

PAUL TITTL

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

Assembly Committee on Campaigns and Elections

Assembly Bill 170

April 27, 2021

First of all, I would like to thank you, Chairman Brandtjen and committee members for allowing me to testify before you concerning Assembly Bill 170 related to election observers.

This bill provides election observers uniform and nondiscriminatory access to all stages of the election process, including recounts.

Today, I would like to introduce my substitute amendment making the observation areas the same for both Election Day observers and recount observers. It reassures transparency by making sure poll observers and recount observers can see and hear all election activity.

It changes the distance of observation areas for elections and recounts to no more than three feet from the ballots, applications, and other election-related materials. Three feet or closer is a distance the average person can reasonably see that a ballot has the proper markings, such as a clerk stamp, witness signature, and address.

Eight or more feet is quite far even for those with perfect vision. Election observers testifying during the legislative hearings following the November election indicated they were not close enough to the ballots to see the proper required markings.

AB 170 also establishes uniform standards for observers. The 2020 recount in Milwaukee and Madison had two different sets of standards or procedures. The uniform standards give voters throughout the state greater assurance that our elections are run uniformly particularly with respect to observers.

In addition, the bill provides a consequence for those who do not abide by Wisconsin law. It creates a penalty, not exceeding \$1,000 per occurrence for those violating or purposefully obstructing an observer's ability to observe.

In conclusion, AB 170 ensures future elections and recounts will provide both parties the opportunity to observe in a fair and productive manner.

Thanks again for hearing this bill. If you have any questions for Senator Darling or me, we would be happy to discuss them with you.

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Alberta Darling

Wisconsin State Senator | District 8

**Testimony before Assembly Committee on Campaigns and Elections
Tuesday, April 27, 2021
Assembly Chambers**

Assembly Bill 170

Chairwoman Brandtjen and Committee Members,

According to a February 2020 Gallup poll, 59% of Americans say they are not confident in the honesty of U.S. elections.

In March of this year, a Rasmussen poll showed 77% of voters believe it is important to reform voting laws and procedures before the midterm elections in 2022. That view is shared by 83% of Republicans, 77% of Democrats, and 71% of independent voters.

It is clear there is distrust in our electoral process and that needs to change. Some of that distrust played out during the recount last year.

According to testimony from recount observers, there seemed to be two sets of rules for the recount. In Madison, observers were treated with respect, and the recount went smoothly. In Milwaukee, observers were accused of interfering and there were clear examples of disrespect toward observers.

Having the same rules will help set expectations and build respect on all sides for the next recount in our purple state.

Assembly 170 makes it clear that the public has the right to observe all parts of the election process. It also makes it clear that observers can't obstruct election officials.

The bill requires observers to wear a name tag with their name and who they are representing. They may not wear any campaign material advocating for a candidate or position in question on a ballot.

Observers may not interfere with a voter or an election official. If they do, the observer may be expelled. If they do it multiple times, the observer may be charged with disorderly conduct.

Finally, to make sure observers can witness the process, they must be no more than three feet away. During the recount in Milwaukee, many observers had a difficult time seeing the ballots, whether it was properly marked, and properly stamped.

Representative Tittl and I will be offering an amendment that will keep the three-foot limit for recounts only, clarify that name tags are not campaign apparel and protect the rights of observers.

Assembly Bill 179 – Oppose

This bill provides that “an employee of a qualified retirement home or residential care facility who influences an occupant of the home or facility to apply for or not apply for an absentee ballot or cast or refrain from casting a ballot or influences an occupant's decision for whom to cast a ballot is guilty of the Class I felony.” I am beyond appalled how alarming this provision is. It is extremely vague and possibly detrimental to those who wish to ensure that our most vulnerable citizens exercise their sacred right to vote. We must remember that caretakers in facilities play an impartial role in assisting their residents vote. I fear that many of them will not be as eager to continue to do so when they are potentially facing three and a half years in state prison, a fine up to \$10,000, or both on a technicality of a poorly through-out state election law.

As stated in my opening remarks, I do in earnest wish for a spirit of bi-partisanship as we work through these proposed election law changes. In that vein, I state that I do not object to the provision of this bill requiring that the administrator of a care facility provide notice to the relatives for each occupant who intends to vote by absentee ballot with special voting deputies of the dates and times when the deputies will be visiting the home or facility.

Assembly Bill 198 – Oppose

This legislation aims to correct a problem that does not exist, with the consequence of disenfranchising the voters of Wisconsin. The current law states that if a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may, but is not required to, return the ballot to the voter whenever time permits so that the voter may correct the defect. This bill disregards this safeguard which ensures the voter has time to correct their certificate and vote in the election. The bi-partisan Wisconsin Elections Commission appropriately issued guidance stating that municipal clerks may correct these certificates if the missing information is obvious (such as a known street name that is spelled incorrectly) or they know that the voter in question is a registered voter living at the address stated, and otherwise fulfills all the requirements to vote in the election. If clerks across the state didn't perform this duty, valid, legitimate ballots could be thrown out due to so-called incomplete certificates, and eligible Wisconsin voters would be harmed when their vote is not counted for what many would consider a minor technicality. We have a responsibility to do our best to ensure all lawfully

Therefore, for example, if a municipal clerk from Chippewa Falls, Fox Point, Sheboygan Falls, etc, inadvertently sends an absentee ballot application to someone that is no longer on the indefinitely confined list, they are guilty of Class 1 felony. This is ridiculous!

Our great State lags behind many other states that successfully utilize voting by mail – which has proven to be an efficient and secure tool in exercising the right to vote and expanding democracy. We should be working towards improving this process and not trying to dismantle it.

cast ballots are counted. We should all thank the diligent clerks who once again stood at the front lines of democracy in the fall of 2020 and carried out this solemn responsibility.

Assembly Bill 201 – Oppose

This bill puts additional unnecessary strains on municipal clerks in Milwaukee County and across the state of Wisconsin in the form of burdensome and unrealistic procedures, overwhelming administrative costs and threats of committing a felony in the course of doing their jobs. It will also have a negative impact on voters – particularly our senior citizens, and those living with disabilities. By eliminating the ability for voters who are indefinitely confined due to age, illness, infirmity or disability to automatically receive a ballot for each election so long as they continue returning and voting in each election, this bill will cause confusion and disenfranchise our most vulnerable populations.

This bill creates another step in the process and shifts the burden onto municipal clerks to mail separate applications for a ballot to every indefinitely confined voter for each election. This is completely unnecessary, and a terrible waste of local resources and valuable taxpayer dollars. Building in an extra step – that is having the clerks mail absentee ballot application rather than the absentee ballot itself is nothing less than voter suppression.

Finally, the bill is also contradictory, vague and Draconian. For example, it states:

“6.86 (2) (a) An elector who is indefinitely confined because of age, physical illness, or infirmity or is disabled for an indefinite period may by signing a statement to that effect require that an absentee ballot application be sent to the elector automatically for every election.”

Then states:

“6.86 (8) (a) No municipal or county clerk or municipal or county board of election commissioners, and no person acting on behalf of the commission, may send or transmit an absentee ballot application or an absentee ballot to an elector for voting in an election unless the elector applies for the application or ballot as provided by law. (b) Whoever violates par. (a) is guilty of a Class I felony.”

- Election observers play a key role in ensuring transparent and accurate elections. Ninety-five percent assume this role with an exceptional level of professionalism and behave in a manner that is entirely compliant with polling place rules. The remaining 5% can be disregarding of the observer rules and challenging to a Chief Inspector's ability to maintain order at a polling place. While representing only a small fraction of observers, the individuals that disrupt the operations of a polling place must be considered when setting observer rules, especially as it relates to a voter's experience when registering to vote or casting their ballot.

Thank you for your consideration of these concerns, and on behalf of the City of Milwaukee, I urge you to oppose AB 170.

For additional information and questions, please contact:

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April 27, 2021

Testimony of Lisa Tollefson, Rock County Clerk

Assembly Committee on Campaigns and Elections – Public Hearing

Assembly Bill 170 – Relating to observers and providing a penalty – OPPOSE

Anyone who pulls out a tape measure can see that this bill will lead to voter intimidation. The current law states the observer can be between 3 feet and 8 feet from the location where the voter states their name and address or registers to vote. The change in the bill states the observer must be no more than 3 feet from these locations. There is no limit as to how close the observer can be to those locations. They could be sitting elbow to elbow with the poll worker and the voter may perceive the observer as being an election official. Add in the requirement that the observer must wear a tag with their name and the name of their organization.

Imagine you are at the polls and an observer is sitting next to the poll worker with their name tag listing a political party opposite of yours. Will this look like that party is now in control of running the election?

Imagine you are registering to vote and an observer is sitting next to the poll worker at the registration table reviewing your bank statement with your credit card account number on it. Poll workers take an oath of office. Observers do not.

I recently spoke with a retired clerk who told me of incident while she was clerk prior to the 3-8 foot rule being put in place. An observer was hovering over the shoulders of two of her poll workers, like a parrot on a pirate's shoulder. The poll workers came her and stated that if something wasn't done about the observer, they were going to leave.

During the public hearing in the Senate, I heard speakers state they would have no problem with observers being less than 3 feet from them while they were at the polls to vote. The individuals who write legislation and those who testify are not the type of individuals who would be intimidated by observers. Not every qualified voter has that same confidence.

Observers play an important role in the election process, but this bill seems to put the importance of the observer in front of the election official and the voter.

Recommendation:

- Amend the bill to keep the current 3-8 foot rule in place at the polling locations.
- Amend the bill to remove the provision that the observer wear a badge with their name and organization. I would prefer that observers where badges that bluntly state 'observer'. So there is no confusion as who is the election official is and who is the observer.

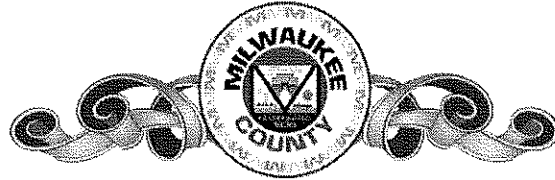
Thank you for your consideration,
Lisa Tollefson



AB 170

**Wisconsin State Assembly
Committee on Campaigns and Elections**

April 27, 2021



GEORGE L. CHRISTENSON
MILWAUKEE COUNTY CLERK

Assembly Committee on Campaigns and Elections

Public Hearing

Tuesday, April 27, 2021

Written Testimony provided by Milwaukee County Clerk George L. Christenson

Chairwoman Brandtjen and Members of the Committee, thank you for the opportunity to submit this written testimony before your honorable body. My name is George Christenson. I am the Milwaukee County Clerk. In this capacity, I also serve as Executive Director of the Milwaukee County Election Commission, which is comprised of three Election Commissioners, and led by Elections Director Julietta Henry.

Like each of you, I swore an oath to support the Constitution of the United States, the Constitution of the State of Wisconsin, and to faithfully discharge the duties of my office, to the best of my ability. In accordance with that oath, I support all efforts to improve our democratic process, including efforts to improve the accuracy, security, transparency and accessibility of our voting processes. While I see some provisions of these bills as advancing our common goals, I'm concerned that other provisions may lead to unintended outcomes, and some could ultimately undermine the integrity of our elections.

While the Office of the County Clerk is a partisan office in the State of Wisconsin, I do not wear a partisan hat when it comes to elections administration. It is our sacred duty to remain non-partisan and carry out our charge as election officials before, during and after election day. Our job is to count the votes and whoever gets the most vote wins. If our personal choices for candidates win, we're happy – if they lose we complain. That's Democracy and that's America!

I welcome the opportunity to work in a bi-partisan fashion with this committee and legislative leaders to identify bona fide ways to improve upon our election processes. Thank you.

Assembly Bill 170 – Oppose

Mandating that observation areas shall not be more than 3 feet from tables doesn't make practical sense in many cases. There are many variables, including the square footage and configuration of the polling location, number of voters in line, number of poll workers at a table, etc. that factor into the municipal clerks' decisions on where to place observation areas. Municipal Clerks need some latitude. Further, this bill doesn't provide a minimum distance – does this mean that observers can request to sit right at the table? Does it mean it must be exactly 3 feet under all conditions? Finally, this doesn't provide the flexibility needed under extraordinary circumstances – such as a global pandemic. Therefore, it may force local clerks into having to choose whether to violate state law or federal law because they have no latitude. During the 2020 Presidential Election recount, observers were allowed to be 3 feet from the tables – and they still complained. The current law is reasonable but I would support changing it to "...not less than 3 feet from nor more than 6 feet from the table..." I have no issues with the provision which creates Section 2. 7.41 (4m) as written.

Assembly Bill 178 – Oppose

I am in opposition to this bill because, it creates additional undue burdens on municipal clerks and their staff, as well as on the voters. It requires the absentee ballot application to be separate and distinct from the certificate envelope in which voters are required to seal and submit absentee ballots. This is completely unnecessary and it attempts to fix something that is not broken. The 2020 Presidential Recount conducted in Milwaukee County proved the accuracy of the absentee voting system and identified no issues that this bill is supposedly trying to fix.

Additionally, the bill places an unnecessary burden on the voters because they are asked to do the same thing twice, which is to certify facts that they are eligible to vote in the election. When they fill out, sign and return their absentee ballot, the voters already certify they are eligible to vote in that election and there is no reason to make them do this as well when they are requesting an absentee ballot. Again, the 2020 Presidential Recount proved that there is no issue with the existing system and this bill is clear attempt to make it harder to vote via an absentee ballot.



Election Commission

Commissioners
Stephanie Findley, Chair
Carmen C. Cabrera
Jess Ripp

Executive Director
Claire Woodall-Vogg

City of Milwaukee Testimony on AB 170

April 27, 2021

Assembly Committee on Campaign and Elections

Thank you to Representative Brandtjen and to the committee members for the opportunity to provide testimony on AB 170, relating to election observers and providing a penalty.

The City of Milwaukee opposes AB 170, a bill that would change Wisconsin's election observer rules.

AB 170 redefines the proximity with which an observer can be placed with regard to voters and confidential documents. Currently, observers may be positioned by the Chief Inspector at not less than three (3) feet and not more than eight (8) feet from election activity. I believe that great consideration was given in the determination of this range as it represents a balance of transparent elections with maintaining the confidential aspects of same day registration.

Under AB 170, the range would be changed to not less than three (3) feet.

Please consider the following:

- The maximum distance in this new bill is not less than three (3) feet, setting an expectation for observers to have a seat at the table for all election processes. While this is entirely appropriate during a process such as a recount, it creates an undue burden on poll workers and unnecessary intimidation of voters in a polling place where a table is surrounded by observers.
- The confidentiality of information and documents presented by a person registering to vote should be a paramount concern when considering the proximity of the public to a voter registration table. Three feet is slightly over an arm's length away. Breaches in confidentiality are a certainty.
- Many voters, particularly voters producing confidential documents with information such as bank account numbers, drivers license numbers, dates of birth, etc., will be intimidated by observers that are sitting or standing at such close proximity to voting or registration activity.
- While the tasks performed by election workers must be transparent, election workers should also be allowed to perform their duties in an environment that is conducive to concentration, the exchange of information with each other, and establishing a certain level of trust with voters, particularly those registering. Allowing a person to sit three feet or closer compromises these standards and has the potential to create a very stressful environment for individuals that are demonstrating a great spirit of civic responsibility by serving as election workers.



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April 27, 2021

To: Assembly Campaign on Campaigns and Elections

From: Statement for public hearing on AB 170, AB 178, AB 179, AB 198 and AB 201

The League of Women Voters of Wisconsin believes voting is a fundamental citizen right that must be guaranteed. Participating in our democracy by voting should be safe, accessible and a positive experience for all eligible Wisconsin residents. Lawmakers should avoid measures that place undue burden on the voter or erect barriers to voter participation. To that end, we have the following comments on the bills under consideration in the April 27, 2021 hearing of the Assembly Committee on Campaigns and Elections:

We oppose **AB 170**, which would make substantial changes to the current law regulating election observers. While we have no objection to most of the bill, we vigorously oppose the provision which would change the placement of the observers' station in a polling place or recount site from the current requirement that it be between three and eight feet away from the check-in and registration stations to a location "not more than three feet" away. This provision would allow observers to be too close. It fails to protect voters' private information, such as a driver license or passport number, and could cause voters and/or poll workers to feel intimidated by observers. The current minimum of three feet is close enough to facilitate all observer activity allowed under Wisconsin law, while protecting voter privacy. Our objection applies to **both** polling places and recount sites.

We oppose AB 178. Under this bill the WEC is required to prescribe the form and instructions of the absentee ballot application, which must be a separate and distinct form from the certificate envelope that voters must complete when they submit their absentee ballots. This is a burden, especially for voters with certain disabilities.

This bill does nothing but create more forms for the elector to complete and for clerks to review and audit. Much of the required information has already been provided by the voter in the registration process and is not necessary in the absentee voting process. Additionally, the bill stipulates that the application form must require the voter to certify facts establishing that he or she is eligible to vote -- something the voter must also do when registering to vote and when completing the certificate envelope.

The Opportunity Solutions Project is a non-partisan, non-profit public policy organization that works on election integrity issues in states across the country.

We support AB 170, which protects the rights of Wisconsin election observers at all stages of the election process, including equipment testing, absentee voting in person, canvassing, elector appeals, vote tabulation, and recounts. The bill also expands the observation area for election observers so that it is not more than three feet from the voting table. Finally, the bill increases penalties for observers who fail to wear an identifying name badge, or who violate the prohibition against wearing campaign material, or who interfere with voters or election officials.

Election observers are an integral part of elections. Ensuring that they have access throughout the election process is critical for both election transparency, security, and voter confidence. Simply put, observers must be able to actually observe. The maximum observation distance of three feet will allow observers to readily see all aspects of the voting process.

Access for election observers has been an issue across the country. During the 2020 general election, observers were denied access to vote counting in highly publicized cases in both Pennsylvania and Michigan.¹⁻² In Pennsylvania, an elections board put up a waist-high security fence that put observers 15-18 feet away from the board employees conducting the canvass.³ Because this setup failed to allow meaningful observation of the absentee ballots, a judge ordered the board to permit observation within six feet as required by social distancing and mask protocol.⁴

Legislatures are making a variety of changes to ensure that election observers can have effective access to election activities. The Texas Senate passed similar election security legislation two weeks ago, which entitles observers to sit or stand near enough to see and hear the election activity and penalizes officials who obstruct the view of an observer with a Class A misdemeanor.⁵

Other states are increasing transparency through secure drop boxes with 24/7 video surveillance and requiring the live-streaming of ballot counting centers. One way to accomplish this is to make sure all drop boxes are in state government buildings, which typically have video surveillance. States that are considering or have passed bills this session include Minnesota, Arizona, Texas, Kentucky, Georgia, and Iowa.

Under AB 170, election observers will have uniform and nondiscriminatory access to the election process, increasing security and transparency in elections. Wisconsin voters should feel like that their elections are fair, honest, and transparent, and observer access is a key provision to make sure they do.

¹ Joseph Simonson, "Pennsylvania Republican poll watchers allege fraud," Washington Examiner (2020), <https://www.washingtonexaminer.com/news/trump-campaign-preparing-lawsuits-alleging-fraud-in-pennsylvania>.

² Spencer Neale, "'Stop the count': Group of poll watchers demand access to Detroit polling site," Washington Examiner (2020), <https://www.washingtonexaminer.com/news/stop-the-count-group-of-poll-watchers-demand-access-to-detroit-polling-site>.

³ Matthew Mosk, "Pennsylvania judge permits campaign observers up-close view of ballot count after Trump complaint," ABC News (2020), <https://abcnews.go.com/Politics/pennsylvania-judge-permits-campaign-observers-close-view-ballot/story?id=74040279>

⁴ Ibid.

⁵ S.B. 7, 2021-2022 Biennium, 87th Leg., Reg. Sess. (TX 2021).



City of Madison

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To: Assembly Committee on Campaigns and Elections

From: Mary Bottari, mbottari@cityofmadison.com

Date: April 14, 2021

Re: AB 173, AB 170, AB 198

I am writing on behalf of the City of Madison to raise concerns with AB 170, AB 173. These are the first of many bills that will be taken up by the legislature addressing false claims of irregularities in the November 2020 election, claims that were not supported by any state or federal court, including the U.S. Supreme Court.

In the middle of the worst pandemic in modern American history, the Wisconsin State Legislature failed to take any action to aid localities charged with administering elections. Poll workers, with common sense safety concerns, quit by the thousands, and hundreds of polling places needed to be moved to keep residents safe. The state legislature failed to provide extra funding for additional staff needed to deal with these extremely challenging issues and the influx of absentee ballots. The legislature further failed to provide additional postage, PPE, plexiglass barriers, hand sanitizer, drop boxes or any of the provisions needed to keep voters and poll workers safe.

In the absence of legislative action, the City of Madison and over 200 other cities, towns and villages -- including Waukesha and Brookfield -- sought grant funding from a respected non-profit organization to help keep our voters and poll workers safe and to facilitate increased absentee voting. The Center for Tech and Civic Life has a list of these communities on its website. AB 173 would make it a Class I felony for any elections official to accept grant funding. The legislature instead should be appropriating funds to help localities prepare for the next election and allow municipalities to process increases in absentee voting, which are likely to become a permanent feature of Wisconsin elections.

AB 170 would allow election observers to stand 3 feet from the registration and voting tables instead of 3 – 8 feet under current law. This solution in search of a problem. Wisconsin and other states have had problems with over-zealous observers packing into polls, creating disruptions and intimidating voters. Current Wisconsin law allows election officials to create an appropriate distance based on room and crowd size.

All of this redundancy only creates a burden for voters and more red tape for clerks. Our elections have certainly not suffered from insufficient paperwork and red tape. This proposal offers nothing to improve election administration.

We oppose AB 179. This bill requires the administrator of a residential care facility or qualified retirement home to provide notice of the dates and times when special voting deputies (SVDs) will be visiting the home or facility to the relatives of each occupant who intends to cast an absentee ballot with the SVDs. The bill also provides that an employee of such a home or residential care facility who so much as encourages an occupant to apply for an absentee ballot or vote is guilty of a Class I felony.

This legislation is insulting to the occupants of such a home or facility. It assumes they cannot make independent decisions, and it could violate the privacy of their vote. Charging people with a felony for making a good faith effort to assist voters is extreme.

We oppose AB 198, which would require clerks to return to a voter an absentee ballot with an incomplete certificate and post a notification of the defect on the voter's information page in the voter registration database. While we could support legislation requiring clerks to inform voters of an incomplete certificate, this bill does nothing to assist voters to remedy the error or omission. It prohibits clerks from making common-sense corrections of a witness's address, something we have supported since 2016. It only gives reason to disqualify the ballots of eligible voters.

We oppose AB 201. Under this bill, indefinitely confined voters would have to apply for an absentee ballot for each and every election they wish to vote in, which is unnecessary and burdensome for voters. Adding to the burden, they would have to provide a picture of their photo ID with each request. The legislation stipulates that the WEC create a standard request form, including information that is already in the voter's record. Clerks would then have to confirm the completion of the form. Also, the bill treats military voters differently than overseas voters, and that would likely violate the MOVE Act and could trigger another lawsuit by the federal Department of Justice.

The bill also requires an electronic signature to be used for electronic voter registration. Establishing electronic signatures would require a costly change to the voter database. It would require new training for clerks and poll workers, and in the long run it would likely result in many rejected registrations and ballots from eligible citizens.

We urge you to reject all of these bills, which do nothing to improve elections and will only prevent qualified citizens from voting.

During Madison's 2020 presidential recount, all election observers had close access to ballot processing in the large room secured by the County at the Monona Terrace. The County also secured hanging cameras so any overflow could be accommodated. However, in smaller localities with smaller rooms, three feet of distance may not be attainable and some flexibility is warranted. On a practical level, requiring election inspectors to work with observers stationed 3 feet away is simply onerous and risks interference with, and distractions in, administering the election as well as risking exposure of confidential information that may be requested for registration. For these reasons, flexibility will continue to be needed.

With regard to AB 198, the City of Madison anticipates that increased levels of absentee voting will be a permanent fixture in our elections. In an era of increasing absentee ballots, it simply does not make sense that clerks will be required to return ballots to voters (a process that could take two weeks or more by mail) for minor address corrections to exterior envelopes. A common error is when the witness (often the spouse of the voter) forgets to fill in their full address in the witness certification box on the envelope that the ballot is returned in, because the voter already has given the address. The legislature must allow clerks to correct minor issues via email or phone call or thousands will be disenfranchised.

Lastly, since there was no sustained evidence of wrongdoing on the part of election officials, we object to the series of new felony charges contained in these and other voting related bills applying to Wisconsin's respected clerks and election officials. They are among the heroes of this pandemic, who worked tremendous hours to protect our democracy and voting rights in a time of crisis in a nonpartisan and professional manner.

Thank you for your consideration of our comments.