

1 **AN ACT** *to repeal* 5.02 (6m); and *to amend* 5.35 (6) (a), 6.36 (2) (a), 6.36 (2) (c) 2.,
2 6.55 (7) (c), 6.79 (2) (d), 6.82 (1) (a), 6.86 (3) (c), 6.87 (4), 6.88 (3) (a), 6.97 (1) and
3 (2), 7.08 (8) (title) and 10.02 (3) (a) of the statutes; **relating to:** proof of residence
4 required of certain voters and those registering to vote at the polls.

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, pursuant to requirements of the federal help America vote act of 2002 (HAVA), a person who registers to vote by mail and who has never voted in a federal election in his or her municipality (until December 31, 2005) or in the state (effective January 1, 2006) must present certain identification before being allowed to cast a ballot. A person who fails to do so may cast a provisional ballot and provide the identification later. The identification required under current law is: (1) a current and valid piece of identification containing a photograph of the person; 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 person.

Also, under current law, a person who registers to vote at the polls on election day must show proof of residence. A document constitutes acceptable proof of residence if it includes the person's current and complete name and a current and complete residential address. The statutes provide a list of examples of documents that constitute acceptable proof of residence if they contain the person's name and address. The statutory list, which is not exhaustive, is set forth below:

1. An operator's license issued under ch. 343 (i.e., a Wisconsin driver's license).
2. An identification card issued under s. 343.50 (i.e., a Wisconsin ID card).

3. Any other official identification card or license issued by a Wisconsin governmental body or unit or by an employer in the normal course of business, but not including a business card.
4. A credit card or plate.
5. A library card.
6. A check-cashing or courtesy card issued by a merchant in the normal course of business.
7. A real estate tax bill or receipt for the current year or the year preceding the date of the election.
8. A residential lease which is effective for a period that includes election day.
9. A university, college, or technical institute fee card.
10. A university, college, or technical institute identification card.
11. An airplane pilot's license.
12. A gas, electric, or telephone service statement for the period commencing not earlier than 90 days before election day.

This draft establishes one uniform list of documents that may be used as proof of residence by both first-time voters who register by mail and persons who register to vote at the polls on election day if the documents bear the current name and address of the person. The list created by the draft is as follows:

1. A current and valid Wisconsin driver's license.
2. A current and valid Wisconsin ID card.
3. Any other official identification card or license issued by a Wisconsin governmental body or unit or by an employer in the normal course of business, but not including a business card.
4. A real estate tax bill or receipt for the current year or the year preceding the date of the election.
5. A residential lease which is effective for a period that includes election day.
6. A university, college, or technical college fee or identification card.
7. A gas, electric, or telephone service statement for the period commencing not earlier than 90 days before election day.

[8. A bank statement.]

[9. A paycheck.]

[10. A check or other document issued by a unit of government.]

Finally, the draft provides that a university, college, or technical college fee or identification card which does not contain the address of the student bearing the card may still be considered acceptable proof of residence if the university, college, or technical college that issued the card provides to the municipal clerk before the election a current list of students who reside in housing sponsored by the university, college, or technical college showing the current address of the students and if the poll worker verifies that the student presenting the card is included on the list.

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

1 **SECTION 1.** 5.02 (6m) of the statutes is repealed.

NOTE: SECTION 1 repeals the definition of “identification” for purposes of the identification required of first-time voters who register by mail.

2 **SECTION 2.** 5.35 (6) (a) of the statutes is amended to read:

3 4a. Instructions prescribed by the board for electors for whom identification proof of
4 residence under s. 6.55 (7) is required under s. 6.36 (2) (c) 2.

5 **SECTION 3.** 6.36 (2) (a) of the statutes, as affected by 2005 Wisconsin Act Wisconsin
6 Act 265, is amended to read:

7 6.36 (2) (a) Except as provided in pars. (b) and (c), each registration list prepared for
8 use as a poll list at a polling place shall contain the full name and address of each registered
9 elector; a blank column for the entry of the serial number of the electors when they vote; if
10 the list is prepared for use at an election for national office, an indication next to the name of
11 each elector for whom identification proof of residence under s. 6.55 (7) is required under par.
12 (c) 2.; and a form of a certificate stating that the list is a true and complete registration list of
13 the municipality or the ward or wards for which the list is prepared.

14 **SECTION 4.** 6.36 (2) (c) 2. of the statutes is amended to read:

1 6.36 (2) (c) 2. If the registration list is prepared for use at an election for national office,
2 the list shall contain, next to the name of each elector, an indication of whether ~~identification~~
3 proof of residence under s. 6.55 (7) is required for the elector to be permitted to vote.
4 ~~Identification~~ Proof of residence under s. 6.55 (7) is required if the elector is not a military
5 elector or an overseas elector and the elector registers by mail and has not previously voted
6 in an election for national office in this state.

7 **SECTION 5.** 6.55 (7) (c) of the statutes is amended to read:

8 6.55 (7) (c) Identifying documents which constitute acceptable proof of residence under
9 this section, when they contain the information specified in par. (a), ~~include~~ shall be limited
10 to the following:

- 11 1. ~~An~~ A current and valid operator's license issued under ch. 343.
- 12 2. ~~An~~ A current and valid identification card issued under s. 343.50.
- 13 3. Any other official identification card or license issued by a Wisconsin governmental
14 body or unit or by an employer in the normal course of business, but not including a business
15 card.
- 16 4. ~~A credit card or plate.~~
- 17 5. ~~A library card.~~
- 18 6. ~~A check-cashing or courtesy card issued by a merchant in the normal course of~~
19 business.
- 20 7. A real estate tax bill or receipt for the current year or the year preceding the date of
21 the election.
- 22 8. A residential lease which is effective for a period that includes election day.
- 23 9. A university, college or technical institute college fee or identification card. A card
24 under this subdivision that does not contain the information specified in par. (a) 2. shall be

1 considered acceptable proof of residence if the university, college, or technical college that
2 issued the card provides a current list of students who reside in housing sponsored by the
3 university, college, or technical college to the municipal clerk prior to the election showing
4 the current address of the students and if the special registration deputy or inspector verifies
5 that the student presenting the card is included on the list.

6 ~~10. A university, college or technical institute identification card.~~

7 ~~11. An airplane pilot's license.~~

8 12. A gas, electric or telephone service statement for the period commencing not earlier
9 than 90 days before election day.

10 [13. A bank statement.]

11 [14. A paycheck.]

12 [15. A check or other document issued by a unit of government.]

NOTE: SECTION 5 creates a new list of documents that constitute acceptable proof of residence so long as the documents contain the person's complete name and address. Documents on the list must be presented by a first-time voter who registers by mail and who has not voted in a federal election in Wisconsin before and by persons registering to vote at the polls on election day.

COMMENT: The list in SECTION 5 presents some alternative forms of identification in brackets that currently apply to first-time voters (the HAVA requirements) that might not be acceptable if the proof of residence list is limited to the non-bracketed items above. Does the committee wish to include the bracketed items? Are there other items that should be included?

Also, current law provides, in s. 6.55 (7) (b), that if an elector's address has changed since an identifying document was issued, the new information may be typed or printed by hand on the document. This draft would not change this provision. Should it?

13 **SECTION 6.** 6.79 (2) (d) of the statutes, as affected by 2005 Wisconsin Act Act 265, is
14 amended to read:

1 6.79 (2) (d) If the poll list indicates that ~~identification~~ proof of residence under s. 6.55
2 (7) is required, the officials shall require the elector to provide ~~identification~~ proof of
3 residence. If ~~identification~~ proof of residence is provided, the officials shall verify that the
4 name and address on the ~~identification~~ proof of residence provided is the same as the name
5 and address shown on the registration list. If ~~identification~~ proof of residence is required and
6 not provided, the officials shall offer the opportunity for the elector to vote under s. 6.97.

7 **SECTION 7.** 6.82 (1) (a) of the statutes is amended to read:

8 6.82 (1) (a) When any inspectors are informed that an elector is at the entrance to the
9 polling place who as a result of disability is unable to enter the polling place, they shall permit
10 the elector to be assisted in marking a ballot by any individual selected by the elector, except
11 the elector's employer or an agent of that employer or an officer or agent of a labor
12 organization which represents the elector. The individual selected by the elector shall provide
13 ~~identification~~ proof of residence under s. 6.55 (7) for the assisted elector, whenever required,
14 and all other information necessary for the elector to obtain a ballot under s. 6.79 (2). The
15 inspectors shall issue a ballot to the individual selected by the elector and shall accompany the
16 individual to the polling place entrance where the assistance is to be given. If the ballot is a
17 paper ballot, the assisting individual shall fold the ballot after the ballot is marked by the
18 assisting individual. The assisting individual shall then immediately take the ballot into the
19 polling place and give the ballot to an inspector. The inspector shall distinctly announce that
20 he or she has "a ballot offered by (stating person's name), an elector who, as a result of
21 disability, is unable to enter the polling place without assistance". The inspector shall then ask,
22 "Does anyone object to the reception of this ballot?" If no objection is made, the inspectors
23 shall record the elector's name under s. 6.79 and deposit the ballot in the ballot box, and shall
24 make a notation on the poll list: "Ballot received at poll entrance".

1 **SECTION 8.** 6.86 (3) (c) of the statutes is amended to read:

2 6.86 (3) (c) An application under par. (a) 1. may be made and a registration form under
3 par. (a) 2. may be filed in person at the office of the municipal clerk not earlier than 7 days
4 before an election and not later than 5 p.m. on the day of the election. A list of hospitalized
5 electors applying for ballots under par. (a) 1. shall be made by the municipal clerk and used
6 to check that the electors vote only once, and by absentee ballot. If ~~identification~~ proof of
7 residence under s. 6.55 (7) is required, the municipal clerk shall so inform the agent and the
8 elector shall enclose ~~identification~~ proof of residence in the envelope with the ballot. The
9 ballot shall be sealed by the elector and returned to the municipal clerk either by mail or by
10 personal delivery of the agent; but if the ballot is returned on the day of the election, the agent
11 shall make personal delivery at the polling place serving the hospitalized elector's residence
12 before the closing hour for the ballot to be counted.

13 **SECTION 9.** 6.87 (4) of the statutes, as affected by 2005 Wisconsin Act Act 265, is
14 amended to read:

15 6.87 (4) Except as otherwise provided in s. 6.875, the elector voting absentee shall make
16 and subscribe to the certification before one witness. The absent elector, in the presence of
17 the witness, shall mark the ballot in a manner that will not disclose how the elector's vote is
18 cast. The elector shall then, still in the presence of the witness, fold the ballots so each is
19 separate and so that the elector conceals the markings thereon and deposit them in the proper
20 envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so
21 that the elector conceals the markings thereon and deposit the ballot in the proper envelope.
22 If the elector has registered by mail and has not, or is not certain whether the elector has,
23 previously voted in an election for national office in this state, the elector shall enclose
24 ~~identification~~ proof of residence under s. 6.55 (7) in the envelope. ~~Identification~~ Proof of

1 residence is required if the elector is not a military elector or an overseas elector, as defined
2 in s. 6.36 (2) (c), and the elector registered by mail and has not voted in an election for national
3 office in the municipality where the elector is voting. The elector may receive assistance under
4 sub. (5). The return envelope shall then be sealed. The witness may not be a candidate. The
5 envelope shall be mailed by the elector, postage prepaid, or delivered in person, to the
6 municipal clerk issuing the ballot or ballots. Failure to return an unused ballot in a primary
7 does not invalidate the ballot on which the elector's votes are cast. Return of more than one
8 marked ballot in a primary or return of a ballot prepared under s. 5.655 or a ballot used with
9 an electronic voting system in a primary which is marked for candidates of more than one party
10 invalidates all votes cast by the elector for candidates in the primary.

11 **SECTION 10.** 6.88 (3) (a) of the statutes is amended to read:

12 6.88 (3) (a) Any time between the opening and closing of the polls on election day, the
13 inspectors shall open the carrier envelope only, and announce the name of the absent elector
14 or the identification serial number of the absent elector if the elector has a confidential listing
15 under s. 6.47 (2). When the inspectors find that the certification has been properly executed,
16 the applicant is a qualified elector of the ward or election district, and the applicant has not
17 voted in the election, they shall enter an indication on the poll list next to the applicant's name
18 indicating an absentee ballot is cast by the elector. They shall then open the envelope
19 containing the ballot in a manner so as not to deface or destroy the certification thereon. The
20 inspectors shall take out the ballot without unfolding it or permitting it to be unfolded or
21 examined. Unless the ballot is cast under s. 6.95, the inspectors shall verify that the ballot has
22 been endorsed by the issuing clerk. If the poll list indicates that ~~identification~~ proof of
23 residence under s. 6.55 (7) is required and no ~~identification~~ proof of residence is enclosed or
24 the name or address on the document that is provided is not the same as the name and address

1 shown on the poll list, the inspectors shall proceed as provided under s. 6.97 (2). The
2 inspectors shall then deposit the ballot into the proper ballot box and enter the absent elector's
3 name or voting number after his or her name on the poll list in the same manner as if the elector
4 had been present and voted in person.

5 **SECTION 11.** 6.97 (1) and (2) of the statutes are amended to read:

6 6.97 (1) Whenever any individual who is required to provide ~~identification~~ proof of
7 residence under s. 6.55 (7) in order to be permitted to vote appears to vote at a polling place
8 and cannot provide the required ~~identification~~ proof of residence, the inspectors shall offer the
9 opportunity for the individual to vote under this section. If the individual wishes to vote, the
10 inspectors shall provide the elector with an envelope marked "Ballot under s. 6.97, stats." on
11 which the serial number of the elector is entered and shall require the individual to execute
12 on the envelope a written affirmation stating that the individual is a qualified elector of the
13 ward or election district where he or she offers to vote and is eligible to vote in the election.
14 The inspectors shall, before giving the elector a ballot, write on the back of the ballot the serial
15 number of the individual corresponding to the number kept at the election on the poll list or
16 other list maintained under s. 6.79 and the notation "s. 6.97". If voting machines are used in
17 the municipality where the individual is voting, the individual's vote may be received only
18 upon an absentee ballot furnished by the municipal clerk which shall have the corresponding
19 number from the poll list or other list maintained under s. 6.79 and the notation "s. 6.97"
20 written on the back of the ballot by the inspectors before the ballot is given to the elector. When
21 receiving the individual's ballot, the inspectors shall provide the individual with written
22 voting information prescribed by the board under s. 7.08 (8). The inspectors shall indicate on
23 the list the fact that the individual is required to provide ~~identification~~ proof of residence but
24 did not do so. The inspectors shall notify the individual that he or she may provide

1 ~~identification~~ proof of residence to the municipal clerk or executive director of the municipal
2 board of election commissioners. The inspectors shall also promptly notify the municipal
3 clerk or executive director of the name, address, and serial number of the individual. The
4 inspectors shall then place the ballot inside the envelope and place the envelope in a separate
5 carrier envelope.

6 (2) Whenever any individual who votes by absentee ballot is required to provide
7 ~~identification~~ proof of residence under s. 6.55 (7) in order to be permitted to vote and does not
8 provide the required ~~identification~~ proof of residence, the inspectors shall write on the back
9 of the absentee ballot the serial number of the individual corresponding to the number kept
10 at the election on the poll list or other list maintained under s. 6.79 and the notation "s. 6.97".
11 The inspectors shall indicate on the list the fact that the individual is required to provide
12 identification but did not do so. The inspectors shall promptly notify the municipal clerk or
13 executive director of the municipal board of election commissioners of the name, address, and
14 serial number of the individual. The inspectors shall then place the ballot inside an envelope
15 on which the name and serial number of the elector is entered and shall place the envelope in
16 a separate carrier envelope.

17 **SECTION 12.** 7.08 (8) (title) of the statutes is amended to read:

18 7.08 (8) (title) ELECTORS VOTING WITHOUT ~~IDENTIFICATION~~ PROOF OF RESIDENCE OR
19 PURSUANT TO COURT ORDER.

20 **SECTION 13.** 10.02 (3) (a) of the statutes is amended to read:

21 10.02 (3) (a) Upon entering the polling place and before being permitted to vote, an
22 elector shall state his or her name and address and provide ~~identification~~ proof of residence
23 under s. 6.55 (7) if required by federal law. Where ballots are distributed to electors, the initials
24 of 2 inspectors must appear on the ballot. Upon being permitted to vote, the elector shall retire

1 alone to a voting booth or machine and cast his or her ballot, except that an elector who is a
2 parent or guardian may be accompanied by the elector's minor child or minor ward. An
3 election official may inform the elector of the proper manner for casting a vote, but the official
4 may not in any manner advise or indicate a particular voting choice.

5 **SECTION 14. Effective date.** This act takes effect on January 1, 2006.

6 (END)