

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

**2003-04**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on  
Campaigns &  
Elections  
(AC-CE)**

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr\_AC-Ed\_RCP\_pt01a
- 05hr\_AC-Ed\_RCP\_pt01b
- 05hr\_AC-Ed\_RCP\_pt02

*Published Documents*

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

*Information Collected For Or  
Against Proposal*

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

\*\*

➤ Hearing Records ... HR (bills and resolutions)

➤ **03hr\_ab0601\_AC-CE\_pt01**

➤ Miscellaneous ... Misc

➤ \*\*

# Vote Record

## Committee on Campaigns and Elections

Date: 10/17/03  
Bill Number: LRB 3419/1  
Moved by: Pocan Seconded by: Freese  
Motion: introduction by committee

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Stephen Freese	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Gundrum	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Wood	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative David Travis	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> EXCLUDED	<input checked="" type="checkbox"/>
Representative Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>

Vote Record

Committee on Campaigns and Elections

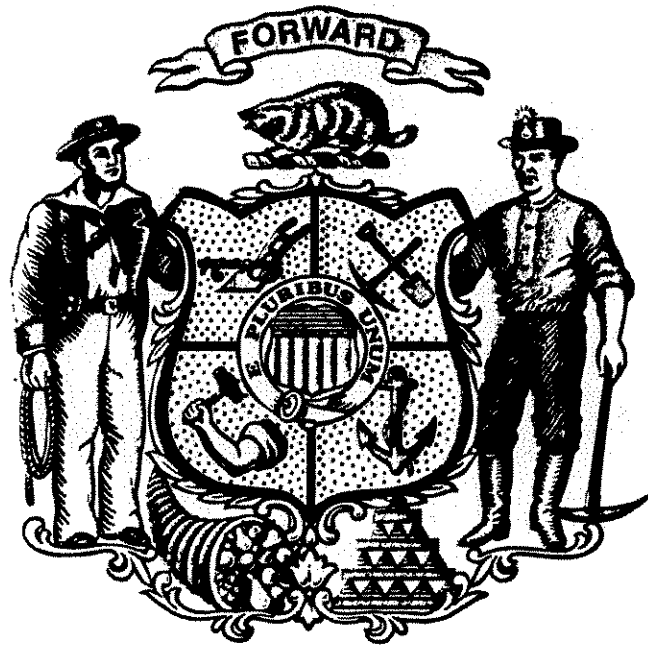
Date: \_\_\_\_\_  
Moved by: Grothman Seconded by: Wood  
AB 601 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
A/S Sub Amdt \_\_\_\_\_  
A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:  
 Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Stephen Freese	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Gundrum	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Wood	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative David Travis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 60 \_\_\_\_\_





Wisconsin Speaker Pro Tempore  
**Representative Stephen J. Freese**

TO: Members, Assembly Committee on Campaigns & Elections  
FROM: Rep. Steve Freese, Chair  
DATE: October 3, 2003  
RE: Draft Legislation for Committee Hearing on **Friday, October 17**

Attached are two drafts relating to the Help America Vote Act (HAVA) that the Elections Board had drafted and we agreed to hold a public hearing and executive session for introduction as soon as the drafts were ready.

LRB 3419/1 is the fiscal language for implementing the HAVA required match.

LRB 0610/7 is the policy language.

Kevin Kennedy has provided some additional materials of explanation for each of you and will be available to discuss any matters of concern you may have.

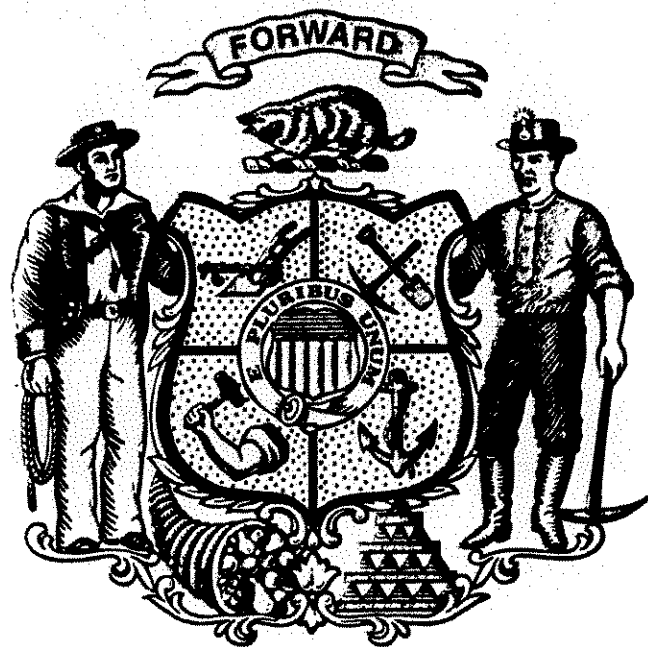
If you have questions regarding the committee please do not hesitate to contact our committee clerk, Terri Griffiths, or myself.

Thank you.

*Fifty-First Assembly District*

Office: Post Office Box 8952 • Madison, Wisconsin 53708-8952 • (608) 266-7502 • Fax: (608) 261-9474 • Rep.Freese@legis.state.wi.us  
District: 1121 Professional Drive • Dodgeville, Wisconsin 53533 • (608) 935-3789

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## Griffiths, Terri

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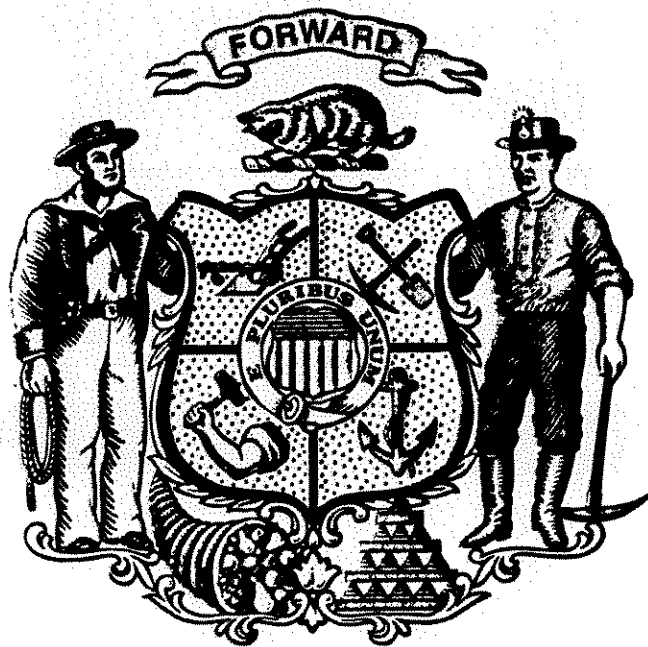
**From:** Griffiths, Terri  
**Sent:** Tuesday, October 14, 2003 12:41 PM  
**To:** Glenn Wavrunek; Jeffrey Wood; Jolene Churchill; Kevin Usealman; Maggie Delaporte; Martha Hess; Rep.Freese; Rep.Grothman; Rep.Gundrum; Rep.Pocan; Rep.Travis; Robert Conlin; Terri Griffiths  
**Cc:** Nowak, Ellen  
**Subject:** RE: Campaigns & Elections Hearing FRIDAY 10/17

*Our Legislative Council Attorney has completed a memo for us on LRB 0610/7 and 3419/1 relating to Election Administration. I am attaching the PDF for each of you and hope that this information is helpful. I will not be sending hard copies of this memo.*



10freese\_rjHAVA  
explanation.p...

*Terri S. Griffiths  
Administrative Assistant/Committee Clerk  
Assembly Committee on Campaigns & Elections  
Office of Rep. Stephen J. Freese  
(608) 266-7502*





# Wisconsin Voter Lists

Testimony of Mark Grebner, Co-Owner of Wisconsin Voter Lists  
Before the Assembly Committee on Campaigns & Elections  
October 17, 2003

LRB 0610 & LRB 3419  
HAVA & Voter Registration Database

My firm, which does business in the Badger State as Wisconsin Voter Lists, has built a complete and accurate voter database for Wisconsin. We sell voter lists to both political parties, all major candidates and congressional representatives for official constituent mailings. Our file includes names, addresses, dates-of-birth, phone numbers, political jurisdictions, and voter history from 1996 to the present for over 4 million eligible voters. It has a very good reputation for accuracy and completeness, and was created without the use of any public resources.

To first obtain and convert computerized files from approximately 300 municipalities, and to hand key data from the remaining 1600 units of government, cost approximately \$500,000. In addition, we spend about \$100,000 each year to maintain the file and add new voter history information. In total, since 2000, we have spent about \$800,000.

I believe the state of Wisconsin is making a fundamental mistake by focusing on HAVA's requirement to build only a state list of "registered voters." To us, it appears the legislation (i.e. LRB 0610 and LRB 3410) was written to satisfy the bare-bones requirements of HAVA while not accomplishing anything particularly useful for Wisconsin. The federal law takes a typical one-size-fits-all approach. The problem is that it doesn't fit Wisconsin very well at all. While this legislation would certainly earn the federal money, it would make little or no improvement in the administration of elections in Wisconsin.

It would be far more useful, in my opinion, to focus on Wisconsin's unique system of election law, particularly the provision authorizing same-day registration at the polls. Unlike virtually every other state in the country, the list of registered voters created for each election in Wisconsin does not restrict who may actually vote. In -- say Colorado or Arkansas -- if your name is not on the list of registered voters you're basically out of luck. So getting your name on the list is crucial for every voter, and removing names in the list is an effective method of blocking an ineligible person's vote.

In Wisconsin, however, if you appear at the polls and you're not on the list of registered voters the local officials simply add you to the list and let you vote. Over 70 percent of all voter registrations in Wisconsin are taken at the polls on Election Day. As long as same-day registration is available, neither the voters nor the election officials have any reason to take pre-election voter registration seriously. This will of course compromise the quality of the data in the state list, and, again, not help in the administration of elections in Wisconsin.

Then, of course, there is also 30 percent of Wisconsin that currently does not have any voter registration system at all. The bill before you proposes that these smaller communities suddenly be required to institute registration, but that is not a given. Further, in these areas, which generally have only one polling place and virtually no full-time office staff, the lack of interest in voter registration (and the lack of quality data) will be at least as great.

The proposed legislation you are considering simply creates additional procedures, primarily on Election Day, at considerable expense. The fact that the bulk of the money is from the federal

doesn't mitigate the wastefulness. In addition, I imagine creative fiscal analysts could find a way to capture all the federal money, thereby guaranteeing funding for ongoing maintenance and upkeep of the database, even if the initial costs were kept low.

I propose that the state consider a different and broader approach. I think Wisconsin should use the federal money to create a list of "potential" voters. This list would include everyone who registered to vote at a minimum, but would also include everyone in non-registration municipalities who has voted recently. It would also include persons with drivers licenses or state-issued personal ID's and perhaps names from other sources as well.

The data could provide information, where known, establishing each potential voter's eligibility to vote under Wisconsin law (i.e. residency, age, citizenship, lack of felony record). This file, which would be only slightly larger than the proposed voter registration file (about 4.1 million total records), would ideally include every adult in the state. On Election Day, as voters appear at the polls, virtually every name would be found by election workers on the list, greatly reducing the burden of recording and checking new registrations – and facilitating expeditious voting.

Instead of wasting time on people whose eligibility is unquestioned, poll workers would focus on the handful of people whose names do not appear on the list, or for whom there appears to be some impediment to voting eligibility. For each such problematic voter, there would be a well-documented procedure for inquiring about the qualification and potentially curing it.

For example, imagine a person who appears at the polls and is noted (based on drivers license information) to be a non-citizen and therefore ineligible to vote. The election worker, whose attention has been drawn to a specific problem, asks a series of questions. Perhaps the individual is newly naturalized. The election worker, upon receiving the necessary proofs, clears the impediment and permits the new citizen to cast a ballot.

A comparable procedure would be devised to deal with each impediment to voting: lack of residency, conviction of felony, or whatever. The statewide list I propose – of all "potential voters" rather than just "registered voters" – would play an active and useful part in the conduct of elections in Wisconsin. The money invested would pay off in tighter control of potential fraud, as well as making possible quick and easy voting for most voters. And the requirements of HAVA will be satisfied.

In contrast, I think the legislation as currently proposed will result in a slightly more difficult Election Day process without offering any real improvement in security or the facilitation of elections. Because the overwhelming majority of registrations will continue to be taken at the polls, particularly on the day of presidential elections, I expect that the quality of the data will be very poor and voting at busy times will be slow and tedious. Poll workers, already facing lines of waiting voters, are simply not going to devote much attention or effort to what they see as a redundant procedure.

The first phase of this project (a consultant's study) has already consumed \$200,000. The current planning phase (again by an outside consultant) is expected to cost \$500,000 to \$850,000 more. I imagine the costs of actually converting existing municipal files and keying from paper records will be much, much more (\$26 million is mentioned in the current state HAVA plan). It's not that the proposed approach is infeasible – I'm certain that all the money can be spent and all the data can be inputted. But what exactly what you have accomplished? It doesn't seem to make sense to spend millions to create a relatively useless list.

Wisconsin Voter Lists would be happy to play a role in this process. This is what we do, we're good at it and we like to do it. Thank you for your time. ##

# WISCONSIN VOTER LISTS

ON TARGET ACCURACY



(920) 206-7092

PO BOX 636, WATERTOWN, WI 53094

[SALES@WISCONSINVOTERS.COM](mailto:SALES@WISCONSINVOTERS.COM)

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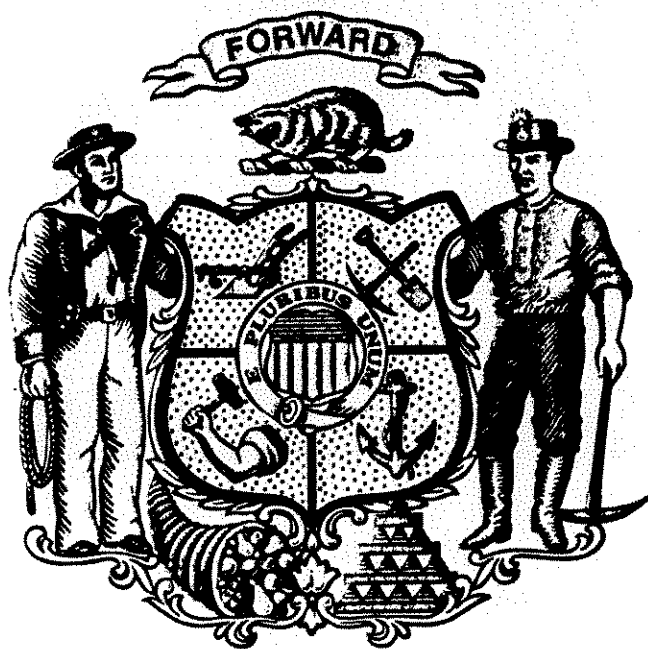
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## Wisconsin Voter Lists

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## WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE STEPHEN FREESE  
FROM: Robert J. Conlin, Senior Staff Attorney  
RE: LRB-0610/7 and LRB-3419/1, Relating to Election Administration  
DATE: October 14, 2003

This memorandum provides a brief description of the major provisions of LRB-0610/7 and LRB-3419/1, drafts of legislation recommended by the State Elections Board to implement the requirements of the Help America Vote Act of 2002 (HAVA). As you know, Kevin Kennedy, Executive Director of the State Elections Board, has provided you an additional summary of the draft. A copy of his summary is attached hereto. The drafts are scheduled for public hearing and executive action by the Assembly Committee on Campaigns and Elections on Friday, October 17, 2003.

### **LRB-0610/7**

Unless otherwise noted, all changes would be effective after publication of the enacted draft.

### **STATEWIDE VOTER REGISTRATION**

Under current law, voter registration is required in municipalities with a population greater than 5,000. Other municipalities may require registration.

The draft requires voter registration in every municipality regardless of the size of the municipality. [Mandatory registration would first apply to the spring primary in 2006.]

### **STATEWIDE VOTER REGISTRATION LIST**

The state does not currently maintain a statewide voter registration list.

The draft establishes a centralized, statewide voter registration list. The list is to be designed and maintained by the State Elections Board. The board is directed to require all municipalities to use the list in every election and may require any municipality to adhere to procedures established by the board for proper maintenance of the list. The list must contain the following:

1. The name and address of each registered elector in the state.
2. The date of birth of the elector.
3. The ward and aldermanic district of the elector, if any.
4. A unique registration identification number assigned to the elector by the Elections Board.
5. Either a valid operator's (driver's) license number, if any, or the last four digits of the elector's Social Security account number, if any.
6. A confidential identification number issued to a victim of domestic abuse.
7. The date of any election in which the elector votes.
8. An indication of whether the elector is an overseas elector.
9. An indication of any necessary accommodation to permit a disabled elector to vote.
10. An indication of the method by which the elector's registration was received.
11. Such other information as may be determined by the Elections Board to facilitate administration of elector registration.

The draft provides that the list must be open to public inspection under the Open Records Law and must be electronically accessible to any person. However, no person other than an employee of the Elections Board, a municipal clerk, a deputy clerk, or an executive director or deputy of a city board of election commissioners may view any of the following information from the list:

1. The date of birth of an elector.
2. The elector's registration identification number.
3. The elector's operator's license number or portion of his or her Social Security account number.
4. The address of an elector to whom an identification serial number has been issued because the elector is a victim of domestic abuse.
5. An indication of an accommodation required to enable a disabled elector to vote.

In addition, no person other than an employee of the Elections Board, a municipal clerk, or an election official who is authorized by a municipal clerk, may make a change in the list.

The list must be electronically accessible by name and must also be accessible in alphabetical order of the electors' names for the entire state and for each county, municipality, and ward. The list must also be designed in such a way that the municipal clerk or board of election commissioners of any municipality and any authorized election official may electronically add entries to or change entries on the list for any elector who resides in, or who the list identifies as residing in, only that municipality.

Electors will be identified on the list as either "eligible" or "ineligible" to vote. If the Elections Board adds the name of any elector to the list, the board must promptly notify the municipal clerk of the municipality where the elector resides. If the board changes the registration of any elector from eligible to ineligible status, the board must promptly notify the municipal clerk of the municipality where the elector resides or, if the elector has changed his or her residence from one municipality to another municipality in the state, the board must promptly notify the municipal clerk of the municipality where the elector resided prior to the change. Such notifications must be made in writing or by electronic transmission. If the board changes the registration of any elector from eligible to ineligible status, it must make an entry on the list giving the date of, and the reason for, the change. If municipal clerks add names to the list or change an elector's status to ineligible, they must generally update the list promptly.

The draft also directs the Elections Board to make all reasonable efforts to ensure that the list is maintained in a manner that precludes unauthorized persons from making alterations to the list. [The use of the statewide voter registration list would first apply to the spring primary in 2006.]

### **REGISTRATION**

Under current law, each applicant registering to vote must provide the following information on registration forms prescribed by the board: (1) the applicant's name; (2) the date; (3) the applicant's residence location; (4) the applicant's citizenship; (5) the applicant's age; (6) whether the applicant has resided within the ward or election district for at least 10 days; (7) whether the applicant has lost his or her right to vote; and (8) whether the applicant is currently registered to vote at any other location.

The draft requires an applicant to also provide the number of a valid operator's license issued to the applicant or the last four digits of the elector's Social Security account number and the applicant's date of birth.

### **VOTER IDENTIFICATION**

Generally, under current law, before being permitted to vote, an elector must provide his or her name and address to the poll workers.

Under the draft, if an elector who seeks to vote in an election for national office, other than a military or overseas elector, registers to vote by mail and has never voted in an election for national office in the state, the elector must provide either: (1) a current and valid piece of identification containing a photograph of the elector; or (2) a copy of a utility bill, bank statement, paycheck, or a check or other document issued by a unit of government that shows the current name and address of the elector. If the elector votes by absentee ballot, the elector must provide a copy of one of the above forms of identification. If the identification provided by an elector is acceptable and contains the name and address of the elector as shown in the poll lists, the inspector is required to accept the identification unless they challenge the ballot of the elector under current elector challenge provisions.

Under the draft, if an elector who votes at a polling place is required to provide identification and fails to do so, the elector may vote provisionally. A provisional ballot is marked by the poll workers, who immediately contact the municipal clerk or executive director of the board of election commissioners who then must determine whether the individual submitting the ballot is a qualified elector where he or she is attempting to vote. If the clerk or executive director, by 4:00 p.m. on the day

after the election, notifies the board of canvassers that is responsible for canvassing the election that the elector is qualified to vote where the individual's ballot was cast, the board of canvassers must reopen the canvass and count the elector's ballot. [Generally, the voter identification requirements would first apply to the spring primary of 2006.]

### **HAVA COMPLIANCE MECHANISMS**

Currently, an elector who believes that the action or inaction of an election official concerning nominations, qualification of candidates, voting qualifications, or certain other matters is contrary to law or that the actions or inactions of an election official with respect to any such matters constitute an abuse of discretion, the elector may file a complaint with the Elections Board and the board may order appropriate relief. The decision of the board is appealable to the courts. If an elector believes that an election official is acting in violation of the law, he or she may request the appropriate district attorney to petition a court for appropriate relief. Generally, however, the recount procedure is the exclusive judicial remedy for addressing any alleged irregularity, defect, or mistake committed during the voting or canvassing process.

The draft establishes an additional procedure for addressing alleged noncompliance with any provision of Title III of HAVA (relating to voting system standards, provisional voting, voting information, registration procedure and administration, and voter identification). Under the draft, whenever any person believes that such a violation has occurred, is occurring, or is proposed to occur with respect to an election for national office in Wisconsin, the person may file a written, sworn complaint with the Elections Board. The board must grant the complainant a formal hearing upon request and must issue a decision on the complaint, together with an order for appropriate relief, within 89 days. Under the draft, the relief may not include an order affecting the right of any person to hold an elective office or affecting the canvass of an election on or after the date of that election.

### **OTHER CHANGES**

The draft makes a number of additional modifications to current law. Those modifications are described below.

- ***Voters With Disabilities***

The draft requires the Elections Board to ensure that the voting system used at each polling place will permit all individuals with disabilities to vote without the need for assistance and with the same degree of privacy that is awarded to nondisabled electors at the same polling place. This requirement does not apply to electors disqualified under current law because they are incapable of understanding the objectives of the elective process or to electors under guardianship. [This requirement is effective January 1, 2006.]

- ***Uniform Standards***

The draft directs the Elections Board to prescribe, by rule, uniform standards for determining the validity of votes cast or attempted to be cast with each electronic voting system that the board approves for use in this state. Such rules may only apply in situations in which the validity of a vote cannot be determined using current law. [This provision is effective January 1, 2006.]



- ***Uniformed Service and Overseas Absentee Ballots***

The draft provides that a uniformed service or overseas voter may request and receive an absentee ballot for the next two general federal elections at the same time, unless the voter is subject to a registration requirement and the voter is no longer registered to vote in the state at the time that the absentee ballot would otherwise be transmitted. Additionally, if the municipal clerk or board of election commissioners rejects an absentee ballot request from a uniformed service or overseas voter, the clerk or board must promptly inform the voter of the reason for the rejection.

- ***Federal Court Action***

The draft provides that if a federal court orders that a polling place remain open after the official closing hour of 8:00 p.m., any electors who vote after hours must vote by ballot and have their ballots marked to indicate that they voted after the official closing hour pursuant to a federal court order. The late ballots are then counted unless the court order is overturned. If the court order is overturned after the canvass of the election, the draft directs that the canvass be reopened. [This provision takes effect on the day after publication of the enacted draft, or January 1, 2004, whichever is later.]

- ***Disability Advocacy***

The draft authorizes the state Protection and Advocacy Agency under ch. 51, Stats., to engage in activities to ensure full participation in the electoral process for eligible electors with developmental disabilities or mental illness and requires the Department of Health and Family Services to distribute federal funding made available under HAVA to the agency for these activities.

- ***Voting for President by New Residents***

The draft provides that an individual who has resided in this state for less than 10 days at the time of a presidential election may vote for president and vice president only at the office of the municipal clerk or board of election commissioners or at a polling place on election day. [Currently, such voters may also vote by absentee ballot by mail.]

- ***Purging Voter Registration Lists***

Currently, municipalities must periodically purge their voter registration lists of inactive voters. There are basically two ways for doing this. Under one method, an elector who has not voted for a four-year period and who does not respond to a notice sent to him or her by the municipality by requesting continuation of his or her registration is deleted from the list. Under the other procedure, the municipality sends a registration verification notice to each elector who has not voted for a four-year period and each elector whose notice is returned as undeliverable is deleted from the list. The draft deletes this second procedure. [This change first applies to the spring primary of 2006.]

- ***Election Administration Council and State HAVA Plan***

The draft creates an Election Administration Council. The council is created in the Elections Board and consists of members appointed by the executive director of the Elections Board. The membership of the council must include: (1) the clerk or executive director of the board of election

commissioners of the two counties or municipalities in the state having the largest population; (2) one or more election officials of other counties or municipalities; (3) representatives of organizations that advocate for the interests of individuals with disabilities; (4) representatives of organizations that advocate for the interests of the voting public; and (5) other electors of the state. The council is to assist the Elections Board in adopting and modifying, as necessary, a state plan that meets HAVA requirements to enable the state to participate in federal financial assistance programs authorized under HAVA. The board must adopt the state plan and any modifications only after publishing notice in the newspaper or posting on the Internet a statement describing the proposed plan or modification and receiving public comment thereon.

- ***Federal Election Standards Board***

The draft directs the executive director of the Elections Board to appoint, in consultation with the Elections Board, an individual to represent this state as a member of the Federal Election Assistance Commission Standards Board established under HAVA. The executive director is also directed to conduct and supervise the process for the selection of an election official by county and municipal clerks and boards of election commissioners to represent Wisconsin's local election officials as a member of the Federal Election Assistance Commission Standards Board. The executive director must ensure that the members of the federal board representing Wisconsin may at no time be members of the same political party.

- ***Educational Programs***

The draft requires the Elections Board to conduct an educational program for the purpose of educating electors who cast paper ballots, ballots that are counted at a central counting location, and absentee ballots with the effect of casting excess votes for a single office. In addition, the draft authorizes the board to conduct or prescribe requirements for educational programs to inform electors about voting procedures, voting rights, and voting technology. [These provisions are effective January 1, 2006.]

- ***Telephonic and Other Electronic Informational Services***

The draft directs the Elections Board to maintain one or more toll-free telephone lines for electors to report possible voting fraud and voting rights violations, to obtain general election information, and to access information concerning the registration status, current polling place locations, and other information relevant to voting in elections. Additionally, the board is authorized to maintain a free access system under which an elector who votes after not providing required identification or who votes after the polls close due to a federal court order to ascertain whether the elector's vote has been counted and, if not, the reason that it will not be counted. [This provision takes effect on January 1, 2004, or the day after publication of the enacted draft, whichever is later.]

- ***Information Gathering by the Elections Board***

The draft provides that the Elections Board is authorized to request information from county and municipal clerks relating to election administration, performance of electronic voting systems and voting

machines, and use of paper ballots in elections. Local election officials are directed to respond to such requests.

- ***Information Sharing—Department of Transportation and Social Security Administration***

The draft directs the executive director of the Elections Board to enter into an agreement with the State Secretary of Transportation to match personally identifiable information on the official registration list maintained by the board with personally identifiable information maintained by the Department of Transportation. The agreement would apply to personally identifiable information in the driver's license database and the vehicle registration records. In addition, the draft requires the Secretary of Transportation to enter into an agreement with the Commissioner of the Federal Social Security Administration for the purpose of verifying whether the name, date of birth, and Social Security number of an individual in the driver's license database or vehicle registration records match the information contained in the records of the Social Security Administration. The agreement must include safeguards to ensure the confidentiality of any personally identifiable information disclosed and procedures to permit the Secretary of Transportation to use any applicable personally identifiable information disclosed for purposes related to maintenance of departmental records.

- ***Poll Site Posters***

The draft directs that additional information be included in postings required at each polling site. The new information to be included in such postings includes:

1. General information prescribed by the Elections Board on federal laws relating to election fraud and misrepresentation in federal elections.
2. The date of the election and the hours during which the polling place is open.
3. Instructions prescribed by the Elections Board for electors for whom identification is required.
4. General information prescribed by the Elections Board concerning voting rights under applicable state and federal laws, including the method of redress for any alleged violations of those rights.

[These additional posting requirements take effect January 1, 2004, or the day after publication of the enacted draft, whichever is later.]

- ***Approval of Voting Devices***

The draft adds additional requirements for approval of voting devices by the Elections Board. Under the draft, no device may be approved unless:

1. It permits an elector to privately verify the votes selected by the elector before casting his or her ballot.

2. It provides an elector with the opportunity to change his or her votes and to correct any error or to obtain a replacement for a spoiled ballot prior to casting his or her ballot.
3. Unless the ballot is counted at a central counting location, it includes a mechanism for notifying an elector who attempts to cast an excess number of votes for a single office that his or her votes for that office will not be counted, and provides the elector with an opportunity to correct his or her ballot or to receive and cast a replacement ballot.
4. It produces a permanent paper record of the vote cast by each elector at the time that it is cast that enables a manual count or recount of the elector's vote.

[These new requirements are effective January 1, 2006.]

- ***Federal Absentee Voting Statistics***

The draft requires that within 30 days after the general election, each municipal clerk must transmit to the Elections Board a report of the number of absentee ballots transmitted by the clerk to absent military electors and overseas electors for that election and the combined number of those ballots that were cast by those electors in that election. In addition, within 90 days after each general election, the draft requires the board to compile the information contained in the reports received from municipal clerks and transmit the information to the Federal Election Assistance Commission.

- ***Absentee Voting Instructions***

The draft directs the Elections Board to prescribe uniform instructions for absentee voters. The instructions must include information concerning the procedure for correcting errors and marking a ballot and obtaining a replacement for a spoiled ballot. The procedure must, to the extent possible, respect the privacy of each elector and preserve the confidentiality of each elector's vote. [This provision takes effect on January 1, 2006.]

- ***Voting System Audit***

The draft requires the Elections Board, following the general election, to audit the performance of each voting system used in the state to determine the error rate of the system in counting ballots that are validly cast by electors. If the error rate exceeds the rate permitted under standards of the Federal Election Commission on October 29, 2002, the board must take remedial action and order remedial action to be taken by affected counties and municipalities to ensure compliance with the standards. Each county and municipality must comply with any order received under this provision. [This requirement is effective January 1, 2006.]

- ***Information to Certain Voters***

The draft directs the Elections Board to prescribe written notice to be distributed to electors who vote without identification or who vote after the polls close pursuant to a federal court order. The notice must inform the elector how to obtain information regarding whether his or her vote has been counted, and if the vote will not be counted, the reason that the vote will not be counted. [This provision is effective January 1, 2004, or the day after publication of the enacted draft, whichever is later.]

- ***Educational and Training Duties of County Clerks***

The draft requires each county clerk to assist the Elections Board in conducting educational programs to inform electors about the voting process. [This provision takes effect on January 1, 2006.] The draft directs each clerk to assist the board and municipal clerks in maintaining toll-free telephone lines and other free access systems for exchange of voting information. [This provision takes effect January 1, 2004, or the day after publication of the enacted draft, whichever is later.] The draft also directs each county clerk to assist the Elections Board in the training of election officials and to provide to the board any information that the board requests.

- ***Duties of Municipal Clerks***

The draft directs that, within 30 days after each election, municipal clerks must enter on the registration list under the name of each elector of the municipality who has voted at the election an indication of the date of the election in which the elector voted. [This requirement first applies to the spring primary in 2006.] The draft also imposes upon municipal clerks the same duties imposed on county clerks for voter education, free election information exchange, training of election officials, and providing information to the Elections Board. [The same effective dates apply.] Additionally, the draft directs each municipal clerk to maintain a free vote counting system under which an elector who votes without proper identification or who votes after the polls close pursuant to federal court order may ascertain current information concerning whether the elector's vote has been counted and if the vote will not be counted, the reason that it will not be counted. Finally, the draft directs each municipal clerk to make reasonable efforts to comply with requests for voting accommodations made by individuals with disabilities whenever feasible.

- ***Election System Audit***

The bill directs the Legislative Audit Bureau to perform a program evaluation audit relating to compliance by the state and local governments with election laws and the appropriateness of procedures used to implement those laws. In its audit, the bureau must address compliance by the state and local governments with the requirements of the draft, including the polling place accessibility requirements. The bureau must also address the treatment of any complaints of electors concerning alleged violations of the law, specifically including complaints relating to the denial of the right to vote and denial of the right to corroborate registration information on behalf of electors, any attempts to require electors to provide identification that is not authorized by law, any incidents of inadequate availability of balance for all electors who wish to vote, any allegations of elector fraud and the treatment of those allegations, and the appropriateness and legality of procedures used to identify ineligible electors whose names may appear on the registration list. The findings must be filed within an appropriate time period as determined by the bureau upon consultation with the Elections Board.

- ***Information for Uniformed Service Members***

The Elections Board is designated by the draft to provide information regarding voter registration and absentee balloting procedures to absent members of the uniformed services and to overseas voters with respect to elections for national office.

- ***Special Registration Deputies***

The draft authorizes the Elections Board to appoint any qualified elector as a special registration deputy for the purpose of registering electors in any municipality prior to the close of registration. [This provision first applies to the spring primary in 2006.]

- ***Voting Materials in Non-English Languages***

The draft directs the Elections Board to ensure that voting systems used at each place in a jurisdiction subject to a requirement to use bilingual voting materials under the Federal Voting Rights Act complies with such requirements.

### **LRB-3419/1**

The draft appropriates \$477,000 in 2003-04 as a continuing appropriation to meet the state's contribution towards election administration costs financed with federal HAVA funding.

The fiscal note prepared by the Elections Board provides as follows:

This legislation provides the additional funding necessary for the state to meet the 5% spending match in order to receive the initial federal funds that have been appropriated by Congress in FFY 3 to Wisconsin to meet the requirements of the Help America Vote Act of 2002 (HAVA). Before the state can receive the estimated \$15.39 million in federal funds, the Governor, in consultation with the Executive Director of the State Elections Board, must certify that the state has appropriated an amount equal to 5% of the spending to meet the requirements of HAVA.

The state must appropriate \$810,000 to meet the 5% spending match. The state appropriated \$200,000 in December 2002 for a study on the design and implementation of a statewide voter registration system, one of the requirements of HAVA. An additional \$133,000 was set aside by the legislature as part of the 2003-2005 budget process. This leaves \$477,000 that is necessary to meet the spending match.

Without the state spending match, Wisconsin will be required to implement the mandates of HAVA without the assistance of federal funds.

Congress is poised to appropriate additional funding in FFY 4 for the states to meet HAVA requirements. This funding will require an additional 5% state spending match. The amount available from the federal government and the required state spending match will not be known until Congress completes action on its spending bills for FFY 4.

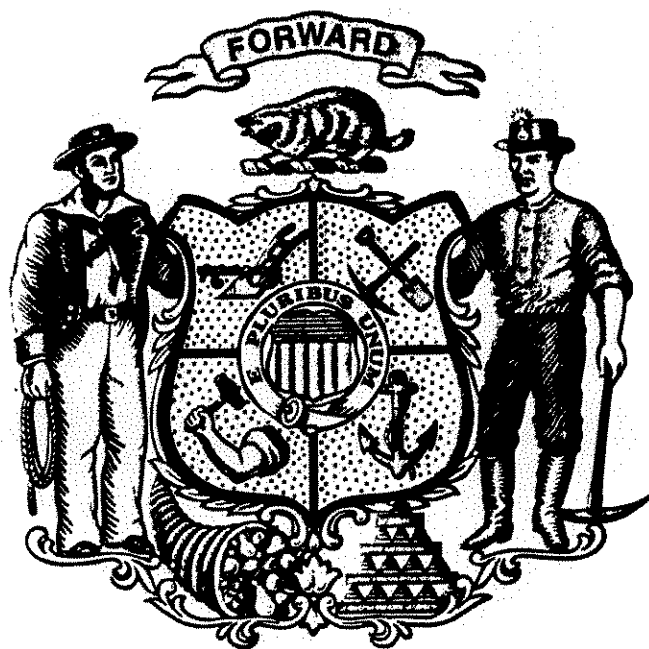
The appropriation will enable the state to begin to implement the requirements of the Help America Vote Act of 2002 (HAVA). The

deadlines for meeting the requirements for a statewide voter registration system and accessible voting equipment is January 1, 2006.

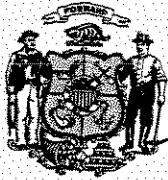
If you have any questions or need more information about specific provisions of the drafts, please feel free to contact me directly at the Legislative Council staff offices.

RJC:jal:ksm;wu

Attachment







## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

October 28, 2003

TO: Members  
Joint Finance Committee

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 601: Providing State Matching Funds Under the Help America Vote Act and Creating Appropriations

Assembly Bill 601 (AB 601) would establish a series of new appropriations to fund the state's matching contributions towards certain federally financed election administration costs. The bill was introduced on October 17, 2003, by the Assembly Committee on Campaigns and Elections, at the request of the Elections Board. On October 23, 2003, the Assembly Committee on Campaigns and Elections recommended the bill for passage, on a vote of 6-0. That same day, the bill was referred to the Joint Committee on Finance.

### BACKGROUND

On October 29, 2002, the federal Help America Vote Act (HAVA) was signed into law. HAVA establishes a series of new mandates applicable to the states, including: (1) creation of an official centralized computerized statewide voter registration list system; and (2) requirements that all polling stations be equipped with voting systems accessible to individuals with disabilities, including non-visual accessibility for the blind and visually impaired.

HAVA also provides grant funding (primarily in Titles I and II of the Act) for state election administration activities undertaken to meet the requirements of the new legislation. During 2002-03, Wisconsin received \$7,002,900 FED in Title I funds, which require no state match. It is estimated that the state will be eligible to receive \$15,390,000 FED in Title II HAVA funds in 2003-04, subject to a required 5% state match of \$810,000. In addition, it is estimated by Elections Board staff that if the U.S. House of Representatives follows recent action taken by the U.S. Senate, that Wisconsin could be eligible to receive an additional \$26 million

FED in Title II HAVA funds, again subject to a required 5% state match. The ultimate amount of this latter Title II funding, however, remains uncertain.

On July 24, 2003, the Governor signed 2003 Wisconsin Act 35 into law. Act 35 created an Election Administration Fund as a separate, nonlapsible segregated trust fund consisting of all moneys received from the federal government under HAVA. The Act also created a federal aid continuing appropriation under the Elections Board, funded from the Election Administration Fund and consisting of all federal HAVA moneys received by the state.

## SUMMARY OF BILL

*New Appropriations.* Assembly Bill 601 (AB 601) would create a new appropriation under Miscellaneous Appropriations to provide the state 5% match for Title II HAVA funds. The bill would also create two new appropriations under the Elections Board to permit the expenditure of these and other state funds for election administration activities.

In order to provide the 5% match funding, a GPR sum sufficient appropriation would be created under Miscellaneous Appropriations. This appropriation would provide the necessary matching funds to a second new SEG continuing appropriation under the Elections Board. The amount of the draw on the GPR sum sufficient appropriation by the new Elections Board SEG continuing appropriation would be limited by the amounts appropriated in the Chapter 20 schedule to meet the 5% match requirement under HAVA for Title II funds. AB 601 would appropriate \$477,000 SEG in 2003-04 and \$0 SEG in 2004-05 under the Board's new SEG appropriation for the state's HAVA contribution, resulting in an associated draw of \$477,000 GPR in 2003-04 under the new Miscellaneous Appropriations GPR sum sufficient appropriation. GPR funds transferred to this new SEG appropriation would be considered a part of the Election Administration Fund and could only be expended to cover elections administration costs addressed with HAVA funding.

AB 601 would also create a new SEG annual appropriation for election administration under the Elections Board. Amounts authorized under this new appropriation could be expended to meet federal requirements for the conduct of federal elections under HAVA. This new appropriation would also be considered a part of the Election Administration Fund and would be available to provide additional state funding to meet HAVA requirements above and beyond the required 5% match for Title II funds. AB 601 does not appropriate any funding for such purposes under this new SEG annual election administration appropriation.

*Aid to Counties and Municipalities.* Under Act 35, the Elections Board may provide financial assistance to eligible counties and municipalities for election administration costs from its federal HAVA appropriation. AB 601 would authorize the Board to provide similar financial assistance to eligible counties and municipalities from its new SEG appropriations created under the bill.

## FISCAL EFFECT

In order to receive an estimated \$15,390,000 FED in Title II HAVA funds in 2003-04, the state would be required to appropriate a 5% match totaling \$810,000. AB 601 would transfer \$477,000 GPR to the Election Administration Fund to meet a portion of this match requirement. The remainder of the required 5% state match for this initial Title II HAVA award would be provided from two funding allocations that have previously been earmarked.

First, on December 17, 2002, the Joint Committee on Finance provided the Board with one-time funding of \$200,000 GPR for consultant services to develop an implementation plan for the required statewide voter registration system under HAVA. Initially, the Committee directed the Department of Administration (DOA) to seek reimbursement for these funds from federal HAVA monies. Subsequently, Elections Board staff indicated that in lieu of seeking reimbursement for these amounts, the state could apply them instead as part of the required 5% HAVA Title II match. Under 2003 Wisconsin Act 33 (the 2003-05 biennial budget act), DOA was directed not to seek reimbursement under HAVA for this one-time funding supplement; consequently, these funds may be used to help meet the \$810,000 match requirement.

Second, Act 33 also reallocated residual salary and fringe benefits base level funding under the Elections Board to the Joint Committee on Finance GPR supplemental appropriation for possible future use as part of the required 5% HAVA Title II match. A total of \$133,000 GPR in 2003-04 was reserved for this purpose in the Committee's appropriation. These funds had originally been appropriated to the Elections Board under 2001 Wisconsin Act 109 (the 2001-03 budget adjustment act), as part of significant changes to Wisconsin's campaign finance laws. These changes were subsequently found unconstitutional; however, the base budget reconciliation process inadvertently left a portion of additional Act 109 resources in the agency's base.

The \$200,000 GPR previously provided for the implementation plan for the required statewide voter registration system under HAVA, and the \$133,000 GPR reserved in the Committee's supplemental appropriation are sufficient to provide \$333,000 of the state's \$810,000 required match. AB 601 would provide the remaining \$477,000.

The state will face significant costs to meet the new federal election administration requirements under HAVA. Every state must have an official centralized computerized statewide voter registration list system with interactive capability in place by January 1, 2004. This deadline may be extended to January 1, 2006, provided the state certifies, before January 1, 2004, that it will not meet the deadline for good cause and certifies the reasons for that failure. Based on the statewide voter registration system study prepared for the Board, the five-year cost of ownership of such a system is expected to range from \$21.2 million to \$42.9 million.

HAVA will also require all polling stations to be equipped with voting systems accessible to individuals with disabilities, including non-visual accessibility for the blind and visually

impaired by January 1, 2006. Depending on how the state proceeds to meet this requirement, Board staff have indicated in the past that this could require \$8.2 million to \$16.4 million to complete.

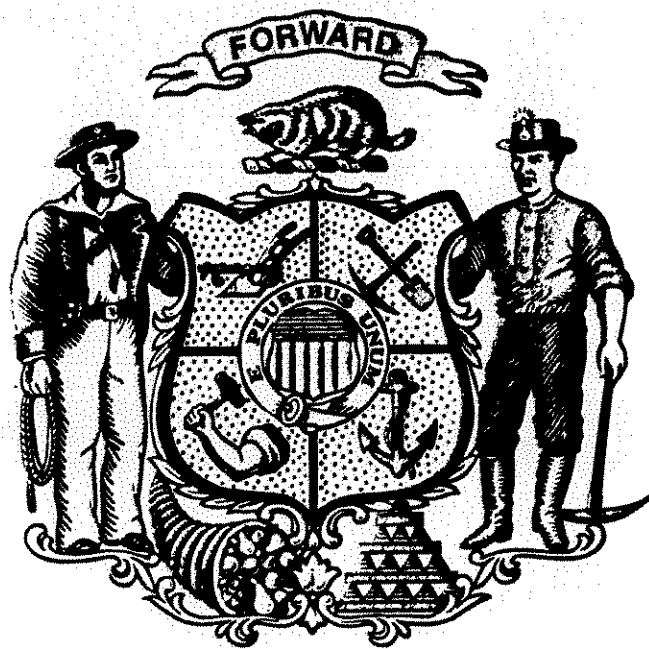
Wisconsin must meet these HAVA requirements regardless of whether or not it matches Title II HAVA grant funds. While it is not clear that the state would lose an estimated \$15.4 million in federal fiscal year 2003 Title II funds if it does provide the necessary match by a date certain, Board staff advise that they believe Wisconsin will likely need to match the federal funding by December, 2003.

There may be opportunities to reduce the required state cash match amounts for federal HAVA funds depending on whether in-kind matching (such as staff salaries) is authorized. However, until there is guidance from the federal government with respect to how maintenance of efforts requirements under HAVA will be applied to the states (states are not allowed to simply replace state funding with federal HAVA funding), the extent to which the Elections Board will be able to utilize in-kind matching is unknown.

Given the scope of the required undertakings under HAVA for a small agency and given the unknowns regarding in-kind matching, the Committee may conclude that any additional funding provided at this time should be placed in the Committee's GPR supplemental appropriation for possible future release to the Elections Board. The Committee previously provided under Act 33 that state HAVA match funding would be reserved in this manner. By placing match funding under AB 601 (\$477,000 GPR) in reserve, the Committee would have the opportunity to review the Election Board's plans concerning how it proposes to meet HAVA requirements for a statewide voter registration system and voting access for the disabled. In addition, placing the funds in reserve would give the Committee the opportunity to review the extent to which state GPR funds could be saved through the use of in-kind matching.

Regardless of whether the Committee chooses to place HAVA match funding under AB 601 in reserve, the GPR sum sufficient appropriation under Miscellaneous Appropriations to fund the state's match could be eliminated. Instead, the Committee could replace the Board's SEG continuing state matching contribution appropriation with a GPR annual appropriation for the same purpose. If the Committee chooses to reserve the additional state matching funds in its GPR supplemental appropriation, the Elections Board appropriation would be funded at \$0 in both fiscal years. The Committee could supplement the appropriation from the reserved funds, once the Elections Board submits a HAVA implementation plan and funding transfer request. Alternatively, the necessary funding could be provided at this time to the new appropriation. Funds appropriated would be transferred to the Elections Administration Fund where they could be available to support the authorized purposes of that fund.

Prepared by: Paul Onsager



# **Assembly Republican Majority Bill Summary**

## **AB 601: Funding for the Help America Vote Act**

Relating to: state contribution towards certain federally financed election administration costs  
By Committee on Campaigns & Elections by request of State Elections Board

**Date:** November 5, 2003

### **BACKGROUND**

In October 2002, the federal government passed the Help American Vote Act of 2002 (HAVA). This legislation created new election administration requirements for all states and called for an upgrade of voting systems to better accommodate persons with disabilities. Specifically, HAVA calls for the creation of a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state. The current timeline for HAVA calls for election officials to meet the majority of the HAVA requirements by January 1, 2004, and the remainder by January 1, 2006.

### **SUMMARY OF AB 601 (AS AMENDED BY COMMITTEE)**

Assembly Bill 601 would establish a series of new appropriations to fund the state's matching contributions towards certain federally financed election administration costs.

Assembly Bill 601 would create a new appropriation under Miscellaneous Appropriations to provide the state 5% match for the Title II HAVA funds. The bill would also create two new appropriations under the Elections Board to permit the expenditure of these and other state funds for election administration activities. [See Legislative Fiscal Bureau Memo of October 28, 2003].

In order to provide the 5% match funding, a GPR sum sufficient appropriation would be created under Miscellaneous Appropriations. Assembly Bill 601 would appropriate \$477,000 SEG in 2003-04 and \$0 SEG in 2004-05 under the Board's new SEG appropriation for the state's HAVA contribution.

Assembly Bill 601 would also create a new SEG annual appropriation for election administration under the Elections Board. Amounts authorized under this new appropriation could be expended to meet federal requirements for the conduct of federal elections under HAVA.

Assembly Bill 601 was amended by the Joint Committee on Finance to approve providing the \$477,000 remaining match funds into the Joint Committee on Finance supplemental appropriation fund. In doing this the Legislature will have the ability to review expenditures of these matching funds rather than designating the appropriation into Election Administration (SEG) fund.

### **AMENDMENTS**

**Assembly Amendment 1** to Assembly Bill 601 was offered by the Joint Committee on Finance and establishes legislative oversight of the matching funds. [adopted 11-4-1 (Sen. Decker and Moore and Reps. Coggs and Ziegelbauer voted no; Sen. Welch was absent)].

### **FISCAL EFFECT**

A fiscal estimate prepared by the State Elections Board indicates additional funding necessary for the state to meet the 5% spending match in order to receive the initial federal funds that have been appropriated by Congress in 2003 to Wisconsin to meet the requirements of HAVA. Before the state can receive the estimated \$15.39 million in federal funds, the Governor, in consultation with the Executive Director of the State Elections Board, must certify that the state has appropriated an amount equal to 5% of the spending to meet the requirements of HAVA.

The state must appropriate \$810,000 to meet the 5% spending match. \$200,000 was appropriated in December 2002 for a study on the design and implementation of a statewide voter registration system. An additional \$133,000 was set aside by the legislature as part of the 2003-2005 budget process. The final \$477,000 is the appropriation requested in AB 601.

### **PROS**

1. This is a proposal that must be completed to fund the requirements of HAVA. In meeting the state 5% match Wisconsin will receive an estimated \$15.39 million for election administration.

### **CONS**

1. This spending may be viewed as extravagant in this time of fiscal need for Wisconsin.

### **SUPPORTERS**

Kevin Kennedy, State Elections Board

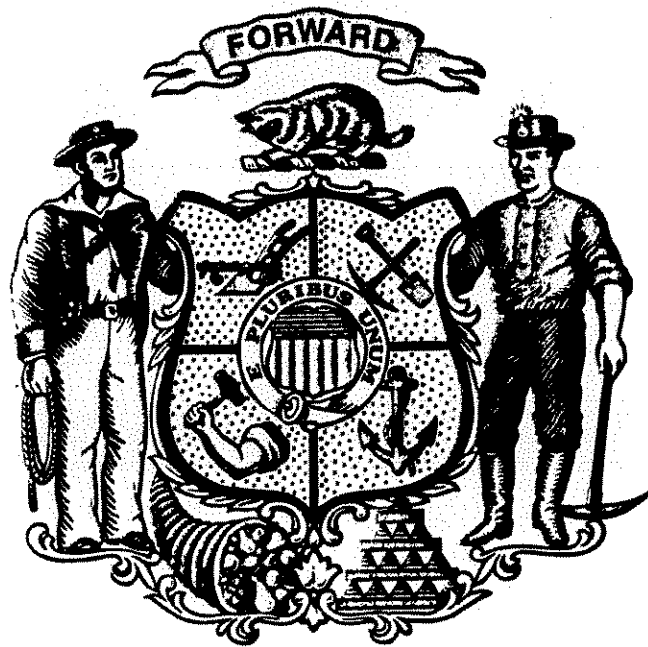
### **OPPOSITION**

No one testified or registered in opposition to AB 601.

### **HISTORY**

Assembly Bill 601 was introduced on October 17, 2003, and referred to the Assembly Committee on Campaigns & Elections. A public hearing was held on October 17, 2003. On October 23, 2003, the Committee voted 6-0 to recommend passage of AB 601. The same day, the bill was referred to the Joint Committee on Finance. On October 28, 2003, the Joint Committee on Finance voted 12-3-1 [Sen. Decker and Moore and Reps. Ziegelbauer voted no; Sen. Welch was absent] to recommend passage as amended.

**CONTACT:** Terri S. Griffiths, Office of Rep. Steve Freese





# State of Wisconsin \ Elections Board

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SHANE FALK  
Chairperson

KEVIN J. KENNEDY  
Executive Director

November 7, 2003

The Honorable Stephen J. Freese, Chair  
Assembly Committee on Campaigns and Elections  
State Capitol, Room 115 West  
Madison, WI 53702

Dear Representative Freese:

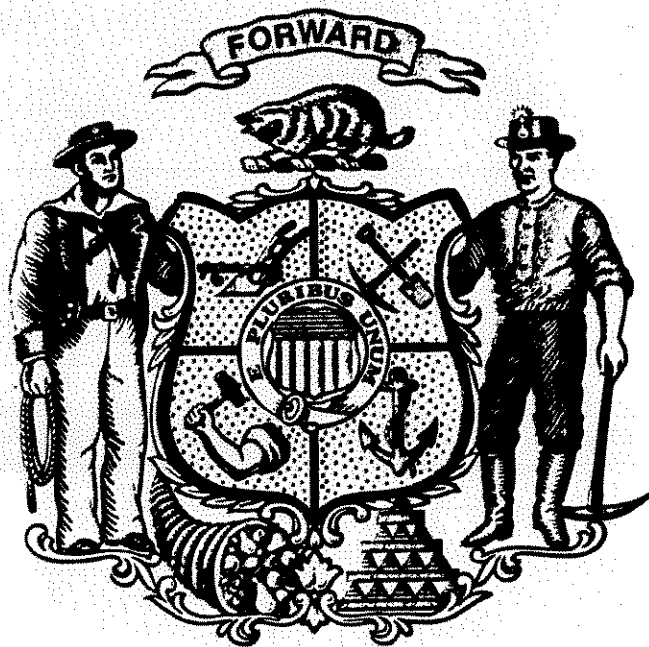
On behalf of the State Elections Board, I want express our appreciation for your efforts in securing passage in the Assembly of our Help America Vote Act implementation legislation, 2003 Assembly Bill 600 and 2003 Assembly Bill 601. Your willingness to support the legislation and advocate for it with your colleagues was instrumental in obtaining state Assembly approval.

Thank you for your leadership on this initiative. I look forward to working with you to ensure that the legislation is passed in the state Senate and signed into law.

**State Elections Board**

A handwritten signature in cursive script that reads "Kevin J. Kennedy".

Kevin J. Kennedy  
Executive Director



ASSEMBLY AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 601

Approved providing  
Jt. Finance Supplemental  
APP appropriate  
20.8.6.04(a)

October 28, 2003 - Offered by JOINT COMMITTEE ON FINANCE.

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 4: delete "(v)".

3 2. Page 2, line 11: delete the material beginning with that line and ending with  
4 page 3, line 7, and substitute:

5 "(d) Election administration transfer GPR A -0- -0-

6 (t) Election administration SEG A -0- -0-

7 SECTION 2m. 20.510 (1) (d) of the statutes is created to read:

8 20.510 (1) (d) *Election administration transfer*. The amounts in the schedule  
9 to meet federal requirements for the conduct of federal elections under P.L. 107-252,  
10 to be transferred to the appropriation account under par. (t).

11 SECTION 3m. 20.510 (1) (t) of the statutes is created to read:

12 20.510 (1) (t) *Election administration*. From the election administration fund,  
13 the amounts in the schedule to meet federal requirements for the conduct of federal

1 elections under P.L. 107-252. All moneys transferred from the appropriation  
2 account under par. (d) shall be credited to this appropriation account.”.

3 **3.** Page 3, line 13: after that line insert:

4 **“SECTION 7m. Appropriation changes.**

5 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
6 to the joint committee on finance under section 20.865 (4) (a) of the statutes, as  
7 affected by the acts of 2003, the dollar amount is increased by \$477,000 for fiscal year  
8 2003-04 for the purpose of meeting federal requirements for the conduct of federal  
9 elections under P.L. 107-252.”.

10 (END)