



Al Ott

State Representative • 3rd Assembly District

AB 128
Local Recall Petition Requirements
Senate Committee on Energy, Consumer Protection & Government Reform
January 21, 2014

Thank you for the opportunity to testify on behalf of Assembly Bill 128 (AB 128), which modifies the petition requirements for the recall of local elected officials.

Wisconsin has allowed for the recall of local elected officials since 1913. The recall of elected city, village, town, and sanitary district officials, as well as school board members, is provided for by statute. The recall of state, county and other officials is governed by the State Constitution.

Current law requires a petition for the recall of an elected municipal or school district official to simply state a reason for the recall. While the stated reason must be related to the responsibilities of the office, it is *not* limited to neglect of duty, misconduct, or malfeasance in office. Local recall can be initiated on any grounds related to the office, including a vote or viewpoint on a policy issue.

In recent years, a pattern of unwarranted local recall efforts has emerged. Local elected officials often become recall targets for simply doing their jobs, which sometimes involves having to make tough and potentially unpopular policy decisions. Simple disagreement on an issue should not be the basis for the recall of a local elected official. As you can well imagine, such a notion makes it difficult to attract quality – and in some cases, any – candidates for local office.

In an effort to assure local recall is used when most appropriate, AB 128 establishes a higher standard for the recall of local officials.

AB 128 provides that an elected city, village, town, sanitary district, or school board official cannot be recalled unless they have been officially charged with a crime, an ethics law violation under s. 19.59 (1) Wis. Stats., or a violation of a local ethics ordinance.

A copy of the criminal or civil complaint must be filed with the local clerk as part of the recall registration process. Further, any circulated recall petition must contain a statement indicating the official for whom the recall is sought has been charged with committing a crime or an ethics violation.

AB 128 is intended to parallel the provisions of 2013 AJR 25, which would apply to the recall of state officials, county officials, judges, and others subject to the recall procedures dictated by Article 13, Section 12 of the Wisconsin State Constitution. The goal of this approach is to provide some level of consistency when it comes to the standards for all recall efforts in Wisconsin.

It should be noted that this bill preserves the statutory mechanism to remove a local elected official for misconduct in office, neglect of duty, or malfeasance under Chapter 17 of the Wisconsin Statutes. Further, most local officials are elected to two-year terms, and state law specifies an official cannot be recalled until the second year of their term. AB 128 makes no changes to that provision.

Recall can be a valuable tool in maintaining the integrity of our government. AB 128 applies reasonable restrictions on the ability to recall local elected officials. The bill lets Wisconsin citizens exercise their right to recall local elected officials when it is necessary – when local officials thumb their nose at the law or act in an unethical manner – not when dictated by selfish agendas or hot-headed differences of opinion.

Thank you for your time and for your consideration of AB 128.



State Senator Sheila Harsdorf

Date: January 21, 2014

To: Senate Committee on Energy, Consumer Protection and Government Reform

Fr: Senator Sheila Harsdorf

Re: Assembly Bill 128 – requirements for recall petitions for local elected officials

Dear Chair Cowles and Committee Members,

Thank you for holding a public hearing on Assembly Bill 128 (AB 128), relating to the requirements for recalling local elected officials. I appreciate you taking time to consider this measure.

AB 128 would safeguard the ability of citizens to remove local elected officials for misconduct or ethics violations through the recall process, while ensuring that recalls would not be abused for political purposes. Those petitioning for a recall election would be required to meet a minimum threshold of criminal or ethical misconduct of a local elected official prior to a recall being certified.

It is my belief that recall elections are appropriate for removing those that have violated a code of ethics or criminal laws, but should not be used for differences over policies or decisions made by elected officials. General elections are the appropriate forum for voters to express their opposition or displeasure with policy decisions made by elected officials.

Given our state's experiences with recalls in recent years, many citizens have raised concerns that the recall process has been subverted for political gain, rather than for addressing corrupt behavior by elected officials. As we saw in the non-stop election cycle we found ourselves in during 2011 and 2012, special interests and activists are able to insist on election after election to further their political goals.

The recall requirements under AB 128 mirror those proposed in constitutional amendments offered this session that would apply to recalls of Congressional, legislative, judicial, and county elected officials (2013 SJR 24/AJR 25). AB 128 seeks to enact the same reforms to local recalls to ensure consistency with the recall process and fairness between elected officials at all levels.

I urge your support of this legislation as a step towards reforming the recall process and thank you again for holding a hearing on this legislation.



Wisconsin Towns Association

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To: Senate Committee on Energy, Consumer Protection and Government Reform

From: Ann Jablonski, Wisconsin Towns Association

Date: January 21, 2014

Re: AB 128 Recall Petition Requirements

The Wisconsin Towns Association strongly supports Assembly Bill 128. The bill would require a recall petition for an officer of a city, village, town, town sanitary district or school district to include a statement that the official has been charged with a crime, violation of the statutory ethics code for local government officials, or violation of a local ordinance establishing a local code of ethics. No conviction is required for a recall to proceed. Otherwise, all other procedures for recall of local officials would remain the same.

The National Conference of State Legislatures reports that an estimated 75% of recall elections held in the 29 states where they are in use (the remainder use impeachment) involve local offices. We think the reason for the frequency of recalls is that local officials are required to make decisions about issues that are often controversial. In town government, where the governing board contains 3-5 people, making those decisions cannot be avoided.

The WTA does not collect statistics on recall elections in Wisconsin, but we frequently see them happening. Since recall petitions essentially require no grounds for calling a recall election (the reasons "relate" to an officer's official duties), the elections can involve town board decisions about changing emergency services providers or more high-profile issues involving frac sand mining, or wind turbine siting wherein special interest groups can easily exploit an election in which few votes may be cast.

Special interest group politics or the local politics surrounding which service providers to use emerge in regularly scheduled elections too. But under current law, a recall election for a two-year term could be completed 7 weeks or less before nomination papers can be circulated for the same office in the spring election. They absorb time

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necessary to govern, are costly to local governments, and disrupt local decision-making needed to conduct government business. Many here probably recall how the Indian logo issues played havoc with local school districts, the kids, their parents, and the teams.

The system proposed here would require an individual to file a complaint of an ethics code violation with the district attorney in the county where the election would occur. The DA must commence an investigation of the allegations within 30 days after receiving the complaint or dismiss the complaint and inform the complainant in writing. The individual then can file a complaint with the attorney general or with a district attorney in a county adjacent to the original county.

The district attorney can also file ethics code or criminal charges independent of citizen action. Evidence that the charges have been made must be included in the recall petition for the circulation of papers to proceed. Recall elections are not the only way to address performance in office; local officials can be removed from office for misconduct as a result of a circuit court conviction won by the district attorney.

The WTA urges you to support this statutory change, which comes before you as a bill rather than a joint resolution because town officials are not state or constitutional officers. We believe stronger requirements for initiating local recall elections will allow local governments to conduct their business in an environment conducive to decision-making rather than in one that subverts the ability of local government to function effectively.

The first part of the document is a letter from the Secretary of the State to the Governor, dated the 10th of the month.

The second part is a report from the Board of Education, showing the progress of the schools during the year.

The third part is a report from the Board of Agriculture, showing the state of the crops and the condition of the farms.

The fourth part is a report from the Board of Health, showing the state of the public health and the progress of the sanitary reforms.