

☛ **03hr_SC-EEE_ab0600_pt01**



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Education, Ethics and Elections...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Education, Ethics and Elections

Assembly Bill 600

Relating to: election administration, voter registration and voting requirements and procedures and granting rule-making authority.

By Committee on Campaigns and Elections, by request of Elections Board.

November 06, 2003 Referred to Committee on Education, Ethics and Elections.

December 17, 2003 **PUBLIC HEARING HELD**

Present: (6) Senators Ellis, S. Fitzgerald, Reynolds, Jauch, Robson and Hansen.

Absent: (1) Senator Stepp.

Appearances For

- Kevin Kennedy, Wisconsin State Elections Board
- Rob Richard, for Representative Steve Freese

Appearances Against

- Lynn Breedlove, Wisconsin Coalition For Advocacy, Madison, WI
- Shel Gross, Wisconsin Mental Health Association, Madison, WI 53703
- Michael Bachhuber, Wisconsin Coalition of Independent Living Centers, Madison, WI 53704

Appearances for Information Only

- LuAnn Bird, League of Women Voters, Madison, WI 53703
- Beverly Speer, Wisconsin Democracy Campaign, Madison, WI 53703
- Carolyn Castore, Wisconsin Citizen Action, 5664 W. Martin Drive, Milwaukee, WI 53208

Registrations For

- Chris Thomas Cramer, Wisconsin Council on Developmental Disabilities, Madison, WI

Registrations Against

- Alicia Sidman, Wisconsin Coalition for Advocacy

Barry Ashenfelter, Wisconsin Voter Lists, Watertown, WI 53094

January 20, 2004

EXECUTIVE SESSION HELD

Present: (7) Senators Ellis, S. Fitzgerald, Reynolds, Stepp, Jauch,
Robson and Hansen.

Absent: (0) None.

Moved by Senator Ellis, seconded by Senator Jauch that **SAA1871** be recommended for introduction and adoption.

Ayes: (6) Senators Ellis, S. Fitzgerald, Stepp, Jauch, Robson
and Hansen.

Noes: (1) Senator Reynolds.

INTRODUCTION AND ADOPTION OF SAA1871 RECOMMENDED,
Ayes 6, Noes 1

Moved by Senator Ellis that **Assembly Bill 600** be recommended for concurrence as amended.

Ayes: (7) Senators Ellis, S. Fitzgerald, Reynolds, Stepp, Jauch,
Robson and Hansen.

Noes: (0) None.

CONCURRENCE AS AMENDED RECOMMENDED, Ayes 7, Noes 0

Michael Boerger
Committee Clerk



WISCONSIN CITIZEN ACTION



Senate Committee on Education, Ethics and Elections

**December 17, 2003
Hearing on AB 600**

**Testimony by
Carolyn Castore, Program Director
Wisconsin Citizen Action**

Wisconsin Citizen Action, the state's largest citizen advocacy organization, is generally in favor of AB 600. I served on the State Election Board's HAVA implementation committee and have been pleased at the extent to which the public has been included in this process. The Help American Vote Act can go far in improving our electoral system.

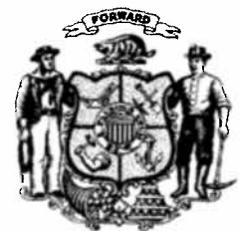
We are concerned about amendments made in the Assembly. One of the key elements of HAVA was to ensure the rights of the disabled in our electoral system. We support this goal, not only by making polling places accessible and by ensuring that the disabled can vote independently, but by providing them with information about their rights. Therefore, we urge this committee to delete sections 142 and 143 of this bill and defer to the federal legislation in these areas.

The overall goal of the Help America Vote Act is to strengthen the integrity of our system of voting. It requires improvements ranging from voting equipment to training of polling officials. When serving on this committee, I was pleased to note that Wisconsin already has in place many of the requirements of this act. It is one reason that Wisconsin has experienced few of the problems of other states. Therefore, we urge, on behalf of our over 75,000 members and 200 affiliated organizations, to delete the two sections—142 and 143—and to pass this implementing legislation with no other changes.

We also commend this committee for holding this hearing. Passage of AB 600 and AB 601 will mean that the federal government will provide \$30 million in matching funds to help Wisconsin meet the HAVA requirements. At a time when state government has few additional funds for such purposes, it will be welcome.



WISCONSIN STATE LEGISLATURE



**Testimony to the Senate Education, Ethics and Election Committee
AB600**

**Shel Gross, Director of Public Policy
Mental Health Association in Milwaukee County**

The Mental Health Association in Milwaukee County requests that the Senate Education, Ethics and Election Committee delete sections 142 and 143 from the version of AB600 that was passed by the Assembly in addition to Assembly Amendments 1-3. These sections relate to the role of the state Protection and Advocacy agency in assisting persons with disabilities to vote.

This request is based on the following:

1. The federal Help America Vote Act (HAVA), which AB600 seeks to implement in Wisconsin, defines the role of the Protection and Advocacy agency and provides funding for these tasks. This is part of the existing contracts between the federal government and the Protection and Advocacy agency. There is, in fact, no necessary role for state government in this transaction. Secs. 142 and 143, along with Assembly Amendments 1-3 inappropriately interject the state into the contract between the federal government and the Protection and Advocacy agency.
2. HAVA directs the Protection and Advocacy agencies to assist persons with disabilities and does not limit this to only persons with developmental disabilities. Given that the federally defined role of the Protection and Advocacy agencies is inclusive of individuals with mental illness the Assembly Amendment 2, prohibiting the Protection and Advocacy agency from assisting persons with mental illness, would put the agency at odds with this federal mandate.
3. HAVA specifically directs the Protection and Advocacy agency to assist persons with disabilities in registering to vote, casting a vote and accessing polling places. Assembly Amendment 3, which would not allow the Protection and Advocacy agency from providing assistance in the 30 days preceding a primary or the 60 days preceding a regular election, would clearly make it impossible for the agency to fulfill the second two of these requirements.

Persons with mental illness have often been disenfranchised by their lack of knowledge about their voting rights, the lack of knowledge that others have about the voting rights of people with mental illness, stigma towards people with mental illness and symptoms of their illness, which might make it difficult for them to access polling places. HAVA clearly intended that all of these issues be addressed by the Protection and Advocacy agency. Unfortunately AB600, as amended by the Assembly, would result in people with mental illness continuing to be disadvantaged in the electoral process. The Mental Health Association in Milwaukee County finds this unacceptable and calls on your committee to address this situation by deleting the offending sections of the bill.





WISCONSIN COALITION FOR ADVOCACY

THE PROTECTION AND ADVOCACY SYSTEM FOR PEOPLE WITH DISABILITIES

December 12, 2003

To: Senator Mike Ellis, Chair, and Members, Senate Committee on Education,
Ethics and Elections

From: Lynn Breedlove, Executive Director

Subject: AB 600 (legislation to put Wisconsin in compliance with the Help America Act
of 2002)

I am writing to follow up on my 11/13/03 memo to you regarding "Discriminatory provisions in AB 600". In that memo, I pointed out that the version of AB 600 that passed the Assembly, a) conflicts with the language in the Help America Vote Act (HAVA), and b) would deprive most Wisconsin citizens with disabilities of the assistance of the state's protection and advocacy agency in instances when their voting rights are violated.

Since that time, a number of developments have confirmed the validity of our concerns:

1. U.S. Senator Tom Harkin has responded to our request to clarify Congressional intent in HAVA (see attached). His letter clarified the target population for protection and advocacy services:

"The accessibility and advocacy provisions of HAVA were intended to apply to people with a full range of disabilities, including people with physical limitations, cognitive and psychiatric disabilities, sensory impairments, and any other disability."

He also clarified when the assistance should be available:

"It was also the intent that those provisions under HAVA be made available to persons with disabilities throughout the year, but especially in the critical days immediately preceding elections when such voters would be most likely to experience barriers."

2. A review of the Program Instruction from the U.S. Department Health & Human Services (sent to every state to clarify the role of protection and advocacy agencies) reveals several clear references to "individuals with the full range of disabilities (disabilities such as blindness and visual impairment, deafness or hearing impairment, mobility-related, dexterity-related, emotion or intellectual)."

3. We reviewed the Congressional record for HAVA and it also includes many references to "*people with disabilities*". In no instance does the Congressional record ever focus on any one or more disability subpopulations, nor does the record contain any references to the exclusion of any subpopulations.
4. Kevin Kennedy, the Executive Director of the State Elections Board has concurred with our views of the problems in the current version of AB 600 in a 11/17/03 letter to Senator Ellis.

Conclusion

In discussions with various Committee members, it has become clear to us that the most straight forward way to eliminate contradictions or misunderstandings between AB 600 and federal law would be to eliminate all references to the protection and advocacy agency in AB 600. Clearly the provisions in HAVA are sufficient to define the role and responsibility of the protection and advocacy agency.

Enclosure: 11/21/03 letter from Senator Harkins

TOM HARKIN
IOWA

(202) 224-3254
Fax: (202) 224-9369
TTY (202) 224-4633
<http://harkin.senate.gov>

United States Senate

WASHINGTON, DC 20510-1502

COMMITTEES:
AGRICULTURE
APPROPRIATIONS
HEALTH, EDUCATION,
LABOR, AND PENSIONS
SMALL BUSINESS

November 21, 2003

Lynn Breedlove
Executive Director
Wisconsin Coalition for Advocacy
2040 W. Wisconsin Avenue
Milwaukee, Wis. 53233

RE: Disability Provisions in the Help America Vote Act (HAVA)

Dear Ms. Breedlove:

Thank you for the inquiry to my office regarding the legislative intent of the United States Senate in regard to the disability access provision that I worked to have included in the Help America Vote Act.

The intent of my amendment that is now part of HAVA, can be summed up quite easily. I worked on this provision because I felt strongly that voting is the cornerstone of our democracy, and that no qualified voter should ever be denied the opportunity to participate in an election simply because that person has a disability. For too long, people with disabilities have had to put up with inaccessible polling places, discriminatory attitudes, and exclusionary policies when they attempt to cast their ballot, and that situation has to change.

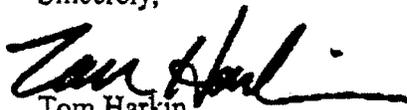
For that reason, I fought to include provisions in HAVA to remove barriers to the polling place, educate election officials and poll workers, and provide an advocate to any person with a disability who felt that he or she had experienced a barrier in the voting process.

The accessibility and advocacy provisions of HAVA were intended to apply to people with a full range of disabilities, including people with physical limitations, cognitive and psychiatric disabilities, sensory impairments, and any other disability. It was also the intent of those provisions under HAVA be made available to persons with disabilities throughout the year, but especially in the critical days immediately preceding elections when such voters would be most likely to experience barriers. These provisions are reasonable and workable, they were passed with strong bipartisan support, and Congress provided federal funding to help implement them.

In closing, I want to thank the protection and advocacy agencies for your efforts to help persons with disabilities take their rightful place in the mainstream of American life, and I appreciate your assistance in our overall work to improve voting systems and to ensure that all eligible citizens are able to cast their ballots on election day.

If you need any additional information about the protection and advocacy provisions in the HAVA bill, please call Chani Wiggins of my staff at 202-224-3254.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Harkin", written in a cursive style.

Tom Harkin
U.S. Senator



WISCONSIN COALITION FOR ADVOCACY

THE PROTECTION AND ADVOCACY SYSTEM FOR PEOPLE WITH DISABILITIES

November 13, 2003

To: Senator Mike Ellis, Chair, and Members, Senate Committee on Education, Ethics and Elections

From: Lynn Breedlove, Executive Director

Subject: Discriminatory provisions in AB 600

I am writing to convey the concern of the Wisconsin Coalition for Advocacy and other disability groups in Wisconsin regarding the exclusion of most of Wisconsin's citizens with disabilities from the federal protections in the Help America Vote Act, in the version of the voting rights bill (AB 600) which recently passed the Assembly and is now in the hands of the Senate Committee on Education, Ethics and Elections. This concern is intensified by the recent news that this bill may not receive a hearing in the Senate, and that there may be no opportunity for amendments to be considered at the Committee level.

The federal Help America Vote Act (HAVA) was intended to ensure against violations of the voting rights of all groups who have historically been excluded from the electoral process. One of those groups is individuals with disabilities.

In Wisconsin, people with physical disabilities have been turned away from inaccessible voting places and have been unable to find accessible parking. Blind citizens have not been able to obtain ballots they could use. Deaf voters have not been able to understand the instructions of voting officials. People with mental illness and people who appear "too disabled" have been told they cannot vote.

That is why HAVA includes funding and specific responsibilities for the protection and advocacy agency in each state to "ensure full participation in the electoral process for individuals with disabilities" (Part 5, Sec. 291(a)). As you can see, this language does not limit this responsibility to any single disability group or to any particular time of the year. This is also clear in the program instructions provided to protection and advocacy agencies by the U.S. Department of Health and Human Services.

In fact, this charge is sufficiently clear that the protection and advocacy could perform its duties by relying solely on the guidance provided by federal law. The Wisconsin Coalition for Advocacy (the designated protection and advocacy agency for people with all disabilities in

Wisconsin) has already begun to carry out this responsibility with funding received directly from the U.S. Department of Health and Human Services.

Unfortunately, the Assembly version of Wisconsin's new law to implement HAVA would thwart the clear intent of the federal law. In Section 142, the bill would:

- a) limit the availability of assistance from the protection and advocacy agency to only "eligible electors with developmental disabilities", excluding the large majority of Wisconsin citizens with disabilities such as blindness, deafness, mental illness, spinal cord injury, traumatic brain injury, muscular dystrophy, multiple sclerosis, ALS and many other conditions,
- b) prohibit the protection and advocacy agency from engaging in any activity relating to voting rights "during the 30-day period preceding any spring primary or election or the 60-day period preceding any other regular election". This of course is precisely the time when voters with disabilities will be calling our agency to ask for advice on accessibility, absentee ballots, provisional ballots, their rights under HAVA, etc.,
- c) attempt to prohibit the federal government from providing funding directly to the protection and advocacy agency as clearly intended by Congress (by directing that this funding be routed through Wisconsin Department of Health and Family Services).

If this law passes, not only will most people with disabilities be excluded from federal protections, our agency will also face an insoluble dilemma. When a person with a physical disability calls us for help in dealing with an inaccessible voting place, or any person contacts us within 60 days of an election, what should we do? Obey federal law and violate state law? Or obey state law and fail to comply with the requirements of Congress and the Department of Health and Human Services, our federal funding agency? Neither option seems acceptable.

Disability advocates in Wisconsin are not aware of any other state in the country that has attempted to eliminate the protections in the federal Help America Vote Act for major segments of their state's disability population, or restrict those protections to certain times of the year. We believe that this not only contradicts clear language in the federal law; it also runs counter to the overall spirit of HAVA and the underlying reasons for its passage.

We were discouraged to hear that there may not be a hearing on this bill in your Committee. We are asking that you reconsider that. Without a hearing there will be no opportunity for the people with disabilities who will be denied the federal protections provided under HAVA to have their voices heard. If the Committee does not meet to discuss the bill and vote on it at a regular meeting of the Committee, there will also be no opportunity for members to offer any amendments to the bill.

In our view, there are two possible ways to remedy the situation:

- 1.a. replace the provision that limits the protections to people with developmental disabilities with the federal language: "individuals with disabilities",
- b. remove any restrictions on when assistance can be requested or provided,
- c. remove the reference to funding flowing through the Wisconsin Department of Health and Family Services,

OR

2. remove all references in the bill to the protection and advocacy agency, allowing the federal statute to guide the activity of the protection and advocacy agency.



Wisconsin Voter Lists

On Target Accuracy

**P.O. Box 636, Watertown, Wisconsin 53094
(920) 206-7092, www.wisconsinvoters.com**

Testimony of Mark Grebner, Co-Owner of Wisconsin Voter Lists Before the Senate Committee on Education, Ethics & Elections

**AB 600 & AB 601
HAVA & Voter Registration Database
December 17, 2003**

My firm, which does business here as Wisconsin Voter Lists, has built a complete and accurate voter database for Wisconsin. Our file includes names, addresses, dates-of-birth, phone numbers, political jurisdictions, and voter history from 1996 to the present for over 4 million eligible voters. It has a very good reputation for accuracy and completeness. We sell voter lists to political parties, candidates, and congressional representatives for official constituent mailings.

To first obtain and convert computerized files from approximately 300 municipalities and WisDOT, and to hand key data from the remaining 1600 units of government, cost approximately \$500,000. In addition, we spend about \$100,000 each year to maintain the file and add new voter history information. In total, since 2000, we have spent about \$800,000.

I believe the state of Wisconsin is making a fundamental and expensive mistake by focusing on HAVA's requirement to build only a state list of "registered voters." To me, it appears the legislation (i.e. AB 600 & AB 601) was written only to satisfy the bare-bones requirements of HAVA while not accomplishing anything particularly useful for Wisconsin. The federal law takes a typical one-size-fits-all approach that doesn't fit Wisconsin very well. While this legislation would certainly earn the federal money, it would make little or no improvement in the administration of elections in Wisconsin.

It would be far more useful, in my opinion, to focus on Wisconsin's unique system of election law, particularly the provision authorizing same-day registration at the polls. Unlike virtually every other state in the country, the list of registered voters created for each election in Wisconsin does not restrict who may actually vote. In -- say Colorado or Arkansas -- if your name is not on the list of registered voters you're out of luck on Election Day. In those states, getting your name on the list is crucial for every voter, and removing names in the list is an effective method of blocking an ineligible person's vote.

In Wisconsin, however, if you appear at the polls and you're not on the list of registered voters the local officials simply add you to the list and let you vote in most cases. Over 70 percent of all voter registrations that are received by local officials in any given year in Wisconsin are taken at the polls on Election Day. As long as same-day registration is available, neither the voters nor the election officials have any reason to take pre-election voter registration seriously. This will of course compromise the quality of the data in the state list, and, again, not help in the administration of elections in Wisconsin.

There is also 30 percent of Wisconsin that currently does not have any voter registration system at all. AB 600 proposes that these smaller communities suddenly be required to institute registration. In these areas, which generally have only one polling place and virtually no full-time office staff, the lack of interest in voter registration (and the lack of accurate data) will be understandably high.

AB 600 simply creates additional and somewhat burdensome procedures, primarily on Election Day, at considerable expense. The fact that the bulk of the money is from the federal government doesn't mitigate the wastefulness. A better approach would still capture all the federal funding, keep initial costs low and bank the remainder for ongoing maintenance and upkeep of the database and aid to local officials.

I think Wisconsin should use the federal money to create a list of "potential" or "eligible" voters, rather than just "registered" voters. This list would include, at a minimum, everyone who registered to vote as well as everyone in non-registration municipalities who has voted recently. It would also include persons with drivers licenses or state-issued personal ID's and perhaps names from other state data sources as well.

The "potential" voters list could also provide information, where known, establishing each potential voter's eligibility to vote under Wisconsin law (i.e. residency, age, citizenship, lack of felony record). This master file, which would be only slightly larger than the proposed file of "registered" voters (about 4 million records versus 3.1 million records) would ideally include every adult (18+) in the state. On Election Day, as voters appear at the polls, virtually every name would be found by election workers on the master list, greatly reducing the burden of recording and checking new registrations – and also facilitating expeditious voting.

Instead of wasting time on people whose eligibility is unquestioned, poll workers would focus on the handful of individuals whose names do not appear on the list, or for whom there appears to be some impediment to voting eligibility. For each such problematic voter, there would be a well-documented procedure for inquiring about the qualification and potentially curing it.

For example, imagine a person who appears at the polls and is noted (based on drivers license information) to be a non-citizen and therefore ineligible to vote. The election worker, whose attention has been drawn to a specific problem, asks a series of questions. Perhaps the individual is newly naturalized. The election worker, upon receiving the necessary proofs, clears the impediment and permits the new citizen to cast a ballot (or not, if the necessary proofs are not provided).

A comparable procedure would be devised to deal with each impediment to voting: lack of residency, conviction of felony, or whatever. The statewide list I propose -- of all "potential voters" rather than just "registered voters" -- would play an active and useful part in the conduct of elections in Wisconsin. With this broader approach, the money invested will pay off in tighter control of potential fraud, as well as making possible quick and easy voting for most voters. And the requirements of HAVA will be satisfied.

In contrast, I think the legislation as currently proposed will result in a slightly more difficult Election Day process without offering any real improvement in security or the facilitation of elections. AB 600 wastes an opportunity to make real improvements in the administration of elections, and essentially just creates an expensive centralized state storage facility for local poll lists. Because the overwhelming majority of voter registrations will continue to be taken at the polls on Election Day, especially for presidential elections, I expect that the quality of the data will be poor and voting at busy times will be slow and tedious. Poll workers, already facing lines of waiting voters, are simply not going to devote much attention or effort to what they see as a redundant procedure.

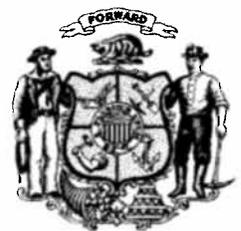
The first phase of this project (a consultant's study) has already consumed \$200,000. The current planning phase (again by an outside consultant) cost \$485,000 more. I imagine the costs of actually converting existing municipal files and keying data from paper records will be much, much more. The state's HAVA plan estimates that the SVRS will cost at least \$26 million, and more over time. It's not that the proposed approach is infeasible -- I'm certain that all the money can be spent and all the data can be inputted. But what exactly will be accomplished? It doesn't seem to make sense to spend millions to simply create a repository for local poll lists. Why not build something useful?!

Wisconsin Voter Lists would be happy to answer any questions about the details of creating, building and maintaining a statewide voter file.

##



WISCONSIN STATE LEGISLATURE



Wisconsin Democracy Campaign

210 N BASSETT STREET SUITE 215 • MADISON WI 53703 • 608-255-4260 • WWW.WISDC.ORG

Statement to the Senate Committee on Education, Ethics, and Elections Regarding Assembly Bill 600

December 17, 2003

Thank you for scheduling AB 600 for public hearing and committee review. The Wisconsin Coalition for Advocacy (WCA), a coalition member of the Wisconsin Democracy Campaign, has clearly communicated their concerns about the legislation as introduced and as passed by the Assembly. They also offer specific suggestions that would alleviate their concerns and provide a successful bipartisan state implementation plan to the federally-mandated Help America Vote Act (HAVA). An opportunity to introduce and discuss these amendments in Senate committee is crucial.

Of particular concern to the Wisconsin Democracy Campaign is Assembly Amendment 3, which drastically reduces the time frame in which this federally-designated protection and advocacy organization may educate people with disabilities as to their rights and responsibilities as citizens in Wisconsin. Wisconsin is exempt from complying with the Voter Registration Act of 1993 because of our same-day registration policy, a practice that seeks to increase voter turnout. Another means to increase voter participation in Wisconsin is through nonpartisan get-out-the-vote drives, clearly permissible by law and with no designated time frames. Wisconsin Coalition for Advocacy understands fully their nonpartisan obligations as demonstrated by their past voter education efforts and has no problem reinforcing this understanding through Assembly Amendment 1 to AB600. Their GOTV efforts must and have been purely aimed at getting their constituents to understand their rights and to exercise those rights, whatever their view might be and however they might vote.

We can still easily maintain the democratic integrity of HAVA implementation in Wisconsin while saving Wisconsin the likely embarrassment of being the only state to purposefully discriminate against people with disabilities, working against a federal mandate which seeks to prevent just that. WCA should be allowed to continue unimpeded to fulfill their nonpartisan mission of educating and advocating for **all** individuals with disabilities in Wisconsin. WCA clearly understands the shortfalls of AB 600 as it relates to their members and the legislative intent of HAVA nationwide.

Thank you again for the opportunity for public input and refinement of these important reforms to our elections laws.