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Date: April 21st, 2015

To: Assembly Committee on Campaigns and Elections

From: Representative Cody Horlacher

Re: Assembly Bill 58-responding to a request for an absentee ballot

Chairman Bernier and Committee Members,

Thank you for holding a public hearing on AB 58, which seeks to allow municipal clerks who receive a request for an absentee ballot to respond no later than one business day after receiving the request.

Under current law, municipal clerks who receive an absentee ballot request are required to respond within 24 hours of receipt of the request. Some clerks have interpreted that statute to require clerks to respond on Saturdays or Sundays when requests have been received on Fridays or Saturdays, respectively. This places an undue burden on the municipal clerk staff to process these requests on weekends. I have spoken with the municipal clerks throughout my district and they are supportive of this clarification.

This is a common sense piece of legislation created to assist local clerks in processing absentee ballot requests. AB 58 changes the language from within "one day of time of the elector's request" to "one business day", allowing clerks to process these requests during the work week, while also responding in a timely manner to these requests.

Assembly Substitute Amendment 1 to AB 58 clarifies the term "business day" and notes that these changes will be reflected in both Chapters 6 and 7. These additions were made as a result of communications with the Government Accountability Board (GAB).

I ask for your support of AB 58. This legislation will help municipal clerks effectively and efficiently process absentee ballot requests. I welcome any questions you may have.



State Senator Sheila Harsdorf

Date: April 21st, 2015
To: Assembly Committee on Campaigns and Elections
Fr: Senator Sheila Harsdorf
Re: Assembly Bill 58— clarifying the timeline for processing absentee ballot requests

Dear Chair Bernier and Committee Members,

Thank you for holding a public hearing on Assembly Bill 58 (AB 58), which seeks to allow municipal clerks who receive a request for an absentee ballot by mail, electronic mail, or facsimile transmission to respond no later than one business day after receiving the request.

Under current law, municipal clerks are required to respond to a request for an absentee ballot within 24 hours of receiving the request. I have drafted and introduced this legislation at the request of clerks in my district who have shared with me the challenges they face in complying with this law when requests are received on weekends. Based upon the law's current language, some are interpreting the statutes to require that clerks check for requests on Saturday and then send mail ballots out on Sunday, even though there is no mail service on Sundays.

AB 58 is an effort to alleviate the burden this requirement places on municipal clerks, particularly those in smaller municipalities who serve in a part-time capacity and do not have support staff. This bill presents a common sense solution that will change the current language of the state statute from within 24 hours to "one business day" with regards to responding to an absentee ballot request. This will ensure that requests are responded to in a timely manner while removing an undue burden on local clerks.

In working with the Government Accountability Board (GAB) on this legislation, it was recommended that the term "business day" be defined in this statute in order to remove any potential ambiguities and that this change be reflected in both Chapters 6 and 7 of the statutes. These adjustments are reflected in the substitute amendment to AB 58.

I urge your support of AB 58. Thank you again for holding a public hearing and for your consideration.

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

Assembly Committee on Campaigns and Elections

April 21, 2015

**Room 300 Northeast, State Capitol
Public Hearing**

Assembly Bill 58

Assembly Bill 79

Assembly Bill 124

Assembly Bill 164

Chairperson Bernier and Committee Members:

Thank you for the opportunity to comment on the 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 has not taken a position on this legislation.

2015 Assembly Bill 58

In its original form this legislation directed municipal clerks to respond to an absentee ballot request no later than one business day after receiving the request. The substitute amendment reflects changes to provide more practical direction on responding to absentee ballot requests. Instead of a general directive to “respond” municipal clerks are required to send or transmit no later than the statutory deadlines and within one business of receiving the request. The substitute amendment also provides a clear definition of business day. We appreciate the authors’ willingness to address the practical issues raised in the initial legislation.

2015 Assembly Bill 79

This legislation permits a municipal clerk who is not a candidate on the ballot to assist poll workers with Election Day registration activities. It does not require the governing body to adopt a resolution authorizing the clerk to perform the duties. Municipalities will find this flexibility very helpful when facing last minute staffing changes or a surge in voter turnout.

2015 Assembly Bill 124

This legislation makes significant changes in the calculation of fees for recounts. Wisconsin law does not provide for an automatic recount. It has to be requested. Only a candidate, usually a losing candidate, may request a recount for that particular contest. Any elector who voted in an election may request a recount of a referendum question.

The legislation reduces the threshold for a free recount from one half of one percent (.5%) to one quarter of one percent (.25%). We are not aware of any recount changing the initial outcome when the difference was half that amount (.125%) or more. The legislation also provides that no fee is required in a contest where 4,000 votes or fewer were cast and the difference is less than 10 votes.

The legislation also removes the \$5 per ward partial reimbursement for the petitioner if the difference is greater than the free recount threshold but less than 2%. A petitioner will have to pay a fee equal to the estimated costs for conducting the recount if the difference in the votes exceeds the .25% threshold.

The legislation permits the petitioner to receive a refund of the fee the outcome changes as a result of the recount.

2015 Assembly Bill 164

This legislation was developed at the request of the Wisconsin County Clerks Association. It is designed achieve several goals to improve the administration of elections.

- Create a consistent timeline for adding referenda to the ballot. Under current law, certain referendum could be added 6 weeks prior to the election, while other items are 70 days. This bill creates a uniform 70 day requirement. The 70 day requirement was initiated to ensure compliance with the requirement to have absentee ballots available at least 48 days before a federal election.
- Removes the process for write-in candidates to distribute stickers. Currently electors are permitted to apply stickers for write-in candidates. In recent years stickers have created problems and damage to voting machines. This bill removes the process for stickers. Stickers are very popular with write-in candidates, particularly those with an abundance of consonants in their names. But stickers may not adhere to a ballot and can be a source of mischief at the polling place because of attempts to distribute them to voters or leave them in a voting booth.

- Creates uniform process for school board elections and school board referendum. Under existing law, if a school board election is held in conjunction with a state, county, municipal, or judicial election, the school board election must take place at the same polling place and the municipal election hours apply. This bill would extend that treatment to school board referendum as well.

One question that will arise is how does this apply if there is a state, county, municipal, or judicial election being held that day, but not in that particular municipality? Arguments will be made that the school district can select the polling place. There is also a question of who pays for the cost of conducting the school district election in that case.

Section 5.68 governs allocation of election costs. Section 120.06 (9)(b) sets the parameters under which a school board may select a polling place.

- Modifies the caucus timeline for town or village elective office. Currently, if a town or village does not use nomination papers for elective office, the governing body must hold a caucus sometime between the first Tuesday and last Tuesday in January. This bill provides that January 15 is the last day on which to hold the caucus. The benefit of this proposal is to ensure candidates are set for the Spring election in a timely manner.

- Creates a timeline for write-in candidate registration. Currently, a write-in candidate for office must file a registration statement to have their votes counted, but no deadline is set. To ease election-day processes and allow adequate communication amongst election officials, this bill sets the deadline for filing a registration statement at noon on the Friday immediately preceding the election. In the event that a certified candidate dies or withdraws before the election, all write-in votes will be counted.

The language about a candidate withdrawing is problematic. There is no provision for recognizing a candidate who withdraws. The candidate's name remains on the ballot no matter how they communicate their intention to withdraw. This language should be removed or a provision for withdrawal should be added to be clear under what circumstances a write-in vote would be counted in that contest.

- Removes the requirement that the board of canvassers must reconvene when no provisional or absentee ballots are received. Under current law, if a municipal clerk receives valid provisional or absentee ballots by 4 p.m. on the Friday after

the election, the board of canvassers must reconvene no later than 9 a.m. on the Monday after the election to count the valid provisional and absentee ballots and adjust the election returns. This requirement applies even if no valid ballots are returned. This bill provides that if a clerk certifies that he or she has received no valid ballots between the initial canvas and 4 p.m. on Friday, then the board of canvassers is not required to reconvene.

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,



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

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WMCA ELECTION COMMUNICATION COMMITTEE

Pertaining to Assembly Committee on Campaigns and Elections

Public Hearing – Tuesday, April 21, 2015

Assembly Bill 58 – responding to a request for an absentee ballot

Assembly Bill 79 – allowing clerks to register voters on Election Day

Assembly Bill 124 – fees for election recounts

Assembly Bill 164 – various election law changes

The WMCA Election Communication Committee would like to submit testimony for the hearing today.

In general the clerks have no issues with the Bills as presented. The Committee submitted testimony to Senate Bill 47 which mirror Assembly Bill 58 in responding to absentee ballot requests. By changing the requirement to complete the request to one business day after receiving the request it makes the process reasonable and practicable to administer while ensuring the absentee request is being responded to and saving unnecessary staffing expenses for municipalities.

One other change we would like to request is that municipalities that close their offices to observe a holiday, i.e. Good Friday, would not be required to be open for absentee voting or processing late arriving absentee and Provisional Ballots. This is a huge expense for municipalities to accommodate a very small number of voters.

Assembly Bill 79 would be of help to many municipalities and would ensure there are well trained individuals to register voters. This would probably be used in smaller municipalities that don't receive a lot of registrations so the clerk would be the most trained and experienced at registering voters. The intent would be to have well trained individuals registering voters on Election Day this change allows that to happen.

Municipalities have been requesting Assembly Bill 124 for some time. Recounts should not be discouraged when the results are very close. But, are very expensive and time consuming when there is little chance the results will change. This Bill will assist municipalities in recovering some of the costs associated with a recount that has a wide spread in the results.

There are several components with Assembly Bill 164 that will clean up some items in Election Administration.

Requiring write-in candidates to file no later than noon on Friday allows Election Administrators to inform their Election Officials for Election Day purposes. Even with modern technology we still have ill effects from receiving last minute information for Election Day. This change will allow time to get these write-in's to the various entities that will be processing the ballots.

The provision that the Board of Canvassers does not have to reconvene if there are no provisional or absentee ballots received by Friday at 4:00pm is another change the clerks have requested. This would be of benefit to the municipalities.

WMCA Election Communication Committee

Diane Hermann-Brown WCPC/CMC/CPM Co-Chair	City of Sun Prairie
Sandi Wesolowski Co-Chair	City of Franklin
Chris Astrella WCMC	City of Watertown
Sandra Boetcher	City of Altoona
Barbara Goeckner WCPC/MMC	Village of Germantown
Melissa Hongisto	Village of Suamico
Carla Ledesma, CMC	City of Wauwatosa
Sara Ludtke WCMC	Town of Middleton
Sue Peck	Village of Marshfield
Brenda Walker	Village of Colon
Maribeth Witzel-Behl WCMC	City of Madison
Nancy Zastrow WCMC/CMC	Village of Pewaukee

State Election Communication Committee

The State Election Communication Committee shall be focused on communicating and serving as a liaison between WMCA members, Government Accountability Board and State Legislators on election related issues. The Committee will have a presence at GAB Board meetings, focus groups, Legislative Hearings and provide input that represents the WMCA membership needs and concerns in general.

The change in the caucus deadlines could have mixed opinions from town clerks, but overall would be of benefit to election administration. Many times ballots are held up countywide because the County Clerk is waiting for one township to hold their caucus. This then puts the county on a tight turn around to get ballots printed for the entire county. Municipalities without a caucus have deadlines for candidates to file their nomination papers by the first Tuesday in January, so providing towns until January 15th is accommodating but still provides a deadline that doesn't adversely affect the rest of the municipalities in that county. The town clerks I talked with didn't have an issue with this change.

The change for filing ordinance or resolution changes would be something again that would affect the timing of printing ballots. It is very difficult to calculate the dates for referendums. This change at a glance seems to streamline the timing with other election deadlines.

Stickers? What is there to say except our machines cost thousands of dollars of tax payer dollars to purchase and maintain. Stickers can really mess them up and cause delays in the voting process on Election Day. Clerks across the state will tell you that stickers should be eliminated.

The more School District election items that we can get to aligned with the rest of election administration items would make it much easier for everyone involved. I don't know if there are any School District that could conduct an election without the assistance of the Municipal and County Clerk. So the more items we can get that align with the rest of our duties, requirements and responsibilities would make it much easier for everyone involved.

Election Administration can be very confusing, time consuming, and expensive but all voters should be able to exercise their right to vote. These proposed Bill help to ensure that every ballot is counted and assists the municipalities with election administration. Please let us know if you have any questions or need additional information.

Diane Hermann-Brown WCPC/CMC/CPM
Co-Chair City of Sun Prairie

WMCA ELECTION COMMUNICATION COMMITTEE

Pertaining to Senate Committee on Elections and Local Government

Public Hearing – Thursday, April 9, 2015

Senate Bill 47 – responding to a request for an absentee ballot

Pertaining to Assembly Committee on Campaigns and Elections

Public Hearing – Tuesday, April 21, 2015

Assembly Bill 58 – responding to a request for an absentee ballot

The WMCA Election Communication Committee would like to submit testimony pertaining to Assembly Bill 58 relating to responding to a request for an absentee ballot. Because this is a busy week for the municipal clerks across state administering the Spring Election we won't be able to have clerks present at the Public Hearing.

This proposed bill would be of benefit and provide needed assistance and clarification in sending absentee ballots. The current law requires the clerk to send the absentee ballot within 24 hours of receipt of the voter's request. This is a burden and many time of no benefit to the voter or municipality. It can be additional expense if the municipality would need to pay their staff overtime to process ballots on the weekend.

When a voter sends in their request at 7:00pm on a Friday or Saturday the clerk must go into the office to process the request and mail the ballot. While the clerks go to great lengths to do this to meet the 24 hour requirement, it is to no avail because in most municipalities, no matter their size, there is no longer mail service/pickup on the weekends. So the clerk makes the attempt to meet the 24 hour requirement but the ballot won't be picked up from the post office or mailbox until Monday afternoon. So the clerk altered their personnel life, family events, and schedules only to have the ballot sitting in a mailbox for 24-48 hours. The mail pickup would be the same whether it was processed on a Saturday or a Monday.

In the November 2014 election, many clerks went into the office on a Saturday and a Sunday to process a few ballots knowing those ballots would sit in the mailbox at the post office to await pickup by the postal service until Monday afternoon. There would have been the same effect if the ballots were processed Monday morning during normal business hours. Many clerks across the state had this issue and concern. Municipalities incurred additional expenses where overtime had to be paid to staff members to process these requests.

By changing the requirement to one business day after receiving the request it makes the process reasonable and practicable to administer while saving unnecessary staffing expenses.

Please let us know if you have any questions or need additional information.

Diane Hermann-Brown WCPC/CMC/CPM
Co-Chair
City of Sun Prairie

Sandi Wesolowski, CO-Chair, City of Franklin
Co-Chair
City of Franklin

WMCA Election Communication Committee

Diane Hermann-Brown WCPC/CMC/CPM Co-Chair	City of Sun Prairie
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Sandra Boetcher	City of Altoona
Barbara Goeckner WCPC/MMC	Village of Germantown
Melissa Hongisto	Village of Suamico
Carla Ledesma, CMC	City of Wauwatosa
Sara Ludtke WCMC	Town of Middleton
Sue Peck	Village of Marshfield
Brenda Walker	Village of Colton
Maribeth Witzel-Behl WCMC	City of Madison
Nancy Zastrow WCMC/CMC	Village of Pewaukee

State Election Communication Committee

The State Election Communication Committee shall be focused on communicating and serving as a liaison between WMCA members, Government Accountability Board and State Legislators on election related issues. The Committee will have a presence at GAB Board meetings, focus groups, Legislative Hearings and provide input that represents the WMCA membership needs and concerns in general.



COUNTY OF MANITOWOC

COUNTY CLERK

1010 South 8th St., Ste. 115
Manitowoc, WI 54220

Jamie J. Aulik
Manitowoc County Clerk

Telephone: (920) 683-4004
Email: jamieaulik@co.manitowoc.wi.us

Date: April 21, 2015

To: Members of the Assembly Committee on Campaigns and Elections

From: Jamie J. Aulik, Manitowoc County Clerk

Re: Testimony supporting AB-164, AB-58, AB-79, and AB-124

Dear members of the Senate Committee on Elections and Local Government:

As a local government official charged with carrying out election laws, I am frequently faced with an amalgamation of confusing, conflicting, and sometimes unworkable statutes. Ensuring that election laws make sense is in the interest of voters, election officials, and the election administration system as a whole. A number of bills at today's hearing bring a good dose of common sense reform to our election administration system, and I wanted to ask for your support for the following items:

Assembly Bill 164

Relating to: various election law changes

- 1) ***Create a consistent timeline for adding referenda to the ballot.*** Under current law, certain referendum could be added 6 weeks prior to the election, while other items are 70 days. This bill creates a uniform 70 day requirement.
 - a. There are some good reasons to have exceptions, but there isn't a compelling reason to have a shorter timeline for direct petitions. If anything, because of the review period for petitions, they should have a longer timeframe than referenda involving units of governments passing resolutions to set a referendum date.
 - b. Six weeks is an extremely short timeline to program voting equipment, prepare ballots, and print and distribute them in time for absentee voting.
 - c. Example: Stoughton referendum.
- 2) ***Removes the process for write-in candidates to distribute stickers.*** Currently electors are permitted to apply stickers for write-in candidates. In recent years stickers have created problems and damage to voting machines. This bill removes the process for stickers.
 - a. Example: Assembly District 2, City of Two Rivers – November 2006
 - b. A prohibition on stickers would be preferred, but it's unenforceable.
- 3) ***Creates uniform process to consolidate poll locations for school board elections and school board referendum.*** Under existing law, if a school board election is not held in conjunction with a state, county, municipal, or judicial election, under certain conditions, the school board can opt to close poll locations. This bill would extend that treatment to school board referendum as well.

- a. Some school district attorneys have refused to allow poll locations to consolidate because “referendum” does not appear in this section of statute.
- 4) **Modifies the caucus timeline for town or village elective office.** Currently, if a town or village does not use nomination papers for elective office, the governing body must hold a caucus sometime between the first Tuesday and last Tuesday in January. This bill provides that January 15 is the last day on which to hold the caucus.
- a. I discussed this change with a few municipal clerks with leadership positions in WMCA, and they understood the constraints and deadlines that we are under, and they didn’t foresee an issue with the shift.
 - b. I also discussed the change with the county clerk who recommended its inclusion, and he didn’t want the bill held up on this issue.
- 5) **Creates a timeline for write-in candidate registration.** Currently, a write-in candidate for office must file a registration statement to have their votes counted, but no deadline is set. To ease election-day processes and allow adequate communication amongst election officials, this bill sets the deadline for filing a registration statement at noon on the Friday immediately preceding the election. In the event that a certified candidate dies or withdraws before the election, all write-in votes will be counted.
- a. Example: Fond du Lac – Tuesday, April 7, 2015 (Election Day) 2:45 p.m., Multi-Jurisdictional Judge filed to be a registered write-in
 - b. Example: Received email from G.A.B. at 5:38 p.m. on Monday, November 3, 2014 regarding a registered write-in for Governor
- 6) **Removes the requirement that the board of canvassers must reconvene when no provisional or absentee ballots are received.** Under current law, if a municipal clerk receives valid provisional or absentee ballots by 4 p.m. on the Friday after the election, the board of canvassers must reconvene no later than 9 a.m. on the Monday after the election to count the valid provisional and absentee ballots and adjust the election returns. This requirement applies even if no valid ballots are returned. This bill provides that if a clerk certifies that he or she has received no valid ballots between the initial canvas and 4 p.m. on Friday, then the board of canvassers is not required to reconvene.
- a. Eliminates having to haul in canvassers between 4 p.m. Friday and 9 a.m. Monday **to count nothing!**

Assembly Bill 124

Relating to: fees for election recounts

For local governments, recounts are usually unbudgeted items. I support this bill because it simplifies the fee structure while discouraging the sometimes frivolous recount requests that clerks sometimes encounter (e.g. recounts where there is a very wide margin between the winning and losing candidates, but the losing candidate doesn’t trust the voting equipment, or the election officials, or both. In other words, they just *can’t* believe that they lost.). This bill also accounts for a loophole in the current recount fee structure where it is virtually impossible for election officials to recoup costs when less than 1,000 votes are being recounted.

Thank you again for your consideration, and I respectfully ask your support for these common

sense reforms to our election administration system.

Assembly Bill 58

Relating to: responding to a request for an absentee ballot

Since a law change in the last legislative session, in-person absentee voting has not been conducted on weekends or holidays, so it makes too much sense to give our municipal clerks a break from having to deal with by-mail absentee voting on the same days. In Manitowoc County, all of our town clerks and half of our village clerks are part time, so please support these dedicated public servants by giving them a breather and allowing them to spend some time with their families during an otherwise very busy time preceding each election.

Assembly Bill 79

Relating to: allowing municipal clerks to register voters on Election Day

Under current law, Municipal Clerks are authorized to register voters every day of the year except the three days preceding each election, and Election Day. On the three days preceding each election, it makes sense for them to take a break because they are busy preparing for Election Day. But having a barrier on Election Day makes absolutely no sense. Municipal Clerks are Wisconsin's voter registration experts, and in order to ensure that voter registration laws are followed and quality voter registration forms are produced, we need encourage them to register voters as much as possible.

Cost savings to local government will also result. A salaried municipal clerk could substitute for an hourly poll worker on Election Day, thereby saving the cost of a paid position. Also, correcting errors on voter registration applications can be time consuming and costly; where entering a correct voter registration form into the Statewide Voter Registration System takes only a couple of minutes, incorrect forms can sometimes take up to an hour or longer because the voter has to be contacted and the information needs to be tracked down and corrected.

Thank you for your consideration. If you have any questions whatsoever, do not hesitate to ask.

COUNTY CLERK

Brown County

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Assembly
Public Hearing
Committee on Campaigns and Elections
Tuesday, April 21, 2015
10:00 a.m.

AB-58

Relating to the request for an absentee ballot

I support this bill amending the current law to the requirement for sending an absentee ballot to an elector the next business day rather than 24 hours from receipt of the request.

The current wording was most likely an oversight when the previous legislation was passed. Most municipal offices have weekday hours and as the law currently stands, the interpretation would require clerks to work on Saturday and Sunday to comply with this law.

Therefore, this is a common sense change to the law that would sync sending absentee ballots with normal working hours.

I appreciate in allowing me to comment and your support for passing AB-58.

Thank you,



Sandy Juno
Brown County Clerk