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# ROBERT BROOKS

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STATE REPRESENTATIVE • 60<sup>th</sup> ASSEMBLY DISTRICT

**Hearing Testimony**  
**Assembly Committee on Judiciary**  
**Thursday, April 15, 2021**

Chairman Tusler and members of the Assembly Committee on Judiciary, thank you for affording me with the opportunity to testify on behalf of Assembly Bill 194, relating to: actions of for violations of election laws.

Assembly Bill 194 establishes a pathway for expedited judicial relief for parties involved in election law disputes and expands election law enforcement options.

Over the past year, the legislature has devoted copious time writing, deliberating on, and passing election-reform legislation. It is imperative to denote that election officials, poll workers, poll observers, and candidates abide by the election laws established by this body. If and when election laws are violated, a remedy must be developed to hold offenders accountable.

Currently, anyone who is not a district attorney or the attorney general, must file a complaint with the Wisconsin Elections Commission. The commission than has a five-day period in which to review the complaint and determine whether or not an investigation is warranted. Final disposition may take weeks. Only after the commission finishes its investigation may a party with a complaint take their complaint to the judicial system.

Assembly Bill 194 leaves intact the complaint and investigation process at the Elections Commission for those who choose that option. Assembly Bill 194 simply eliminates the mandate stipulating that all complaints be routed through the commission before a legal remedy is sought in court.

Second, Assembly Bill 194 expands the number of district attorneys who may prosecute election law violations. In elections for offices that span county boundaries or are for statewide office, the impact of election law violations expands beyond the jurisdiction of any single prosecutor. Any improper or illegal election process negatively impacts everyone in the district served by the office being sought. The same is true of an illegally cast ballot: the process is diminished and legally cast votes are diluted.

For the aforementioned reasons, Assembly Bill 194, as amended, allows certain election law violations to be prosecuted by the district attorney of the county in which the violation occurred or, if the election is statewide or crosses county lines, by the district attorney of a county within the district and adjacent to the county in which the alleged violation occurred.



# DUEY STROEBEL

STATE SENATOR • 20<sup>TH</sup> DISTRICT

## Testimony on AB 194

*April 15, 2021*

Good afternoon Chair Tusler and members of the Assembly Judiciary Committee. AB 194 creates a pathway for expedited judicial relief for parties involved in election law disputes and expands election law enforcement options.

The legislature has spent a significant amount of time writing, deliberating and passing election laws. It is important that election officials, poll workers, poll observers and candidates abide by those laws. When election laws are violated, a speedy remedy must be applied to the situation in order to preserve faith and trust in the system.

Under current law, anyone who is not a district attorney or the attorney general must file a complaint over election law violations with the Wisconsin Elections Commission. The Commission then has a 5-day period to review the complaint and determine whether or not to conduct an investigation. Final disposition may take weeks. All the while critical time elapses, deadlines potentially missed and possible remedies made unworkable due to events. Only after the Commission finishes its investigation may a party with a complaint take their concerns to the judicial system.

AB 194 leaves intact the complaint and investigation process at the Elections Commission. That route will still be available for those who wish to use it. It only removes the mandate that all complaints be routed through the Commission before a legal remedy is sought in court.

The second thing this bill does is expand the number of district attorneys who may prosecute election law violations. In elections for offices that span county boundaries or are for statewide office, the impact of election law violations expands beyond the jurisdiction of any single prosecutor. An improper or illegal election process negatively impacts all citizens. The same is true of an illegally cast ballot: the process is diminished and legally cast votes are diluted.

That is why AB 194, with the introduced amendment, allows certain election law violations to be prosecuted by the district attorney of the county in which the violation occurred or by the DA of a county adjacent to where the violation occurred.

It is important to note that only election law violations are subject to this bill. The bill does not apply to campaign finance matters or criminal statutes.



AB 194

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**Wisconsin State Assembly  
Committee on Judiciary**

April 15, 2021

Adam Jordahl  
The Hamilton Consulting Group

On behalf of Madeline Malisa  
Opportunity Solutions Project

Chairman Tusler, Vice-Chairwoman Kerkman, and members of the committee,

My name is Adam Jordahl, and I am speaking on behalf of Madeline Malisa of the Opportunity Solutions Project, a non-partisan, non-profit public policy organization who works on election integrity issues in states across the country.

I'm testifying today in support of AB 194, which increases the ability of voters to hold election officials accountable for violating the law. When voters lose trust in the election process, they lose confidence in election outcomes. Wisconsin election officials who administer the election process are crucial to ensuring that the fundamental right to vote is protected.

This bill provides two good changes to Wisconsin election law:

First, a voter who believes that an election official has violated the law can now commence an action to test the validity of an election official's actions without first filing a complaint with the Elections Commission. This makes the process easier for voters to take action when they are concerned about the conduct of election officials.

Second, the bill expands what venue is proper for complaints against election officials. Right now, in order to file a complaint against an election official, the voter must be a resident of the jurisdiction or district served by the official. This bill expands venue to include any county within the area covered by an office on the ballot.

We have worked on the issue of election official accountability across the country, and I can offer the committee some perspective on how other states are handling these issues. We've seen legislatures focus on deterring bad actors by increasing or enacting penalties, including removal from office and/or increased civil and criminal penalties. This session, Minnesota, Michigan, Iowa, Texas, Alaska, Florida, New Jersey, and Georgia are either considering or have passed bills with enhanced penalties.

AB 194 provides a commonsense approach to ensuring that election officials are accountable for following the law. There is much at stake in the details of carrying out elections, and this bill is a good step towards restoring voter confidence in the election process.

Thank you for your time.

April 15, 2021



Comments from the ACLU of Wisconsin  
In opposition to AB 194  
Assembly Committee on Judiciary

Dear Chair Tusler and members of the committee:

The ACLU Voting Rights Project has worked to protect the gains in political participation won by racial and language minorities since the passage of the original Voting Rights Act in 1965. Here in Wisconsin, the ACLU has worked on voting rights for almost as long, and working with many other non-partisan organizations, has been a lead partner in the Wisconsin Election Protection coalition for more than 15 years.

The purpose of Wisconsin Election Protection is to protect voters' rights, to expose and prevent voter intimidation, and to preserve access to the polls for all eligible voters. We do this both by staffing a hotline and deploying observers and attorneys to polling places to respond to voter concerns. This initiative also allows us to document problems and best practices to improve election administration and ensure that elections continue to be free, fair, and accessible in Wisconsin. The many years we have observed elections in Wisconsin have given us a deep insight into the process that currently exists.

We are concerned about AB 194 allowing forum shopping for certain violations of law. We are also concerned that, as written, the bill could allow any or all of the millions of Wisconsin voters to file complaints with the Wisconsin Elections Commission based on a person's "belief" that election law violations have occurred. As a result, complaints apparently could be filed by voters who possess no personal knowledge that a violation of law has occurred, or without providing any meaningful quantum of evidence or information that supports their "belief" that a violation of law has occurred. Such a law has the potential to inundate circuit courts with frivolous complaints and divert staff time and money from their important work.

We urge you to not move forward on Assembly Bill 194.



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Testimony of Matt Rothschild

Executive Director, Wisconsin Democracy Campaign

Before the Assembly Judiciary Committee

In opposition to AB 194

April 15, 2021

Chair Tusler and other distinguished members of the Committee,

I'm Matt Rothschild, the executive director of the Wisconsin Democracy Campaign.

Now in our 26th year, the Wisconsin Democracy Campaign tracks and exposes the money in Wisconsin politics and advocates for a full range of pro-democracy reforms so that we have a democracy where everyone has an equal voice.

I'm testifying today to oppose AB 194, and I'll get into the details in just a bit.

But before I do that, I want to take just a minute to discuss the context in which these anti-voter bills, and a raft of others, are circulating.

Let me be blunt: There is an effort under way, here in Wisconsin and around the country, to continue to cast doubt on the validity of the Nov. 3 election, the legitimacy of the Biden presidency, and the integrity of our elections.

In part, this is an effort to retroactively substantiate the bogus claims, repeated ad nauseam, by Donald Trump.

In part, it is an effort to feed the Republican base red meat, and on Jan. 6 th, we saw how a segment of that base reacts when fed that unhealthy diet.

And in part, it is an effort to erect barriers that interfere with the freedom to vote in an attempt to gain partisan advantage.

That is why we are seeing, in 47 states including Wisconsin, bills introduced that would interfere with the freedom to vote, the most basic freedom in our democracy.

Now on to the specifics of AB 194.

It would invite endless harassment of our election officials and endless litigation, and it would allow venue shopping in the courts to seek a favorable outcome. If any citizen can file a claim



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against any election official, you're going to gum up our elections as never before, entangling them in legal thickets. And by allowing venue shopping, you would risk raising the suspicion that the fix was in. One additional consequence would be that you would be making it more difficult than ever to find people willing to be an election official.

For these reasons, the Wisconsin Democracy Campaign opposes AB 194. Thank you for considering our views.



## Schmidt, Melissa

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**From:** Rep.Tusler  
**Sent:** Thursday, April 15, 2021 9:59 AM  
**To:** Penterman, William; Rep.Cabrera; Rep.Hebl; Rep.Horlacher; Rep.Kerkman; Rep.Ortiz-Velez; Rep.Ramthun; Rep.Sortwell; Rep.Thiesfeldt; Rep.Tusler; Schmidt, Melissa  
**Subject:** FW: comment to WI Assembly Committee on Judiciary for Public Hearing re AB 194

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**From:** Kate Houston <kate.who@charter.net>  
**Sent:** Thursday, April 15, 2021 9:32 AM  
**To:** Rep.Tusler <Ron.Tusler@legis.wisconsin.gov>  
**Subject:** comment to WI Assembly Committee on Judiciary for Public Hearing re AB 194

To Rep. Tusler, Chairman, and Members of the Judiciary Committee:

Please accept my comments regarding **AB 194**: "Relating to actions for violations of election laws." I have read this bill and find it to be a terrible assault on the intention to conduct fair elections without interference from *anyone* who doesn't like the outcome! At least the current law requires some reasonable steps to be taken before proceeding with legal actions. The proposed revisions completely eliminate those preliminary steps. Furthermore, they effectively encourage anyone — frivolous mischief maker or disgruntled miscreant, Wisconsin resident/voter or non-resident alien voter imposter (meaning foreign operative, not someone from outer space) — to challenge any election official for any action which the challenger doesn't like. This would result in chaos, at the polling places, in the courts and in the minds of the electors, so it's hardly designed to restore confidence in our elections! Instead, it's another flagrant example of double-speak.

Keep the current law intact; **restore** the stricken text below and **delete** the underlined text below:

**Section 1.** 5.06 (2) of the statutes is amended to read:

5.06 (2) ~~No **Any** person who is authorized to file a complaint under sub. (1) — other than the attorney general or a district attorney,~~ may commence an action or proceeding to test the validity of any decision, action or failure to act on the part of any election official with respect to any matter specified in sub. (1) without first filing a complaint under sub. (1), ~~nor prior to disposition of the complaint by the commission. A complaint is deemed disposed of if the commission fails to transmit an acknowledgment of receipt of the complaint within 5 business days from the date of its receipt or if the commission concludes its investigation without a formal decision.~~

As a former Ephraim election official, including a Chief Inspector for 4-5 years, I take offense at the implication calling into question my efforts to do my job, much less to cast aspersions on current election officials. To allow any person who objects to any action of any election official to "commence an action or proceeding to test the validity of any decision, action, or failure to act on the part of any election official without first filing a complaint" is beyond absurd! No, no, NO, do not pass **AB 194**. Not now, not ever!

Please include my comment in the public record.

Sincerely,

Kate Houston  
PO Box 495  
Ephraim, WI 54211