



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on SB 98 and AB 93

October 24, 2023

Thank you Chairman Krug and committee members for holding today's public hearing on Senate Bill 98 and Assembly Bill 93, a bill I brought forward earlier this session with then-Representative Knodl to attempt to address an election integrity issue that had been brought to our attention during the previous biennium by a municipal clerk in Ozaukee County. This legislation is effectively a reintroduction of 2021 SB 938, with certain modifications.

In short, there have been multiple instances in recent years in which a non-citizen (e.g., a green card holder) had either attempted to register to vote or was able to successfully register to vote and cast a ballot using a valid, state-issued driver's license or ID card.¹ The citizenship status of an individual is not easily discernible on the driver's licenses and ID cards issued to non-citizens by the Wisconsin Department of Transportation. The bill would require DOT to place a readily recognizable indication on a driver's license or ID card issued to a non-citizen noting that the license or card is not valid for voting purposes.

While last session's version of this legislation would have required the Wisconsin Elections Commission (WEC) to use the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Database, this provision was not included in SB 98 and AB 93 in response to the concerns that had been raised regarding implementation costs and the potential shortcomings associated with using the SAVE Database for confirming citizenship status. SB 98 and AB 93 would instead require DOT's Division of Motor Vehicles (DMV) to include its existing data on the citizenship status of licensees in the recurring cross-checks between the DMV's databases and the statewide voter registration system. WEC would also be required to verify citizenship status using this information whenever an individual registers to vote or modifies his or her registration.

Only U.S. citizens who are 18 years of age or older who have resided in an election district or ward for at least 28 consecutive days before an election are deemed eligible electors under current law.² Falsely procuring registration or casting a vote without meeting elector qualifications constitutes election fraud and carries the penalty of a Class I felony (punishable by up to a \$10,000 fine or up to 3 ½ years in prison, or both).³⁻⁴

SB 98 and AB 93 amounts to a straightforward bill that would put appropriate safeguards in place to ensure that only eligible voters are able to register to vote and cast a ballot in Wisconsin. Thank you for your consideration.

¹ For example, see the Wisconsin Elections Commission's 2023 Report of Suspected Election Fraud, Irregularities or Violations (Page 4, Line 14).

² s. 6.02 (1), Stats.

³ s. 12.13 (1)(a) and (b), Stats.

⁴ s. 12.60 (1)(a), Stats.



WISCONSIN STATE SENATE

DAN KNODL

STATE SENATOR • 8TH DISTRICT

Senate Bill 98

Public Testimony

Senate Committee on Shared Revenue, Elections, and Consumer Protection
Assembly Committee on Campaign and Elections

October 24, 2023

Thank you, members of the Senate Committee on Shared Revenue, Elections, and Consumer Protection as Assembly Committee on Campaign and Elections for being here today to hold this hearing on Senate Bill 98 and Assembly Bill 93.

My predecessor, Senator Alberta Darling, and I first introduced this bill last session in response to concerns shared with us in November 2021 by a city clerk in our district. The clerk informed us that she witnessed a non-citizen attempting to vote during in-person absentee voting using a valid driver's license. Fortunately, the individual was forthcoming that they were not a citizen. The individual was notified that non-citizens are ineligible to vote and promptly left the polling location. Had this individual been dishonest, the clerk informs us that she would have registered the person and handed them an absentee ballot.

Further incidents have emerged since then. Just this month, another incident emerged in the same jurisdiction in which a non-citizen cast a ballot in a school board election. This individual checked all of the boxes at the top of the voter registration application, including the one asking if she was a citizen of the United States, and was able to register with a proof of residence and a state-issued driver's license.

Non-citizen residents are able to receive state-issued driver's licenses that are indistinguishable except for a shortened expiration date. There is a common misconception that citizenship status is apparent on these driver's licenses. That is because states have been implementing the provisions under the REAL ID Act of 2005 for several years, and these provisions tighten security requirements for the use of driver's licenses for airport security and entering federal buildings. It is important to note that this does not apply to voting.

To that end, this bill simply requires DOT to include a notation on new identification cards issued to non-citizens that the card is not valid for voting purposes. This determination will be based on data the DOT already has, and it will make every poll worker's Election Day a little easier and more secure. It requires no extra effort on the part of the voter.

The bill also requires the Elections Commission to enter into an agreement with the Secretary of Transportation to run queries between the official voter registration list and the citizenship data held by the Department of Transportation. Ensuring compliance with our

election laws is fundamental to the commission's mission, and this bill will provide both assurances of compliance as well as a deterrence for any possible fraud.

The type of fraud this bill addresses carries a penalty of a Class I felony. Fraudulent voting is a serious crime in Wisconsin, as it should be. We owe it to our state's voters to have robust procedures in place to root out all fraudulent voting.

Last session's bill, Senate Bill 938, also required the commission to utilize the Department of Homeland Security's Systematic Alien Verification for Entitlements, or SAVE, database to provide an additional level of redundancy to the verification checks. The cost of implementing this provision, as well as concerns related to the completeness of the data held by DHS, led to us removing this provision.

Last session, more than one Democratic member acknowledged in committee and on the Assembly floor that this bill was drafted in response to concerns resulting from concrete evidence. With the objections around the SAVE database addressed in this re-introduction, I am hopeful that we can achieve bipartisan support to establish this important safeguard.

Thank you for your time and attention to this matter, and I would be happy to take any questions.

October 23, 2023
Regarding AB 93/SB 98

Senators and Assemblymen,

The City of Mequon has had four encounters with non-US Citizens attempting to vote, or actually voting in elections in the past 1.5 years. Three have been referred to the District Attorney's Office for prosecution and one was discovered prior to voting. We as election administrators at the local and state level have the tools to prevent this type of election fraud but need statutes to require the Wisconsin Election Commission and the Department of Transportation to incorporate the procedures into their processes. It is the duty of every US citizen to protect dilution of their votes by non-US citizens.

A Special School Board Recall Election occurred on November 5, 2021, in the City of Mequon. During our in-person absentee voting, a woman produced her driver's license for registration and photo ID for voting purposes. She stated that she was not a US citizen but wanted to vote. I explained that she was not eligible. She understood and promptly left the polling location, however, had she not been forthcoming of her status I would have registered her to vote and given her an absentee ballot due to her driver's license having no indication that she was not a US citizen. This shocked me and made me wonder why is the State issuing driver's licenses to non-US citizens that are indistinguishable from US citizens?

My second, third and fourth encounters included residents that actually voted on election day. Three residents at three separate polling sites over two elections registered to vote and voted on election day who were **not** US citizens. The poll workers registered them because their driver's licenses were indistinguishable from a citizen's license. There was no wrong-doing or negligence on the part of the poll workers. The voters were all promptly reported to our local police department who conducted an investigation and forwarded the cases to the District Attorney's Office. One has been convicted of a felony, the other two cases are pending.

On the technical side, Wisvote conducts a nightly verification with the DMV to ensure that the driver's license information election officials input while entering new voter registrations, matches the driver's license number, name, and date of birth the DMV has on file. Those records that do not match in some fashion are returned to the municipality to determine the proper action (whether it was a typo, etc.). The DMV has data as to citizenship of each licensee, so they have the systems in place to check citizenship today. The Wisconsin Election Commission can be required to add this function and check citizenship along with name, date of birth and driver's license number. This would not however, help on election day when voters register at the polls, so that is why we also need an indication on their driver's license to specify citizen status.

It is unfortunate that this has been going on for years with likely hundreds of non-US citizens on our over rolls. Thank you for your consideration of this bill.

Sincerely,



Caroline Fochs
City Clerk
City of Mequon
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