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STATEMENT ON AB 330/SB338
ENFORCEMENT OF THE FEDERAL HELP AMERICA VOTE ACT

A Wisconsin Supreme Court decision in Teigen v. Wisconsin Elections Commission (2022 WI 64 33, 403 Wis. 2d 607, 976 N.W.2d 519) held that any complaint to the Wisconsin Elections Commission (WEC) is not to be decided by the Commission but is to be heard in court. In other words, the Wisconsin Elections Commission cannot resolve a complaint against the Commission itself.

The DOJ is countermanding the Wisconsin Supreme Court decision. The Commission received a letter from the DOJ, asserting that the WEC position, based on the Wisconsin Supreme Court decision, violates the administrative complaint requirements under HAVA and states that the Commission must make a final determination on the merits of the complaint and issue a decision and take corrective action to remedy the violation alleged in the complaint. The complainant may appeal the Commission's decision. Finally, the Commission must publish the results of all dismissed complaints on its website and provide such results to the legislature and the standing committees with jurisdiction over elections.

While the Legislature can pass legislation to reverse a WI Supreme Court decision, in this bill it is attempting to do so without providing adequate information about how the DOJ's current demand for enforcement of compliance with HAVA is tied to DOJ'S current demands to withdraw funding for the security of Wisconsin elections, specifically, in another action where it is demanding Wisconsin turn over registration data from the 2020 and 2024 elections or risk losing HAVA security funding.

The DOJ's demand for registration data is contrary to the Privacy Act of 1974 which provides strict guidelines on data collection by the federal government with which the DOJ is not complying. Nothing in federal law compels states to comply with requests for sensitive data about their compliance. Yet the DOJ is demanding this registration data or risk funding. Such enforcement of HAVA's withholding of funding for security may make Wisconsin vulnerable to future DOJ allegations of election fraud.

Since the DOJ is already threatening to withhold HAVA funding from states, as seen with Wisconsin's registration data, it is conceivable to project that if this bill passes, the Legislature will attempt to pass yet another bill demanding that lack of compliance with its demands about the Wisconsin Elections complaint procedure will also result in loss of HAVA security funding.

The League of Women Voters of Wisconsin opposes this bill based on its position that voting rights election administration should be adequately coordinated and funded to achieve statewide standards uniformly applied with verifiable results and local municipal effectiveness.