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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Education, Ethics and Elections...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Moved by Senator Stepp, seconded by Senator Jauch that **Senate Amendment 1** be recommended for introduction and adoption.

Ayes: (7) Senators Ellis, S. Fitzgerald, Reynolds, Stepp, Jauch, Robson and Hansen.

Noes: (0) None.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT 1
RECOMMENDED, Ayes 7, Noes 0

Moved by Senator Jauch, seconded by Senator Reynolds that **Assembly Bill 120** be recommended for concurrence as amended.

Ayes: (7) Senators Ellis, S. Fitzgerald, Reynolds, Stepp, Jauch, Robson and Hansen.

Noes: (0) None.

CONCURRENCE AS AMENDED RECOMMENDED, Ayes 7, Noes 0

Greg Hubbard
Committee Clerk

MEMORANDUM

To: Members of the Senate Committee on Education, Ethics and Elections
From: Individual Rights and Responsibilities Section, State Bar of Wisconsin
Date: September 10, 2003
Re: Assembly Bill 120

Under Wisconsin law, felons still serving their sentences may not vote. If they do, they are committing a crime. On election day, felons who are out on probation, parole or supervision may unwittingly presume that their right to vote has been restored since they are no longer behind bars. They may be shocked to discover that they actually could be prosecuted for casting a ballot.

The proponents of Assembly Bill 120 seek to clear up this widespread confusion by requiring a sentencing court and the Department of Corrections to inform felons that they may not vote in any election until their "civil rights are restored". This leaves them with the lasting impression that they need to steer clear of the polls while offering little guidance about when they can reclaim their right to vote.

Providing felons with more information about the voting laws is meritorious, provided the information presentation is balanced. Felons should not only be informed of when they are ineligible to vote, they should also be notified when their right to vote is restored. AB 120 provides no mechanism for informing individuals that their civil rights have been restored.

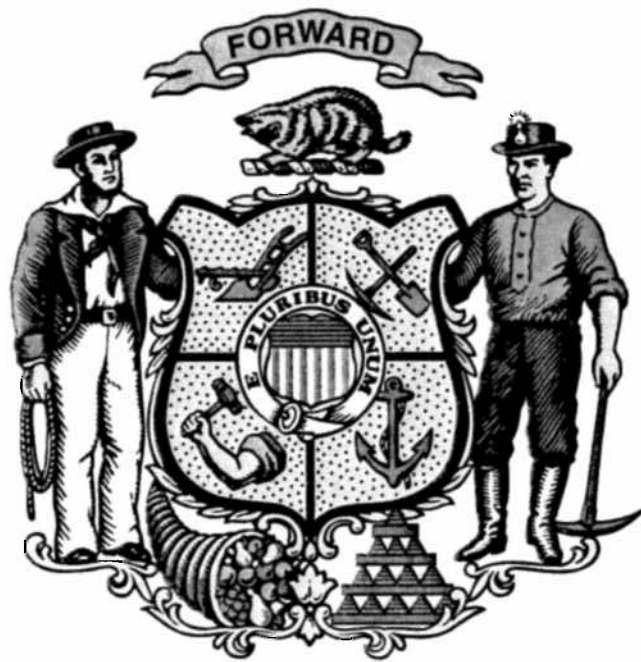
Without such notice of restored rights, felons off supervision will only know that at one time they were told it was a crime for them to vote. They will be missing the other key piece of information – when is it legal for them to vote. An article in the *Milwaukee Journal Sentinel*, ("361 felons voted illegally in Milwaukee; Law is poorly understood, rarely invoked here", January 20, 2001) illustrates this point. In the article, George Dunst, legal counsel for the State Elections Board, said he received about two dozens calls in 2000 from felons off supervision for as long as 20 years wanting to know whether they could vote. According to Dunst, these individuals were afraid to come forward, and therefore failed to exercise their right to vote for years.

To counter disenfranchisement of eligible voters, the Individual Rights and Responsibilities Section supports an amendment to AB 120 which includes a mechanism for informing individuals when their civil rights have been restored.

If you have any questions, please feel free to contact Deb Sybell, Government Relations Coordinator for the State Bar of Wisconsin at (608) 250-6128.

State Bar of Wisconsin

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**Testimony of Kevin J. Kennedy
Executive Director, State Elections Board**

**In support of Proposed Legislative Changes
To Implement the Help America Vote Act**

This legislation was developed at the request of the State Elections Board to implement the requirements of the federal Help America Vote Act of 2002, P.L. 107-252 (HAVA). The new federal law imposes significant requirements on the state with respect to the conduct of elections for federal office. HAVA enhances the role that the state plays in the administration of Wisconsin elections. Currently, municipalities have the primary responsibility for the administration and conduct of elections in Wisconsin. This legislation does not alter the allocation of basic responsibilities for election administration in Wisconsin. It is designed to integrate the federal requirements into Wisconsin's current election administration framework. The Help America Vote Act of 2002 provides a unique opportunity to add to Wisconsin's electoral tradition and develop a strong partnership between state and local election officials.

Statewide Voter Registration System

HAVA requires the state, acting through the chief state election official, to implement, in a uniform and nondiscriminatory manner, 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 and assigns a unique identifier to each legally registered voter in the state.

Currently, voter registration is only required in municipalities with a population of more than 5,000. The municipal clerk is responsible for maintaining voter registration records. About 320 of the state's 1,850 municipalities have voter registration. In the other municipalities, the only official record of eligible voters is the poll list that is created on Election Day when individuals appear at the polling place to vote.

This legislation establishes a state voter registration list administered by the State Elections Board. Every municipality will be required to have voter registration. This means every voter must complete a voter registration card certifying that the individual is eligible to vote in Wisconsin.

The standard voter registration card has been changed to reflect the requirements of HAVA. The legislation requires voters to provide their date of birth and Wisconsin driver's license number in addition to their name and address as required by current law. If an individual does not have a Wisconsin driver's license, he or she must provide the last 4 digits of his or her social security number.

This information is used to match the voter list against the list of licensed drivers maintained by the state Department of Transportation. The state voter list will also be matched against vital statistics and Department of Corrections data.

The state list will ensure that a voter is not registered in more than one municipality in the state. Changes to the list will be made in a uniform and nondiscriminatory manner.

Municipal clerks will continue to be responsible for the maintenance of voter records for their municipality. Municipal voter records will be kept on the state list. There will no longer be a separate voter registration list in each municipality. Municipalities will need a computer and internet access to modify voter records, record voter history and prepare voter lists. The legislation permits municipalities to contract with county clerks or other municipalities to maintain the voter records for their municipality.

The list will be accessible to the public. However, only election officials will have access to a voter's date of birth, driver's license number or the last 4 digits of the voter's social security number. The effective date for the development and implementation for the list is January 1, 2006.

Voting Equipment

HAVA establishes standards for voting equipment used in federal elections. Many of the standards are already set out in whole or in part in Wisconsin law. The State Elections Board must monitor the error rates of voting equipment and ensure that voting equipment meets federal standards. The State Elections Board is required to adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each type of voting system.

There are a number of security issues about electronic voting equipment that need to be addressed before the state proceeds with the implementation of accessible voting systems in every polling place. The effective date for the implementation of the voting system standards is January 1, 2006.

Accessibility for Persons with Disabilities

Every polling place shall have a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence as for other voters.

Any individual with a disability who intends to vote at a polling place on election day may request that a specific type of accommodation be provided to facilitate his or her voting. Municipalities must make reasonable efforts to comply with such requests where feasible, but municipalities must still make all polling places accessible to all individuals with disabilities regardless of whether an advance request for accommodation is made.

The effective date for the implementation of accessible voting equipment is January 1, 2006.

Provisional Voting

Wisconsin is exempt from the HAVA requirement for provisional voting because it has a system of election day registration that permits a qualified voter whose name does not appear on the poll list to register at the polling place. The legislation establishes a system of provisional voting for certain voters required to provide identification before voting who are unable to provide the required identification.

This is a federal requirement. Because provisional voting can delay the certification of election results, the legislation is designed to reduce the need for using it. We expect that it will only apply to a very limited number of voters. Most voters will be able to use the current system of election day registration to meet the identification requirements.

Voter Identification

An individual who registers by mail and who has never voted in the state before registering by mail is required to provide specific identification before being permitted to vote. The identification may be a current and valid photo identification or a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. If the voter does not provide the required identification, the individual must vote on a provisional ballot.

An absentee voter subject to this requirement may provide a copy of the identification as part of the absentee voting process. Local election officials will have to track first-time voters and secure the required identification. Individuals can provide the required identification when the voter registers or before election day.

Because the statewide voter list will not be operational until the 2006 elections, from January 1, 2004 until 2006, the identification requirement will apply to voters that register by mail who have not previously voted in the municipality. This temporary change implements the HAVA requirement.

The limited voter identification requirement reflects a Congressional compromise. In Wisconsin voters who register at the polls and the first voter who registers by mail will have to provide identification or proof of residence to vote. Long-time voters and voters who register with a voter registration deputy will not have to provide identification to vote.

Voter Information

The legislation requires the State Elections Board to provide uniform instructions on absentee voting.

Each polling place shall have posted:

- information regarding the date of the election and the hours during which the polling place will be open;
- general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
- general information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

The legislation requires the State Elections Board to establish a toll free telephone line for electors to report possible voting fraud and voting rights violations, to obtain general election

information and to access information concerning their registration status, current polling place locations, and other information relevant to voting in elections.

Administrative Complaint Procedure

The legislation establishes a state based administrative complaint procedure. It is modeled on the current compliance review procedure that permits an elector to have the actions of a local election official reviewed by the State Elections Board if it is alleged the local election official acted contrary to law or abused his discretion in administering election procedures. The administrative complaint procedure permits any person who believes there is a violation of the HAVA requirements to file a written sworn complaint with the State Elections Board. The agency must resolve the complaint within 90 days. The complaint procedure can not be sued to challenge the outcome of an election. Under current Wisconsin law the determination of an election can only be reviewed through the recount process.

Military and Absentee Voters

The legislation designates the State Elections Board as the point of contact for the military and overseas electors to facilitate their participation in federal elections. The legislation extends the time for which a military elector is entitled to have a ballot sent automatically. Municipal clerks are required to inform military and overseas electors if their ballot was not counted. Local election officials must also report on the number of military and overseas voters to the State Elections Board. The agency is required to provide this information to the federal Voting Assistance Program.

Performance Evaluation Audit

The legislation directs the Legislative Audit Bureau to perform a performance evaluation audit relating to compliance by state and local governments with election laws and the appropriateness of procedures used to implement those laws. The audit must address compliance with the terms of HAVA resulting from enactment of this bill, including polling place accessibility requirements. The audit must also address the treatment of complaints of electors concerning election law violations, including denial of the right to vote and the right to corroborate registration information for electors, any attempts to require identification that is not authorized by law, any incidence of inadequate availability of ballots, allegations of voter fraud and the treatment of those allegations, and the legality and appropriateness of procedures used to identify ineligible electors whose names may appear on the registration list. The bureau must report its findings within an appropriate time period determined by the bureau upon consultation with the State Elections Board.

Federal Funding

HAVA imposes significant requirements on the state with respect to the conduct of elections for federal office. Two of these requirements carry a significant cost: a statewide computerized voter registration list administered by the state's chief election official and accessible voting equipment that permits voters with disabilities to cast a vote privately and independently.

Congress has authorized almost \$4 billion to enable states to implement the new requirements. Congress has only appropriated a small portion of that amount. In order for Wisconsin to

receive the amount that has been appropriated for Federal Fiscal Year 3 (FFY 3), the state has to appropriate a 5% spending match.

Wisconsin is eligible for an estimated \$15.39 million if it appropriates \$810,000 in matching funds. The state appropriated \$200,000 in December, 2002 to enable the Elections Board to evaluate the design, development and potential costs of a statewide voter registration system (SVRS). This funding can be used as part of the match. The Joint Committee on Finance set aside an additional \$133,000 as part of the 2003-05 budget process. The state needs to appropriate an additional \$477,000 to qualify for the initial requirements payment of \$15.39 million.

Congress is poised to appropriate additional funding in the next federal fiscal year. This will also require a 5% state spending match. Based on the current status of the legislation, the state would need to contribute \$1,400,000 to receive an additional \$26.4 million in federal funds. A detailed description of the proposed HAVA budget for Wisconsin is set out in Section Six of the State Plan.

Questions

For additional background on the implementation of the Help America Vote Act of 2002 and the Statewide Voter Registration System please review the report on the Statewide Voter Registration System Project which is available from the State Elections Board offices and the Wisconsin State Plan which is available at:

<http://elections.state.wi.us/HAVA/Final%20State%20Plan.pdf>.

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