

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_ab0123_AC-CE_pt01**

➤ Miscellaneous ... Misc

➤ **

Vote Record

Committee on Campaigns and Elections

Date: 3/6/03

Bill Number: 123

Moved by: Jr.

Seconded by: Travis

Motion: _____

Passage

Committee Member

Representative Stephen Freese

Aye

No

Absent

Not Voting

Representative Mark Gundrum

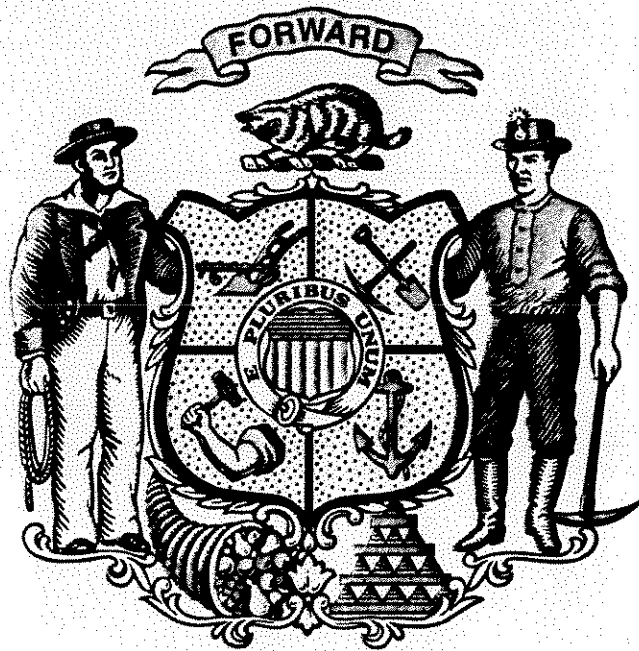
Representative Glenn Grothman

Representative Jeffrey Wood

Representative David Travis

Representative Mark Pocan

Totals: 6 0 _____ _____



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STEVEN V. PONTO
Chairperson

KEVIN J. KENNEDY
Executive Director

DATE: November 27, 2002

TO: Elections Board Members

FROM: Kevin J. Kennedy, Executive Director

SUBJECT: Summary of Help America Vote Act of 2002

On October 29, 2002 President Bush signed the *Help America Vote Act of 2002*. The legislation will have a significant impact on the administration and conduct of elections in Wisconsin. The legislation is the product of a conference committee that reconciled legislation passed by the House of Representatives (HR 3295) and the Senate (S 575). I have included some background information on the legislation: a 2-page summary of the House-Senate agreement; a 17-page joint explanatory statement that contains a section by section description of the legislation developed by the House Committee on Administration; and the statement of President Bush when he signed the legislation.

The legislation imposes several requirements on states with respect to the administration of federal elections. It establishes several key deadlines for complying with the requirements. The legislation also authorizes a significant amount of money (\$3.9 billion) for implementation of the new law. This memorandum provides a description of the immediate impact of the law.

Funding

The authorized funding has not been appropriated. It is highly unlikely that it will be appropriated before the end of the year because congress has already adjourned for this session. The amount if appropriated under the timetable in the bill would be distributed over three fiscal years. However, the state could hold the money for use in subsequent fiscal years.

According to the formula established in the legislation, Wisconsin could receive as much as \$61 million if the legislation is fully funded. This would include \$6.033 million in Title I money. This money does not require any match.

It would also include \$54.9 million in Title II money to meet the requirements of Title III. This money is often described as "requirements payments." This would require a 5% state match, \$2,745,000.

Even if the state does not take the funding it appears that we are bound by the requirements set out in Title III.

What needs to be done

Section 101

The Governor in consultation and coordination with the executive director must notify the Administrator of the General Accounting Office that Wisconsin intends to use payments in accordance with the provisions of Title I within 6 months of enactment (April 29, 2003). This money can be used to comply with the requirements set out in Title III; improve administration of elections for federal office; educate voters concerning voting procedures, voting rights, and voting technology; train election officials, poll workers and election volunteers; develop the state plan; acquiring voting equipment; or improving polling place accessibility.

Section 102

State must submit a certification to GAO within 6 months of enactment (April 29, 2003) that money will be used to replace punch card and lever voting equipment.

Section 213

The executive director must select a state election official to serve on the Standards Board to the new Election Assistance Commission.

The executive director must develop a process for selecting a local election official to serve on the Standards Board to the new Election Assistance Commission.

Notify the chair of the Federal Election Commission within 90 days of enactment (January 29, 2003) of the two Standards Board members who have been selected and agreed to serve.

Section 253

As a condition of receiving any Title II funds, the Governor or designee in consultation and coordination with the executive director must file a statement certifying that a state plan has been developed following the procedures set out in the act, in consultation with groups identified in the act and subject to the notice and comment periods set out in the act.

Section 254

Develop a state plan. The state plan shall contain a description:

How the state will use the requirements payments to meet the provisions of Title III and other approved activities;

How the state will distribute and monitor distribution of requirements payments to local governments and other entities including a description of:

- Criteria to be used to determine eligibility;
- Methods to be used to monitor performance;

How the state will provide for programs of voter education, election official training and poll worker training;

How the state will develop voting system guidelines and procedures consistent with Section 301;

How the state will establish a fund to administer state activities including information on fund management;

The state's proposed budget based on best estimates including specific information on:

- Costs of activities required to carryout requirements of Title III;
- Portion of Title II payments used to meet requirements of Title III;
- Portion of Title II payments used for other activities;

How the state will maintain election administration funding at 2000 levels;

How the state will adopt performance goals and measures to determine success – with timetables for meeting each of the elements of the plan, descriptions of the criteria the state will use to measure

performance, the process used to develop the criteria and a description of who is accountable for ensuring that each performance goal is met;

A description of the uniform, nondiscriminatory state-based administrative complaint procedure;

How the state will use Title I money;

How the state will conduct ongoing management of the plan.

What is being done

I have been working with the Legislative Reference Bureau to draft legislation to implement the federal provisions in Wisconsin. An initial draft will be available for review by the end of next week. I have reviewed the legislation in detail and discussed the provisions with a number of individuals to determine what our options are. I have meetings scheduled with various legislators that have expressed an interest in the development of legislation related to the new law.

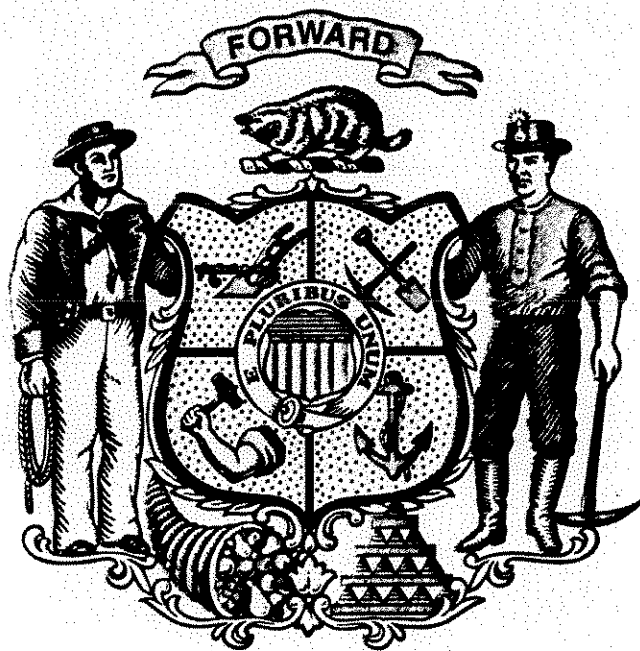
I plan to discuss implementation provisions with the Department of Administration and the Department of Electronic Government. The agency will need administrative support with respect to the use of federal funds, the development of the state plan and development of information technology initiatives.

During October, I initiated an effort among local election officials to lobby our congressional delegation to ensure funding of the new legislation. I plan to renew these efforts and pursue the lobbying effort with the administration and the legislature.

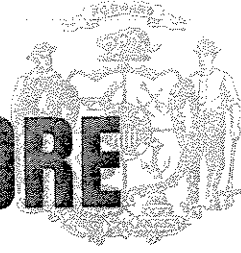
The agency elections team (Kevin, George, Barbara, Tom and Diane) will be attending a workshop put on by the National Association of State Election Directors (NASED) during the second week in December. The workshop will provide an in-depth review of the provisions of the new law and hands on instruction in the development of a state plan. I am one of the individuals that will be presenting information to attendees at the workshop.

Conclusion

The *Help America Vote Act of 2002* will drive the workload of the agency for the next three years. We are going to need significant support from other agencies, the legislature and the administration to successfully implement the new federal requirements. This is an opportunity to invest in our election administration infrastructure and plan for its ongoing support.



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Testimony of State Senator Gwendolynne Moore on Numerous Assembly Bills Assembly Committee on Campaigns and Elections March 6, 2003

Thank you for allowing me the opportunity to submit this written testimony in my absence. I would like to thank Chairman Freese and the members of the Assembly Committee on Campaigns and Elections for holding this public hearing to discuss numerous Assembly Bills that seek to modify Wisconsin's election process.

As you know, it is a fundamental function of government to ensure that each citizen truly has equal and unimpeded access to the ballot box and that every American voice is properly recorded. It is also important for the judicial branches of government to pursue the vigorous enforcement of laws when deliberate election fraud does indeed occur. However, as legislators, we must balance our duty to safeguard our system from election fraud with our duty to protect the voter's rights. We must not be swayed to alter the basic tenets of our election laws based solely upon the *perceived* fear of voter fraud. We must proceed with extreme caution when we entertain any legislation under the guise of "reform" that could compromise the franchise of our citizens. Ultimately, the voter's right to participate in the election process must be paramount.

Legislation that is being considered today, in particular Assembly Bill 111 (AB 111), is just such a proposal that severely threatens our citizens' franchise instead of providing any real electoral reform. **A voter should not be required to show a valid Wisconsin driver's license or photo id in order to receive their ballot.**

Disguising their proposals as necessary "election reforms" which would ensure the integrity of the system, Republican partisans are continually proposing new initiatives that would disproportionately disenfranchise Wisconsin's low-income, minority, elderly, handicapped, homeless, and student populations. Now Republicans seek to capitalize on a never previously utilized absentee ballot provision to justify implementation of an onerous voter ID bill. I am deeply troubled by Representative Freese's attempt to capitalize on the recent allegations of voter fraud that have been identified in recent **Milwaukee Journal Sentinel** articles. Rep. Freese exploited this recent development by publishing a press release that misleads readers to believe AB 111 would have prevented this alleged voter fraud. Obviously, AB 111 does not address the concerns raised by the ACE incident, as Rep. Krug and Rep. Ladwig have recently introduced absentee ballot legislation to deal with this specific issue.

What AB 111 does do is place undue and unnecessary burden on some of our most vulnerable voters, including our low-income, minority, elderly, disabled, homeless and student citizens, by

requiring all voters – regardless of whether they are registered or not – to present a DOT-issued Wisconsin driver's license or photo ID in order to obtain a ballot. In essence, this measure is an unconstitutional **poll tax** on those whose grasp on the franchise is currently most vulnerable; the elderly, the low-income and the homeless, or handicapped. Individuals will still have to pay to obtain a birth certificate or other identifying information. Further, they could lose work time, wage compensation, or other financial support all in order to obtain an unnecessary ID.

Additionally, AB 111 is fiscally irresponsible, as it severely increases state spending by mandating the DOT to provide necessary identification free of charge for all citizens. During this time of state fiscal uncertainty, it is negligent for Republican legislators to create such an enormous fiscal impact on state government. It was estimated that AB 259, last session's voter ID legislation, which also would have provided an ID card free to anyone who requested it, would have cost the state \$850,000 annually. The author of AB 111 chose an inopportune time to introduce this legislation, as it is a time when our state is bracing itself for a \$4.2 billion deficit, the like of which our state has not faced since the Great Depression!

Just a few weeks ago Republicans restored \$22 million in cuts to the Transportation Fund proposed within the Governor's budget adjustment bill. It is extremely ironic with our state's enormous deficit that now this Republican proposal is proposing expensive new ideas to the already overly stressed DOT budget. In fact, DOT previously estimated that it would require 3 additional full-time employees to fulfill the photo ID mandate. This is distressing, and seemingly irresponsible, at a time when the state is considering eliminating 2,900 state jobs.

The Department of Transportation (DOT) estimates that roughly 130,000 people across the state do not have the kind of documentation referred to in this legislation. Furthermore, the DOT estimates that only 20% of these people would ever get necessary documentation if AB 111 became law. That means that roughly 100,000 Wisconsin residents currently without DOT-issued photo identification, many of who are elderly, low-income, minority, homeless, or handicapped, would be disenfranchised by this bill.

Many of these people do not have the time or the resources to go to the DMV to obtain identification simply to vote. For example, if AB 111 were passed, a low-income person would be forced to jeopardize their employment or utilize precious vacation time to visit the DMV. Further, an elderly person who may have health problems would have to stand in the DMV line for hours to maintain their franchise. Adding to that hardship, many DMV offices have been eliminated or have had their hours of operation reduced due to budget cuts.

Furthermore, students from out of state who study at Wisconsin's colleges and universities and are eligible to vote in this state would not be allowed to present photo identification from their home state or a Wisconsin university identification card in order to prove their identity. They, too, would have to go to the DMV to obtain a Wisconsin photo identification card.

Many of Wisconsin's most diligent voters have been registered at the same address and have voted at the same polling station for most of their adult lives. This is particularly true in Milwaukee's inner city, where many low-income minority voters have never had the kind of photo identification required in AB 111.

Most states do not require an identification card, photo or otherwise, for their state's registered voters. In fact, only state, South Carolina, a state that still refuses to remove the Confederate flag from its state capitol, requires all voters to present a photo ID or be denied the right to vote. Moreover, **29 states are precluded by state statute from asking for any kind of voter identification at the polls.** Instead, AB 111 seeks to depart from this group of states and "reform" our electoral system by disenfranchising voters.

AB 111 could potentially undermine the provisional ballot process. Under AB 111, if you fail to provide a valid DOT-issued Wisconsin photo id, your secretly cast vote will be put aside as a provisional ballot, and you will have until 4 pm the day after the election to obtain the necessary ID and prove your identity. One day is not sufficient time to procure an ID if you were born in another state and need to obtain a birth certificate, or have other work demands. If you fail to prove your identity your vote will not be counted!

Voter registration by corroboration must not be repealed. Currently, a person who does not have a residential address can vote if that person brings with them to the polls another registered voter from the same municipality. This means that homelessness in Wisconsin does not mean disenfranchisement. AB 111 would require the voter to show photo id even in the presence of corroboration. We should not strip a voter of his or her rights simply because that person lacks an address or a photo id. According to the January 8, 2001, edition of the Journal of the American Medical Association, 1% of the US population is homeless throughout the course of a year.

The mere *perception* of voter fraud provides no factual basis, no compelling interest, to change the tenets of Wisconsin's open election system, which consistently produces one of the highest voter turnouts in the nation and encourages voters from all walks of life to participate in our democracy. Wisconsin has a long, proud history of progressive election laws and of inclusiveness in the electoral process.

In fact, Wisconsin was one of the first states to give immigrants the right to vote. In 1848, our state's Constitution allowed immigrants to vote as they declared their intention for naturalization. For over 150 years, our state has sought to make the polls as accessible as possible to new voters.

Many have attempted to exploit charges of voter fraud in Milwaukee during the 2000 election. In that election, Milwaukee District Attorney McCann found that out of the 361 individuals with criminal backgrounds who were accused of voter fraud, only 3 had not had their civil rights restored. **McCann did not press charges against these three individuals because they were unaware that they were disqualified from voting.**

Now, under the guise of election "reform", the bill being debated here today will have the effect of disenfranchising many of Wisconsin's poor, minority, elderly, handicapped, homeless, and student voters, many of whom tend to vote Democratic. **While I certainly hope that the intent of this proposal is not to silence the voices of Wisconsin's most vulnerable who happen to vote Democratic, the effect of this proposal will do just that.**

I am equally concerned by the ramifications of **Assembly Bill 122 (AB 122)**, which like AB 111 disenfranchises voters rather than enacting real election reform. **This controversial, divisive and unnecessary bill seeks to single out one particular constituency, prohibiting them from contributing to political campaigns and therein severely limiting their access to the political process.** Anyone who receives income from a gaming establishment would lose his or her right to play a role in the political process. Gaming operators, including casinos, lotteries and racetracks that violate this law would face a Class I felony, a fine of \$10,000 and possible imprisonment of not more than three years and six months!

The bill's drafting notes reveal that there are potential constitutional questions regarding the infringement of equal protection rights of persons who earn their income from gaming operations. Should the concept of singling out constituency groups be considered constitutionally acceptable, this bill should be expanded to include all corporations and entities that routinely "influence" campaigns and elections. Unless AB 122 prohibits all groups that influence campaigns from contributing, the bill is unjust and possibly unconstitutional.

And lastly, I would like to voice additional comments about several of the other eleven bills that the committee is considering here today:

I believe that **Assembly Bill 113** would do little to impact the election process in Wisconsin. Proponents argue that people who view results through media outlets prior to poll closings may be persuaded by the preliminary results and may opt not to vote. This legislation does not address these concerns, as most preliminary results publicized prior to 10 pm are national, particularly from east coast states whose polls close earlier than Wisconsin's due to time zone. I feel that federal legislation would be the proper outlet for addressing this concern, as it should impact the entire nation, not just the state of Wisconsin.

I support **Assembly Bill 114** as a fair proposal that intends to provide uniform polling hours and will provide greater opportunity for citizens to exercise their constitutional right to vote.

Under current election law, every vote cast, including all write-ins, are counted. **Assembly Bill 115** intends to disenfranchise voters who cast write-in votes for candidates that have failed to declare candidacy in the time specified in the bill. Every vote should

count, whether it is cast for a candidate on the ballot or is written-in by the voter. AB 115 disenfranchises voters and the election process.

County boards of supervisors, common councils, village board of trustees, town boards of supervisors, county chairpersons or mayors currently have the authority to fill temporary vacancies in their respective levels of government. **Assembly Bill 118** takes away local control and instead creates an un-funded mandate for local government and taxpayers. By mandating automatic special elections to fill all vacancies for local elected positions, Wisconsin taxpayers will bear significant additional election costs. With the looming multi-billion dollar state deficit as well as deficits at the local level, it is not a stretch to say that citizens are more concerned about increased government spending than filling short-term vacancies in current elected positions.

The change in campaign finance reporting proposed by **Assembly Bill 119**, which requires that non-resident registrants be held to the same filing requirements as Wisconsin residents, seems to be fair and common sense reform to campaign finance law.

Greater education regarding voting rights should always be encouraged to ensure voter awareness and diminish accusations of fraud. I support the concept of **Assembly Bill 120** as it carries on Wisconsin's tradition of educating citizens about the electoral process. I especially support the provision that gives the court system and the Department of Corrections (DOC) discretion as to how they will notify affected persons. During these times of state fiscal uncertainty, we should be attempting to pass legislative proposals that mandate minimal new fiscal increases on state government. While I have no information on whether this new requirement will create great additional costs to the court system and DOC, I am cautiously optimistic that the intent of the author is to limit such fiscal increases on state government.

Assembly Bill 121 gives municipal bodies the authority to test all polling officials to prove their ability to speak and read English. While it is important that polling officials be able to converse and communicate effectively with those electors at that polling place, I hope this is not a "back door" approach to encourage the introduction of divisive "English Only" proposals.

Finally, I support the section **Assembly Bill 123** that creates a segregated fund and spending authority for the State Elections Board to carry out the federal requirements imposed in the Help America Vote Act of 2002. I reserve judgment at this time of the remaining items within this bill because I am unclear of their effect on the citizens of Wisconsin.

I hope, as you consider your vote on these numerous election bills, the members of this Committee will remember that the integrity of our election system can only be protected by ensuring that every voice continues to be heard.

Thank you for allowing me the opportunity to share my views on bills being discussed at today's hearing.