

**Testimony of Kevin J. Kennedy
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Wisconsin Government Accountability Board**

Senate Committee on Elections and Urban Affairs

October 31, 2013

Room 425 Southwest, State Capitol

Public Hearing

Senate Bills 324 and 377

Chairperson Lazich and Committee Members:

Thank you for the opportunity to comment on the two bills before you today. I am appearing here for information purposes and to answer any questions you may have. The Government Accountability Board is not taking a position for or against either of these bills.

Senate Bill 324

Senate Bill 324 would set specific times during which people could vote absentee in the clerk's office. In-person absentee voting would generally be limited to Monday through Friday between the hours of 7:30 a.m. and 6 p.m. However, the bill includes an exception allowing a voter to make an appointment with the actual city, town, or village clerk to vote absentee after 6 p.m. or anytime on the Saturday or Sunday in the middle of the two-week, in-person absentee voting period. It would not permit absentee voting in the clerk's office on the weekend before Election Day.

This legislation has been promoted as a means to ensure all voters in the state, no matter where they reside, have the same opportunity to cast an absentee ballot in-person. It does not address the disparate treatment and limited in-person absentee voting options

provided in smaller municipalities. The bill merely creates a 105-hour window in which Wisconsin's 1,852 municipalities may pick and choose what hours to be open.

While large municipalities with diverse populations such as Milwaukee and Madison will be constrained from serving voters who find it difficult to get to City Hall Monday through Friday between 7:30 a.m. and 6:00 p.m., small municipalities can continue to limit their hours to as little as an hour a day or close their offices for several days during the 10 days available for in-person absentee voting. While Milwaukee had expanded in-person absentee voting hours to serve the 36,349 voters who came to cast a vote in-person at City Hall, the City of Platteville clerk's office is generally closed on Fridays. It was open the Friday before the November 6, 2012 election. In many municipalities the only way to cast an absentee vote in-person is to track down the municipal clerk and make an appointment because there are no regular office hours.

The proposed legislation is trying to balance competing interests. While trying to bring a level of uniformity to the absentee voting process, it also seeks to preserve local control for municipalities to best serve its citizens. The purpose of in-person absentee voting is to provide a means for citizens who have difficulty getting to the polls on Election Day to cast their ballot in a secure and public manner.

I recommend that the Committee consider expanding the window to permit in-person absentee voting between 7:00 a.m. and 8:00 p.m., the same hours the polls are open on Election Day. This provides up to 13 hours of in-person absentee voting on 10 business days. In addition, municipalities should be able to provide in-person absentee voting on the weekend between the two weeks preceding the election. This provides all municipalities with the flexibility to serve a diverse range of voters with the opportunity to cast an in-person absentee ballot while providing a standard window for casting absentee ballots. Municipal clerks were most concerned with ending absentee voting on the Friday before Election Day and are generally pleased with that current provision because it permits them to focus on preparing the polls and other Election Day responsibilities.

The proposed legislation also presents some local control issues by limiting appointments for absentee voting outside the proposed 10-and-a-half-hour, 10-business-day window created by the bill. The bill provides that an appointment may only be made with the clerk, not a member of the clerk's staff. This limitation puts an undue burden on a single person and does not account for the scenarios where a clerk may be unavailable due to outside commitments, family matters or illness or a vacancy in the clerk's office. If the Committee adopts the proposed change I have suggested with up to 13 hours of voting over 12 days, the need for appointments outside this window is diminished.

The bill also appears to remove the appointment process in Milwaukee from the Election Commission and places it with the city clerk who does not have any current statutory election-related responsibilities. See Section 2, page 3, line 1. Current law includes the executive director of the Milwaukee City Election Commission in the definition of municipal clerk. Wis. Stat. §5.02 (10). Section 7.21 of the Statutes, the provision excepted from the appointment process, assigns the election-related duties of the municipal clerk in Milwaukee to the City Election Commission Members and its executive director. This language can be struck and eliminate this source of confusion.

Senate Bill 377

Senate Bill 377 creates requirements for municipalities, counties and the Government Accountability Board (G.A.B.) to make public reports about the number of address verification postcards that are returned as undeliverable after an election. As you know, whenever someone registers to vote on Election Day, that voter is sent a postcard to verify the accuracy of the registration address. This is one of several safeguards in place to monitor the integrity of Election Day Registration (EDR) procedures. For a number of reasons, some of those postcards come back to the clerk's office as undeliverable by the post office.

Under this bill, in addition to the other election-related statistics that the municipal clerk must submit to the county, no later than 60 days after an election, the municipal clerk must provide the total number of postcards sent to electors to verify that the addresses

they provided on election day are correct, the total number of such postcards returned as undeliverable, and the total number of electors whose status was changed from eligible to ineligible on the registration list as a result of the audit. The bill also requires the G.A.B. to publish this information on its Internet site once it receives it from the county. In addition, if G.A.B. performs the audit, G.A.B. must publish on its Internet site the total number of postcards sent to electors, the total number of postcards returned as undeliverable, and the total number of electors whose status was changed from eligible to ineligible.

The legislation presents a number of logistical problems for the G.A.B. and local election officials. The statistical reporting process described in Sections 6.275 and 6.276 have been moved from a paper-based reporting system to a web-based reporting system. Municipal clerks no longer fill out separate paper forms submitted in duplicate to the county clerk. Instead, the G.A.B. has designed a web-based portal that enables municipal clerks or their Statewide Voter Registration System (SVRS) providers to enter the election statistical data electronically. This allows for more accurate, accessible and efficient collection of the data following each election. These statutes should be revised to reflect this process.

There are a number of reasons why a confirmation post card may be returned as undeliverable. It is not just because the address provided by the voter was incorrect. The voter may have been residing at the address on Election Day, but moved to a new address after Election Day when the confirmation mailing was sent. Often there are data entry issues when the registration form is entered into SVRS. Many times a voter may have their mail held because they are temporarily away. In those cases the confirmation mailing will be returned with the notification “temporarily away.” Another significant reason for returned post cards is postal service error. As a result, the number of undeliverable postcards is generally higher than the number of voters inactivated or referred to the district attorney.

In practice the 60-day reporting period is too short to provide a complete picture of the number of voter registrations that may be inactivated because of the confirmation

mailing. Postcards cannot be mailed until the data is entered into SVRS, and the amount of time it takes for an undeliverable postcard to be returned can vary significantly. Each of the reasons described earlier needs to be investigated by the municipal clerk to determine why the confirmation mailing was returned. Local election officials struggle to meet the deadline to enter voter history including EDR. Current law allows 45 days with an additional 15-day extension to record this information in SVRS. Wis. Stat. §6.33 (5)(a).

Many local election officials struggle to meet the current 30-day reporting requirement for other election statistics. I am certain, they would like more time and consistency for reporting deadlines.

While the law permits the G.A.B. to conduct the confirmation mailing on behalf of the municipal clerk, the agency does not assume all of the post-election audit duties of the municipal clerk with respect to these mailings. It is cost efficient and practical for the G.A.B. to sort the names, print the post cards and mail them on behalf of the municipal clerks. However, it is not practical or cost effective to have the undeliverable post cards returned to the G.A.B. because the follow up needs to be done at the local level.

The G.A.B. will also have to make changes in SVRS and the Wisconsin Elections Data Collection System (WEDCS) to make the information on undeliverable confirmation mailings for EDR voters available. There are other confirmation mailings that result in inactivating a voter's registration. SVRS will have to be modified to differentiate among those processes.

We currently post monthly reports on the number of registered voters by county and municipality on our website. We also provide detailed SVRS data in our Election Division updates that are submitted to the Board and the public for G.A.B. meetings. The agency may be able incorporate information about confirmation mailings in those reports as an alternative to developing a separate report.

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 style with a large, prominent "K" at the beginning.

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