

Common Cause Wisconsin: Wisconsin State Senate Committee on elections, election process reform and ethics

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Common Cause in Wisconsin (CC/WI) is the state's largest non-partisan political reform advocacy organization with more than 9,000 members and activists residing in every county in Wisconsin. We strongly support free and fair elections in this state and nation and oppose attempts to make voting more difficult and burdensome.

Much to the disservice to Wisconsin voters, the measures being considered by this State Senate Committee on Elections today were formulated without bipartisan cooperation or consultation, without any collaboration or consultation with CC/WI, or with little to no input from other non-partisan voting rights organizations in Wisconsin.

Furthermore, these measures were devised and made public only late last week and are being subjected to a "fast track" process in which the outcome has already been preordained. These measures have hardly been able to be viewed, digested and understood by the public and additionally by important, trusted election administrators like municipal and county clerks whose jobs are directly related to the bulk of the issues addressed in these bills have not been consulted nor had time to review these bills in this timeframe. Yet they are expected to be passed along party lines and sent to the full State Senate for a vote, as soon as this Wednesday, February 9. Such a process is disrespectful of the voters of Wisconsin who have a right to expect a fairer and more transparent legislative process.

Additionally, CC/WI believes that the following measures being considered today would have a detrimental effect on voter participation in Wisconsin and make it more difficult and burdensome to vote in a state that already has among the most

extreme and restrictive voting laws of any state in the United States today. Accordingly, CC/WI strongly opposes the following measures up for consideration in this committee today. We urge a “No” vote against them and further expect and will encourage Gov. Tony Evers to veto them should they be advanced and passed through the Wisconsin Legislature.

Senate Bill 935: This “catch all” measure purports to address certain kinds of election “fraud” and prohibits private resources and contracts for election administration without providing public resources, restricts who may perform tasks related to election administration, restricts the ability to correct minor mistakes/defects on absentee ballot certificates, restricts returning absentee ballots solely to the office of the municipal clerk, appointment of election officials, imposes restrictions on allowing an employee of a residential care facility or qualified retirement home to serve as a personal care voting assistant during a public health emergency or an incident of infectious disease, and imposes severe penalties.

Why CC/WI is opposed: This measure is a vast overreach. It imposes unnecessary restrictions on providing assistance to voters who are residents of nursing care facilities, reduces resources available to provide safe voting without providing additional public resources, restricts ability for election clerks to make common sense address corrections to absentee ballot envelopes which will result in qualified ballots not being counted, imposes unreasonable restrictions on who can be a poll worker and provides for unreasonably severe penalties. It will result in the disenfranchisement of voters for minor, technical mistakes.

Senate Bill 937: This measure severely restricts who can be considered or who qualifies to be an “Indefinitely Confined Voter” for purposes of receiving absentee ballots automatically and provides severe penalties for non-compliance.

Why CC/WI is opposed: It should be up to each Wisconsin voter to determine whether or not they want to receive an absentee ballot in the mail to utilize and not up to a partisan politician. This measure does not even consider a global pandemic, whether it be COVID or similar pandemics in the future, to be a sufficient reason to request an absentee ballot as an indefinitely confined voter. It would also require voters to apply for an absentee ballot for every election instead of just once, for subsequent elections as is now the case. The penalties for “violation” of this unnecessary measure are ridiculously and unreasonably punitive.

Senate Bill 938: This measure provides for the utilization of information from the Wisconsin Department of Transportation to verify U.S. citizenship and would require the designation: “not to be used for voting purposes” to be stamped on state issued driver’s licenses and other state issued photo ID.

Why CC/WI is opposed: This measure is completely unnecessary and xenophobic.

Currently, only U.S. citizens may vote in elections and this additional classification is completely unwarranted and divisive. Furthermore, this measure will potentially disenfranchise qualified electors and relies on unreliable sources for citizenship information.

Senate Bill 939: This measure severely restricts the absentee ballot application process, restricts and prohibits the unsolicited mailing or transmission of absentee ballot applications and absentee ballots, restricts the secure delivery of absentee ballots, restricts the canvassing for absentee ballots, further restricts voter registration requirements, electronic voter registration, and provides unreasonable penalties for “violation.”

Why CC/WI is opposed: This unwarranted measure makes the entire process of voting by absentee ballot much more onerous and difficult. Absentee voters would need to provide proof of identification for every election. Under this bill, a voter must submit a separate application for each primary and the election associated with that primary for which the voter wishes to receive absentee ballots automatically. It would require the WEC to prescribe the form and instructions of the absentee ballot application and also unnecessarily require the absentee ballot application to be separate and distinct from the certificate envelope in which voters must seal and submit absentee ballots, the outer portion of which includes certifications of both the voter and a witness. Additionally, the bill requires that the application requires the voter to certify facts establishing that he or she is eligible to vote in the election and must include excessive and unnecessary information. In short, this measure discourages voting by absentee ballot, even for voters who have relied on this method of safe and lawful voting for years.

Senate Bill 940: This measure would require the Wisconsin Elections Commission to identify and seek a correction to any new or changed voter registration that contains any information different than what is contained by information compiled by the Department of Transportation within ten days by mailing a notice to the voter.

Why CC/WI is opposed: This measure is unreasonable and could result in the disenfranchisement of many voters because of a simple error or discrepancy in the information compiled by the DOT and on a voter registration form.

Senate Bill 941: This measure dilutes and diminishes the role of the non-partisan professional staff of the Wisconsin Elections Commission and provides for micromanagement of election-related decisions by partisan legislators. It would forbid WEC staff from taking any action to implement federal election guidance and procedures without the approval of partisan state legislators who are on the Joint Committee for the Review of Administrative Rules (JCRAR) with some exceptions.

Why CC/WI is opposed: This measure is very possibly illegal under federal law and it is nothing less than a power grab by partisan legislators seeking to seize control of the decision-making process from WEC staff and Commissioners. It also injects more partisanship into basic questions of election administration in the state.

Senate Bill 942: This measure requires the Wisconsin Elections Commission to submit an annual report to the Legislature's Joint Committee on Finance (JCF) detailing "all failures" of WEC and the Department of Transportation, Department of Corrections and Department of Health Services to comply with "certain election-related activities." It would abolish one or more full time positions in each of those agencies and lapse up to \$50,000 per day for "non-compliance" or for providing "erroneous guidance" as determined by JCF.

Why CC/WI is opposed: This measure is completely unreasonable and extremely punitive in both the reporting requirements and the penalties imposed by highly partisan legislators seeking to control the financial and policy-making process involved in Wisconsin elections. It is a power grab of the very worst kind and it is completely unwarranted.

Senate Bill 943: This bill requires the Elections Commission to weekly submit to the Joint Committee for Review of Administrative Rules all documents and communications from the commission that the commission issued in the previous week that are applicable to municipal clerks generally and qualify as guidance documents. If JCRAR determines that such a document or communication satisfies the definition of a rule under current law, JCRAR must notify the commission of that determination and the commission must notify the municipal clerks that the document or communication is withdrawn and no longer applicable.

Why CC/WI is opposed: This measure is micro-management in the extreme by partisan legislators over the everyday operations of the non-partisan WEC staff and is tantamount to a complete state legislative takeover by partisan legislators of Wisconsin elections.

Senate Bill 934 and Senate Bill 936: While CC/WI finds there are portions of these bills that are legitimately good ideas, they nevertheless are attached to other measures that fail to improve Wisconsin election law. For example, in SB 934, there are good provisions on security and list maintenance, but these are rolled into a bill that requires WEC to treat ERIC data that someone moved as 'reliable', when in 2019 the data proved to be unreliable and this treatment of voter registration information will result in a purge of eligible voters. The audit provision in SB 936, while not a Risk Limiting Audit as CC/WI supports, is an improvement on current statutes by requiring the audit to be pre-certification and done by hand. While there are reasonable provisions and fixes in some of these bills, they are attached to

measures that harm voters, do nothing to further election integrity, and continue to erode confidence in our elections and democracy. For these reasons, CC/WI is opposed to SB 934 and SB 936.

Senate Joint Resolution 101: This constitutional amendment, proposed to the 2021-22 legislature on first consideration, does all of the following:

1. Provides that no state agency or officer or employee in state government and no political subdivision of the state or officer or employee of a political subdivision may apply for or accept any donation or grant of private resources for purposes of election administration.
2. Prohibits the use of a donation or grant of private resources for purposes of election administration.
3. Prohibits any individual other than an election official designated by law from performing any task in election administration.

A constitutional amendment requires adoption by two successive legislatures and ratification by the people before it can become effective.

Why CC/WI is opposed: This measure would prevent any city, town, village or municipality from applying or accepting any private donation for the purpose of mitigating the effect of COVID such as for masks, cleaning products, plastic shields, hiring poll workers or for any other reason even if there are insufficient public resources available for the purpose of making voting safe and free from possible infection and disease. There is no provision in this measure to provide increased public resources to replace private support for safe voting practices and would likely result in decreased voter participation.

Thank you for your respectful consideration of our views.