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TWENTY-THIRD SENATE DISTRICT



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From: Senator Kathy Bernier
To: The Senate Committee on Elections, Election Process Reform and Ethics
Re: Testimony on Senate Bill 178, 179, 180
Relating to: elections administration, recall petitions, and recount procedures; voter registration; absentee voting, voting procedures, and providing a penalty.
Date: March 11, 2021

Thank you committee members for allowing me to provide testimony on Senate Bills 178, 179, and 180 today. I am grateful for the opportunity to work with the Wisconsin Elections Commission as well as Rep. Magnafici on this legislation.

To provide a basic overview of the three, SB-178 updates and clarifies multiple elections processes as well as recall and recount procedures. This bill will allow local and state officials to conduct more secure and efficient elections by updating their administrative processes.

SB-179 deals with pre-election and registration processes to help eliminate common pre-election issues. It makes administrative pre-election processes easier by eliminating confusion over terminology related to proof of residence for voter registration and a photo identification.

SB-180 updates and clarifies absentee and Election Day voting procedures to eliminate common problems and inefficiencies associated with these processes by improving the administration of elections and the training of local election officials. This bill will help make it easier for voters to understand the rules for elections and voting in Wisconsin.

I want to make clear that the changes in these bills are not policy changes, rather, they are important updates that ensure efficient and proper administration of elections in Wisconsin. All three bills in this package had bipartisan co-authors in the last session, passed this committee unanimously, passed the Assembly on a voice vote, and only failed to pass in the Senate due to the pandemic. Which is why I ask you to please support the passage of this trio of bills. Thank you again for allowing me to provide testimony today.

Testimony of Meagan Wolfe
Administrator
Wisconsin Elections Commission

Senate Committee on Elections, Election Process Reform, and Ethics
March 11, 2021

Room 201 Southeast, State Capitol
Public Hearing

Chairperson Bernier and Committee Members:

Thank you for the opportunity to provide testimony regarding the three bills up for a hearing today. I am Meagan Wolfe, the non-partisan Administrator of the Wisconsin Elections Commission.

These three bills contain many provisions which the bipartisan Elections Commission has adopted as part of its legislative agenda in 2018 and 2019. Some of the provisions have been part of the agency's legislative agenda for many years, and we appreciate the Legislature's willingness to consider adopting these recommendations. The Commission was careful to propose items that are administrative or technical in nature, that update or clarify inconsistencies in the statutes, and that improve the administration of elections. It did not include significant policy items in its legislative agenda.

Given the variety of items included in the bills, I do not intend to provide detailed background regarding each individual provision. There are also memos that outline background on each item, which were drafted in 2019 and have been shared with committee members and their staff's over the last few years to provide more information on each technical change.

SB-178

SB-178 includes provisions related to miscellaneous election processes as well as recall and recount procedures. Several of the sections clarify and update the WEC's complaint process and its authority to issue either temporary orders or orders related to recount procedures when addressing a complaint. Other matters addressed in the bill include the following:

1. Accommodating electronic poll books which are being implemented by a growing number of municipalities.

2. Clarifying that municipalities may not create ward lines that cross boundaries of congressional, state assembly, or county supervisor districts.
3. Clarifying ballot requirements related to write-in votes for city offices and independent candidates at partisan primary elections.
4. Permitting local clerks to publish a sample ballot in a reduced size and creating consistent requirements for the publication of election notices.
5. Removing a requirement that the Commission widely distribute addresses of organizations certified to provide services to victims of domestic abuse or sexual assault, in order to avoid broadcasting potential addresses of voters using those facilities as a temporary address.
6. Deleting a reference to candidates withdrawing after being approved for ballot access, which is not a process that is actually available to candidates.
7. Permitting the use of election inspectors from outside a municipality but within the same county to work at central count locations.
8. Modernizing language regarding the transmission of official election results from county clerks to the WEC.
9. Establishing additional options for notifying candidates that a recount petition has been filed and the start of a recount.
10. Clarifying that signers of a recall petition must also include their printed name on the petition.

SB-180

SB-180 focuses on updating statutes related to absentee voting and Election Day voting procedures.

The most common questions we have received regarding this bill concern the language in Sections 7, 10 and 11 related to the option to cast a provisional ballot. I want to make clear that the proposed changes do not affect existing options for casting a provisional ballot. They only remove statutory language that has applied to a progressively smaller number of voters since 2014, when new legislation required that every voter registration application include a proof of residence document. At the time, approximately 1,000 electors who had registered without proof of residence were grandfathered in and could cast a provisional ballot which would be counted if they provided proof of residence by the Friday after the election in which they voted.

Currently there are zero electors remaining in this category because they have either provided proof of residence when voting or their voter registration has been deactivated through the statutory Four-Year Maintenance Process.

The proposed changes would clean up the statutes to remove references to a provisional ballot option that no longer exists. The actual law would remain the same regardless of whether the references to this type of provisional ballot are removed, but our recommended changes would reduce confusion for those trying to understand the provisional ballot options that do exist. Because Wisconsin has Election Day Registration, we have relatively few provisional ballots in comparison to other states, which simplifies election administration procedures. Most are due to an elector not having a photo ID at the time of voting.

SB-180 updates and clarifies other statutes related to the rules for voting, including an elector's competency to vote; procedures related to former Wisconsin residents, military electors, voting in mixed use facilities with Special Voting Deputies; and curbside voting. The curbside voting provisions reflect current practices and provide more specific guidance than the current statutes. Other provisions of the bill help to ensure the privacy of ballots processed at central count locations and clarify that it is a crime for someone to obtain a marked absentee ballot from a voter and fail to deliver the ballot to the municipal clerk or the polling place.

Taken together, these provisions would clean up some relatively minor but chronic issues with existing statutes related to voting by absentee ballot or on Election Day.

SB-179

SB-179 includes provisions related to the voter registration process. Many of the provisions are simply aimed at eliminating confusion over terminology related to a proof of residence document used for voter registration versus a photo identification document. Current statutes refer to the proof of residence document as an "identifying document," which is a term borrowed from federal voter registration law. The Photo ID Law introduced definitions for "identification" and "proof of identification," which voters must present in order to receive a ballot.

The proof of residence requirement for voter registration and the photo ID requirement for obtaining a ballot are a common source of confusion for clerks, election inspectors and voters. Using the term "identifying document" to describe a proof of residence document only adds to that confusion and the challenge of effectively training election officials and educating voters. Eliminating the adjective "identifying" when referring to a proof of residence document will make better use of plain language and create a common understanding of terminology which translates into better election administration.

The other provisions of SB-179 reflect current and established practices and policies. These include:

1. Authorizing the Commission to send address verification postcards to voters who register by mail or online.
2. Permitting electors to use an electronic document to show proof of residence.
3. Including temporary receipts issued by the Division of Motor Vehicles as a valid form of proof of residence.
4. Confirming that a pay stub or pay statement qualifies as a valid form of proof of residence as well as a paycheck.
5. Clarifying that a new voter registration application must be submitted when a voter changes his or her name or address.

These provisions reflect either processes that are currently in place or a logical clarifications of the existing statutes. Therefore, the Commission does not view them as significant policy changes.

As with SB-178 and SB-180, this bill will update and clarify a variety of election law provisions which will improve the administration of elections as well as our training of local election officials. It will also make it easier for voters and the public to understand the rules for elections and voting in Wisconsin.

Thank you for the opportunity to testify before this committee on these bills. I will be happy to respond to your questions.

Respectfully submitted,

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