



Date: May 5, 2021

To: Senator Bernier, Senator Darling, and members of the Senate Committee on Elections, Election Process Reform and Ethics

From: Janet L. Zander, Advocacy & Public Policy Coordinator

Re: **Against SB 203** relating to: the secure delivery of absentee ballots and providing a penalty.

Against SB 206 relating to: status as an indefinitely confined voter for purposes of receiving absentee ballots automatically and providing a penalty.

Against SB 209 relating to: returning absentee ballots to the office of the municipal clerk.

Information Only SB 212 relating to: defects on absentee ballot certificates, certain kinds of election fraud, and providing a penalty.

The Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) is a nonprofit agency committed to supporting the successful delivery of aging programs and services in our service area consisting of 70 counties (all but Dane and Milwaukee) and 11 tribes in Wisconsin. We are one of three Area Agencies on Aging in Wisconsin. Our mission is to deliver innovative support to lead aging agencies as we work together to promote, protect, and enhance the well-being of older people in Wisconsin. There are over one million adults age 60 and older residing in our service area.

Thank you for this opportunity to share testimony against SB 203, SB 206, and SB 209, and for information only on SB 212. In 2020, nearly 25% of the electorate were age 65 and older¹. Voting is a high priority for many older adults, resulting in older voters forming a much larger share of all voters than their share in the electorate (64% in the 2018 election)². Despite a strong desire to vote, as people age, there are often barriers standing between their desire to vote and being able to vote.

Older adults are the fastest growing demographic of our state's population³. Within the older population, a large and growing percentage of people are age 85 and older. With advanced age people are more likely to have multiple chronic illnesses which can make it harder to get around. Additionally, many older adults no longer drive. Some parts of Wisconsin, particularly in the sparsely populated north, many people have a long way to go to vote and many communities do not

¹ Cilluffo, A. & Fry, R, Pew Research Center, An Early Look at the 2020 Electorate (Jan 2019). Retrieved April 14, 2021 from <https://www.pewresearch.org/social-trends/2019/01/30/an-early-look-at-the-2020-electorate-2/>.

² Brandon, E., U.S. News, Why Older Citizens are More Likely to Vote (Oct. 2020). Retrieved April 14, 2021 from <https://money.usnews.com/money/retirement/aging/articles/why-older-citizens-are-more-likely-to-vote>.

³ U.S. Census Bureau (2020, June 25). 65 and Older Population Grows Rapidly as Baby Boomers Age. Retrieved March 16, 2021, from <https://www.census.gov/newsroom/pressreleases/2020/65-older-population-grows.html>.

have public transportation options widely available. For these reasons, it is not surprising that absentee voting is generally more heavily utilized by older voters.⁴ Older adult voters also make up a large percentage of the voters who request an indefinitely confined status designation. In the November 2020 General election, two-thirds of the indefinitely confined absentee ballot applications came from voters over age 65.⁵

SB 203

SB 203 will make it more difficult for some older adults to vote by limiting who can return the absentee ballot to the voters themselves, a member of their immediate family, or a legal guardian (with some very limited exceptions). While some older voters can return their own ballots (by mail, in-person, or at a designated drop box), others are unable to do so and have expressed concerns about mailing their ballot especially when time is limited and ballots may not be received in time (as happened in recent elections). Most older adults (or voters of any age) do not have legal guardians, and some do not have any immediate family members in the state (or elsewhere), much less immediate family residing within close proximity to them. It is unreasonable to expect one's family member to travel across the state to return an absentee ballot on their behalf. For voters unable to return their own absentee ballot and with no legal guardian or immediate family in the state (it is unclear how this would be demonstrated), SB 203 would permit the voter to designate, in writing (it is unclear when or where this designation takes place), one person who is a registered Wisconsin voter to deliver the ballot (provided the designated person is not a candidate on the ballot or being compensated to do so). It is unclear if the designated person must be identified in advance of returning the ballot, which would not accommodate any last-minute changes needed. SB 203 also does not acknowledge the support systems put in place by many older adults where friends help one another, as the bill prohibits any person designated to deliver an absentee ballot from delivering more than one ballot for any election for a person who is not a member of their immediate family. If a tenant in a senior apartment building offers to return the absentee ballots of more than one of his/her neighboring tenants, this would be prohibited under SB 203. Restricting who can return absentee ballots will negatively impact older voters and make it more difficult for some older adults to vote.

SB 206

SB 206 proposes significant changes that would make it much more difficult for electors seeking an indefinitely confined voter status. Voters would no longer be able to sign a statement indicating they are indefinitely confined due to age, physical illness, or disability but would now be required to make their statement under oath and have it signed by a healthcare professional (if under 65). Requiring a physician/health care professional's signature in order to receive an indefinitely confined voter status will present a major barrier to some older voters. Not all voters who are confined by age, physical illness, or disability seek medical care and some would face financial and

⁴ Stewart, C., III. (2020, March 20). Some Demographics on Voting by Mail. Retrieved April 13, 2021, from <https://electionupdates.caltech.edu/2020/03/20/some-demographics-on-voting-by-mail/>.

⁵ Wisconsin Elections Commission (2021, February 3), November 3, 2020 Election Data Report. Retrieved April 13, 2021, from <https://urbanmilwaukee.com/wp-content/uploads/2021/01/D.-November-2020-Election-Data-Report.pdf>.

transportation barriers if required to do so. Likewise, health care professionals may be reluctant to sign such statements, particularly if the voter/patient was new to them. Additionally, SB 206 calls for the removal of a voter's status as indefinitely confined every two years (or completion of a renewal application every two years) instead of the status continuing, as it does under current law, until the voter notifies the clerk they are no longer indefinitely confined. Some older indefinitely confined voters seek this designation as a means of indicating their wish to be a permanent absentee voter. Some older voters face significant challenges completing the absentee ballot application. These challenges include, but are not limited to, not knowing how to request an absentee ballot application, not having the necessary required identification, and submitting proof of their identification. It can be difficult, particularly for those who do not drive, to get to the Department of Motor Vehicles to obtain a photo ID. Even for those who have photo IDs it can be challenging to obtain needed copies due to limited access to technology and/or limited ability. Requiring this application renewal process every two years, when there has been no change in the voter's status, is unnecessary and places additional barriers that will make it more difficult for some older adults to vote.

SB 209

While we appreciate SB 209 includes the “return of an absentee ballot to a drop box authorized by the municipal clerk” as a legal means of returning a ballot in addition to returning it by mail or delivering it in person to the municipal clerk, we are concerned that the bill requires the drop box to be attached to the building where the municipal clerk's office is permanently located. The Wisconsin Municipal Clerks Association noted, “that very secure drop boxes on the City Hall campus would no longer be allowed as they are not affixed to the building. Also multi-use drop boxes such as those at the Library that are affixed would also be eliminated.” We agree with these comments and would like municipal clerks to determine which locations and boxes will best meet the needs of their communities and community members. Additionally, the bill prohibits the use of any other drop box for the delivery of an absentee ballot. While one drop box location may be enough for some communities, others will benefit from drop boxes located in secure locations throughout the community to ensure access to those with limited transportation. GWAAR agrees all drop boxes should meet the accessibility requirements under the federal Americans with Disabilities Act.

SB 212

According to the Wisconsin's Elections Commission's November 3, 2020 Election Data Report, the percentage of absentee ballots returned and rejected was very small at 0.2% (4,270 ballots). Over one-third (1,475) of those absentee ballots were rejected due to insufficient certification or a compromised certificate envelope. Under current law, a municipal clerk who receives an absentee ballot with an improperly completed certificate or no certificate *may, but is not require to*, return the ballot to the voter whenever time permits so that the voter may correct the defect. While the number of returned and rejected ballots related to problems with the certification are small, they still impact thousands of voters (many of whom are likely older adults). Current law does not require municipal clerks to consistently respond to these errors leaving some voters able to fix the defects while others are not. **GWAAR appreciates that some errors are minor** (part of witness address is missing, etc.) **and have been easily fixed by clerks contacting voters to gather missing information without**

needing to return the absentee ballot. GWAAR supports a consistent approach to responding to absentee ballot certificate errors or missing certificates but is concerned about the process outlined in SB 212.

SB 212 indicates clerks *shall* return the ballot to the elector (it would no longer be may), it also indicates the clerks *shall post a notification of the defect on the elector's voter information page on the Internet site used by electors for original registration* (MyVote Wisconsin) and further indicates *the municipal clerk may not correct a defect in the certificate*. Removing the clerk's ability to correct even minor administrative errors (on otherwise valid ballots) and requiring notifications of defects to be posted online (instead of communicated more directly) will likely increase the number of absentee voters whose ballots are returned and rejected. Many voters are unable to use online resources and would not understand why their absentee ballots have been returned or that corrections are needed to the certificate. Additionally, there may be insufficient time to return the ballot to the voter, for the voter to learn of the defects and make corrections, and to resubmit the ballot in time to be counted. We encourage policymakers to explore alternatives that would allow clerks to consistently respond to improperly completed or missing certificate information in a manner that is timely and requires voters to be notified of the defects and corrections needed by means other than solely online.

GWAAR supports voting processes that ensure every eligible older adult who wants to vote, can vote, no matter where they live or how they choose to vote. Thank you for your consideration of these comments opposing SB 203, SB 206, SB 209 and providing additional information on SB 212. We appreciate the interest in and efforts of policy makers to preserve, protect, and enhance the voting rights of older adults and people with disabilities. We look forward to continuing to work with you on policies that improve the quality of life of older people in Wisconsin.

**Working together to promote, protect, and enhance
the well-being of older people in Wisconsin.**

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