community-based residential facility, residential care apartment complex, or adult family home. In February and March, 2012, the SVRS was updated to track the requirements of Act 23.

Expenditures to Implement Act 23. In accordance with the approved plan to implement Act 23, the Board expended \$631,900 in 2011-12 and \$89,600 in 2012-13 for a total of \$721,500 for the biennium. The photo identification requirement was in effect only for the February, 2012, spring primary election, prior to the March

and July, 2012, Dane County Circuit Court decisions. The photo identification requirement was also in effect for a period of several weeks preceding the November, 2014, general election, from September 12, 2014, to October 9, 2014. During this period, the Board used base resources to carry out its duties, including a limited informational campaign. In addition, the Board expended \$3,900 in 2013-14 for fringe benefits and training of clerks. Expenditures for implementation of Act 23 are shown in Table 2.

2011-13 and 2013-15 Funding Changes. The provisions of 2011 Act 32 required the Secretary of Administration to lapse \$174.3 million during each of the 2011-13 and 2013-15 biennia from the unencumbered balances of general purpose revenue and program revenue appropriations of executive branch state agencies, other than sum sufficient and federal appropriations. Act 32 defined executive branch state agency as any office, department, or independent agency in the executive branch of state government. Before lapsing

Table 2: Expenditures to Implement 2011 Act 23

	2011--12 and 2012-13 Budget	Actual 2011-12 Expenditures	Actual 2012-13 Expenditures	Actual 2013-14 Expenditures	Total
<i>Public Information, Outreach, and Training/Education</i>					
Public Information Multi-Media Campaign	\$436,100	\$181,041	\$0	\$0	\$181,041
Public Outreach Campaign	150,000	121,256	0	0	121,256
Training/Education/Technical Assistance	<u>165,200</u>	<u>82,600</u>	<u>19,349</u>	<u>2,583</u>	<u>104,532</u>
	\$751,300	\$384,896	\$19,349	\$2,583	\$406,828
<i>Program Support</i>					
Personnel (Salary and Fringe Benefits)*	\$599,300	\$52,455	\$65,536	\$1,336	\$119,327
Staff Travel	30,000	0	1,039	0	1,039
Equipment	10,000	9,001	0	0	9,001
Administrative Expense	<u>59,400</u>	<u>46,870</u>	<u>3,623</u>	<u>0</u>	<u>50,493</u>
Subtotal	\$698,700	\$108,326	\$70,198	\$1,336	\$179,860
<i>Statewide Voter Registration System</i>					
Modifications for Implementing Photo ID	<u>\$515,200</u>	<u>\$138,677</u>	<u>\$101</u>	<u>\$0</u>	<u>\$138,778</u>
Total	\$1,965,200	\$631,899	\$89,648	\$3,919	\$725,466

*2013-14 personnel expenditures are due to a delayed payment for fringe benefit expenses incurred in 2012-13.

any moneys under this provision, the Secretary was required to develop a plan and submit the plan to the Joint Committee on Finance for approval under a 14-day passive review process.

Under this approved lapse plan for 2011-12, a lapse of \$227,335 was made from the Board's GPR biennial general program operations appropriation. The lapse included \$178,549 associated with delaying filling 5.0 two-year project positions that were created to implement the new voter identification requirements under Act 23 and \$48,786 in supplies and services funding provided for voter identification training and outreach.

Under the lapse plan for 2012-13, a lapse of \$58,838 was allocated to the Board's general program operations appropriation, associated with delaying filling the aforementioned 5.0 two-year project positions.

Of the \$1,965,200 provided to GAB in 2011-13 to implement Act 23, \$1.8 million was one-time funding. While the Board was directed on a one-time basis to conduct a public informational campaign to inform voters of the photo identi-

cation requirement, Act 23 creates ongoing responsibilities for GAB to engage in outreach to: (a) identify and contact groups of electors who may need assistance in obtaining or renewing a document that constitutes proof of identification for voting; and (b) provide assistance to electors in obtaining or renewing a document that constitutes proof of identification for voting. In addition, the Board has ongoing responsibilities to administer the law changes under Act 23, including modifying and maintaining the statewide voter registration system to account for Act 23 law changes.

Under 2013 Act 20, the 2013-15 biennial budget bill, the 5.0 project positions for implementing 2011 Act 23 were extended for an additional two years. The Act removed \$230,400 GPR annually from the Board's general program operations appropriation, associated with funding for the project positions. Instead, Act 20 provided \$230,400 GPR annually to the Joint Committee on Finance's supplemental appropriation, for potential release if the permanent injunction against the enforcement of Act 23 photo identification provisions is lifted.