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# SHAE SORTWELL

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STATE REPRESENTATIVE • 2<sup>nd</sup> ASSEMBLY DISTRICT

## **Assembly Committee on Campaigns and Elections**

**Public Hearing, April 23, 2019**

**Assembly Bill 64**

**12:00 P.M.**

**Room 412 East**

### **Assembly Bill 64: aids to counties and municipalities for certain special election costs**

Representative Tusler and members of the Campaigns and Elections Committee, thank you for affording me with the opportunity to testify on behalf of Assembly Bill 64, regarding state payment of costs for special elections.

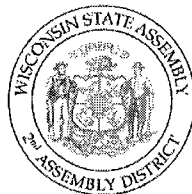
Assembly Bill 64 has a simple aim: to relieve counties and municipalities of the uncertainty and costs associated with special elections for state office.

Since 1998, there have been 29 special elections for the Assembly and the Senate – not including recalls. There have been six special elections just since 2018.

The cost of executing regularly scheduled elections has been a subject of debate. Elections are expensive affairs. As you'll no doubt hear from the witnesses today, special elections cause even greater strain on county and local budgets. Naturally, special elections come as a surprise, and local government must account for them outside their normal budgeting and expense practices.

The monetary and resource costs add up quickly, particularly for very small municipalities – to use a local example, both Sen. Jacque and I represent small towns like Gibson, Denmark, and Wrightstown. It is difficult for these small municipalities to take on the costs of special elections with so many other budget priorities.

I also submit that cost is not the only consideration. Assembly Bill 64 largely deals with statewide offices. While the elections for the Second Assembly District I represent, and the First Senate District Senator Jacque represents, are local elections - in that only residents of our districts vote in them - the seats are State Legislature seats. Our votes



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affect the entire state, not just Brown County, Door County, Denmark, or Sturgeon Bay.

Assembly Bill 64 makes the following costs eligible for reimbursement:

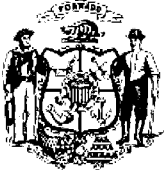
- Rental payments for polling places.
- Election day wages paid to election officials working at the polls.
- Costs for the publication of required election notices.
- Printing and postage costs for absentee ballots and envelopes.
- Costs for the design and printing of ballots and poll books.
- Purchase of ballot bags or containers, including ties or seals for chain of custody purposes.
- Costs to program electronic voting machines.
- Purchase of memory devices for electronic voting machines.
- Wages paid to conduct a county canvass.

This bill also adds a layer of oversight to protect taxpayers. Under Assembly Bill 64, the Elections Commission must determine that costs are in line with those of regularly scheduled elections in order to be eligible for reimbursement.

To date, we have had heard support from county and municipal clerks. The support is bipartisan and is not limited to specific areas of the state. As you will hear shortly, the League of Municipalities and the County Clerks Association both support Assembly Bill 64.

I want to thank everyone who has come to testify today, and now seek additional feedback from the both the public and committee members.

At this time I am happy to answer any questions members of the committee might have. Thank you for your time and consideration.



# ANDRÉ JACQUE

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*Testimony before the Assembly Committee on Campaigns and Elections  
State Senator André Jacque  
April 23rd, 2019*

Chairman Tusler and Members of the Assembly Committee on Campaigns and Elections,

Thank you for holding this hearing and the opportunity to testify before you today in support of Assembly Bill 64, the Local Government Special Election Cost Relief Act. This common sense bi-partisan legislation will require state reimbursement of the significant unfunded and unanticipated expenses that such elections force upon local governments.

When the Governor calls a special election for a state office, local municipalities are currently put on the hook for unreimbursed expenses for administering that special election, and special primary if needed, which can easily exceed a hundred thousand dollars across a single Assembly District, regardless of turnout. Local governments are already forced to stretch their budgets for election administration from two elections in odd-numbered years to four in even-numbered years. Under current law, special elections occur with very little control, and municipalities have to shoulder nearly all of the costs incurred. With little warning these unexpected elections can have substantial fiscal impacts on local governments that already have limited budgets. As a candidate last year in a special election for the State Senate, I heard from several local government officials and pollworkers at meetings and at their doors about the impact of these unexpected costs on their municipalities.

Under AB 64, a cost is eligible for reimbursement only if the Wisconsin Elections Commission determines that the cost is reasonable and the rate paid by the county or municipality for the cost does not exceed the rate customarily paid for similar costs at a primary or election that is not a special primary or election. Among the costs covered by the bill are rental payments for polling places, election day wages paid to election officials working at the polls, costs for the publication of required election notices, printing and postage costs for absentee ballots and envelopes, data entry costs for a statewide voter registration system, and other significant election costs identified by municipal clerks in previous state surveys.

AB 64 applies to special elections called by the Governor to fill a vacancy for the offices of State Senate and Assembly, statewide constitutional officers, United States Senate and House of Representatives, and district attorneys. If the special election or special primary is consolidated with a regularly scheduled statewide election, the state would only reimburse the costs directly associated with the vacancy.

The Local Government Special Election Cost Relief Act is a common sense fix, saving local government dollars while giving cost oversight to the Wisconsin Elections Commission. AB 64 is supported by the League of Wisconsin Municipalities, Wisconsin County Clerks Association, Wisconsin Counties Association, Wisconsin Towns Association, and the City of Milwaukee. Thank you again for the Public Hearing today and we ask that you join in supporting Assembly Bill 64.

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

**Assembly Committee on Campaigns and Elections**  
**April 23, 2019**

**Room 412 East, 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 two bills up for a hearing today. Assembly Bill 168 relates to the requirement for stating name and address prior to voting and Assembly Bill 64 relates to reimbursements to counties and municipalities for certain special election costs.

Regarding AB 168, the six member, bi-partisan Wisconsin Elections Commission has voted unanimously to add changes to the voter name and address requirement to its legislative agenda and has asked WEC staff to work with the legislature to pursue this change.

Regarding AB 64, the Commission is aware of the proposed legislation, but has not discussed it in any depth or taken a position on the bill, so the testimony provided will be for information only.

**Assembly Bill 168**

Wis. Stat. § 6.79(2) states that before receiving a ballot at the polling place, each voter must state his or her name and address. Periodically, we hear from voters with disabilities who are unable to verbally state their name and address.

The Americans with Disabilities Act requires governmental services to be provided to all qualified voters. Because of this requirement, WEC staff has advised voters and clerks that voters who are unable to speak their name and address due to a disability should still receive a ballot.

In practice, this means that the voter's name and address are verified and stated in another way. For example, the election inspector may announce the information on behalf of the voter. Also, another individual assisting the voter may state the voter's name and address. These alternatives accomplish the statutory goals of voters providing their name and address and permitting election observers to hear that information for each voter.

Several statutes permit voters to receive assistance during various stages of the voting process, including completing a registration application, requesting an absentee ballot, and marking a ballot. Also, Wis. Stat. § 5.36 states that individuals with a disability may notify their municipal clerk to request a specific type of accommodation at the polling place. The statutes do not specifically address assistance with the requirement to state a voter's name and address, especially without notifying the municipal clerk in advance.

The Wisconsin Elections Commission has an Accessibility Advisory Committee, comprised of organizations which work with and advocate on behalf of persons with disabilities.

Our staff discussed this issue with the Accessibility Advisory Committee at its meeting on February 27, 2019. Committee members expressed concerns with the potential that election inspectors may strictly apply the requirement for voters to state their name and address and deny a ballot to voters who are unable to verbalize that information. There is also the potential that this requirement may discourage individuals from voting in the first place.

Some members of the Committee advocated for completely removing the requirement for all voters. Our staff talked with them about transparency in the voting process and why election observers need to hear voters' names and addresses. After some discussion, the Committee adopted a motion asking the Elections Commission to request a change in the statutes to specifically address the requirement. The Committee passed the following motion:

The Accessibility Advisory Committee requests that the WEC support legislative changes to allow voters with disabilities to receive assistance from an election inspector or another individual to satisfy the statutory requirement to state the voter's name and address before receiving a ballot, and work with the Accessibility Advisory Committee and the Legislature to enact such legislation.

As I mentioned earlier, the Commission received the Accessibility Advisory Committee's motion and unanimously voted to include this issue in its legislative agenda.

### **Assembly Bill 64**

2019 Assembly Bill 64/ Senate Bill 71 would require the Elections Commission to reimburse counties and municipalities for costs of certain special elections. As I mentioned earlier, the Wisconsin Elections Commission has not discussed this proposed legislation in any depth and has not taken a position on it. The WEC has not solicited feedback from local election officials on this matter, so I am only able to provide information on this bill from the state level perspective.

In analyzing this bill and preparing a fiscal estimate, our staff looked at these questions:

- How do we determine if the categories of election costs collected between 2012-2016 correspond to the categories outlined in the bill?

- How would we know whether the costs submitted by clerks are reasonable?
- And, how much will it cost our agency to administer the program?

The question of “how much do elections cost?” is a question that legislators and members of the public have long asked. Answering that question has always been difficult, in part, because Wisconsin has the most decentralized election administration system in the United States.

Wisconsin law places most of the fiscal burden of elections on our 72 county clerks and 1,850 municipal clerks. Their financial responsibilities include printing ballots, hiring election inspectors, renting polling places if necessary, and publishing election notices. Municipalities must also plan for the purchase of electronic voting equipment, which can significantly impact local budgets. Because local taxpayers are responsible for most election administration costs, the state has historically had very little reliable information about those costs.

Absent specific statutory authority to collect election administration cost data, the G.A.B. began requiring county and municipal clerks to report actual election administration costs. They did this under the general authority to collect data for the Election Voting and Registration Statistics Report. These reports started with the 2012 recall elections and continued through the November 2016 General and Presidential Election. The reports are available on our website: <https://elections.wi.gov/publications/statistics/el-190>.

Completing election cost reports has never been a popular requirement with county and municipal clerks, and the quality of data we received from them varied greatly. In response to clerks’ concerns about the amount of time required to complete the cost reports, our staff modified the reporting process and provided clearer instructions and definitions of the cost categories in 2016.

In 2017, our staff surveyed clerks about ways to improve the cost reporting process. We recommended changing from cost reports about each election to twice-yearly reports. At its September 2017 meeting, the Commission discussed the issue at length. The two former clerks on our Commission shared their experiences with the cost reports and expressed concerns about the accuracy of the cost figures and the burden of producing them. Commissioners also expressed concerns about the burden on WEC staff to collect and review the information and the lack of a specific mandate to collect it. The Commission voted unanimously to end the requirement for clerks to report any cost data.

Here is what we learned from the unaudited data that clerks reported between 2012-2016:

- The 2012 Recall Primary (Office of Governor) cost \$6,307,911.12.
- The 2012 Recall Election (Office of Governor) cost \$7,111,830.45.
- The 2014 General Election cost \$8,045,072.57.
- The 2016 Presidential Preference and Spring Election cost \$5,556,898.04
- The 2016 Presidential and General Election cost \$7,919,164.57.

If this bill becomes law and there is a statewide special election, based on this data, the state could expect to reimburse clerks for several million dollars in costs. However, as you know, there have been very few statewide special elections. It is more likely that this legislation would come into play for special elections to fill vacancies in state Senate and Assembly seats.

If the WEC was directed to reimburse local election offices for other state level offices, such as Assembly and Senate races, we would need to collect costs specific to these election types. When preparing the fiscal estimate for this bill, WEC staff discussed the possibility of deducing the cost of a smaller election by determining a per-electoral cost to adjust for the scale of an election for a smaller jurisdiction, but several of the cost categories identified in Assembly Bill 64 have static costs that do not change depending on turnout.

According to our records, over the past two decades, there have been 29 special elections ordered for state offices, not including recall elections. This number does not include any special primaries associated with the special elections, so the total number of special elections and primaries would be higher. Three of the 29 special elections appear to have been held concurrently with regularly-scheduled elections. Several of the primaries appear to have been held concurrently with Spring Elections.

From the bill, it is not clear whether the authors intended for reimbursements to apply to recall elections. It would be helpful if clarifying language is added to ensure the Commission is not put in a position of determining the will of the legislature.

In addition to the costs to county and municipal clerks, another significant cost associated with this legislation would be the cost to the WEC to administer the reimbursements. We estimate that processing each reimbursement request, including determining the reasonableness of each request as required by the bill, would take an average of one hour of staff time per submission. For a statewide special primary or election, the effects of this bill would result in an additional, estimated cost of more than 2,000 staff hours at a median rate of \$27/hour plus fringe benefits and supplies, for a total estimated cost of \$90,000. For special primaries or elections for legislative offices, the administrative cost to process each submission would be similar. The total cost would depend on the number of jurisdictions included in the district.

Because of the additional administrative costs to the WEC, I would suggest that Section 2 of the bill specifying "A sum sufficient to reimburse counties and municipalities for certain special primary or election costs" be amended to specifically include the WEC's costs to administer the reimbursement program. This would be in line with the Legislature's recent action to amend state statutes regarding recounts. The Legislature now allows the WEC to recoup its recount-related administrative costs when the candidate requesting a recount does not qualify for a taxpayer-funded recount.

For example, in the upcoming special election in Assembly District 64 on April 30, there are two counties, Kenosha and Racine, and six municipalities, the City of Kenosha, Town of Somers, Village of Somers, City of Racine, Village of Elmwood Park, and the Village of Mount Pleasant.

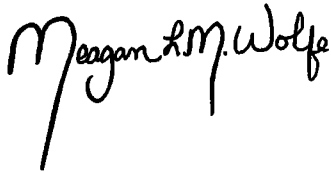
In legislative districts with less population density, the number of municipalities seeking reimbursement could increase significantly.

One of the requirements for reimbursement is that the commission “determines that the rate paid by the county or municipality for the cost does not exceed the rate customarily paid for similar costs at a primary or election that is not a special primary or election.” To make that determination, the commission would need data about the rates customarily paid for goods and services. However, these rates can vary based on several factors, including what part of the state the county is located in, whether it is urban or rural, what type of ballots and electronic voting equipment are used, and the terms of any current agreements for voting equipment programming and polling place rentals.

Studying these local election costs is not something the WEC staff has done before, and there would be a significant amount of staff time involved in determining what reasonable costs are for reimbursement purposes. As I mentioned earlier, the Wisconsin Elections Commission directed staff to stop collecting cost information from county and municipal clerks in 2017. While the bill does not specifically require the WEC to resume collecting cost data from all clerks, doing so would be one method of establishing benchmarks for reasonable costs.

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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Election Commission

**Commissioners**  
Stephanie Findley, Chair  
Carmen C. Cabrera  
Robert F. Spindell, Jr.

**Executive Director**  
Neil V. Albrecht

**April 22, 2019**

**TO: Representative Ron Tusler**  
**Chair, Committee on Campaigns and Elections**

**FROM: Neil Albrecht**  
**Executive Director, City of Milwaukee Election Commission**

The City of Milwaukee Election Commission supports **Assembly Bill 168**, relating to the requirement for stating name and address prior to voting and **Assembly Bill 64**, relating to aids to counties and municipalities for certain special election costs and making an appropriation.

We believe that Assembly Bill 168 provides an important accommodation in the voting process for persons with disabilities, and the appropriation consideration of Assembly Bill 64 is fair and consistent with the state's formula for allocating election costs.

