

**Testimony of Meagan Wolfe**  
**Administrator**  
**Wisconsin Elections Commission**

**Senate Committee on Elections, Ethics and Rural Issues**  
**Assembly Committee on Campaigns and Elections**  
**May 29, 2019**

**Room 411 South, State Capitol**  
**Public Hearing**

Chairperson Bernier, Chairperson Tusler and Committee Members:

Thank you for the opportunity to provide testimony on Senate Bill 193 and Assembly Bill 203. The bipartisan Elections Commission has discussed versions of this bill on several occasions but has not taken a position on it. The Commission decided that because of the policy choices involved which are in the purview of the Legislature, and that are viewed differently by various municipal and county clerks, it would not take a position in support of or in opposition to the bill. Today's testimony is being presented for information only.

Our staff has worked extensively with the authors and clerks supporting the bill to identify and address potential administrative issues. We appreciate that the authors and clerks working on the bill have taken our input and addressed many of our questions during the drafting process.

There is broad agreement that it is a challenge for some municipalities to process all absentee ballots on Election Day for high turnout elections. Currently, absentee ballots must be received by the municipal clerk, separated from a certificate envelope, and checked in and processed at the polling place or a Central Count absentee ballot processing location. It is a labor-intensive and time-consuming process, and the resources needed by local election officials has significantly increased over the last decade as absentee voting has become more popular among voters.

This bill would allow a municipal governing body to implement an alternative process of in-person absentee voting where the voter casts a ballot directly into the voting equipment at the clerk's office rather than having it processed at the polling place or Central Count location. The number of ballots cast are reconciled with the number of voters and reported daily, but votes are not tabulated until Election Day and results still are not reported until the close of polls.

The voting equipment would alert the voter if there is an error on the ballot so it can be returned to the voter and corrected. This differs from the current envelope process where the absentee voter would not know if there was a problem with the ballot being processed at the polls. Once the ballot is cast at the clerk's office there is no opportunity for the voter to change their mind and request a new ballot. That is currently an option although

it is not widely used during most elections. Voters who may wish to retain this option would still be able to vote an absentee ballot at the clerk's office using the current certificate envelope method.

Under the bill, the Wisconsin Elections Commission (WEC) would be responsible for establishing a procedure for certifying municipalities who wish to use the alternative process. The Wisconsin Elections Commission would be responsible for reviewing interested municipality's plans to ensure compliance with the statutory requirements including: that the municipality's in-person absentee locations have internet connectivity to the statewide voter registration system, review of municipal ordinance or authority, and review of the municipality's plan for securing voting equipment and ballots in a double-lock location at the end of each day. Most notably, the bill requires municipalities using the alternative process to have voting equipment which can capture images of the front and back of the ballot and which can create the necessary write-in reports. The Wisconsin Elections Commission would be required to develop a voting equipment protocol that includes testing these features in order to certify that municipalities have the equipment needed to use the alternative process.

The bill allows the WEC 60 days to review and approve municipality's use of the alternative process. It may be useful to extend the timeline for approval from 60 days to 90 to ensure that municipalities, counties, and the state have adequate time between and prior to elections to prepare for the implementation of the new process.

Throughout the drafting process the WEC has been given opportunities to review drafts and provide feedback. As with any new legislation, Elections Commission staff has identified policy and procedural changes, including the following:

1. One overarching policy consideration WEC staff has previously identified is the trade-off between the efficiencies the process may offer for municipalities which choose to implement it and the differences in voting procedures it will create between neighboring municipalities. It is impossible to know for certain how much voters will question their voting process being different from that in a neighboring municipality. If significant concerns or confusion results, both the WEC and local election officials will need to communicate effectively regarding the new optional process.
2. The bill shifts the processing of in-person absentee ballots from election inspectors to municipal clerks and their staffs. Because the major political parties have a statutory right to nominate individuals to serve as election inspectors, this may be seen as both an administrative and a policy change related to the respective roles of local election officials and the involvement of political party representatives. We have not heard concerns from the major political parties regarding this change but want to make you aware of the difference.
3. For county clerks who program voting equipment for municipalities, Section 5.84(1)(b) may require the county clerk to schedule the programming at an earlier date as determined by municipalities which choose to conduct the alternate process. A municipality using the alternative process must notify the county clerk at least 70 days before Election Day and must submit a plan to the Elections

Commission at least 60 days prior to the first day of using the process. It is possible the municipality may not know whether the Commission has approved their process prior to the deadline for notifying the county.

4. The bill limits the opportunity to use the alternative process to municipalities with newer voting equipment that captures digital images of ballots. It also introduces new methods of counting write-in votes. Currently write-in votes must be examined individually by election inspectors to determine the elector's intent. The bill would allow the use of a write-in report or write-in section of the results tape. The write-in report functionality of newer voting equipment has not previously been tested by the WEC as part of its voting equipment certification process because it is not required under current statutes. The WEC would need to implement a testing protocol for that function and test it on voting equipment systems which have already been approved and are in use in Wisconsin and apply those standards to any subsequent systems undergoing testing. While voting equipment vendors have stated that they believe their write-in report functionality does tabulate write-in votes in a way that could accommodate the alternative process, the WEC has not verified that is the case.
5. The bill would modify the location for challenging voters. Challenges are rare but those related to in-person absentee voters would be conducted at the clerk's office, meaning that potential challengers would need to attend voting hours for up to two weeks rather than only on Election Day. The challenge structure proposed in the bill would also allow voters to be present during a potential challenge and to potentially remedy the challenge, whereas when using the Election Day, envelope process the absentee voter is not present. Challenges to absentee ballots submitted by mail or through Special Voting Deputies would still be initiated at the polling place.
6. The bill also requires all in-person absentee voters to state their name and address when requesting a ballot in the clerk's office, which is not currently required but would ensure transparency for any observers who are present.
7. The bill changes the current rule that an absentee ballot is not counted if it is discovered that the voter died before Election Day, which is possible because the ballot is not processed until that day. The bill would remove the requirement that a ballot of an absentee voter who has since died be located and rejected for all absentee voters, not only those using the alternative process. Clerks report that the current rule is enforced unevenly because municipal clerks do not always know of a recent death in time to pull the ballot.
8. While the bill does not specifically require changes to the statewide voter registration system, WEC staff believes some changes may be required which can be absorbed in the agency's budget and will allow for enhanced tracking and reporting for municipalities who are using the alternative process.

The Elections Commission has not taken a position on the policy changes outlined above, or whether the alternative voting process established in the bill is the best method of alleviating the challenge of processing all absentee ballots on Election Day. However,

we thought it would be worthwhile to point out these changes from current election procedures.

Thank you for the opportunity to provide testimony. If I can provide any additional information or clarification, please feel free to contact me.

Respectfully submitted,

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