



GAE MAGNAFICI

STATE REPRESENTATIVE • 28th ASSEMBLY DISTRICT

Testimony in Favor of Assembly Bill 342

Good afternoon Chairman Tusler and members of the Committee,

Thank you for taking the time to hear my testimony today on Assembly Bill 342 relating to the time for issuing a certification of election.

This bill is part of a series of changes requested by the Wisconsin Elections Commission to help ensure the efficient and proper administration of elections in Wisconsin.

In 2017, legislation was enacted that limited the right to request a recount to an “aggrieved party,” which is defined as a candidate who lost by no more than 40 votes when the total votes cast for the office were 4,000 or fewer, or a candidate who lost by no more than one percent of the total votes cast for the office when that total exceeds 4,000.

That legislation did not amend the timeline for issuing a certificate of election when the initial canvass results indicate there is no aggrieved party that may request a recount. Currently, a clerk may not issue the certificate of election until the expiration of the time for filing a recount, which is three days after the official canvass is completed, even if there is no aggrieved party.

This bill would eliminate this unnecessary waiting period when a recount is not possible. If there is a candidate that is eligible to petition for a recount, the time to file a petition for a recount must still expire before the election may be certified.

The Elections Commission has stated that clerks would benefit in some cases from being able to issue certificates of election sooner when there is no candidate eligible to request a recount. With this bill, I’m happy to assist our local clerks more efficiently carry out the crucial job of properly administering Wisconsin’s elections.

Thank you in advance to the staff of the Wisconsin Elections Commission that are here today to provide testimony for this bill, and thank you again to members of the committee for taking the time to hear my testimony. I’d be happy to answer and questions that you might have.

STATE SENATOR KATHY BERNIER
TWENTY-THIRD SENATE DISTRICT



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Assembly Committee on Campaigns and Elections
Testimony on Assembly Bill 342
September 10, 2019

Members of the Committee,

Thank you for the opportunity to testify on Assembly Bill 342, which is part of the Wisconsin Election Commission's legislative agenda for this session. In the times we live in, the sooner that the public can get information, the better. Under current law, all election results must wait three days until the period during which a recount can be requested passes before they can be certified. This delay applies even if there is no one eligible to request a recount.

A recount can only be requested if the results of the election are within one percent (or within 40 votes in the case of an election with under 4,000 votes cast). Needless to say, most elections are not that close and there is no reason to delay the results being certified for a recount that cannot happen. Assembly Bill 342 would allow the County Clerk to certify the results immediately when a recount is not an option. If there is a possibility of a recount, then the Clerk must still wait the required time before certifying the results to see if anyone requests a recount.

Assembly Bill 342 protects the rights of candidates who want to ensure that the results were correct under state law while allowing the public to know the official results of an election sooner rather than after an unnecessary delay. I hope you will support this common sense change to the laws governing our elections and help us make sure that elections in Wisconsin are as efficient, accurate and transparent as possible. I would be happy to answer any questions that you may have about this bill.

**Testimony of Meagan Wolfe
Administrator
Wisconsin Elections Commission**

**Assembly Committee on Campaigns and Elections
September 10, 2019**

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

Chairperson Tusler and Committee Members:

Thank you for the invitation to provide testimony on behalf of the Wisconsin Elections Commission (WEC) regarding the three bills up for a hearing today. I am providing written testimony for information only regarding Assembly Bills 89 and 244, and in will be testifying in support of Assembly Bill 342 which addresses items identified in the legislative agenda adopted by the Commission.

Assembly Bill 89

2019 Senate Bill 108 attempts to simplify and clarify statutory provisions related to filling vacancies in city and village offices. Local clerks and municipal attorneys often ask the Commission to help determine when a special election is to be held. The Substitute Amendment addresses some questions and issues we raised in testimony regarding the Senate version of the bill. We appreciate the author's efforts to consider the input of our office to clarify the current statutory language which can be a bit challenging to follow.

Current statutes list several default dates for a special election to be called by a city's common council depending upon when a vacancy occurs. Historically those dates have been interpreted as only suggested dates because Wis. Stat. § 17.23(1)(a) includes the phrase "Unless otherwise ordered by the common council..." The bill eliminates the suggested default dates to clarify the flexibility which already exists in the statutes to set special election dates in cities, and also clarifies that villages have the same flexibility.

As a result, the bill would permit cities and villages to schedule a special election for local office simply by complying with the notice provisions of Wis. Stat. § 8.50. For all cases, Wis. Stat. § 8.50 states that no special election may be held after February 1 until the date of Spring Election, nor after August 1 until the General Election. An order for a special election must be issued between 62 and 77 days of the special election date if it is not held on the same date as a regularly-scheduled election. If a special election is to

held on the same date as the Spring Election, it must be ordered between 49 and 92 days before the Spring Primary. And if the special election is to be held on the same date as the General Election, it must be ordered between 92 and 122 days prior to the Partisan Primary. Those schedules are designed to accommodate the timeline for preparing ballots and complying with federal law related to ballots for federal offices on the ballot.

The bill also clarifies that city councils and village boards have the option to appoint an individual to fill a vacancy for the remainder of the term or to leave the office vacant until an election is held. This has been our interpretation of the law because of the use of the term "may" in several sections of the statute, but it is helpful that the original bill and the Substitute Amendment specifically authorize each option.

While the Elections Commission has not reviewed or weighed in on AB 89, the consensus of Commission staff is that, while it will retain the substance of current law, the Substitute Amendment will reduce confusion for local clerks in scheduling special elections, and will therefore assist our efforts in training local election officials.

Assembly Bill 244

Wis. Stat. § 6.34 currently allows 13 documents or types of documents that an individual may use as proof of their residence when registering to vote, including a driver license or State ID, property tax bill, lease, bank statement, paycheck or official identification card issued by an employer which contains a photograph. The proof of residence document is required during the voter registration process, which is different from the photo ID requirement to obtain a ballot. The common element of proof of residence documents is that they must include the individual's current name and current address.

AB 244 would add a W-2 form for the current or preceding year as a document that could be used as a valid proof of residence document. Because W-2 forms are issued by the employers and are used as part of the income tax filing process, they would seem to provide comparable evidence of an individual's residence as other documents that are currently acceptable.

Assembly Bill 342

The Elections Commission adopted the proposed changes in Assembly Bill 342 as part of its legislative agenda earlier this year and so I am testifying in support of that bill.

Following the completion of the official canvass at the local, county, and state levels, the appropriate filing officer issues a certificate of election to the winning candidates. Whether at the municipal, county or state level, the filing officer currently may not issue the certificate of election until the expiration of the time for filing a recount, which is three days after the official canvass is completed. When a recount petition is filed, the

certificate of election is not issued until the completion of the recount or any court action resulting from the recount.

Legislation was enacted in 2017 to limit the right to request a recount to an “aggrieved party,” which is defined as a candidate who lost by no more than 40 votes when the total votes cast for the office was 4,000 or fewer, or a candidate who lost by no more than one percent of the total votes cast for the office when that total exceeds 4,000. That legislation did not amend the timeline for issuing a certificate of election when the initial canvass results indicate there is no aggrieved party that may request a recount.

AB 342 would allow the WEC and local election officials to expedite the certification of election results when no candidate is eligible to request a recount. This is especially useful after primary elections when there is a tight timeline to prepare ballots for the spring election or general election. It is also helpful after special elections to fill a vacancy in a state or local office where there is no legal reason to delay an individual from taking office. For example, occasionally the Assembly or Senate Chief Clerk has requested that we issue a certificate of election sooner than allowed under the current statutes to allow the winner of a special election to participate in a legislative session.

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

Respectfully submitted,

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