



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0405/1  
PJD:jld:rs

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2005 SENATE JOINT RESOLUTION 53**

February 28, 2006 – Offered by Representative UNDERHEIM.

1     **To create** section 35 of article IV of the constitution; **relating to:** providing that only  
2             the legislature can determine which same sex relationships shall be valid or  
3             recognized as a marriage in this state (first consideration).

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***Analysis by the Legislative Reference Bureau***

This proposed constitutional amendment, proposed to the 2005 legislature on first consideration, provides that only the legislature, by law, may determine which same sex relationships shall be valid or recognized as a marriage in this state or confer all or substantially all of the rights, benefits, and obligations of marriage on a same sex relationship of unmarried individuals. Section 1, article I, of the constitution does not apply to this provision or to the power of the legislature under this provision. Section 1, article I, of the constitution is the state counterpart to the federal equal protection and due process amendment.

A proposed constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

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4             ***Resolved by the senate, the assembly concurring, That:***

5             **SECTION 1.** Section 35 of article IV of the constitution is created to read:

1 [Article IV] Section 35. Only the legislature, by law, may determine which same  
2 sex relationships shall be valid or recognized as a marriage in this state or confer all  
3 or substantially all of the rights, benefits, and obligations of marriage on a same sex  
4 relationship of unmarried individuals. Section 1 of article I does not apply to this  
5 section or to the laws or actions of the legislature pursuant to the legislative power  
6 confirmed and continued under this section.

7 **SECTION 2. Numbering of new provision.** The new section 35 of article IV  
8 of the constitution created in this joint resolution shall be designated by the next  
9 higher open whole section number in that article if, before the ratification by the  
10 people of the amendment proposed in this joint resolution, any other ratified  
11 amendment has created a section 35 of article IV of the constitution of this state. If  
12 one or more joint resolutions create a section 35 of article IV simultaneously with the  
13 ratification by the people of the amendment proposed in this joint resolution, the  
14 sections created shall be numbered and placed in a sequence so that the sections  
15 created by the joint resolution having the lowest enrolled joint resolution number  
16 have the numbers designated in that joint resolution and the sections created by the  
17 other joint resolutions have numbers that are in the same ascending order as are the  
18 numbers of the enrolled joint resolutions creating the sections.

19 ***Be it further resolved, That*** this proposed amendment be referred to the  
20 legislature to be chosen at the next general election and that it be published for 3  
21 months previous to the time of holding such election.

22 (END)