



JOHN J. MACCO

STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

To: Assembly Committee on Campaigns & Elections

From: Representative John Macco

Date: Tuesday, October 31, 2023

In Favor of AB 493

Chairman Krug and members of the Assembly Committee on Campaigns & Elections,

Thank you for hearing testimony on AB 493.

Republicans and Democrats both face the intense battleground of a primary election. The primary is the race to determine which candidate will be the nominee for their stated party. Each primary candidate has garnered nomination signatures from their supporters in which they clearly pledge to be running for a specific race under the platform of a specific party. Once those signatures are gathered the candidate then files those papers with the election commission again attesting to their intent to run and to be granted access to the ballot under that specific party. Party resources in time, volunteers and money are invested in the candidate on behalf of that declared party.

In recent years, Wisconsin primaries have proven to be often times more arduous than the general election itself. The victorious candidate, and constituency, emerges from the primary bruised but relieved to have their party candidate chosen and ready to shift focus to the general election pitting their party's nominee against the rival party's final nominee.

A disgruntled primary loser already is prohibited from switching to another party under current law. For example, a Democratic Party primary loser, cannot switch to say the Green Party and continue to run under that party affiliation. Nor does it allow an independent write-in to then switch to say the Democratic Party for the general. Once you've stated your affiliation, attested to it, gathered nomination signatures declaring your affiliation and intention you must run as such.

However, a loophole in our current election law does allow a defeated primary candidate of any party to change his/her designation by abandoning their stated party affiliation and jumping over to register as a write-in candidate.

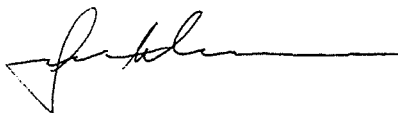
This loophole undermines the democratic primary process and the choices made by our voters. For a primary loser to switch party affiliation is to disregard those who nominated the candidate in the first place. The signers have a right to expect they are affixing their name, not just to an individual but to an idea and a process. I sign my name to nominate not just to the individual running, but also to the party and philosophy the candidate stated to support. If I personally signed for an avowed candidate only to have them then change affiliations mid-stream, that would make me feel deceived.

A non-declared party candidate is not the same as a declared party candidate. This bill does not change the law for non-declared candidates or prohibit any undeclared person from throwing their hat into the ring as a write-in, up to a week before the general election. But once a candidate declares affiliation to a party and to the primary process, under this bill they would be unable to then register, after a primary loss, as a write-in candidate. Voters are already frustrated, confused and distrustful of the current state of our elections. To have a sore loser continue the bitterness and in-fighting after they have lost their party's nomination is poor sportsmanship, immature and further alienates the voting public. The privilege of being a political candidate here in the great state of Wisconsin, carries with it the stewardship responsibility of the Wisconsin ideals of fairness, integrity and honor.

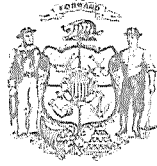
AB 493 would move Wisconsin forward and join many other states who have enacted similar bans including Illinois, Texas, Arkansas, Colorado, Nebraska, Arizona, and Ohio. A candidate should make a choice to run as a write-in candidate and it should not be allowed as a back-up plan for an unsuccessful bid for a party nomination. As the U.S. Supreme Court held in *Storer v. Brown*, 415 U.S. 724 (1974), "The State's general policy is to have contending forces within the party employ the primary campaign and primary election to finally settle their differences. The general election ballot is reserved for major struggles; it is not a forum for continuing intra-party feuds ... The people, it is hoped, are presented with understandable choices and the winner in the general election with sufficient support to govern effectively."

Wisconsin already prohibits candidates from running in two or more primaries simultaneously, or running under a political party and independent at the same time. I ask that you join us and close this loophole by passing AB 493.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "John J. Macco", with a long horizontal line extending to the right.

John J. Macco
88th Assembly District



Van H. Wanggaard

Wisconsin State Senator

October 31, 2023

Testimony on Assembly Bill 493

Thank you Chairman Krug and committee members for hearing Assembly Bill 493 (AB 493) today. AB 493 closes a loophole in state law that allows for a person to be a candidate of a political party, and as a write-in candidate, for the same office in the same election.

Our election process in Wisconsin is rather simple. Individuals must register themselves to be candidates of a political party or principle, or as a write-in candidate. If there are multiple candidates of the same political party for the same office, a partisan primary takes place. This ensures that each political party is represented by just one candidate for each office.

Current law also prohibits a person from filing nomination papers as a candidate of political party and as an independent. This seems like common sense - require a candidate to choose if they are representative of a political party or if they are independent of a political party. You can't be both.

However, there is a loophole in the law that allows a candidate that registered as a candidate of a political party and lost in that party's primary election, to then register as an official write-in candidate.

What this means is, someone can file to run as a candidate of a political party and if they lose in that party's primary say, "just kidding," and re-register as a candidate for the same office with whatever affiliation they like. Assembly Bill 493 prohibits that.

Many states have similar prohibitions including California, whose law was challenged and upheld by the U.S. Supreme Court. In that case, the Court held that "[a general election] is not a forum for continuing intra-party feuds." *Storer v. Brown*, 415 U.S. 724 (1974).

The spirit of our law is easy to understand. The primary election system is specifically designed so that each political party is represented by one candidate at the general election. And, no one person should be able to run as both a candidate of a political party, and as an independent or write-in candidate. Assembly Bill 493 is a common sense proposal that ensures the intent of the current law is followed.

Thank you for your consideration of Assembly Bill 493. I encourage you to support its passage.

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Rasmussen, Reanna

From: Sandra Juno <junosandra@yahoo.com>
Sent: Friday, October 27, 2023 11:30 AM
To: Rasmussen, Reanna; Rep.Macco
Cc: Tamera Gasparick; Doug Reich; Sandy Juno; Matt & Polly Roeser; Terri Sipes; Michael Soch
Subject: AB 493 - Counting Write-In Votes Public Comments

Greetings,

AB 493 makes sense to prohibit a candidate that was on the Primary ballot and lost from registering as a write-in for a general election.

My main reason is that the candidate had the opportunity to run in a primary and the electorate has spoken on their candidate of choice. If you allow a primary losing candidate to run as a write for a general election, it would affect the votes cast in the general election for the candidate that won the primary. In essence, the losing primary candidate running as a write-in for the general election would split the vote and give advantage to another opposing candidate that won a primary election. In essence it could be a situation of political sabotage.

I didn't like to think of this happening but in the crazy world of election's today we must be mindful of such situations. Therefore, I support AB 493 and hope that it will become law.

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