



STATE REPRESENTATIVE

**KATHY BERNIER**

October 29, 2013

**Assembly Campaigns and Elections Committee  
Testimony by Representative Kathy Bernier  
AB-396 - Absentee Voting in Residential Care Facilities**

Colleagues, thank you for allowing me to testify on AB-396. This bill, once again, helps to insure confidence and integrity in the electoral process. This bill compliments the recent manual released by Government Accountability Board (GAB) to address appropriate absentee voting policies and procedures to be followed by Special Voting Deputies in nursing homes and similar care facilities. It is imperative that our election officials follow procedures that safeguard our electors' votes and assure their votes count.

Significant issues have been brought to the GAB's attention in regard to nursing home voting concerns. In addition, it is imperative ballot security during this absentee voting process be carefully followed.

This bill also allows for reasonable advance notice to be given to electors who wish to observe the absentee voting process in the appropriate facility.

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Currently, the municipal clerk or board of election commissioners of each municipality is directed to dispatch two special voting deputies to conduct absentee voting in person for each election at each nursing home located in the municipality upon application for an absentee ballot by one or more qualified electors who are occupants of the home. Participation in the special absentee voting is limited to occupants of the home.

The Bill specifies that “The clerk or board may also dispatch special voting deputies to any community-based residential facility, retirement home, adult family home, or residential care apartment complex located in the municipality.” This allows for absentee voting for occupants of the facility, home, or complex if the clerk or board finds that a significant number of occupants of the facility, home, or complex may need assistance in voting or, if they meet certain other specified criteria upon application for an absentee ballot by one or more qualified electors who are occupants of the facility, home, or complex.

The bill does not change current law as it relates to dispatching special voting deputies to retirement homes.

Currently, a municipal clerk or board of election commissioners who dispatches special voting deputies to a facility, home, or complex must post a notice of the visit by the deputies at the facility, home, or complex at least 24 hours in advance of the time of the visit.

This bill requires this notice to be posted at the home or facility where absentee voting is to be conducted at least five working days in advance. The bill also directs each municipal clerk and board of election commissioners to provide public notice of each visit by special voting deputies to a residential care facility to the local news and to those news media that have filed a written request to receive notices at least five working days before each visit as well.

In addition, the bill requires the clerk or board to post the notice on the internet. However, under this bill, a municipality that does not maintain an internet site need not comply with the internet posting requirement.

Again, thank you for taking time to hear this bill in committee and for recognizing the importance of this issue. Thank you to Senator Grothman and Senator Lazich for their efforts in the Senate. I would be happy to answer any questions.

October 29, 2013

To: Members of the Assembly Committee on Campaigns and Elections  
From: Senator Glenn Grothman  
Re: Assembly Bill 396

Thank you for scheduling Assembly Bill 396 for a public hearing. There has been much concern the last few years of voter fraud taking place in residential facilities. There have been anecdotal cases of nursing home residents, which families say are no longer capable of comprehending such issues, being registered to vote and voting without the family's knowledge. This is just one example of fraud taking place, but there are many other irregularities.

It is very disappointing to think that some people are taking advantage of some of our most vulnerable citizens. For this reason, we have drafted AB 396 which creates uniformity in voting in residential facilities. The municipal clerk would be required to send two special voting deputies to each community-based residential facility, adult family home, and residential care apartment complex to conduct absentee in-person voting for occupants of that facility. This would not be required of any facility that has less than five registered electors. This bill keeps retirement homes under current law, and therefore does not require municipal clerks to send special voting deputies to these facilities.

This legislation makes voting more accessible for older individuals in residential facilities. At the same time, it allows independent individuals in these facilities the ability to still vote in person absentee or on Election Day.

Many family members of facility occupants have expressed concern with the current twenty-four hour notice requirement. They would like to be present when the family member votes, but are unable to take off of work when the notice is given only twenty-four hours in advance. For this reason, the bill requires the municipal clerk to post notice at least five working days in advance of the visit.

This legislation will allow our most vulnerable citizens to be able to vote in a safe and easily accessible environment, while still protecting the integrity of our elections. Please join me in supporting AB 396 which will provide consistency in the residential facility voting process.

**Testimony of Kevin J. Kennedy  
Director and General Counsel  
Wisconsin Government Accountability Board**

**Assembly Committee on Campaigns and Elections**

**October 29, 2013**

**Room 328 Northwest, State Capitol**

**Public Hearing**

**Assembly Bills 378 and 396**

Chairperson Bernier and Committee Members:

Thank you for the opportunity to comment on the two bills before you today. I am appearing here for information purposes and to answer any questions you or Committee members may have. The Government Accountability Board is not taking a position for or against any of these bills.

**Assembly Bill 378**

As I told the Senate Committee on Elections earlier this month about their version of this bill, Assembly Bill 378 is fundamentally flawed. It eviscerates the basic principle of disclosure on which campaign finance law is based. That principle was articulated by the Legislature as a Declaration of Policy when the campaign finance law was enacted in 1973 following the Watergate campaign funding abuses. A copy of that declaration of policy is attached for your consideration. The policy begins with this statement: "The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed."

The Legislature's Declaration of Policy goes on to say: "One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public

positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence.”

After the Senate committee’s hearing on its companion bill, there was some confusion in the news media about the impact. Let me be clear, AB 378 would eliminate the requirement for candidates and political committees to disclose the names and addresses of employers of people who contribute more than \$100 per year. Campaigns would never have to report who a contributor works for, or where their principal place of employment is. It would also raise the threshold for reporting of contributors’ occupations so that significantly less information would be available to the public. As a result, if a campaign contributor gave enough money, we might find out that she is a teacher, but not which school district she works for, or which school she teaches in.

This new standard for campaign finance reporting would greatly diminish the information available to members of the public about the sources of financial support for candidates for public office, and would undermine the right of the public to have a full, complete and readily understandable accounting of those financial activities intended to influence elections.

Because this bill raises the threshold for disclosing a contributor’s occupation, this information would never be available for most local races or Assembly contests because the individual contribution limit for those offices is \$500 or less.

My mother always told me you are judged by the company you keep. The fundamental purpose for campaign finance disclosure is to enable citizens to know who supports candidates for public office. Campaign contributors are more than just a name on a piece of paper. Knowing a contributor’s occupation, employer and place of employment provides vital information for evaluating the source of a candidate’s support.

Political campaigns are often defined not only by a candidate's position on the issues, but who supports the candidates. Campaigns proudly proclaim a list of their supporters as a measure for the voters weigh favorably. The proposed legislation hides the occupation and principle place of employment of modest contributors under a rock.

Such information is also important to avoid confusion between people with the same or similar names. Recently the Government Accountability Board completed its annual audit of prohibited campaign contributions by registered lobbyists. Our staff found 11 registered lobbyists with the same names as people who made legal campaign contributions. Having employer information about contributors allowed our staff to quickly exonerate those lobbyists with the same names.

Employer and occupation information also helps distinguish between contributors with similar names. Since 2008, there have been 537 campaign contributions to candidates and committees from people with some variation of the name David or Dave Johnson. Even middle initials are not always helpful, as there are multiple David E. Johnsons, David L. Johnsons, David M. Johnsons and David R. Johnsons. In many cases, employer information, when provided, helps distinguish one from another.

Employer information is also a critical enforcement tool. Just two years ago, the G.A.B. levied a record forfeiture of \$166,900 against Wisconsin Southern Railroad, and its CEO William Gardner pleaded guilty to two felonies for laundering illegal campaign contributions through several of his employees. We learned about the scheme through a tip from Mr. Gardner's former girlfriend, to whom he had given \$10,000 to make an illegal campaign contribution. But it was employer information in the campaign finance system that helped the G.A.B. investigate the case and identify the railroad employees who had also received payments from Mr. Gardner. We believe that disclosure of employer information from large donors serves as an effective deterrent to similar money laundering schemes.

## Assembly Bill 396

Assembly Bill 396 would require local election officials to dispatch special voting deputies (SVDs) to certain adult-care facilities to conduct absentee voting instead of allowing discretion in determining whether to dispatch special voting deputies to those facilities. The facilities where such absentee voting would be required, upon the request of an absentee voter, include adult family homes, community-based residential facilities, and residential care apartment complexes. The requirement would not apply, however, to such facilities in which less than five registered electors are occupants.

The State currently licenses 1,568 adult family homes, 1,514 community-based residential facilities, and 309 residential care apartment complexes. Because the bill makes it mandatory to conduct absentee voting via special voting deputies at some of these facilities where it is currently optional, we anticipate some increase in local costs in the form of wages for local clerks and special voting deputies to correctly administer the new provisions. However, several factors make it difficult to estimate the local fiscal impact.

First, there is no statewide data reflecting the number of such adult-care facilities which are currently served by special voting deputies despite the fact that less than five registered voters are occupants, and therefore the increase in the number of facilities that would be served cannot be calculated. Second, the number of registered voters in individual facilities constantly fluctuates, making it impossible to calculate the effect of the exception based on the existence of five registered voters at specific facilities. Under both existing law and the proposed bill, we believe that local election officials may simply choose to dispatch special voting deputies to conduct absentee voting at the facilities upon receiving one request for an absentee ballot, regardless of the total number of registered voters who are occupants of the facility. Finally, wages for local election officials and special voting deputies are established at the local level and vary widely across municipalities.

The Government Accountability Board has received estimates of the anticipated local fiscal impact of the bill from two municipalities. The City of Sun Prairie anticipates that the bill would require its SVDs to serve an additional four facilities at a cost of \$380 per election, or



\$1,520 during a calendar year consisting of four regular elections.

The City of Appleton advised that the bill would require that SVDs conduct absentee voting at up to 22 additional facilities where it is currently optional and which SVDs currently do not serve, assuming that a request is received from at least one resident and the threshold of five registered voters is met. The City pays each SVD \$50 per visit, and SVDs typically must make two or three visits per facility to reach all electors who have requested an absentee ballot. The City of Appleton would expect an increase of between \$1,100 and \$3,300 per election, depending upon the number of requests received from residents of the additional facilities and the number of SVD visits required to complete absentee voting. The annual increase during a calendar year consisting of four regular elections would range between \$4,400 and \$12,200.

In addition to an expected increase in local costs, we have heard concerns from local clerks regarding the requirement to post a public notice at least five days prior to absentee voting at adult-care facilities, rather than the 24-hour notice required under current law. We understand the purpose of the five-day notice is to give family members adequate time to prepare their loved one to participate in voting

The five-day notice may cause administrative challenges because there is a limited time window for absentee voting to take place. Oftentimes a clerk needs to send special voting deputies to a facility a second time because a resident may not be available to vote during the initial visit. Requiring that a notice be posted five days before the second and any subsequent visits will make it difficult and sometimes impossible to accommodate voters in those facilities. This can be alleviated by setting the time and date of the return visit and including it in the initial posting.

We suggest modifying the notice requirement to provide more flexibility for clerks, by shortening it or possibly requiring the five-day notice only for the initial visit and a shorter notice for subsequent visits.

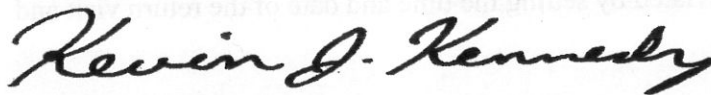
We also suggest clarifying whether the bill prohibits electors who reside in a facility served by special voting deputies are prohibited from casting an absentee ballot by mail or in the clerk's office. Section 10 of the bill repeals specific language stating that voting by special voting deputy is the exclusive means of voting for residents of facilities served by SVDs. The bill would also amend Section 6.875(4)(a) to require a municipal clerk to dispatch special voting deputies for the purpose of supervising absentee voting by occupants of a facility, upon receiving a request from an absentee elector in a qualified retirement home or residential care facility who desires to receive an absentee ballot.

The bill, however, does not either specifically permit or prohibit absentee voting by mail or in the clerk's office for residents of those facilities. If it is prohibited, indefinitely confined voters in a facility served by special voting deputies would be treated differently than indefinitely confined electors who reside at home and are permitted to cast an absentee ballot by mail or in the clerk's office. Whatever the policy decision on this point, we prefer to have it spelled out in the Statutes rather than leave it to the interpretation of our agency. Often when the Board attempts to apply statutory provisions that leave gray areas, it tends to attract criticism from one side or the other that disagrees with the policy interpretation.

### **Conclusion**

Thank you for the opportunity to share my thoughts with you. I hope this testimony will help inform the Committee's consideration of these bills. As always, we are available to answer questions and work with you in developing proposed legislation.

Respectfully submitted,



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**11.001 Declaration of policy. (1)** The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence. The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. Such a system must make readily available to the voters complete information as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly. This chapter is intended to serve the public purpose of stimulating vigorous campaigns on a fair and equal basis and to provide for a better informed electorate.

**(2)** This chapter is also intended to ensure fair and impartial elections by precluding officeholders from utilizing the perquisites of office at public expense in order to gain an advantage over nonincumbent candidates who have no perquisites available to them.

**(3)** This chapter is declared to be enacted pursuant to the power of the state to protect the integrity of the elective process and to assure the maintenance of free government.

**History:** 1973 c. 334; 1979 c. 328; 1985 a. 303; 2001 a. 109; 2005 a. 177.  
Campaign finance in Wisconsin after *Buckley*. 1976 WLR 816.

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JUDGE TIMOTHY L. VOCKE  
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KEVIN J. KENNEDY  
Director and General Counsel

October 3, 2013

The Honorable Mary Lazich, Chair  
Senate Committee on Elections and Urban Affairs  
Room 8 South, State Capitol  
Madison, WI 53708

Dear Senator Lazich:

At today's hearing on Senate Bill 282, Senator Leibham asked the Government Accountability Board to provide information to the Committee regarding the average amounts of campaign finance contributions in recent Assembly and Senate elections.

My staff has analyzed campaign contributions for calendar year 2012 from the Campaign Finance Information System, which contains every reported transaction. In contrast, the Wisconsin Democracy Campaign's database contains only donations in excess of \$100.

## Assembly

There were a total of 53,461 contributions from all sources totaling \$6,653,925, with an average transaction amount of \$124. Of that total, 48,563 contributions came from individuals, with an average amount of \$96. Included in the 48,563 were 10,821 individual contributions through conduits averaging \$118 each. There were 9,003 contributions from individuals of more than \$100, and they averaged \$298.

## Senate

There were a total of 71,538 contributions from all sources totaling \$5,334,647, with an average transaction amount of \$74. Of that total, 69,881 contributions came from individuals, with an average amount of \$64. Included in the 69,881 were 37,157 individual contributions through conduits averaging \$38 each. There were 6,845 contributions from individuals of more than \$100, and they averaged \$368. The campaign donation averages in the Senate elections were impacted by a large number of conduit contributions (30,741) through Act Blue, which averaged \$18 each. The 32,724 non-conduit contributions averaged \$94.

Thank you once again for the opportunity to testify about SB 282.

Government Accountability Board

Kevin J. Kennedy  
Director and General Counsel

cc: The Honorable Glenn Grothman  
Members, Senate Committee on Elections and Urban Affairs  
The Honorable Kathy Bernier



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To: Assembly Committee on Campaigns and Elections  
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities  
Date: October <sup>29</sup>~~20~~, 2013  
Re: **AB 396, Absentee Voting at Residential Care Facilities.**

The League of Wisconsin Municipalities has concerns about AB 396. The bill would require municipal clerks to dispatch special voting deputies (SVDs) to certain adult-care facilities to conduct absentee voting instead of allowing discretion in determining whether to dispatch SVDs to those facilities. Under the bill, a municipal clerk would have to dispatch a SVD to an adult family home, community-based residential facility, or residential care apartment complex with five or more occupants upon the request of a single absentee voter residing in the facility. The bill also imposes new notice requirements in conjunction with dispatching SVDs to such facilities.

The League's primary concern is the additional costs this bill would impose on municipalities, which is where the great majority of adult-care facilities are located. The bill forces a community to provide in-person absentee voting at facilities for which it may not be currently providing such a service whenever a single resident of the facility makes a request. We urge the committee to consider amending the bill to increase the number of requests needed to require the use of SVDs. We recommend the following language: SVDs must be dispatched to an adult residential care facility *"upon application by a majority of the qualified electors who are occupants of the facility, home, or complex."*

Thanks for considering our comments on AB 396.

Testimony on AB 378 and 396 Prepared by Roger Springman  
October 29, 2013

To: Assembly Committee on Campaigns and Finance

From Roger Springman, PO Box 27, Wyocena, WI 53969

RE: Testimony on AB 378 and 396

AB 378 Testimony

Among the many requirements for a functioning democracy is citizen involvement in its many forms. Donating money to campaigns is but one form of citizen involvement. With this involvement comes the right and need for all citizens to know "where the money is coming from" . . . not just the amount. This bill represents a significant step backward as it sets a new higher limit at \$500 then removes all associated transparency to know where the money is coming from via name and address . MAKE NO MISTAKE, THERE IS NOTHING DEMOCRATIC ABOUT THIS BILL. It goes the wrong way. Knowing who is contributing to campaigns not only provides a clear measure of transparency, but assures that everyone knows where influence is coming from too. The legislature should be seeking reforms that provide MORE TRANSPARENCY in the post-Citizens' United era; not less!!

AB 396

I live in a small village in Columbia Co and know our local clerk well. Never in all of my years here in the village have I heard her talk of any significant absentee voting issues associated with our 200-person, county nursing home. Many residents are younger and without health issues and routinely vote, yet I see that this proposed legislation interferes with the process that she has used for many years without problems. NO CLEAR REASON HAS BEEN IDENTIFIED for the purpose or value of this legislation. It is tinkering with a problem that doesn't exist and, again, is an attempt at usurping or taking away local control. Moreover, it has significant ambiguous language written especially as regards the five-person requirement. So, a municipality has an option if fewer than five people wish to avail themselves of the right or vote. Can they ignore absentee voting or somehow expect that these people are supposed to come to the village hall on election day. OUR SENIOR CITIZENS INSIDE COMMUNITY FACILITIES HAVE THE RIGHT TO VOTE AND THE LEGISLATURE SHOULD DO NOTHING TO CHANGE THE PROCESS ALLOWING FOR THIS RIGHT, ESPECIALLY IN THE ABSENCE OF COMPELLING INFORMATION BY MUNICIPAL CLERKS.

October 29, 2013

Comments to the Assembly Campaigns and Elections Committee Hearing on AB 396

I urge committee support for AB 396.

The purpose of AB 396 is to provide legislative clarification and uniformity to the process of absentee voting that is conducted in residential care and retirement facilities by poll workers called Special Voting Deputies (SVDs). SVDs are especially hired and trained by their municipal clerk to ensure that facility residents are offered a safe and secure opportunity to continue to exercise their right to vote.

The introduction to the newly revised G.A.B. Special Voting Deputy Manual, May 2013, p. 5 states: "The Wisconsin Legislature has determined that the vigorous exercise of our constitutional right to vote should be strongly encouraged. The Legislature also recognizes that it is difficult for some individuals to get to their polling place on Election Day. This is particularly true for individuals residing in nursing homes, community-based residential facilities, retirement homes, residential care apartment complexes and adult family homes. Wisc. Stats 6.84 (1) , 6.875)"

Wisconsin statute 6.84 and the G.A.B. manual caution that the Legislature established the privilege of absentee voting as an extension of the right to vote on Election Day and as a privilege, absentee voting must be carefully regulated to prevent the potential for fraud or abuse, overzealous solicitation of absent electors or undue influence of the absentee elector to vote for or against a candidate or referendum. Procedures for SVD voting were developed in order to encourage occupants of these facilities to continue to participate in the process of choosing their elected representatives.

AB 396 defines more clearly when the SVD service is required: if there are at least 5 registered voters in a facility and 1 or more registered voters living in the facility apply to have an absentee ballot sent to them. The current statutory language is "a significant number of occupants". Wisc. Stat. 6.875 (2) (b,c, d)

AB 396, also, increases required public notification of the date and time of this absentee voting service from the current 24-hour notice to at least 5 working days prior to each visit of the SVDs. This requires a legislative change as current statutes state: "as soon as practical after arranging the visit but no less than 24 hours before the visit." Wisc. Stat 8.875 (6) (a) .

This is an important change because advance scheduling of SVD voting enables a facility to prepare for and schedule a specific time for their busy residents to be available to vote. It is really Election Day at the facility as the SVDs are bringing to the residents a polling place within the facility. It is a big day—one that needs to be on the facility calendar so no field trip or other activity competes for the voter's time.

The 5-day notice can be posted in the facility and communicated to family members of residents who often want to be present to either assist their loved one or just to watch the process so they can see that it is done according to statute, allowing family members feel more confident about the process and to know that their family member's vote is protected by two poll workers specifically trained to conduct the voting and who have taken an oath and sworn to uphold Wisconsin election law. SVDs are statutorily required to return those ballots to their clerk so the votes are counted along with other legally cast ballots.

To those who raise the question of the cost of the SVD process, in Wisconsin, absentee voting is offered to all legally registered voters with no reason required and there is a cost to all absentee ballots. Wisconsin municipalities have made a large financial commitment to paying for in-person absentee voting offered for the two weeks prior to Election Day as a convenience to voters who choose, for whatever reason, not to appear at their polls on Election Day.

SVD absentee voting is offered to residents of care and retirement facilities because the Legislature recognized that many of these residents could have difficulty getting to the polls to vote for lack of transportation and many may require assistance to vote either to read the ballot or to actually mark their votes on a ballot.

Currently, many care and retirement facilities offer continuous care—different levels of care based on the residents' physical and medical needs. From one election to another, those needs change and the level of care may change but residency of the voter does not change. Are the clerks to be required to follow the level of care for each registered voter requesting to receive a by-mail absentee ballot? This would be quite time consuming. If a voter resides in a facility and requests a by-mail absentee ballot, that ballot should be brought to that resident by the SVDs—poll workers. At in-person absentee voting and at the polls, all ballots are offered to voters by poll workers. SVD voting should be no different.

Does AB 396 change current law as it relates to dispatching Special Voting Deputies to retirement homes? If a "significant number" of residents of care or retirement homes meet the criteria of lacking transportation; are over the age of 60; may need assistance to vote or are indefinitely confined, the clerk may provide SVD service. AB 396 proposes that if one or more residents request an absentee ballot be delivered to them, SVD service is required to be offered. Please clarify how this applies to voters who reside within a continuous care facility.

This bill would not prevent a resident of a care or retirement facility from choosing to continue voting at their in-person absentee location or at their polling place on Election Day. However, if a resident is no longer able to do that and requests that a ballot be delivered to them, the SVD service should be offered to encourage and enable them to continue to exercise their right to vote.

I encourage you to finalize both the law and the G.A.B. manual before the 2014 elections.

Thank you for considering my comments.

Mary Ann Hanson  
3740 Mountain Drive  
Brookfield, Wisconsin, 53045



October 29, 2013

Dear Members of the Assembly Committee on Campaigns and Elections,

Thank you for this opportunity to speak. I'm going to read my comments in order to keep within the time limit.

My name is Wendy Fjelstad. I volunteered as an observer of absentee voting in nursing homes in Madison during the 2012 Fall election and the 2013 Spring election, on behalf of DaneGOP.

I'm here today to comment on Assembly Bill 396, the Special Voting Deputy process bill, and specifically on that portion of the bill that addresses giving assistance to the elector.

The bill as written answers the question of "Who" can provide assistance – that is: **Special Voting Deputies (SVD) or family members of electors**. The bill as written also answers the question of "What" assistance can be given – that is: **reading the ballot and/or helping the elector mark a ballot**. However the bill does not address the issue of "How" assistance should be given. Specifically the bill does not make clear those practices that are prohibited when giving assistance.

I think prohibited practices when giving assistance should be noted in AB 396 because residents of nursing homes and assisted living facilities have a high likelihood of some degree of decline in their physical and/or mental abilities, making them particularly vulnerable to external influence and manipulation.

Prohibited election practices are defined in State Statute 12.13 (3)(j)

#### **Chapter 12 Prohibited Election Practices**

##### **12.13 Election fraud**

(3) Prohibited Acts. No person may:

(j) When called upon to assist an elector who cannot read or write, has difficulty reading, writing or understanding English, or is unable to mark a ballot or depress a lever or button on a voting machine, **inform the elector that a ballot contains names or words different than are printed or displayed on the ballot** with the intent of inducing the elector to vote contrary to his or her inclination, **intentionally fail to cast a vote in accordance with the elector's instruction** or **reveal the elector's vote to any 3<sup>rd</sup> person**.

I believe Statute 12.13 (3)(j) applies to SVDs and family members who provide assistance during absentee voting, but the language isn't referenced or incorporated into AB 396. That means SVDs and those responsible for training SVDs must search beyond the statute associated with AB 396 to learn what practices are prohibited when giving assistance.

Prohibited practices I observed during absentee voting:

- When ballot was read aloud, SVD added words not printed on the ballot:
  - SVD informed electors which candidates were incumbents, but incumbency is not indicated on the ballot. (According the GAB, election officials are not to discuss the merits of candidates, which includes incumbency.)
  - SVD asked electors if they wanted to vote “straight party”, but straight party was not a choice printed on the ballot.
- SVD answered electors’ questions about candidates
  - SVD told electors which judge on the ballot had been appointed by the Governor.
- When ballot was read aloud, SVD intentionally misstated words printed on the ballot:
  - SVD repeatedly said, the “Republic” Party candidate is.....instead of the “Republican” Party candidate is.....
- Family member stated he knew how his mother wanted to vote, without her indicating in any manner that she wanted or needed assistance and what her choices were. This family member simply took the ballot and completed it, without his mother, the elector, giving any instruction, and without any intervention by the SVDs.

I think its distraction to focus on the intent of the person giving the assistance, whatever that intent may be. Rather, emphasis should be placed on simply stating those practices that are prohibited when giving assistance....or stating those practices in the affirmative. For example:

- If an elector needs the ballot read aloud, **the ballot must be read only as written.**
- If an elector needs assistance in marking a ballot, **the ballot must be marked only as directed by the elector.**

I believe not being clear about prohibited practices in the writing of AB 396 permits an opening for both intentional and unintentional error by SVDs and family members who provide assistance and as a result puts the integrity of absentee voting in nursing homes at potential risk. Thank you.

Wendy Fjelstad  
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AB 396 TESTIMONY

My name is Carol Boettcher of the Town of Cedarburg, Ozaukee county. I want to thank legislators for addressing concerns with regard to nursing home voting.

I am a chief election inspector in my community and volunteered to observe the voting process in nursing homes. I have been trained in opening and closing my polling location on election day and the numerous security procedures involved, including recording and breaking security seals on the memory card bag, securing live uncast ballots plus cast ballots in sealed bags and all the paperwork which must be filled out completely before I can discharge my crew for the evening.

I was shocked and stunned to observe no such procedures were in place to assure nursing home residents who had cast their ballots would be treated in the same manner. In addition to little paperwork which was filled out, live and cast ballots were not **REQUIRED** to be in a security sealed container, nor were these ballots required to be returned to the clerk at the end of each day. Would any of us on election day stand for our ballot being tossed in the back seat or trunk of someone's car?

While the SVDs who I observed are honest people and were diligent in their efforts to serve the residents, without specific legislation regarding ballot security and integrity is easily compromised and voters exploited by those individuals who **ARE** unscrupulous.

I want to thank legislators for addressing and increasing to 5 working days the time frame of notification of when voting by SVD will take place at a facility. This will aid families in being able to arrange their personal schedule to be able to be in attendance. I observed SVDs going into the dementia wards because there were voters in these wards who were still on the voting rolls. Several families confronted the SVDs very angrily accusing the SVDs of exploiting and vote harvesting their loved ones. Family members did not receive sufficient notification of when this process was being held in the facility. I have seen the notification simply written on a wipe off board which could be easily tampered with. This is **NOT** fair to the families. Only a judge approved court order removing the person from the vote process is the legal remedy.

The 5 working day notification time frame would also benefit the scheduling of nursing home voting observers - those people who volunteer their time to observe that the process of nursing home voting is done in accordance to established regulations and protect the rights of one of our most vulnerable populations.

My Mom, Joyce M. Bencz is 81 years old and has been diagnosed with Alzheimer's Disease and Dementia.

On Thursday, 10/11 my sister Sharon and I attended a bi-annual meeting scheduled at 10:30 a.m. with the Administrator, Assistant Administrator and the Nurse. At the end of the meeting I reminded them that I was taking my mom for her flu shot on 10/22 and that I would also be taking her to vote at the City Hall. After the meeting my sister went back to work and I went over to the Memory Care Section to visit with my Mom. While I was there a staff member, Wendy Marzion approached me to inform me that per the "Note" from our family she has registered my Mom to vote and the absentee ballot was on it's way.

My Response:

I immediately asked her if she still had the note and I requested a copy of it. Since I knew that I did not issue the note I proceeded to contact both of my siblings and asked if they had submitted the note and both answered No.

I asked Wendy if we could meet in the Administrator's office to discuss this further. At this time Wendy informed me that she was a certified SRD (Special Registration Deputy) and she had the authority to register and assist voters.

The problem is my Mom is already REGISTERED TO VOTE. I had taken my Mom to the New Berlin City Hall in early 2012 to register to vote. She cast a vote in the Governor's recall election. I asked Wendy how it was possible to register my Mom to vote when she was already registered.

Wendy's Response:

Wendy stated that upon receiving the "note" from our family she dropped off an absentee ballot application at the New Berlin City Hall. On 10/8/12 Wendy received an e-mail from Julia Hunter, Deputy City Clerk, informing her that my Mom was not registered to vote.

As a result Wendy filled out a Voting Registration Application for my Mom, had my Mom sign it and she delivered it to the New Berlin Library.

My Response:

I asked her why I was not contacted of this situation since I was my Mom's Power of Attorney, and she responded that as a SRD she had the authority to register residents and assist them in filling out their ballots.

Conversation in the Administrator's Office:

We proceeded to the Administrator's Office and I asked them if they were aware of WISC Statue 6.875-6-C-1. They replied that they were not and a copy was pulled up on the computer. I informed Wendy that she was not authorized to assist my Mom in the voting procedure only registration, and again she debated me on this issue. I then called a friend who is a Certified SVD and asked if she could explain to Wendy and Linda the authorized duties of a SRD versus a SVD which she did. Basically if a family member is not available to assist with a resident's ballot only a SVD can offer assistance. A SVD is NOT offered at my Mom's Facility.

I asked Wendy what would have transpired with my Mom's absentee ballot if I had not been at the facility. She answered that she would have taken the ballot to my Mom, assisted her and mailed it back to the City Hall.

I requested a copy of the "Note" that she states she had received from the family and any other correspondence in this matter. Upon returning from her office she informed me that the note is gone and she handed me a copy of the e-mail she received from the New Berlin City Hall on 10/8.

New Berlin City Hall:

I drove over to the New Berlin City Hall to inquire how it was possible for my Mom to be registered to Vote TWICE. I asked to speak with Kari Morgan, City Clerk, regarding my Mom's Voter Registrations forms. I briefly informed her what had transpired at Mom's Facility and I asked to see my Mom's Original Voter Registration Form. She located it and brought my Mom's "Original" Voters Registration Form over to me. I then showed her the e-mail that a staff member at my Mom's Facility had received from the City Hall stating that my Mom was NOT a Registered Voter. I stated that I was confused as to why this e-mail was sent when here you just handed me the completed Voter Registration Form which I am NOW holding in my hands. Kari Morgan offered no response to my question.

At this time I requested to see the Voter Registration Form that was completed by Wendy from my Mom's Facility along with their request for an absentee ballot for my Mom. I also requested any other correspondence they might have. After awhile of searching I was informed that it was "misplaced" and they would call me when it was located. I replied that I had no problem waiting around while they continued their search.

Sure enough there it was -- The Voter Registration Form completed by Wendy for my Mom. Per Julia Hunter It was in the process of having the Absentee Ballot mailed to my Mom's Facility.

I asked Kari Morgan what would have happened when I brought my Mom to the City Hall to vote when an Absentee Ballot has already been issued. Where are the checks and balances -- Shouldn't there be a Voter Data Base that would catch this? At this point in time I was proofing the Voter Registration Form that was completed by Wendy and I discovered that my Mom's last name was listed as Benz not Bencz. Again I ask Kari Morgan why the system didn't catch the matching address along with the matching birth date. She seemed amiss for a answer to this question. I think this system is set-up to fail.

Bottom line, I asked Kari Morgan what would have happened if I had not come in the cancel my Mom's Absentee Ballot. Would my Mom have had the opportunity to vote twice. Kari Morgan's reply, "Yes she would have been able to vote under both names."

This lack of checks and balances opens the door to Voter Fraud. It makes me wonder how many other people are knowingly voting multiple times.

Patti Logsdon

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October 29, 2013  
Assembly Campaigns and Elections Committee  
Public Hearing Testimony  
Absentee Voting at Residential Care Facilities

It is November 5, 2008, presidential election day. I have voted by absentee ballot and my husband has voted at the polls. VPA.gov (Voters Public Access website) has been brought to my attention in the past week and I decide to see if our votes have been registered. No, not yet, but on a whim I plug in my mother's name and to my surprise, there she is on the SVRS (Statewide Voters Registration System). I was surprised as, you see, mom had passed away five years earlier in 2003. Then, to my shock, I saw that she had voted at the polls in 2004 -- a year after she died! She lived at Alexian Village retirement community on Milwaukee's far north west side. Alexian offers continuous levels of care -- all of which she had used.

Immediately I sent a letter off to the GAB and the Milwaukee City Clerk's office attaching a print out of the VPA page showing her voting in 2004 and a death certificate showing her death in 2003. I did not hear back from the Milwaukee City Clerk's office but an attorney with the GAB called me to inquire about my letter and documents.

The attorney told me he would investigate and get back to me. He did and I was informed that too much time had elapsed and records were destroyed and that there would be no resolution to this case.

From this personal experience, two points can be made. The first - why did it take 5 years to get my mother's name removed from the SVRS since death certificates are sent to multiple state agencies. And secondly, had Special Voting Deputies (SVDs) been required to service the entire residential facility, they would have know that day that mom was deceased and her name would have been removed from the System in a timely manner. Her physical ballot would have been protected and your and my votes would not have been compromised.

I urge you to consider favorably Bill AB396 and pass it for the benefit all of us.

Finally, since I have your ear, if an election fraud has been perpetrated in my mother's case, then PhotoID would have helped prevent this and others from happening.

Where are we on that issue??

Respectfully,

Barbara Struck  
Mequon, WI



Board of Election Commissioners

**Commissioners**  
Stephanie Findley  
David H. Redemann  
Robert F. Spindell, Jr.

**Executive Director**  
Neil V. Albrecht

October 29, 2013

Representative Kathleen Bernier, Chair

Assembly Committee on Campaign and Elections

Dear Members of the Assembly Committee on Campaign and Elections

Thank you for the opportunity to provide testimony at today's public hearing. Unfortunately, I am unable to appear in person. The City of Milwaukee opposes AB396.

The SVD program offers protections by inserting controls into the voting process for one of the most vulnerable populations – residents in nursing homes. However, those same controls create more limited voting opportunities for the populations served by SVDs. The SVD program is fully warranted when working with a highly vulnerable population, but the restrictions in voting opportunities is unwarranted for voters fully physically and mentally able to facilitate their own private and independent voting process.

I would like to acknowledge the “Absentee Voting in Nursing Homes, Retirement Homes and Adult Care Facilities,” a manual published by the Government Accountability Board that outlines the state statutes, rules and other governing policies related to Special Voting Deputies and care facilities. This manual, updated in May of this year with tremendous input from municipal clerks and observers, provides significant clarity and assistance to municipalities in their oversight of the Special Voting Deputies program.

This manual identifies that Special Voting Deputies – or SVDs - SHALL conduct absentee voting at qualified nursing homes within a municipality, ... while other care facilities MAY be served by SVDs IF the municipal clerk determines that a significant number of occupants lack adequate transportation to the appropriate polling place, need assistance in voting, are aged 60 or over, or are declared as indefinitely confined electors.

The manual further identifies that when SVD voting occurs at a care facility, “occupants who live in facilities visited by SVDs are no longer eligible to request a traditional by-mail absentee ballot, but instead must vote absentee via SVDs...” Further, “in such designated facilities, voting by SVDs is the exclusive means of absentee voting by occupants. Occupants may not



receive their absentee ballot in the mail or in-person in the municipal clerk's office, unless they were unavailable during the SVDs' scheduled visits. Further, SVDs are the exclusive method by which absentee voting may occur."

AB296 removes the ability of the municipal clerk to make a determination as to whether voting through SVDs at a facility will actually fulfill the intended purpose of the SVD program: "to encourage occupants of these facilities to participate in the process of choosing their elected representatives." Instead, this bill requires that any resident of a care facility, regardless of the level of care they are receiving in the facility, must vote exclusively through an SVD.

Throughout Wisconsin, care facilities offer varying levels of care, from nursing home to rehab to assisted living to independent living.

Under AB296, all of these residents, regardless of their level of independence, must vote through SVDs as "SVDs are the exclusive method by which absentee voting may be conducted" and may not receive their absentee ballots in the mail or in-person in the municipal clerk's office."

While I do not want to present myself as an expert on care facilities or the psychology of residents living in care facilities, I do believe there are certain fundamentals that we can all agree on. Losing levels of independence, from one's ability to live in your own home, to driving, to physical limitations, can have great implications on the quality of life. AB296 will limit voting opportunities for residents in care facilities that do not request or require any level of assistance in voting.

Wisconsin needs a Special Voting Deputy in care facilities program that does not compromise the independence of residence of those facilities and their right to choose how to vote, one that is cost-reasonable, and one that does not become so complex that it becomes unmanageable to our care facility partners.

Thank you for your consideration of our concerns.

Respectfully submitted,



Neil Albrecht,

Executive Director

City of Milwaukee Election Commission