



DAVE MAXEY

STATE REPRESENTATIVE • 15TH ASSEMBLY DISTRICT

Chairman Krug and committee members -

Thanks for allowing me to talk today about AB892, a bill to bring Wisconsin into compliance with the Electoral Count Reform Act, also known as the ECRA.

The ECRA was a bipartisan piece of legislation that was passed by Congress and signed into law in 2022. This was the first significant change to the Electoral Count Act of 1887. According to the National Conference of State Legislators (NCSL), the "ECRA requires a state executive (usually the governor) of each state to send forward its slate of electors. However, it allows states to designate another official, such as the secretary of state, to fill this role before the election. It also requires states' certificates of ascertainment (the official document identifying the slate of electors) to have some kind of security feature. Finally, electors must meet the first Tuesday after the second Wednesday in December."

To comply with the ECRA, Wisconsin must update our laws and procedures that govern the process after the Presidential election. This bill updates Wisconsin's dates and deadlines to ensure Wisconsin can complete the certification process, including any challenges to the results, in a timeframe that will align with the ECRA's requirements.

Again, we'd like to thank Chairman Krug and the committee members for bringing this bill to a hearing, and I'm happy to answer any questions you may have.



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To: The Assembly Committee on Campaigns and Elections
From: Sen. Dan Feyen
Re: Assembly Bill 892

Hello members of the committee, thank you for taking the time to hear testimony on AB 892.

AB 892 is a relatively simple bill that will bring the timelines of Wisconsin's presidential elections in line with Federal standards.

In 2022 the federal government passed the Electoral Count Reform Act (ECRA), which seeks to streamline the process for how electoral votes get from the states to the Electoral College. The ECRA requires each state executive to issue a certificate of ascertainment at least six days before the Electoral College meets.

In order for Wisconsin to meet this new deadline, certain changes must be made to bring us into compliance. To ensure any and all challenges to the results of an election are heard and decided in a timely manner, Wisconsin must change the dates and deadlines surrounding canvassing, recounts, and court challenges.

Here is a summary of the bill's changes:

- Moves the deadline for the governor to deliver his signed certificates of elections results to the state's presidential electors from the first Monday after the second Wednesday in December to the first Tuesday after the second Wednesday in December.
- Moves the meeting of the presidential and vice presidential electors from the first Monday after the second Wednesday to the first Tuesday after the second Wednesday.
- Shortens the timeline on the canvass of election results from 10 days to one day.
- Shortens the commencing of a recount by requiring the Elections Commission to order the recount electronically, instead of through certified mail. It also requires the elections commission to make the order on the same day the Commission receives the petition and requires the board of canvassers to begin the recount no later than 9 am on the second day after receiving the order.
- Shortens the timeline for transmitting the results of a recount back to the commission from 13 days to 10 days.
- Requires any appeal of a recount to be submitted to the Circuit Court within 2 days instead of 5 and then requires the Circuit Court to make it's ruling within 2 days instead of as soon as possible.



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- Shortens the time to appeal a Circuit Court decision to the Appeals Court from 30 days to 2 days and gives the Appeals Court 2 days to render a decision

We are happy to hear feedback from both Committee members and the Wisconsin Elections Committee on this bill. Thank you again for holding this hearing and I am happy to answer any questions.

AB 892 Testimony

January 9, 2024

Thank you Chair Krug, and good morning, members. My name is Edgar Lin, and I am Protect Democracy's Wisconsin policy strategist & counsel. The central focus of my work is on policies and legislation that can strengthen elections in our state.

I want to thank Rep. Maxey for inviting Protect Democracy to discuss this important bill and to provide our feedback and analysis to AB 892. We appreciate the work of this committee and are encouraged by your efforts to ensure that election procedures work smoothly and comply with the new federal law with respect to elections for president and vice president.

Summary of ECRA/Need for WI alignment

The Electoral Count Act (ECA), as updated by the Electoral Count Reform Act of 2022 (ECRA), provides the primary legal framework for casting and counting Electoral College votes in presidential elections. While most of the ECRA's changes affect the process by which Congress must count each state's electoral votes, the law also makes some changes to the requirements for a state to certify its election results to Congress. In particular, the new law replaces the former "safe harbor" deadline for state certification with a firm deadline. To meet the new federal deadline, which is the second Wednesday of December (December 11, 2024), states must ensure that their canvass, recount, and any pre-certification audit procedures are completed in the 36-day window between Election Day (November 5, 2024) and the new certification deadline. The federal law also updates the technical requirements for the official certification of results for the presidential and vice presidential elections and the date for electors to meet. The National Conference of State Legislatures has highlighted ECRA alignment as an emerging policy priority along with resources on state activities.

Wisconsin should update its laws to align with the new dates specified for the certification of election results and the meeting of presidential electors – both of which have shifted one day from current law – as well as to meet the technical requirements for the certification. In addition, under current Wisconsin state law there is a potential that post-election procedures in the presidential race – particularly any recount litigation – could extend beyond the December 11 federal certification deadline. To comply with the new federal certification deadline, Wisconsin should tighten the timeline for such procedures to ensure completion within the time provided by the ECRA. A number of states such as North Dakota, Indiana, Colorado, Michigan, Kansas, Nevada, and others have taken steps to ensure their timeline and procedures align with ECRA's new requirements.

Legislation

This legislation makes those needed adjustments.

First, it would change two key deadlines in state law to align with the federal statute. Specifically, the deadline for the governor to sign and officially transmit the certificate of election results would shift one day later to 36 days after the election or no later than six days before the date the electors meet – December 11 in 2024. The date for electors to meet in the state capitol would also move one day later to the first Tuesday after the second Wednesday, or December 17 in 2024.

Second, the bill makes small logistical adjustments to the required certificate, specifying that it be mailed to the archivist of the United States by the quickest and most secure means and that it be countersigned promptly by the Secretary of State.

Then, the bill makes a series of adjustments to help facilitate the timely processing of election results and any post-election procedures to help ensure they can be completed within the timeframe laid out by the federal law. Specifically, the law would set clearer, shorter deadlines for the state canvass of election results. It would also expedite the timeline to begin and conduct a requested recount, including any appeal of the results.

We support this excellent bill and look forward to working with the legislature and interested parties to move it towards passage to ensure effective implementation of the bipartisan Electoral Count Reform Act.

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