



March 28, 2018

Senate Committee on Elections and Utilities
Assembly Bill 947
Representative Peter Barca

Chairman LeMahieu and members of the Committee on Elections and Utilities; thank you for the opportunity to provide testimony on Assembly Bill 947, otherwise positive legislation which unfortunately has the goal of further disenfranchising voters under the amendment being considered today.

Since the forming our nation, one of our key founding principles has been “no taxation without representation.” This concept has been a part of the fabric of our nation from our very beginning as a republic.

However, legislation like the special election substitute amendment under consideration today leads to cynicism toward our government, as politicians put their party or personal interests above the interest of the people. The public is not fooled by this legislation. The people of these districts understand they are not better served by not having elected representatives in this building looking out for their interests.

What is particularly ridiculous about the issue with the two unfilled legislative districts is that if Governor Walker had acted promptly on these vacancies the elections could have occurred concurrently with April elections and there would have been virtually no additional costs.

Further, the governor was not surprised by these vacancies. The vacancies were created because two former legislators vacated their seats to take positions within his administration. Governor Walker knew these vacancies were coming before anyone, and certainly could have acted to ensure voters could elect legislators as required under the law.

I proudly supported the initial bill as approved unanimously by the Assembly to bring our law in line with federal law for overseas and military voters. The Senate should act on that legislation. But we must not tarnish this important underlying bill, intended to help military and overseas voters, with this naked political move to block access to the ballot box because some may not like the outcome of recent special elections. Military and overseas voters, the voters of the vacant legislative districts, and all the voters of the state of Wisconsin deserve better.

Thank you again for the opportunity to provide testimony on this legislation.

Testimony of Michael Haas
Wisconsin Elections Commission

Senate Committee on Elections and Utilities
March 28, 2018

Room 300 Southeast, State Capitol
Public Hearing

Assembly Bill 947

Chairperson LeMahieu and Committee Members:

Thank you for the opportunity to provide testimony on Assembly Bill 947 and Senate Substitute Amendment 1. I am presenting this testimony on behalf of Interim Administrator Meagan Wolfe who is in Boston this week to participate in training related to election security tabletop exercises. I testified in support of AB 947 in the Assembly because it accomplished one of the significant items on the Commission's legislative agenda, specifically to clarify the treatment of Wisconsin voters who are out of the country temporarily and to bring it in compliance with federal law. The Commission has not reviewed the Substitute Amendment and therefore I am testifying for information only regarding that Amendment.

Regarding the original provisions of the bill, for several years, the Federal Voting Assistance Program of the U.S. Department of Defense (FVAP) has requested that Wisconsin revisit and revise its treatment of electors who are overseas temporarily and therefore have an intent to return to Wisconsin and retain their Wisconsin residency. These individuals may be short-term travelers who happen to be out of the country during an election period, or they may be working overseas for years at a time but always with an intent to return to Wisconsin. Under current law and under AB 947, these electors are entitled to cast votes for all offices on the ballot.

Another category of electors are considered permanent overseas electors. Those voters, or their parents, were previously residents of Wisconsin, and they have moved out of the country and no longer have an intent to return to the state. They are U.S. citizens and under both the current law and proposed bill, they have the right to vote for candidates for national offices, including President and Congress, but may not vote for state or local contests.

The federal government recognizes that states may make such distinctions regarding which offices permanent and temporary overseas electors may vote for. However, for several years FVAP has argued that federal law (specifically the Uniformed and Overseas Citizens Absentee Voting Act or UOCAVA) requires that both permanent and temporary

overseas electors be treated the same for purposes of electronic transmission of the ballot and use of the Federal Write-In Absentee Ballot (or FWAB). In recent years, the U.S. Department of Justice has become involved in our conversations with FVAP and has persisted in requesting that Wisconsin bring its statutes in line with federal law.

The general definition of “overseas elector” in the proposed bill describes permanent overseas electors. The proposed bill refers to temporary overseas electors as an overseas elector who qualifies as a resident of this state under Wis. Stat. Section 6.10. The proposed bill would accomplish two changes with respect to temporary overseas electors to satisfy the requests of federal officials:

1. Under Sections 10, 11 and 12 of the Substitute Amendment, temporary overseas electors would be able to receive an absentee ballot from their municipal clerk electronically. Currently only military and permanent overseas electors may receive a ballot electronically. Military and permanent overseas electors may receive a ballot by fax or email, or by downloading their ballot from the Commission’s MyVote Wisconsin website. While the proposed bill would permit temporary overseas electors to receive a ballot electronically, they would be limited to receiving ballots by fax or email and would not be able to receive ballots through the MyVote system. This is due to several factors related to the MyVote website as well as the requirement that temporary overseas electors must submit their photo ID to the municipal clerk, which military and permanent overseas electors are not required to do.
2. Under Section 11 of the Substitute Amendment, temporary overseas electors could use the Federal Write-In Absentee Ballot, or FWAB, which may currently be used only by military and permanent overseas electors. The FWAB is a back-up ballot which permits the voter to write in votes for all candidates for which the elector is entitled to vote. The FWAB can be obtained through the FVAP website if the elector believes they will not receive their official ballot in time to return it to their municipal clerk. If the official ballot is also submitted by the voter, the official ballot is counted and the FWAB is rejected.

Assembly Bill 947 makes another change which the Elections Commission has requested that the Legislature consider, by removing the requirement that an individual signing as a witness for a military elector or a permanent or temporary overseas elector be a U.S. citizen. Wisconsin is currently the only state which requires that such witnesses be a U.S. citizen. The requirement for a U.S. citizen to serve as a witness would remain for absentee voters who are not military or overseas electors.

We appreciate the work of the authors, legislative staff, and Legislative Council in working through the legal and administrative issues involved with the overseas electors portion of the bill. We believe that AB 947 would address the concerns raised by the federal government related to Wisconsin’s treatment of electors who are out of the country temporarily and our compliance with federal law.

Regarding the provisions related to calling special elections, which are Sections 27 through 30 of the Substitute Amendment, the bill would extend the timeline between the issuance of an order for a special election and the date of the special election. It would also prohibit special elections for legislative vacancies which occurred later than November of the year prior to the regular election for the office, and would require special primary elections to be scheduled eight weeks prior to a special election rather than four weeks under the current law. The Substitute Amendment would continue the four-week period between the nomination paper filing deadline and the date of a special primary election, if a primary becomes necessary. These are policy choices for the Legislature.

When an order is issued for a special election, ballots are typically printed one to two weeks after the filing deadline for nomination papers, depending upon whether challenges are filed and on printing schedules. After a primary election involving state or federal candidates, there usually is a delay of about two weeks before ballots are available because of the official canvass process and the window for a recount petition to be filed. Under the Substitute Amendment, ballots would likely be available around 43 days or less before the special election if there is a primary.

Under federal law, absentee ballots must be made available to military and overseas electors at least 45 days before an election that includes a federal office on the ballot. Current state law requires absentee ballots to be available to all absentee voters at least 47 days before the partisan primary or general election. There is no federal deadline for making absentee ballots available when there are only local or state offices on the ballot.

The changes to these timelines would also apply to special elections for local offices. However, vacancies in local elective offices can be filled initially by an appointment and then in some cases the governing body may also schedule a special election before the term expires.

Thank you for the opportunity to share our thoughts with you. I hope this testimony will help inform the Legislature's consideration of this bill. As always, we would be glad to answer questions and work with you to address any questions or issues related to the bill.

Respectfully submitted,



Michael Haas

Wisconsin Elections Commission

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Testimony of Matt Rothschild

Executive Director, Wisconsin Democracy Campaign

Senate Committee on Elections and Utilities

In opposition to Senate Substitute Amendment 1 to Assembly Bill 947

March 28, 2018

Good morning, Mr. Chairman, and distinguished Senators. It's nice to see you all again.

I'm Matt Rothschild, the executive director of the Wisconsin Democracy Campaign, which, since 1995, has been advocating for clean, open, and transparent government.

I'm here today to oppose, in the strongest terms possible, the naked partisan power play that is going on right now.

There is no fig leaf in the Amazon jungle that's big enough to cover up this transparent move to keep Wisconsin citizens in Assembly District 42 and Senate District 1 underrepresented in this legislature.

What's more, these very citizens will be underrepresented on the vote in the next few days as to whether they'll remain underrepresented or not.

The founders of our country fought the War of Independence over the very issue of fair representation, and this amendment would deny fair representation to some Wisconsinites today and more Wisconsinites tomorrow.

By granting the governor the power not to call special elections promptly, and by doubling the amount of time between his calling an election and the actual holding of that election, this amendment would keep some Wisconsin citizens underrepresented in this body for months and months on end.

That is not how our democracy is supposed to work.

And it's not how it's worked here in Wisconsin up to now. Between 1971 and today, for instance, there were 62 special elections for State Assembly seats and 40 for State Senate seats, and these special elections were all called promptly, without subverting the law, according to a study by WisContext, which is a service of Wisconsin Public TV, Wisconsin Public Radio, and UW Extension.

The flimsy rationales put forward for this bill are that it saves taxpayers money and that it's inconvenient to hold special elections, especially so close to the November elections.

First of all, if the governor had done his legal duty and called special elections promptly, we wouldn't be so close to the November elections.

And secondly, if you think it's more important to save taxpayers money than to have a fully representative government, why should you ever fill a vacant seat?

This amendment puts a very low price tag on democracy.

I implore you to vote against this amendment.

There are some things more important than party discipline and raw power.

One of those is democracy.

If you vote for this amendment, you'll be undermining the norms of our democracy.

You'll be violating our system of checks and balances by subverting the judicial branch.

And you'll be violating the essence of our democracy by depriving Wisconsin citizens of full representation in this body.

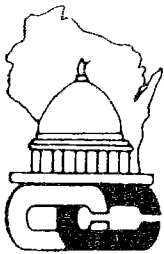
Senators of conscience -- and you all, in this room, are senators of conscience -- if you vote for this bill, it'll be a vote you'll regret.

On the day of your retirement, you'll look back on this vote with remorse.

You'll regret that you didn't have the courage to stand up to your leadership when your leadership was dead wrong.

And you'll regret that you didn't have the courage to uphold the norms and principles of our democracy.

Rather than have a horrible vote hanging over your retirement and haunting your conscience, I urge you to vote against this dreadful amendment.



Common Cause in Wisconsin

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Jay Heck, Executive Director * www.commoncausewisconsin.org

For Release: Wednesday - March 28, 2018

Tyranny of the Legislative Majority May Yield Short Term Partisan Gain But it Will Seriously Undermine Democracy & Citizen Confidence in State Government

Jay Heck, Executive Director

The recent machinations by Governor **Scott Walker** and the majority party in the Wisconsin Legislature were not rushed to the forefront of state government consideration to "save taxpayer dollars" or to "avoid confusion." There is not a single person in the Capitol – and very few outside of it – who believe that to be the case for a second.

Everyone knows that this measure to dramatically change the decades-old law governing the responsibility of the Governor to call for a special election to fill, as soon as possible, the seat of a State Senator or State Representative who leaves office prior to the completion of her or his term, is being undertaken for purely partisan reasons. Namely, the fear that the majority party may lose one or both of the two currently vacant legislative seats – one in each chamber – because of the current state of the political "atmosphere" in Wisconsin and in much of the rest of the nation.

The biggest losers in this obvious exercise of partisan political muscle are the citizens of Wisconsin's 1st State Senate and 42nd State Assembly Districts, who will have been robbed of elected representation in the Legislature for over a year and thus have had no voice as the Legislature considers and votes on critical legislation such as this proposed, ill-advised measure.

This legislation also undermines the rule of law by circumventing explicit court orders for the Governor to call special elections that could easily be held in June to fill both vacancies.

Whenever one or two of the three branches of government take aim to defy and circumvent the lawful decisions issued by the remaining branch, our democratic institutions are shaken and citizen confidence in all three branches is diminished. Certainly the Legislature has the right to make new laws. That is their function. But when the law serves only the narrow, partisan political interest of the majority party while undermining the greater public interest, as this measure irrefutably does, then citizens must resist.

This has occurred, in similar ways, in too many matters over the last eight years. Enactment of one of the nation's most extreme and restrictive voter photo ID laws, the most partisan political gerrymander of state legislative districts in the nation in 2011, the destruction of the non-partisan Government Accountability Board, the exemption of only politicians and political crimes from investigation under the state's effective John Doe law, the retroactive decriminalization of campaign coordination between candidates and so-called independent special interest groups engaged in phony issue advocacy, the elimination of almost all meaningful disclosure of outside campaign spending, the elimination of limits on money flowing to legislative campaign committees and political parties. The list goes on and on.

And now this. The majority party may gain some small, temporary partisan advantage by enactment of this misguided measure to change the rules governing special elections. But some time soon, the day of reckoning will come for this, and for all the other measures that have diminished democracy and undermined the ability of citizens to expect and attain a responsive and responsible state government that serves the public interest instead of the self-serving, partisan interest that currently dominates public policy in Wisconsin.



LEAGUE OF WOMEN VOTERS®
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March 28, 2018

To: Senate Committee on Elections and Utilities

Re: Opposition to AB 947 Senate Substitute Amendment 1

Although the League of Women Voters of Wisconsin supported the improved absentee ballot provisions in the original version of AB 947, we strongly OPPOSE the proposed changes in the substitute amendment dealing with the timing of special elections. We take this stance based on our position supporting representative government:

"Founded by the activists who secured voting rights for women, the League has always worked to promote the values and processes of representative government. Protecting and enhancing voting rights for all Americans, assuring opportunities for citizen participation, working for open, accountable, representative and responsive government at every level—all reflect the deeply held convictions of the League of Women Voters." (http://forum.lwv.org/sites/default/files/impact_on_issues_2016-2018_representative_government.pdf)

In particular, we oppose this effort to undermine a court decision by changing the rules retroactively. When two legislators resigned last year, the voters in their districts had the right to elect new representatives. This bill would rescind that fundamental citizen right and deprive citizens in those districts of representation for an entire year.

Further, this legislation appears to strip any obligation for the Governor to call special elections. The bill deletes current language from the statutes specifying that the Governor "shall call special elections as promptly as possible." The bill only creates a prohibition on holding such elections after the spring primary.

Some people have said that it would be a waste of taxpayer dollars to hold elections at this point. There would have been no such waste if the Governor had called the special elections when he should have according to the law. The elections could have been held in conjunction with the February/April election cycle.

Some have noted that the legislative session will have concluded by the time the new legislators take office. Yet, as we have seen just this year, a Special Session or Extraordinary Session can be called even after the legislature has adjourned. Such sessions are convened to address specific and usually very important issues. Current law provides for voters in every district to have representation in these matters. This bill would reverse that.

In particular, this legislation burdens citizens in two current districts who don't have representation *even right now as this current Extraordinary Session considers their fate*. The voters Senate District 1 and Assembly District 42 had the right to elect new representatives upon the resignation of their legislators, and this matter should not be considered without their representation.

Others have noted that residents of the affected districts can still contact their legislative offices for basic constituent services. That is well and good, but it gets to the difference between constituent service and governance. If legislative staff can provide public service without input from the lawmakers themselves, we could save a lot of taxpayer dollars by going to a part-time legislature.

This legislation strips citizens of representation and it should be soundly rejected by any lawmaker who believes in fair and responsive government.



Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

La Keisha W. Butler
Director of Intergovernmental Relations

**City of Milwaukee Testimony on AB-947 relating to:
absentee ballots cast by overseas and military voters**

March 28, 2018

Thank you Chair LeMahieu and members of the Senate Elections and Utilities Committee for holding a hearing on this bill. The City of Milwaukee submits the following testimony solely to raise concern regarding Senate Substitute Amendment 1 which would alter the state's special elections law.

Since late 2017 when Senator Lasee and Representative Ripp left the legislature there has been much discussion surrounding the special elections law and whether Governor would, or should, call a special election to fill those seats. Governor Walker indicated that he would not call a special election for either seat stating that the special elections law did not require him to do so. What the current special elections law means is now a matter of litigation.

Senate Substitute Amendment 1 seeks to resolve this issue by changing the law to allow the Governor essentially unfettered discretion regarding when, or if, special elections are called. This is a public policy issue that can have grave impacts on the citizens of this state and should not be rushed through at the end of a legislative session with little notice to the voters. An issue of this magnitude should be thoroughly examined and discussed, and the citizens should be permitted time to analyze the potential impact of such a change and make their opinion know to their respective legislators.

The citizens of Senate District 1 and Assembly District 42 are already feeling the impact of the proposed amendment as they do not have an elected official at the state they can express their concerns to. And, if passed, Senate Substitute Amendment 1 could impact any district in the future, including those in the City of Milwaukee. For this reason, the City opposes Senate Substitute Amendment 1 to AB-947 and asks you to vote no.

For additional information, please contact: La Keisha W. Butler, (414) 286-5513, labutl@milwaukee.gov

AB 947 Testimony

Nate Zimdars

When I first learned about voting as an elementary school student and how it was such a crucial part of our political process, I eagerly awaited the first time I could participate in an election. The first time I voted in the summer of 2011 recall election was through an absentee ballot because, even though I was going to be out of state during the election, I wanted to be a part of the process. Again, when I was living in the West African nation of Senegal during the 2016 presidential election, I did everything in my power to ensure that I could have my voice heard through the ballot box.

Throughout my year of living in Senegal, especially after the 2016 election, so many individuals would approach me upon discovering my American identity and ask about how politics works in the States. In each one of those conversations, I always expressed that even though certain elections may not have ended with the results I was hoping for, I still remained thankful for the opportunity to participate and knowledge that my voice was validated.

This has since changed. I returned from Senegal with excitement to once again become engaged on a more intimate level with our political process. Whether that was through staying informed on issues and potential laws that impacted me, visiting with legislators, or voting.

I was surprised when it became clear that the seat Representative Ripp vacated would go unfilled for an entire year. Keeping that seat empty is the status quo desired from a select few in positions of power who fear what the outcome of a special election would bring. Because of this, the residents of Assembly District 42 have not had adequate representation in Madison. Our voices

have effectively been silenced. Our input has not been able to translate into votes on critical issues not only to the district, but the state as a whole.

I am proud to be a resident of rural Wisconsin. I am proud to be a resident of district 42. I am proud to be a part of a political process that is designed to empower constituents through the ballot box. The justification for refusing to initially call a special election is absurd and a slap in the face to constituents in district 42. If the goal was to disenfranchise voters and inspire us to become more engaged while seeking to hold those responsible for this flagrant violation of Wisconsin law accountable, this body has certainly succeeded in that.

This bill has negative ramifications for the residents of district 42 and I am in opposition to its passage.

**Testimony to the Senate Committee on Elections & Utilities
on the Senate Substitute Amendment to AB 947
March 28, 2018**

**Linda Kessel
Indivisible Madison
301 S. Ingersoll St., #204
Madison, WI 53703**

My name is Linda Kessel. I am an organizer with Indivisible Madison. Indivisible chapters throughout our state are made up of voters – constituents of state and federal office holders. I make no bones about the fact that these chapters are engaged in resisting Trump's and Walker's agendas and the GOP legislators who follow them in lockstep. While we care deeply about electing officials to oppose the Trump agenda, we care just as much about building a strong progressive community nationwide and pushing the conversation back to the interests of the people. Today, I am here to advocate for the interest of the people who live in Assembly District 42 and State Senate District 1. They are victims of intentional disenfranchisement by the GOP in our state.

When Sheila Harsdorf resigned from the State Senate to serve in the governor's administration, her seat – District 10 – was filled in 67 days – in time to vote in all the 2018 floorperiods except one day – the day of the election.

Keith Ripp who represented Assembly District 42 and Frank Lasee who represented State Senate District 1 both resigned on Dec. 29th, 2017. Had the Governor ordered special elections the same day as he did for Senate District 10, 67 days later – March 6, 2018 – the seats could have been filled in plenty of time for the March floorperiods in their respective houses. Had the Governor insisted on holding the special elections in sync with a regularly-scheduled election, they could have been held in conjunction with the primary on February 20, 2018. These districts' voters could neither resist nor support legislation which was considered during that floorperiod or the special session that followed. They couldn't weigh in on the GOP's so-called school safety proposals. They had no input on legislation that would have addressed the dark store tax loophole – a bill which could have reduced the property tax burden on homeowners. These are just two examples of legislation in which they had no voice.

The Governor and the GOP legislative leaders argue there is no point in filling the seats now that the legislature is done with voting for this session. Need I state the obvious? These voters could have had representation in this extraordinary session that was called after the end of the latest floorperiod. We are discussing legislation which couldn't affect these voters more. They have no one to represent their interests in this extraordinary session.

And this certainly is an extraordinary session. A few days ago, Dane County Circuit Judge Josann Reynolds ordered the governor to call special elections for these vacant seats. The response from Walker, Robin Vos and Scott Fitzgerald has been juvenile: name-calling, finger-pointing, and taking steps to avoid responsibility by changing the law. Like teens caught out past curfew, they argue "The problem isn't me, it's the curfew." Not only do they want to change it, but they insist that it should be applied retroactively. My parents would have grounded me.

This is setting a dangerous precedent. Not only do they double-down on disenfranchising voters, but they make a mockery of the state and federal constitutions. The judiciary is supposed to be a check and balance on the legislative and executive branches of government. It is concerning that the legislature and the Governor can avoid that check by retroactively changing the law. What's to keep them from changing any and every law on which the judiciary rules? I'm no legal scholar, but I would not be surprised if this legislation is deemed unconstitutional. Does the GOP welcome another lawsuit so they can stall these elections further?

The public can see this sham for what it is – a power grab at all costs to the voters in those districts. For these many reasons, I urge the committee to reject the Substitute Amendment for AB 947.

Doug Mering
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Email: dougmering@gmail.com
pH: 1-608-434-7968

March 28, 2018

Subject: Testimony Against Senate Substitute Amendment 1 to AB947

Dear Members of the Senate Elections and Utility Committee,

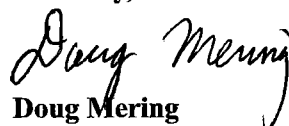
Thank you for the opportunity to allow me to speak on this bill. I come representing myself a member of the Wisconsin voting public who loves democracy including all of the rights, privileges and responsibilities that comes with being represented in state government. It is unfortunate that the Governor did not respond in a responsible way in calling for the election earlier this year. We now have not one but two judges that say this is in violation of the law that was written to protect the voters of this state. We hear the term judicial activism but the law clearly interpreted would state that those elections needed to be held. This bill in its present form smacks of legislative activism of the worst kind that violates our voters rights. Please do not vote in favor and advance this bill to the full Senate.

I assume this bill maybe one of the last legislative actions you will take this biennium? The argument is being made that since the legislatures work is done that there is not a need for this election to occur until November. This is where I am confused I thought you were a full time legislature and your work is never done. Is it fair to those 200,000 Wisconsinites not to have a legislator in their corner too. If you believe this bill should be advanced then: Since there is a major concern for the taxpayer and that these 200,000 Wisconsinites do not need their Senator and Assembly person when you are not in session. Then maybe the same applies to the rest of the Senate and Assembly. So, I propose that if you want to advance this bill an amendment should be added that all other senators and assembly persons should also forgo their salaries until the next legislative session starts. That would save us poor taxpayers a lot of our precious money if you believe their role is not needed then neither is yours.

Lastly, the last time I came before this committee was in 2011 when the bill for the current gerrymandered districts was up for public comment. They call this session coming up extraordinary. If you want to be extraordinary and don't we all want to be that when looking out for the best interests of the people of Wisconsin. Then your time would be better spent discussing and putting forward nonpartisan redistricting reform and not partisan legislation such as this.

Again in its present form with this amendment please vote this bill down.

Sincerely,


Doug Mering

**Cc- Senator Jon Erpenbach
Representative David Considine**