



BOB ZIEGELBAUER

STATE REPRESENTATIVE • TWENTY FIFTH ASSEMBLY DISTRICT
2005-06 Issue Summary #9

October 4, 2006

“Death Penalty”

November 7, 2006 Advisory Referendum

Background Information:

The death penalty was abolished in Wisconsin in 1853, but voters will have a chance to vote on whether Wisconsin should bring back the death penalty as an option in cases where the conviction of first degree intentional homicide is supported by DNA evidence. The question will appear on the ballot in this form:

Should the death penalty be enacted in the State of Wisconsin for cases involving a person who is convicted of first-degree intentional homicide, if the conviction is supported by DNA evidence?

(More information can be found from the Legislative Reference Bureau’s Wisconsin Brief 06-12, Constitutional Amendment and Advisory Referendum to be considered by WI Voters, 11-7-2006: <http://www.legis.state.wi.us/lrb/pubs/wb/06wb12.pdf>)

Attorney General’s Explanatory Statement

This is an advisory referendum only. Neither a “yes” nor a “no” vote will directly make any change in the law. **The Legislature and the Governor are not legally bound by the results of this advisory referendum.**

The present penalty for first-degree intentional homicide is life in prison. The court imposing a life sentence may also prohibit the defendant from ever being released from prison. This is commonly referred to as life without the possibility of parole.

A “yes” vote would advise members of the Legislature that you want them to change the penalty for first-degree intentional homicide so that the penalty would be death when a person is convicted of first-degree intentional homicide, and the conviction is supported by DNA evidence. The referendum question does not suggest what level of DNA evidence would be sufficient.

A “no” vote would advise members of the Legislature that you do not want them to change the present penalty for first-degree intentional homicide at this time.

Since 1848, the Wisconsin Legislature has submitted 20 advisory referenda to the voters covering a broad range of topics. Ten have been approved and 10 have been rejected. Most recently, in 1993 the legislature submitted five questions to the voters on various aspects of gambling. Questions on casino restrictions, pari-mutuel betting, and the continuance of the state lottery were approved by the voters; questions relating to casino excursion vessels and video poker were rejected. It was the only time more than two advisory questions were submitted to the people at one time.

Wisconsin abolished the death penalty in 1853. Numerous bills have been introduced to restore the death penalty since its abolition. None have passed. The question of the death penalty has never been submitted to the people before.

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2005 Senate Joint Resolution 5 was introduced by Senator Alan Lasee on February 15, 2005. He was joined by 18 coauthors and cosponsors. Senate Amendment 3, recommended by the Committee on Judiciary, Corrections and Privacy, was adopted 19 - 13 on March 7. Senate Amendment 5, offered by Senator Lasee, was adopted 20 - 13, also on March 7. SJR5 was adopted 20 - 13. Assembly Amendment 1, offered by Representative Frank Lasee, was adopted on a voice vote on May 4. The Assembly concurred in SJR5 on May 4 by a vote of 47 - 45. The Senate concurred in Assembly Amendment 1 on May 16, 18 - 15. The joint resolution was enrolled as Enrolled Joint Resolution 58 on May 18, 2006.

Rep. Ziegelbauer's View:

I am opposed to the death penalty because I believe it is morally wrong for government to take the life of its citizens. I do agree that on an issue like this, we as a community need to talk about it and have supported proposals in the past to have a statewide referendum on the death penalty to let the voters decide.

However, when earlier this year the Legislature approved a statewide advisory referendum on this question to appear on the November 7th general election ballot, I opposed it primarily because I was concerned about the timing of this referendum, which at the time was to coincide with the Steven Avery trial. Unfortunately, this case is the principal reason why the death penalty proposal passed the Legislature, however I feel that compassion for the family of the victim and respect for our community should be more important than politics of the death penalty.

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