

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

**Senate Committee on Elections and Urban Affairs**

**October 3, 2013**

**Room 201 Southeast, State Capitol**

**Public Hearing**

**Senate Bills 94, 282 and 297**

Chairperson Lazich and Committee Members:

Thank you for the opportunity to comment on the three 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 SB 94 and SB 297 address some technical election administration issues, we again 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 significantly.

**Senate Bill 94**

Senate Bill 94 relates to the method of reporting election returns by municipalities. It would allow any municipality with a population of 35,000 or more to combine small wards with adjacent wards. G.A.B. staff has previously commented on earlier versions of this bill. The proposed legislation provides valuable flexibility for municipalities when tallying and reporting election results. However, we suggest 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).

## **Senate Bill 282**

Senate Bill 282 is fundamentally flawed. It eviscerates the basic principle of disclosure on which campaign finance law is based. That principle was articulated by the Legislature as a Declaration of Policy when the campaign finance law was enacted in 1973 following the Watergate campaign funding abuses. A copy of that declaration of policy is attached for your consideration. The policy begins with this statement: “The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed.”

The Legislature’s Declaration of Policy goes on to say: “One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence.”

SB 282 would eliminate the requirement for candidates and political committees to disclose the names and addresses of employers of people who contribute more than \$100 per year. It would also raise the threshold for reporting of contributors’ occupations so that significantly less information would be available to the public.

This new standard for campaign finance reporting would greatly diminish the information available to members of the public about the sources of financial support for candidates for public office, and would undermine the right of the public to have a full, complete and readily understandable accounting of those financial activities intended to influence elections.

In addition to eliminating one of the crucial pieces of information about large contributors -- the name and address of the contributor's principal place of employment -- the increased threshold for disclosing occupation means this information will never be available for most local races or Assembly contests because the individual contribution limit for those offices is \$500 or less.

My mother always told me you are judged by the company you keep. The fundamental purpose for campaign finance disclosure is to enable citizens to know who supports candidates for public office. Campaign contributors are more than just a name on a piece of paper. Knowing a contributor's occupation, employer and place of employment provides vital information for evaluating the source of a candidate's support.

Such information is also important to avoid confusion between people with the same or similar names. Recently the Government Accountability Board completed its annual audit of prohibited campaign contributions by registered lobbyists. Our staff found 11 registered lobbyists with the same names as people who made legal campaign contributions. Having employer information about contributors allowed our staff to quickly exonerate those lobbyists with the same names.

Employer and occupation information also helps distinguish between contributors with similar names. It might surprise you to learn that there are several women in Wisconsin named Mary Burke who make campaign donations to Republican and Democratic candidates and committees. Employer information helps the public and the media distinguish between which one is a retired teacher, and which one is the bicycle executive rumored to be running for governor. Since 2008, there have been 537 campaign contributions to candidates and committees from people with some variation of the name David or Dave Johnson. Even middle initials are not always helpful, as there are multiple David E. Johnsons, David L. Johnsons, David M. Johnsons and David R. Johnsons. In many cases, employer information, when provided, helps distinguish one from another.

Employer information is also a critical enforcement tool. Just two years ago, the G.A.B. levied a record forfeiture of \$166,900 against Wisconsin Southern Railroad, and its CEO

William Gardner pleaded guilty to two felonies for laundering illegal campaign contributions through several of his employees. We learned about the scheme through a tip from Mr. Gardner's former girlfriend, to whom he had given \$10,000 to make an illegal campaign contribution. But it was employer information in the campaign finance system that helped the G.A.B. investigate the case and identify the railroad employees who had also received payments from Mr. Gardner. We believe that disclosure of employer information from large donors serves as an effective deterrent to similar money laundering schemes.

### **Senate Bill 297**

Senate Bill 297 would require local election officials to dispatch special voting deputies (SVDs) to certain adult-care facilities to conduct absentee voting instead of allowing discretion in determining whether to dispatch special voting deputies to those facilities. The facilities where such absentee voting would be required, upon the request of an absentee voter, include adult family homes, community-based residential facilities, and residential care apartment complexes. The requirement would not apply, however, to such facilities in which less than five registered electors are occupants.

The State currently licenses 1,568 adult family homes, 1,514 community-based residential facilities, and 309 residential care apartment complexes. Because the bill makes it mandatory to conduct absentee voting via special voting deputies at some of these facilities where it is currently optional, we anticipate some increase in local costs in the form of wages for local clerks and special voting deputies to correctly administer the new provisions. However, several factors make it difficult to estimate the local fiscal impact.

First, there is no statewide data reflecting the number of such adult-care facilities which are currently served by special voting deputies despite the fact that less than five registered voters are occupants, and therefore the increase in the number of facilities that would be served cannot be calculated. Second, the number of registered voters in individual facilities constantly fluctuates, making it impossible to calculate the effect of

the exception based on the existence of five registered voters at specific facilities. Under both existing law and the proposed bill, we believe that local election officials may simply choose to dispatch special voting deputies to conduct absentee voting at the facilities upon receiving one request for an absentee ballot, regardless of the total number of registered voters who are occupants of the facility. Finally, wages for local election officials and special voting deputies are established at the local level and vary widely across municipalities.

In addition to an expected increase in local costs, we have heard concerns from local clerks regarding the requirement to post a public notice at least five days prior to absentee voting at adult-care facilities, rather than the 24-hour notice required under current law. We understand the purpose of the five-day notice is to give family members adequate time to prepare their loved one to participate in voting.

The five-day notice may cause administrative challenges because there is a limited time window for absentee voting to take place. Oftentimes a clerk needs to send special voting deputies to a facility a second time because a resident may not be available to vote during the initial visit. Requiring that a notice be posted five days before the second and any subsequent visits will make it difficult and sometimes impossible to accommodate voters in those facilities.

We would suggest modifying the notice requirement to provide more flexibility for clerks, by shortening it or possibly requiring the five-day notice only for the initial visit and a shorter notice for subsequent visits.

It is important to keep in mind that, once a clerk provides special voting deputies to conduct absentee voting at nursing homes and other facilities where it is currently optional, residents of those facilities may vote only by that method. The bill would continue the current prohibition against those individuals casting an absentee ballot by mail or in the clerk's office.

## **Conclusion**

Thank you for the opportunity to share my thoughts with you. I hope this testimony will help inform the Committee'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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**11.001 Declaration of policy. (1)** The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence. The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. Such a system must make readily available to the voters complete information as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly. This chapter is intended to serve the public purpose of stimulating vigorous campaigns on a fair and equal basis and to provide for a better informed electorate.

**(2)** This chapter is also intended to ensure fair and impartial elections by precluding officeholders from utilizing the perquisites of office at public expense in order to gain an advantage over nonincumbent candidates who have no perquisites available to them.

**(3)** This chapter is declared to be enacted pursuant to the power of the state to protect the integrity of the elective process and to assure the maintenance of free government.

**History:** 1973 c. 334; 1979 c. 328; 1985 a. 303; 2001 a. 109; 2005 a. 177.  
Campaign finance in Wisconsin after *Buckley*. 1976 WLR 816.