
TY BODDEN

STATE REPRESENTATIVE • 59TH ASSEMBLY DISTRICT

Testimony on Assembly Bill 441

Assembly Committee on Campaigns and Elections

Tuesday, October 3, 2023

Thank you, Chairman Krug, Vice-Chairman Maxey, and members of the Campaign and Elections Committee for the opportunity to testify in favor of Assembly Bill 441. Thank you Senator Stroebel for leading on this bill.

This is a simple bill. This proposal was brought to my attention by a couple of county clerks from our district. I have discussed this legislation with other clerks in my district who see the benefit that this legislation provides.

Federal law contains a 45-day transit time requirement for sending absentee ballots to military and overseas voters prior to each federal election. This bill requires that a municipal clerk must send or transmit an absentee ballot for the presidential preference primary to electors other than military and overseas electors no later than the 21st day before the presidential preference primary. The bill does not alter the 47-day deadline for municipal clerks to send or transmit absentee ballots to military electors and overseas electors for the presidential preference primary. My understanding is that we would still remain in compliance with federal law while simplifying state regulations and cleaning up the state statute under this bill.

Currently, clerks face logistical challenges as a result of this requirement, the mailing of two ballots for two different elections to tens of thousands of voters in this close of the proximity to each other increases the potential for voter confusion and inadvertent errors by poll workers. We are offering up a potential solution to the problem.

Passing this bill will make the electoral process easier for our municipal clerks and less confusing for voters.

Again, thank you for your time and consideration of this bill.



To: Assembly Committee on Campaigns and Elections
From: Senator Mark Spreitzer
Re: Testimony on Assembly Bill 441
Date: October 3, 2023

Chair Krug, Ranking Member Snodgrass, and committee members,

Thank you for hearing Assembly Bill 441, a bill to implement a technical fix that will address an oddity in current law that would require clerks to send two ballots to absentee voters in the April 2024 election. Under current law, a municipal clerk is required to send an absentee ballot to all electors with an existing request 47 days before a partisan primary, presidential preference primary, and fall general election. For all other nonpartisan elections, clerks are required to transmit ballots 21 days before the primary or election. The 47 day requirement originated with federal law requiring that military and overseas voters be sent their ballots at least 45 days prior to a federal election, which includes the presidential preference primary in April.

Current law creates a unique issue during presidential election years due to the close proximity of the February primary and the April election. Due to the 47 days transmission requirement, in presidential years, the February primary happens after ballots must be sent out for the April election. This means that clerks would be required to send an "A" ballot before the February primary election with only the presidential primary candidates who will be on the April ballot, and then also send a "B" ballot with both the presidential primary candidates and the candidates selected in the February primary for various nonpartisan offices.

Absentee voters would then have the option of returning one or both ballots, with the "B" ballot being counted if both are returned. AB 441 would change statute to only require "A" and "B" ballots be issued for military and overseas voters, and would allow all other absentee voters to receive just a single ballot, sent at least 21 days before the April election.

This A/B balloting is extremely costly to local municipalities, and may also cause confusion for voters. If a voter receives the "A" ballot and returns it, they may believe that their vote has been fully cast for the April election. They might also receive an "A" ballot before the February primary and believe it to be their February ballot. All the while, local municipalities will be bearing the cost of mailing out these confusing extra ballots.

AB 441 eliminates the A/B balloting confusion for most absentee voters, while maintaining federal compliance for military and overseas voters. Regular absentee requests will follow the existing 21-day timeline for February and April elections regardless of whether they include a presidential preference primary, while military and overseas voters will continue with the 47-day timeline that is compliant with federal law for elections that include a presidential preference primary.

15th SENATE DISTRICT

608-266-2253 | Sen.Spreitzer@legis.wisconsin.gov | www.SenSpreitzer.com
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This issue has been raised by clerks for the last several legislative sessions, and I was glad to partner with Senator Stroebel, Representative Bodden, Representative Michalski, and Representative Anderson to bring this fix forward so that we can resolve it prior to the 2024 presidential preference primary – saving money and reducing confusion for voters. This is a focused bill that addresses the A/B balloting issue in presidential preference primary elections without changing the timeline for other elections.

Thank you again for the opportunity to testify on this bill. Please do not hesitate to reach out to my office with any questions.

Sincerely,

Mark Spreitzer

Mark Spreitzer
State Senator
15th Senate District

15th SENATE DISTRICT

608-266-2253 | Sen.Spreitzer@legis.wisconsin.gov | www.SenSpreitzer.com
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DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on AB 441

October 3, 2023

Thank you Chairman Krug and committee members for holding a public hearing on Assembly Bill 441, a bipartisan piece of legislation I authored with Representative Bodden to correct a deficiency in the statute governing the timeline in which municipal clerks must send absentee ballots to voters with an absentee ballot request on file [s. 7.15 (1)(cm), Stats.]. It is my understanding that this deficiency was first identified by one of our county clerks during a review of the election statutes in the lead up to the 2020 presidential election cycle.

As a bit of background, the current statute was put in place at the recommendation of the then-Government Accountability Board through a 2011 law change that was made for the purpose of bringing Wisconsin into compliance with the federal Military and Overseas Voters Empowerment Act [2011 Act 45]. While federal law requires a 45-day timeline for sending absentee ballots to military and overseas voters prior to each federal election, the 2011 law change applied a 47-day timeline more broadly to encompass all absentee voters.

In 2024, this 47-day deadline falls on February 15, which is five days before the spring primary. In order to comply with this requirement, municipal clerks would need to first mail a Type "A" ballot containing only the presidential preference vote to absentee voters who request a ballot prior to February 15, followed by a Type "B" ballot containing both the presidential preference vote and all other spring election contests after the spring primary results are certified. Only the Type "B" ballot would be counted if a voter returns both ballot types.

When the members of the Wisconsin Elections Commission were first made aware of this "A-B ballot" issue in early 2020, they ultimately voted against complying with the statute and instead directed clerks to only send an "A" ballot followed by a "B" ballot to the several thousand military and overseas voters with absentee ballot requests on file. The WEC commissioners indicated that they were seeking to avoid a scenario in which clerks would be forced to send two ballots to the tens of thousands of regular absentee voters for the same election. Aside from the logistical challenges faced by municipal clerks, such a scenario would increase the potential for voter confusion and inadvertent errors by poll workers.

With the 2024 presidential election cycle around the corner, AB 441 would rectify this issue once and for all by applying the 47-day timeline only to military and overseas voters for the spring election and presidential preference primary. This would result in a 21-day timeline for all other voters with an absentee ballot request on file.

In closing, I would like to thank the Wisconsin County Clerks Association for bringing this issue to my attention, as well as Senators Knodl and Spreitzer and Representatives Michalski and Clint Anderson for their partnership on this legislation. Thank you for your consideration.