



Testimony of Matt Rothschild,
Executive Director, Wisconsin Democracy Campaign,
to the Senate Committee on Government Operations, Legal Review and
Consumer Protection

In opposition to Senate Bill 385

June 7, 2021

Chairman Stroebel and other distinguished members of the committee, I'm Matt Rothschild, the executive director of the Wisconsin Democracy Campaign.

Since 1995, the Wisconsin Democracy Campaign has tracked and exposed big and dark money in our politics, and we've advocated for a full range of pro-democracy reforms so that we can have a democracy where everyone has an equal voice.

One of the pro-democracy reforms that we've worked the longest and hardest on is banning gerrymandering.

And that's why I'm here today opposing SB385

But first I object to the hastiness of this hearing. It was called on Friday, the same day the bill was introduced and made publicly available. There's barely been time for the public to be made aware of this bill, much less to consider its ramifications, and that's not good for democracy.

And what was really not good for democracy was the rigging of the maps back in 2011.

On Nov. 21, 2016, a panel of federal judges ruled that the maps that the Republican-dominated legislature drew in 2011 under Act 43 were among the worst gerrymanders in modern American history and that those maps violated the First Amendment and Fourteenth Amendment rights of the plaintiffs.

On January 27, 2017, that court ordered the Legislature to redraw the maps, stating that “the people of Wisconsin already have endured several elections under an unconstitutional reapportionment scheme.” The citizens of Wisconsin, the court said, must “be spared another such event.”

That was four and a half years ago, and we’ve had one election after another where we, the citizens of Wisconsin, were not spared from having to vote under the rigged maps of 2011.

Comes now this bill, which would make us endure the consequences of these maps, at the city and county level, at least through 2022. That’s intolerable.

And it’s also likely to be unconstitutional and struck down in court. There have been large fluctuations in population since 2010. Look at Dane County. It’s grown 13.7 percent since 2010, from 489,000 to 556,000. By not redrawing districts promptly, you’ll be stranding these 67,000 new citizens. The power of their vote, and their voice, will be diluted; they will not have equal representation compared to people who are living in local districts where the population has remained stagnant.

As Rep. McGuire pointed out in the Assembly hearing on this bill, this violates the 14th Amendment equal protection clause and collides with several U.S. Supreme Court rulings starting with *Reynolds v. Sims* in 1964 requiring one person, one vote when doing redistricting.

For instance, in *Avery v. Midland County*, the U.S. Supreme Court ruled that the “application of the one man, one vote principle of *Reynolds v. Sims* to units of local government is of broad public importance. “We hold that petitioner as a resident of Midland County, has a right to a vote for the Commissioners Court of substantially equal weight to the vote of every other resident.”

By foregoing a prompt redistricting, you’ll be denying citizens the right to have their vote be of “substantially equal weight” in areas like Dane County, where the population growth has been large.

In another case, *Crumly v. Cobb County*, when the State of Georgia failed to redistrict by the end of 2012 after the last Census, a citizen sued and won because his district had not been redrawn, under the Equal Protection Clause of the Fourteenth Amendment.

So you're setting yourself up for a losing lawsuit, with Wisconsin taxpayers having to foot the bill.

Also intolerable is the provision in this bill ordering municipalities, when they are redrawing their wards, to yield to the boundaries imposed by any Congressional or legislative redistricting.

This is a huge, top-down departure from Wisconsin's tradition prior to 2011, which vested in counties and municipalities the authority to draw their own lines first.

The departure from this tradition is an offense to local control and home rule.

And it forces local governments to swallow any new gerrymandering that might come down again from on high.

Now I understand that the delay in the delivery of the Census data has created problems that require some adjusting of schedules.

But a better solution than this bill would be to shorten the time period that counties and municipalities have to draw their maps once the Census data is delivered.

Rather than giving counties until February 22, 2022, which is about six months, to adopt tentative supervisory district plans, give them 30 days. I talked to a county clerk who told me this was very doable.

Then give every municipality 30 days to adopt new ward plans.

And then give the counties 30 days to finalize their district plans.

That would take you to the end of the year, and the Legislature should then draw the legislative and Congressional maps building off these local maps.

This is a far preferable solution than forcing communities to continue to endure the consequences of the 2011 rigged maps, and it would sustain Wisconsin's tradition of honoring the maps drawn by local representative bodies and building up from there.

Thank you for considering our views, and I welcome any questions you might have.

Municipal Reporting Units (by polling location)	Registered Voters	Absentee Ballots	Regular Ballots	Total Ballots	HC	Color
V. DeForest Wds. 1, 3-6, 15 (37)	3000	3000	1200	4215	10	white
V. DeForest Wds. 2, 21 (42)	398	400	160	575	19	green
V. DeForest Wds. 14, 16-18 (79)	2	10	10	35	3	blue
V. DeForest Wds. 7-10, 12 (37)	2459	2460	990	3455	10	white
V. DeForest Wds. 11, 20 (42)	543	550	210	765	19	green
V. DeForest Wds. 13, 19, 22 (79)	15	20	10	35	3	blue
V. Mount Horeb Wds. 1-4 (80)	2433	2430	970	3415	9	white
V. Mount Horeb Wds. 5-9 (80)	2481	2480	1000	3485	9	white

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CHRISTINE M. KJORNES
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June 4, 2021

Good Morning and thank you for allowing me to address you this morning regarding the Redistricting Timeline Bill. I have a couple of comments regarding the timeline as it relates to Dodge County.

1. Dodge County has 42 municipalities, 33 County Board Supervisory Districts and 18 School Districts. As you may know, school district boundaries do not change but County Supervisory district boundaries do. It is important to draw County Supervisor boundaries carefully especially when it comes to incorporating school district boundaries. Perhaps a County Board District boundary could be moved a bit in one direction to incorporate the school boundary falling entirely into one County Board District, eliminating a ballot style. The redistricting maps need to be looked at with other district maps, and rushing the process should not be done.
2. The 42 municipalities in Dodge County will rely on the County for help and guidance during the redistricting process. Dodge County has one GIS employee rather than the three we had during the last redistricting process. Also, a majority of the municipal clerks are part time clerks. They will need the extra time to review maps and boundaries, publish notices, schedule meetings with their boards and citizen, and to adopt the plan.
3. Redistricting is a process that needs to be thought out and not rushed and that is why I encourage you to support the passage of this bill.

Thank you for your time.

Karen J. Gibson
Karen J. Gibson
Dodge County Clerk

ROCK COUNTY, WISCONSIN

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June 7, 2021

Testimony on SB 385 – Relating to: timeline for local redistricting in Wisconsin following the 2020 federal decennial census – INFORMATIONAL

Committee on Government Operations, Legal Review and Consumer Protection Chair and Members:

Chair Stroebel and Committee Members thank you for taking testimony on SB 385.

Today, I am submitting informational testimony. I do support of the idea of standardizing the timeline for redistricting. Due to circumstances beyond our control and the timeframe we are dealing with this bill provides a solution. State Statutes require counties to develop tentative county supervisory districts by July 1st. This is based on counties receiving census data by the end of March. We are not expecting census data for months and July 1st is less than three weeks away.

This bill shifts the timeline for redistricting. A timeline we currently cannot meet as required in state statutes.

In 2011 during the last redistricting, I was a town clerk. And because of how the assembly lines and state senate lines were drawn I had to create a ward for one parcel which contained two voters. I had the great pleasure of telling two of my residents their votes would not be anonymous for ten years. Luckily they did not have a problem with that. But in the politically charged environment that we live in now, I am not sure how many voters would vote, knowing that their choices would not be anonymous. If the redistricting order was switched to have the counties build supervisory districts first, municipal wards second, then the state completed their work off the municipal wards, that one parcel ward would not have been created. This bill does not tackle that issue. I think some of us were hoping a redistricting bill would.

This bill fixes a timeline. That's all it does. It ensures all 72 counties and over 1800 municipalities are working through redistricting on the same timetable.

Of course as a county clerk, I am going to look ahead at how that timeline will affect the next step. That next step is preparing ballots for the August Partisan Primary. The August ballot will have contests for four different parties and some of those races will be highly contested.

After each redistricting, we start with a clean slate to create ballots styles for the elections. In our election programming systems, we start by building the reporting units or wards as needed to report election night results as required by state statutes. A small town may be one reporting unit. If a town is split into two congressional districts, then it will have two reporting units. In cities over 35,000 in population, results are required by statute to be reported by ward. We may not receive the ward information until after May 15th. Once we have the wards we can then connect the districts to the proper wards. Let's look at the City of Janesville as an example: Their 36 wards include two congressional districts, two state senate districts and three state assembly districts. Until I have the wards, I cannot create ballots.

The current deadline for municipal clerks to mail absentee ballots for the August Primary is June 23rd. This gives county clerks approximately a month to prepare, test and print ballots for our municipal clerks to meet their mailing deadline. If you look back to 2011 redistricting, we had 3-½ months to start prepping for ballots for the 2012 Spring Primary.

Then consider that there are 15 new county clerks and a large number of new municipal clerks throughout the state. We want our voters to receive the correct ballots, so they are voting for the candidates that will represent them. A few extra weeks would be greatly appreciated. This can be accomplished in a couple of ways: **1)** Shift the timeline back to earlier dates or **2)** Change the deadline for mailing absentee ballots from 47 days to 21 days prior to an election. This change has already had a public hearing as part of SB 214. Shifting that portion to this bill would give us the extra time needed.

We need a bill that fixes a timeline we cannot meet and allows us enough time to prepare accurate ballots.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'L. Tollefson', with a long horizontal flourish extending to the right.

Lisa Tollefson
Rock County Clerk

2021 ASSEMBLY BILL 369 / SENATE BILL 385

June 7, 2021

The Wisconsin Counties Association, League of Wisconsin Municipalities, and Wisconsin Towns Association have requested relief from the current statutory local redistricting deadlines given the federal government's delay in the release of U.S. Census data. Under current law, the local (and nonpartisan) redistricting process would need to be complete by mid-November so as to allow for publication of notices relating to the nomination process for local offices in the Spring primary and general elections in 2022. The local redistricting process typically takes approximately 180 days. Information surrounding the county process for redistricting is contained in the *County Decennial Redistricting Handbook*, a copy of which can be found at <https://files.constantcontact.com/77ea05ac001/9ce2c80f-31da-4424-b016-2f61bcc0c7f4.pdf>.

Assembly Bill 369 (AB 369) / Senate Bill 385 (SB 385) would provide counties, cities, villages, and towns with the time necessary to conduct local redistricting. The Bill replicates the local redistricting process in current law, but provides additional time in which to complete the redistricting process so as to account for the delay in release of U.S. Census data.

The practical impact of AB 369/SB 385 is to delay the effective date of the new county supervisory district lines, city aldermanic district lines, and municipal ward lines for purposes of local elections to the elections first following a county's adoption of a final plan. For cities, villages, and towns, this means the first time an individual could run for office under the new plan is the Spring of 2023 and, for counties, the first election under the new plan is the Spring of 2024. The elections in the Spring of 2022 would continue as planned, but candidates will run based upon existing district and ward boundaries.

There has unfortunately been a great deal of misinformation disseminated regarding AB 369/SB 385. Our purpose here is to dispel certain myths we have heard so legislators can make an informed decision regarding AB 369/SB 385, which our associations and members believe is necessary to ensure local redistricting can proceed.

Myth: *AB 369/SB 385 is a partisan effort to delay local redistricting to allow Republicans to draw partisan maps.*

FACT: **The Bill impacts only the local redistricting process, which is and always has been nonpartisan. Section 5.15(4)(a) of the Wisconsin Statutes already requires municipalities to redraw ward lines in the event the legislative redistricting process splits wards (See Secs. (1)(b)2. and 3. of the Bill). While we would appreciate a statutory requirement forcing the legislative plan to comply with the local plan, such a requirement would deviate from current law and we cannot reasonably expect such a change to occur in nonstatutory language such as that contemplated in the Bill.**

Myth: *If the U.S. Census data is received by the end of August, there is still plenty of time for counties and municipalities to complete redistricting.*

FACT: This particular myth reveals a complete lack of understanding surrounding the county and municipal redistricting process. GIS and technology professionals are capable of drawing district and ward lines in a short amount of time. But those professionals are not responsible for adopting the maps nor does the public have access to that professional process in order to provide input surrounding the new boundaries. The law requires at least two (2) public hearings on the new maps – one for the tentative county plan (before new municipal ward lines are drawn) and one after. Each of the public hearings must be preceded by, in most cases, three (3) weeks’ notice of the hearing. Most counties create redistricting committees to evaluate the data, maps, and information received from the professionals and prepare the proposed maps for presentation at the public hearing. All of a committee’s work is, of course, open to the public. In other words, the redistricting process is a deliberate and transparent process. Our associations and members do not want our history and tradition of deliberate and transparent local redistricting to give way to haste in having maps quickly re-drawn and adopted.

While some of our members believe the process could be completed in the severely compressed timeframe, the overwhelming majority of our members favor delay. In fact, many of our members indicated it would be impossible to complete redistricting in the compressed timeframe starting with the release of U.S. Census data in August of 2021.

Myth: Delaying the effective date of the local maps would mean current incumbents stay in office for an extra year or two.

FACT: The election process and cycle are not affected by AB 369/SB 385. Municipal and county supervisor elections would still occur in the Spring of 2022. However, the elections would be held based upon existing district and ward maps. Incumbents do NOT automatically carry-over for an additional term in office.

Myth: County and municipal clerks would face double or perhaps triple the work in implementing the new maps under AB 369/SB 385.

FACT: Under AB 369/SB 385, the new maps are complete by July of 2022. At that point, the clerks can complete all of their work for the Fall election cycle in 2022 and every election thereafter. We have consulted with numerous clerks regarding the technical aspects surrounding implementation of AB 369/SB 385 and it is our understanding the Bill will not produce any more work for clerks than is normally required in the redistricting process.

Myth: It would be easier to simply delay the Spring of 2022 elections to a date later in 2022 to allow the new maps to take effect.

FACT: We have reviewed this option and determined a delay in the election process would be more disruptive, and cause greater confusion, than having candidates run for

office in the Spring of 2022 based upon existing maps. First, all terms of office for individuals elected to office on the delayed election date would need to be changed – the terms are established at two years by statute. Next, from a county perspective, the organizational meeting occurring on the third Tuesday of April in each even-numbered year pursuant to Wis. Stat. § 59.11(1)(c), at which time leadership is elected, committees are appointed and the two-year calendar is set, would need to be adjourned. Finally, depending upon timing, the election may occur in the middle of the local budgeting process – a time when continuity and stability is critical to establishing a workable budget.

Although delaying the Spring of 2022 election, and modifying all of the statutes impacted by such a delay, is an option, it is far less pragmatic than the solution in AB 369/SB 385 and creates unnecessary issues and uncertainties.

Our associations have been aware of the potential for delay in the release of U.S. Census data and have been reviewing options for resolving the issues caused by the delay for many months. Neither counties, municipalities, nor towns created this problem. The federal government did. On behalf of our members, we respectfully ask for your support of AB 369/SB 385 in implementing a one-time, nonstatutory fix to the problem.



MEMORANDUM

TO: Honorable Members of the Senate Committee on Government Operations,
Legal Review and Consumer Protection

FROM: Marcie Rainbolt, Government Affairs Associate

DATE: June 7, 2021

SUBJECT: Support Senate Bill 385: Timeline for local redistricting

The U.S. Census Bureau (the “Bureau”) completed the 2020 census yet delayed the publication of the data due to the COVID-19 pandemic. Normally, data from the Bureau is received no later than March 31 in the year following the census however, this year the Bureau has moved the data release date several times, even to as late as the end of September. With the data still not received, Wisconsin counties will not be able to meet the statutory requirement to adopt a tentative county supervisory district plan no later than July 1.

Due to the delay by the Bureau, a solution is required to aid counties and municipalities in their ability to complete local redistricting in a manner that is transparent to the public, completed judiciously, and in a timeframe that actual works. Senate Bill (SB) 385 will grant counties and municipalities the ability to accomplish these goals.

SB 385 will adjust the timeline for local redistricting and allow counties to adopt a tentative plan for county supervisory districts by February 22, 2022. This means, that for the spring election of 2022, county supervisors will run in the current supervisory districts. Municipalities will then have until May 15, 2022 to adopt new wards. Finally, the counties will have 60 days after to finalize their supervisory districts following the work of the municipalities.

Due to the delay in the ability of counties and municipalities to redistrict until 2022, the supervisory and ward maps effectiveness will also be delayed. New county supervisory district maps will not be in effect until the spring primary and election of 2024. The new municipal wards will also not be in effect until the spring primary and election of 2023. This is crucial because we cannot elect new supervisors in 2022 and then redistrict them out of their newly elected positions with new maps mid-term.

SB 385 Testimony

Page 2

June 7, 2021

SB 385 is supported by the Wisconsin Counties Association, the League of Wisconsin Municipalities, and the Wisconsin Towns Association.

The Wisconsin Counties Association, on behalf of its county members, respectfully requests your support of SB 385.



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To: Senate Committee on Government Operations, Legal Review and Consumer Protection
From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities
Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities
Date: June 7, 2021
Re: SB 385, Timeline for Local Redistricting following the 2020 federal census

The League of Wisconsin Municipalities supports SB 385, adjusting the statutory deadlines by which counties and municipalities must accomplish various steps in the local redistricting process following the 2020 federal decennial census. The bill is necessary because of delays in the census process resulting from the COVID-19 pandemic. It is anticipated that Wisconsin will not receive census data based on the 2020 federal decennial census until as late as the end of September 2021. Ordinarily, the U.S. Census Bureau must deliver census data to the states no later than March 31, 2021.

While larger communities with adequate staff and resources may be able to complete the local redistricting process in a compressed time frame if the census data were received in August, many smaller communities may be hard pressed to do so. Also, a reduced time frame will make it difficult for communities of any size to allow for public input and feedback.

Since it is not certain when the state will receive the 2020 census data, it makes the most sense to adjust the deadlines for this cycle of local redistricting and provide local governments with certainty as to when the process must be completed.

We urge the committee to recommend passage of SB 385 as soon as possible. Thanks for considering our comments.