

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

Senate Committee on Elections and Urban Affairs

January 23, 2014

**Room 201 Southeast, State Capitol
Public Hearing
Senate Bills 393, 444 and 459
Assembly Bills 420 and 419**

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.

Senate Bill 393 and Assembly Bill 420

These bills require electors who sign nomination papers or election-related petitions to legibly print their name in order for the signature to be counted. This should help resolve some issues about a signer's eligibility since many signatures are difficult to read. It remains to be seen what the impact of this requirement will be in practice. It could slow down the review process and it may lead to more nominating petitions failing to qualify.

As a gentle reminder, April 15, 2014 is the first day to circulate nomination papers for the fall elections. I would encourage the Committee and the Legislature to act on this quickly so candidates and filing officers are prepared to implement this legislation for the upcoming circulation period.

Senate Bill 444

Senate Bill 444 reduces the number of nomination paper signatures required for a candidate for city-wide office. Instead of gathering a minimum of 200 signatures with a maximum of 400 permitted, candidates for city-wide office will need a minimum of 100 signatures with a maximum of 200 signatures permitted. The G.A.B. has no comment on this legislation, but we can answer any questions Committee Members may have.

Senate Bill 459

Senate Bill 459 requires all electors registering to vote to provide proof of residence when submitting a voter registration form. This creates some very practical issues

because of the many different ways in which voters submit voter registration forms. If an individual submits a registration form as part of a voter registration drive, to whom do they provide the identifying document establishing proof of residence? The form will be completed outside the municipal clerk's office. The voter cannot surrender their identifying document to the person collecting the registration form. There is no provision for submitting a copy of the identifying document to be given to the municipal clerk.

Even more disconcerting is the fact an identifying document contains very personal information. Dates of birth, driver license numbers and account numbers offer the unscrupulous individual the opportunity to steal an elector's identity as part of the registration process. Individuals conducting voter registration drives already present challenges to the efficient registration of voters because forms are not legible, forms are submitted in mass and at the last minute.

This same problem exists when voters register at public locations outside the municipal clerk's office such as libraries and senior centers. There is no provision in the bill to require a voter who completes a registration form outside the clerk's office to deliver the required proof of residence at a later date. Even if this option is provided, it makes voter registration outside the clerk's office highly impractical.

Under current law these voters are sent a confirmation mailing. If it comes back undeliverable, the voter's registration is inactivated. The G.A.B. sends these forms on a weekly basis. The Statewide Voter Registration System (SVRS) administered by the G.A.B. has a number of checks that have to be met as part of activating a voter registration including matches against the DMV data base, death records and felon records.

Assembly Bill 419

Few election administration issues are as controversial as counting write-in votes. Wisconsin law requires poll workers to tally all write-in votes on Election Night. This includes votes for nonsense candidates such as Mickey Mouse or pro athletes who are not competing for office. The Board of Canvassers may choose to list write-in votes as scattering in the official canvass if a write-in candidate receives a small number of votes. However, the initial Election Night tally must list all candidates for whom votes are cast along with the number of votes counted for those candidates.

Approximately 95 percent of all votes cast are on paper ballots including 90 percent of which are counted electronically on optical scan tabulators. On Election Night, poll workers have to hand-sort all of the ballots to identify any write-in votes cast, record the name of the candidate and the number of votes cast for write-in candidates. While the optical scan equipment will sort out write-in votes where the voter completed the arrow or filled in the oval next to the write-in line on the ballot, many voters do not complete this.

The U.S. Supreme Court has held that there is no right to be a write-in candidate. Hawaii, for example, does not permit write-in votes.

This legislation streamlines the Election Night process for poll workers. With two exceptions, write-in votes will only be counted for registered write-in candidates. A registered write-in candidate is a candidate who completes a campaign registration statement and files it with the appropriate filing officer. Wisconsin law requires all candidates who are seeking office, including write-in candidates, to file a campaign registration statement. If there are registered write-in candidates, the municipal clerk will advise the poll workers who the candidates are and for what contest they are running. This simplifies the task of searching for write-ins and limits the tallying of votes for non-registered write-ins, including the fictional candidate.

The two exceptions to counting only votes for registered write-in candidates address some reoccurring issues. In the case where a candidate dies or publicly withdraws, the legislation requires counting write-in votes for all candidates for that particular office. The second exception is where no candidates qualify to appear on the ballot for a particular office. This is not an unusual situation in small municipalities. In these cases, the legislation recognizes that a serious candidate may not be able to file a registration statement before Election Day. The two exceptions were crafted based on situations encountered by local election officials and G.A.B. staff.

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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