



Testimony in Support of Assembly 268
Assembly Committee on Campaigns and Elections
June 3, 2025

Chairman Maxey, Vice Chair Krug, and Members of the Assembly Committee on Campaigns and Elections:

My name is Kyle Koenen and I am the Policy Director at the Wisconsin Institute for Law & Liberty, a non-profit law and policy center based out of Milwaukee. I appreciate the opportunity to submit testimony in support of Assembly 268, which provides an important clarification to Wis. Stat. § 5.06 and ensures that Wisconsin voters have a statutory right to seek judicial review of certain determinations made by the Wisconsin Elections Commission (WEC).

Under current law, Wis. Stat. § 5.06 allows Wisconsin electors to file complaints with WEC when they believe a local election official has acted contrary to state law. WEC is required to review these complaints and issue a decision on the merits, which may include ordering the official to conform their conduct to the law.

Until recently, it was widely understood that the party who lost a WEC decision under Wis. Stat. § 5.06(6)—whether the complainant or the election official—had the right to seek judicial review of that decision in circuit court under § 5.06(8).

However, the Wisconsin Supreme Court’s decision in *Brown v. Wisconsin Elections Commission* created significant uncertainty. The Court held that complainants are not be automatically entitled to judicial review, raising serious questions about whether ordinary citizens who file election complaints have the ability to challenge adverse decisions by WEC in court.

This bill resolves that uncertainty by amending Wis. Stat. § 5.06(8) to make it clear that a complainant is considered “aggrieved” for purposes of judicial review, even if they have not suffered an injury to a legally recognized interest. It further clarifies that a complainant may appeal any decision by WEC that dismisses the complaint or denies the requested relief.

The amended language would read:

“A complainant shall be considered aggrieved under this subsection regardless of whether the complainant has suffered an injury to a legally recognized interest and may appeal any order issued under sub. (6) that dismisses the complaint or otherwise does not grant the relief requested in the complaint.”

WILL strongly supports this clarification. Ensuring access to judicial review promotes transparency and accountability in election administration and reinforces public trust in

the integrity of the process. When voters believe the law has been violated and WEC declines to act, they must be allowed to seek recourse through the courts.

We respectfully urge the committee to advance this legislation.

Sincerely,

Kyle Koenen

Policy Director

Wisconsin Institute for Law & Liberty