



ELLEN SCHUTT

STATE REPRESENTATIVE • 31ST ASSEMBLY DISTRICT

April 4, 2023

Testimony on Assembly Bill 131

Thank you Chairman Tranel and committee members for hearing Assembly Bill 131 today. This bill clarifies state law and guarantees that farmers are represented on county land conservation committees.

Currently, each county board must have a county land conservation committee. The county land conservation committee's responsibilities are related to natural resource management such as: soil and water conservation; erosion control; and nonpoint source water pollution. In order to make sure farmers are included in these discussions, current law requires a county board to appoint a member of their county's U.S. Department of Agriculture Farm Service Agency (FSA) to the committee.

In November 2021, a FSA attorney made a determination that FSA county commission members in Wisconsin cannot represent the FSA in any official capacity in any "outside groups", including the county land conservation committee. This determination created confusion and differing interpretations across counties as to how they should comply with the current statute.

This bill will remove the FSA requirement and instead, allow a county board to appoint a person who is engaged in an agricultural use. Our bill narrowly defines "agricultural use" as crop or forage production; keeping livestock; beekeeping; nursery, sod, or Christmas tree production; floriculture; aquaculture; fur farming; and forest management.

By making this change and requiring a county to appoint someone engaged in agricultural use, we eliminate any uncertainty in the law and allow for real representation from the agriculture community.

Thank you for your consideration of Assembly Bill 131. I am happy to answer any questions you may have.



JOAN BALLWEG

STATE SENATOR - 14TH SENATE DISTRICT

Assembly Bill 131: Membership in County Land Conservation Committees
Assembly Committee on Agriculture
Testimony of Senator Joan Ballweg
April 4, 2023

Good morning, members of the committee, and thank you for hearing this legislation to help ensure farmers maintain their voice in conservation and land use issues.

Currently, each county board must create a land conservation committee. These land conservation committees are generally responsible for developing and adopting various conservation standards, advising and providing assistance to landowners to meet conservation standards, and distributing and allocating federal, state, and county funds for cost-sharing programs or other incentive programs for soil and water conservation.

The county board must appoint a person from the county's U.S. Department of Agriculture Farm Service Agency (FSA) to be a member of the committee. However, in November 2021, the FSA Attorney Advisor issued a determination that FSA county commission members in Wisconsin cannot represent FSA in any official capacity in "outside groups," including committees of the county board. This determination creates confusion and differing interpretations across counties as to how they should comply with the statutory requirement to appoint an FSA member.

AB 131 removes the requirement to appoint an FSA member, and it replaces it with a requirement to appoint someone who is engaged in an "agricultural use". "Agricultural use" is currently defined in statute under the Farmland Preservation Program to include crop or forage production, keeping livestock, beekeeping, nursery, sod, or Christmas tree production, floriculture, aquaculture, fur farming, and forest management. This change will provide counties clarity to resolve the issue created by FSA's determination. It will also retain the original intent of this seat on county land conservation committees by ensuring agriculture is represented and has a voice in conservation and land use matters.

This legislation was developed with the Wisconsin Farm Bureau Federation, Wisconsin Land and Water Conservation Association, Inc., and the Wisconsin Counties Association, and it has their support.

Thank you for your time and consideration of this legislation.


Exhibit A



Gas Light Building
626 East Wisconsin Avenue
Suite 601
Milwaukee, Wisconsin 53202

November 4, 2021

TO: Warren Hanson
Administrative Officer
USDA Farm Service Agency, Wisconsin FSA State Office
United States Department of Agriculture

FROM: Paul G. Johnson
Attorney Advisor 

SUBJECT: County Committee-Member Participation on State-Sponsored Committees

You have asked our office to address an ongoing issue involving Wisconsin FSA County Commission ("COC") members serving on outside groups, specifically county boards that are created under Wisconsin state law. Service on these boards is a particular issue because, pursuant to Wisconsin state statute, such county board membership must include "a person who is the chairperson of the county farm service agency committee created under 16 USC 590h (b)" or other FSA designee. Wis. Stat. § 92.06(1)(b).

County Committees are created under federal state. Specifically, 16 U.S.C. § 590h(5)(B)(ii) authorizes the Secretary to create County Committees that are between 3 and 5 members and are "fairly representative of the agricultural producers within the area" and "are elected by the agricultural producers . . . within the area." The County Committee is essentially an advisory board that helps inform decisions made by the local FSA service center. Notably, COC members are considered to be "public officials" for the purposes of certain statutes, such as 18 U.S.C. § 201 and, regardless, are elected officials serving a federal agency.

You have advised that numerous COC members have chosen to participate on such Wisconsin county-level boards, even if they are not obligated to do so. This does raise ethical concerns, as it must be clear that any representation is not connected to the COC.

We have been advised that 5 C.F.R. § 2635.702(b) would likely apply to COC members. That regulation addresses issues related to the use of public office for private gain. It directly prohibits an individual from using his or her official title in connection with participation with outside groups, which include a state created or sponsored committee. Under that regulation, "an employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that could reasonably be construed to imply that his agency or the Government sanctions or endorses his personal activities or those of another." 5 C.F.R. § 2635.702(b).

Use of an official USDA title in connection with participation on a state-sponsored board would likely create the impression that the committee member is serving in his or her official

capacity as a representative of USDA. That is not the case. The COC member should not use his or her title in connection with any work with such an outside group, or in any other way imply that their participation is sanctioned by USDA. Doing so would risk violating federal regulations in place to prohibit the use of public office for private gain.

DATE: April 4, 2023

TO: Members of the Assembly Committee on Agriculture

FROM: Wisconsin Farm Bureau Federation

RE: **Support for Assembly Bill 131, Agricultural Representative on the County Land Conservation Committee**

Chairman Tranel and Members of the Committee, thank you for letting me testify today on behalf of the Wisconsin Farm Bureau Federation in support of AB 131. My name is Tim Fiocchi and I am the Senior Director of Government Affairs for Wisconsin Farm Bureau Federation.

Thank you to Representative Schutt and Senator Ballweg for authoring Assembly Bill 131, legislation that makes an important update to the required statutory composition of county land conservation committees and ensures that the committee will include a representative from agriculture in Wisconsin period.

Under current law, counties are required to a person from the county's U.S. Department of Agriculture Farm Service Agency (FSA) to the land conservation committee. *See* Wis. Stat. § 92.06(1)(b)2. This has become problematic over the last several years because FSA is concerned that having their members on these committees creates a conflict of interest. This has resulted in these county committee seats remaining unfilled.

The Wisconsin Farm Bureau Federation supports this legislation, which amends the statute to change the requirement for this seat to an agricultural representative. AB 131 specifically directs the county to appoint a person who is engaged in an "agricultural use," which includes crop or forage production; keeping livestock; beekeeping; nursery, sod, or Christmas tree production; floriculture; aquaculture; fur farming; and forest management. We believe this change will ensure that there is an agricultural representative on county conservation committees across Wisconsin.

Wisconsin Farm Bureau Federation urges the Committee to support AB 131 and include Wisconsin agricultural representatives on county conservation committees.



Tuesday, April 4, 2023

Assembly Committee on Agriculture

Re: Assembly Bill 131: Relating to: membership in county land conservation committees.

Michelle Ramirez-White – Policy Coordinator, Wisconsin Farmers Union

Chair Tranel and members of the committees, thank you for the opportunity to submit testimony in support of Assembly Bill 131.

Wisconsin Farmers Union submits testimony today in favor of Assembly Bill 131, relating to membership in county land conservation committees. Our members believe removing the requirement to appoint a person from the US Department of Agriculture Farm Service Agency, and replace them with a person engaged in 'agricultural use', will provide more opportunities for those actively engaged in agriculture.

In the past, it was common for farmers to participate on county boards, but today these boards look different. As fewer and fewer farmers are able to dedicate this time to serve as board members, it makes sense for our current law to update and allow more flexibility of agricultural presence.

It is very important for qualified people with agriculture backgrounds to be in these committees, to provide valuable and accurate input when agricultural issues arise.

Assembly Bill 131 keeps the original intent of this seat on county conservation committees, which is to ensure agriculture is represented and has an active voice in conservation and land use matters.

Wisconsin Farmers Union would support further clarifying "agricultural use" as a person engaged in active farming, who would meet the requirements to be an FSA member. It is vital this representative be someone who lives with the rules and regulations being discussed and uses farming to make a living.

Thank you for this opportunity to share Wisconsin Farmers Union's thoughts on this issue.

Sincerely,

Michelle Ramirez-White

Policy Coordinator, Wisconsin Farmers Union



Wisconsin Land+Water Conservation Association

121 S. Pinckney Street, Suite 420 · Madison, Wisconsin 53703
(608) 441-2677 · Fax: (608) 441-2676 · wisconsinlandwater.org

Testimony of WI Land+Water Executive Director Matt Krueger in Support of Assembly Bill 131
Assembly Committee on Agriculture
April 4, 2023

Dear Chair Tranel, Vice-Chair Oldenburg, Ranking Member Considine, and Committee Members,

WI Land+Water is a nonprofit, nonpartisan membership organization that represents 800 boots-on-the-ground county conservation department staff and elected county land conservation committee members across the state. On behalf of those members, I submit my testimony in favor of AB 131.

AB 131 provides much-needed clarity and a common-sense solution to an issue related to the membership of county land conservation committees, or LCCs—specifically, the representation of the USDA-Farm Service Agency (FSA) members on LCCs. I want to thank Rep. Schutt and Sen. Ballweg for their leadership on this legislation.

Section 92.06(b) of Wisconsin Statutes determines the make-up of county LCCs, one requirement of which is that the county shall appoint to the LCC the chairperson or other designated member of the county FSA committee. In late 2021, however, Wisconsin FSA leadership issued a determination that county FSA committee members could not serve on LCCs as representatives of FSA, and any LCC participation on the part of county FSA committee members would entirely be voluntary. This caused considerable confusion for counties, and counties had differing interpretations of what was necessary to comply with the statute.

AB 131 proposes to replace the designated FSA seat on county LCCs with a representative of agriculture, which we believe was the intent of the FSA seat in the first place. The bill's language refers to an existing definition of "agricultural use" currently used in 91.01(2)(a), the statute creating the state's Farmland Preservation Program.

We think this proposed language clears up the confusion around FSA's representation on county LCCs, ensures agriculture continues to have a seat at the table, and provides county boards the flexibility to determine the most appropriate representative of agriculture for their county.

Thank you for the opportunity to provide comment, and I'm happy to answer any questions committee members may have.



MEMORANDUM

TO: Honorable Members of the Assembly Committee on Agriculture

FROM: Daniel Bahr, Government Affairs Associate

DATE: April 4, 2023

SUBJECT: Support of Assembly Bill 131

Thank you for the opportunity to testify regarding Assembly Bill 131 relating to membership in County Land Conservation Committees (LCC). This bill removes the requirement to appoint an FSA member to a county land conservation committee and replaces it with a requirement to appoint a person who is engaged in an agricultural use.

This bill was drafted with the goal of providing flexibility to counties as they fill seats on its Land Conservation Committee. In the past, problems have arisen in terms of meeting a quorum on the LCC. In addition, this change to state statute will ensure that counties have more options in terms of providing for an agricultural voice on the LLC.

The Wisconsin Counties Association, in partnership with stakeholders in the Agricultural community requested this change to give counties more flexibility in term of meeting their statutory obligations.

Thank you for considering our comments. Please feel free to contact WCA for further information.



740 7th Ave W, Durand, WI 54736

Pamela Hansen, Finance Director /Administrative Coordinator

PHONE: 715-672-8704

E-MAIL: phansen@co.pepin.wi.us

Jessica McMahon, Land Conservation & Planning Director/ County Conservationist

PHONE: 715-672-7242 Ext 167

E-MAIL: jmcmahon@co.pepin.wi.us

Testimony of Pepin County in Support of Assembly Bill 131

Assembly Committee on Agriculture

April 3, 2023

Dear Chair Tranel, Vice-Chair Oldenburg, Ranking Member Considine, and Committee Members,

Pepin County is one of the smallest counties in the state of Wisconsin, ranking 3rd in least populated with a total population of 7,289 (2023). Our Pepin County board is comprised of a total of 12 members. Our Land Conservation Committee hosts 5 members, one of which is reserved for the Farm Service Agency representative.

Pepin County is one of the many counties affected by the confusion stemming from the determination that county FSA committee members cannot not serve on LCCs as representatives of FSA, and any LCC participation on the part of county FSA committee members would be entirely voluntary. In following that guidance, our LCC was left without voluntary participation from the FSA.

To satisfy the statutory requirement in Section 92.06(b), the Pepin County LCC made an appointment of an active serving member of the FSA, who currently has chosen not to attend LCC meetings. With the lack of participation held by that seat, the Pepin County LCC is reduced to 4 active members. Meeting the quorum requirements with so few members has been a challenge.

AB 131 proposes to replace the designated FSA seat on county LCCs with a representative of agriculture as defined by current language in 91.01(2)(a). As a rural agriculture community, this seat provides an opportunity for the farming residents to have a voice. Thus, the lack of participation as the situation currently sits, limits valuable input and insight from the farmers of our county. We feel this change will be more conducive to the needs of Pepin County and fully support it.

Thank you for giving this important topic your time and consideration.

Pamela Hansen
Finance Director/Administrative Coordinator

Jessica McMahon
Director of Land Conservation & Planning/
County Conservationist