



State Senator
Rick Gudex

District 18

April 21, 2015

To: The Assembly Committee on Campaigns and Elections
From: Sen. Rick Gudex
Re: AB 79

Mr. Chairman, members of the committee, thank you for hearing this bill today and for allowing me to speak on its behalf.

This bill makes two small changes to the way we register voters on election day. First, it lets municipal clerks register voters at the polling place, unless that clerk is on the ballot him or herself. This only makes sense. The municipal clerk can register voters on any other day of the year, except election day itself. That means the municipality has to acquire another body to do that work, at small but significant cost in time and money.

Second, the bill gives municipal clerks the authority to appoint special registration deputies without a resolution from their local board. This will give our local clerks the flexibility they need to ensure proper staffing levels, even when there's no time to call a meeting and pass the resolution.

I'd like to make it clear that this bill makes no change to any training requirements that already exist in the law. This bill does not touch on other requirements for choosing election inspectors or special registration deputies, or on how they do their jobs. These are two small changes to election law meant to give our local clerks a bit more flexibility in order to fulfill our obligation to run elections as smoothly, efficiently, and securely as possible.

Thank you for your attention. I will be happy to answer any questions.

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

Assembly Committee on Campaigns and Elections

April 21, 2015

**Room 300 Northeast, State Capitol
Public Hearing**

**Assembly Bill 58
Assembly Bill 79
Assembly Bill 124
Assembly Bill 164**

Chairperson Bernier and Committee Members:

Thank you for the opportunity to comment on the 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 has not taken a position on this legislation.

2015 Assembly Bill 58

In its original form this legislation directed municipal clerks to respond to an absentee ballot request no later than one business day after receiving the request. The substitute amendment reflects changes to provide more practical direction on responding to absentee ballot requests. Instead of a general directive to “respond” municipal clerks are required to send or transmit no later than the statutory deadlines and within one business of receiving the request. The substitute amendment also provides a clear definition of business day. We appreciate the authors’ willingness to address the practical issues raised in the initial legislation.

2015 Assembly Bill 79

This legislation permits a municipal clerk who is not a candidate on the ballot to assist poll workers with Election Day registration activities. It does not require the governing body to adopt a resolution authorizing the clerk to perform the duties. Municipalities will find this flexibility very helpful when facing last minute staffing changes or a surge in voter turnout.

2015 Assembly Bill 124

This legislation makes significant changes in the calculation of fees for recounts. Wisconsin law does not provide for an automatic recount. It has to be requested. Only a candidate, usually a losing candidate, may request a recount for that particular contest. Any elector who voted in an election may request a recount of a referendum question.

The legislation reduces the threshold for a free recount from one half of one percent (.5%) to one quarter of one percent (.25%). We are not aware of any recount changing the initial outcome when the difference was half that amount (.125%) or more. The legislation also provides that no fee is required in a contest where 4,000 votes or fewer were cast and the difference is less than 10 votes.

The legislation also removes the \$5 per ward partial reimbursement for the petitioner if the difference is greater than the free recount threshold but less than 2%. A petitioner will have to pay a fee equal to the estimated costs for conducting the recount if the difference in the votes exceeds the .25% threshold.

The legislation permits the petitioner to receive a refund of the fee the outcome changes as a result of the recount.

2015 Assembly Bill 164

This legislation was developed at the request of the Wisconsin County Clerks Association. It is designed achieve several goals to improve the administration of elections.

- Create a consistent timeline for adding referenda to the ballot. Under current law, certain referendum could be added 6 weeks prior to the election, while other items are 70 days. This bill creates a uniform 70 day requirement. The 70 day requirement was initiated to ensure compliance with the requirement to have absentee ballots available at least 48 days before a federal election.
- Removes the process for write-in candidates to distribute stickers. Currently electors are permitted to apply stickers for write-in candidates. In recent years stickers have created problems and damage to voting machines. This bill removes the process for stickers. Stickers are very popular with write-in candidates, particularly those with an abundance of consonants in their names. But stickers may not adhere to a ballot and can be a source of mischief at the polling place because of attempts to distribute them to voters or leave them in a voting booth.

- Creates uniform process for school board elections and school board referendum. Under existing law, if a school board election is held in conjunction with a state, county, municipal, or judicial election, the school board election must take place at the same polling place and the municipal election hours apply. This bill would extend that treatment to school board referendum as well.

One question that will arise is how does this apply if there is a state, county, municipal, or judicial election being held that day, but not in that particular municipality? Arguments will be made that the school district can select the polling place. There is also a question of who pays for the cost of conducting the school district election in that case.

Section 5.68 governs allocation of election costs. Section 120.06 (9)(b) sets the parameters under which a school board may select a polling place.

- Modifies the caucus timeline for town or village elective office. Currently, if a town or village does not use nomination papers for elective office, the governing body must hold a caucus sometime between the first Tuesday and last Tuesday in January. This bill provides that January 15 is the last day on which to hold the caucus. The benefit of this proposal is to ensure candidates are set for the Spring election in a timely manner.

- Creates a timeline for write-in candidate registration. Currently, a write-in candidate for office must file a registration statement to have their votes counted, but no deadline is set. To ease election-day processes and allow adequate communication amongst election officials, this bill sets the deadline for filing a registration statement at noon on the Friday immediately preceding the election. In the event that a certified candidate dies or withdraws before the election, all write-in votes will be counted.

The language about a candidate withdrawing is problematic. There is no provision for recognizing a candidate who withdraws. The candidate's name remains on the ballot no matter how they communicate their intention to withdraw. This language should be removed or a provision for withdrawal should be added to be clear under what circumstances a write-in vote would be counted in that contest.

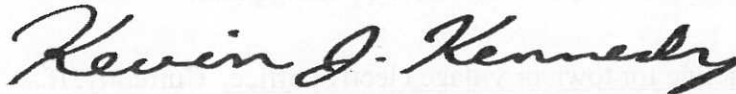
- Removes the requirement that the board of canvassers must reconvene when no provisional or absentee ballots are received. Under current law, if a municipal clerk receives valid provisional or absentee ballots by 4 p.m. on the Friday after

the election, the board of canvassers must reconvene no later than 9 a.m. on the Monday after the election to count the valid provisional and absentee ballots and adjust the election returns. This requirement applies even if no valid ballots are returned. This bill provides that if a clerk certifies that he or she has received no valid ballots between the initial canvas and 4 p.m. on Friday, then the board of canvassers is not required to reconvene.

Conclusion

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

Respectfully submitted,



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

608-266-8005

Kevin.Kennedy@wi.gov

WMCA ELECTION COMMUNICATION COMMITTEE

Pertaining to Assembly Committee on Campaigns and Elections

Public Hearing – Tuesday, April 21, 2015

Assembly Bill 58 – responding to a request for an absentee ballot

Assembly Bill 79 – allowing clerks to register voters on Election Day

Assembly Bill 124 – fees for election recounts

Assembly Bill 164 – various election law changes

The WMCA Election Communication Committee would like to submit testimony for the hearing today.

In general the clerks have no issues with the Bills as presented. The Committee submitted testimony to Senate Bill 47 which mirror Assembly Bill 58 in responding to absentee ballot requests. By changing the requirement to complete the request to one business day after receiving the request it makes the process reasonable and practicable to administer while ensuring the absentee request is being responded to and saving unnecessary staffing expenses for municipalities.

One other change we would like to request is that municipalities that close their offices to observe a holiday, i.e. Good Friday, would not be required to be open for absentee voting or processing late arriving absentee and Provisional Ballots. This is a huge expense for municipalities to accommodate a very small number of voters.

Assembly Bill 79 would be of help to many municipalities and would ensure there are well trained individuals to register voters. This would probably be used in smaller municipalities that don't receive a lot of registrations so the clerk would be the most trained and experienced at registering voters. The intent would be to have well trained individuals registering voters on Election Day this change allows that to happen.

Municipalities have been requesting Assembly Bill 124 for some time. Recounts should not be discouraged when the results are very close. But, are very expensive and time consuming when there is little chance the results will change. This Bill will assist municipalities in recovering some of the costs associated with a recount that has a wide spread in the results.

There are several components with Assembly Bill 164 that will clean up some items in Election Administration.

Requiring write-in candidates to file no later than noon on Friday allows Election Administrators to inform their Election Officials for Election Day purposes. Even with modern technology we still have ill effects from receiving last minute information for Election Day. This change will allow time to get these write-in's to the various entities that will be processing the ballots.

The provision that the Board of Canvassers does not have to reconvene if there are no provisional or absentee ballots received by Friday at 4:00pm is another change the clerks have requested. This would be of benefit to the municipalities.

WMCA Election Communication Committee

Diane Hermann-Brown WCPC/CMC/CPM Co-Chair	City of Sun Prairie
Sandi Wesolowski Co-Chair	City of Franklin
Chris Astrella WCMC	City of Watertown
Sandra Boetcher	City of Altoona
Barbara Goeckner WCPC/MMC	Village of Germantown
Melissa Hongisto	Village of Suamico
Carla Ledesma, CMC	City of Wauwatosa
Sara Ludtke WCMC	Town of Middleton
Sue Peck	Village of Marshfield
Brenda Walker	Village of Colton
Maribeth Witzel-Behl WCMC	City of Madison
Nancy Zastrow WCMC/CMC	Village of Pewaukee

State Election Communication Committee

The State Election Communication Committee shall be focused on communicating and serving as a liaison between WMCA members, Government Accountability Board and State Legislators on election related issues. The Committee will have a presence at GAB Board meetings, focus groups, Legislative Hearings and provide input that represents the WMCA membership needs and concerns in general.

The change in the caucus deadlines could have mixed opinions from town clerks, but overall would be of benefit to election administration. Many times ballots are held up countywide because the County Clerk is waiting for one township to hold their caucus. This then puts the county on a tight turn around to get ballots printed for the entire county. Municipalities without a caucus have deadlines for candidates to file their nomination papers by the first Tuesday in January, so providing towns until January 15th is accommodating but still provides a deadline that doesn't adversely affect the rest of the municipalities in that county. The town clerks I talked with didn't have an issue with this change.

The change for filing ordinance or resolution changes would be something again that would affect the timing of printing ballots. It is very difficult to calculate the dates for referendums. This change at a glance seems to streamline the timing with other election deadlines.

Stickers? What is there to say except our machines cost thousands of dollars of tax payer dollars to purchase and maintain. Stickers can really mess them up and cause delays in the voting process on Election Day. Clerks across the state will tell you that stickers should be eliminated.

The more School District election items that we can get to aligned with the rest of election administration items would make it much easier for everyone involved. I don't know if there are any School District that could conduct an election without the assistance of the Municipal and County Clerk. So the more items we can get that align with the rest of our duties, requirements and responsibilities would make it much easier for everyone involved.

Election Administration can be very confusing, time consuming, and expensive but all voters should be able to exercise their right to vote. These proposed Bill help to ensure that every ballot is counted and assists the municipalities with election administration. Please let us know if you have any questions or need additional information.

Diane Hermann-Brown WCPC/CMC/CPM
Co-Chair City of Sun Prairie



COUNTY OF MANITOWOC

COUNTY CLERK

1010 South 8th St., Ste. 115
Manitowoc, WI 54220

Jamie J. Aulik
Manitowoc County Clerk

Telephone: (920) 683-4004
Email: jamieaulik@co.manitowoc.wi.us

Date: April 21, 2015
To: Members of the Assembly Committee on Campaigns and Elections
From: Jamie J. Aulik, Manitowoc County Clerk
Re: Testimony supporting AB-164, AB-58, AB-79, and AB-124

Dear members of the Senate Committee on Elections and Local Government:

As a local government official charged with carrying out election laws, I am frequently faced with an amalgamation of confusing, conflicting, and sometimes unworkable statutes. Ensuring that election laws make sense is in the interest of voters, election officials, and the election administration system as a whole. A number of bills at today's hearing bring a good dose of common sense reform to our election administration system, and I wanted to ask for your support for the following items:

Assembly Bill 164

Relating to: various election law changes

- 1) ***Create a consistent timeline for adding referenda to the ballot.*** Under current law, certain referendum could be added 6 weeks prior to the election, while other items are 70 days. This bill creates a uniform 70 day requirement.
 - a. There are some good reasons to have exceptions, but there isn't a compelling reason to have a shorter timeline for direct petitions. If anything, because of the review period for petitions, they should have a longer timeframe than referenda involving units of governments passing resolutions to set a referendum date.
 - b. Six weeks is an extremely short timeline to program voting equipment, prepare ballots, and print and distribute them in time for absentee voting.
 - c. Example: Stoughton referendum.
- 2) ***Removes the process for write-in candidates to distribute stickers.*** Currently electors are permitted to apply stickers for write-in candidates. In recent years stickers have created problems and damage to voting machines. This bill removes the process for stickers.
 - a. Example: Assembly District 2, City of Two Rivers – November 2006
 - b. A prohibition on stickers would be preferred, but it's unenforceable.
- 3) ***Creates uniform process to consolidate poll locations for school board elections and school board referendum.*** Under existing law, if a school board election is not held in conjunction with a state, county, municipal, or judicial election, under certain conditions, the school board can opt to close poll locations. This bill would extend that treatment to school board referendum as well.

- a. Some school district attorneys have refused to allow poll locations to consolidate because “referendum” does not appear in this section of statute.
- 4) **Modifies the caucus timeline for town or village elective office.** Currently, if a town or village does not use nomination papers for elective office, the governing body must hold a caucus sometime between the first Tuesday and last Tuesday in January. This bill provides that January 15 is the last day on which to hold the caucus.
 - a. I discussed this change with a few municipal clerks with leadership positions in WMCA, and they understood the constraints and deadlines that we are under, and they didn’t foresee an issue with the shift.
 - b. I also discussed the change with the county clerk who recommended its inclusion, and he didn’t want the bill held up on this issue.
- 5) **Creates a timeline for write-in candidate registration.** Currently, a write-in candidate for office must file a registration statement to have their votes counted, but no deadline is set. To ease election-day processes and allow adequate communication amongst election officials, this bill sets the deadline for filing a registration statement at noon on the Friday immediately preceding the election. In the event that a certified candidate dies or withdraws before the election, all write-in votes will be counted.
 - a. Example: Fond du Lac – Tuesday, April 7, 2015 (Election Day) 2:45 p.m., Multi-Jurisdictional Judge filed to be a registered write-in
 - b. Example: Received email from G.A.B. at 5:38 p.m. on Monday, November 3, 2014 regarding a registered write-in for Governor
- 6) **Removes the requirement that the board of canvassers must reconvene when no provisional or absentee ballots are received.** Under current law, if a municipal clerk receives valid provisional or absentee ballots by 4 p.m. on the Friday after the election, the board of canvassers must reconvene no later than 9 a.m. on the Monday after the election to count the valid provisional and absentee ballots and adjust the election returns. This requirement applies even if no valid ballots are returned. This bill provides that if a clerk certifies that he or she has received no valid ballots between the initial canvas and 4 p.m. on Friday, then the board of canvassers is not required to reconvene.
 - a. Eliminates having to haul in canvassers between 4 p.m. Friday and 9 a.m. Monday **to count nothing!**

Assembly Bill 124

Relating to: fees for election recounts

For local governments, recounts are usually unbudgeted items. I support this bill because it simplifies the fee structure while discouraging the sometimes frivolous recount requests that clerks sometimes encounter (e.g. recounts where there is a very wide margin between the winning and losing candidates, but the losing candidate doesn’t trust the voting equipment, or the election officials, or both. In other words, they just *can’t* believe that they lost.). This bill also accounts for a loophole in the current recount fee structure where it is virtually impossible for election officials to recoup costs when less than 1,000 votes are being recounted.

Thank you again for your consideration, and I respectfully ask your support for these common

sense reforms to our election administration system.

Assembly Bill 58

Relating to: responding to a request for an absentee ballot

Since a law change in the last legislative session, in-person absentee voting has not been conducted on weekends or holidays, so it makes too much sense to give our municipal clerks a break from having to deal with by-mail absentee voting on the same days. In Manitowoc County, all of our town clerks and half of our village clerks are part time, so please support these dedicated public servants by giving them a breather and allowing them to spend some time with their families during an otherwise very busy time preceding each election.

Assembly Bill 79

Relating to: allowing municipal clerks to register voters on Election Day

Under current law, Municipal Clerks are authorized to register voters every day of the year except the three days preceding each election, and Election Day. On the three days preceding each election, it makes sense for them to take a break because they are busy preparing for Election Day. But having a barrier on Election Day makes absolutely no sense. Municipal Clerks are Wisconsin's voter registration experts, and in order to ensure that voter registration laws are followed and quality voter registration forms are produced, we need encourage them to register voters as much as possible.

Cost savings to local government will also result. A salaried municipal clerk could substitute for an hourly poll worker on Election Day, thereby saving the cost of a paid position. Also, correcting errors on voter registration applications can be time consuming and costly; where entering a correct voter registration form into the Statewide Voter Registration System takes only a couple of minutes, incorrect forms can sometimes take up to an hour or longer because the voter has to be contacted and the information needs to be tracked down and corrected.

Thank you for your consideration. If you have any questions whatsoever, do not hesitate to ask.

COUNTY CLERK

Brown County

305 E. WALNUT STREET, ROOM 120
P.O. BOX 23600
GREEN BAY, WI 54305-3600

SANDRA L. JUNO
COUNTY CLERK

PHONE (920) 448-4016

FAX (920) 448-4498

juno_sl@co.brown.wi.us

Assembly
Public Hearing
Committee on Campaigns and Elections
Tuesday, April 21, 2015
10:00 a.m.

AB-79

Allowing municipal clerks to register voters on Election Day

I support this bill amending the current law because I believe that the clerks are more knowledgeable in registration laws and are very experienced in the voter registration processes. In allowing municipal clerks to register voters on Election Day our voter registrations would be accurate and create fewer issues when entering data into the Statewide Voter Registration System (SVRS).

The current law prohibits clerks from registering voters on Election Day and as a result poll workers performing these duties frequently have voter registration errors. Poll workers only perform these duties a few times a year and aren't familiar with the laws and documents required to register electors on Election Day. Unfortunately, they frequently register electors without the necessary required documents. Hence, these electors should not have been registered or allowed to vote on Election Day, based on the documents submitted or omitted.

For the sake of maintaining the accuracy of SVRS and reduction in post-election day voter registration follow up by clerks, I ask for your support in this change.

I appreciate you allowing me to comment and ask for your support in passing AB-79.

Thank you,


Sandy Juno
Brown County Clerk

To: Assembly Election Committee
From: Ardis Cerny
Date: April 21, 2015
Re: Opposition to AB 79

I recently did an open records request from the G.A.B. as to how many people registered to vote in 2014 and how many of these registration failed their Help America Vote Act check. In case you are unfamiliar with the required HAVA checks (federal law), the G.A.B. is required to interface all voter registrations with the DMV and the Social Security data bases to make sure the name, birthdate, driver's license number/social security number given on the registration form are consistent. Just so you are aware, I did this open records request in March of 2015 which gave the clerks plenty of time to enter all of the November Election Day registrations into the SVRS. Keep in mind all of these people received a ballot and got to vote.

My open records request revealed the following information:
18,854 partially failed the HAVA check (name, birthdate, DL/S.S. # did not completely match)
10,052 completely failed the HAVA check (nothing matched)
28,906 Total

So almost 29,000 people were allowed to vote even though there are issues with their registration forms! The G.A.B. is required to send these citizens a letter telling them that there is a problem and asking them to please contact their clerk. But only a few citizens ever respond, so these registrations are never corrected and they remain on the poll lists. Of course all of this occurs *after* they have been allowed to vote. The G.A.B. claims that the HAVA check is an "accuracy check", not a verification of their eligibility to vote. The G.A.B. automatically assumes all registrations are legal registrations, and they interpret this issue by saying that the only qualifications for voting are that the person is 18 years old, a resident of the municipality and a US citizen as stated in our constitution.

But what about the almost 29,000 people who failed their HAVA check completely or in part?

The G.A.B. says that state law does not require them to use the information from the HAVA checks to verify the person's eligibility. So, these people are not inactivated, their names remain in the poll book, and our voter database is filled with names that are questionable. The federal HAVA law does say that the statewide registration list must contain the names of everyone who is legally registered. What does legally registered mean? If the federal law does not cover this issue, **WE ABSOLUTELY NEED LEGISLATION TO RECTIFY THIS PROBLEM.**

The reason I am bringing this up today is because the position of "registrar" is of the utmost importance. The registrar is the **ONLY GATEKEEPER** we have right now who determines whether or not the citizen receives a ballot. The registrar makes the decision as to whether the ID and proof of residence presented meet state requirements. They also check that the citizen has completely and properly filled out the registration form. A few years ago, the Grandsons of Liberty did an open records request of completed registration forms and found the results to be abysmal – forms half-completed, missing signatures of both the voter and the registrar, questionable proof of residences, to name just a few of the infractions. And these were done using trained registration poll-workers! We already have a problem at the registration table, I have been a witness to it numerous times. Why would you want to add to it with this bill?

Should we jeopardize the integrity of our elections because the voter didn't take the time to register in the clerk's office during the year? Should we jeopardize the integrity of our elections because citizens don't want to stand in a long line to register?

After the chief election inspector, the registrar should be one of the most trained individuals at the polling place and an "election observer" chosen on Election Day is shocking to me and unacceptable.