

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on
Campaigns &
Elections
(AC-CE)

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr_AC-Ed_RCP_pt01a
- 05hr_AC-Ed_RCP_pt01b
- 05hr_AC-Ed_RCP_pt02

Published Documents

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

*Information Collected For Or
Against Proposal*

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

**

➤ Hearing Records ... HR (bills and resolutions)

➤ **05hr_ab0393_AC-CE_pt01**

➤ Miscellaneous ... Misc

➤ **



Dennis Kropp
Mayor

Lowell R. Prange
City Administrator

May 20, 2005

Honorable Al Ott
Wisconsin State Assembly
Room 318 North
State Capitol
P. O. Box 8953
Madison, WI 53708

Dear Mr. Ott:

For years local recall elections have been increasingly misused in Wisconsin. The public often seeks to recall elected officials for voting a position contrary to their viewpoint. This is wrong. Recall elections should be conducted to consider removing from office an elected official who has been malfeasant, derelict in his duties, or committed a crime; not because he voted contrary to the desires of a special interest group.

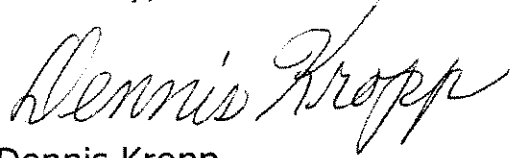
One notable example is the representative who voted in favor of a sales tax for Miller Stadium. Opponents were outraged and he was ousted from office after a recall election. As a citizen personally opposed to funding of sports stadiums with public money, I was displeased with his vote. Yet, recall is not the proper remedy. The ballot box is designed to remove legislators who don't abide by the wishes of their constituents.

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 Email ♦ mayor@menomoni-wi.gov ♦ lprange@menomonie-wi.gov



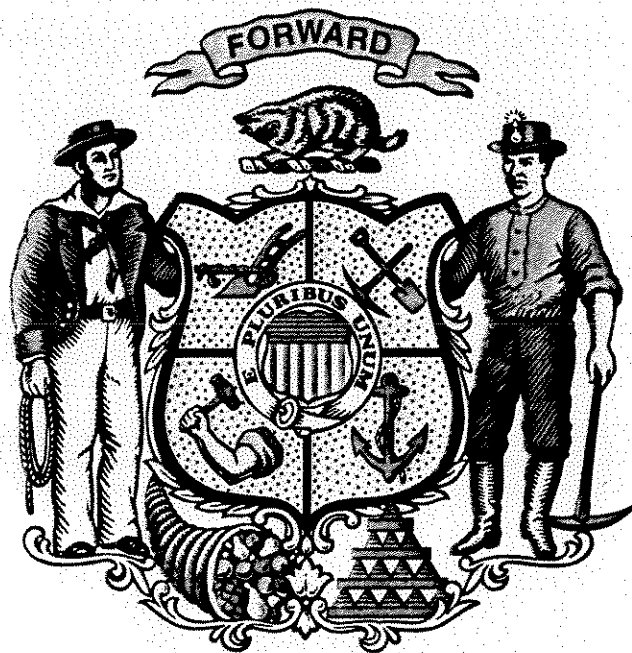
AB393 would be a step in the right direction. Please make my thoughts available at the public hearings on this piece of legislation.

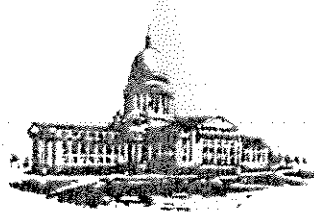
Sincerely,

A handwritten signature in cursive script that reads "Dennis Kropp". The signature is written in black ink and is positioned above the printed name and title.

Dennis Kropp
Mayor

cc: Senator Sheila Harsdorf
Representative Andy Lamb





Al Ott

State Representative • 3rd Assembly District

AB 393
Standards for Local Recall
Assembly Committee on Campaigns and Elections
May 26, 2005

Thank you for the opportunity to testify on Assembly Bill 393 – Standards for Recall of Municipal and School District Officials.

My intent in authoring this bill is very simple – I want to see the re-establishment of a more reasonable approach to the local recall process.

A procedure for the recall of local officials was first instituted in Wisconsin in 1913. Local recall is a statutory provision, while the recall of state and county officials, members of Congress, and judges, is guaranteed under Article 13, sec. 12 of the state Constitution.

AB 393 applies only to elected town, village, city and school board officials. The bill has **no impact on county or state officials, members of Congress, or judges**, as Constitutional recall covers these offices. Further, AB 393 does not take away the ability to recall local officials. It simply aims to assure it is used when appropriate.

Prior to a change in the law in 1990 (1989 Wisconsin Act 192), a recall petition needed to contain a statement of grounds that constitute **cause** for the recall. **Cause is defined as inefficiency, neglect of duty, official misconduct, or malfeasance in office.** Additionally, the petition was subject to review by the circuit court in order to determine legitimacy of the recall effort.

Under current law, a petition for recall must only state a reason for the recall that is related to the official responsibility of the officer. The reason need not be substantiated or legitimate.

In recent years, a pattern has emerged of attempting to recall local officials based on one vote or viewpoint rather than actual misconduct in office. We are seeing more and more instances in which the power of recall is being abused. Consequently, qualified people are often discouraged from running for local office. The, "Not in My Backyard Syndrome" runs rampant in this state and makes the job of local elected officials all the more difficult.

I truly feel the current law is counterproductive to good decision-making, and ultimately fosters misguided policy. Continuing on this course will result in very ineffective local governments.

An elected official should be able to stand up for what they feel is right; citizens, in turn, should be able to cast their votes at election time if they are unhappy with the **views** of those they elected.

In an effort to ensure that the local recall process is used appropriately, AB 393 returns the local recall in Wisconsin to the system in place prior to 1990.

This bill implements a mechanism of checks and balances in the recall process by providing for a neutral party to make the distinction between misconduct, versus an unpopular decision, as sufficient grounds for removing a person from public office during their term. It should be noted, that the circuit court would not determine truth of the grounds for cause – but rather determine validity of the grounds if they were true. The goal here is to eliminate frivolous local recalls.

Recall elections are not only divisive, but costly to local governments. In this time of fiscal difficulty, costly recall elections are a waste of valuable resources.

Mayor of Menomonie – Dennis Kropp – contacted me and said it well when he stated, “With elections for these offices being held every two years, there is ample opportunity for the public to address candidates’ positions without the need for a separate, often divisive election.”

The following examples should illustrate why changes are needed:

- In November, 2004, a **personal dispute** between neighbors resulted in a recall election in the Brown County Village of Denmark – just five months shy of the end of the village trustee’s two-year term.

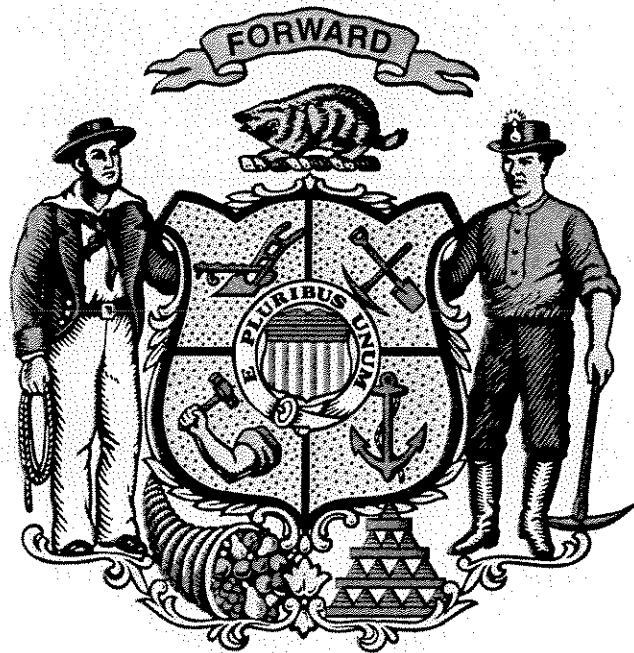
A disagreement regarding landscaping and fencing compelled one neighbor to file a recall petition against the other who serves on the village board. The neighbor filing the petition felt this person should not be on the board because they were displeased with how the personal dispute was being handled.

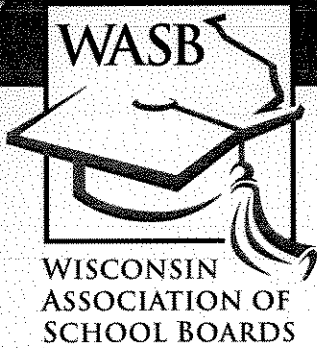
- Several incumbents on the Osseo-Fairchild school board faced a recall and were ousted in 2002, because they favored **phasing out the school’s Chieftain logo, as they felt it was possibly demeaning to Native Americans and could result in lawsuits against the district.**
- A similar situation, regarding the same issue, occurred in the Milton School District in the 1999-2000 school year, but those members survived the election
- In December of 1999, a member of the Parkview School District in Orfordville was removed from office because of the firing of a basketball coach. **The ousted member was, however, returned to the board in the April general election.**

The goal of AB 393 is to return reasonableness to the local recall process by providing a system of checks and balances.

Abuse of the current system is a major threat to sound local policy making. Recalls are costly, in more ways than one. Let our citizens exercise their right to recall local elected officials when it is necessary – in the cases of misconduct and malfeasance in office – not when selfish agendas or hot-headed differences of opinion dictate.

Thank you for your consideration of AB 393. I would be happy to take questions from the Committee.





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KEN COLE, EXECUTIVE DIRECTOR

TO: Members of the Assembly Committee on Campaigns and Elections

FROM: Pam Rewey, Sheri Krause and Jeff Pertl
Legislative Services

DATE: May 26, 2005

RE: Assembly Bill 393

The Wisconsin Association of School Boards (WASB) supports Assembly Bill 393, which requires that a petition to recall a locally elected official, including a school board member, must demonstrate cause as defined by state statutes. Under current law, inefficiency, neglect of duty, official misconduct or malfeasance in office constitute cause for removal.

Historically, cause has been required to initiate a recall election, also referred to as “good and sufficient reason.” However, in the 1980s, the standard was changed to “related to the official responsibilities of the official.” This has been widely interpreted to mean any action or vote of that elected official. School board members may not be recalled during their first year of office.

AB 393 would protect locally elected officials from frivolous or issue-based recall attempts. Public officials should be held to the highest degree of accountability in office; however, they should also be able to vote their conscience throughout their term without fear of recall.

Since the “good and sufficient reason” clause was eliminated from state statutes, recall elections have become virtual referenda on particular issues rather than a tool to remove improper elected officials. Recalls are not called over student achievement or test scores, but rather community-dividing issues like school closings, Native American mascots and redistricting. For there to be public trust in the local government, school board members must be free to determine what is in the best interest of the school and the community by examining public input and weighing the potential consequences. Elected officials are well aware that their decisions will be evaluated at the ballot box, but they should be free to govern responsibly while serving their term.

Requiring that cause be demonstrated in a recall petition will protect local officials from well-funded political issue groups who unfairly influence the governing process by threatening recalls. School board members stand for election every three years and school board seats are

staggered such that an election is held every year. Consequently, community members are afforded ample opportunity to hold their locally elected officials accountable. Allowing partisan or issue-driven recall elections undermines the integrity of public office, weakens public trust in government and fosters a hostile and unhealthy community as accountability often becomes a function not of the electorate, but rather of organization and funding of a particular issue group.

AB 393 restores meaningful standards to the recall process and will protect the integrity of the local government process. We urge your support. Thank you.

Jeff Pertl

From: Breisch [breischf@uwstout.edu]
Sent: Wednesday, May 25, 2005 2:04 PM
To: rep.freese@legis.state.wi.us; Jeff Pertl
Cc: Jesse_Harness@msd.k12.wi.us
Subject: Support AB 393

Dear Rep. Freeze:

I would like to come to Madison to speak in support of AB 393, but live 3.5 hours away. Please share this written testimony with the members of the Assembly Committee on Campaigns & Elections.

I am a member of the Menomonie Area School Board. About ten years ago, before I was a member of our board of education, there was a recall election in which three incumbents were unseated. Although I supported the recall at the time, I would never have done it had I known what I know now. I was not aware that you needed a reason such as "inefficiency, neglect of duty, official misconduct, or malfeasance" to justify a recall. I was extremely bothered by the procedure used to remove our Indian Logo. I signed a petition stating "violation of trust" as the reason for the recall. The "violation of trust" was based on the premise that there was not an adequate opportunity for public input.

Would this interpretation of "violation of trust" represent just cause for removal from office under state law? I do not believe so, but that did not even need to be considered. All that was needed was a stated reason for the recall. It did not matter that the reason, even if true, might not be considered just cause for removal under state law.

AB 393 would protect public officials from being recalled for voting their convictions. If the public is not happy with the way they vote, they should be challenged during a regular election rather than in a recall election.

Let me share an item that appeared in the Eau Claire Leader Telegram on Monday of this week:

"Petition filed to recall council member". A petition was filed to remove Steve Dean, a member of the Chippewa Falls City Council. The last two paragraphs give the reasons for the petition:

"City resident Barb Davidson started the petition, saying that Dean has not followed the wishes of constituents in his ward, which includes the downtown and parts of the West Hill.

Dean has voted for a city administrator, cuts in the police and fire departments, and for fluoridating city water - issues the public opposes, Davidson said".

Even if Mr. Dean is guilty of voting against the wishes of his constituents, I do not see how this would represent cause for removal under state law. I assume the petition was signed by many people that simply did not know that unpopular votes are not statutory grounds for removal from office.

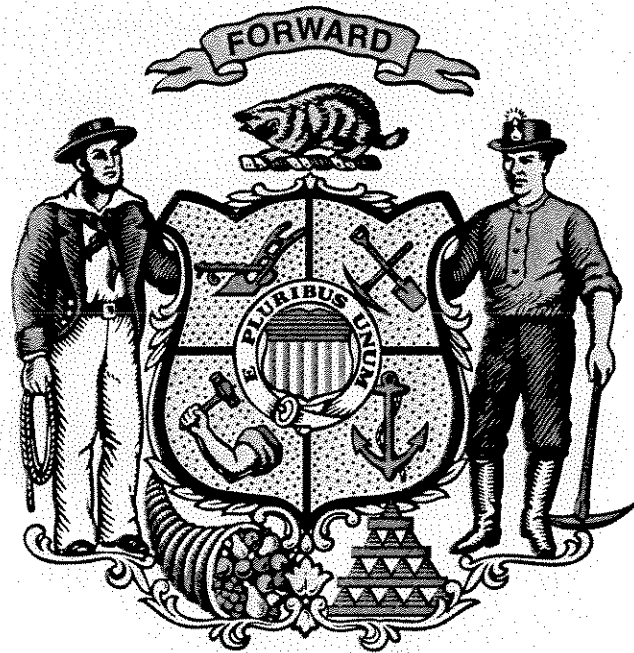
Well intentioned people, such as me ten years ago, sign petitions for recall without knowing whether the stated reasons for recall represent just cause under state statute. Because of this, I believe a recall petition should be ruled upon by a legal expert.

Locally elected officials put in a tremendous amount of time for

the service of their communities. Often this is done for little or no pay. I do not believe it is asking too much to require a circuit court to rule on whether the grounds for a petition, if true, constitute cause for the recall.

Please support this bill.

Margaret Breisch
School Board member
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To: Assembly Committee on Campaigns and Elections
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: May 26, 2005
Re: **Support for Assembly Bill 393**

The League of Wisconsin Municipalities supports Assembly Bill 393, modifying the procedure for recalling a municipal officer. The bill requires that a petition for the recall of a municipal officer include a statement of the grounds that constitute cause for the recall. "Cause" is defined as inefficiency, neglect of duty, official misconduct, or malfeasance in office. The bill also requires that municipal recall petitions be submitted to a circuit court which must then determine, after a hearing, whether the grounds stated in the petition, if true, would constitute a cause for the recall.

We believe this process would be substantially fairer to elected local officers than the current procedure, which only requires that a recall petition state a reason for the recall that is related to the "official responsibilities of the official for whom removal is sought." Under this standard, a recall petitioner may list any reason it chooses as long as it's related to the officer's official responsibilities. Thus, a petitioner could validly list a political difference of opinion as the sole basis for the recall.

The current recall process also does not provide for circuit court review of recall petitions. Such a procedural step, involving review by a neutral third party, would help ensure that the reasons stated in a recall petition, if true, constitute inefficiency, neglect of duty, official misconduct or malfeasance in office.

The League supports AB 393 because it imposes stricter requirements upon those filing recall petitions. Such requirements would be fairer for municipal elected officials and help municipalities avoid wasting time and money on recall petitions filed for purely political purposes. Most city and village officials are elected for two-year terms. If the voters are dissatisfied with an officer's political decisions they can vote him or her out of office at the end of the term. The recall process should be limited to situations in which petitioners assert that the officer has engaged in misconduct in office, neglect of duty, malfeasance or inefficiency.

For these reasons, we urge you to recommend passage of AB 393. Thanks for considering our comments on this important municipal issue.