

WISCONSIN ELECTIONS COMMISSION

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ADMINISTRATOR MICHAEL HAAS

Wisconsin Elections Commission
Wisconsin Elections Commission Offices
212 E. Washington Avenue, Third Floor
Madison, Wisconsin
10:00 a.m. Wednesday, March 14, 2017

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
E. Approved Direction to County Clerks on Election Night Reporting	2
G. Approved Voter List Maintenance Procedures	3
H. Certified Completion of Online Voter Registration System	4
Q. Approved Report to Legislator of Election Fraud	4
K. Approved 2017 Legislative Agenda	5
L. Approved Public Records Policy	8
P. Approve Agency Annual Report	9

Present: Commissioner Mark Thomsen, Commissioner Ann Jacobs, Commissioner Jodi Jensen, Commissioner Steve King, Commissioner Beverly Gill and Commissioner Julie Glancey

Staff present: Michael Haas, Ross Hein, Nathan Judnic and Reid Magney

A. Call to Order

Commission Chair Mark Thomsen called the meeting to order at 10:02 a.m.

B. Administrator's Report of Appropriate Meeting Notice

Administrator Michael Haas informed the Commissioners that proper notice was given for the meeting.

C. Personal Appearances

Jim Zellmer of Madison appeared on his own behalf to discuss the fees for Wisconsin voter file data, which he said are significantly higher than other states. He urged the Commission to lower fees so local candidates could have greater access to the data they need to run for office.

Andrea Kaminski of Madison appeared on behalf of the League of Women Voters of Wisconsin to express concern about the number of 17-year-old people who mistakenly voted in the 2016 Presidential Preference Primary. She urged the Commission to support more and better voter education and training.

Commissioners and Ms. Kaminski briefly discussed misinformation on social media before the presidential primary that caused confusion about Wisconsin's voting rules versus other states' rules.

Karen McKim of Waunakee appeared on behalf of Wisconsin Election Integrity to invite Commissioners and staff to attend a conference at UW-Milwaukee on March 18 and 19 at which the group's recount findings will be analyzed. She also stated that during the presidential recount, the performance of Wisconsin election officials was head and shoulders above the two other states petitioned for recount by the Stein campaign.

Brown County Clerk Sandy Juno of Green Bay appeared to discuss electronic poll books, which she said would be much less expensive if the Commission can develop the software and jurisdictions can buy the hardware, rather than relying on commercial vendors. If the state declines to develop a system, she urged the Commission to do a statewide request for proposals in order to get a better price from vendors.

D. Minutes of the Previous Meeting

MOTION: Approve the minutes of the January 10, 2017 Wisconsin Elections Commission Meeting. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

E. Election Night Results Reporting

Legal Counsel Nathan Judnic made an oral presentation based on a written report starting on page 7 of the March 14, 2017 Commission meeting materials regarding requirements in 2015 Wisconsin Act 261 for online reporting of all election results on Election Night by county clerks. Some county clerks who do not receive local results from municipal clerks have expressed concerns about their ability to comply with the law.

Commissioners and staff discussed the legislature's directive for municipal clerks to report all unofficial election results to county clerks no later than two hours after the votes are tabulated, and for county clerks to post all results online within two hours of receiving them from municipal clerks. They further discussed the challenges faced by some county clerks when all of their municipalities do not use the same kinds of voting systems. Commissioner Jacobs

suggested that clerks could scan and post tally sheets, rather than totals, to comply with the Act's timeliness requirements. Chair Thomsen asked whether staff could come up with solutions to help clerks comply within seven days.

Administrator Haas and Elections Supervisor Ross Hein discussed two solutions to assist clerks: printing call-in sheets from WisVote and/or using the Canvass Reporting System.

MOTION: Direct municipal clerks to provide all election returns to the county clerk, including results of local contests. The county clerk is then to post to the county's website all such returns within two hours of receipt. Direct staff to develop an action plan by March 21 to help ease the burden on clerks. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

F. Electronic Poll Books

Elections Specialist Richard Rydecki and WisVote Specialist Sarah Whitt gave an oral status report based on a memorandum starting on page 13 of the March 14, 2017 Commission meeting materials regarding electronic poll books (EPB).

Commissioners and staff discussed the status of a cost-benefit analysis of EPB and requirements for a statewide system. Chair Thomsen discussed a possible timeline for development of a system, as well as the need for adequate time at the Commission's next meeting to discuss the project.

G. Voter Registration List Maintenance

Ms. Whitt and WisVote Specialist Ann Oberle made an oral presentation based on a written report starting on page 17 of the March 14, 2017 Commission meeting materials regarding voter list maintenance procedures required by statutes to identify, notify and possibly inactivate voters who have not voted in four years in compliance with statutory requirements.

MOTION: Approve the preliminary Four Year Voter Record Maintenance plan, as described in the Voter Registration List Maintenance staff memo prepared for the March 14, 2017 meeting of the Elections Commission, and direct staff to proceed accordingly to have the mailing completed within the statutory timeframes. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

Ms. Whitt briefed the Commission on new procedures for list maintenance activities required because the state recently joined the Electronic Registration Information Center (ERIC). These list maintenance activities involve identifying and inactivating voters who have died or moved.

Commissioners and staff discussed the roles that the WEC and municipal clerks play in list maintenance.

MOTION: Approve the preliminary ERIC List Maintenance plan, as described in the Voter Registration List Maintenance staff memo prepared for the March 14, 2017 meeting of the

Elections Commission, and direct staff to proceed accordingly. Moved by Commissioner Glancey, seconded by Commissioner Gill. Motion carried unanimously.

H. Online Voter Registration Initiative

Ms. Whitt and Elections Specialist Meagan Wolfe made an oral presentation based on a written report starting on page 17 of the March 14, 2017 Commission meeting materials regarding implementation of online voter registration, as required by 2015 Wisconsin Act 261. Ms. Wolfe demonstrated how online registration works as part of the MyVote Wisconsin website.

MOTION: Pursuant to 2015 Wisconsin Act 261, the Elections Commission determines that the implementation of the Online Voter Registration system is complete and that the performance of the system is satisfactory. Moved by Commissioner Jacobs, seconded by Commissioner Jensen. Motion carried unanimously.

I. Chapter 12 Complaints Policy

Legal Counsel Nathan Judnic made an oral presentation based on a written report starting on page 33 of the March 14, 2017 Commission meeting materials regarding complaints filed under § 5.05 alleging violations of Wis. Stat. Ch. 12, which defines criminal violations and establishes criminal penalties for election-related activity that may be prosecuted only by district attorneys and not the WEC. The staff recommended procedures for handling complaint inquiries from the public as well as sworn complaints, and requested Commission approval.

MOTION: Authorize staff to provide the options outlined in the staff memorandum to individuals who contact the Commission about potential violations of Ch. 12 but have not filed a sworn complaint. Also, direct staff to follow the procedures outlined in the memorandum if the Commission receives a sworn complaint alleging criminal violations of Ch. 12. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

J. Administrative Rules

Mr. Judnic made an oral presentation based on a written report starting on page 39 of the March 14, 2017 Commission meeting materials regarding the status of administrative rule promulgation.

Chair Thomsen suggested the Commission hold a special teleconference meeting focused on administrative rules. Commissioners agreed to meet at 10 a.m. on Tuesday, May 23.

Chair Thomsen called a half-hour recess for lunch at approximately 12:10 p.m.

Q. Report to Legislature of Alleged Voter Fraud Referrals

(This item was taken out of agenda order.)

Mr. Judnic made an oral presentation based on a written report starting on page 93 of the March 14, 2017 Commission meeting materials regarding the statutorily-required report of suspected election fraud, irregularities or violations. He discussed the large number of referrals of 17-year-old voters who registered and voted at the Spring 2016 Presidential Preference Primary.

Commissioners and staff discussed the report.

MOTION: Direct Commission staff to submit the cover letter and report titled “Report of Suspected Election Fraud, Irregularities or Violations” to the Legislature per Wis. Stat. §§ 7.15(1)(g) and 13.172(2). Moved by Commissioner Glancey, seconded by Commissioner Gill. Motion carried unanimously.

MOTION: Direct Commission staff to schedule this report to be submitted to the Commission for review and direction in the spring of each year, with the next report covering referrals made from February 16, 2017 through February 15, 2018. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

K. Legislative Agenda

Administrator Haas made an oral presentation based on a written report contained in supplemental materials for the March 14, 2017 Commission meeting regarding the proposed legislative agenda. Staff maintains a list of potential legislative changes based on feedback from legislators, county and municipal clerks, and members of the public. These are presented to the Commission as recommended changes to the statutes for the Legislature to consider.

Commissioners reviewed the list and made motions on individual items.

MOTION: Approve recommendation #1 regarding Electronic Poll Books:

A. § 5.02: Add definitions of “electronic poll book” and “electronic poll list” to the statutory definitions.

B. § 7.23(1)(e): Add language permitting electronic poll books to be cleared or erased after the deadline for filing a recount petition has passed but requiring the transfer of all data required to reproduce the voter list to a disk or other recording medium which may be destroyed 22 months after the election, consistent with other retention requirements.

Moved by Commissioner King, seconded by Commissioner Glancey. Motion carried unanimously.

MOTION: Approve recommendation #4 regarding §§ 8.15(1) and 10.06(1)(h) for the window for circulation of nomination papers and the deadline for the Commission to certify the candidates to appear on the Partisan Primary ballot. Commission staff recommends changing the first day to circulate nomination papers from April 15 to April 10, which would keep the first day to circulate nomination papers still after the spring election, and moving the filing deadline from

June 1 to the last Tuesday in May. Moved by Commissioner Jacobs, seconded by Commissioner King. Motion carried unanimously.

MOTION: Approve recommendation #12 regarding the requirement in §§ 6.22(5) and 6.24(7) for a U.S. citizen to witness an absentee ballot. The Legislature could consider modifying or removing the witness requirement to ensure that military and permanent overseas absentee voters can vote their ballot without needing to find another US citizen. Moved by Commissioner Jacobs, seconded by Commissioner Glancey. Motion carried unanimously.

MOTION: Approve recommendation #15 regarding the requirement in §§ 6.275 and 6.33(5), setting deadlines for reporting certain statistics, and recording voter participation and registration following an election, respectively. The Legislature could clarify that the deadline for reporting statistics coincides with the deadline to enter voter registrations and record voter participation in WisVote, as defined in Wis. Stat. § 6.33(5). Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

MOTION: Approve recommendation #20 regarding the requirement in § 6.34(3) outlining the types of acceptable documents for proof of residence (POR) for the purpose of voter registration. The Legislature could specifically authorize electronic proof of residence to be consistent with current practices and Government Accountability Board policy, as well as clarify the types of authorized POR to include other modern and common types of documents such as a cellphone bill, or internet service bill, or a document from a financial institution. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

MOTION: Approve recommendation #22 regarding the requirement in § 6.36(1)(b)1.a establishing information related to a voter record that must remain confidential. The Legislature could consider revising this provision in order to add phone number and email address to the list of confidential information that is not available for release through public record requests. The Legislature may also wish to clarify that a state-issued identification card number is also confidential by replacing *operator license number* with *driver license or state-issued identification card number*. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried.

MOTION: Approve recommendation #33 regarding the requirement in § 7.41, which provides for the public's right to be present at the clerk's office, alternate absentee voting sites and polling places in Wisconsin to observe all public aspects of the election process. The Legislature could consider explicitly setting forth the Legislature's position on photography and video recording in these places in this section. Moved by Commissioner Glancey, seconded by Commissioner Jacobs. Motion carried unanimously.

MOTION: Approve recommendation #42 regarding the prohibition in § 12.13(1)(f) of an elector from showing any person his or her marked ballot. Recent court cases have called into question the constitutionality of such a prohibition, particularly in the context of publicly sharing photos of a voted ballot via social media. The Legislature could consider revising or repealing this provision to avoid unnecessary litigation. Moved by Commissioner Jacobs, seconded by Glancey. Motion carried unanimously.

MOTION: Approve recommendation #54 regarding the requirement in § 6.50(2r)(b) for the information the Commission must provide regarding the four-year voter list maintenance process. Specifically, this item is the number of postcards returned to the Commission as undeliverable. While the Commission would be sending out the postcards, the undeliverable mailings go to the municipal clerk. The Legislature could correct this issue by either striking the words to the commission, or replacing that phrase with to the (municipal) clerk. Moved by Commissioner Jacobs, seconded by Commissioner King. Motion carried unanimously.

MOTION: Approve recommendation #55 regarding the requirement in § 6.96, which relates to the voting procedure for electors voting pursuant to a federal court order. The Legislature could revise this provision to require that the same notation shall appear resulting from an extension of voting hours by a circuit court as currently required after a federal court extension. Moved by Commissioner Jacobs, seconded by Commissioner King. Motion carried unanimously.

MOTION: Approve recommendation #59 regarding the requirement in § 7.52(3)(b), which lists the reasons for which an absentee ballot may be rejected by the board of absentee ballot canvassers. 2015 Act 261 recently added the lack of the witness' address to the list of reasons an absentee ballot may be rejected at the polls, but did not make a similar adjustment to this section. For consistency of administration, the Legislature could consider modifying 7.52(3)(b) to include this additional reason for rejection of the absentee ballot. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

MOTION: Approve recommendation #64 regarding the requirement in § 59.23(2)(s), which requires county clerks to provide a list of local officials to the Secretary of State. This information would help the Commission maintain accurate information on current office holders and election administration. The Legislature could revise this provision by requiring county clerks to also provide this list to the Commission, or require the Secretary of State to forward a compiled report to the Commission. Moved by Commissioner Jacobs, seconded by Commissioner Glancey. Motion carried unanimously.

MOTION: Approve recommendation #65 regarding the requirement in § 66.0217(9), which requires a municipality that annexes territory to file a copy of the related ordinance with the Secretary of State. The Legislature could add the Commission to the list of agencies that receive a copy of the ordinance, certificate and plat from the Secretary of State in order to ensure accurate and current district boundaries recorded in the statewide voter registration system. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

Chair Thomsen asked staff to come back to the Commission at its June 2017 meeting with more information about recommendation #2 regarding voting equipment.

Commissioner Jacobs said she would like more discussion on recommendation #25 regarding assistance to an elector in marking a ballot.

L. Public Records Policy

Administrator Haas made an oral presentation based on a written report starting on page 49 of the March 14, 2017 Commission meeting materials regarding staff's recommendation for a revised public records notice that reflects the change from the Government Accountability Board to the Wisconsin Elections Commission. The revised policy also reduces the agency's prices for copies and scans of records, bringing it into line with other state agencies.

MOTION: Approve the draft Wisconsin Elections Commission Public Records Notice and authorize staff to prominently display it at the Commission office and post it on the agency website. Moved by Commissioner Glancey, seconded by Commissioner Gill. Motion carried unanimously.

M. Agency Budget Request

Administrator Haas presented letters drafted by staff at the Commission's request to the Governor, legislative leaders and members of the Joint Committee on Finance regarding the Wisconsin Elections Commission's 2017-2019 Biennial Budget Request. The letters thank the Governor for recommending GPR funding of 16 of 22 positions for which federal funding will expire in 2018, and ask legislators to consider providing additional funding for the remaining six positions. After minor changes, Commissioners all signed the letters.

N. Analysis of 2016 Presidential Recount

Mr. Hein made an oral presentation based on a written report starting on page 53 of the March 14, 2017 Commission meeting materials regarding staff's analysis of county board of canvassers' minutes from the presidential recount. He described the recount as a success story because it confirmed the accuracy of the election results, but said it also provided information staff can use to adjust training to address the problems identified. He said there were issues with the requirement for witness addresses on absentee ballot certificates, tabulation of votes for registered write-in candidates, and the incorrect input of numbers to the state's canvass system.

The report was made for information only, and the Commission took no action.

O. Voter Felon Audit Report

Ms. Oberle provided an oral update based on a memorandum starting on page 57 of the March 14, 2017 Commission meeting materials regarding the ongoing voter felon audit from the November 2016 General Election, which initially identified 93 possible violations. She said that so far, 23 cases have been closed following initial investigation because they were not serving a felony sentence at the time of the election or were an incorrect match. Staff continues to work on the remaining 70 cases.

Commissioners and staff discussed the history of voter felon audits, the process for getting information from the Department of Corrections and identifying potential violations, and the amount of staff time devoted to the audit.

P. Agency Annual Report

Administrator Haas requested Commissioners approve the 2016 Annual Report, starting on page 61 of the March 14, 2017 Commission meeting materials.

MOTION: Approve submission of the Wisconsin Elections Commission's 2016 Annual Report to the Governor and the Legislature. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

R. Legislative Status Update

Administrator Haas directed Commissioners to the Legislative Status Update, starting on page 101 of the March 14, 2017 Commission meeting materials. He briefly discussed pending bills regarding recounts and allowing public officials to serve as election inspectors.

Commissioners and staff discussed the status of the appointments of Commissioners Gill and Glancey, which Administrator Haas said are scheduled for Senate committee hearings later in March.

S. Commission Staff Update

Administrator Haas directed Commissioners to the Staff Update, starting on page 105 of the March 14, 2017 Commission meeting materials. He highlighted items relating to the voting equipment audit and recent staff changes. He noted the departure of WisVote Specialist Jodi Kitts for a position at the Department of Administration, and Elections Supervisor Ross Hein, who is leaving for a position at the Department of Workforce Development. He thanked Mr. Hein for the excellent work he has done with the former State Elections Board and Government Accountability Board, in addition to the Wisconsin Elections Commission. Mr. Hein thanked everyone for the joy and professional growth he experienced working in elections.

T. Per Diem Authorization

MOTION: Approve one and one-half days of per diem for preparation and the March 14, 2017 Wisconsin Elections Commission meeting. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

U. Closed Session

Adjourn to closed session as required by statutes to confer with counsel concerning pending litigation

MOTION: Move to closed session pursuant to § 19.85(1)(g) to confer with counsel concerning pending litigation. Moved by Commissioner Jacobs, seconded by Commissioner Gill.

Roll call vote: Gill: Aye Glancey: Aye
 King: Aye Jensen: Aye

Jacobs: Aye Thomsen: Aye

Motion carried unanimously. The Commission recessed at 3:42 p.m. and convened in closed session at 3:45 p.m.

V. Adjourn

The Commission adjourned in closed session at 4:01 p.m.

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The next regular meeting of the Wisconsin Elections Commission is scheduled for Tuesday, June 20, 2017, at the commission's offices in Madison, Wisconsin beginning at 10:00 a.m.

March 14, 2017 Wisconsin Elections Commission meeting minutes prepared by:



Reid Magney, Public Information Officer

April 28, 2017

March 14, 2017 Wisconsin Elections Commission meeting minutes certified by:

Beverly Gill, Commission Secretary

May 23, 2017