

Testimony of Michael Haas
Wisconsin Elections Commission

Assembly Committee on Campaigns and Elections
February 14, 2018

Room 415 Northwest, State Capitol
Public Hearing

Assembly Bill 925

Chairperson Bernier and Committee Members:

Thank you for the opportunity to provide testimony on Assembly Bill 925. The Elections Commission has not taken a position on this bill, and therefore I am providing our staff's feedback for information purposes only.

The background to this bill involves 2013 Act 159, which was enacted in 2014 and which modified provisions of the statutes related to voting in nursing homes and other adult-care facilities. That legislation permitted municipal clerks some flexibility to determine which adult-care facilities would be served by special voting deputies who assist residents in the absentee voting process. Act 159 also recognized that there are often several units or wings of a facility or campus, and that a clerk may choose to send special voting deputies to sections of the facility offering more intensive treatment without requiring the special voting deputies to serve the retirement home units or wings of the facility.

Since the passage of Act 159, our agency has struggled a bit with applying its use of the phrase "on the same grounds" to determine how closely connected the retirement home unit must be to the remainder of the facility to trigger required procedures. We have had numerous conversations with legislative staff and municipal clerks about this issue. In recent discussions with legislative staff and Legislative Council staff, it has become apparent that Act 159 may have contained some ambiguity about the treatment of electors in retirement homes connected to a larger facility served by special voting deputies, and that current procedures may not be consistent with the legislative intent of Act 159.

Assembly Bill 925 clarifies the treatment of electors residing in a retirement home wing or unit of a larger facility served by special voting deputies. The bill retains the municipal clerk's ability to determine whether such retirement homes qualify to be served by special voting deputies. The clerk may send special voting deputies to the retirement home if the clerk finds that a significant number of the occupants of the retirement home lack adequate transportation to the appropriate polling place, a significant number of the occupants of the retirement home may need assistance in voting, there are a significant number of the occupants of the retirement home aged 60 or over, or there are a significant number of indefinitely confined electors who are occupants of the retirement home.

If the clerk determines that, due to those factors, a retirement home which is part of a multiple-use facility qualifies to be served by special voting deputies, residents of the retirement home may complete absentee ballots with the special voting deputies. Those individuals may also cast an absentee ballot by mail or in the clerk's office, or they may vote at the polling place.

Assembly Bill 925 makes clear that, if the municipal clerk determines that a retirement home unit or wing connected to a multi-purpose facility does not qualify to be served by special voting deputies, residents of that retirement home may not be complete absentee ballots with the special voting deputies serving the remainder the facility. This would remove the ambiguity in the statute and change the current guidance of the Elections Commission which has interpreted the statutes to permit special voting deputies to serve residents of the retirement home unit even when the clerk has not determined that it is a qualified facility.

We do not know how often municipal clerks have determined retirement home units to be qualified or not qualified to be served by special voting deputies when they are connected to a multi-purpose facility. We do know that the phrase "on the same grounds" currently used in Section 6.875 has created some confusion and uncertainty regarding these procedures. We expect the elimination of that phrase by AB 925 will improve the administration of the special voting deputy statute.

In addition, the conditions under which residents of a retirement home unit may be served by special voting deputies is a policy choice, but we also expect that the bill's clarification on this point will improve the special voting deputy process by eliminating ambiguity. Also, the bill maintains the municipal clerk's discretion in determining whether to have special voting deputies serve residents of specific retirement home units based on whether the clerk determines that the retirement home is "qualified." Therefore, it is the decision of the municipal clerk and not the bill itself which would affect whether residents of retirement home units or wings can complete an absentee ballot with a special voting deputy.

Thank you for the opportunity to share our thoughts with you. I hope this testimony will help inform the Legislature's consideration of this bill. As always, we would be glad to answer questions and work with you to address any questions or issues related to the bill.

Respectfully submitted,



Michael Haas
Wisconsin Elections Commission
608-266-8005/Michael.haas@wi.gov