



2025 SENATE BILL 338

June 19, 2025 - Introduced by Senators JACQUE and BRADLEY, cosponsored by Representatives WICHGERS, BRILL, O'CONNOR, MAXEY, KREIBICH, GOEBEN, MURPHY, TITTL, BEHNKE and ALLEN. Referred to Committee on Government Operations, Labor and Economic Development.

- 1 **AN ACT** *to amend* 5.061 (3); *to create* 5.061 (5), 5.061 (6) and 5.061 (7) of the
2 statutes; **relating to:** enforcement of the federal Help America Vote Act.

Analysis by the Legislative Reference Bureau

Current law allows any person who believes that a violation of the federal Help America Vote Act is occurring or is proposed to occur with respect to an election for national office in this state to file a written verified complaint with the Elections Commission. The person filing the complaint may request a hearing. If a hearing is requested, the commission must make a final determination regarding the merits of the complaint and issue a decision no later than 89 days after receiving the complaint.

The Elections Commission has taken a position that it cannot decide a complaint brought against itself. In 2022, the Wisconsin Supreme Court agreed with that position. See, *Teigen v. Wisconsin Elections Commission*, 2022 WI 64, 33, 403 Wis. 2d 607, 976 N.W.2d 519. The commission recently received a letter from the federal Department of Justice asserting that such a position violates the administrative complaint requirements under the Help America Vote Act.

Under this bill, if the Elections Commission receives a complaint that alleges that the commission itself is violating HAVA, the commission must make a final determination on the merits of the complaint and issue a decision. The bill prohibits the commission from dismissing the complaint simply because the complaint alleges a commission violation.

The bill also provides that if a hearing is requested it must be held in open

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session and the oral proceedings of the hearing must be recorded by stenographic or electronic means. In addition, the Elections Commission must make a transcript of oral proceedings available for public inspection. Under current law, all records that are distributed or discussed in the course of a meeting or hearing by the commission in open session are available for public inspection.

Under the bill, the commission must transmit to the complainant and all known interested parties an acknowledgment of receipt of the complaint within five business days from the date of its receipt. In addition, if the complainant requests a hearing, a hearing must be held no later than 30 days after the commission receives the complaint. The commission must also make a final determination of all complaints alleging a HAVA violation no later than 89 days after receiving the complaint, regardless of whether the complainant requests a hearing.

Finally, the bill makes changes to the complaint procedures to ensure compliance with HAVA. The bill requires the Elections Commission to examine and investigate all complaints in a uniform and nondiscriminatory manner, as required under HAVA. In addition, if the commission finds that a complaint has merit, the commission must take corrective action to remedy the violation alleged in the complaint. If the commission dismisses the complaint or does not grant the relief requested in the complaint, the person filing the complaint may appeal the commission's decision to a court of competent jurisdiction. Finally, the bill requires the commission to publish the results of all dismissed complaints on its website and provide such results to the legislature and the standing committees with jurisdiction over elections.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 5.061 (3) of the statutes is amended to read:

5.061 (3) A complainant under sub. (1) or any of the complainants in a consolidated complaint under sub. (2) may request a hearing and the matter shall then be treated as a contested case under ch. 227, except ~~that the commission shall make a final determination with respect to the merits of the complaint and issue a decision within 89 days of the time that the complaint or the earliest of any complaints was filed, unless the complainant, or each of any complainants whose complaints are consolidated, consents to a specified longer period as provided under~~ sub. (5). A hearing under this subsection shall be held in open session and the oral

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1 proceedings of the hearing shall be recorded by stenographic or electronic means.
2 Hearing records shall be available for public inspection, as provided under s. 5.05
3 (5s) (a). The commission shall also make a transcript of oral proceedings available
4 for public inspection.

5 **SECTION 2.** 5.061 (5) of the statutes is created to read:

6 5.061 (5) The commission shall examine and investigate all complaints
7 received under this section in a uniform and nondiscriminatory manner, as
8 required under Title III of P.L. 107-252. The commission shall transmit to the
9 complainant and all known interested parties an acknowledgment of receipt of the
10 complaint within 5 business days from the date of its receipt. The commission shall
11 make a final determination with respect to the merits of the complaint and issue a
12 decision no later than 89 days following the date on which the complaint was filed,
13 or following the date on which the earliest of the complaints consolidated under sub.
14 (3) were filed, unless the complainant or each of the complainants whose complaints
15 are consolidated, consents to a specified longer period. If a complainant requests a
16 hearing, as provided under sub. (3), the commission shall conduct the hearing no
17 later than 30 days after receiving the complaint or after receiving the earliest of the
18 complaints consolidated under sub. (3).

19 **SECTION 3.** 5.061 (6) of the statutes is created to read:

20 5.061 (6) If the commission receives a complaint under sub. (1) that alleges
21 that the commission itself is violating Title III of P.L. 107-252, or that such a
22 violation is likely to occur as a result of action or inaction by the commission, the
23 commission shall make a final determination with respect to the merits of the

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1 complaint and issue a decision. The commission may not dismiss the complaint
2 simply because the complaint alleges a violation by the commission.

3 **SECTION 4.** 5.061 (7) of the statutes is created to read:

4 5.061 (7) If the commission finds that a complaint received under sub. (1) has
5 merit, the commission shall take corrective action to remedy the violation alleged in
6 the complaint. The complainant may appeal to a court of competent jurisdiction
7 any order issued under this section that dismisses the complaint or otherwise does
8 not grant the relief requested in the complaint. The commission shall publish the
9 results of all complaints dismissed made under this section on the website
10 maintained by the commission and provide the same to the legislature and the
11 standing committees with jurisdiction over elections in the manner provided under
12 s. 13.172 (3).

13 **(END)**