

**Testimony of Kevin J. Kennedy  
Director and General Counsel  
Wisconsin Government Accountability Board**

**Senate Committee on Elections and Urban Affairs**

**September 4, 2013**

**Room 411 South, State Capitol**

**Public Hearing**

**Senate Bills 20, 262, 264, 265, 267 and 268**

Chairperson Lazich and Committee Members:

Thank you for the opportunity to comment on the many bills before you today. I am appearing here for information purposes and to answer any questions you or Committee members may have. The Government Accountability Board is not taking a position for or against any of these bills. While these bills address some technical administrative issues, we encourage the committee to focus its attention on AB 225, which passed the Assembly overwhelmingly. That legislation makes a tremendous leap forward in the administration of elections in Wisconsin by allowing online voter registration. By taking advantage of innovative technology, the efficiency and integrity of Wisconsin elections can be improved even more.

**Senate Bill 20**

Senate Bill 20 would allow municipal clerks to appoint election inspectors who live within their county, instead of limiting them to municipal residents. This would be a departure from having purely local election workers at the municipal level, but it would also provide flexibility to clerks who may have difficulty finding sufficient numbers of local poll workers. However, some municipal clerks have expressed concern about losing the ability to appoint highly-qualified local residents as poll workers if one or both political parties submitted first-choice nominees from elsewhere in the county.

## **Senate Bill 262**

Senate Bill 262 would require uniform labeling of duplicate ballots in the upper right-hand corner of the ballot. We are concerned that writing in this area could interfere with the scanning of the codes for timing and security printed in that area on optical-scan ballots, which comprise 90 percent of the ballots cast in Wisconsin. If this is something the committee wishes to pursue, we would suggest duplicate ballots be labeled as such in the endorsement area of the ballot, which will not interfere with ballot markings for security and timing.

## **Senate Bill 264 and Senate Bill 265**

Senate Bill 264 would require that only the chief inspector and one other inspector whose party affiliation is different than the chief inspector's party affiliation may secure the ballot container. Senate Bill 265 provides that whenever two or more inspectors are required to perform a function within a polling place and both parties that are entitled to submit nominees have done so, the chief inspector must assign, insofar as practicable, an equal number of inspectors from the nominees of each party.

The G.A.B. staff has undertaken a survey of Wisconsin municipal clerks to ascertain what proportion of clerks received election worker nominations from each party. Within five days including the Labor Day Weekend, we received 703 responses by early today. Here are some initial numbers from our survey:

- 176 of 703 clerks reported receiving nominations for poll workers (24.6%)
- 54 of 176 received nominations from both parties (30.7%)
- 82 clerks received nominations from the Democratic Party
- 28 clerks received nominations only from the Democratic Party
- 129 clerks received nominations from the Republican Party
- 75 clerks received nominations only from the Republican Party
- About half (52.3%) of the clerks who received nominations said at least one nominee declined to serve
- About 20 percent of those who received nominations said at least one party made first-choice nominations
- 24 of 176 who received nominations said they received a sufficient number (13.6%) for all poll worker vacancies.

The G.A.B. gave clerks the opportunity to make open-ended comments. Here are some initial observations:

- Clerks are generally against nominations of poll workers by either political party
- Clerks prefer to assign roles and tasks based on the clerk's assessment of poll worker capabilities from training
- Clerks generally prefer election inspectors who are not politically affiliated
- Clerks emphasized the importance of poll workers being properly trained
- Clerks were opposed to having to use party-nominated individuals over experienced and well-trained poll workers.

We believe the proportion of clerks receiving poll worker nominations is rather small. In the event a clerk does receive nominations from both parties, it is unlikely that poll workers from both parties will be available at most polling places. We are concerned about the practicality of training poll workers in procedures that will apply in so few situations.

### **Senate Bill 267**

Senate Bill 267 adds a requirement that the type of proof of residence documents used by first-time Wisconsin voters be added to the poll list. Wisconsin Statute §6.79 (4) already requires listing the type of proof of residence and any applicable unique number on supplemental voter lists for:

- New Wisconsin residents (Presidential-only voters (§6.15)),
- Late registrants (in the clerk's office after close of registration, 20 days before election (§6.29)), and;
- Election Day registrants (new voter, name change or address change (§6.55)).

The Statewide Voter Registration System (SVRS) already has the capability to record the type of proof-of-residence document, and it is used. The proposed requirement to list these changes on registration or application forms is practical. Requiring that SVRS list the type of proof-of-residence document ensures that the data will be entered into SVRS by local municipal clerks. While we were not able to assemble information about proof of residence for Presidential-only voters and late registrants, we do have information for Election Day registrants:

<b>Proof of Residence Source</b>	<b>Total</b>	<b>Percent</b>
WI Driver License or ID Card	470,835	65%
Utility Bill	84,109	12%
Other Document	63,233	9%
No Information Available	31,030	4%
Bank Statement	28,681	4%
Residential Lease	18,227	3%
Paycheck	15,765	2%
College Student ID	7,979	1%
Government ID Card	3,423	0%
Tax Bill	2,500	0%
Employment ID Card	274	0%
Affidavit for Homeless Electors	102	0%

We would suggest a change in current Section 6.79 (4) so that any unique number for a proof of residence document is recorded on the voter registration form, and not on the supplemental poll list. The supplemental poll list would then contain the voter's name, address, voter number, and type of proof of residence document, but not any unique number. That way, it would be open to public inspection without any need to redact sensitive information.

### **Senate Bill 268**

Senate Bill 268 would double the number of nominees submitted to the Governor by the Government Accountability Candidate Committee. We would urge some caution here. Other than the initial appointment, there have never been more than two vacancies in the seven times the Candidate Committee has met. The size of the applicant pool is not large, and in recent years it has dropped from more than a dozen for each vacancy to seven in 2013. However, we anticipate the applicant pool will likely increase in size and diversity as more judges will be leaving the bench in coming years. There will be more women and minorities leaving the bench.

The structure of the Government Accountability Board, with its reliance on former judges who are trained decision makers, is unique in the country. Academics from around our nation have lauded the Wisconsin Legislature's vision in creating the Board as a means of providing integrity, independence and fairness in the regulation of campaign finance,

elections, ethics and lobbying. (Rather than doubling the number of nominations provided to the Governor, it might be more practical to increase the number by one, so there would three names for one vacancy, five names for two vacancies, seven names for three vacancies, and nine names for four vacancies, and 11 for five vacancies.)

The Candidate Committee which nominates Board members to the Governor is a temporary body which is reconstituted every two years by a random selection of Court of Appeals judges from each district. Their nominations must be unanimous. This year, on its own initiative, the Candidate Committee provided the Governor with four nominations instead of two for one vacancy. My observation of that committee's process and selections over the years is that its members are thoughtful and conscientious about evaluating their colleagues' qualifications for service on the Board and maintaining the Board's impartiality.

### **Conclusion**

Thank you for the opportunity to share my thoughts with you. I hope this testimony will help inform the Legislature's consideration of these bills. As always, we are available to answer questions and work with you in developing proposed legislation.

Respectfully submitted,

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive, flowing style.

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