

WISCONSIN
VOICES



U.S. PIRGWISPIRG
Standing Up
To Powerful Interests

Standing Up
To Powerful Interests

HIGHGROUND
INSTITUTE



February 19, 2016

Dear Governor Walker,

We, the undersigned local and national civil rights, election reform, and community organizations, write to express our opposition to to SB 295 (“SB 295”) and strongly urge you to veto changes to SRDs and the deadline for absentee ballots.

While we commend the State Legislature for joining over half the country in embracing online voter registration and for finally conceding that Veteran Health Identification Cards issued by the U.S. Department of Veterans Affairs should be accepted as voter ID, these advancements come at much too high a cost. SB 295 has become an election law omnibus bill that does violence to other important provisions which currently ensure cost-efficient election administration and robust voter engagement in Wisconsin. No other state that has passed online voter registration has tied its passage to such severely restrictive measures on other methods of voter registration.

The most glaring self-inflicted wound in this bill is the elimination of special registration deputies (“SRDs”). While SB 295 permits the use of “election registration officials” for very limited purposes such as registering voters at residential care facilities, SRDs will no longer exist, even though these trained volunteers have for years assisted municipal clerks in registering voters without incident. SB 295 would be the final nail in the coffin of voter registration drives in the state. Because Wisconsin has the nation’s only documentary proof of residency requirement for all registrants and since only SRDs can verify the proof of residency document shown during a drive, this means organizations conducting voter registration drives must always collect a photocopy of a voter’s proof of residency and mail or deliver it with the form. Aside from the fact that most people do not walk around with compliant proof of residency on them at all times (already an enormous problem with the requirement), deploying portable photocopiers in sufficient quantities to conduct registration drives is simply not feasible. The interaction of these laws – the elimination of SRDs and the documentary proof of residency requirement – spells the effective end of voter registration drives in this presidential year.

Given that negative interaction, SB 295 also likely violates third-party registration groups’ First Amendment right to help voters register. In *League of Women Voters of Florida v. Browning*, 863 F. Supp. 2d 1155 (N.D. Fla. 2012), the federal court enjoined the state’s severely burdensome delivery, record-keeping and reporting requirements for voter registration which had effectively precluded third-party registration activity in that state and therefore violated the organizations’ First Amendment rights. The court affirmed that conducting voter registration drives constitutes “core First Amendment activity”—encompassing both freedom of speech and the right of association. *Id.* at 1158. In another case out of Ohio, the court struck down a variety of restrictions on third-party voter registration drives, stating:

[P]articipation in voter registration implicates a number of both expressive and associational rights which are protected by the First Amendment. These rights belong

to—and may be invoked by—not just the voters seeking to register, but by third parties who encourage participation in the political process through increasing voter registration rolls. [*Project Vote v. Blackwell*, 455 F. Supp. 2d 694, 700 (N.D. Ohio 2006)]

SB 295 will have a very similar effect in Wisconsin, forcing groups that consider voter registration and mobilization part of their core missions to cease all voter registration activity. The severe burdens imposed by the interaction of the elimination of SRDs and the documentary proof of residency requirement will render collecting completed voter registration forms a practical impossibility. First Amendment rights cannot be made contingent on organizations' ability to finance the mass deployment of expensive technology, including maintenance and training. The proposed online voter registration system will allow only those with driver's licenses and state ID numbers to evade the proof of residency requirement. While photo identification is required to vote, eliminating SRDs prevents organizations from registering those who will later obtain identification or show alternative identification, including the Veteran Health Identification Cards provided in this bill. Wisconsin's taxpayers can ill afford further costly litigation over such an unnecessary and restrictive voter registration scheme.

As if these restrictions on voter registration were not burdensome enough, the bill would also abolish registration locations such as public libraries and prevent municipal clerks from conducting voter registration drives. Removing these other venues and methods for registration guarantees that municipal clerks' offices will be inundated with in-person registration applicants, further adding to the costs of election administration in a presidential election year.

Finally, SB 295 also puts more absentee ballots at risk for needless rejection. Under SB 295, absentee ballots must be received by 8 p.m. on election day to count. Currently, they currently must be postmarked by election day and may be received by the Friday following an election. This change is particularly concerning given that recent United States Postal Service facility consolidations have increased mail processing times. The straightforward postmark date rule for absentee ballots should be retained so that eligible Wisconsin voters are not deprived the right to vote due solely to mailing times and delays.

Given the overwhelming restrictions SB 295 imposes on voter registration and that the bill, if enacted, will result in a violation of voter registration organizations' rights under the First Amendment, we strongly urge you to veto changes to SRDs and the absentee ballot deadline. Thank you for considering these points.

Sincerely,

Wisconsin Voices
Our Democracy 2020
Common Cause in Wisconsin
Wisconsin Democracy Campaign
Citizen Action of Wisconsin

Fair Elections Legal Network
Project Vote
LULAC-WI
High Ground Institute
One Wisconsin Institute
Asian and Pacific Islander American Vote
League of Women Voters of Wisconsin
League of Women Voters of the United States
U.S. PIRG
WisPIRG