



Alberta Darling

Wisconsin State Senator | District 8

Testimony before the Senate Committee on Elections, Election Process Reform and Ethics Senate Bill 210

Thursday, April 8, 2021
417 North

Chairwoman Bernier and committee members,

According to a February 2020 Gallup poll, 59% of Americans say they are not confident in the honesty of U.S. elections.

In March of this year, a Rasmussen poll showed 77% of voters believe it is important to reform voting laws and procedures before the midterm elections in 2022. That view is shared by 83% of Republicans, 77% of Democrats, and 71% of independent voters.

It is clear there is distrust in our electoral process and that needs to change. Some of that distrust played out during the recount last year.

According to testimony from recount observers, there seemed to be two sets of rules for the recount. In Madison, observers were treated with respect, and the recount went smoothly. In Milwaukee, observers were accused of interfering and there were clear examples of disrespect toward observers.

Having the same rules will help set expectations and build respect on all sides for the next recount in our purple state.

Senate Bill 210 makes it clear that the public has the right to observe all parts of the election process. It also makes it clear that observers can't obstruct election officials.

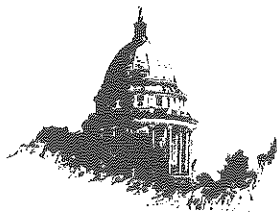
The bill requires observers to wear a name tag with their name and who they are representing. They may not wear any campaign material advocating for a candidate or position in question on a ballot.

Observers may not interfere with a voter or an election official. If they do, the observer may be expelled. If they do it multiple times, the observer may be charged with disorderly conduct.

Finally, to make sure observers can witness the process, they must be no more than three feet away. During the recount in Milwaukee, many observers had a difficult time seeing the ballots, whether it was properly marked, and properly stamped.

Representative Tittl and I will be offering an amendment that will keep the three-foot limit for recounts only, clarify that name tags are not campaign apparel, and protect the rights of observers.

Thank you.



PAUL TITTL

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

Senate Committee on Elections, Election Process Reform and Ethics
Senate Bill 210
April 8, 2021

First of all, I would like to thank you, Chairman Bernier and the committee members for allowing me to testify before you concerning Senate Bill 210 related to election observers. We will be introducing an amendment

This bill provides election observers uniform and nondiscriminatory access to all stages of the election process, including recounts.

It changes the distance of observation areas specifically for recounts to no more than three feet from the ballots, applications, and other election-related materials. Three feet or closer is a distance the average person can reasonably see that a ballot has the proper markings, such as a clerk stamp, witness signature, and address.

This change would reassure voters from both parties there is full transparency during recounts.

It is clear that eight or more feet is quite far even with perfect vision. Election observers testifying during the legislative hearings following the November election indicated they were not close enough to the ballots to see the proper required markings.

SB 210 establishes uniform standards for observers. The 2020 recount in Milwaukee and Madison had two different sets of standards or procedures. The uniform standards would give voters throughout the state greater assurance that our elections are uniformly run particularly with respect to observers.

In addition, the bill would provide a penalty to officials who violate this prohibition subject to a forfeiture not to exceed \$500 per occurrence.

In conclusion, SB 210 would ensure future recounts will provide both parties the opportunity to observe in a fair and productive manner. Also, there is an amendment that will be introduced soon that will reflect the changes my testimony explains.

Thanks again for hearing this bill. If you have any questions for Senator Darling or me, we would be happy to discuss them with you.

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Election Commission

Stephanie Findley, Chair
Carmen C. Cabrera
Jess Ripp

Executive Director
Claire Woodall-Vogg

City of Milwaukee Testimony on SB 210

April 8, 2021

Senate Committee on Elections, Election Process Reform and Ethics

Thank you to Senator Bernier and to the committee members for the opportunity to provide testimony on SB 210, relating to election observers and providing a penalty.

The City of Milwaukee opposes SB 210, a bill that would change Wisconsin's election observer rules.

SB 210 redefines the proximity with which an observer can be placed with regard to voters and confidential documents. Currently, observers may be positioned by the Chief Inspector at not less than three (3) feet and not more than eight (8) feet from election activity. I believe that great consideration was given in the determination of this range as it represents a balance of transparent elections with maintaining the confidential aspects of same day registration.

Under SB 210, the range would be changed to not less than three (3) feet.

Please consider the following:

- The maximum distance in this new bill is not less than three (3) feet, setting an expectation for observers to have a seat at the table for all election processes. While this is entirely appropriate during a process such as a recount, it creates an undue burden on poll workers and unnecessary intimidation of voters in a polling place where a table is surrounded by observers.
- The confidentiality of information and documents presented by a person registering to vote should be a paramount concern when considering the proximity of the public to a voter registration table. Three feet is slightly over an arm's length away. Breaches in confidentiality are a certainty.
- Many voters, particularly voters producing confidential documents with information such as bank account numbers, drivers license numbers, dates of birth, etc., will be intimidated by observers that are sitting or standing at such close proximity to voting or registration activity.
- While the tasks performed by election workers must be transparent, election workers should also be allowed to perform their duties in an environment that is conducive to concentration, the exchange of information with each other, and establishing a certain level of trust with voters, particularly those registering. Allowing a person to sit three feet or closer compromises these standards and has the potential to create a very stressful environment for individuals that are demonstrating a great spirit of civic responsibility by serving as election workers.





City of Madison

Mayor Satya Rhodes-Conway
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Phone: (608) 266-4611 | Fax: (608) 267-8671

To: Senate Committee on Elections, Election Process Reform and Ethics

From: Mary Bottari, mbottari@cityofmadison.com

Date: April 8, 2021

Re: Senate Bills 207, 210, 213

I am writing on behalf of the City of Madison to raise concerns about the following bills, SB 207, SB 210 and SB 213. These are the first of many bills that will be taken up by the legislature addressing false claims of irregularities in the November 2020 election, claims that were not supported by any state or federal court, including the U.S. Supreme Court.

In the middle of the worst pandemic in modern American history, the Wisconsin State Legislature failed to take any action to aid localities charged with administering elections. Poll workers, with common sense safety concerns, quit by the thousands, and hundreds of polling places needed to be moved to keep residents safe. The state legislature failed to provide extra funding for additional staff needed to deal with these issues and the influx of absentee ballots. The legislature further failed to provide additional postage, PPE, plexiglass barriers, hand sanitizer, drop boxes or any of the provisions needed to keep voters and poll workers safe.

In the absence of legislative action, the City of Madison and over 200 other cities, towns and villages -- including Waukesha and Brookfield -- sought grant funding from a respected non-profit organization to help keep our voters and poll workers safe and to facilitate increased absentee voting. The Center for Tech and Civic Life has a list of these communities on its website. SB 207 would make it a Class I felony for any elections official to accept grant funding. The legislature instead should be appropriating funds to help localities prepare for the next election and allow municipalities to process increases in absentee voting, which are likely to become a permanent feature of Wisconsin elections.

SB 210: This bill would allow election observers to stand 3 feet from the registration and voting tables instead of 3 – 8 feet under current law. This solution in search of a problem. Wisconsin and other states have had problems with over-zealous observers packing into polls, creating disruptions and intimidating voters. Current Wisconsin

April 8, 2021

Page 2

law allows election officials to create an appropriate distance based on room and crowd size.

During Madison's 2020 presidential recount, all election observers had close access to ballot processing in the large room secured by the County at the Monona Terrace. The County also secured hanging cameras so any overflow could be accommodated. However, in smaller localities with smaller rooms, three feet of distance may not be attainable and some flexibility is warranted. On a practical level, requiring election inspectors to work with observers stationed 3 feet away is simply onerous and risks interference with, and distractions in, administering the election as well as risking exposure of confidential information that may be requested for registration. For these reasons, flexibility will continue to be needed.

SB 213 would eliminate the requirement that a person wishing to challenge the decision or action of an election official use the WEC's administrative complaint process, opening the door to a flood of frivolous lawsuits by citizen complainants unfamiliar with the law. The WEC's administrative process offers complainants a means of resolving complaints in an expedited manner using the expertise of elections professionals charged with administering elections and training local clerks. Both bring a valuable statewide perspective and consistency to the process.

Moreover, there is ample opportunity for interested and involved parties to bring court actions. During the November 2020 election, the City of Madison was subject to half a dozen unsuccessful lawsuits by attorneys, many from out of state, who were unfamiliar with Wisconsin election law, thereby demonstrating robust access to the courts by concerned parties.

Lastly, since there was no sustained evidence of wrongdoing on the part of election officials, we object to the series of new felony charges contained in these bills applying to Wisconsin's respected clerks and election officials. They are among the heroes of this pandemic, who worked tremendous hours to protect our democracy and voting rights in a time of crisis in a nonpartisan and professional manner.

Thank you for your consideration of our comments.

ROCK COUNTY, WISCONSIN

Office of the Rock County Clerk
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Lisa Tollefson, Rock County Clerk



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April 8, 2021

Committee on Elections, Election Process Reform and Ethics Chair and Members:

RE: Senate Bill 210

Senate Bill 210 – Relating to: election observers and providing a penalty - Against

- Anyone who pulls out a tape measure can see that this bill will lead to voter intimidation. The current law states the observer can be between 3 feet and 8 feet from the location where the voter states their name and address or registers to vote. The change in the bill states the observer must be no more than 3 feet from these locations. There is no limit as to how close the observer can be to those locations. They could be sitting elbow to elbow with the poll worker and the voter may perceive the observer as being an election official. Add in the requirement that the observer must wear a tag with their name and the name of their organization.

Imagine you are at the polls and an observer is sitting next to the poll worker with their name tag listing a political party opposite of yours. Will this look like that party is now in control of running the election?

Imagine you are registering to vote and an observer is sitting next to the poll worker at the registration table reviewing your bank statement with your credit card account number on it. Poll workers take an oath of office. Observers do not.

When I first read this bill, a cartoon came mind. There are five observers all standing hunched over a poll worker trying to fit within a 3 foot radius as a leery voter steps back from the table.

I believe in transparency in our elections, but I do not believe voter intimidation should be a part it.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Lisa Tollefson", written in a cursive style.

Lisa Tollefson
Rock County Clerk

From: Kate Houston <kate.who@charter.net>
Sent: Wednesday, April 7, 2021 4:25 PM
To: Sen. Bernier <Sen.Bernier@legis.wisconsin.gov>
Subject: comment for Public Hearing(s) for SB207, SB208, SB210 + SB213

To whom it may concern:

After having read the proposed bills (and the LRB's Analysis for each bill), I'd like to present the following comments for the Public Hearing(s) for **SB207, SB208, SB210 + SB213**. Please note that I was an Ephraim election official for about a decade, from 2004-5 to 2014, and a Chief Inspector for the last 4-5 years of that time, so I have some experience with the conducting of Wisconsin elections, albeit it in a very small village with less than 300 registered voters.

1. **S.B.207** re: private funding of election administration, etc. Actually, I don't oppose **S.B.207**. I don't trust any outside attempts to "assist" the administration of our elections. Instead, the legislature should budget adequate financial support for proper and thorough training of any and all people who are involved in the conduct of elections and for the equipment (optical scanner voting machines, voting booths, etc) that are required.
2. **S.B.208** re: timely publication of WEC minutes. This seems like a reasonable proposal if it's possible to generate the minutes so quickly, especially if the WEC meeting is a long one, and/or goes late into the night. There's no way I could produce minutes that fast!
3. **S.B.210** re: election observers. I most definitely support the option to observe an election, during the voting process and especially after the polls are closed. Watching a poll closing process was the reason I volunteered to become an election worker in the first place. I'd had no idea what actually happens after 8 pm on election day, so wanted to observe the process (and to learn the results as soon as they were in). I also support the signing-in of any election observers; I had to do it during a statewide recount several years ago. It made sense then and does so today.

What I don't support is the reduction of the distance any observers must maintain from the election workers. "Not more than three feet..." is simply too close! Conducting the closing of an election is stressful enough when there are NO observers, because everyone wants to get the paperwork right, wants the machine's ballot count to match the hand count, wants all the extra details covered accurately and as quickly as possible. (Thank heavens the results are no longer sent to the County via dial-up modem!) Having any observers hovering no more than 3 feet away, especially ones who challenge EVERYTHING, is a terrible idea and would NOT make the elections more secure. Furthermore, this language from the LRB's Analysis seems erroneous [emphasis is mine —kh]: "...the bill expands the observation area required under current law so that it is not more than three feet from the table where voters announce their name and address and not more than three feet from the table where individuals are registered to vote." That's not an expansion of the current prescribed observation area [between 3' and 8' from tables], it's a major reduction, to 3' or less! That's too close!

Keep the original text; restore the stricken text below and delete the underlined text below:

Section 1. 7.41 (2) of the statutes is amended to read:

2 7.41 (2) ... The observation areas shall be not less more than 3 feet from ~~nor more than 8 feet~~ from the table at which electors announce their name and address to be issued a voter number at the polling place, office, or alternate site and not less more than 3 feet from ~~nor more than 8 feet from~~ the table at which a person may register to vote at the polling place, office, or alternate site.

To summarize: Allow election observers, **YES**. Maximum distance between observers and election officials = 3 feet, **NO!** Three feet should be the **MINIMUM** distance between observers and election workers. I'd extend that minimum distance between observer(s) and election officials to not closer than four feet.

4. **S.B.213**, re: actions for violations of election laws. This is a HORRIBLE bill! It must have been proposed by desperate attorneys who need fees! And motel owners who'll collect revenue from changes of venue! (This part — change of venue — doesn't bother me...) Furthermore, to allow any person who objects to any action of any election official to "commence an action or proceeding to test the validity of any decision, action, or failure to act on the part of any election official without first filing a complaint" is beyond absurd! No, no, NO, do not pass **S.B.213**. Not now, not ever!

Keep the current law intact; restore the stricken text below and delete the underlined text below:

Section 1. 5.06 (2) of the statutes is amended to read:

5.06 (2) ~~No~~ Any person who is authorized to file a complaint under sub. (1) ~~other than the attorney general or a district attorney,~~ may commence an action or

proceeding to test the validity of any decision, action or failure to act on the part of any election official with respect to any matter specified in sub. (1) without first filing a complaint under sub. (1), ~~nor prior to disposition of the complaint by the commission. A complaint is deemed disposed of if the commission fails to transmit an acknowledgment of receipt of the complaint within 5 business days from the date of its receipt or if the commission concludes its investigation without a formal decision.~~

Throw proposed **S.B.213** in the nearest waste basket! It doesn't belong anywhere else.

Finally, while reviewing my election official's training materials, I found this excerpt that I'd saved from the Wisconsin Constitution, Art. III, Section 1:

"... The Wisconsin Constitution vests and warrants the right **[to vote —kh]** at the time of election. Every one having the constitutional qualifications then, may go to the polls, vested with this franchise, of which no statutory condition precedent can deprive him, because the constitution makes him, by force of his present qualifications, a qualified voter at such election."
The Right to Vote - *Wood v. Baker*, 38 Wis.71: (August 1875)

That excerpt sums up my thoughts nicely. Please enter my comments in the public record.

Most sincerely,

Kate Houston
PO Box 495
Ephraim, WI 54211
(920) 854-9484



**Wisconsin
Conservation
Voters**

Testimony on SB 207 & SB 210

Anjali Bhasin, Civic Engagement Director

April 8, 2021

Good morning. Thank you Chairwoman Bernier and members of the committee for allowing me to testify today. My name is Anjali Bhasin. I am the Civic Engagement Director for Wisconsin Conservation Voters. We have offices in Madison, Milwaukee, Eau Claire, and Green Bay, where we work with our network of over 40,000 members and supporters to engage voters to protect our environment. We work in close partnership with many democracy groups around the state.

As an American, few things are more important than right to vote and ensuring all people, regardless of their race, gender, or zip code, have the opportunity to vote. It is fundamental that Wisconsinites should have opportunity to make their voices heard and be able to participate in elections.

Unfortunately, SB 207 and SB 210 create barriers for voters. We urge you to oppose Senate Bill 207 and SB 210.

SB 207

We are concerned about the impact of Senate Bill 207 on municipal clerk's ability to administer their elections and particularly about the restrictions on poll worker recruitment. As we have seen over the course of the last year, poll workers are essential to the operation of polling places and making voting accessible. Without poll workers, citizens often face a reduction on polling locations and long lines. Additionally, according the Brennan Center for Justice longer wait times at the polls often disproportionately impact Black and brown communities.

We are also concerned about the undue burden that these restrictions place on local municipal clerks as they try to administer the elections. On October 16, 2020, just two weeks before the November General election, 51 Wisconsin municipalities still needed poll workers. Even in our most recent April 6 election, we know of at least two municipalities that were still searching for poll workers two weeks before the elections.

SB 210

We urge committee members to oppose SB 210. We are concerned that by reducing the observation area to be no more than three feet away from where voters register to vote or sign in to vote it will create an environment of harassment or intimidation. On election day, there are often anywhere from 1 to 3 observers at a polling location. According to SB 210, the three observers would all have to be within 3 feet of the sign in or voter registration table. Three feet is a small distance and that many individuals concentrated near a voter could create an environment of intimidation for voters.

Additionally, when registering to vote, individuals are often sharing personal information which could include their driver's license number, personal banking information or other sensitive information. Voters deserve to have privacy when sharing this information with election workers. Wisconsinites deserve privacy when casting their votes and to be able to vote in an environment free of harassment.

We urge members of the committee to oppose SB 207 & SB 210 as they create unnecessary barriers to voting in Wisconsin. Thank you.

For more information, contact Anjali Bhasin at anjali@conservationvoices.org or 608-469-4179.



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Testimony of Matt Rothschild
Executive Director, Wisconsin Democracy Campaign
To the Wisconsin Senate
Committee on Elections, Elections Process Reform, and Ethics
April 8, 2021

Re: In opposition to SB 207, SB 210, and SB 213

Chair Bernier, and other distinguished members of the Committee.

I'm Matt Rothschild, the executive director of the Wisconsin Democracy Campaign.

Now in our 26th year, the Wisconsin Democracy Campaign tracks and exposes the money in Wisconsin politics and advocates for a full range of pro-democracy reforms so that we have a democracy where everyone has an equal voice.

I'm testifying today to oppose SB 207, SB 210, and SB 213, and I'll get into the details in just a bit.

But before I do that, I want to take just a minute to discuss the context in which these bills, and a raft of others, are circulating.

Let me be blunt: There is an effort under way, here in Wisconsin and around the country, to continue to cast doubt on the validity of the Nov. 3 election, the legitimacy of the Biden presidency, and the integrity of our elections.

In part, this is an effort to retroactively substantiate the bogus claims, repeated ad nauseam, by Donald Trump.

In part, it is an effort to feed the Republican base red meat, and on Jan. 6th, we saw how a segment of that base reacts when fed that unhealthy diet.

And in part, it is an effort to erect barriers that interfere with the freedom to vote in an attempt to gain partisan advantage.

That is why we are seeing, in 43 states including Wisconsin, bills introduced that would interfere with the freedom to vote, the most basic freedom in our democracy.

This effort is toxic to our democracy.

Now, let me briefly discuss the particular problems we have with SB 207, SB 210, and SB 213.

SB 207 would impair the ability of clerks to find sufficient poll workers to conduct a smooth election. The bill prohibits an employee of an “issue advocacy” group from acting as poll worker, and it doesn’t define the term, “issue advocacy” group, either. Does this mean that no one who works for the League of Women Voters or the Wisconsin Democracy Campaign or the ACLU can act as a poll worker? As it is now, clerks have a hard enough time finding enough poll workers. This prohibition would make matters worse.

SB 210 requires election administrators to allow observers to be no more than three feet away from where voters are registering or voting. This may present logistical problems for clerks, may jeopardize poll worker safety, and may increase the possibility of voter intimidation.

SB 213 invites endless harassment of our election officials and endless litigation, and it would allow venue shopping in the courts to seek a favorable outcome. If any citizen can file a claim against any election official, you’re going to gum up our elections as never before, entangling them in legal thickets. And by allowing venue shopping, you would risk raising the suspicion that the fix was in. One additional consequence would be that you would be making it more difficult than ever to find people willing to be an election official.

For these reasons, the Wisconsin Democracy Campaign opposes SB 207, SB 210, and SB 213. Thank you for considering our views.