

**Testimony of Michael Haas
Wisconsin Elections Commission**

**Assembly Committee on Campaigns and Elections
February 14, 2018**

**Room 415 Northwest, State Capitol
Public Hearing**

LRB 4310/1

Chairperson Bernier and Committee Members:

Thank you for the opportunity to provide testimony on draft bill 4310/1. While the members of the Elections Commission have not reviewed this specific draft, the Commission has requested legislation which would accomplish the main provisions of this bill. Therefore, I am testifying in support of the bill as it would complete one of the significant items on the Commission's legislative agenda, specifically to clarify the treatment of Wisconsin voters who are out of the country temporarily and to bring it in compliance with federal law.

For several years, the Federal Voting Assistance Program of the U.S. Department of Defense (FVAP) has requested that Wisconsin revisit and revise its treatment of electors who are overseas temporarily and therefore have an intent to return to Wisconsin and retain their Wisconsin residency. These individuals may be short-term travelers who happen to be out of the country during an election period, or they may be working overseas for years at a time but always with an intent to return to Wisconsin. Under current law and the proposed bill, these electors are entitled to cast votes for all offices on the ballot.

Another category of electors are considered permanent overseas electors. Those voters, or their parents, were previously residents of Wisconsin, and they have moved out of the country and no longer have an intent to return to the state. They are U.S. citizens and under both the current law and proposed bill, they have the right to vote for candidates for national offices, including President and Congress, but may not vote for state or local contests.

The federal government recognizes that states may make such distinctions regarding which offices permanent and temporary overseas electors may vote for. However, for several years FVAP has argued that federal law (specifically the Uniformed and Overseas Citizens Absentee Voting Act or UOCAVA) requires that both permanent and temporary overseas electors be treated the same for purposes of electronic transmission of the ballot

and use of the Federal Write-In Absentee Ballot (or FWAB). In recent years, the U.S. Department of Justice has become involved in our conversations with FVAP and has persisted in requesting that Wisconsin bring its statutes in line with federal law.

The general definition of “overseas elector” in the proposed bill describes permanent overseas electors. The proposed bill refers to temporary overseas electors as an overseas elector who qualifies as a resident of this state under Wis. Stat. Section 6.10. The proposed bill would accomplish two changes with respect to temporary overseas electors to satisfy the requests of federal officials:

1. Under Sections 9, 10 and 11 of the proposed bill, temporary overseas electors would be able to receive an absentee ballot from their municipal clerk electronically. Currently only military and permanent overseas electors may receive a ballot electronically. Military and permanent overseas electors may receive a ballot by fax or email, or by downloading their ballot from the Commission’s MyVote Wisconsin website. While the proposed bill would permit temporary overseas electors to receive a ballot electronically, they would be limited to receiving ballots by fax or email and would not be able to receive ballots through the MyVote system. This is due to several factors related to the MyVote website as well as the requirement that temporary overseas electors must submit their photo ID to the municipal clerk, which military and permanent overseas electors are not required to do.
2. Under Section 10 of the proposed bill, temporary overseas electors could use the Federal Write-In Absentee Ballot, or FWAB, which may currently be used only by military and permanent overseas electors. The FWAB is a back-up ballot which permits the voter to write in votes for all candidates for which the elector is entitled to vote. The FWAB can be obtained through the FVAP website if the elector believes they will not receive their official ballot in time to return it to their municipal clerk. If the official ballot is also submitted by the voter, the official ballot is counted and the FWAB is rejected.

The proposed bill makes another change which the Elections Commission has requested that the Legislature consider, by removing the requirement that an individual signing as a witness for a military elector or a permanent or temporary overseas elector be a U.S. citizen. Wisconsin is currently the only state which requires that such witnesses be a U.S. citizen. The requirement for a U.S. citizen to serve as a witness would remain for absentee voters who are not military or overseas electors.

We appreciate the work of the authors, legislative staff, and Legislative Council in working through the legal and administrative issues involved with this proposed bill. We believe that the bill will address the concerns raised by the federal government related to Wisconsin’s treatment of electors who are out of the country temporarily and compliance with federal law.

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,

A handwritten signature in black ink that reads "Michael Haas". The signature is written in a cursive style with a large, prominent "M" and "H".

Michael Haas

Wisconsin Elections Commission

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