Van H. Wanggaard
Wisconsin State Senator

November 8, 2023

Testimony on Senate Bill 490

Thank you Chairman Knodl and committee members for hearing Senate Bill 490 (SB 490) today. SB 490 closes a loophole in state law that allows for a person to be a candidate of a political party, and as a write-in candidate, for the same office in the same election.

Our election process in Wisconsin is rather simple. Individuals must register themselves to be candidates of a political party or principle, or as a write-in candidate. If there are multiple candidates of the same political party for the same office, a partisan primary takes place. This ensures that each political party is represented by just one candidate for each office.

Current law also prohibits a person from filing nomination papers as a candidate of political party and as an independent. This seems like common sense - require a candidate to choose if they are representative of a political party or if they are independent of a political party. You can't be both.

However, there is a loophole in the law that allows a candidate that registered as a candidate of a political party and lost in that party's primary election, to then register as an official write-in candidate.

What this means is, someone can file to run as a candidate of a political party and if they lose in that party's primary say, "just kidding," and re-register as a candidate for the same office with whatever affiliation they like. Senate Bill 490 prohibits that.

Many states have similar prohibitions including California, whose law was challenged and upheld by the U.S. Supreme Court. In that case, the Court held that "[a general election] is not a forum for continuing intra-party fueds." *Storer v. Brown*, 415 U.S. 724 (1974).

The spirit of our law is easy to understand. The primary election system is specifically designed so that each political party is represented by one candidate at the general election. And, no one person should be able to run as both a candidate of a political party, and as an independent or write-in candidate. Senate Bill 490 is a common sense proposal that ensures the intent of the current law is followed.

Thank you for your consideration of Senate Bill 490. I encourage you to support its passage.

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E-Mail: Sen.Wanggaard@legis.wi.gov • SenatorWanggaard.com

JOHN J. MACCO
STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

To: Senate Committee on Shared Revenue, Elections, & Consumer Protection

From: Representative John Macco

Date: Wednesday, November 8th 2023

In Favor of SB 490

Chairman Knodl and members of the Senate Committee on Shared Revenue, Elections & Consumer Protection,

Thank you for hearing testimony on SB 490.

Republicans and Democrats both face the intense battleground of a primary election. The primary is the race to determine which candidate will be the nominee for their stated party. Each primary candidate has garnered nomination signatures from their supporters in which they clearly pledge to be running for a specific race under the platform of a specific party. Once those signatures are gathered the candidate then files those papers with the election commission again attesting to their intent to run and to be granted access to the ballot under that specific party. Party resources in time, volunteers and money are invested in the candidate on behalf of that declared party.

In recent years, Wisconsin primaries have proven to be often times more arduous than the general election itself. The victorious candidate, and constituency, emerges from the primary bruised but relieved to have their party candidate chosen and ready to shift focus to the general election pitting their party's nominee against the rival party's final nominee.

A disgruntled primary loser already is prohibited from switching to another party under current law. For example, a Democratic Party primary loser, cannot switch to say the Green Party and continue to run under that party affiliation. Nor does it allow an independent write-in to then switch to say the Democratic Party for the general. Once you've stated your affiliation, attested to it, gathered nomination signatures declaring your affiliation and intention you must run as such.

However, a loophole in our current election law does allow a defeated primary candidate of any party to change his/her designation by abandoning their stated party affiliation and jumping over to register as a write-in candidate.

P.O. Box 8953 • Madison, WI 53708 • (608) 266-0485 • Toll-Free: (888) 534-0088
RepJohnMacco.com • Rep.Macco@legis.wi.gov

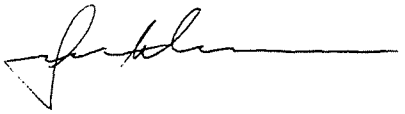
This loophole undermines the democratic primary process and the choices made by our voters. For a primary loser to switch party affiliation is to disregard those who nominated the candidate in the first place. The signers have a right to expect they are affixing their name, not just to an individual but to an idea and a process. I sign my name to nominate not just to the individual running, but also to the party and philosophy the candidate stated to support. If I personally signed for an avowed candidate only to have them then change affiliations mid-stream, that would make me feel deceived.

A non-declared party candidate is not the same as a declared party candidate. This bill does not change the law for non-declared candidates or prohibit any undeclared person from throwing their hat into the ring as a write-in, up to a week before the general election. But once a candidate declares affiliation to a party and to the primary process, under this bill they would be unable to then register, after a primary loss, as a write-in candidate. Voters are already frustrated, confused and distrustful of the current state of our elections. To have a sore loser continue the bitterness and in-fighting after they have lost their party's nomination is poor sportsmanship, immature and further alienates the voting public. The privilege of being a political candidate here in the great state of Wisconsin, carries with it the stewardship responsibility of the Wisconsin ideals of fairness, integrity and honor.

SB 490 would move Wisconsin forward and join many other states who have enacted similar bans including Illinois, Texas, Arkansas, Colorado, Nebraska, Arizona, and Ohio. A candidate should make a choice to run as a write-in candidate and it should not be allowed as a back-up plan for an unsuccessful bid for a party nomination. As the U.S. Supreme Court held in Storer v. Brown, 415 U.S. 724 (1974), "The State's general policy is to have contending forces within the party employ the primary campaign and primary election to finally settle their differences. The general election ballot is reserved for major struggles; it is not a forum for continuing intra-party feuds ... The people, it is hoped, are presented with understandable choices and the winner in the general election with sufficient support to govern effectively."

Wisconsin already prohibits candidates from running in two or more primaries simultaneously, or running under a political party and independent at the same time. I ask that you join us and close this loophole by passing SB 490.

Thank you for your consideration.



John J. Macco
88th Assembly District