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CONSTITUTIONAL AMENDMENTS GIVEN “FIRST CONSIDERATION” APPROVAL BY THE 2005 WISCONSIN LEGISLATURE

INTRODUCTION

Three joint resolutions to amend the Wisconsin Constitution were adopted on first consideration by the 2005 Wisconsin Legislature and are eligible for second consideration by the 2007 Legislature. They relate to: 1) requiring a photographic identification to vote, or to register to vote at the polls on election day; 2) prohibiting partial vetoes from creating new sentences; and 3) prohibiting vetoes of individual words in sentences.

Sections Affected	Resolutions	Subject
Article III, Sec. 1m	2005 Assembly Joint Resolution 36 (Enrolled Joint Resolution 39)	Requiring a photographic identification to vote or register to vote on election day
Article V, Sec. 10 (1) (c)	2005 Senate Joint Resolution 33 (Enrolled Joint Resolution 46)	Prohibiting partial vetoes from creating new sentences
Article V, Sec. 10 (1) (c)	2005 Assembly Joint Resolution 68 (Enrolled Joint Resolution 40)	Prohibiting vetoes of individual words in sentences

Legislative passage of a constitutional amendment on “first consideration” is the first step in the amending process. According to Article XII, Section 1, of the Wisconsin Constitution, amendments must be adopted by two successive legislatures and ratified by the electorate.

On first consideration, a proposed change is offered as a joint resolution that does not have to be submitted to the governor for approval. If the resolution is adopted by both houses, the resolution must be published for three consecutive months prior to the next general election. Then, a second joint resolution embodying the identical constitutional text must be offered on “second consideration” in the next legislature, and the wording of the proposed amendment must be approved without change. The second joint resolution specifies the wording of the ballot question(s) and sets the date for submitting the question(s) to the people at a statewide election. (The portions of the joint resolution relating to the ballot question and date can be amended.)

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I. PHOTOGRAPHIC ID FOR ELECTION DAY VOTING AND REGISTRATION

A. Analysis

This proposed constitutional amendment, proposed to the 2005 Legislature on first consideration, provides that a qualified elector may not vote, or register to vote, at the polls on election day unless the elector presents a photographic identification issued by this state or by the federal government. After the date of ratification, the legislature, by law, with the concurrence of two-thirds of all the members present, may exempt any class of electors from these requirements.

B. Text

SECTION 1. [Article III] Section 1m (1) A qualified elector may not vote, or register to vote, at the polls on election day unless the elector presents a photographic identification issued by this state or by the federal government.

SECTION 2. (2) After the date of ratification of this section, the legislature, by law, with the concurrence of two-thirds of all the members present, may exempt any class of electors from the requirements of subsection (1).

C. Background

Other states. Six states (Florida, Hawaii, Indiana, Louisiana, Missouri, and South Dakota) currently have some sort of photo ID requirement for voting. Georgia was enjoined by a federal court from implementing its photo ID law in the 2006 elections.

No state currently has a photo ID requirement in its constitution.

For a thorough discussion of the voter identification issue, see our Wisconsin Brief 06-4, *Voter ID*.

Wisconsin. Wisconsin first enacted a voter registration law in 1864. This law authorized municipalities to create voter lists prior to each election. On a fixed day, any elector could present himself as a qualified elector, provide his address, and be added to the list.

In 1927, the legislature made registration mandatory for all municipalities exceeding 5,000 in population, and required that the list of voters be maintained permanently. This enabled voters to register at any time prior to the Tuesday preceding the election (this period during which registrations were not accepted was later lengthened). The 1927 law required electors to fill out a form swearing or affirming that they were qualified to vote and providing their address. An individual not registered could vote with the presentation of an affidavit of the voter and two other electors substantiating the voter's claim of residence. A 1939 law prohibited the filing of such affidavits on election day, effectively prohibiting a nonregistered voter from showing up at the polls and voting without any prior action.

A substantial revision to voting registration procedures was enacted by the legislature in 1975. The new law, which included a statement of intent that "voter registration was not intended to and should not prevent voting," allowed same day, on site registration. The requirement that the prospective voter sign an oath swearing or affirming that "I am a qualified elector . . .," was retained, but the requirement of supporting affidavits from two other electors was replaced by a requirement that the elector present proof of residence. Initially, this could be a Wisconsin driver's license, a Wisconsin identification card, or other form of identification prescribed by Elections Board rule. In subsequent years, the Elections Board rule-making power was repealed, and numerous other forms of identification were added to the list of

acceptable proof of residence. Currently, this includes a government or employee ID; a real estate tax bill or receipt; a residential lease agreement; a university, college, or technical institute fee card or ID; a utility bill; a paycheck; or a check or other document issued by a unit of government. Current law requires the form of identification to include a current and complete name, including given and family names; and a current and complete residential address, including numbered street address and name of municipality. At no time has the constitution or any statute required the presentation of a photo ID as a condition for registration or voting.

No bill to require the use of a photo ID for voting was introduced in the Wisconsin Legislature until 2001. In 2000, a very close election for president both nationally and in Wisconsin spurred a reexamination of numerous election practices. During the 2001 session, several bills requiring some form of photo ID to register, to vote, or to register and vote on election day, were introduced. Only one bill, Assembly Bill 259, dealing with election day registration, passed its house of origin. AB-259 did not pass the Senate.

During the 2003 session, two bills on photo ID were introduced. One, Senate Bill 68, required voters to present a photo ID when voting. This bill was amended and recommended for passage by the Senate Committee on Education, Ethics, and Elections, but was not considered by the full Senate. The second bill, Assembly Bill 111, required some form of photo ID for voters registering and voting on election day. AB-111 passed the Assembly 60-34 on March 13, 2003, and the Senate 19-14 on June 4. The bill was vetoed by Governor Jim Doyle on August 5. In his veto message, Doyle cited numerous reasons for his veto, including Wisconsin's "long a proud tradition of promoting laws that provide all qualified citizens maximum access to their constitutional right to vote." An attempt to override the veto failed, 61-37.

Following another close presidential race in Wisconsin in 2004, the legislature revisited the issue during the 2005 session. Assembly Bill 63, requiring the voter to present certain forms of photo ID if voting and registering on election day, passed the Assembly 64-33 on February 22, 2005, and passed the Senate 21-12 on April 13. The bill was vetoed by Governor Doyle on April 29. An override attempt failed, 61-34. Senate Bill 42 also required the use of some form of photo ID for voters registering on election day. The bill passed the Senate, 21-12 on June 15, 2005, and the Assembly, 63-34 on June 23. It, too, was vetoed by the governor on August 12. An override attempt failed, 21-12.

The legislature decided to consider a constitutional amendment to create a photo ID requirement. Assembly Joint Resolution 36, which would place a photo ID requirement for election day registrants in the constitution, was introduced on May 3. As a constitutional amendment, it was not subject to the governor's veto power.

D. Legislative Action

The legislative history of 2005 Assembly Joint Resolution 36 as recorded in the *Bulletin of Proceedings*, is excerpted below:

Assembly Joint Resolution 36

To create section 1m of article III of the constitution; relating to: requiring a photographic identification to vote, or register to vote, at the polls on election day (first consideration).

2005

- 05-03. A. Introduced by Representatives **Stone** and **Vukmir**; cosponsored by Senator **Leibham**.
- 05-03. A. Read first time and referred to committee on Campaigns and Elections 218

- 05-12. A. Public hearing held.
- 05-26. A. Executive action taken.
- 05-31. A. Report adoption recommended by committee on Campaigns and Elections, Ayes 4, Noes 2 259
- 05-31. A. Referred to committee on Rules 259
- 10-27. A. Placed on calendar 11-1-2005 by committee on Rules.
- 11-01. A. Read a second time 565
- 11-01. A. Ordered to a third reading 565
- 11-01. A. Rules suspended 565

11-01. A.	Read a third time and adopted , Ayes 57, Noes 36	565	03-07. S.	Senate substitute amendment 1 offered by Senator Carpenter	710
11-01. A.	Refused to suspend rules to order immediately messaged, Ayes 59, Noes 37 6	56	03-07. S.	Senate substitute amendment 1 laid on table, Ayes 19, Noes 13	710
11-10. S.	Received from Assembly	496	03-07. S.	Senate amendment 1 offered by Senator Carpenter	710
12-12. S.	Read first time and referred to committee on Labor and Election Process Reform .	498	03-07. S.	Senate amendment 1 laid on table, Ayes 19, Noes 14	710
2006			03-07. S.	Ordered to a third reading, Ayes 20, Noes 13	711
03-01. S.	Public hearing held.		03-09. S.	Read a third time and concurred in , Ayes 19, Noes 14	740
03-01. S.	Executive action taken.		03-09. S.	Ordered immediately messaged	711
03-04. S.	Report concurrence recommended by committee on Labor and Election Process Reform, Ayes 3, Noes 2	686	03-14. A.	Received from Senate concurred in	972
03-04. S.	Available for scheduling.		03-21. A.	Report correctly enrolled	987
03-06. S.	Placed on calendar 3-7-2006 by committee on Senate Organization.		03-31. A.	Deposited in the office of the Secretary of State	998
03-07. S.	Placed at the foot of the calendar of 3-7-2006	704		Enrolled Joint Resolution 39.	
03-07. S.	Read a second time	710	03-31. A.	Published 4-11-2006, 3-1-2006, 9-5-2006, 10-3-2006	998

II. PROHIBITING PARTIAL VETOES THAT CREATE NEW SENTENCES

A. Analysis

This proposed constitutional amendment, proposed to the 2005 Legislature on first consideration, prohibits partial vetoes from creating new sentences by combining parts of two or more sentences of the enrolled bill.

B. Text

SECTION 1. Section 10 (1) (c) of article V of the constitution is amended to read:

[Article V] Section 10 (1) (c) In approving an appropriation bill in part, the governor may not create a new word by rejecting individual letters in the words of the enrolled bill, and may not create a new sentence by combining parts of 2 or more sentences of the enrolled bill.

C. Background

Prior to 1931, Wisconsin’s governor only had the power to veto bills in their entirety. In November 1930, Wisconsin’s voters approved a constitutional amendment providing that “appropriations bills may be approved in whole or in part by the governor . . .”

The partial veto power was used sparingly by Wisconsin’s governors until the 1970s. In the 1970s, governors began to use the partial veto power more often, and in more creative ways, enabled by the fact that the constitution allows appropriation bills to be approved “in part.” This has proved far more empowering than the language in many states that allows the governor to veto “items” from appropriation bills. Wisconsin governors have maximized this power over legislation through certain innovations. Among them have been the “digit veto,” whereby appropriations are radically altered by the elimination of a single digit of a large number; the “editing veto,” whereby the clear intent of a sentence can be reversed by eliminating a crucial word such as “not”; the “pick-a-letter veto,” the selective deletion of letters to form new words; and the “reduction veto” in which a figure is deleted and replaced by a lower figure. Both state and federal courts have upheld these creative practices.

There have been numerous attempts over the years to curtail, eliminate, or modify the governor’s partial veto authority. Only one has passed the legislature. This measure,

approved by the voters in April 1990, prohibits the governor from creating “a new word by rejecting individual letters in the words of the enrolled bill.” This amendment effectively eliminated the “pick-a-letter” veto.

Only a few proposals to modify the governor’s partial veto authority have been introduced since 1991. In his veto of 2005 Assembly Bill 100, the budget bill for 2005-07, however, Governor Jim Doyle created new sentences from unassociated words and numbers, most notably in veto item A-4, section 9155 of the bill. The veto occurred on July 25, 2005. On August 19, Senate Joint Resolution 33, removing the governor’s power to veto parts of sentences in order to form new sentences, was introduced.

For a detailed discussion of the partial veto in Wisconsin, see our Informational Bulletin 04-1, *The Partial Veto in Wisconsin*.

D. Legislative Action

The legislative history of 2005 Senate Joint Resolution 33, as recorded in the *Bulletin of Proceedings*, is excerpted below:

Senate Joint Resolution 33

To amend section 10 (1) (c) of article V of the constitution; relating to: prohibiting partial vetoes from creating new sentences (first consideration).

2005

- 08-19. S. Introduced by Senators **Harsdorf, S. Fitzgerald, Darling, Grothman, Olsen, A. Lasee, Stepp, Schultz, Leibham, Zien, Kedzie and Reynolds**; cosponsored by Representatives **Friske, Stone, Albers, Pride-more, Kerkman, Gundrum, Lothian, Pettis, Ballweg, Strachota, Krawczyk, Musser, Bies, Ainsworth, J. Fitzgerald, Townsend, Vos, Gunderson, Nerison, Gottlieb, Kestell, Montgomery, Suder, Hahn, Jeske-witz, Moulton, Van Roy, Kleefisch, Mursau, Rhoades, Nischke, F. Lasee, Honadel and Wood**.
- 08-19. S. Read first time and referred to committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform 327
- 09-21. S. Public hearing held.
- 10-13. S. Executive action taken.
- 10-19. S. Report adoption recommended by committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform, Ayes 4, Noes 1 39 6
- 10-19. S. Available for scheduling.
- 10-19. S. Placed on calendar 10-25-2005 by committee on Senate Organization.
- 10-25. S. Read a second time 405
- 10-25. S. Ordered to a third reading 405
- 10-25. S. Rules suspended 405
- 10-25. S. Read a third time and **adopted**, Ayes 23, Noes 10 405
- 10-25. S. Senator Lazich added as a coauthor 404
- 10-25. S. Ordered immediately messaged 405
- 12-09. A. Received from Senate 663

- 12-09. A. Read first time and referred to committee on Judiciary 663
- 2006
- 01-06. S. Senator Brown added as a coauthor 520
- 01-12. A. Public hearing held.
- 01-13. A. Assembly substitute amendment 1 offered by Representatives Friske and Gundrum 720
- 01-17. A. Executive action taken.
- 01-17. A. Report Assembly Substitute Amendment 1 adoption, Ayes 5, Noes 2, concurrence as amended recommended by committee on Judiciary, Ayes 5, Noes 2 722
- 01-17. A. Referred to committee on Rules 722
- 02-28. A. Made a special order of business at 10:01 A.M. on 3-2-2006 pursuant to Assembly Resolution 49 862
- 03-02. A. Read a second time 886
- 03-02. A. Assembly substitute amendment 1 **adopted** 88 6
- 03-02. A. Ordered to a third reading 886
- 03-02. A. Rules suspended 886
- 03-02. A. Read a third time and **concurrent in** as amended, Ayes 72, Noes 24, Paired 2 . . 886
- 03-02. A. Ordered immediately messaged 886
- 03-03. S. Received from Assembly amended and concurred in as amended, Assembly substitute amendment 1 adopted 680
- 03-03. S. Available for scheduling.
- 03-06. S. Placed on calendar 3-7-2006 by committee on Senate Organization.
- 03-07. S. Senator Kanavas added as a coauthor . . . 695
- 03-07. S. Assembly substitute amendment 1 **nonconcurrent in**, Ayes 32, Noes 0 . . . 696
- 03-07. S. Ordered immediately messaged 696
- 03-07. A. Received from Senate nonconcurrent in Assembly substitute amendment 1 . . . 910
- 03-07. A. Referred to committee on Rules 911
- 03-07. A. Placed on calendar 3-9-2006 by committee on Rules.
- 03-07. A. Made a special order of business at 10:01 A.M. on 3-9-2006 pursuant to Assembly Resolution 51 932

04-25. A.	Assembly recedes from its position on Assembly substitute amendment 1, Ayes 68, Noes 25	796	05-05. S.	Report correctly enrolled on 5-5-2006 . .	841
04-25. A.	Ordered immediately messaged	1042	05-11. S.	Deposited in the office of the Secretary of State on 5-10-2006.	854
04-26. S.	Received from Assembly: Assembly recedes from its position on Assembly substitute amendment 1	796		Enrolled Joint Resolution 46.	
			05-15. S.	Published 5-24-2006, 8-1-2006, 9-5-2006, 10-3-2006.	

III. PROHIBITING PARTIAL VETOES OF INDIVIDUAL WORDS

A. Analysis

This proposed constitutional amendment, proposed to the 2005 Legislature on first consideration, prohibits partial vetoes of individual words in sentences of enrolled bills without rejecting the entire sentence.

B. Text

SECTION 1. Section 10 (1) (c) of article V of the constitution is amended to read:

[Article V] Section 10 (1) (c) In approving an appropriation bill in part, the governor may not create a new word by rejecting individual letters in the words of the enrolled bill, and may not reject any individual word in a sentence of the enrolled bill unless the entire sentence is rejected.

C. Background

Assembly Joint Resolution 68 was introduced on November 29, 2005. Initially, the proposed constitutional amendment would have required the governor to veto whole sections of appropriation bills, similar to a previous reform proposal, 1979 Senate Joint Resolution 16, which failed to pass. Amendments to AJR-68 adopted by the legislature modified the proposal, making it a requirement to veto whole sentences.

The background of the current movement to restrict the governor’s partial veto authority is discussed in Item II.C. of this brief.

For a detailed discussion of the partial veto in Wisconsin, see our Informational Bulletin 04-1, *The Partial Veto in Wisconsin*.

D. Legislative Action

The legislative history of 2005 Assembly Joint Resolution 68, as recorded in the *Bulletin of Proceedings*, is excerpted below:

Assembly Joint Resolution 68

To amend section 10 (1) (c) of article V of the constitution; relating to: prohibiting partial vetoes of parts of bill sections (first consideration).

2005

- 11-29. A. Introduced by Representatives **Friske, Stone, Gard, Albers, Pridemore, Gundrum, Lothian, Pettis, Ballweg, Strachota, Bies, Ainsworth, J. Fitzgerald, Townsend, Vos, Gunderson, Nerison, Gottlieb, Kestell, Montgomery, Suder, Hahn, Jeskewitz, Moulton, Van Roy, Mursau, Rhoades, Nischke, F. Lasee, Honadel, Wood and Musser**; cosponsored

by Senators **Darling, Grothman, A. Lasee, Zien and Reynolds**.

- 11-29. A. Read first time and referred to committee on Judiciary 631
 - 12-05. A. Senator Leibham added as a cosponsor . . 643
- 2006
- 01-12. A. Public hearing held.
 - 01-17. A. Executive action taken.
 - 01-17. A. Report adoption recommended by committee on Judiciary, Ayes 5, Noes 2 . . . 722
 - 01-17. A. Referred to committee on Rules 722
 - 01-17. A. Placed on calendar 1-19-2006 by committee on Rules.
 - 01-19. A. Read a second time 734
 - 01-19. A. Assembly substitute amendment 1 offered by Representatives Friske,

	Stone, Gard, Albers, Pridemore, Gundrum, Lothian, Pettis, Ballweg, Strachota, Bies, Ainsworth, J. Fitzgerald, Townsend, Vos, Gunderson, Nerison, Gottlieb, Kestell, Montgomery, Suder, Hahn, Jeskewitz, Moulton, Van Roy, Mursau, Rhoades, Nischke, F. Lasee, Honadel, Wood, Musser and Kleefisch	734
01-19.	A. Assembly amendment 1 to Assembly substitute amendment 1 offered by Representative Black	734
01-19.	A. Assembly amendment 1 to Assembly substitute amendment 1 laid on table, Ayes 60, Noes 39	734
01-19.	A. Assembly substitute amendment 1 adopted 4	73
01-19.	A. Ordered to a third reading	735
01-19.	A. Rules suspended	735
01-19.	A. Read a third time and adopted , Ayes 74, Noes 25	735
01-19.	A. Ordered immediately messaged	735
01-20.	S. Received from Assembly	546
01-20.	S. Read first time and referred to committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform	546
02-01.	S. Public hearing held.	
02-02.	S. Senator Harsdorf added as a cosponsor . .	574
02-22.	S. Executive action taken.	
02-24.	S. Report concurrence recommended by committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform, Ayes 3, Noes 2	631
02-24.	S. Available for scheduling.	
03-01.	S. Placed on calendar 3-2-2006 by committee on Senate Organization.	
03-02.	S. Senator Stepp added as a cosponsor	654
03-02.	S. Read a second time	670
03-02.	S. Refused to refer to the calendar of 3-7-2006, Ayes 13, Noes 19	670
03-02.	S. Placed at the foot of the twelfth order of business on the calendar of 3-2-2006 .	670
03-02.	S. Ordered to a third reading	673
03-02.	S. Rules suspended	673
03-02.	S. Read a third time and concurred in , Ayes 20, Noes 12	673
03-02.	S. Ordered immediately messaged	675
03-02.	A. Received from Senate concurred in	899
03-17.	A. Report correctly enrolled	978
03-31.	A. Deposited in the office of the Secretary of State	998
	Enrolled Joint Resolution 40.	
03-31.	A. Published 4-11-2006, 8-1-2006, 9-5-2006, 10-3-2006	998