

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General
Counsel

Open Session

Item D

To: The Government Accountability Board
Re: Student Identification Issue

From: Ardis Cerny
Date: November 9, 2011 Meeting

Universities have the authority to issue a student ID but now they want to issue a second ID for voting. Please consider the following arguments as to why this should not occur.

What safeguards would be in place for the issuance of a new "student voter ID card"? Who will be making these IDs? Will the person be trained and sworn under oath? How will this person determine who is eligible to vote and who isn't? Will out-of-state and foreign students be able to get one of these IDs? Could this ID be easily duplicated or altered? I don't think the university will see this as their problem. And it isn't their problem, so whose problem will it be? The SVRS HAVA checks? We already know these checks are meaningless because they occur after the person is allowed to vote.

Taverns don't accept student IDs for a reason - they are not a *legal* form of identification. In fact, in many cases the student IDs are debit cards and it is the debit card companies that create the security measures to safeguard the use of the card. No debit card company here to safeguard the use of these "student voter ID cards"!

If you review the list of acceptable IDs in the Voter ID Act, they are all LEGAL forms of identification, except for student IDs and Tribal IDs.

So let's take a look at the security measures behind the tribal IDs. After speaking with a tribe's administrative offices, I found out that the applicant has to fill out numerous forms, produce a birth certificate, a social security card, have a parent or grandparent already enrolled in the tribe and if not, must prove lineage starting from the 1937 census. It then takes 4 to 6 months of investigation to confirm membership in the tribe.

Please review the following documented numbers:

US Census Bureau 2010 Census Summary (WI): 549,256 citizens between 18-24 yr old
WI Dept. of Transportation: 540,493 citizens between 18-24 with driver's license or ID card

This is a difference of 8,763 or 1.6% of citizens between the ages of 18-24 who don't have a legal ID. This argument by the university that thousands of students are without IDs and will be disenfranchised is irrelevant - 98.4% of the students already have an acceptable ID. ACT 23, the Voter ID Bill, has already created a remedy for this 1.6%, and it is called a free Wis.ID, which students can obtain at their local DMV office.

The state of Iowa has very similar language to our state statutes: the student ID must have an expiration date and signature, and until the universities start producing this information on the student ID, they will not be accepted at any polling place in Iowa. Our universities should be discussing this with their legislators, not the GAB.

Our Legislature has already addressed the requirements for changes to the existing student IDs in state statute. It says absolutely nothing about the creation of a "student voter ID card." It appears that there is an attempt here to circumvent the statute as written. Consultation with the authors is in order. Former Board Member Judge Myse has said that GAB is "limited to interpreting existing law" not amending it.

Thank you for your thoughtful consideration.

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KEVIN J. KENNEDY
Director and General
Counsel

Open Session

Item F



Gateway Technical College
United Student Government
3520 30th Ave
Kenosha, WI 53144

RECEIVED

11 NOV -4 AM 10:23

GOVERNMENT
ACCOUNTABILITY BOARD

Wisconsin Government Accountability Board
P.O. Box 7984
Madison, Wisconsin 53707-7984

November 1, 2011

Members of the Government Accountability Board,

The Gateway United Student Government (USG), on behalf of the 20,000 technical college students at Gateway Technical College in Racine, Kenosha, and Walworth counties, respectfully requests that you revisit the decision to exclude Wisconsin Technical College System (WTCS) student IDs as acceptable identification for voting. We suggest that this blanket ruling excluding WTCS IDs as a viable form of voter identification is not only contradictory, but also unfairly biased against the WTCS and the students who attend these schools.

Wisconsin technical colleges, as all other accredited universities and colleges in the state, are subject to the same accreditation process through the Higher Learning Commission of the North Central Association of Colleges. As such, our students should be held to the same standards and given the same privileges as the students of other accredited institutions. If the WTCS member colleges update their student identification to fulfill the requirements outlined for voter identification, why then would only our students still be unable to use their student ID for this purpose?

Gateway Technical College and USG both work to foster active and conscientious citizenship within our student body. Likewise, the State of Wisconsin should be encouraging students across the state, as responsible citizens, to become involved in the democratic process rather than impeding their involvement.

Gateway Technical College laid the cornerstone of career training when the Racine Continuation School started classes 100 years ago as the first compulsory, publicly-funded school in Wisconsin, and in doing so, also became the first in America. Since that time, Wisconsin's technical college system has been a part of the Wisconsin higher education system. WTCS schools and degrees are held to the same standards of accreditation and certification as all other accredited schools and associate degrees across the state. There is no indication that the Legislature intended to exclude technical colleges as a part of the state's higher education system for the purposes of voter ID. On this basis, we request the GAB revisit the interpretation of the current voter ID bill as soon as possible.

Respectfully,

A handwritten signature in black ink, appearing to read 'Caesar Garcia', is written over a horizontal line.

Caesar Garcia
USG District President

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General
Counsel

Open Session

Item G

Kennedy, Kevin - GAB

From: Sen.Lazich [Sen.Lazich@legis.wisconsin.gov]
Sent: Tuesday, November 08, 2011 5:37 PM
To: Nichol, Gerald; Deininger, David; Cane, Thomas
Cc: Kennedy, Kevin - GAB
Subject: GAB Meeting November 9, 2011
Attachments: Kevin Kennedy Letter.doc; redistrictingfairness.doc; barrett response.doc

Fairness at heart of redistricting bill

A legislative column by Senator Mary Lazich (R-New Berlin)

During a Senate Committee on Transportations and Elections informational hearing October 26, 2011, Government Accountability Board Director and General Counsel Kevin Kennedy answered questions from legislators about redistricting.

The Government Accountability Board (GAB) is Wisconsin's non-partisan election gatekeeper. The GAB administers elections and certifies winners of elections. GAB rulings carry the rule of law.

State Senator John Erpenbach asked Director Kennedy a simple question: Do I represent the district drawn from the 2000 census, or the district approved this year based on the 2010 census?

"You represent the new district," said Director Kennedy.

Simple question, simple answer. Legislators currently represent districts specified in 2011 Act 43, this summer's redistricting legislation. Except ... Director Kennedy went on to explain, while the new maps are official and legislators represent the new districts, recall elections would be conducted off the old maps. Interestingly, legislators serve one set of constituents but would be recalled and elections determined by another set, including people not living in the district, while others living within the district are prohibited from voting in the election for their Senator. Some think the legislature should sit back and let the situation fester. Ducking a tough decision and running away is not an option. The legislature needs to take immediate action to rectify the situation.

Why is this an issue now and not during previous redistricting? During past redistricting, recall elections were not an issue.

Since the GAB opined that legislators represent the new districts *now* it is only fair that the voters in these districts have control over their legislators' recalls. Otherwise, recall petitions and recall elections would be conducted in old unconstitutional districts created after the 2000 census for state senators in odd numbered Senate districts, rather than elections in the constitutional districts, created because of the 2010 census, that Senators currently represent and will represent during the legislative session commencing January 2013. If the recall petitions and recall elections were in the old unconstitutional districts, people would be recalling a senator that does not represent them and electing a senator that is not and will not be their state senator. People living in the new constitutional districts will be denied the vote for their senator, relinquishing their vote to persons outside the district.

Take Senate District 28 for example. Under the new maps effective August 26, 2011, the residents of a large portion of New Berlin, formerly represented by me, are represented by Senator Leah Vukmir. If a

recall took place in Senate District 5 currently represented by Senator Vukmir, the people of New Berlin living in Senate District 5 would be denied the opportunity to recall Senator Vukmir and would be denied voting rights to vote for their senator, while people in an area that is not in Senate District 5 represented by Senator Vukmir would vote to determine the senator for Senate District 5. Since I represent Senate District 28, an even numbered district, voters in the new senate district 28 boundaries are treated fairly, because the Senate District 28 election is November 2012.

Hypothetical situations illustrate the confusion of the predicament. A recall election scheduled on the same day as the spring election could result in voters having to vote in two separate places on the same day. Under other circumstances, legislators might run in old and new districts concurrently, a recall campaign in the former district, and the regularly scheduled election in the new district. If, for example, there is a recall election between now and April 15, 2012 in an even number Senate district, the recall election would take place in the old district. April 15 is the date nomination paper and signature-gathering process begins for the November 12 election. If a recall is filed during January or February 2012, it is likely the election could be after April 15, and a senator or representative could run simultaneously in two elections for the same position.

Director Kennedy raised another hypothetical. The possibility exists that a group could attempt to recall a legislator and collect signatures from within the boundaries of the old map, then have court challenges that push the recall election date to after November 6, 2012, the date the new maps take effect for elections. Then what? The state's top election official did not have an answer. Director Kennedy said courts would likely have to determine a course of action.

The State Senate should rectify the situation and ensure all Wisconsin voters are treated fairly. The intersection of redistricting and possible recall elections has thrust Wisconsin voters, election officials, and legislators into territory of uncertainty and confusion. Clarifying the effective date of the new maps for recall purposes will chart a course through the twists and turns of the coming year.

If you have comments on this or any other issue, please contact me at Sen.Lazich@legis.wisconsin.gov, www.senatorlazich.com, Senator Mary Lazich, State Capitol, P.O. Box 7882 Madison, WI 53707 or 1-800-334-1442.

October 28, 2011

For immediate release

Contact: Sen. Mary Lazich (608)-266-5400

Lazich Responds To Barrett 10/27 Statement

State Senator Mary Lazich (R-New Berlin) issued the following statement in response to Milwaukee Mayor Tom Barrett's October 27, 2011 statement about redistricting:

I join Milwaukee Mayor Tom Barrett about his concerns for disenfranchised voters explained in his October 27, 2011, Statement on Redistricting. The legislature needs to take measures immediately to not disenfranchise voters. The concern is disenfranchisement for voters living in odd numbered Wisconsin State Senate districts. The concern is not as alarming for residents of even numbered Wisconsin Senate Districts because there is a regularly scheduled election November 6, 2012, for even numbered senate districts, allowing all residents of even numbered districts an opportunity to vote for the state senator that will represent them beginning January 2013. The concern is equally not as alarming for Wisconsin State Assembly Representatives because there is a regularly scheduled election

11/8/2011

November 2012 for all Assembly Representatives.

The concern is, due to a conflict in state law, recall petitions and recall elections would be conducted in old unconstitutional districts created after the 2000 census for state senators in odd numbered districts, rather than elections in the constitutional districts created as a result of the 2010 census. If the recall petitions and recall elections were in the old unconstitutional districts, people would be recalling a senator that does not represent them and electing a senator that will not be their state senator. People living in the new constitutional districts will be denied the vote for their senator, relinquishing their vote to persons of another district.

Mayor Barrett mentions the ruling of a three-judge panel about disenfranchisement of 300,000 voters. The concern of the three-judge panel makes the need urgent for the legislature to act to correct the inconsistency and clarify that not one person will be denied the vote.

During the past, recalls did not take place in conjunction with redistricting. Disenfranchisement has not been an issue. With the new landscape of recalls, the legislature must take steps not to disenfranchise voters living in odd numbered senate districts.

Mayor Barrett's partisan political shot in his statement should not divert attention away from disenfranchised voters.

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To: Kevin Kennedy
 Director and General Counsel
 Government Accountability Board

From: State Senator Mary Lazich

Date: October 25, 2011

Subject: October 26, 2011, Senate Transportation and Elections Informational Hearing

In advance of tomorrow's Senate Committee on Transportation and Elections informational hearing, I am writing about discussion topics. The issues in item one below came to attention since issuance of the October 19, 2011, memo and the other topics cause concern.

1.) *Government Accountability Board memo dated October 19, 2011, about legislative redistricting, effective date and use of state funds.* Multiple concerns have come to light since the publication of the memo opining legislative districts created by 2011 Wisconsin Act 43 are not in effect for recall elections prior to November 6, 2012. The questions are:

- There is a constitutional question about using outdated maps due to one person, one vote. The Legislature is constitutionally required to reapportion after every census because of unconstitutional apportionment of districts. How does the Legislature reconcile the 1982 federal court ruling that old maps are unconstitutional yet are required during potential recalls due to Act 43? Aren't the old districts unconstitutional upon completion of census data and adoption of new maps?

- For example, some districts became grossly malapportioned over the past decade. Under the old maps, 18,000 people, 32 percent above the average, over populate Assembly District 79. Meanwhile, 20,000 under populate Senate District 6. What implications does this have for recalls under old maps?
- The senators representing odd-numbered senate districts elected during 2010 will spend the majority of their four-year terms representing new districts in Act 43. Using the old maps for recall elections results in constituents of the senator denied a vote or say about the person representing them for the bulk of the senator's four-year term, and results in people electing a senator for a district they are not a resident.
- Does this beg the question for recall petitions under old maps by people that elected the senators, and elections under new maps by the voters of the new district?

Kevin Kennedy
 October 25, 2011
 Page Two

- If a recall election and a regular spring election are the same day, are there voting rights concerns for a voter voting in two different wards in two different polling places? Would a voter vote twice? Do both votes count? Will the system allow two votes? At the very least, isn't this extremely confusing?
- What happens with a local municipality that notifies voters of their new ward assignments for the upcoming spring and any subsequent elections, and then has a recall election in old, nonexistent wards that may exclude voters or include voters not eligible under the new wards?
- Old maps used for recall elections occurring after April 15, the date legislators circulate nomination papers under the new maps, could result in legislators campaigning in two different districts simultaneously. Is this a reasonable result, or is there a recommendation to remedy the confusion?

2.) *Proof of 28-day residency requirement.* In the wake of 2011 Act 23, the voter ID bill, there is confusion over the implementation in Wis. Stats. 6.02 (1), requiring a voter to have been a resident of the voting district for 28 days. Clarification is needed regarding the use of documents to prove length of residency.

3.) *Poll worker residency.* Current law places restrictions on the ability to be a poll worker in municipalities other than the municipality of residence. Legislation, AB 169, about this issue is introduced by Representative Pridemore.

4.) *Clarifying Wisconsin State Statute 7.53(2)(d) double voting.* Current policy allows a citizen to cast an absentee ballot and cast a ballot in person election day. It is the responsibility of elections workers to catch the absentee ballot before it is counted. There is concern this policy does not comply with Wis. Stats. 12.12(1)(e), prohibiting a person from voting more than once in the same election, and that the process relies on the system to remove the absentee ballot.

5.) *Student identifications.* Concern is expressed about implementation of the student ID standard in Act 23, including university production methods, such as the use of stickers, and security.

6.) *GAB notification regarding out-of-state voters.* There is concern Act 23 deletes a statutory provision requiring clerks to notify the GAB about a voter presenting an out-of-state ID.

7.) *Poll book signature verification.* Act 23 includes a provision requiring electors to sign the poll book. Questions arise about the definition of the word, signature, and enforcement by poll workers.

Kevin Kennedy
October 25, 2011
Page Three

8.) *Poll location change notification.* The issue will be addressed in SB 116, expected to be approved by the State Assembly today, creating 30-day notification.

9.) *Notarization of recall petition circulator signatures.* Current law requires a circulator to sign a recall petition to verify he or she personally circulated the recall petition and personally obtained each signature. A suggestion to deter fraud is to use a notarized signature for a circulator.

10.) *Identification requirement for registration.* Act 23 requires a photo ID for voting, and does not require photo ID for registration. There is desire to have the ID requirement be the same for registration and voting.

11.) *Registration checks prior to ballot acceptance.* There is concern names are not screened prior to addition to the Statewide Voter Registration System (SVRS).

12.) *Unverified and ineligible registration removal.* Related to the point above, there is concern the SVRS contains an unacceptable number of unverified or ineligible registrations.

13.) *Provisional ballot security.* Normal ballots cast election day are secured in a sealed container. Provisional ballots are treated differently, and there is concern provisional ballots are vulnerable to tampering.

14.) *Justification for absentee voting privilege.* Currently in Wisconsin, any registered voter may use the absentee ballot voting privilege. Some desire a voter provide justification for an absentee ballot.

15.) *Payment for recall petition circulators.* There is concern about payment of recall petition circulators.

16.) *Recall circulator residency.* There is concern about recall circulators not being residents of the respective district.

I appreciate your availability for the hearing and I look forward to discussing these issues.

Mary Lazich

Wisconsin State Senator

Wisconsin State Capitol

Room 8 South

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JUDGE THOMAS H. BARLAND
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the November 9, 2011 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel
Wisconsin Government Accountability Board

SUBJECT: Redistricting Correspondence

Attached are a letter from Senate Majority Leader Scott Fitzgerald regarding issues related to the new redistricting law and recall elections to be conducted in 2012, as well as a proposed response to be considered by the Board. As part of Item G on the Open Session agenda, staff will review the draft response at the Board meeting and recommends that the Board approve it.



RECEIVED

11 NOV -7 AM 11:01

SCOTT FITZGERALD

GOVERNMENT
ACCOUNTABILITY BOARD

November 4, 2011 SENATE REPUBLICAN LEADER

Hon. Thomas Barland
Hon. David Deininger
Hon. Timothy Vocke
Hon. Michael Brennan
Hon. Gerald Nichol
Hon. Thomas Cane
P.O. Box 7984
Madison, WI 53707-7984

Dear Members of the Government Accountability Board,

The potential number of reelections taking place between the adoption of a reapportionment plan and the next general election is unprecedented in Wisconsin's history. Most of the issues that arise from these unusual circumstances have never before had to have been addressed. In advance of the Government Accountability Board meeting on November 9th, there are several issues related to reapportionment that I hope the board will consider assisting us with.

The legislative districts drawn by the federal court following the 2000 census are now unconstitutional. There is no dispute that those districts are malapportioned and violate the central principle of one-man one-vote, which principle requires reapportionment every ten years. Recent court filings have alleged that the court-drawn districts following the 2000 census are unconstitutional. That allegation is uncontested. No one can credibly argue that those districts are anything but unconstitutional, with or without a specific court finding.

Several questions arise. Can the GAB lawfully call for elections, recall or otherwise, in districts known to be unconstitutional? Does that answer change if there is an explicit court finding of unconstitutionality before the date a recall election takes place?

If legislators represent electors in their new districts at the present time, are those constituents allowed to recall that legislator? If not, has the constitutional right of those electors to seek the recall of their representatives been impaired?

The wards drawn by local municipalities after the 2000 census have been redrawn and replaced with new wards following the 2010 census. The legal description of legislative districts created after the 2000 census refer to wards that no longer exist and in some

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cases to political subdivisions that do not exist in the same form they did at the time those legislative districts were created. Can a legal legislative election be held in a district referring to these now nonexistent boundaries?

Under the old maps, districts range from under ideal population by more than 9,000 to over ideal population by more than 18,000 for Assembly districts, and from more than 19,000 under to more than 25,000 over for Senate districts. If those districts are used for the purposes of recalling legislators, is the burden of gathering sufficient signatures impermissibly high or low due to the unconstitutional population variation?

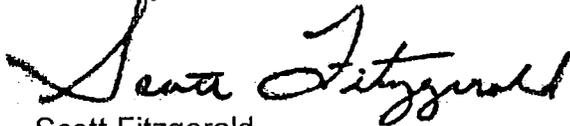
If a local municipality notifies voters of their new ward assignments for local elections in the spring of 2012, is the municipality required to send another notice to voters of their ward assignments should a recall election within the boundaries of the old legislative districts take place in that municipality? Are municipalities equipped to make those distinctions?

Is it permissible for a legislator to be running for office in two separate districts at the same time? (Recall in one district, election/reelection in another)

If the petition process to recall a legislator begins and signatures are gathered in the boundaries of the old legislative districts, what happens if the election is ultimately delayed until after the November, 2012, general election? Are the signatures required to be reexamined and those outside the boundary of the new district disqualified? Is the process required to start over from the beginning? Are candidates from areas from outside the old district but within the new district allowed an opportunity to file for the office?

I appreciate your willingness to address these questions and look forward to your response.

Sincerely,



Scott Fitzgerald
State Senator

c. Kevin Kennedy, GAB

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JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

November XX, 2011

The Honorable Scott Fitzgerald
Senate Majority Leader
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Fitzgerald:

I am writing in response to your correspondence to the Government Accountability Board dated November 4, 2011 and your questions related to recall elections and the impact of 2011 Act 43, which created new legislative district boundaries based upon the 2010 U.S. Census. As you requested, the Board has considered the issues you raised and approved this response.

First, I would note that the Board is certainly aware of the legal and procedural issues created by the effective dates contained in Act 43. However, as I stated in my memorandum to the Senate and Assembly Chief Clerks dated October 19, 2011, and in my subsequent testimony to the Senate Transportation and Elections Committee, those circumstances and potential complications are a result of the legislation which was enacted and which the Board and its staff are obligated to implement.

As you know, redistricting is an orderly process which the Legislature must undertake every ten years, with or without a court finding that the current districts are unconstitutional. Whether the new lines are ultimately enacted by legislative action or a court decision, they normally take effect for regular elections held for state office in the subsequent even-numbered year. In this case, the next regular election is in November of 2012. Therefore, based on the legislation passed, the previous district boundaries are in place for a full ten years. The courts typically do not declare districts unconstitutional part way through that ten year period, for instance, after seven or eight or nine years.

Without a directive issued by a court or in enacted legislation, the Board is not in a position to accelerate the effective date for recall or special elections which is contained in Act 43, or to declare that the current districts can no longer be used for those elections. Section 10 (2) of Act 43 specifically states that the new legislative districts apply, "with respect to special or recall elections, to offices filled or contested *concurrently with the 2012 general election.*" (emphasis added). As I noted in my correspondence to the Chief Clerks, our conclusion on this question is based squarely on the language in the Act as well as previous opinions issued by the Attorney General.

You suggest that the Board should use the districts created by Act 43 for any upcoming recall elections based upon pleadings in a federal court case. You support this suggestion by stating that the plaintiffs alleged that the current districts are unconstitutional and that the State did not contest that allegation. The Board does not agree that it has authority to use the new districts for

recall based upon federal court pleadings. In *Baldus et al. v. Brennan et al.*, the plaintiffs alleged that the new legislative districts created by Act 43 are unconstitutional, not the current districts. The State has disputed that claim. No allegation or stipulation was made in that lawsuit that the current legislative districts are unconstitutional.

On October 21, 2011, the Eastern District federal court denied the State's motion to dismiss the *Baldus* lawsuit, finding that the plaintiffs' allegations warranted a trial, which we expect to occur in February, 2012. While I agree that there may be some administrative complications to conducting recall elections under the current districts, depending upon their timing, there is also the possibility, however remote, that the districts established by Act 43 may be declared unconstitutional by the court. Such a finding would also create other legal and procedural issues regarding recall petitions which were initiated according to the new district boundaries.

With that general background in mind, the Board responds to your specific questions as follows:

1. It is the Board's opinion that our agency is legally bound to conduct recall and special elections under the pre-Act 43 legislative districts, based upon the specific language in the law. That conclusion might change if a court finds those districts to be unconstitutional. In that case, we would look to the court to help shape the appropriate remedy and process based upon its finding.
2. Based upon the effective dates of Act 43 and the Attorney General opinions cited in the attached memorandum, the Board has concluded that, for purposes of constituent representation, the new districts took effect as of August 24, 2011. However, any new constituents in those districts are not permitted to sign petitions for a recall election prior to the 2012 General Election and would not be permitted to vote in a recall election of the legislator who currently represents them prior to that date. The particular set of constituents who may participate in a recall depends upon the timing of the recall election. As with all legislation, Act 43 is presumed to be constitutional unless a court finds otherwise. The constitutional rights of the electors affected by new districts are determined by the language of the Act.
3. The data defining the current legislative districts still exists in the Statewide Voter Registration System and is accessible to local election officials. The boundaries still exist in the elections management software, therefore, and elections can continue to be conducted using those boundaries.
4. You asked whether given the population variances in the current districts, there is an impermissibly high or low burden associated with collecting recall petition signatures. Those variances began to occur from the initial effective date of new districts and continue over the course of a decade. Whether or at what point those variances become impermissible or unconstitutional is a determination that must be made by a court of law.
5. Municipalities are not required to notify voters of their new ward assignments for the 2012 Spring Election, or that a subsequent recall election for a legislator would be conducted under the current districts. Whether municipalities choose to do so is a local decision based upon its own priorities and funding. The G.A.B. will have a look-up feature in the Voter Public Access link of our website, which voters and local election officials may use to confirm their correct voting ward.

6. It is permissible and possible for an incumbent legislator to be running for office in two different geographic areas during a recall and regular election in 2012, although the district number will be identical. The recall and regular elections are distinct elections and involve separate procedures and timelines.
7. Assuming that recall petitions have been filed and found sufficient, and that the Board has called an election, it would be delayed only by litigation. In that case, a court could consider a range of options for reconciling the effective dates of Act 43 with the rights of the affected petitioners, candidates and voters. The Board's administration of the recall process and election would comply with any such court order. Regardless of whether a redistricting transition is occurring, candidates for state office are not required to reside in the district they seek to represent until 28 days prior to taking office.

In short, the Board has reaffirmed the guidance contained in our staff memorandum, which is enclosed. While some administrative issues will likely arise during the 2012 election cycle, other questions would need to be addressed if the new districts governed recall and special elections prior to November 2012. The Legislature made its policy choice and declined to accelerate the effective date of the districts established by Act 43, either in the original legislation or after receiving the staff guidance. Consequently the Board will work to implement the effective dates specifically stated in Act 43.

Thank you for contacting the Government Accountability Board. I hope that this information responds to your questions, but please feel free to contact me if you need anything further.

Government Accountability Board



Kevin J. Kennedy
Director and General Counsel

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KEVIN J. KENNEDY
Director and General
Counsel

Open Session

Item H

From: Site Admin [mailto:admin@wisconsinrecall.net]
Sent: Monday, November 07, 2011 11:08 AM
To: Kennedy, Kevin - GAB; Lowe, Diane - GAB
Cc: Mark Bawlinski
Subject: Acceptability of Single-Signer Recall Petitions

Hello Mr. Kennedy and Mrs. Lowe:

Thank you for service to Wisconsin, and your time and responses to my inquiries over the last few months regarding the recall process and acceptability of recall petition forms. Please see the attached .pdf file, which contains two recall petition forms that are identical except for the recallee listed. In the interest of absolute clarity and openness of recall processes that are fair, efficient, and as free of fraud, mistakes and abuse as possible, I plan on attending Wednesday's GAB meeting at 9:00 AM, and will ask the following questions regarding these single-signer recall petitions:

1.) Assuming that, within the time frame dictated by the recall filing dates, a petitioner who is a qualified State of Wisconsin elector downloaded the attached .pdf file from the internet and filled out the petitions completely, accurately and in his/her own hand writing, is there anything about either of these petitions that would render them invalid, questionable, or in any way contrary to what the GAB considers acceptable?

1a.) In the case of 1 above, are there any addition language or markings the petition forms should have?

[Note that the form requires signing both as the elector and signature collector. The language in the collector certification was re-worded from the multiple-signer version to clearly reflect that the elector and collector are the same person. Also, I have also assumed there would be some tear-away protion of optional information at the borrom of the form, below the dotted horizontal line.]

2a.) If that same petitioner filled out these forms by providing his/her information to a database, within the time frame dictated by the recall filing dates, and that petitioner-provided information was then used to populate the form, except for the signatures and signature dates, and that petitioner then downloaded the forms, and signed and dated them in his/her own handwriting, would this in any manner affect the acceptability of them in the GAB's opinion?

2b.) In the case of 2a above, is it the opinion of the GAB that this process constitutes the direct provision of petition information by the petitioner to the petition form?

2b.) In the case of 2a above, and except for the signatures and signature dates, are there any pieces of information on the form that should not be pre-filled with information provided by the petitioner within the time frame dictated by the recall filing dates, in the opinion of the GAB?

3a.) If, within the time frame dictated by the recall filing dates, that same petitioner filled out these forms by providing his/her information to a web page that in turn populated the forms with the petitioner-provided information, except for the signatures and signature dates, and the information was simultaneously stored in a database, and that petitioner then downloaded the forms, and signed and dated them in his/her own handwriting, would this in any manner affect the acceptability of them?

3b.) In the case of 3a above, is it the opinion of the GAB that this process constitutes the direct provision of petition information by the petitioner to the petition form?

3b.) In the case of 3a above, and except for the signatures and signature dates, are there any pieces of information on the form that should not be pre-filled with information provided by the petitioner within the time frame dictated by the recall filing dates, in the opinion of the GAB?

In so much as both time and clarity are of the essence, and that these issues have been widely discussed in recent weeks, I am hopeful that these questions can be answered succinctly and concisely by the GAB during the meeting on Wednesday, such that the recall process can proceed with a clear, public statement to all parties of what will be considered valid recall petitions.

Best regards,

Patrick Williams
414-241-1889

RECALL PETITION

To the Wisconsin Government Accountability Board:

I, the undersigned qualified elector of the State of Wisconsin, petition for the recall of **Governor Scott Walker** from office, pursuant to Article XIII, Section 12 of the Wisconsin Constitution and S.9.10 of the Wisconsin Statutes.

PRINTED NAME OF ELECTOR

STREET & NUMBER OR RURAL ROUTE
(Rural address must also include box or fire number)

Town ___ Village ___ City ___

MUNICIPALITY OF RESIDENCE
(Indicate if Town, Village or City. The name of the municipality of RESIDENCE must always be listed. The municipality used for mailing purposes, when different than the municipality of residence, is not sufficient.)

SIGNATURE OF ELECTOR

_____/_____/_____
DATE OF SIGNING (mm/dd/yyyy)

CERTIFICATION OF CIRCULATOR

I, _____, certify:
PRINTED NAME OF CIRCULATOR (SAME AS ELECTOR)

I am one and the same person as the elector listed on this petition. I reside at the residence listed above. I personally circulated this recall petition to myself and personally signed this paper. I know that I am an elector of the jurisdiction or district represented by the officeholder named in this petition. I signed this paper with full knowledge of its content on the date indicated opposite my name. I know my residence. I support this recall petition. I am aware that falsifying this certification is punishable under S.12.13(3)(a), Wisconsin Statutes.

SIGNATURE OF CIRCULATOR (SAME AS ELECTOR)

_____/_____/_____
DATE OF SIGNING (mm/dd/yyyy)

Page No.

IMPORTANT MAILING INFORMATION

Please mail this form by **January 7, 2012** in a business-sized envelope, with proper postage affixed, to:

<COMMITTEE NAME>

<PO BOX _____>

<CITY, WI ZIPCODE>

OPTIONAL CONTACT INFO: Phone _____ - _____ - _____ Email _____

____ I'd like to volunteer ____ Please contact me with more information

RECALL PETITION

To the Wisconsin Government Accountability Board:

I, the undersigned qualified elector of the State of Wisconsin, petition for the recall of **Lieutenant Governor Rebecca Kleefisch** from office, pursuant to Article XIII, Section 12 of the Wisconsin Constitution and S.9.10 of the Wisconsin Statutes.

PRINTED NAME OF ELECTOR

STREET & NUMBER OR RURAL ROUTE
(Rural address must also include box or fire number)

Town ___ Village ___ City ___

MUNICIPALITY OF RESIDENCE

(Indicate if Town, Village or City. The name of the municipality of RESIDENCE must always be listed. The municipality used for mailing purposes, when different than the municipality of residence, is not sufficient.)

SIGNATURE OF ELECTOR

_____/_____/_____
DATE OF SIGNING (mm/dd/yyyy)

CERTIFICATION OF CIRCULATOR

I, _____, certify:
PRINTED NAME OF CIRCULATOR (SAME AS ELECTOR)

I am one and the same person as the elector listed on this petition. I reside at the residence listed above. I personally circulated this recall petition to myself and personally signed this paper. I know that I am an elector of the jurisdiction or district represented by the officeholder named in this petition. I signed this paper with full knowledge of its content on the date indicated opposite my name. I know my residence. I support this recall petition. I am aware that falsifying this certification is punishable under S.12.13(3)(a), Wisconsin Statutes.

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<CITY, WI ZIPCODE>

OPTIONAL CONTACT INFO: Phone _____ - _____ - _____ Email _____

___ I'd like to volunteer ___ Please contact me with more information

<http://www.termwiki.com/EN:pre-populate>

pre-populate Language: English

Definition: To automatically supply a data field on a form with information.

Part of Speech: noun

<http://www.wordnik.com/words/prepopulate>

Definitions

VERB (1)

1. To populate (form fields, a database, etc.) in advance.

Examples

- “Invoking the history mode also causes the search interface to **prepopulate** its filter selections with those related to History and not Tabs.”
Firefox Extension: Reveal
- “Buyers use the data in negotiations with hotels, and to **prepopulate** expense reports or reports that run off the expense reports.”
Purchasing - Top Stories
- “Buyers can use the data to better manage compliance to company travel policy, **prepopulate** automated expense reporting systems and in negotiations with suppliers.”
Purchasing - Top Stories
- “We simply assign the data to the form helper so it can **prepopulate** the fields for us”
Debuggable.com - Blog
- “It searches various on-line listings to **prepopulate** your entries.”
VersionTracker: Mac OS X
- “With integrated data feeds from American Express, xms/ax can **prepopulate** those expense reports with both travel reservations and corporate charge card data.”
Purchasing - Top Stories