

1 **AN ACT** *to amend* 8.10 (3) (intro.), 8.15 (4) (a), 8.20 (3), 8.40 (2) and 9.10 (2) (em)
2 2.; and *to create* 5.02 (16g) of the statutes; **relating to:** qualification of circulators of
3 nomination papers and petitions.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, each nomination paper and petition for an election must be circulated by a qualified elector of the jurisdiction or district in which the paper or petition is circulated. However, in *Frami v. Ponto*, 255 F. Supp. 962 (W.D. Wis. 2003), a federal district court ruled that this residency requirement is unconstitutional and prevented the state from enforcing the statutory requirement.

This draft provides that a circulator of a nomination paper or petition must be a U.S. citizen age 18 or over who, if he or she were a resident of the state, would not be disqualified from voting because he or she is incompetent, a felon whose right to vote has not been restored, or involved in a wager or bet depending upon the result of the election.

This draft contains an effective date of January 1, 2006.

4 **SECTION 1.** 5.02 (16g) of the statutes is created to read:

5 5.02 (16g) "Qualified circulator" means any U.S. citizen age 18 or older who, if he or
6 she were a resident of this state, would not be disqualified from voting under s. 6.03.

7 **SECTION 2.** 8.10 (3) (intro.) of the statutes is amended to read:

8 8.10 (3) (intro.) The certification of a qualified elector circulator under s. 8.15 (4) (a)
9 shall be appended to each nomination paper. The number of required signatures on
10 nomination papers filed under this section is as follows:

11 **SECTION 3.** 8.15 (4) (a) of the statutes is amended to read:

1 8.15 (4) (a) The certification of a qualified elector circulator stating his or her residence
2 with street and number, if any, shall appear at the bottom of each nomination paper, stating
3 he or she personally circulated the nomination paper and personally obtained each of the
4 signatures; he or she knows they are electors of the ward, aldermanic district, municipality or
5 county, as the nomination papers require; he or she knows they signed the paper with full
6 knowledge of its content; he or she knows their respective residences given; he or she knows
7 each signer signed on the date stated opposite his or her name; and, that he or she, the
8 circulator, ~~resides within the district which the candidate named therein will represent, if~~
9 ~~elected~~ is a qualified circulator; that he or she intends to support the candidate; and that he or
10 she is aware that falsifying the certification is punishable under s. 12.13 (3) (a), Wis. stats.
11 The circulator shall indicate the date that he or she makes the certification next to his or her
12 signature. The certification may be made by the candidate or any qualified elector circulator.

13 **SECTION 4.** 8.20 (3) of the statutes is amended to read:

14 8.20 (3) The certification of ~~an elector~~ a qualified circulator under s. 8.15 (4) (a) shall
15 be appended to each nomination paper.

16 **SECTION 5.** 8.40 (2) of the statutes is amended to read:

17 8.40 (2) The certification of a qualified elector circulator stating his or her residence
18 with street and number, if any, shall appear at the bottom of each separate sheet of each petition
19 specified in sub. (1), stating that he or she personally circulated the petition and personally
20 obtained each of the signatures; that the circulator knows that they are electors of the
21 jurisdiction or district in which the petition is circulated; that the circulator knows that they
22 signed the paper with full knowledge of its content; that the circulator knows their respective
23 residences given; that the circulator knows that each signer signed on the date stated opposite
24 his or her name; that the circulator ~~resides within the jurisdiction or district in which the~~

1 ~~petition is circulated~~ is a qualified circulator; and that the circulator is aware that falsifying
2 the certification is punishable under s. 12.13 (3) (a). The circulator shall indicate the date that
3 he or she makes the certification next to his or her signature.

4 **SECTION 6.** 9.10 (2) (em) 2. of the statutes is amended to read:

5 9.10 (2) (em) 2. ~~The residency of the circulator cannot be determined by the information~~
6 ~~given on the petition~~ is not a qualified circulator.

7 **SECTION 7. Initial applicability.** (1) The treatment of sections 5.02 (16g), 8.10 (3)
8 (intro.), 8.15 (4) (a), 8.20 (3), 8.40 (2), and 9.10 (2) (am) 2., first applies with respect to
9 nomination paper circulation periods that begin and petitions that are initially circulated on
10 the effective date of this subsection.

11 **SECTION 8. Effective date.** This act takes effect on January 1, 2006.

12 (END)