

**Testimony of Kevin J. Kennedy
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Senate Committee on Elections and Urban Affairs

**December 18, 2013
Room 201 Southeast, State Capitol
Public Hearing
2013 Assembly Bill 225**

Chairperson Lazich and Committee Members:

Thank you for the opportunity to comment on Assembly Substitute Amendment 1 to Assembly Bill 225, which is 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 formal position for or against this omnibus bill. There are some individual parts of this bill that will significantly improve the administration of elections in Wisconsin, notably online voter registration.

Online Voter Registration

Legislation that enables online voter registration would make a tremendous leap forward in the administration of elections in Wisconsin. By taking advantage of innovative technology, we can significantly improve the accuracy, cost-effectiveness, efficiency and integrity of Wisconsin's voter registration system.

In the past year, the G.A.B. staff has developed and deployed an online voter registration form that allows citizens to complete almost all the steps necessary to register online. The form

captures the person's information and saves it to a pending file in the Statewide Voter Registration System (SVRS). The person prints the form, signs it and mails it to his or her municipal clerk. When the form arrives at the clerk's office, it does not have to be re-entered into the system.

Since September 2012, approximately 25,000 people have used the MyVote system to register or change their voter registration information, compared to about 520,000 who have used conventional paper forms.

We believe a fully online system would be much more popular with the public, improve the accuracy of voter registration data and be much more cost effective for local election officials. A system that allows the G.A.B. to verify driver license or state identification card information with the Department of Transportation's DMV database in real time and obtain a copy of the voter's electronic signature would provide added security and efficiency in voter registration. It would also allow registered voters to update their records online in the event they change their name or address.

According to the National Conference of State Legislators, as of August 2013, 13 states offer online registration. Six more states have passed legislation allowing online registration, but have not implemented them yet. Five more states allow limited online registration.

The first state to offer online voter registration was Arizona in 2002. Published research has found that in Maricopa County, Arizona, the state's online voter registration system significantly reduced the cost for each application processed. Each paper application cost at least 83 cents of staff time to process, compared to 3 cents for each online application. In 2008, online voter applications saved Maricopa County alone more than \$370,000. Some of the savings came from not hiring additional temporary workers to process paper application forms.

How much money would online voter registration save Wisconsin taxpayers? That's not an easy question to answer because our system is so decentralized, with 1,852 city, village and town election officials responsible for processing paper voter registration forms. Some larger municipalities will process thousands of forms while smaller towns will have only a handful. Students from UW-Madison's La Follette School of Public Affairs have conducted a cost-benefit analysis, and are finalizing their findings for the G.A.B. We have been told preliminarily that the

students estimate a net benefit (savings) of \$372,000 if an advertising budget of \$638,900 is included to increase public use of online registration. The net benefit without the optional advertising budget is just over \$1 million. Both of these benefits are calculated over the first 10 years of implementing the program. We will be happy to provide the Legislature with the final results of the La Follette School's study.

One problem we know online voter registration will help solve is the scourge of door-to-door voter registration drives. In theory, grassroots voter registration efforts would ease a burden on local election officials and improve voter turnout. In practice, they generate thousands of duplicate registrations from voters who aren't sure whether they're already registered, and are often dumped on local election officials at the last minute. The same can be said of mail voter registration drives, which often direct voters to send their applications to the wrong clerk's office based on a mailing address instead of municipal boundaries. Some voter registration drives have not been without fraud, whether due to malicious intent or to workers trying to make a quota. Local election officials using SVRS were able to catch all these fraudulent applications before they were entered into the system, but this amounted to a huge investment in time.

Concerns have been raised about the ability of malevolent persons to impersonate legitimate voters using personal information that is available on the internet. While these concerns are real, the G.A.B. already has processes in place as part of the design of SVRS to thwart these efforts. In addition, state law provides significant penalties for persons attempting to commit voter registration fraud. Similarly the Department of Administration, the Department of Transportation and the G.A.B. are constantly adding security features to our IT infrastructure.

Ultimately, online voter registration merely adds a new means of collecting information from voters to enable them to complete their registration and participate in elections. This approach is more accessible, cost effective and efficient than the glut of paper forms that currently inundate local election officials. Its implementation will pay huge dividends for voters and election officials.

Campaign Finance

This bill makes a number of changes to campaign finance contribution limits which have been in place for decades:

- It doubles all contribution limits and PAC limits for non-local candidates.
- It eliminates the current statutory formula for PAC limits (the 45/65% formula based on the defunct disbursement limits) and replaces it with specific limits set by statute. The bill sets these as the product of the current levels multiplied by 2, with the amount rounded up to the nearest \$1,000.
- It doubles the PAC to party limit from \$6,000 to \$12,000 per calendar year.
- It doubles the \$150,000 PAC to party (and legislative campaign committees) limit to \$300,000.
- All limits are also automatically adjusted for inflation (round up to the nearest \$25) every two years.

For individuals, the bill would double the amount one could give to a single candidate or any combination of political committees from \$10,000 a year to \$20,000. This amount may be too low. Litigation is pending that may require a much higher ceiling for a cap on all political contributions. As background, our staff has analyzed campaign contributions for calendar year 2012 from the G.A.B.'s Campaign Finance Information System, which contains every reported political transaction for state candidates and committees.

- **Assembly** -- There were a total of 53,461 contributions from all sources totaling \$6,653,925, with an average transaction amount of \$124. Of that total, 48,563 contributions came from individuals, with an average amount of \$96. Included in the 48,563 were 10,821 individual contributions through conduits averaging \$118 each. There were 9,003 contributions from individuals of more than \$100, and they averaged \$298. In the 2011-2012 cycle, 2,477 individuals gave the maximum \$500 contribution to an Assembly candidate. From committees, there were a total of 2,911 contributions totaling \$1,020,418, with an average transaction amount of \$350. Only 233 committees gave the maximum \$500 contribution, though some gave to more than one candidate.
- **Senate** -- There were a total of 71,538 contributions from all sources totaling \$5,334,647, with an average transaction amount of \$74. Of that total, 69,881 contributions came from individuals, with an average amount of \$64. Included in the 69,881 were 37,157 individual contributions through conduits averaging \$38 each. There were 6,845

contributions of more than \$100 from individuals, and they averaged \$368. Between 2009 and 2012, 852 individuals gave the maximum \$1,000 contribution to a Senate candidate. The campaign donation averages in the Senate elections were impacted by a large number of conduit contributions (30,741) through Act Blue, which averaged \$18 each. The 32,724 non-conduit contributions averaged \$94. From committees, there were 1,097 contributions totaling \$629,351. This is an average contribution of \$574. Only 138 committees gave the maximum \$1,000 contribution although some gave to more than one candidate.

- **Governor --** For the two major party candidates for the gubernatorial recall election, there were 337,424 individual donations totaling \$32,088,240. This is an average of \$95.10 per contribution. Only 80 individuals gave the maximum \$10,000 contribution. From committees, there were 249 contributions totaling \$2,412,915, averaging out to \$9,690 each. Only four committees gave the maximum \$43,000 contribution.

This bill does not make any changes to disclosure requirements for occupation or employer for large donors, and we would urge the Legislature to leave the current disclosure rules in place in the interest of transparency.

This bill would exempt volunteer Internet campaign activity from G.A.B. regulation. In 2009 G.A.B. staff developed guidance on the regulation of Internet activity. Rather than follow the Federal Election Commission's very narrow approach, the G.A.B. and staff discussed subjecting much more Internet activity to regulation. This bill follows the FEC rules and specifies that volunteer Internet activity does not fall under the definition of "contribution" or "expenditure," and is outside of the scope of regulation.

This bill would improve transparency by increasing the frequency of campaign finance reporting. Current law requires ongoing campaign finance reports generally twice each year, and then extra reports near election dates. The bill increases that to quarterly by default for all cycles. It also provides an extra report on the fourth Tuesday in September for partisan races.

On the other hand, this bill also makes a number of changes that will require fewer political committees to register and disclose information about their fundraising and spending. It would:

- Increase the political committee registration threshold from \$25 to \$500.
- Increase the \$25 independent expenditure registration threshold to \$1,000. (Current law states that any non-candidate spending over \$25 requires registration. The bill changes this to \$1,000.)
- Increase the \$20 itemization threshold to \$40.
- Increase the threshold for campaign finance disclosure of referendum-related activity from \$750 to \$2,500.

This last change on the threshold for referendum registration and disclosure is recommended by the G.A.B. as a result of federal court decisions that have held that the current limit may be unconstitutional.

Other campaign finance changes include:

- Verifying campaign loans. Upon request, GAB would verify loans from an individual to a political party greater than \$10,000 that occurred in the prior two years.
- Providing an exception to the 50 piece rule in the event of a declared emergency. Under the bill, the “50-piece” rule would be lifted for 45 days for all legislators who represent constituents in the counties covered by the Governor’s declaration of a State of Emergency and if the communication relates solely to the subject of the emergency.

Election Administration

This bill makes several changes to Election Administration, some of which would be helpful to the G.A.B. and to local election officials.

- Equal party representation at the polls. Under current law, polling places are staffed by election inspectors nominated by the two major political parties. This bill requires, insofar as practical, each party have representation on each specific job within the polling place for each job requiring two or more people. The key phrase here is “insofar as practical.” Most Wisconsin polling places are staffed by election inspectors who are not nominated by either political party. While the parties have started showing some interest in nominating inspectors, the likelihood that polling places will be fully-staffed by partisan nominees is slim.

- Allow boards of canvass to conduct recounts by hand unless a court orders otherwise. This has the support of some local election officials.
- Allow municipalities to combine the results from wards with 20 or fewer people. We have previously commented on this proposal, which was contained in Senate Bill 94. While the proposal provides valuable flexibility for municipalities when tallying and reporting election results, we suggested a slightly higher threshold of 100 voters rather than 20 voters for the size of the added ward. This would be consistent with current provisions permitting the use of paper ballots in lieu of electronic voting equipment. See Wis. Stat. §5.40 (3)(a).
- Increase the cost for a recount paid by the requester. This legislation raises the fee for requesting a recount from \$5 per ward to \$25 per ward. A proposed amendment also lowers the threshold for when a fee is required from one half of one percent (.5%) to one quarter of one percent (.25%).

The number of recounts at any given election is relatively small. There are only a handful of recounts in Fall elections. However, there are usually between 50 and 100 recounts brought to our attention in a Spring election. That is because the number of candidates and election contests is significantly higher for Spring elections. In 2013, there were 9,587 candidates competing for 6,768 state and local offices at the April 2 election.

Despite the relatively low number of recounts, each recount is important to the candidates involved as well as the voters and election officials. For candidates a recount brings closure to a process in which they have put themselves before their fellow citizens and asked to be chosen to lead their community. For voters, a recount brings certainty and finality to the campaign process. For election officials, a recount is an opportunity to evaluate their performance in the conduct of the election and it may be the only means of recognition for a job well done.

The outcome seldom changes in a recount. Here are some numbers drawn from notes taken by our staff. At the state level we have identified only three contests where the outcome changed since 1979. In the 2010 partisan primary, now-Representative Tyler August lost in the original count by 4 votes, however after the recount, he prevailed by 3 votes. In 2013, the incumbent

Iron County District Attorney prevailed in the recount by 4 votes (1,630-1,626) after having lost in the original count by 4 votes (1,622-1,626).

At the local level our notes show a reversal of winners after a recount in one race in 2000 and also in 2001, 2003 and 2005. In 2002, we tracked eight contests where the outcome was impacted due to a recount. In five of those contests, the recount resulted in a tie vote and in one a write-in candidate defeated the incumbent whose name appeared on the ballot. In 2004 two contests involved tie votes. In one the original count was a tie and in the second a write-in candidate won after the recount determined a tie vote and the tie was broken as provided by law. In the Village of Cottage Grove in 2010, the recount resulted in a tie vote which was broken by the toss of a coin.

The legislation also makes several other changes to election law that have been vetted as separate pieces of legislation.

Increased Ethics Training and Lobbying Disclosure

The legislation provides for increased ethics training for legislators and lobbyists. This will provide additional public confidence in the integrity of government officials and those seeking to influence government action.

The legislation requires the disclosure of activity designed to influence procurement of more than \$50,000 as part of Wisconsin's comprehensive lobbying disclosure activity. This provides additional transparency for the public.

Conclusion

Thank you for your consideration of our views. I would be happy to respond to any questions Committee Members may have at this time. The G.A.B. staff is also available to work with you to address the issues we have raised, and will provide you with more information as soon as we have had the time to fully analyze this bill.