Wisconsin Elections Commission

Meeting of the Commission
Friday, October 14, 2016
10:00 A.M.

Agenda
Open Session

Wisconsin Elections Commission Offices
212 E. Washington Avenue, Third Floor
Madison, Wisconsin

A. Call to Order

B. Administrator's Report of Appropriate Meeting Notice

C. Personal Appearances (Time reserved for personal appearances may be limited at the discretion of the Chair)

D. Minutes of Previous Meeting – August 30, 2016 **3**

E. Preparations for General Election **11**

1. **Local Election Official Training & Support**
2. **Ballot Review and Printing**
3. **WisVote Election Readiness**
4. **Voter Education and Outreach**
5. **Photo ID and ID Petition Process Public Information Campaign – WEC Court Report**
6. **Political Campaigns and Election Observer Outreach**
7. **Polling Place Accessibility Audits**
8. **Presidential Electors Nomination Meeting**
9. **Election System Security & Emergency Readiness**
10. **Absentee Ballot Witness Address (Under Separate Cover)**

F. Post-Election Voting Equipment Audit Procedures **33**

G. Electronic Registration Information Center (ERIC) Initiative **45**

H. Online Voter Registration Project

I. Nomination Paper Review **49**

J. Administrative Rules **55**

K. Election Complaints – Town of Paris Recall Petitions **57**

L. Delegation of Authority (Under Separate Cover)

M. Commission Staff Work Rules (Under Separate Cover)

N. Agency Budget Request **117**

O. Management and Administrative Update **131**

P. Per Diem Authorization

Q. Closed Session

1. Elections Complaints
2. Litigation Update

19.85 (1) (g)	The Commission may confer with legal counsel concerning litigation strategy.
19.851	The Commission's deliberations concerning investigations of any violation of the laws under its jurisdiction of the Commission shall be in closed session.

Wisconsin Elections Commission

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Administrator Michael Haas

COMMISSIONERS

Beverly R. Gill
Julie M. Glancey
Ann S. Jacobs
Steve King
Don Millis
Mark L. Thomsen, Chair

Wisconsin Elections Commission
Wisconsin Elections Commission Offices
212 E. Washington Avenue, Third Floor
Madison, Wisconsin
10:00 a.m. Tuesday, August 30, 2016

Open Session Minutes

Summary of Significant Actions Taken	Page
F. Approved Ballot Access for November 2016 Candidates	3
K. Approved Online Voter Registration Plans	4
M. Approve Procedures for Presidential Electors Nomination Meeting	4
N. Approved Actions on Administrative Rules	5
O. Approved 2017-2019 Budget Request	5
P. Approved Memorandums of Understanding with Wisconsin Ethics Commission	6
Q. Approved 2017 Meeting Dates	7

Present: Commissioner Mark Thomsen, Commissioner Ann Jacobs, Commissioner Beverly Gill, Commissioner Julie Glancey, Commissioner Steve King (all in person) and Commissioner Don Millis (who joined the meeting by telephone at 11:15 a.m.)

Staff present: Michael Haas, Ross Hein, Nathan Judnic, Sharrie Hauge, Reid Magney, Sarah Whitt and Jodi Kitts

A. Call to Order

Chair Thomsen called the meeting to order at 10:00 a.m.

B. Director's Report of Appropriate Meeting Notice

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

C. Personal Appearances

Mary Ann Hanson of Brookfield appeared on her own behalf to express her concerns regarding the Electronic Registration Information Center (ERIC) mailing.

Paul Malischke of Madison appeared on his own behalf to express his concerns that the ERIC mailing does not carry a photo ID message.

D. Minutes of Previous Meetings

MOTION: Approve open session minutes of the June 30, 2016 meeting of the Wisconsin Election Commission as corrected. Moved by Commissioner Gill, seconded by Commissioner Glancey. Motion carried unanimously.

E. Report on 2016 Partisan Primary

Lead Elections Specialist Diane Lowe made an oral presentation based on a written report starting on page 9 of the meeting materials regarding the August 9 Partisan Primary.

Discussion.

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

F. Ballot Access Approval of Candidates for General Election

1. Partisan Primary Results and Independent State and Federal Candidates
2. Ballot Party Presidential Candidates
3. Independent Presidential Candidates

Ms. Lowe made an oral presentation based on a written report starting on page 13 of the meeting materials regarding approval of candidates for the General Election.

MOTION: Approve ballot status for the 2016 General Election of those candidates whose names appear on the "Candidates on Ballot by Election" list provided in the August 30, 2016 Wisconsin Elections Commission meeting materials.

MOTION: Approve ballot status for the 2016 General Election of the following Presidential and Vice Presidential candidates:

Party	Presidential Candidate	Vice Presidential Candidate
Republican Party	Donald J. Trump	Michael R. Pence
Democratic Party	Hillary Clinton	Tim Kaine

Constitution Party	**Darrell L. Castle**	**Scott N. Bradley**
Libertarian Party	**Gary Johnson**	**Bill Weld**
Wisconsin Green Party	**Jill Stein**	**Ajamu Baraka**

MOTION: Approve ballot status for the 2016 General Election of the following Independent Presidential and Vice Presidential candidates:

Party	Presidential Candidate	Vice Presidential Candidate
Workers World Party	**Monica Moorehead**	**Lamont Lilly**
American Delta Party	**Rocky Roque De La Fuente**	**Michael Steinberg**

All three motions moved by Commissioner Jacobs and seconded by commissioner King. Motions carried unanimously.

G. *Frank v. Walker* Affidavit Format and Guidance

Staff Counsel Nathan Judnic made an oral presentation based on a written report starting on page 17 of the meeting materials regarding voter ID litigation. He noted that Judge Adelman's order directing the implementation of an affidavit option at the polls was stayed by the 7th Circuit Court of Appeals and therefore will not be in effect for the November election.

Commissioner Thomsen asked that the Commission formally thank the 7th Circuit Court of Appeals for its quick resolution of the appeals in the *Frank* and *One Wisconsin Institute* cases.

H. Legal and Procedural Guidance Resulting From *One Wisconsin Institute* Litigation

Mr. Judnic made an oral presentation based on a written report starting on page 19 of the meeting materials regarding litigation involving publicizing the Division of Motor Vehicles' ID Petition Process.

I. Photo ID Informational Campaign

Public Information Officer Reid Magney made an oral presentation based on a written report starting on page 21 of the meeting materials regarding the status of the Bring It to the Ballot public information campaign about voter ID, including efforts to educate the public about the ID Petition Process. Commission members expressed concerns that the Department of Transportation issue ID cards and temporary receipts in a timely manner so that voters receive them soon enough to be able to cast a ballot. Commission members were specifically concerned

about temporary receipts being issued the week before and the week of the election, and whether they would reach the voter in time to cast a ballot.

J. Electronic Registration Information Center (ERIC) Initiative

WisVote Technical Lead Sarah Whitt and WisVote Specialist Jodi Kitts made an oral presentation based on a written report starting on page 25 of the meeting materials regarding voter registration postcards being mailed to 1.28 million Wisconsin residents as a condition of the state joining ERIC.

Commissioner Millis joined the meeting telephonically at 11:15 a.m.

Commissioners and staff discussed the mailing and the plans to handle the public response.

The Commission had previously authorized the mailing, and no official action was required.

K. Online Voter Registration Project

Ms. Whitt made an oral presentation based on a written memorandum starting on page 37 of the Commission meeting materials regarding staff's plans to implement 2015 Wisconsin Act 261 by creating an online voter registration system in cooperation with the Wisconsin Department of Transportation. Staff is finalizing a memorandum of understanding to be approved by the Commission at a later date.

MOTION: Approve the joint WEC/DOT plan to implement Online Voter Registration and the verification process outlined in the memorandum on page 37 of the August 2016 WEC meeting materials. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

L. Voter Felon Audit

Ms. Kitts made an oral presentation based on a written memorandum starting on page 41 of the Commission meeting materials regarding 2016 voter felon audits for the February 16, 2016 Spring Primary Election, which was completed on May 5, 2016, and for the April 5, 2016 Spring Election and Presidential Preference, which was completed on August 9, 2016.

The report was presented for the Commissioners' information, and no action was taken.

Chair Thomsen called a recess at 12:17 p.m. The Commission reconvened at 12:31 p.m.

M. Presidential Electors Nomination Meeting

Administrator Haas made an oral presentation based on a written memorandum starting on page 45 of the Commission meeting materials regarding the 2016 Presidential Electors Nomination

Meeting on October 4. He reviewed staff's recommended procedures to enable ballot status parties without eligible participants to publicly nominate their presidential electors.

MOTION: Approve staff's proposed procedure as outlined in the memorandum to enable ballot status parties without eligible participants to publicly announce their presidential and vice presidential candidates to meet the provisions of Wis. Stat. § 8.18, and authorize implementation of the procedure beginning with the October 4, 2016 Presidential Electors Selection Meeting. Moved by Commissioner Jacobs, seconded by Commissioner King. Motion carried unanimously.

N. Administrative Rules

Staff Counsel Nathan Judnic made an oral presentation based on a written memorandum starting on page 47 of the Commission meeting materials regarding staff's efforts to promulgate administrative rules. Staff and Commissioners discussed timelines for completion.

MOTION: Approve the Statements of Scope for the proposed amendments to Chapters EL 6 and EL 21, and direct the Commission staff to draft administrative rules consistent with the approved Statements of Scope for these rules.

MOTION: Direct staff to resubmit Statements of Scope currently pending approval from the Governor's Office with the appropriate "EL" chapter references.

MOTION: Direct staff to prepare a report summarizing Statements of Scope authorized by the Government Accountability Board but not yet drafted in their entirety, and present it to the Commission at the last meeting of 2016 for further action.

All three motions moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

O. Proposed Agency Biennial Budget

Chief Administrative Officer Sharrie Hauge made an oral presentation based on a written memorandum contained in the Commission's supplementary meeting materials regarding the agency's 2017-2019 Biennial Budget Request. Staff has four recommended motions for the Commission to consider regarding the overall budget approach, creation of 22 permanent positions to replace federally-funded positions that will be expiring, adding funding to cover commission meeting expenses, and expanding the agency webmaster/PIO position's funding by .25 FTE to full time.

Administrator Haas noted that Commissioners were also provided with letters of support from county and municipal clerks. Commissioners and staff discussed the proposed budget and the ramifications if the Legislature were not to add 22 FTE state-funded positions to replace 22 federally-funded positions that will be expiring.

MOTION: Approve the overall approach of submitting a budget request for 2017-19 which continues current agency operations and the current level of total spending, and replaces expired federal funds with GPR funds in FY-19.

MOTION: Direct staff to include the creation of 22 Permanent GPR FTE in its 2017-19 biennial budget request to replace the federally funded 22 Permanent FTE when the agency's federal funds are depleted.

MOTION: Direct staff to include an additional $8,500 in its base budget request annually to cover costs for Commission meeting expenses including per diem payments.

MOTION: Direct staff to request authorization for a .25 FTE funded position with GPR in the amount of $20,600 in FY18 and $20,600 in FY19.

All motions moved by Commissioner Millis, seconded by Commissioner Jacobs. Motion Carried unanimously.

P. Memoranda of Understanding with Wisconsin Ethics Commission

Staff Counsel Judnic made an oral presentation based on a written memorandum starting on page 59 of the Commission meeting materials regarding the memoranda of understanding with the Wisconsin Ethics Commission for shared office space, shared staff and data exchange.

Commissioners and staff discussed the agreements and the confidentiality language added at the request of the Ethics Commissioners.

MOTION: Authorize the Administrator to execute the following Memoranda of Understanding with the Wisconsin Ethics Commission: Shared Office Space Agreement, Shared Staffing Agreement and Data Exchange Agreement. Moved by Commissioner Jacobs, seconded by Commissioner King. Motion carried unanimously.

Q. Future Meeting Schedule

Administrator Haas made an oral presentation based on a written memorandum starting on page 83 of the Commission meeting materials regarding proposed 2017 meeting dates, in addition to the previously scheduled teleconference meeting on January 10, 2017:

Tuesday, March 14, 2017
Tuesday, June 20, 2017
Tuesday, September 26, 2017
Tuesday, December 12, 2017

MOTION: Adopt the 2017 meeting schedule as proposed. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

R. Commission Staff Update

Administrator Haas directed Commissioners to the written memorandum starting on page 85 of the Commission meeting materials regarding staff activities since the last meeting. The report was presented for the Commissioners' information, and no action was taken.

S. Per Diem Authorization

MOTION: Authorize one day per-diem for the meeting plus half a day for review of meeting materials. Moved by Commissioner Jacobs, seconded by Commissioner King. Motion carried unanimously.

T. Closed Session

Adjourn to closed session as required by statutes to confer with counsel concerning pending litigation; and to deliberate or negotiate the investing of public funds or conducting other specified public business whenever competitive or bargaining reasons require a closed session.

MOTION: Move to closed session pursuant to §§ 19.85(1)(g) and 19.85(1)(e) to confer with counsel concerning pending litigation, and to deliberate or negotiate the investing of public funds or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Moved by Commissioner Glancey, seconded by Commissioner Gill.

Roll call vote:	Gill:	Aye	Glancey:	Aye
	King:	Aye	Jacobs:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried unanimously. The Commission adjourned at 1:15 p.m. and convened in closed session at 1:24 p.m.

U. Adjourn

The Commission adjourned in closed session at 2:00 p.m.

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The next regular meeting of the Wisconsin Elections Commission is scheduled for Friday, October 14, 2016, at the commission's offices in Madison, Wisconsin beginning at 10:00 a.m.

August 30, 2016 Wisconsin Elections Commission meeting minutes prepared by:

_____

Reid Magney, Public Information Officer October 5, 2016

August 30, 2016 Wisconsin Elections Commission meeting minutes certified by:

_____

Beverly Gill, Commission Secretary October 14, 2016

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MEMORANDUM

DATE: For the October 14, 2016 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Michael Haas
Commission Interim Administrator

Prepared by Elections Commission Staff

SUBJECT: Preparations for 2016 General Election

This memorandum summarizes the efforts of Elections Commission staff to prepare for the 2016 General Election, and to ensure that local election officials and voters are also prepared. All Commission staff are focused on various aspects of election preparations, while also working on other legislative and agency priorities and tasks. This summary is provided for the Commission's information and no action is required.

1. Local Election Official Training and Support

Commission staff continues to provide extensive election training for county and municipal clerks, chief inspectors, poll workers and other local election officials regarding election preparations, voter qualifications, voter registration, absentee ballot procedures, photo identification requirements and post-election activities, among other subjects. Constant turnover in local election officials and new rules resulting from legislative changes and court decisions require comprehensive training from the basics to the latest developments and nuances of election administration. As reflected on Attachment 1, Commission staff is participating in an ambitious series of clerk conferences, election administration and WisVote training webinars and teleconferences in October.

Ongoing initiatives for the General Election include basic "101" training to reinforce the fundamentals of election administration as well as detailed instruction on election procedures as they are affected by 2016 legislative changes and recent court decisions. The "Absentee Voting 101" webinar was designed to provide basic instruction on absentee voting processes, while the "Polling Place Set-Up and Line Management" webinar provided important information on polling place accessibility and best practices for voter line management at the polls.

Initial certification training for new municipal clerks and new chief inspectors will be provided through in-person classes conducted by Commission-certified clerk-trainers, composed of qualified and

experienced county and municipal clerks, and Commission staff utilizing webinar distance education. Additional classes will be scheduled as needed.

In addition, all Commission program staff are providing ongoing support to local election officials through phone calls, emails, and clerk communications posted to the agency website. Specific points of emphasis include various new rules related to in-person absentee ballots and absentee voting, the change to a 10-day residency requirement, student photo ID and proof of residency documents, the Division of Motor Vehicles' ID petition process, and the requirement to post unofficial Election Night returns on county websites. The pending question regarding whether clerks are required to post returns for local contests is not a point of emphasis as very few municipalities will include local contests or referendum questions on the General Election ballot.

The Elections HelpDesk staff continues to support over 2,032 active WisVote users, the public, and election officials. The Help Desk fields a variety of calls from voters and the public, candidates, political committees, and public officials.

	Elections Help Desk Call Volume (608-261-2028)	Front Desk Call Volume (608-266-8005)
August, 2016	2,020	1,046
September, 2016	1,937	1,471
October 6, 2016	433	296
Total Calls for Reporting Period	**4,390**	**2,813**

During the days immediately preceding the election, and on Election Day, WEC staff will maintain extended office hours to assist local election officials with issues that arise.

2. Ballot Review and Printing

County clerks are required to send a ballot proof to WEC staff for format approval before printing. Staff assessment of ballot format includes verification of the following:

- Ballot title and date
- Instructions for voters
- Navigational instruction ("continue voting at top of next column," "ballot continues on other side," etc.)
- Ballot endorsement section
- Ballot divisions (congressional, legislative, county, etc.)
- Offices titles within each division
- Party order of candidates

Seventy one counties submitted ballots for approval. Counties that use paper, hand-count ballots and optical scan ballots submitted samples of both types. Staff reviewed all ballots submitted and responded to each county clerk within 24 hours. County clerks whose ballots did not meet staff approval received

a detailed list of errors and omissions. Some clerks submitted corrected ballots for approval, although this is not required.

Two counties who received ballot approval from WEC staff discovered errors after printing. Washburn County omitted the Democratic candidate, Joe Huftel, in Assembly District 75. Twelve municipalities in Washburn County are in the 75th District. The municipalities received their ballots from the county on Thursday, September 8, 2016. On Saturday, September 10th, the county clerk was alerted to the omission by a municipal clerk. The county clerk immediately emailed the clerks in the affected municipalities and instructed them to stop sending out absentee ballots and to destroy the District 75 un-voted ballots that contained the error. No in-person voting had occurred in any of the municipalities. The county clerk provided corrected ballots on Monday, October 12th.

The municipal clerks were instructed to contact all voters who had been sent absentee ballots and advise them that, due to a ballot error, they would be receiving a corrected ballot. The municipal clerks were instructed to retain any flawed ballots that are returned until a corrected ballot is received from the voter. Certificate envelopes sent with the corrected ballots were marked with a red "X" so that when the ballot is returned it can be identified as the envelope containing a corrected ballot. Once a corrected ballot is received, the clerk may spoil the first ballot. If a corrected ballot is not received by Election Day, the flawed ballot would be sent to the polling place for processing and all votes would be counted.

The county clerk notified Candidate Huftel by email on September 19th to update him on the situation and her efforts to rectify the situation. WEC staff asked the county clerk for a sequential account of the events that followed the discovery of the ballot error, which she provided on September 23rd. She also provided her plan for proofing ballots in the future so that no candidate names are missed.

Also, a spelling error on one ballot style for the City of Stevens Point was brought to the Commission's attention on October 3, 2016 by the Portage County Clerk. On the Presidential portion of the ballot the word "Democratic" beneath the Hillary Clinton/Tim Kaine ticket was misspelled; the c and o were transposed (Demcoratic). The misspelling was contained on 554 absentee ballots that had been issued. The county clerk immediately reprinted the ballots so that absentee ballots issued subsequently and on Election Day contain the correct spelling. WEC staff did not advise sending corrected ballots to voters as the risk of voter confusion due to receiving a second ballot is higher than the potential confusion over the typo. The Democratic Party of Wisconsin was notified of the error.

3. WisVote Election Readiness

WEC WisVote staff created, posted and sent Checklist I for the 2016 Presidential and General Election to all county and municipal clerks on August 19, 2016. Staff creates and distributes two checklists for each election for county and municipal clerks to use as resource to assist them in tracking their pre- and post-election duties of entering, processing and maintaining data related to voters, candidates, ballots, and polling places in WisVote.

Checklist I is a pre-election checklist and includes guidance on: updating or adding candidate records; setting up and/or verifying Election Plans (which includes verification of Reporting Units and Polling Locations); entering, monitoring and tracking absentee ballots; adding or reviewing contests; reviewing

and renaming ballot styles (if desired); printing the Felon List; printing poll books and important data maintenance that needs to be reviewed or corrected prior to the election.

Checklist II is the post-election checklist and it will be posted and sent approximately two weeks prior to the election. Checklist II covers Election Night tasks and post-election activities including: entering provisional ballot information to be displayed on the MyVote Wisconsin website; posting unreturned absentee ballot statistics and unofficial Election Night results; recording voter participation in WisVote; reconciling election and reporting election statistics using the EL-190 form; correcting any typographical errors in poll books, and entry and completion of Election Day Registrations.

As part of poll book preparation, WEC WisVote staff notifies clerks of various data quality issues which could prevent the voter from printing on the correct poll book, as well as voters who potentially should not be on the poll book, such as deceased voters and voters currently serving felon sentences. There are approximately 25 different types of data quality checks that staff has monitored since mid-August and will continue to monitor through Election Day. Some examples of the maintenance reports are those which identify and monitor jurisdictions that have not established reporting units in WisVote, contain reporting units which cross specific district lines (congressional, county, State Assembly, State Senate) or do not have associated polling places; list active voter addresses with an inactive address or which lack an associated district combination, list election contests without candidates, Registration List Alerts, address exceptions, and several absentee voting reports. WEC staff then conducts outreach to clerks to correct any problems or bring any identified issues to the clerk's attention, which is a meticulous and time consuming process.

Staff provides clerk support for all WisVote users on a continual basis and it is not uncommon for individual staff to respond to many dozens of calls and emails daily. The IT team has also been making updates to the WisVote system to make its functionalities easier to use. This also requires extensive testing of the changes, and that the WisVote training team updates tutorials and Learning Center materials to align with any new updates that affect users in the system.

Help Desk staff is creating new clerk user credentials for the WisVote system and the WisVote Learning Center as clerks request access, and is also assisting clerks with configuring and installing WisVote, CRM and WEDC (GAB-190) applications on municipal computers.

4. Voter Education and Outreach

To prepare for the 2016 General Election, agency staff has developed tools and resources to educate voters and to support the municipal and county clerks who serve voters. With 4.2 million eligible electors in the State of Wisconsin, Commission staff has prioritized the development of materials and resources that can be used by clerks and groups who work directly with voters. The Commission has also added several temporary staff to assist with handling telephone calls and emails from voters, especially with regard to the recent ERIC mailing. If the workload warrants, some of the temporary staff will continue to assist with these tasks through Election Day.

The following areas of focus have been identified to prepare voters for Election Day:

- Utilizing the clerk network and other election partners to distribute voting information throughout the state;
- Ensuring that military and overseas voters (UOCAVA voters) receive their ballots on time; and
- Preparing MyVote.wi.gov, which is the primary voter resource, to handle increased traffic and to connect voters to the information they need to participate in the General Election.

Distributing Voter Information

To prepare voters for the 2016 General Election, the agency's approach has been to develop understandable materials and distribute them to clerks and organizations who work directly with voters throughout the state. Staff developed the *Clerk Kit for Voter Outreach* as a comprehensive index and compilation of these resources. The primary audience for the voter outreach kit is Wisconsin's 1854 municipal clerks and 72 county clerks as they have direct contact with voters in every Wisconsin community. While the kit is intended for use by clerks, it can be used by anyone who is educating and preparing voters. In addition to clerks, the kit has also been provided to other voter outreach groups and partners including members of the Wisconsin Elections Accessibility Advisory Committee who have shared the resources extensively within their own member networks.

The complete outreach kit is provided in the Commission's meeting folder and includes the following resources:

- News Release Templates
- Voter Guides for nearly 30 topics
- Complete Guide to Voting
- Presentation materials including: voter outreach PowerPoint, speaker script, pre-recorded presentation, and handout for voters
- Photo ID materials available on the bringit.wi.gov website including brochures, posters, palm cards, and videos.
- Social media plan for clerks
- Resources for using myvote.wi.gov to register voters

In addition to providing outreach documents as part of the clerk kit, each individual voter resource is available on the agency website, on the bringit.wi.gov website, and throughout the MyVote.wi.gov website. Election materials are also distributed to voters through the agency Facebook and Twitter pages. Social media has been an effective way to bring attention to the available voter resources. Commission staff has developed an agency social media plan that ensures that each resource is highlighted. This plan sets the baseline for agency social media activity starting in September and it continues through the November Election.

Ensuring that Military and Overseas Voters Receive Their Ballots

The Wisconsin Elections Commission is committed to ensuring that military and overseas voters receive their ballots and feel confident that their ballot will be counted. Commission staff monitored compliance with the state and federal UOCAVA ballot deadlines for military and permanent overseas

voters in all 1854 municipalities and 72 counties and also provided resources and reminders to clerks leading up to the deadlines.

Wisconsin law requires that UOCAVA ballots be sent to voters with an absentee request on file at least 47 days prior to federal elections. Federal law requires that UOCAVA ballots be sent to voters with an absentee request on file at least 45 days prior to federal elections. The Elections Commission is required to provide a detailed report to the U.S. Department of Justice (US DOJ) regarding municipal compliance with the Federal deadline. The federal deadline was Saturday, September 24, 2016. The report includes data on every military or overseas ballot that has been requested and sent by the deadline. If a UOCAVA voter requested an absentee ballot on or before Saturday, September 24, 2016 it must be sent to the voter on or before September 24 or the ballot is considered late by US DOJ. A second report, that details each late ballot, along with the reason the ballot was sent late, was also submitted to US DOJ following the federal deadline.

The final compliance report for the 45 day federal deadline was submitted to US DOJ on October 3, 2016. The report reflected that an impressive 99.95% of UOCAVA ballots requested on or before September 24 were sent to voters by September 24. Importantly, there were over 400 absentee ballots sent by municipalities on Saturday, September 24, a day that is outside of normal business hours for most municipalities. In preparation for the deadline, agency staff took extra steps to provide municipalities with tools and reminders. Commission staff sent daily reminders to clerks with outstanding UOCAVA ballots every day in the week leading up to the deadlines. Over 600 municipalities were contacted by email, some of them up to seven times.

In the days immediately prior to and following the state deadline, agency staff contacted more than 300 municipalities and 52 counties by phone to follow-up on each individual ballot that was still showing as unsent. Staff also contacted over 150 UOCAVA voters to offer them the alternative of an online ballot to facilitate immediate delivery of their ballot on the deadline date. In all, 5,129 UOCAVA voters were sent a ballot, or had access to an online ballot, at least 45 days prior to the election. Compliance with the deadline provides adequate time for the voter to receive their ballot and return it prior to Election Day.

There are unique challenges faced by clerks when sending ballots to UOCAVA voters. Over 80% of Wisconsin's 1854 municipal clerks have never received a federal form from a UOCAVA voter and may receive one for the first time in 2016. Federal forms are used by UOCAVA voters to register to vote, request absentee ballots, and may also be used as an emergency write-in ballot by some voters.

As part of the WEC's commitment to ensuring that UOCAVA voters receive their ballot, staff developed federal form resource guides for our clerks. The guides include tips for the following forms: the Federal Write-In Absentee Ballot (FWAB), the Federal Postcard Application (FPCA), and the National Voter Registration Application (NVRA). The guides are designed to help clerks understand federal forms when they are received and to ensure that the forms are processed properly and timely. Through the many clerk conferences staff has attended in recent months, clerks have indicated that the guides provide them with the information to process the request immediately and to send the voter their ballot without delay. Copies of the federal form resource guides are included as part of the Commission materials folders.

Another resource that was provided to clerks to help them serve UOCAVA voters is the Guide to Emailing and Faxing Ballots. While military and overseas voters have been eligible to receive their absentee ballots by email, fax, or online in the past, recent court decisions permit many additional regular and UOCAVA voters to request and receive a ballot by fax or email ballot. Many clerks are receiving an email request for the first time in 2016. Preparing clerks for these requests is an important aspect of voter services. A clerk communication was posted in September that provides clerks with step-by-step guidance and tips on sending ballots by email and fax. The guidance has been provided in multiple clerk resources and is posted throughout the agency website.

Preparing MyVote.wi.gov for Election Day

MyVote is the Wisconsin Elections Commission's main voter outreach tool. The website allows voters to start the registration process, request an absentee ballot, find their polling place, view a sample ballot, track their absentee and provisional ballots, and more. MyVote is a critical tool that both Wisconsin voters and clerks rely on. Because of this, preparing MyVote for the increased demand leading up to November 8 has been the top voter outreach priority.

One of the most important aspects of the MyVote site is how it processes and recognizes voter addresses. Assigning a voter to a correct address ensures that voter registration or absentee applications generated through MyVote are sent to the correct municipality. A correct address also allows voters to access their sample ballot or to find their polling place information. Because addresses are so critically important to the site's functionality, every step has been taken to optimize the way that MyVote and WisVote handle addresses. As a result of intense and persistent research and development, staff made very significant improvements during the last month to enhance the matching processes between the address a voter types into MyVote and the address database in the WisVote system, which is the source of data for MyVote. The addresses in the WisVote system are very accurate and have each been assigned to the correct voting districts and wards. This represents a major improvement in the usability of the agency's IT applications for both clerks and voters.

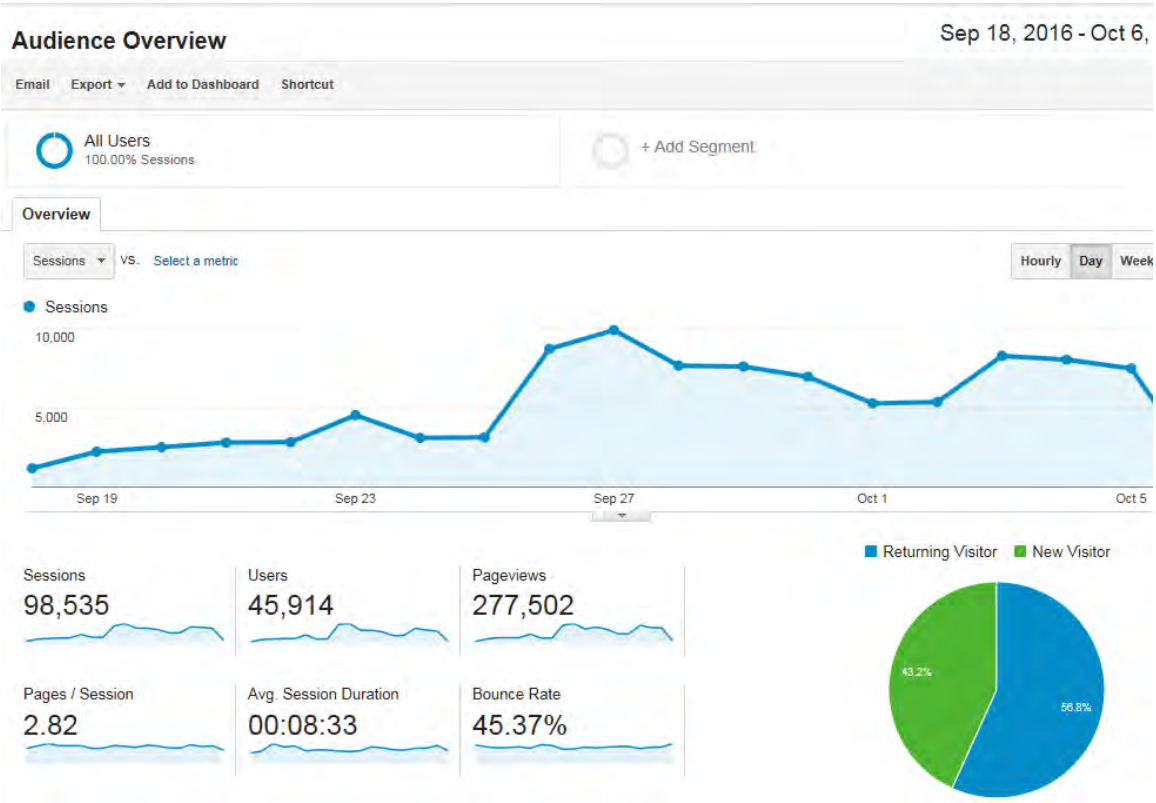
Matching the voters address to an existing address in the system is ideal. While the WisVote database houses over 4 million addresses, there are new addresses created each day through residential development and boundary changes. Until a voter registers at an address, it will not be in the WisVote system. As a result, there are some voters who will not be able to use the MyVote site to find their election information because they live at an address that is not currently in the WisVote system. In those instances, MyVote prompts the voter to call the Elections Commission so that the address can be entered into the database and the voter can access their information. While this means that some voters cannot immediately find their information, it ensures that only the best and most reliable data is used and that inaccurate information cannot be returned for the voter. More information on the changes that have been made to the MyVote and WisVote addressing process can be found in the clerk communication "Address Enhancements to MyVote / WisVote" which is posted on the agency's website at http://www.gab.wi.gov/node/4170.

In addition to the address service, there have been additional improvements and optimizations made to the MyVote website in the last few weeks. One of the more notable changes is the ability for a voter to provide a copy or photo of their acceptable photo ID when making an absentee ballot request. This feature has been very popular with both clerks and voters and there has been a large increase in voters

using the site to submit their absentee requests. Using the site to submit an absentee ballot request ensures that the voter provides all of the required information and that the request is sent to the correct municipal clerk. Also, the server capacity for the MyVote site has been increased. The capacity has been doubled for the MyVote website as well as for the WisVote database that powers the site. An additional server has also been added to support the address service. The increased server capacity will ensure that users will not experience delays or outages when using the site on high traffic days such as on and leading up to Election Day.

In addition, there are also resources for both clerks and voters about the MyVote site to ensure that they feel comfortable using the new website. Staff has produced and posted two recorded webinars that provide a step-by-step demonstration of the site's functionalities. A MyVote user manual has also been published which outlines the process of accessing information on the site for specific types of voters. In addition, staff created and posted a short video intended for clerks and special registration deputies to watch as part of their training for assisting voters with the website.

The re-launch of the MyVote Wisconsin website in September and subsequent improvements have set the stage for more frequent and productive use of the site by both voters and election officials. This preparation was especially important before the ERIC mailing was delivered to eligible but unregistered electors, as the postcard encouraged recipients to access MyVote. The below graph illustrates the number of MyVote Sessions from a few days prior to the ERIC postcard mailing to October 5. Note the bump in activity on September 26, the day potential electors began receiving registration postcards. The high point in this timeframe was September 27 with 9,856 unique visitor sessions to the site.



5. Photo ID and ID Petition Process Public Information Campaign – WEC Court Report

Since the Commission's last meeting on August 30, staff has continued to monitor the paid "Bring It to the Ballot" public education and information campaign which began in early July and concluded October 6. Statistics on the numbers of Wisconsin residents reached by through the campaign will be provided at the Commission's October 14 meeting.

The Public Information Officer assisted Staff Counsel in preparing information for a report to the court in the in the *One Wisconsin Institute* litigation explaining the Commission's efforts to inform the public about IDPP, which was filed with the court September 22.

On September 26, the Commission staff held a news conference and issued a news release covering two important topics for the November election: the ERIC postcard mailing and the IDPP. Commissioners Thomsen and Millis appeared at the news conference, which was covered by the Associated Press, Milwaukee Journal-Sentinel, WisPolitics.com, Wisconsin Eye and several Madison-area television stations. Commissioners and staff emphasized the message that everyone who needs a photo ID can get a document they can use for voting after one visit to a Division of Motor Vehicles office, even if they do not have a birth certificate.

On September 29, news stories began appearing in local and national publications alleging that some people who visited the DMV to get a free state ID card for voting purposes received incorrect information or were not informed about IDPP. The PIO has consulted with DOT public affairs staff and responded to numerous media requests regarding these reports and subsequent developments in the *One Wisconsin Institute* litigation.

6. Outreach to Political Campaigns and Election Observers

Prior to major elections, agency staff has hosted meetings with representatives of the major political parties to discuss recent election law developments, possible Election Day issues, and primary contacts for Election Day communications. Commission staff is again offering to host such meetings with the political parties in upcoming weeks. Staff will also contact other organizations which sponsor election observers and provide a reminder of the rules for election observers.

7. Accessibility Initiatives

<u>Polling Place Accessibility Audit Program</u>

For the 2016 November General Election, staff plans to send auditors to conduct polling place accessibility surveys in selected municipalities throughout the state. The focus will be on conducting site visits at locations that have not previously been audited by the program. The unvisited polling places are scattered across the state, and routes will be created that focus on specific geographic areas with a significant number of unvisited polling places.

Staff for the project will be recruited from state-approved staffing agencies and will go through an interview process. They will also be required to attend a two-day training event. Training consists of a review of the polling place accessibility survey and Americans with Disabilities Act standards, training on the tablet computers used to gather the survey data and a mock polling place exercise at a City of Madison polling place. The auditors will also be provided with a tutorial on accessible voting equipment and given training on all of the tools they need to conduct the site visits.

In addition to the support from temporary staffing agencies, the Commission will partner with Disability Rights Wisconsin, a member organization of the agency's Accessibility Advisory Committee, to staff the project for this election. Disability Rights Wisconsin approached staff with an offer to assist agency efforts in ensuring that all Wisconsin polling places are accessible to all voters. The organization estimates that up to 20 volunteers would like to participate on the project. Some of these individuals have significant experience and expertise in evaluating accessibility standards. All Disability Rights Wisconsin auditors will receive training similar to staff hired from staffing agencies, including a remote training designed to familiarize them with the survey used to conduct audits. They will also participate in the mock polling place exercise scheduled for November 4, 2016.

Accessibility Advisory Committee Meeting

In preparation for the 2016 November General Election, Commission staff met with members of the Accessibility Advisory Committee on September 27, 2016. Eight different organizations were represented at the meeting and the agenda focused on election law updates and public education and outreach partnership opportunities leading up to Election Day. Committee members were provided with a disc containing agency voter education materials and were given a demonstration of the MyVote Wisconsin website. Members agreed to assist the WEC with reaching out to voters using their established methods of communication, including posting voting information on their organization's social media accounts, conducting voter training presentations and distributing educational materials through their distribution lists. These efforts represent a significant leveraging of the agency's outreach efforts through cooperation with outside organizations.

8. Presidential Electors Nomination Meeting

The Presidential Electors Nomination Committee meeting was conducted at the State Capitol on Tuesday, October 4, 2016. The meeting is required by Wis. Stat. § 8.18. The statute provides that each political party's elected state officeholders, candidates for state senate and assembly, and holdover state senators shall meet in the State Capitol on the first Tuesday in October of each year in which there is a presidential election. The purpose of this convention is to nominate one presidential elector from each congressional district and two electors from the state at large to represent each political party that currently has ballot status. The responsibility of the WEC with respect to the meeting is limited to reserving rooms for participating parties, notifying eligible participants and collecting the elector lists when the meeting is concluded.

Representatives of the Republican, Democratic and Libertarian parties were present to select their respective presidential elector slates and provide that information to WEC staff. The Constitution and Wisconsin Green Parties had no eligible participants for the nominating meeting but, both parties provided WEC staff with a list of their electors. The electors of the party whose candidates for President

and Vice President receive the majority of the votes at the General Election in Wisconsin will gather at the Capitol in December to cast their votes for their presidential and vice presidential candidates.

9. Election System Security & Emergency Readiness

System Security

Wisconsin Elections Commission staff has partnered with the US Department of Homeland Security (DHS) and the Wisconsin Department of Administration's Division of Enterprise Technology (DET) to ensure that Wisconsin's election-related IT systems are prepared for the November Election.

Wisconsin is one of several states to work with DHS National Cybersecurity and Communications Integration Center to perform a Cyber Hygiene Assessment. Through this program, DHS will be performing continuous security and vulnerability scans of Election Commission IT infrastructure and systems to assess their vulnerability to cyber attacks. An initial report was provided to Elections Commission staff on September 26, 2016 and DHS will continue to provide weekly update reports as long as the Elections Commission remains subscribed to the program.

The Election Commission servers and infrastructure for mission-critical systems such as WisVote and MyVote are hosted at the State Data Center operated by DET. As WEC's security partner, DET also performed a Web Vulnerability Assessment, assessing all Elections Commission systems that are connected to the public Internet. This assessment included systems such as WisVote, MyVote, the Canvass Reporting system, Access Elections!, the Wisconsin Election Data Collection system, Badger Voters, and the Elections Commission's public websites. DET provided its report to Elections Commission staff on September 28, 2016. Based on the recommendations in the USDHS and DET reports, Elections Commission staff has already made several updates to our infrastructure to increase security.

Elections Commission staff is engaged in on-going contact with Wisconsin Emergency Management, the Division of Enterprise Technology and Wisconsin's Adjutant General to help ensure that Wisconsin is prepared for the heightened security required to ensure a smooth election process. DET has issued an enterprise-wide change freeze from October 25 to November 11 barring any IT system changes across all of State Government without prior approval from the agency-head and the state CIO's office. WEC staff also provided updated recommendations to local clerks regarding securing voter information in the WisVote system, as well as maintaining security of their local workstations that are used to access state systems.

On September 13, 2016, Commission staff hosted a joint meeting with the Federal Bureau of Investigation, the US Department of Justice, the Wisconsin Department of Justice, Wisconsin Emergency Management, and representatives of the Milwaukee and Dane County district attorney offices to discuss election day preparedness and to designate emergency points of contact in their respective offices for emergencies that may occur on Election Day. In addition, Commission staff, in partnership with the Department of Justice and Milwaukee County District Attorney's Office, will conduct webinar training to prosecutors and law enforcement officials regarding election laws and potential Election Day scenarios.

Voting Equipment Security

Wisconsin state law and Election Commission administrative procedures outline a security protocol designed to ensure the integrity of Wisconsin elections. All voting systems in use in Wisconsin have received federal certification. These systems have also been tested and certified on the state level to ensure they are compatible with Wisconsin election laws.

All municipalities are encouraged to conduct logic and accuracy testing of their voting equipment software after programming of the memory devices is completed. This testing is designed to confirm the accuracy of the programming and ensure the equipment is correctly reading ballots and tabulating votes. This testing is conducted before the public test of voting equipment is conducted, so that any programming errors can be remedied before Election Day.

All municipalities are required to conduct a public test of their voting equipment before each election. This event is considered a public meeting and must be noticed at least 48 hours in advance. The public test must take place no earlier than 10 days prior to Election Day and the public is invited to attend and observe the testing process.

Programming is verified by feeding a set of pre-marked ballots, or test deck, into the machine and reviewing the results tape that is generated at the end of this process. The test deck should include ballots with votes for all candidates and contests on the ballot. It is recommended that the test deck used for the public test differ from the test deck used by the programmer so that errors in programming do remain undetected. Vote totals for each candidate in a contest should differ so that votes transposed between candidates in a contest can be detected.

The exercise ensures that paper ballots are able to be read by the optical scan voting equipment, all ballot contests are tabulating properly, voters are not allowed to exceed the maximum number of choices per contest, write-in votes are properly identified and that touchscreen voting equipment is programmed to capture voter intent. An errorless count is required at the conclusion of the process and any anomalies identified in this testing must be remedied before the equipment can be used in the election. *Wis. Stats. § 5.84(1).*

Following the public test, the voting equipment and all associated memory devices are required to be secured. A chain-of-custody log is required to be maintained that documents any access to or transfer of each memory device. These procedures are intended to protect against malicious breaches to electronic voting equipment components as well as provide transparency of justifiable access.

The memory device should remain in the machine and a tamper-evident seal should be used to secure the compartment that houses the memory device. Each tamper-evident seal should contain a unique serial number and that number should be recorded on the Inspectors' statement along with other voting equipment security-related information. Verification of the serial numbers should take place before the polls open in the morning and after the close of polls. It is also recommended that election workers verify this information at several other points on Election Day.

The purpose of these procedures is to ensure that the integrity of the memory device is not compromised after the conclusion of the public test up until votes are tabulated after the close of polls. All incidents

of access to the memory device must be documented on the Inspectors' Statement and each memory device should remain secured after the election.

Voting equipment is not connected to the internet and any modeming capability is disabled until the polls close and the machine is in a post-election setting. The lack of internet connection, the decentralization of election management, and the variety of voting equipment in use all serve to help discourage and prevent any contemplated attempts at unauthorized alteration of election results.

Election Night Results

On Election Night, municipal clerks must report returns, by ward or reporting unit, to the county clerk no later than two hours after the votes are tabulated, and county clerks must post all returns, by ward or reporting unit, on a county website within two hours of receiving the returns. The Elections Commission must provide a link to those returns on its website. Wis. Stat. §§ 5.05(14)(c), 7.51(4)(c), 7.60(1). All unofficial election night results are posted only at the county level; the WEC does not have a statewide Election Night reporting system to gather unofficial results, and will only post official results following certification. Election Night results reported by the media are the result of their newsgathering efforts, and while candidates may use them to declare victory or concede defeat, they are not official. The nature of the decentralized unofficial election result process provides for additional layers of security due to the numerous individuals involved in the process.

County clerks use a variety of different tools and processes to gather and record unofficial results on election night. The type of voting equipment used in a municipality determines how results are reported to a county clerk. There is no uniform system to gather, compile and transmit results from the municipal clerk to the county clerk. Some municipalities submit results to the county clerk via modem. Other municipalities report results via telephone. Other municipalities submit vote counts on a spreadsheet or template via email to the county clerk. Some municipalities and counties enter unofficial results directly into the Elections Commission Canvass Reporting System and use that system to create and post their election night reports.

Regardless of the method for receiving and compiling unofficial election night results, clerks must have adequate systems and procedures in place to receive and verify vote totals before posting the results to the public.

Counties should have written procedures for collecting ward reporting unit level election results from all municipalities after the polls close on Election Day. The procedures should include details on how results will be reported to the county should the regular process fail. Counties should have a list of contact numbers for all municipalities for election night. Problems reporting election night returns should be communicated promptly to the county and the Elections Commission if necessary.

Counties should have written procedures for posting reporting unit level election results for all offices on the ballot. These procedures should document a clear chain of responsibility involving more than one member of the County Clerk's staff to ensure election returns are accurate and reflect the returns received from the municipalities. The office should be sufficiently staffed to prevent delays in entering and posting data. Technical support staff responsible for the Internet site where results are posted should be available on election night.

Counties should also have written procedures for entering official election returns into the Elections Commission Canvass Reporting System (CRS). The procedures should document a clear chain of responsibility involving more than one member of the County Clerk's staff to ensure that election returns are entered into CRS accurately and reflect the returns received from the municipalities.

Counties should have written procedures for documenting the receipt of the election returns, polling place records and ballots from municipalities after the election.

Finally, municipalities and counties should have written procedures for the conduct of the local and county canvasses. The procedures should clearly delineate the tasks assigned to staff and members of the Board of Canvass and ensure that the returns from the municipalities, including poll lists, inspector statements, chain of custody documentation, official tally sheets and all ballots are inspected, reconciled and the official election results are properly documented.

At least one week prior to election night counties should confirm that the Elections Commission has the correct link to the county's election night reporting Internet Site. Counties that upload files from their voting equipment compilation software to CRS should provide test files to the Elections Commission prior to Election Day. Counties that hand enter results into the CRS should verify that the reporting units, contests and candidate information in CRS matches what is programmed in their voting equipment prior to election night, and report any discrepancies promptly to the Elections Commission.

If a municipality is unable to report results to the county within 2 hours after votes are tabulated, the municipality should notify the county of the problem and the county shall notify the Elections Commission. If a county encounters a problem posting returns on election night the county should notify the Elections Commission.

Contingency Planning

Staff recently updated the Election System Security and Emergency Preparedness manual to be used as a resource for election officials in preparation for the Presidential Election. Various emergency situations are described and the manual is intended to help election officials identify and respond to a wide array of unplanned instances that can take place leading up to Election Day. A copy of the updated manual will be included in the Commission members' meeting folders.

Conclusion

This outline of preparations by WEC staff and local election officials reflects the culmination of long-term efforts over a number of years as well as the more recent and immediate tasks and responsibilities required to ensure a smooth General Election. The above summaries describe dedicated individual and team efforts of Commission staff and local election partners, as well as the cooperation of other federal, state, and local agencies as well as private organizations. While unexpected events are always a possibility, the Commission, candidates, voters and the public can be assured that state and local election officials have been working diligently to prepare for the General Election, complete required tasks, and respond to any developments which arise, so that the outcome of the election will rest squarely and fairly with the voters of Wisconsin.

2016 Fall Clerk Conferences/Scheduled Training

Conference/Training	Location	Date(s) & Time	Topics
WMCA District 4 Meeting	Barneveld	**September 8, 2016** **9:00 am – 12:00 pm**	They will give us updated information on everything dealing with elections from recent laws passed that will now be implemented for the first time with the November election to possible new laws being looked at. They will discuss WisVote, absentee voting and recording, the new affidavit for Voter ID, and so much more. And as usual they will answer any questions so come prepared.
WisVote Training Webinar	Office	**September 13, 2016** **10:00 am – 11:00 am**	Addresses and Other Advanced Features 71 Attendees
EA Training Webinar	Office	**September 14, 2016** **10:00 am – 11:00 am**	My Vote Wisconsin 2.0 86 Attendees
WisVote Training Webinar	Office	**September 15, 2016** **10:00 am – 11:00 am**	ERIC 131 Attendees

2016 Fall Clerk Conferences/Scheduled Training

WCCA Fall Conference	Milwaukee	**September 27, 2016** **8:45 am – 11:30 am**	Agency Budget/Staff Legislative Updates Recent Court Decisions Election Readiness Voting Equipment Audits ERIC Voter Outreach Resources Federal Forms UOCAVA Ballots 55 attendees
WMCA Districts 6 & 7	Fond du Lac	**September 29, 2016** **9:00 am – 12:00 pm**	Agency Budget/Staff Legislative Updates Recent Court Decisions Voting Equipment Audits ERIC MyVote Wisconsin Voter Outreach Resources UOCAVA Ballots 130 attendees
WisLine Program	Office	**October 4, 2016** **10:00 am – 11:30 am**	Voter Registration and Photo ID: Educating local officials on voter registration, voter ID, accessibility and other topics. 40 attendees

2016 Fall Clerk Conferences/Scheduled Training

EA Training Webinar	Office	**October 5, 2016** **10:00 am – 11:00 am**	Polling Place Set-Up and Line Management
WMCA District 5 Teleconference	Office	**October 6, 2016** **1:00 pm – 1:40 pm**	Updates on court decisions, agency projects, Q & A
WMCA District 2 Meeting	Menomonie	**October 7, 2016** **10:00 am – 12:00 pm**	Agency Budget/Staff Legislative Updates Recent Court Decisions Missing Witness Address Vote Equipment Audits ERIC Voter Outreach Resources Federal Forms
WTA Annual Conference	Stevens Point	**October 11, 2016** **8:30 am – 12:00 pm**	There will be an Election Training session for clerks presented by the Government Accountability Board Election Division. Several new laws that affect election administration have been signed in to law this year. G.A.B. staff will discuss how the new laws impact clerks, election inspectors and voters. This session will count for 3 hours of recertification training.

2016 Fall Clerk Conferences/Scheduled Training

WisVote Training Webinar	Office	**October 11, 2016** **10:00 am – 11:00 am**	Election Readiness
WMCA District 8 Teleconference	Office	**October 12, 2016** **10:30 am – 11:30 am**	Clerks will be reviewing the October 4, "Polling Place Set-Up and Line Management" webinar and staff will address any questions they have about it and other election-related topics.
Municipal Clerk Core Training Webinar	Office	**October 13, 2016** **9:00 am – 12:00 pm**	Certification training for new clerks
WMCA District 3	Osseo	**October 13, 2016** **10:00 am – 12:00 pm**	TBD

2016 Fall Clerk Conferences/Scheduled Training

EA Training Webinar	Office	**October 19, 2016** **10:00 am – 11:00 pm**	Preparing for the November Election
Baseline Chief Inspector Training Webinar	Office	**October 20, 2016** **9:00 am – 12:00 pm**	Certification training for new chief inspectors

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Steve King
Don Millis
Mark L. Thomsen, Chair

MEMORANDUM

DATE: For the October 14, 2016 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Michael Haas
Administrator, Wisconsin Elections Commission

Richard Rydecki
Elections Specialist, Wisconsin Elections Commission

SUBJECT: 2016 Post-Election Audit of Electronic Voting Equipment

Wisconsin Elections Commission (WEC) staff is preparing to conduct the mandatory post-election audit of electronic voting equipment following the November 8, 2016 General Election, as required by Wis. Stat. § 7.08 (6):

> (6) Enforcement of federal voting system standards. Following each general election, audit the performance of each voting system used in this state to determine the error rate of the system in counting ballots that are validly cast by electors. If the error rate exceeds the rate permitted under standards of the federal election commission in effect on October 29, 2002, the commission shall take remedial action and order remedial action to be taken by affected counties and municipalities to ensure compliance with the standards. Each county and municipality shall comply with any order received under this subsection.

There are currently eleven different voting systems in use in Wisconsin that record or tabulate votes. Of those, seven are optical scan tabulation systems and four are Direct Recording Electronic (DRE) systems. The optical scan systems read voter-marked ballots to identify ballot choices and produce aggregate vote totals after the close of polls. DRE systems largely consist of machines where voters use a touchscreen to mark and cast their ballot. All votes on DREs are recorded by the Voter Verified Paper Audit Trail (VVPAT) that is required by Wis. Stat. § 5.91(18).

Since 2014, nineteen Wisconsin counties have purchased new voting equipment and this will be the first General Election where much of that equipment will be in use. In addition, this will be the initial instance where two recently-approved pieces of equipment will be part of the audit process. The Dominion ImageCast Evolution, a precinct tabulator and ballot-marking device, and the Election Systems and Software DS850, a high-speed central count tabulator, will both be subject to audit.

Purpose of Post-Election Audit of Electronic Voting Equipment

Electronic voting equipment has been audited by Wisconsin election officials since the 2006 General Election. Wisconsin has a diverse set of electronic voting equipment in use and the audit process is designed to ensure systems that have been in use for years and newer systems are both tabulating votes in a consistent and accurate manner. In combination with the initial federal certification and State approval of the equipment and the public tests of the equipment conducted by each municipality, the post-election audit is an important process that verifies the accuracy of tabulating systems and provides an essential benefit in maintaining public confidence in the integrity of our election process.

The post-election audit of electronic voting equipment is a manual verification process that requires local election officials to conduct two independent hand-counts of the ballots initially tabulated by the electronic voting equipment. Once the local election officials are able to verify that the two independent hand-counts are the same, the tabulation report produced by the electronic voting equipment is compared to the hand-count to verify the accuracy of the equipment. If any discrepancies are identified, local election officials are required to investigate to determine if there are reasonable explanations that explain the difference. In the event that a discrepancy between the machine tally and the paper record tally cannot be reasonably explained, the WEC will request that the voting equipment manufacturer investigate and explain the reasons for any differences between the machine tally and the paper record tally. Since the audits began in 2006, there has not been a situation that has required this additional step with the voting equipment manufacturer.

The post-election audit purpose is simply to verify whether the electronic voting equipment accurately tabulates ballots that have been properly marked, within the margins of error established at the federal level.[1] Voting equipment cannot determine voter intent regarding ballots that have not been marked in accordance with the ballot instructions and therefore cannot be read by the equipment. For example, an instance where a voter should have filled in the oval next to their ballot choice, but instead chose to circle a candidate name would result in no vote being counted for that office. While it may be possible for the election official conducting the audit to reasonably determine the intent of the voter in this situation, the election official is to consider how the voting equipment would have treated that ballot and not count the vote for that contest.

Determining voter intent for ballots that are not properly marked requires human intervention and analysis and therefore local election officials conducting the post-election audit are instructed to hand-count ballots just as the voting equipment would have tabulated them on Election Night. Eliminating any potential non-tabulation related sources of error helps to resolve discrepancies between the audit hand count and voting equipment counts. There may be instances where the election officials cannot reasonably determine how the voting equipment would have treated a ballot. In these cases, the

[1] The current federal standard is an accuracy rate of errors of no more than 1 in 500,000 ballots. Accordingly, auditing teams must reconcile the Voter Verified Paper Record with ballots or records tabulated and recorded by equipment and eliminate any potential non-tabulation related sources of error including printer malfunctions, voter generated ballot marking errors, poll worker errors, or chief inspector errors.

recommended audit procedures require the election officials provide an explanation in the audit minutes of how they counted the ballot in question and include all reasonable alternatives on how the machine may have counted the ballot.

Conducting the 2016 Post-Election Audit of Electronic Voting Equipment

WEC staff recommends continuing the audit protocols used following recent general elections with some minor modifications. The attached document titled "*Voting System Audit Requirements*" provides a detailed plan for the 2016 post-election audit of electronic voting equipment. On the Friday following the General Election, WEC staff will randomly select 100 reporting units across Wisconsin which will be subject to municipal audit, including a minimum of five reporting units for each voting system used in Wisconsin. Unlike previous audits, staff recommends that each municipality may be selected to audit no more than two reporting units per each election. The WEC will select four offices to be audited, including the top contest on the ballot (President). The other audited contests shall be selected randomly from the other contests that appear on the ballot.

Municipalities are eligible to receive $300 for each reporting unit audited, and the maximum amount the WEC would reimburse in total is $30,000. These funds will be reimbursed from Help America Vote Act (HAVA) appropriations.

Recommended Motion: The Commission adopts the 2016 Post-Election Audit Plan as detailed in the document titled *Voting System Audit Requirements*.

Wisconsin Elections Commission

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Steve King
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Mark L. Thomsen, Chair

Random Draw Procedure for Voting Equipment Audit
Wisconsin Elections Commission (WEC)
10:00 am November 11, 2016
212 E. Washington Ave, Third Floor
Madison WI, 53703

There are two separate draws as part of the voting system audit procedure: the selection of reporting units to be audited and the selection of the election contests to be audited. The selection of reporting units and contests for audit shall be done publicly in the WEC office following the procedures set out below.

Selection of Reporting Units to be Audited

The reporting units for the general election provided to the WEC by the close of business on Tuesday, November 8, 2016 shall be exported to an Excel spreadsheet from the Wisconsin Canvass Reporting System. The staff shall randomly select 100 reporting units for audit.

Commission staff shall determine if the selected reporting units include at least five reporting units from each type of voting system approved for use in Wisconsin pursuant to Wis. Stat. § 5.91. If not, additional reporting units shall be randomly selected from the list of reporting units until at least five from each type of system approved for use in Wisconsin pursuant to Wis. Stat. § 5.91 have been selected. In addition, each municipality may be selected to audit no more than two reporting units per each election.

Approved Voting Systems in Use in Wisconsin (Optical Scan)

1. Dominion-Premier Accuvote-OS
2. Dominion-Sequoia Insight
3. Dominion ImageCast Evolution
4. ES&S DS200
5. ES&S M100
6. ES&S DS850 (central count tabulator)
7. Optech Eagle

Approved Voting Systems in Use in Wisconsin (Accessible Voting Equipment)

1. Dominion-Premier Accuvote-TSX
2. Dominion-Sequoia AVC Edge
3. ES&S iVotronic
4. Populex 2.3

If, after selection, Commission staff determines that any of the selected reporting units had no votes cast in the election, additional reporting units from the remaining randomly selected reporting units shall be selected until at least 100 reporting units with votes cast have been selected.

In the event that a selected reporting unit is the subject of a recount, Commission staff, at the discretion of the Administrator in consultation with the Commission Chair, may replace that reporting unit with a different reporting unit from the remaining reporting units as determined by the random selection.

Selection of Election Contests for Audit

Commission staff shall prepare a list of election contests that appear on all ballots throughout the state. The offices shall be separated between federal/state and county offices. A minimum of four offices shall be audited, including the top race on the ballot (presidential). Three federal or state contests shall be randomly drawn to determine the election contest to be audited by state and local election officials. Commission staff shall follow the same procedures for drawing and documenting the selection of election contests to be audited as it follows for determining ballot order pursuant to Wis. Stat. § 5.60(1)(b).

Federal/State Offices on all Wisconsin ballots:

- **President & Vice President (required to audit)**
- **U.S. Senate**
- **Representative in Congress**
- **Representative to the Assembly**
- **District Attorney**

Notification of Municipal and County Clerks

Commission staff shall contact the municipal and county clerks to inform them of the reporting units and election contests subject to audit. Each municipal and county clerk selected shall be contacted by the close of business on Monday, November 14, 2016. A list of the selected reporting units with the type of equipment shall be posted on the WEC website. A directory of municipal and county clerks is also available on the WEC website.

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2016 Voting System Audit Requirements

Wis. Stat. § 7.08(6) is the state embodiment of § 301(a)(5) of the Help America Vote Act (HAVA). Wis. Stat. § 7.08(6), requires the Wisconsin Elections Commission (WEC) to audit each voting system that is used in this state following each General Election:

> **(6) Enforcement of federal voting system standards.** Following each general election, audit the performance of each voting system used in this state to determine the error rate of the system in counting ballots that are validly cast by electors. If the error rate exceeds the rate permitted under standards of the federal election commission in effect on October 29, 2002, the commission shall take remedial action and order remedial action to be taken by affected counties and municipalities to ensure compliance with the standards. Each county and municipality shall comply with any order received under this subsection.

Required Audit Distinguished from Required Testing

The pre-election test of an electronic voting system per Wis. Stat. § 5.84 uses a pre-determined set of ballots to ensure that the voting system is properly programmed prior to Election Day. The post-election voting system audit per Wis. Stat. § 7.08(6) is designed to assess how the electronic voting system performed on Election Day by reviewing the ballots cast by electors.

Definitions

Audit – post-election voting system audit conducted pursuant to Wis. Stat. § 7.08(6).

Blank Ballot – a ballot on which an elector does not vote for any contest.

Overvote – when an elector votes for more than the number of candidates to which he or she is entitled to vote in that contest. This circumstance may be read as an undervote by some optical scan voting systems as no vote will be counted.

Reporting Unit –the ward, combination of wards, or other districts by which votes are tallied.

Total Voters – the total number of voters who appeared to vote at the polling place and whose valid absentee ballots were cast at the polling place. This total should correspond with the highest voter number/last voter number issued on the poll list.

Type of Voting System – a particular type of voting system. In Wisconsin there are two types of voting systems: (1) touch screen direct recording electronic (DRE) systems, and (2) optical scan tabulating systems.

Undervote – when an elector does not vote or votes for less than the number of candidates or offices to which he or she is entitled to vote in that contest. An undervote may also be how an overvote is recorded by the voting system.

Votes Cast – the number of actual votes cast for a contest. For any particular contest, this number may be less than the total number of voters.

Voting Device – an apparatus other than a voting machine which the elector uses to record his or her votes on a ballot. Wis. Stat. § 5.02(24g).

Voting Machine – a machine which serves in lieu of a voting booth and which mechanically or electronically records the votes cast by electors, who depress levers or buttons located next to the choices listed on the ballot to cast their votes. Wis. Stat. § 5.02(24r).

Voting System – the total combination of mechanical, electromechanical, or electronic equipment, including the software, hardware, and documentation required to program, control, and support the equipment that is used to define ballots, to cast and count votes, to report or display election results, and to maintain and produce any audit trail information. Wis. Stat. § 5.02(24w)(a).

Reporting Unit Selection

Wisconsin Elections Commission staff will randomly select one hundred (100) reporting units across Wisconsin which will be subject to a voting system audit, including a minimum of five (5) reporting units for each voting system used in Wisconsin. In addition, each municipality may be selected to audit no more than two reporting units per each election. The audits will be conducted in accordance with the procedures set forth below. Both the municipal and county clerk of the reporting units selected for audit will be notified of the selection. If fewer than five (5) reporting units for any voting system are selected through the random selection process, then additional reporting units will be randomly selected by voting system until five reporting units per voting system have been selected. Any reporting unit selected for audit that is subject to a recount may be replaced by another reporting unit selected at random by WEC staff. For good cause, WEC staff may identify other reporting units to be audited.

Pre-Audit Preparations

The audit shall be open to the public. Members of the public may not interfere with the conduct of the audit. The time and location of the audit must be posted at least 48 hours prior to the audit. Audits may commence as soon as notification is provided by the WEC. The audit must be conducted, however, no later than two (2) weeks after the Wisconsin Elections Commission certifies the election results.

If any municipality chooses to conduct the audit prior to the expiration of the recount deadline, significant caution and care must be exercised by the municipality to ensure all ballots are maintained securely and accounted for. Should a recount subsequently be required for a reporting unit whose audit was conducted prior to the recount deadline, it will be critical to have documentation and minutes that clearly establish chain of custody to ensure transparency and accountability, in an effort to limit any questions about ballot tampering or misconduct. Clerks may determine that it is not practical to begin the audit prior to the expiration of the recount deadline. In the event of close unofficial results, the WEC will advise clerks if the audit should be delayed until the recount request deadline.

Upon notification by WEC staff that the municipality shall conduct an audit of a selected reporting unit, the municipal clerk shall make arrangements with the county clerk and the county board of canvassers to preserve and retain the election materials including voter lists, the Inspectors' Statement (EL-104), Tally Sheets (EL-105), reports printed or generated by the voting system, ballots and any other required materials that will be used during the audit. All materials subject to audit must be retained in a secure location by either the municipal or county clerk.

Upon agreement of the municipality and county, the county clerk or county board of canvassers may perform the audit of the selected reporting unit(s) in lieu of the municipality. In this instance, the county would be entitled to any reimbursement provided by the Wisconsin Elections Commission.

General Procedures

1. The municipality shall acknowledge receipt of its selection for the post-election voting system audit and confirm with the WEC the following information for each reporting unit selected:
    a. Voting System Type
    b. Voting Equipment Model
    c. Accessible Voting Equipment Model

2. Four (4) contests shall be audited, including the top contest on the ballot, the presidential election. The other audited contests shall be selected randomly by WEC staff from the other state contests that appear on the ballot.

3. The clerk shall publicly post notice of the time and location for the voting system audit at least 48 hours prior to the scheduled audit. Clerks must notify the WEC of the time and location of the audit by sending an email to wecaudits@wi.gov.

4. A minimum of two individuals shall participate in the audit. Votes shall be tallied by hand for the contests included in the audit. For some voting systems, this will require counting the votes listed on the voter-verified paper audit trail generated by the voting system on Election Day. At least two auditors shall each determine an independent total for each selected contest. These totals shall then be compared to each other. If the auditors' totals agree, the totals are then compared to the results generated by the voting system. Any discrepancies should be recorded and explained in the minutes of the audit.

5. If any offices contain an overvote, no vote is counted for that office, and it is considered an undervote.

6. Auditors should only count votes as the equipment would have counted them.

    Example: A voter circled candidate name Jane Doe on an optical scan ballot where they should have filled in the oval next to the candidate name. No vote for this office should be counted as the voting equipment would not have counted a vote cast for a candidate in this manner.

7. In some cases, it may not be clear exactly how the ballot would have been counted by the voting equipment. Auditors should document in the minutes any ballots where it is unclear how the voting system would count the ballot. The auditors should include in the minutes how they counted the ballot as well as all reasonable alternatives on how the machine may have counted the ballot.

   Example: Ballot 93, voter marked both Jane Doe and John Smith and attempted to erase the mark for John Smith. We counted it as a vote for Jane Doe, but the machine may have read this as an overvote in this contest. This may result in our tally having one more vote for Jane Doe and one less undervote in this contest.

8. The audit results should be compared to the results report from the voting equipment and an error rate should be determined. It may be possible that the auditors' totals do not match the voting equipment results report, but the auditors should be able to reasonably explain any difference in the totals by reference to specific ballots.

Recommended Audit Procedures

Overview

1. Two people review each ballot.

2. Auditors should rotate the stacks between them – i.e Person A works on Stack 1-100 while Person B works on Stack 101-200, etc…then they switch. Person A and Person B will each individually go through all the ballots.

3. Keeping the stacks in order allows the auditors to narrow down and locate where there are discrepancies between the two independent counts instead of needing to recount all the ballots over and over again.

Set-Up

1. Count out ballots into sets of 100.

2. Label stacks (1-100, 101-200, 201-300, etc.)

Each Auditor Individually

1. Tally contests from ballots that have been separated into groups of 20 – the goal is to be able to narrow discrepancies between individual tallies down to the smaller groups of 20.
   a. Record the number of votes for each candidate on the tally sheet under the appropriate column for the group of ballots you are working on.
   b. List the total votes for each office by counting down the column for the stack of 20 you are working on. Be sure to include any scattering or undervotes in your total. The total for each group of ballots should always be equal to the total number of ballots in the group (i.e. a group of 20 ballots should have a total of 20 votes, scattering and undervotes, and a group of 17 ballots would have 17 total votes, scattering and undervotes).

2. Keep separated in subgroups of 20 while tallying – it is helpful to keep the group of 100 in one stack but to alternate the directions of the subgroups of 20 ballots.

3. Add subtotals after each stack of 100 ballots is complete and note that number in the 'ST' column of the Tally section.

4. Complete the 'Totals' section of the tally sheet by listing the hand-count subtotals in the 'Audit' column, the totals from the voting equipment results tape in the 'EVM' column and noting any difference between those totals in the 'Variance' column.

5. Repeat 1-4 in sets of 100 until all ballots are counted.

Auditors Jointly

1. Compare individual tallies for each contest audited.
    a. Circle any discrepancies between the two tallies.
    b. If tallies do not match, recount the sub-group of 20 to determine which tally is correct. You should use a new tally sheet labeled "Recount [insert Stack Number/Subgroup]".

2. After any discrepancies are reconciled, add the stack totals together to determine the total vote in each contest audited.

3. Compare to the electronic voting machine (EVM) total.
    a. If the totals match, note that they match on the reporting form.
    b. If the hand tally and voting equipment tally do not match for a contest, the auditors should review the minutes for ballots that were ambiguously marked that could explain the discrepancy. If the discrepancy can be reasonably explained by specific reference to these ballots, record that explanation on the reporting form.
    c. If the minutes do not provide a reasonable explanation for the discrepancy, calculate the error rate and note the actual difference in votes and the error rate on the reporting form.

Post-Audit Procedures

Each municipality conducting an audit must submit the designated reporting forms and supporting documents from the audit, including tally sheets, to WEC staff to indicate the audit was completed and describe any discrepancies that were found. Clerks should email these findings to wecaudits@wi.gov.

WEC staff may, at its sole discretion, request that the municipality submit all audit materials, including the source documents (ballots, poll lists, etc.) to the WEC for further review. In such a case, the WEC will reimburse the municipality for the associated postage/shipping costs.

In the event that a discrepancy between the machine tally and the paper record tally cannot be reasonably explained, WEC staff will request that the voting equipment manufacturer investigate and explain the reasons for any differences between the machine tally and the paper record tally. Should the vendor fail to provide a sufficient written explanation, including recommendations for preventing future

occurrences, within 30 days of notification, WEC staff will suspend approval of the affected voting system in Wisconsin. This suspension will be implemented immediately, pending an appeal by the vendor to the Commission, which must be filed within 30 days.

Based upon the results of the audit, the Wisconsin Elections Commission may, at its sole discretion, choose to re-test the voting system per WEC Chapter 7. Such test would be a condition of continuing approval of said voting system.

Municipal Reimbursement

The Wisconsin Elections Commission will reimburse municipalities for actual costs incurred, up to $300 per reporting unit, for conducting each audit. The Wisconsin Elections Commission will not reimburse personnel costs at a rate exceeding $10 per hour. Each municipality seeking reimbursement shall submit an itemized request that includes the names of the auditors, the pay rate at which they were compensated, the total sum requested for reimbursement and information on where the WEC can transmit any approved reimbursement amount.

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DATE: October XX, 2016

TO: Senate Committee on Elections and Local Government
Assembly Committee on Campaigns and Elections

FROM: Michael Haas, Interim Administrator
Wisconsin Elections Commission

SUBJECT: Implementation of Electronic Voter Registration and ERIC – Draft Report

This memorandum constitutes the third quarterly report required under 2015 Wisconsin Act 261 to advise the appropriate standing committees of the Legislature regarding the Wisconsin Elections Commission's (WEC) progress with an electronic voter registration system, also referred to as Online Voter Registration or OVR. The second report was submitted by the WEC on July 20, 2016. This correspondence also includes a brief status report regarding the WEC's implementation of an agreement with the Electronic Registration Information Center (ERIC), which is another initiative contained in Act 261, although the Act did not include a specific reporting requirement regarding ERIC.

Online Voter Registration (OVR)

Since the July 2016 Quarterly Report was submitted, WEC and DOT staff have continued to work to refine the matching criteria that will determine if the voter is able to use the on-line system.

As previously reported, WEC staff proposed requiring individuals using the system to enter their name, date of birth, driver's license number/state ID card number, and last four digits of their Social Security number. If those fields matched the DMV database, the system would return the registrant's address as listed in the DMV database and request the individual to validate the information before being permitted to proceed with registering online. This would ensure that the voter registration address exactly matched the DMV address, and would prevent valid voters from being denied by the system due to the difficulties in matching addresses. However, DOT determined that state statutes did not permit this approach.

As an alternative, DOT proposed requiring the voter to enter their registration information (including the address) into the on-line system, and have WEC submit the name, date of birth, driver's license number/state ID card number, last four digits of their Social Security number, and the zip code entered by the voter to the DMV database for verification. If all fields match, the voter would be able to proceed with the registration. If the zip code does not match, the voter would be directed to the DMV address change on-line system. If the name, date of birth, DL/ID

number or last for SSN did not match, the voter would not be able to proceed with the on-line system and would be directed to alternative voter registration methods. This approach was approved by the Wisconsin Elections Commission at the August 30, 2016 meeting.

WEC and DMV staff are currently reviewing the advantages and disadvantages of including the last four digits of the SSN in the matching process. Statutes do not require this data to be matched, and including additional sensitive information that is not required could be considered an additional security vulnerability. However, some security experts believe that including the last four SSN improves security because it is a piece of data that is not readily available to the public and helps verify that it is the voter that is registering.

WEC and DOT staff are near completion of the Memorandum of Understanding (MOU) between the two agencies to govern the implementation of the online registration system. WEC is currently reviewing the latest draft from DOT and will be finalizing the agreement once the final determination is made regarding using the last four digits of the SSN.

DOT technical staff have developed a test version of the web service that will be used to verify that the voter's information matches the DMV database, which WEC will be testing. The project remains on schedule to be launched in early 2017.

Electronic Registration Information Center (ERIC)

To briefly recap, the 2015 Wisconsin Act 261 required that the Government Accountability Board (G.A.B.) enter into an agreement with ERIC, a consortium of states which share data from its voter registration and motor vehicle agencies. On May 17, 2016, to comply with this legislative directive, the G.A.B. entered into an agreement to join ERIC. ERIC uses modern "big data" matching and analytics to identify electors who may be eligible but are not registered to vote, voters who have moved since their last registration, and voters who may no longer be eligible and should be removed from voter rolls. The goal of ERIC is to encourage these electors to register or update their information ahead of an election to better manage the volume of registration activity leading up to and on Election Day.

The ERIC Membership Agreement requires that participating states reach out to voters who may be eligible but are unregistered once every two years, ahead of the fall General Election, no later than October 1st. ERIC requires that states take action on the list maintenance reports at least once a year, which WEC staff will begin in 2017, with a completion date no later than September 2017.

As reported in the July 20, 2016 Quarterly Report to the Legislature, current state statutes do not allow DMV to share information regarding State ID Card holders with the ERIC program. Therefore DMV was only able to provide data related to driver license holders to ERIC. However, ERIC membership requires that both driver license holders and state ID card holders be included in the outreach process, as does the $150,000 grant awarded by the Pew Charitable Trusts. This is to ensure uniform treatment of both ID Card Holders and Driver License holders.

To address this confidentiality issue and allow Wisconsin to fully participate in ERIC, DMV performed its own matching process to compare State ID Card holders with voter registration records to identify any State ID Card holders who are potentially eligible but not registered to

vote. DMV submitted the list of State ID Card holders identified as eligible but unregistered directly to the printer processing the outreach mailing, without providing that data to either ERIC or WEC. This ensured that these voters were included in the outreach mailing without violating state statutes.

ERIC requires assurances that a legislative change will be pursued to permit DMV to share State ID Card holders data in the future. WEC staff is facilitating correspondence with DMV and legislators to document a joint commitment to pursue the necessary changes in the next legislative session.

Two separate lists of voters were prepared for the outreach mailing to eligible but unregistered electors:

1. Potential voters identified by ERIC based on a comparison of driver license records and voter registration records, which were provided by WEC.

2. Potential voters identified by DMV based on a comparison of State ID Card records, which were provided by DMV.

Based on experiences from other ERIC states, WEC staff implemented several data quality measures to improve the quality and accuracy of the outreach mailing. WEC staff excluded any voters who were previously registered but were removed due to being deceased and any driver license or State ID Card holders who were marked in DMV records as being non-citizens.

The printing and processing of the mailing was handled by the Department of Administration (DOA) Printing and Distribution center. WEC staff explored the option of bidding out the mailing to qualified state vendors, but the timeline of the required outreach mailing did not allow sufficient time to pursue that and still send postcards by the October 1st deadline. Also, approximately 90% of the total estimated cost for the outreach mailing is for postage, which is a fixed cost regardless of who processes the mailing and any possible potential savings did not appear significant enough to justify the likelihood of missing the mailing deadline. WEC staff also reached out to the United States Postal Service (USPS) to obtain an election mail/nonprofit rate for the postcards, saving approximately $150,000 in postage costs. As mentioned above, the Pew Foundation will also pay for one half of the cost of the mailing, not to exceed $150,000.

The final cost estimate for the mailing services alone (including postage) from DOA is $210.557.10. The total pieces posted for the outreach mailing was 1,238,538 and the postcards started reaching the post office on Monday, September 26 with the remainder being sent by Wednesday, September 28, meeting our ERIC deadline.

This mailing has far exceeded any previous election mailing sent by the State. Based on experiences from other states, WEC anticipated receiving a high number of calls regarding the mailing; estimates staff received from professionals in the call center industry range from 1 to 2 percent response rate, which could translate to between 10,000 and 30,000 calls during a peak response period of two to four weeks. To manage the volume WEC approved the use of a call center, Beyond Vision, and several (8-10) temporary staff positions to work from the office. Beyond Vision came highly recommended by the Department of Revenue and their costs were highly competitive at 61.5 cents per minute versus $2 per minute for other similar call centers.

WEC staff met and trained approximately a dozen Beyond Vision employees to make sure they could successfully manage and answer the calls.

The outreach mailing encourages voters to visit the MyVote Wisconsin website where they can check their registration status and start a new registration. The mailing also provides alternatives to register if the recipient cannot access a computer and a toll free phone number to call to reach the call center.

The WEC Public Information Office prepared communications to educate the public and the Legislature in advance of the ERIC mailing. On September 26 (the day prior to National Voter Registration Day), a press conference was also held in our office to inform the public about the mailing and to advise them in advance it was a legitimate State mailing. WEC staff conducted outreach to local election officials by conducting a webinar, posting materials and sending out specific communications addressing some top concerns and Frequently Asked Questions.

While the mailing tried to direct recipients to contact the WEC, some contacted their municipal or county clerk in response to this postcard. If they provide it, the clerk can add it to their voter record without requiring them to re-register. The main take away for clerk and the public is that nobody was deactivated as a result of this mailing.

Based on input from other ERIC states, we anticipated that some registered voters would receive the postcard. Particularly for voters who registered prior to 2006, their voter record may be missing driver license numbers or dates of birth, which were used to match DOT records with WisVote records for the ERIC mailing. Without a driver license number, ERIC was still able to match many voters using the name, date of birth and address, so those voters would not get a postcard. However, if that data did not match, and we were not certain if the voter and the driver/ID card holder were the same person, the voter was sent a postcard just in case. We chose to be more inclusive, which is why the postcard indicates that the recipient may not be registered to vote. If recipients who were registered contacted their clerk and an error was discovered in their voter registration record, clerks were able to correct the record to improve the quality of data in the system.

We hope this information is helpful in advising the Legislature regarding the status of implementing online voter registration and the ERIC initiative. If any Committee members have questions regarding this matter, please feel free to contact me at 608-266-0136 or Michael.Haas@wi.gov .

DRAFT

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MEMORANDUM

DATE: For the October 14, 2016 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Michael Haas
Interim Administrator

Prepared and Presented by:
Nathan W. Judnic
Legal Counsel

SUBJECT: **Nomination Paper Review – Supplemental Signatures**

Introduction

At the June 10, 2016 meeting of the Government Accountability Board ("G.A.B." or "Board"), a meeting at which many of the members of the Wisconsin Elections Commission ("WEC" or "Commission") participated, the Board heard arguments and ruled on challenges to nomination papers filed by various candidates running for State and Federal offices.

One of the challenges considered by the Board was *Lin v. Young*, (GAB Case No. EL 16-72). Mr. Edgar Lin challenged the nomination papers of the incumbent, Representative Leon Young, from the 16th State Assembly District. One of the major allegations in Mr. Lin's challenge, was that Rep. Young had submitted to the Board more than the maximum number of signatures allowed (400) under Wis. Stat. § 8.15(6)(d). Based on the longstanding practice and procedure of the former State Elections Board, and the G.A.B., which allows candidates to submit more signatures than the statutorily prescribed maximum, and treat those excess signatures as "supplemental signatures" that are not considered unless needed to meet the minimum, the Board denied Mr. Lin's challenge and granted ballot access to Rep. Young.

After the Board's decision on the *Lin* challenge, Commission members asked the WEC staff to place this issue on the agenda for a future meeting, so that Commission members could review the previous policy and decide whether such a policy should continue for future election cycles. As the first day for nomination paper circulation for the 2017 Spring Election will occur on December 1, 2016, the staff provides the following background and recommendations on this issue.

Following the Board's decision, Mr. Lin appealed the decision to the Milwaukee Circuit Court pursuant to Wis. Stat. § 5.06(8). The Court ultimately deferred to the Board's expertise in granting Rep. Young ballot access and affirmed its decision. Mr. Lin appealed this decision to the Wisconsin Court of Appeals, seeking an expedited resolution of this matter and an order to remove Rep. Young's name from the ballot. The Wisconsin Court of Appeals denied Mr. Lin's motions for expedited relief, and Mr. Lin and Rep. Young both appeared on the August Partisan Primary ballot. A final decision in this case has not been issued by the Wisconsin Court of Appeals.

Relevant Statutory Provisions

Wis. Stat. §§ 8.10(3) and 8.15(6) provide the number of signatures on nomination papers required for an individual to qualify for the ballot. Wis. Stat. § 8.10(3) covers nonpartisan offices elected in the spring, and Wis. Stat. § 8.15(6) covers partisan offices elected in the fall.

Wis. Stat. § 8.10(3) states in part:

> The certification of a qualified circulator under s. 8.15(4)(a) shall be appended to each nomination paper. The number of required signatures on nomination papers filed under this section is as follows:
>
> (a) For statewide offices, not less than 2,000 nor more than 4,000 electors.
> (am) For court of appeals judges, not less than 1,000 nor more than 2,000.
> (b) For judicial offices not specified in pars. (a), (am), and (c), not less than 200 nor more than 400.
> …

Wis. Stat. § 8.16(6) states in part:

> The number of required signatures on nomination papers shall be as follows:
>
> (a) For statewide offices, not less than 2,000 nor more than 4,000 electors.
> (b) For representatives in congress, not less than 1,000 nor more than 2,000.
> (c) For state senators, not less than 400 nor more than 800 electors.
> …

Both statutes set the minimum and maximum number of signatures required by office, but contain no penalty, consequence or remedy for a candidate who submits more than the number of required signatures referenced in these sections.

Previous Policy and Procedure

Historically, the staff of the former State Elections Board and the former Government Accountability Board has interpreted the "maximum" number of signatures language contained in Wis. Stat. §§ 8.10(3) and 8.15(6) to be directory, rather than mandatory. As explained in the GAB staff's June 10, 2016 memorandum to the Board, "In practice, Board staff asks candidates to not submit more than the maximum number of signatures, but commonly find that candidates have

additional pages of signatures that they would like to file in the event that there is a problem with the first set. Board staff has accepted such signatures as "supplemental" filings in the past and do not examine them unless the candidate's original filing is deemed insufficient."

The "directory vs. mandatory" interpretation is rooted in elections case law and based on the Legislative construction that prefaces Chs. 5 to 12. Courts have "consistently construed the provisions of election statutes as directory rather than mandatory so as to preserve the will of the elector." *Gradinjan v. Boho*, 29 Wis. 2d 674, 682, 139 N.W.2d 557, 561 (1966). *See also Stahovic v. Rajchel*, 122 Wis. 2d 370, 376, 363 N.W.2d 243, 246 (Ct. App. 1984)("We begin with the fundamental principle that, in construing election laws, the will of the electorate is to be furthered"). The Legislative construction that prefaces Chs. 5 to 12 of Wisconsin Statutes states:

> **Construction of chs. 5 to 12.** Except as otherwise provided, chs. 5 to 12 shall be construed to give effect to the will of the electors, if that can be ascertained from the proceedings, notwithstanding informality or failure to fully comply with some of their provisions.

Wis. Stat § 5.01(1). The WEC staff is unaware of any Wisconsin cases that have disqualified a candidate from the ballot for filing too many signatures with the former State Elections Board or the G.A.B.

To address situations in which a candidate submits more than the maximum number of signatures provided by statute, the former State Elections Board and the former G.A.B. used the following procedure and process to review valid nomination signatures up to the maximum number, and to designate the excess signatures as "supplemental" signatures. Those excess signatures were then only reviewed should a determination be made that the candidate is below the statutory minimum.

- When a candidate files nomination papers in person, the staff asks the person delivering the papers to approximate the number of pages and number of signatures they are submitting. If the individual approximates a number which is greater than the statutory maximum, staff asks the individual to provide their best signatures, up to the maximum for that office for their initial filing. The excess signatures are still accepted, but they are kept separate from the initial filing and will be treated as "supplemental" signatures to the initial filing.

- When a candidate files nomination papers by mail, staff counts the number of pages, and approximates the number of signatures that have been submitted. If the approximate number exceeds the maximum, staff separates out any excess signatures from the initial filing. The excess signatures are still accepted, but they are kept separate from the initial filing and will be treated as "supplemental" signatures to the initial filing.

- For candidates that have already filed an initial set of nomination papers, which staff has reviewed and verified as containing at least the minimum number of signatures required, and the candidate later submits additional nomination papers, staff records the additional signatures submitted as a "supplemental" filing to the original.

- If the candidate submits "supplemental" nomination papers in person, the candidate is issued a supplemental nomination paper receipt, which contains the candidate's ID number, the candidate's name, estimate of approximate number of signatures submitted and the date the supplemental nomination papers were received. If the "supplemental" signatures have been submitted by mail, the receipt is completed by the staff and retained in the candidate's nomination paper file.

- Following a facial review of submitted nomination papers pursuant to Wis. Admn. Code EL § 2.05 which reveals that a candidate's initial filing may not contain enough signatures, the staff may review any "supplemental" signatures that have been submitted by the candidate to supplement the initial filing in order to satisfy the minimum requirement. The candidate's number of signatures may also fall below the minimum if a challenge to their nomination papers has been filed, and a determination is made to strike enough signatures that bring the candidate's total below the minimum. In this instance, staff would review any "supplemental" signatures that have been submitted by the candidate to supplement the initial filing. "Supplemental" nomination papers are not reviewed by staff unless one of these scenarios occurs.

- Additionally, staff has advised candidates in the past (if time permits) to submit "supplemental" signatures when an initial review of a candidate's nomination papers reveals a defect that could invalidate all signatures that have been collected and submitted. Many candidates that discover fatal errors in the header portion of their papers have taken advantage of this process, to recirculate papers and submit them prior to the deadline.

Long time staff and former staff of the elections agencies have indicated that the policy to accept "supplemental' signatures has been in place for at least 30 years. Supporting this recollection of the staff, Rep. Young testified in the *Lin* case before the district court that during his 20+ years of running for state office, he has always been allowed to submit supplemental signatures.

Feedback from the Major Political Parties on Supplemental Signature Policy

The Commission staff has reached out to representatives of the major political parties in the State, and has asked if they would like to provide the Commission with any feedback on this subject. The party representatives have been informed that the Commission will be discussing this topic at the Commission's October 14, 2016 meeting, and that any feedback could be emailed to the staff, or they could appear in-person at the meeting to present their feedback during the public comment section of the meeting. Any feedback received will be promptly shared with the Commission for its consideration at the meeting.

Additional Considerations

The Commission staff offers the following additional information for the Commission to factor into its discussion on this topic.

- As indicated previously, the "supplemental" signature policy has been in place for many years, meaning incumbent candidates and others who are tasked with ensuring that

candidates gain ballot access have relied on this established practice. The Legislature has been aware of this application of the statutes, both as policymakers and as candidates, for decades, and has not made any change in the law to require an alternative interpretation. Any change in this practice would need to be widely circulated to candidates running for future office, as it could change the way in which signatures are collected, reviewed and submitted to the Commission to secure ballot access. If a change to the policy is made, the Commission should consider directing staff to widely publicize this change in policy as soon as possible, given that the circulation period for candidates at the 2017 Spring Election begins on December 1, 2016.

- If the policy were to be changed, there are administrative hurdles and details that would need to be considered and addressed. For the last general election cycle, staff received nomination papers from 365 candidates – which equated to roughly 180,000 signatures. Many of these nomination papers were received within the week prior to and on the deadline – from May 23, 2016 through June 1, 2016, 268 candidates filed their papers with the Commission – which is not uncommon. With 64 sets of nomination papers being filed on the deadline alone, and with candidates in line waiting for assistance close to the filing deadline, it is not possible for staff to determine if a candidate has turned in 375, 400 or 425 valid signatures without doing a thorough first review of the signature.

  The depth of review required to determine the actual number of signatures submitted typically does not start immediately upon the candidate filing their papers and certainly is not conducted during the initial intake process that occurs at the Commission's front desk. Nomination papers are received, logged and queued for Election Administration staff members to review. That review does not happen instantly while the candidate is waiting in the lobby. If a change in policy is implemented, a determination would need to be made regarding what to do with the extra pages, and how the staff is supposed to determine which pages are designated as extra, especially prior to the nomination paper challenge deadline. It is not realistic to assume that staff can provide instant feedback to a candidate at the counter regarding how many signatures have been submitted (below or above the maximum), with numerous candidates lined up behind him or her on the filing deadline. A new alternative process would need to be developed to accommodate the new policy should it be changed.

- A change in policy that would not allow "supplemental" signatures could prompt candidates to be more careful when they circulate their nomination papers to ensure that signers reside within the appropriate district, and that the signatures contain all of the required information. Theoretically, this would prompt candidates to review their nomination papers more carefully before submission, and only submit the "best" pages because there would be no safety valve if a circulator collected signatures in the wrong district, for example. The eventual effect could be the submission of better quality nomination papers, leading to fewer challenges for the staff to research and process, but that result is not guaranteed.

Conclusion and Staff Recommendation

The Commission staff believes the established "supplemental" signature policy and procedure of the former State Elections Board and the former G.A.B. has worked well and is well supported from a legal and practical perspective. Commission staff recommends that the Commission direct staff to continue accepting nomination paper signatures from candidates that exceed the statutory maximum, and process those signatures using the "supplemental" signature policy and procedure previously used by the former State Elections Board and the former Government Accountability Board

Recommended Motion:

The Commission directs staff to continue to implement the established "supplemental signature policy and procedures, permitting candidates to submit nomination paper signatures which exceed the statutory maximum limit, and to process and count those signatures, if valid, if the staff review or a challenge results in the less than the minimum required number of valid signatures.

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Ann S. Jacobs
Steve King
Don Millis
Mark L. Thomsen, Chair

MEMORANDUM

DATE: For the October 14, 2016 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Michael Haas
Interim Administrator

Prepared and Presented by:
Nathan W. Judnic
Legal Counsel

SUBJECT: **Administrative Rules**

At the August 30, 2016 Commission meeting, staff was directed by the Commission to:

1) Draft administrative rules consistent with the approved Statements of Scope for Chapters EL 6 and 21.

   Update: The drafting of these amendments has commenced. A new legal intern has started with the Commission, and she will be utilized to assist in future work on these rules. A draft of the proposed rule will be presented at the December meeting for approval by the Commission.

2) Resubmit Statements of Scope currently pending approval from the Governor's Office with updated "EL" designations, to reflect the Elections Commission instead of the Government Accountability Board.

   Update: No progress has been made on this item, but this task will be included on the list of projects the new legal intern will be assigned to complete. A status update will be provided to the Commission at the December meeting.

3) Prepare a report summarizing Statements of Scope previously authorized by the Government Accountability Board but not yet drafted in their entirety, and present such report at the December 2016 Commission meeting.

   Update: Drafting of the report will begin following the November 8, 2016 election, to be presented at the December 2016 Commission meeting.

There is no Commission action requested at this time.

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MEMORANDUM

DATE: For the October 14, 2016 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Michael Haas
Interim Administrator

Prepared and Presented by:
Nathan W. Judnic
Legal Counsel

SUBJECT: Election Official Complaints – Wis. Stat. § 5.06

Introduction – Wis. Stat. § 5.06 Complaints

Under Wis. Stat. § 5.06, an elector of a jurisdiction served by an election official who believes an election official's actions or decisions were either contrary to law or an abuse of discretion in enforcing the election laws may file a sworn complaint with the Wisconsin Elections Commission ("WEC" or "Commission"). The complainant may request that the Commission direct the election official to conform their actions or conduct to comply with applicable election laws, correct any action inconsistent with the applicable election laws, or correct any action determined to be an abuse of discretion in administering the applicable election laws. Filing a complaint with the Commission is a prerequisite to seeking relief in court. Wis. Stat. § 5.06(2).

When the Commission staff receives a sworn complaint under this section of the statutes, the subject of the complaint (respondent) is afforded an opportunity to respond to the complaint. By rule, the respondent is given 10 business days to respond with a sworn response or answer. Wis. Admn. Code EL § 20.04(3). Once a response is received, the complainant is allowed to file a verified reply. By rule, the complainant is given 10 business days to reply to the response. *Id*. If any counterclaims are raised by either party in their initial filings, each party is again, by rule, allowed to respond and reply to those counterclaims and each party is allowed 10 days to make those filings. *Id*.

Upon expiration of the time period for all filings made by each party, the Commission staff compiles the record of all relevant materials that should be considered in issuing a decision, including records used by the local election official to make their initial determination and all of the timely filings made with the § 5.06 complaint to the Commission.

Based on past practice of the Government Accountability Board, after analyzing the facts and issues involved in the complaint, the Commission staff, in consultation with the Commission Administrator, prepares a draft "Findings and Order" document or a "Letter Decision" which summarizes the facts in the case and any legal precedent, including past decisions of the State Elections Board and the Government Accountability Board. In either case, the document makes findings as to whether or not the local election official's decision was consistent with applicable election laws, or whether or not the local election official abused their discretion in administering the applicable election laws. Under Wis. Stat. 5.05(1)(e), the Commission has the specific authority to issue an order under Wis. Stat. § 5.06. The order could for example, direct a local election official to issue a certificate of sufficiency for a recall or referendum petition, or direct a local election official to count certain signatures on nomination papers that were originally rejected. Once a "Findings and Order" document or a "Letter Decision" is issued, any aggrieved party may appeal the Commission's decision to circuit court within 30 days of issuance. Wis. Stat. § 5.06(8).

Delegation of Authority – § 5.06 "Findings and Order"

The Government Accountability Board previously delegated the authority to draft and issue a "Findings and Order" document to the Director and General Counsel, after consulting with the Board Chairperson as to whether the document contains issues that should be presented to the full Board prior to issuance. This delegation was based primarily on the timing involved in accepting the required filings, drafting the required documents and getting the full Board to meet and approve the document when there are a limited number of regularly scheduled meetings of the Board. To avoid potential delays in the process, especially when dealing with decisions by local officials that could involve the timely calling of recall elections, the Government Accountability Board members delegated this authority to the administrative head of the agency. As part of the delegation requirements, the Board required the head of the agency to provide a copy of the draft "Findings and Order" to the Chairperson, who would then review it, and decide if the full Board needed to review and approve the document, or if it could be issued as drafted. Any decision that was issued based on the Chair's approval was subsequently provided to the full Board.

This process has worked well to ensure that decisions and orders are issued in a timely manner. Commission staff recommends the Commission take a similar approach to issuing the required "Findings and Order" and delegate to the Commission Administrator the authority to execute such decisions after consultation with the Commission Chair.

Almost all previous complaints have involved municipal or school district clerks and candidates, and therefore have not involved partisan candidates or election officials. One modification to the previous process could involve the additional review of the draft "Findings and Order" by a Commission member from the opposite political party of the Chairperson. If both the Chairperson and the designated Commission member of the opposite party agree that the issues in the document do not need to be addressed by the full Commission, the document could be issued as drafted. If there is no such agreement, the Commission could take up the issue at a special meeting or the next regularly scheduled meeting depending on timing. Regardless of the process, the Commission

staff believes some delegation to the Commission Administrator to process § 5.06 complaints is advisable, to ensure timely delivery of decisions and orders issued by the Commission.

Delegation of Authority - § 5.06 "Letter Decision"

The Government Accountability Board previously delegated the authority to the Director and General Counsel to summarily decide a complaint and issue appropriate findings or an order if appropriate to do so based on the allegations contained in the complaint. The authority to summarily decide such matters is contained in Wis. Stat. § 5.06(6). A letter to the complainant or subject of the complaint, outlining the Board's findings is the traditional way in which the 'summary' decisions have been issued. Such "Letter Decisions" have been issued when the complaint alleges issues that may or may not be within the jurisdiction of the Board to decide, or the allegations are about issues that are straightforward or non-controversial and there are no material facts that are in dispute.

The Government Accountability Board had advised parties that received a "Letter Decision" and were aggrieved by the decision that they have the same right of appeal to a circuit court as to those who received a "Findings and Order" issued by the Board. A similar delegation approach to issue a "Letter Decision" was followed, with the staff, in consultation with the Director and General Counsel drafting the letter and sought approval from the Chairperson prior to it being issued. If the Chairperson believed the issues contained in the letter needed to be heard by the full Board, it would be taken up at a special meeting or the next regularly scheduled meeting of the Board depending on timing.

This process has also worked well to ensure that decisions which can be made quickly are issued in a timely manner. Commission staff recommends the Commission take a similar approach to issuing "Letter Decisions" in the future and delegate to the Commission Administrator the authority to execute such decisions after consultation with the Commission Chair. Again, one possible modification to the previous process could involve the additional review of the draft "Letter Decision" by a Commission member from the opposite political party of the Chairperson. If both the Chairperson and the designated Commission member of the opposite party agree that the issues contained in the letter do not need to be addressed by the full Commission, the letter could be issued as drafted. If there is no such agreement, the Commission could take up the letter at a special meeting or the next regularly scheduled meeting depending on timing. Regardless of the process, the Commission staff believes some delegation to the Commission Administrator to summarily decide some § 5.06 complaints by way of a "Letter Decision" to ensure timely delivery of decisions and orders is advisable.

Town of Paris – § 5.06 Complaints

A memorandum describing three pending Wis. Stat. § 5.06 complaints filed against the municipal clerk in the Town of Paris for her handling of recall petitions filed against three town officials follows this memorandum. A "Findings and Order" document has been prepared for each of the complaints filed with the Commission for review. The Commission may determine if it wishes to approve the decisions as a body or delegate authority to the Commission Administrator to execute the orders through the process described above. The filings related to the complaints and the draft

orders provide the Commission with a sense of the issues that may be raised by the sworn complaints filed with the agency.

Recommended Motion:

Authorize the Commission Administrator to issue either Decision Letters or Findings and Orders regarding complaints filed pursuant to Wis. Stat. § 5.06 after consultation with and approval by the Commission Chair. The Chair shall determine whether it is necessary for the entire Commission to consider the complaint and draft decision and, if so, the matter shall be considered at the next Commission meeting. If the Administrator executes a decision based upon the Chair's approval, the Administrator shall provide the decision to all Commission members after its issuance.

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Mark L. Thomsen, Chair

MEMORANDUM

DATE: For the October 14, 2016 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Michael Haas
Interim Administrator

Prepared and Presented by:
Nathan W. Judnic
Legal Counsel

SUBJECT: Town of Paris - Election Official Complaints – Wis. Stat. § 5.06

Introduction

On August 10 and 12, 2016, three verified complaints were filed with the Wisconsin Elections Commission ("WEC" or "Commission") under Wis. Stat. § 5.06. The three complaints (essentially identical other than the name of the town official subject to the recall petition) were filed against Beverly McCumber, municipal clerk for the Town of Paris, Kenosha County. The complaints were filed by Joseph Kolnik, an elector in the Town of Paris who was active in circulating recall petitions against the members of the Paris Town Board. Mr. Kolnik and other individuals circulated and filed recall petitions against Town Chairman Virgil Gentz, Town Supervisor Ronald Kammerzelt, and Town Supervisor Kenneth Monson. Mr. Kolnik's complaints filed with the Commission appeal Clerk McCumber's determination that the recall petitions filed against the three town officials were insufficient. A finding of insufficiency by the filing officer results in no recall elections being held for the targeted officials.

Complaint Records and Public Materials

The full record for each of these complaints is essentially identical, with the exception of the initial documents filed by Mr. Gentz, in that he did not file a reply to supplement his challenge to the recall petition filed against him. With this one minor exception, which does not affect the draft findings or order, the pleadings are identical. The full record for the complaint involving the recall petitions filed against Mr. Kammerzelt follows this memorandum, as well as the draft "Findings and Order" document for that complaint. Additionally, only one exemplary page of the recall petitions will be provided, as all petitions state an identical Statement of Reason for Recall, with the exception of the name of the official subject to the recall. The exemplary page is included in

the municipal clerk's response to Mr. Kolnik's complaint. The full record and the "Findings and Order" documents for the Gentz and Monson complaints are not included in the public materials to avoid unnecessary duplication and to keep the public packet to a manageable number of pages. A copy of the full record and the draft "Findings and Order" for these complaints will be provided to Commission members separately for their review and decision making.

Staff Determination

The conclusion of Commission staff is that Clerk McCumber improperly issued a Certificate of Insufficiency for the recall petitions filed against all three of the Town of Paris officials. The Commission staff determined that the Statement of Reason for Recall was present on all pages of the petition and that the reason was related to the town official's responsibilities as a town official. The Commission staff believes the Commission should order Clerk McCumber to issue a Certificate of Sufficiency in all three instances, which will in turn lead to the Town of Paris calling a recall election for all three officials. Due to the statutory requirement that the recall elections be held six weeks after being ordered, the elections would be held in late November.

<u>Recommended Motions</u>

1) **Pursuant to Wis. Stat. §§ 5.05(1)(e) and 5.06(6), and the inherent, general, and specific authority of the Wisconsin Elections Commission, and upon consideration of the submissions of the parties in this case, the Wisconsin Elections Commission approves and issues a "Findings and Order" in the matter of *Kolnik v. McCumber (Kammerzelt)*, Case No. EL 16-84 consistent with the document presented at the October 14, 2016 meeting.**

2) **Pursuant to Wis. Stat. §§ 5.05(1)(e) and 5.06(6), and the inherent, general, and specific authority of the Wisconsin Elections Commission, and upon consideration of the submissions of the parties in this case, the Wisconsin Elections Commission approves and issues a "Findings and Order" in the matter of *Kolnik v. McCumber (Gentz)*, Case No. EL 16-85 consistent with the document presented at the October 14, 2016 meeting.**

3) **Pursuant to Wis. Stat. §§ 5.05(1)(e) and 5.06(6), and the inherent, general, and specific authority of the Wisconsin Elections Commission, and upon consideration of the submissions of the parties in this case, the Wisconsin Elections Commission approves and issues a "Findings and Order" in the matter of *Kolnik v. McCumber (Monson)*, Case No. EL 16-86 consistent with the document presented at the October 14, 2016 meeting.**

In the Matter of:	)	
	)	
Recall Petitions Filed by Joseph Kolnik Against Ron Kammerzelt,	)	**Findings of Fact and Order**
	)	
Joseph Kolnik,	)	
	)	
Petitioner,	)	**Case No. EL 16-84**
	)	
and	)	
	)	
Beverly McCumber, Municipal Clerk, Town of Paris,	)	
	)	
Respondent.	)	
	)	

Pursuant to Wis. Stat. §§ 5.05(1)(e) and 5.06(6), the inherent, general, and specific authority of the Wisconsin Elections Commission (hereafter "WEC" or "Commission"), and upon consideration of the submissions of the parties in this case, the WEC makes the following Findings and Order:

FINDINGS OF FACT

1. Joseph Kolnik, Petitioner, resides at 13215 38th Street, Kenosha, WI 53144, in the Township of Paris.

2. Beverly McCumber, Respondent, is the municipal clerk for the Township of Paris, and the filing officer for recall petitions filed against local officeholders holding office in the Township of Paris.

3. Ron Kammerzelt is an elected Town Board Supervisor for the Township of Paris.

4. On July 6, 2016, a recall petition was filed with Clerk McCumber seeking the recall of Mr. Kammerzelt.

5. A petition for recall of an officer shall be signed by electors equal to at least 25 percent of the vote cast for governor at the last election within the same district or territory as that of the officeholder being recalled. Wis. Stat. § 9.10(1)(b).

6. Clerk McCumber determined that a minimum of 202 signatures of qualified electors in the Town of Paris was required for the governing body to file the petition and order a recall election.

7. The submitted recall petition consisted of 36 pages (not all lines contained signatures) containing an estimated 298 signatures.

8. A recall petition for a city, village, town, town sanitary district, or school district office shall contain a statement of a reason for the recall which is related to the official responsibilities of the official for whom removal is sought. Wis. Stat. § 9.10(2)(b).

9. All pages of the submitted recall petition contained a "Statement of Reason for Recall" which stated:

> *Failure to serve in the best interests of all Town of Paris residents. State law requires towns to hold town meetings where all qualified electors who are age 18 or older or have lived in the town for at least ten days can discuss and vote on town matters. Mr. Ronald Kammerzelt made a significant decision to sign an Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents and such residents were not provided an opportunity to vote on such matter before such agreement was signed.*

10. On July 15, 2016, Mr. Kammerzelt, as the officeholder subject to the recall, filed a timely challenge to the recall petition, alleging that the statement of reason given for the proposed recall on the petition was misrepresented by the circulators based on the following facts:

    a. There is no provision or requirement under state statute 60.10 to hold a town meeting for the purpose of giving the electors of a town the opportunity to vote on entering into a cooperative agreement with other local units of government.

    b. That authority is specifically addressed and given to the elected members of the town board under Section 60.23(1) – Miscellaneous Powers, Joint Participation.

    c. Meetings and listening session over and above the public hearing required by law were held and attended by an overwhelming number of electorate of the town. Less than 1% of the town electors spoke against the Intergovernmental Agreement entered into with the Village of Somers at the public hearing before the vote was taken by the Town Board.

    d. The best interests of the Town of Paris as a whole were carefully considered and served with the action taken by the Town Board.

11. On July 18, 2016, Mr. Paul Terry, a representative of the Committee to Recall Ronald Kammerzelt filed a timely response to Mr. Kammerzelt's challenge, arguing that the statement of reason for the recall contained on the petition met the applicable statutory requirements – that there must be a statement of reason provided, and that the reason must be related to the official responsibilities of the official.

12. On July 20, 2016, Mr. Kammerzelt filed a timely reply to Mr. Terry's response, stating that misrepresenting the statement of reason to recall is proper grounds to challenge the recall petition under Wis. Stat. § 9.10(4), and that the statement of recall presented was unfair, untrue and completely without merit.

13. After a review of the submitted recall petition, Clerk McCumber determined that 261 valid signatures were submitted against Mr. Kammerzelt.

14. Despite finding a sufficient number of signatures were submitted, on August 5, 2016, Clerk McCumber issued a Certificate of Insufficiency, accepting the reasons provided in Mr. Kammerzelt's challenge and reply, and for the following reasons:

> *The petition offered for filing seeking the recall of the officeholder is insufficient because it contains a statement that is false and misrepresents the official responsibilities of the officeholder for whom the recall is sought. The first sentence of the Statement of Reason for Recall in the Petition is: "Failure to serve in the best interests of the Town of Paris resident." However, the petition goes on to state as additional reasons that "state law requires towns to hold town meetings where all qualified electors who are age 18 or older or have lived in the town for at least ten days can discuss and vote on town matters. Mr. Ronald Kammerzelt made a significant decision to sign an Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents and such residents were not provided an opportunity to vote on the agreement before such agreement was signed." The second and third sentences of the Statement of Reason for Recall imply and send the message to persons who were presented with the Petition for signature that the officeholder violated Wisconsin law. That is not the case.*
>
> *I am familiar with the statutory requirements for a Town meeting. Stating that the officeholder did not hold a town meeting when one was not required is misleading and a misrepresentation of the official responsibilities of the officeholder for who recall is sought. A Town meeting was not required in order for the Town Board to approve and sign an Intergovernmental Cooperation Agreement under Sec. 66.0301, Wis. Stat.*
>
> *I am also familiar with the requirements to approve and sign an Intergovernmental Cooperation Agreement. There was, in fact, an opportunity for the Town's residents to provide input to the Board on the matter of the Intergovernmental Cooperation Agreement because a public hearing was properly noticed and held on April 7, 2016 prior to such approval in accordance with Wisconsin law. There is no requirement under Sec. 66.0301, Wis. Stat., that the residents be provided with an opportunity to vote on the Intergovernmental Cooperation Agreement prior to the Town Board's approval. It is misleading to state that the officeholder failed to provide such an opportunity when the law did not require it. It is a misrepresentation of the official responsibilities of the officeholder for who recall is sought.*

The misleading statements that the officeholder did not follow the law in carrying out his official responsibilities in the reasons for recall could have induced a person to sign the petition who would not have otherwise signed the petition. I find that the misleading and untrue statements make the Petition insufficient.

15. On August 10, 2016, Mr. Kolnik filed a timely verified complaint with the Commission under Wis. Stat. § 5.06, requesting that the clerk be required to conform her conduct to be consistent with the law and to issue a new certificate in this matter that is consistent with state law and does not abuse her discretion as clerk.

16. Mr. Kolnik's complaint alleges Clerk McCumber's decision to issue a Certificate of Insufficiency was done in error for the following reasons:

    a. The reason statement on the recall petition is consistent with state law, and the municipal clerk's determinations are not consistent with the applicable statutes and administrative code provisions governing the review of recall petitions.

    b. The Wisconsin Supreme Court has stated that "[t]he power granted to an electorate to remove certain elected officials through recall procedures is political in nature and it is for the people and not the courts to decide the merits of the reasons stated in the petition." *Recall of Certain Officials of the City of Delafield, Leon Mueller, Appellant v. Lois Jensen, City Clerk*, et al., 63 Wis.2d 362, 217 N.W.2d 277 (1974).

    c. When a recall petition is challenged, the burden of proof of a false or misleading statement rests with the challenger which the challenger did not meet.

    d. The municipal clerk added and considered evidence or challenges that were not offered by the parties.

    e. The municipal clerk mischaracterized the Statement of Reason for Recall in the Certificate of Insufficiency.

    f. The challenge submitted did not meet the "clear and convincing" burden of proof.

    g. The municipal clerk's determination was based on evidence that did not meet the "clear and convincing" burden of proof.

    h. The challenger failed to present by affidavit or other supporting evidence a demonstration of a failure to comply with statutory requirements as required under Wisconsin State Statute 9.10(2)(h).

i. The municipal clerk erred in making the assumption that signers of the petition could have been induced to sign the petition based on "misleading and untrue statements" because Mr. Kolnik signed the petition and he states that he did not interpret the reason statement to imply that the officeholder had violated state law.

j. Information contained on a recall petition is entitled to a presumption of validity, and therefore the Statement of Reason for Recall is presumed valid unless clear and convincing evidence disputes that presumption.

k. The filing officer is directed to accept recall petitions which contain campaign advertising per Wisconsin Administrative Code 2.05(7); therefore even if there was a misrepresentation, the Code allows such license to "advertise" on behalf of the cause, in this case the cause being a recall petition.

17. On August 24, 2016, Clerk McCumber filed a timely verified response to Mr. Kolnik's complaint, denying the substantive allegations summarized in paragraph 16 above and affirmatively defending her actions in making "findings in support of the integrity of the statute's plain language, the statutory process, and the Clerk's office."

18. Clerk McCumber's response also included a counterclaim that "Petitioners did not follow the administrative procedures to file affidavits to attempt to correct their submissions after receiving the Certificate of Insufficiency."

19. On August 30, 2016, Mr. Kolnik filed a timely verified response to Clerk McCumber's counterclaim stating that neither the applicable statutes nor the administrative code require petitioners to file affidavits to correct a petition once a Certificate of Insufficiency has been issued. Within this same document, Mr. Kolnik included a 'counterclaim' against Clerk McCumber claiming she did not properly provide Mr. Kolnik a copy of her response to the complaint, and that the WEC should find that Clerk McCumber admits to each of the allegations contained in the complaint.

20. On September 1, 2016, Mr. Kolnik filed a timely verified reply to Clerk McCumber's response, supporting the claims made in his original complaint and disputing the actions taken by Clerk McCumber.

21. On September 13, 2016, Clerk McCumber filed a timely verified reply to the counterclaim that she raised in her response, and she agreed with Mr. Kolnik that the filing of a correcting affidavit was optional, and that Mr. Kolnik chose not to exercise that option.

22. The September 13, 2016 filing also included Clerk McCumber's response to the counterclaim made by Mr. Kolnik in his reply. Clerk McCumber disputes Mr. Kolnik's allegation that she failed to follow procedures that required her to provide

him a copy of the pleading. Clerk McCumber sent the pleading to an email address for which she states had been previously used by Mr. Kolnik and his spouse to make public records requests. Clerk McCumber requests that all of her sworn filings be considered by the Commission even if a procedural irregularity had occurred in sharing the pleading.

23. On September 15, 2016, Mr. Kolnik filed a timely verified reply to his counterclaim, in which Mr. Kolnik stated that he has never used the email address that Clerk McCumber sent the pleadings to, his correct email address has been included on all of the pleadings filed, and that the email address that Clerk McCumber used is his spouse's email for which he does not have access. Mr. Kolnik stated he received the filings in a timely manner, but that the filings came from the WEC and Clerk McCumber failed to follow the instructions given.

24. The Commission's role in resolving verified complaints filed under Wis. Stat. § 5.06, which challenge the decisions or actions of local election officials, is to determine whether the official, through their decisions or actions, acted contrary to applicable election laws or abused their discretion in administering applicable election laws.

ANALYSIS

25. The counterclaims raised by both Clerk McCumber and Mr. Kolnik are issues that have been resolved through the responses and replies by each party in this case.

    a. Both parties agree that the petitioner has an option to file correcting affidavits after receiving a Certificate of Insufficiency from the filing officer, and that the petitioner in this case did not exercise that option. No specific finding or order is required from the Commission on this issue.

    b. Although a copy of Clerk McCumber's response was sent to the email address of Mr. Kolnik's spouse instead of him, Mr. Kolnik acknowledged that he did receive the pleading in a timely fashion, and no evidence of prejudice was provided. No specific finding or order is required from the Commission on this issue, and all pleadings filed in this matter will be considered part of the case record.

26. As the filing officer, the municipal clerk is tasked with reviewing, examining and certifying the sufficiency and validity of petitions and nomination papers. Wis. Stat. § 7.15(1)(h).

27. The municipal clerk must determine if the submitted petition was prepared, circulated and submitted in accordance with Wis. Stat. §§ 8.40, 9.10(2) and Wis. Admn. Code EL §§ 2.05, 2.07. 2.09 and 2.11.

28. There is no dispute that the petition contained a sufficient number of signatures.

29. Clerk McCumber determined the petition was insufficient based on: 1) the reasons provided in Mr. Kammerzelt's challenge and reply, and 2) her own findings that the second and third sentences of the Statement of Reason for Recall imply and send a message to persons presented with the petition that the officeholder violated Wisconsin law, which she believed was not the case. Based on this information, she determined that the Statement of Reason for Recall was misleading and a misrepresentation of the official responsibilities of the officeholder for whom the recall was sought, and such a misrepresentation could have induced someone to sign the recall petition.

Mr. Kammerzelt's Challenge and Reply

30. The record contains no evidence that circulators misrepresented the Statement of Reason for Recall to individuals that signed the recall petition.

31. Information contained on a recall petition is entitled to a presumption of validity. Wis. Admn. Code EL § 2.05(4).

32. The burden of proof to successfully challenge information contained on a recall petition is clear and convincing evidence. Wis. Admn. Code EL § 2.07(4).

33. Any challenge to the validity of signatures on the petition shall be presented by affidavit or other supporting evidence demonstrating a failure to comply with statutory requirements. Wis. Stat. § 9.10(2)(h).

34. No signature may be stricken on the basis that the elector was not aware of the purpose of the petition, unless the purpose was misrepresented by the circulator. Wis. Stat. § 9.10(2)(m)

35. Mr. Kammerzelt's challenge contains no affidavits or other information from individuals that signed the petition stating it was misrepresented to them. Mr. Kammerzelt provides "facts" in his challenge that do not support his claim that the Statement of Reason for Recall was misrepresented to individuals that chose to sign the petition. The "facts" describe the authority of a town official and the official's role in making decisions, the public meetings and listening sessions that were held on the cooperation agreement, and making decisions in the best interest of the Town. These all appears to be "facts" that support Mr. Kolnik's claim that the Statement of Reason for Recall was related to the official's responsibilities as a town official.

36. Mr. Kammerzelt's reply again does not provide any affidavits or other information from individuals that signed the petition which state the purpose was misrepresented to them prior to signing. The reply defends Mr. Kammerzelt's actions as a town official and asserts it would be unfair to expect his decisions would satisfy everyone, and that the Statement of Reason of Recall "give the

person reading the petition the **False** impression that the town board was required or obligated to provide an opportunity for residents to vote on the agreement…" (emphasis in original). The reply again reinforces Mr. Kolnik's claim that the Statement of Reason for Recall was related to the official's responsibilities as a town official and was not related to an impermissible basis wholly unconnected to his official responsibilities or actions.

37. Mr. Kammerzelt's challenge and reply failed to provide clear and convincing evidence to overcome the presumption of validity afforded a recall petition.

38. Clerk McCumber erred in accepting the challenge filed by Mr. Kammerzelt as he failed to meet his burden of proof to overcome the presumption of validity and establish that the Statement of Reason for Recall was misrepresented to signers of the petition.

39. Clerk McCumber erred when she incorporated Mr. Kammerzelt's challenge and reply into her decision to issue a Certificate of Insufficiency, as Mr. Kammerzelt's filings did not meet the burden of proof to overcome the presumption of validity and establish that the Statement of Reason for Recall was misrepresented to signers of the petition.

Clerk McCumber Findings

40. By statute, the municipal clerk must determine whether the recall petition: 1) contained a Statement of Reason for Recall, and 2) whether the Statement of Reason for Recall is related to the official responsibilities of the official that is the subject of the petition. Wis. Stat. § 9.10(2)(b).

41. "Generally, statutory provisions relating to recall are liberally interpreted in favor of the electorate." *Recall of Certain Officials of the City of Delafield, Leon Mueller, Appellant v. Lois Jensen, City Clerk*, et al., 63 Wis.2d 362, 373, 217 N.W.2d 277, 283 (1974).

42. "The power granted to an electorate to remove certain elected officials through recall procedure is political in nature and it is for the people and not the courts to decide the merits of the reasons stated in the petition." *Id.*

43. While the language in Wis. Stat. § 9.10(2)(a) has changed since the *City of Delafield* case, the legislative intent and purpose of requiring a Statement of Reason for Recall on the petition for local officials has not – which is to ensure that the reason for recall stated is related to the official's duties as a local official and that the reason is specific enough for the official to respond to the reason stated.

44. Clerk McCumber found that the Statement of Reason for Recall was misleading, or was a misrepresentation, or could have induced someone to sign the petition

that might not have done so but for this statement, but the record contains no evidence that a signer was misled, a circulator misrepresented the purpose of the recall petition or that a signer was induced to the sign the petition who might not have done so but for the statement contained on the petition.

Statement of Reason for Recall Contained on Petition

45. The Statement of Reason for Recall is clearly printed on each of the petition pages therefore the first part of the analysis that must be completed by the clerk has been met, and it is sufficient.

Statement of Reason for Recall Related to Official Responsibilities of the Official

46. The Statement of Reason for Recall contains three separate sentences, and therefore each sentence must be evaluated to determine if it is related to the official responsibilities of the official that is the subject of the petition.

a. Failure to serve in the best interests of all Town of Paris residents: Voters elect representatives to use their judgment and make decisions that are in the best interest of their constituents. The decision making by the official is done in their official capacity as an elected official. If a constituent believes the elected official is not acting in their best interest, this is a valid "reason" for recall and can be listed as such on a petition, regardless of any objective assessment or subjective conclusion by the filing officer as to the merits of the official's specific actions.

b. State law requires towns to hold town meetings where all qualified electors who are age 18 or older and have lived in the town for at least ten days can discuss and vote on town matters: As part of their official responsibilities, town officials are tasked with conducting town meetings and allowing qualified electors who are age 18 or older or have lived in the town for at least 10 days to discuss and vote on town matters. This statement is related to the official's responsibilities as an elected official and therefore a valid "reason" for recall.

c. Mr. Ronald Kammerzelt made a significant decision to sign an Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents and such residents were not provided an opportunity to vote on such matter before such agreement was signed: This statement relates directly to Mr. Kammerzelt's responsibilities as a town official which includes signing Intergovernmental Cooperation Agreements. According to Mr. Kammerzelt's own challenge, there were residents that spoke against the agreement at a public hearing. Finally, the statement that residents were not provided an opportunity to vote on the agreement before it was signed is a true statement. The fact that town residents may not have a statutory or legal right to directly vote on the

agreement before it is adopted by the Town Board does not render the statement false. No part of this statement is unrelated to the official responsibilities of Mr. Kammerzelt acting in his official capacity, therefore a valid "reason" for recall.

47. Without evidence in the record, Clerk McCumber improperly inserted her own belief that the Statement of Reason for Recall was misleading or untrue and that it could have improperly induced someone to sign the petition. The record contains no evidence that any individual was misled or was induced to sign the petition based on a mistaken understanding of the Statement of Reason for Recall.

48. By contrast, there is evidence presented by affidavit that one signer was not misled by the Statement of Reason for Recall. Mr. Kolnik, as a signer of the recall petition, stated that he was not misled, and therefore Clerk McCumber's assumption that all signers could have been misled, ultimately resulting in invalidating all signatures contained on the petition, was improper.

49. A Statement of Reason for Recall was present on all pages of the petition filed with the clerk, and the Statement of Reason for Recall was related to the official responsibilities of the official that was the subject of the petition in accordance with Wis. Stat. § 9.10(2)(b).

50. Clerk McCumber erred when she found that the Statement of Reason for Recall was not related to the official responsibilities of the official that was the subject of the petition and instead issued a Certificate of Insufficiency, finding the Statement of Reason for Recall to be misleading and containing untrue statements.

51. Clerk McCumber erred by not issuing a Certificate of Sufficiency within 31 days after the petition was offered for filing in accordance with Wis. Stat. § 9.10(4)(a), which would have prompted the governing body to call a recall election on the Tuesday of the 6th week commencing after the date on which the certificate was filed by Clerk McCumber.

52. Pursuant to Wis. Stat. § 5.06(1) the Wisconsin Elections Commission has jurisdiction to review Joseph Kolnik's verified complaint and make the Findings and Order contained herein.

53. Pursuant to Wis. Stat. § 5.05(1)(e) by the Wisconsin Elections Commission's specific delegation of authority to issue an order under Wis. Stat. § 5.06 and the Commission's specific action on this matter, the undersigned has authority to issue an order in this matter.

ORDER

Pursuant to Wis. Stat. § 5.06(1) the Wisconsin Election Commission has jurisdiction to review the verified complaint of Joseph Kolnik and make the Findings and Order contained herein.

Pursuant to Wis. Stat. § 5.05(1)(e) by the Wisconsin Elections Commission's specific delegation of authority to issue an order under Wis. Stat. § 5.06 and the Commission's specific action on this matter, the undersigned has authority to issue the following order:

1. Beverly McCumber, Clerk and local filing officer for the Town of Paris acted contrary to applicable election laws when she issued a Certificate of Insufficiency for the recall petition submitted against Ronald Kammerzelt.

2. All pages of the recall petition submitted against Ronald Kammerzelt contained a Statement of Reason for Recall.

3. The recall petition submitted against Ronald Kammerzelt contained a Statement of Reason for Recall which was related to Mr. Kammerzelt's official responsibilities as a town official.

4. Upon receipt of this Findings and Order, Beverly McCumber shall issue a Certificate of Sufficiency for the recall petition filed against Ronald Kammerzelt.

5. Upon receipt of this Findings and Order, Beverly McCumber shall attach the Certificate of Sufficiency for the recall petition filed against Ronald Kammerzelt to the recall petition, file the petition in the office of the Town Clerk, and transmit the certified petition to the Paris Town Board.

6. The Paris Town Board shall promptly call a meeting to accept the recall petition filed against Mr. Kammerzelt and call a recall election.

7. The recall election for Ronald Kammerzelt shall be held on Tuesday, November 22, 2016 (the Tuesday of the 6th week commencing after the date on which the Certificate of Sufficiency has been filed by Beverly McCumber).

8. If more than two persons compete for the office, a recall primary shall be held on November 22, 2016. The recall election shall then be held on December 20, 2016 (the Tuesday of the fourth week after the recall primary).

9. Candidates, with the exception of the incumbent officeholder Mr. Kammerzelt, shall file all required ballot access documents to be placed on the ballot for the recall election by 5:00 p.m. on the fourth Tuesday before the election or recall primary (if necessary). Mr. Kammerzelt shall be a candidate at the recall election unless he resigns within 10 days of the date of the clerk's certification of the recall.

Pursuant to Wis. Stat. § 5.06(8), any election official or complainant who is aggrieved by this decision may appeal this Order to circuit court within 30 days of issuance of the Order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

Dated this 14th day of October, 2016.

Wisconsin Elections Commission

Michael Haas
Administrator

State of Wisconsin
Before the Elections Commission

AFFIDAVIT

The undersigned, after first being duly sworn, states under oath as follows:

That I affirm I am an adult resident of the State of Wisconsin and reside at 13215 38th street Kenosha, Wisconsin 53144 in the Township of Paris since 1980. My name is Joseph Kolnik and I can be reach at (847) 409-1805 or E-Mail: kjoe429@yahoo.com. I have personal knowledge as to all matters recited herein.

WE 10AUG2016 PM 03:05

The Complaint of Joseph Kolnik, Complainant(s) against Beverly McCumber, Respondent, whose address is 2717 168th Avenue, Kenosha, WI 53144.

The complaint is under Wisconsin State Statutes Chapter 7, 8, and 9 as well as Wisconsin Administrative Code, Chapter 2.

I, Joseph Kolnik, allege that Clerk Beverly McCumber, in the Town of Paris made an error on August 5, 2016 in performing her duties under Wisconsin State Statutes 7.15(1)(h) when she made the determination of insufficiency with regards to the recall petitions against Ronald Kammerzelt. The filing officer's failure to issue a sufficiency determination is contrary to law and an abuse of her discretion with respect to the determination of insufficiency.

Per Chapter 5.06(1) of Wisconsin State Statutes, I request that the filing officer be required to conform her conduct to be consistent with the law and correct her determination by issuing a new certificate that is consistent with state law and does not abuse her discretion as clerk.

I certify that I have mailed Beverly McCumber, Respondent, a copy of this complaint prior to filing the pleading with the State of Wisconsin Elections Commission.

The duties of the municipal clerk are detailed in Wisconsin State Statutes 7.15(1) and 7.15(1)(h). The Clerk is required to review, examine and certify the sufficiency and validity of petitions. The clerk did not fulfill her duties under these statutes.

The Clerk found merit in the challenge filed by the officeholder that the petition is insufficient because it contains a statement that is false and misrepresents the official responsibilities of the officeholder for whom recall is sought.

The Clerk was in error in finding merit to the challenge because:

1. The filing officer is directed, via Wisconsin State Statutes 8.40(3), to use Wisconsin state Statutes 8.40 and Wisconsin State Statutes 9.10(2) in determining the validity of petitions for recall as well as rules prescribed by the commission such as Wisconsin Administrative Code, Chapter 2 (specifically, 2.05, 2.07, 2.09, and 2.11). The reasons given by the clerk in her determination are not consistent with such statutes and codes.

   The reason statement in the petition is consistent with state law:

   > Section 9.10(2)(b) of Wisconsin State Statutes states that: A recall petition for a city, village, town, town sanitary district, or school district office shall contain a statement of a reason for the recall which is related to the official responsibilities of the official for whom removal is sought.

The state statutes are clear that there are two requirements regarding the reason statement given for the recall: 1) There must be a statement of reason and 2) Such reason must be related to the official responsibilities of the official.

The Wisconsin Supreme Court further clarifies that reason statements are not to be judged by any additional standards as reason statements are political in nature and therefore it is for the people and not the courts to decide the merits of the reasons stated in a petition.

- In Wisconsin Supreme Court case of Recall of Certain Officials of the City of Delafield, Leon Mueller, Appellant v. Lois Jensen, City Clerk, 63 Wis.2d 362, the judge stated: The power granted to an electorate to remove certain elected officials through recall procedures is political in nature and it is for the people and not the courts to decide the merits of the reasons stated in the petition.

2. The burden of proof, of a false or misleading statement, rests with the challenger per the requirements of Wisconsin State Statutes 9.10(2)(g). The clerk has added that the reason statement was false whereas the challenger had only characterized the reason statement as being misleading.

   Wisconsin Administrative Code 2.07(4) says: The filing officer shall examine any evidence offered by the parties when reviewing a complaint challenging the sufficiency of the nomination papers of a candidate for state or local office.

   State Statutes and Wisconsin Administrative code do not give the clerk the right to add evidence or challenges.

3. The clerk also mischaracterizes what the reason statement says. The clerk claims "The second and third sentences of the Statement of Reason **imply or send the message** to persons who were presented with the Petition for signature **that the officeholder violated Wisconsin law**."

   Actual Statement of Reason for Recall circulated: Failure to serve in the best interests of all Town of Paris residents. State law requires towns to hold town meetings where all qualified electors who are age 18 or older or have lived in the town for at least ten days **can discuss and vote on town matters**. Mr. Ronald Kammerzelt made a significant decision to sign an Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents and such residents were not provided an opportunity to vote on such matter before such agreement was signed.

   The statement is factual as Wisconsin State statutes do require towns to hold town meetings where all qualified electors who are age 18 or older and have lived in the town for ten days can discuss and vote on town matters. One such meeting that is required is the annual meeting per Wisconsin State Statutes 60.11. As this was a town matter, this would have been an opportunity to exercise the option to discuss and vote on this town matter hence the word "can" in the reason statement. The officeholder did fail to provide such an opportunity. Never does the reason statement claim that the official violated Wisconsin law and the leap by the clerk is an abuse of her discretion.

4. The burden of proof applicable to establishing a challenge is clear and convincing evidence as required in Wisconsin Administrative Code 2.07.
   a. The assertion by the challenger on July 15, 2016 does not meet the standard of clear and convincing evidence.

b. The clerk has stated that the reason statement "could have induced" a person to sign the petition who would not have otherwise signed the petition. The clerk used this logic to disqualify every signature. The logic does not meet the clear and convincing evidence standard.

5. The challenger failed to present by affidavit or other supporting evidence a demonstration of a failure to comply with statutory requirements as required under Wisconsin State Statutes 9.10(2)(h).

6. The Clerk was in error in determining that I was misled by the reason statement. Though not required to provide clear and convincing evidence that I wasn't misled, I as a signor on the petition do certify that I did not interpret the reason statement to imply that the officeholder had violated state law.

   Therefore, if the clerk made an error in her assumption regarding my decision to sign the petition, she may have made the same error when concluding others were misled as well. Therefore, neither the challenger nor the clerk has met the clear and convincing evidence standard as required.

7. Any information on a recall petition is entitled to a presumption of validity per Wisconsin Administrative Code 2.05(4). Therefore, the reason statement is presumed valid unless clear and convincing evidence disputes that presumption.

8. The filing officer is directed to accept recall petitions which contain campaign advertising per Wisconsin Administrative Code 2.05(7). Even if there was misrepresentation, the Wisconsin Administrative Code allows such license to "advertise" on behalf of the cause, in this case the cause is a recall petition.

Date: 8-8-16 Complainant's Signature Joseph Kolnik

I, Joseph Kolnik, being first duly sworn upon oath, state that I personally read the above complaint, and that the above allegations are true and correct based on my personal knowledge and, as to those allegations stated on information and belief, I believe them to be true.

Joseph Kolnik
Complainant's Signature

STATE OF WISCONSIN

County of Milwaukee
(county of notarization)

Sworn to before me this 8th day of August, 2016.

Wendy Ann Pimentel
(Signature of person authorized to administer oaths)

NOTARY PUBLIC
WENDY ANN PIMENTEL
STATE OF WISCONSIN

My Commission expires: Feb 4th, 2019, or is permanent.
Notary Public or _____
(official title if not notary)

STATE OF WISCONSIN
ELECTIONS COMMISSION

IN THE MATTER OF:

RECALL PETITION AGAINST RONALD KAMMERZELT

JOSEPH KOLNIK,

No. EL 16-84

v.

BEVERLY MCCUMBER.

SWORN STATEMENT OF BEVERLY MCCUMBER

STATE OF WISCONSIN)
) SS:
COUNTY OF KENOSHA)

I, Beverly McCumber, being first duly sworn on oath deposes and says as follows:

1. I am the Clerk/Treasurer for the Town of Paris, located in the County of Kenosha, State of Wisconsin.

2. As the Clerk/Treasurer for the Town of Paris, I acknowledge receipt of the complaint of Joseph Kolnik in regard to this matter.

3. That I am offering this sworn statement to the Wisconsin Elections Commission (the "Commission"), as requested in a letter dated August 12, 2016 from Nathan W. Judnic, Legal Counsel for the Commission, to provide a response to each Affidavit and Complaint filed by Joseph Kolnik with the Commission dated August 8, 2016 (the "Complaint").

4. I agree with the contact information provided in the first and second unnumbered paragraphs of the Complaint.

5. I am without personal knowledge and information sufficient to form a response to the statement contained in the third unnumbered paragraph.

6. I deny the allegations contained in the fourth unnumbered paragraph. As described later in this sworn statement, I believe I have faithfully performed my duties under

Sections 7.15(1)(h) and 9.10, Wis. Stats., in making my determine of insufficiency in regards to the recall petitions filed against Ronald Kammerzelt.

7. I neither admit or deny the allegations in the fifth unnumbered paragraph because it contains conclusions of fact not yet determined but affirmatively allege that my conduct was consistent with the law and that I did not abuse my discretion when I issued the Certificate of Insufficiency.

8. I did receive a copy of the Complaint as set forth In the sixth unnumbered paragraph, however, I do not know if I received it prior to filing of the pleading with the Commission.

9. I deny the allegations contained in the seventh unnumbered paragraph. As described later in this sworn statement, I believe I have faithfully performed my duties under Sections 7.15(1), (1)(h), and 9.10, Wis. Stats., in making my determine of insufficiency in regards to the recall petitions filed against Ronald Kammerzelt.

10. I admit the allegation contained in the eighth unnumbered paragraph that I found merit in the challenge filed by the officeholder that the petition is insufficient because it contains a statement that is false and misrepresents the official responsibilities of the officeholder for whom recall is sought.

11. In answering the numbered allegations contained in the ninth unnumbered paragraph, I deny that I was in error in finding merit to the challenge because I am directed to make a determination of sufficiency taking into consideration my own review, along with any challenge, rebuttal and reply filed under Sec. 9.10(4)(a), Wis. Stat.

a. In answering numbered paragraph 1, I admit that I am directed to follow Sections 9.10(1), 9.20(2), 9.10(4) and 8.40, Wis. Stats., in conducting my review of the petitions to determine whether they are sufficient. I admit that the Administrative Code Sections cited prescribes standards for me to use in determining the validity of petitions and signatures thereon but I deny that the Administrative Code Sections limit the requirements of Sections 9.10(2) and (4), Wis. Stat., that address matters beyond the contents of the signatures on the petitions.

A recall petition "shall contain a statement of a reason for the recall which is related to the official responsibilities of the official for whom removal is sought." Sec. 9.10(2)(b), Wis. Stat. The Complaint is correct in that (1) there must be a statement of reason; and (2) such reasons must be related to the official responsibilities of the official.

There stated reason on the petitions was:

"Failure to serve in the best interests of all Town of Paris residents. State law requires towns to hold town meetings where all qualified electors who are age 18 or older or have lived in the town for at least ten days can discuss and vote on town matters. Mr. Ronald Kammerzelt made a significant decision to sign an Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents and such residents were not provided an opportunity to vote on the agreement before such agreement was signed."

The Complainant states that the reasons statements are not to be judged by me as the person charged with determining whether the Petitions meet the requirements of the statutes. However, this is contrary to the specific directives given to me under Sec. 9.10 and specifically under Sec. 9.10(2)(f), (g), (h), (m), and (q), Wis. Stat.

It has always been required that the reasons for the recall must be specific enough to allow the elected official an opportunity to respond to the citizens as to the specific allegations raised by those seeking the recall. As stated in the case of In re Recall Petition of Carlson, 147 Wis. 2d 630, 638, 433 N.W.2d 635 (Ct. App. 1988), a recall petition must set forth reasons directly related to the subject's official duties with "sufficient specificity to give notice to the official so that he can respond to the electors." Citing In Re Recall of Certain Officials, City of Delafield, 63 Wis. 2d 340, 373, 217 N.W.2d 276 (1974). In this case, the purported "reasons" for the recall are false and misleading because there is no requirement that the Town Board call a Town meeting prior to approving an Intergovernmental Agreement. The purported reasons give the false impression that the officeholder did not follow the law. The statutes governing Town Meetings are not related to the official responsibilities of the officeholder with respect approving an Intergovernmental Agreement. The Complainant is essentially stating that I, as Clerk, am to ignore the requirements that the reason relate to the official responsibilities of the officeholder and that I am to ignore whether the reasons stated are true or false or are misleading. I believe that to be specifically contrary to the directives given to me under Sec. 9.10 and specifically under Sec. 9.10(2)(f), (g), (h), (m), and (q), Wis. Stat.

The Complainant cites the case of In Re Recall of Certain Officials, City of Delafield, 63 Wis. 2d 340, 373, 217 N.W.2d 276 (1974) for the proposition that it is for the people and not the courts to decide the merits of the reasons stated in the petition. However, that case was decided based on the prior language in the statute that required the petitions to contain a "good and sufficient reason" with no

qualifier. The statute governing the stated reason is different today and contains the qualifier "related to the official responsibilities."

According to the League of Wisconsin Municipalities, the "official responsibilities" language was added to the statute to provide protection to the elected officials from the an attack that was related to official responsibilities. As stated in Elections Opinion No. 599, August 9, 1996, the League of Wisconsin Municipalities states as follows:

> Reason for Recall. There are numerous formalities set forth in the statutes regarding the preparation and form of a recall petition. An important requirement is that the petition state the reason for the recall. The reason must be "related to the official responsibilities of the official for whom removal is sought." Sec. 9.10(2)(b).

The term "official responsibilities" is not defined in the statutes. No court has yet interpreted what constitutes "official responsibilities." The League goes on to state that "according to one lawmaker (David Deininger) who was instrumental in having this language added to the statute in 1990, as reported in the Legal Comment published in the November 1990 issue of Wisconsin School News, the use of the term 'official responsibilities' was intended to protect local officials from recall for 'personal, family or discriminatory reasons.'"

If the Legislature intended the content of the reasons to not matter, the Legislature would have only required the petitioner to state a reason. The Legislature would not have included the requirement that the petitioner state a reason related to the official responsibilities of the officeholder. To render the words "related to the official responsibilities" meaningless is contrary to the basic rules of statutory construction and interpretation. My obligation as Clerk is to give deference to the inclusion of the words included in the statute. When the Petitioner's reason states that the law required something when it clearly does not, I cannot find the Petitions sufficient to meet the requirements of the Statute.

Because the reasons set forth on the petition forms contain false and misleading information, the persons signing were misinformed about the official responsibilities of the officeholder. The misleading statements that the officeholder did not follow the law in carrying out his official responsibilities in the reasons for recall could have induced a person to sign the petition who would not

have otherwise signed the petition. I find that the misleading and untrue statements make the Petition insufficient. The citizens were not given the opportunity to make an informed decision as to whether to sign the petitions. I have made my findings in support of the integrity of the statute's plain language, the statutory process, and the Clerk's office.

b. In answering numbered paragraph 2, I admit that a challenger bears the burden of proof if he/she submits a challenge. However, I am also charged with conducting a review to determine the sufficiency of a petition that complies with all of requirements of Sec. 9.10, Wis. Stats.

c. In answering numbered paragraph 3, I deny that a Town meeting is required in order for the Town Board to approve an intergovernmental agreement. I assert that the Town Board has held Town meetings when required under Ch. 60 of the Wisconsin Statutes. The Town met all requirements to approve an intergovernmental meeting. As set forth in my Certificate, the Town Board provided required notices and held a public hearing prior to approving the intergovernmental agreement as required by Wisconsin law. I deny that I mischaracterized what the petition's stated reasons were. The reasons did imply or send the message that the officeholder violated the law to persons who were presented with it.

d. In answering numbered paragraph 4, I deny that the challenger did not meet the required burden of proof. The plain language of the stated reason is clear and convincing evidence to prove that Petitioners did not meet the statutory requirements of providing a reason related to the official responsibilities of the officeholder. A reason cannot be related to the official responsibilities if the stated reason is false about the requirements of the official responsibilities.

e. In answering numbered paragraph 5, I deny the allegation that the challenger failed to present an affidavit or other supporting evidence of a failure to comply with the statutory requirements. The officeholder filed sworn statements addressing the requirements for a Town meeting and the requirements for the approval of an intergovernmental agreement.

f. In answering numbered paragraph 6, Complainant's assertion that he and others were not mislead should be disregarded as he was one of the drafters of the stated reasons for recall and one of the circulators of the petitions.

g. In answering numbered paragraph 7, Sec. EL 2.05, Wis. Adm. Code, does specify a presumption of validity. It does not however state that the presumption cannot be overcome by the plain language of the statutory requirements for adoption of an intergovernmental agreement. Also, Petitioners did not follow the administrative procedures to file affidavits to attempt to correct their submissions after receiving the Certificate of Insufficiency.

h. In answering numbered paragraph 8, I state that the Commission should disregard the allegations contained in this paragraph because the reasons stated did not include biographical data or advertising for another person's campaign. The reasons did not state that a candidate would have held a Town meeting even though one was not required. The listed reasons should not be construed to be an advertisement on behalf of a cause.

i. In support of this sworn statement, I have enclosed for your review one page of the petition for example purposes, the challenge filed by the officeholder, the response filed by the petitioner, the reply filed by the officeholder, and a copy of the Certificate of Insufficiency minus the attachments.

Beverly McCumber

Subscribed and sworn to before me
this 24 day of August, 2016.

Notary Public, Kenosha County, WI
My Commission Expires: 10/28/19

HEATHER NIKULA
Notary Public
State of Wisconsin

RECALL PETITION

TO: Town Clerk, Town of Paris

We, the undersigned qualified electors of the Town of Paris petition for the recall of Mr. Ronald Kammerzelt from office pursuant to Article XIII, Section 12 of the Wisconsin Constitution and State Statutes 9.10 of the Wisconsin Statutes. Statement of Reason for Recall: Failure to serve in the best interests of all Town of Paris residents. State law requires towns to hold town meetings where all qualified electors who are age 18 or older or have lived in the town for at least ten days can discuss and vote on town matters. Mr. Ronald Kammerzelt made a significant decision to sign an Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents and such residents were not provided an opportunity to vote on such matter before such agreement was signed.

THE MUNICIPALITY USED FOR MAILING PURPOSES, WHEN DIFFERENT THAN MUNICIPALITY OF RESIDENCE, IS NOT SUFFICIENT. THE NAME OF THE MUNICIPALITY OF RESIDENCE MUST ALWAYS BE LISTED.

SIGNATURES OF ELECTORS	PRINTED NAME OF ELECTORS	STREET & NUMBER OR RURAL ROUTE Rural address must also include box or fire no	MUNICIPALITY OF RESIDENCE Indicate Town, City, or Village	DATE OF SIGNING
1.	Dan J. Ward	14607 Burlington Rd.	☒ Town ☐ Village ☐ City Paris	7-3-16
2.	Krista Heinzen	14607 Burlington Rd	☒ Town ☐ Village ☐ City Paris	7-3-16
3.	Barbara J Foley	14805 BURLINGTON RD	☒ Town ☐ Village ☐ City PARIS	7-3-16
4.			☐ Town ☐ Village ☐ City	
5.			☐ Town ☐ Village ☐ City	
6.			☐ Town ☐ Village ☐ City	
7.			☐ Town ☐ Village ☐ City	
8.			☐ Town ☐ Village ☐ City	
9.			☐ Town ☐ Village ☐ City	
10			☐ Town ☐ Village ☐ City	

Certification of Circulator

I, Mike Kolnik (Name of circulator), certify: I reside at 2810 N Bremen St Milwaukee WI city (Circulator's residence - Include number, street, and municipality)

I further certify I am either a qualified elector of Wisconsin, or a U.S. citizen, age 18 or older who, if I were a resident of this state, would not be disqualified from voting under Wis. Stat. § 6.03. I personally circulated this petition and personally obtained each of the signatures on this petition. I know that the signers are electors of the municipality listed above. I know that each person signed the paper with full knowledge of its content on the date indicated opposite his or her name. I know their respective residences given. I intend to support this petition. I am aware that falsifying this certification is punishable under § 12.13(3)(a), Wis. Stats.

7-3-16 (Date)

(Signature of circulator)

Page No. 1

Complaint Challenging the Sufficiency of the Recall Petitions Against Ronald Kammerzelt

I, Ronald Kammerzelt, allege the recall petition filed against me is insufficient because the reason given for this proposed recall was misrepresented by the circulators based on the following facts:

1. There is no provision or requirement under state statute 60.10 to hold a town meeting for the purpose of giving the electors of a town the opportunity to vote on entering into a cooperative agreement with other local units of government.
2. That authority is specifically addressed and given to the elected members of the town board under Section 60.23 (1) – Miscellaneous Powers, Joint Participation.
3. Meetings and listening sessions over and above the public hearing, required by law, were held and attended by an overwhelming number of electorate of the town. Less than 1% of the town electors spoke against the Intergovernmental Agreement entered into with the Village of Somers at the public hearing before the vote was taken by the town board.
4. The best interests of the town of Paris as a whole were carefully considered and served with the action taken by the town board.

I, Ronald Kammerzelt, swear the above referenced information is true and correct to the best of my knowledge.

Dated this 15th day of July, 2016.

Ronald Kammerzelt

Subscribed and sworn to before me
This 15th day of July, 2016.

Notary Public, State of Wisconsin
My Commission expires: 10-12-18

BEVERLY MCCUMBER
Notary Public
State of Wisconsin

RESPONSE TO COMPLAINT dated July 15, 2016
CHALLENGING THE SUFFICIENCY OF THE RECALL PETITIONS
AGAINST Ronald Kammerzelt

The complaint challenging the reason given for the recall does not meet the requirements of State Statutes and is therefore without merit.

Section 9.10(2)(b) of Wisconsin State Statutes states that "A recall petition for a city, village, town, town sanitary district, or school district office shall contain a statement of a reason for the recall which is related to the official responsibilities of the official for whom removal is sought."

The state statutes are clear that there are two requirements regarding the reason given for the recall:

- There must be a statement of reason
- Such reason must be related to the official responsibilities of the official

Actual Statement of Reason for Recall circulated: **Failure to serve in the best interests of all Town of Paris residents.** State law requires towns to hold town meetings where all qualified electors who are age 18 or older or have lived in the town for at least ten days can discuss and vote on town matters. **Mr. Ronald Kammerzelt made a significant decision to sign an Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents and such residents were not provided an opportunity to vote on such matter before such agreement was signed.**

There are three reasons and all are related to the official responsibilities of the official for whom removal is sought:

- Failure to serve in the best interests of all Town of Paris residents.
- Signing the Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents.
- Not providing an opportunity for residents to vote on such matter before signing.

The Statement of Reason for recall meets the requirement of state statutes.
I, PAUL TERRY, swear the above referenced information is true and correct to the best of my knowledge.

Dated this 18 day of July 2016.

Paul Terry, Committee to Ronald Kammerzelt

Subscribed and sworn to before me
This 18 day of July, 2016

Heather Kruk
Notary Public, Kenosha County, WI
My Commission expires 5-26-19 ~~(is permanent)~~
Heather Kruk

RECEIVED
JUL 18 2016
TOWN OF PARIS
CLERK/TREASURER

REPLY TO THE REBUTTAL dated July 18, 2016
CHALLENGING THE SUFFICIENCY OF THE RECALL PETITIONS
AGAINST Ronald Kammerzelt

The rebuttal states the challenge does not meet state statutes and is without merit.

Statute 9.10 (4) makes it clear that misrepresentation is grounds to challenge.

By definition to misrepresent is to represent **Falsely or Unfairly.**

It is **Unfair** to expect the town board to take action that would satisfy everyone. A majority of electors spoke in favor of the town entering into the IGA with Somers. Majority Rule.

The other stated reasons give the person reading the petition the **False** impression that the town board was required or obligated to provide an opportunity for residents to vote on the agreement with Somers. For reasons stated and statutes cited in the challenge the petitioners statement of a reason for the recall is **UNFAIR, UNTRUE AND COMPLETELY WITHOUT MERIT.**

I, RONALD KAMMERZELT, swear the above referenced information is true and correct to the best of my knowledge.

Dated this 20th day of July, 2016.

Ronald Kammerzelt

Subscribed and sworn to before me
this 20th day of July, 2016.

Notary Public, State of Wisconsin
My Commission expires: 10-12-18

BEVERLY MCCUMBER
Notary Public
State of Wisconsin

In Re: Recall Petition Offered for Filing With Respect to Ronald Kammerzelt, Town of Paris, Supervisor

---

CERTIFICATE OF INSUFFICIENCY

I, Beverly McCumber, Clerk-Treasurer for the Town of Paris, pursuant to Sec. 9.10(4) Wis. Stat., hereby certify that:

1. On July 6, 2016, there was a Recall Petition filed with my office consisting of 36 Pages of Signatures (not all lines contain signatures) -- each entitled Recall Petition seeking the recall of the Town Supervisor, Ronald Kammerzelt, purported to contain a total of 298 signatures, under Sec. 9.10, Wis. Stat. A copy of the filing is attached hereto as **Exhibit A**.

2. A minimum of 202 signatures of qualified electors of the Town of Paris are required for the governing body to file the petition and order a recall election.

3. A challenge to the sufficiency of the petition was filed by the officeholder on July 15, 2016, a rebuttal was filed by Petitioner on July 18, 2016, and a reply was filed by the officeholder on July 20, 2016.

4. I have made a careful examination of the pages of petitions filed to determine their sufficiency, including a review of the challenge, rebuttal and reply .

5. I have determined that certain signatures on the filed petitions cannot be counted on the pages noted for the reasons stated:

Page 4	Contains an altered date on the Certification of Circulator and all signatures are not counted
Page 9	Signature 1 contains an illegible name and signature and is not counted
Page 12	Signature 7 contains an illegible name and signature and is not counted
Page 17	Contains an altered Signature on the Certification of Circulator and all signatures are not counted
Page 23	Contains an altered date on the Certification of Circulator and all signatures are not counted

Page 24	Contains an altered date on the Certification of Circulator and all signatures are not counted
Page 28	Signature 5 is a duplicate signature and is not counted
Page 30	Signature 8 contains an illegible name and signature and is not counted
Page 32	Signatures 3 and 4 are not legal residents/electors of the State of Wisconsin as they claim residency in South Dakota and are not counted

6. I have determined that based on the above findings, the number of signatures does meet the requirements of Sec. 9.20(1), Wis. Stat., in that they do equal or exceed 25% percent of the votes cast for governor at the last general election in the Town which requires 202 signatures. I have determined that there are 261 signatures that can be counted, which is more than the number required by law.

7. I have also determined that 75 signatures are of persons residing inside of the jurisdictional transfer area to the Village of Somers under the Intergovernmental Cooperation Agreement between the Village of Somers and the Town of Paris.

8. I find there is merit in the challenge filed by the officeholder and that the Petition offered for filing with this Office on July 6, 2016, consisting of 35 Pages of Signatures (not all lines contain signatures) -- each entitled Recall Petition seeking the recall of the Town Supervisor, Ronald Kammerzelt, **is insufficient** for the reasons stated in the challenge and reply thereto and for following reasons:

> The petition offered for filing seeking the recall of the officeholder is insufficient because it contains a statement that is false and misrepresents the official responsibilities of the officeholder for whom recall is sought. The first sentence of the Statement of Reason for Recall in the Petition is: "Failure to serve in the best interests of all Town of Paris residents." However, the petition goes on to state as additional reasons that "state law requires towns to hold town meetings where all qualified electors who are age 18 or older or have lived in the town for

at least ten days can discuss and vote on town matters. Mr. Ronald Kammerzelt made a significant decision to sign an Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents and such residents were not provided an opportunity to vote on the agreement before such agreement was signed." The second and third sentences of the Statement of Reason for Recall imply and send the message to persons who were presented with the Petition for signature that the officeholder violated Wisconsin law. That is not the case.

I am familiar with the statutory requirements for a Town meeting. Stating that the officeholder did not hold a town meeting when one was not required is misleading and a misrepresentation of the official responsibilities of the officeholder for whom recall is sought. A Town meeting was not required in order for the Town Board to approve and sign an Intergovernmental Cooperation Agreement under Sec. 66.0301, Wis. Stat.

I am also familiar with the requirements to approve and sign an Intergovernmental Cooperation Agreement. There was, in fact, an opportunity for the Town's residents to provide input to the Board on the matter of the Intergovernmental Cooperation Agreement because a public hearing was properly noticed and held on April 7, 2016 prior to such approval in accordance with Wisconsin law. There is no requirement under Sec. 66.0301, Wis. Stat., that the residents be provided with an opportunity to vote on the Intergovernmental Cooperation Agreement prior to the Town Board's approval. It is misleading to state that the officeholder failed to provide such an opportunity when the law did

not require it. It is a misrepresentation of the official responsibilities of the officeholder for whom recall is sought.

The misleading statements that the officeholder did not follow the law in carrying out his official responsibilities in the reasons for recall could have induced a person to sign the petition who would not have otherwise signed the petition. I find that the misleading and untrue statements make the Petition insufficient.

9. In making a determination and issuing this Certificate, I have spoken with staff at the Wisconsin Government Accountability Board, now the Wisconsin Elections Commission, and reviewed the following:

- Form of Petition for Recall and Instructions for preparing the petition (GAB Form 170)
- Recall of Local Elected Officials June 2015 published by the Wisconsin Government Accountability Board;
- NR GAB Recall Information 03-10-2011;
- Wis. Stat. Sec. 8.40;
- Wis. Stat. Sec. 9.10;
- Wis. Stat. Sec. 5.06; and
- Challenge filed by the officeholder on July 15, 2016, the rebuttal filed by Petitioner on July 18, 2016, and the reply filed by the officeholder on July 20, 2016

10. Pursuant to Sec. 9.10(4), Wis. Stat., the Petition(s) may be amended within five (5) days from the date of this Certificate to correct or otherwise address the insufficiencies, to the extent the insufficiencies are correctable. Any such amendments shall be filed with the Town Clerk.

11. Pursuant to Sec. 5.06, Wis. Stat., any elector of the Town of Paris, including the officeholder and the Petitioner, may file a written sworn complaint with the Wisconsin Elections Commission, previously known as the Government Accountability Board, within ten (10) days

of the date that the complainant knew or should have known of this determination, so as not to prejudice the rights of any party.

Certified this 5 day of August, 2016.

TOWN OF PARIS

By: _____
Beverly McCumber, Clerk-Treasurer

Subscribed to and sworn before me
this 5 day of August, 2016.

_____

Notary Public, State of Wisconsin
My commission expires: 10/28/19

HEATHER NIKULA
Notary Public
State of Wisconsin

State of Wisconsin
Before the Elections Commission

AFFIDAVIT

WEC 2016 SEP 07 PM 02:18

I, Joseph Kolnik, after first being duly sworn on oath deposes and says as follows:

That I affirm I am an adult resident of the State of Wisconsin and reside at 13215 38th street Kenosha, Wisconsin 53144 in the Township of Paris since 1980. I can be reach at (847) 409-1805 or E-Mail: kjoe429@yahoo.com.

In regards to the The Complaint of Joseph Kolnik, Complainant(s) against Beverly McCumber, Respondent, whose address is 2717 168th Avenue, Kenosha, WI 53144 regarding the Recall Petition against Ronald Kammerzelt.

Response to Counterclaim

Ms. McCumber is making a counterclaim in her sworn statement dated August 24, 2016 via paragraph 11.g:

> g. In answering numbered paragraph 7, Sec. EL 2.05, Wis. Adm. Code, does specify a presumption of validity. It does not however state that the presumption cannot be overcome by the plain language of the statutory requirements for adoption of an intergovernmental agreement. Also, Petitioners did not follow the administrative procedures to file affidavits to attempt to correct their submissions after receiving the Certificate of Insufficiency.

The accusation that the Petitioners did not follow the administrative procedures to file affidavits to attempt to correct their submissions after receiving the Certificate of Insufficiency is without merit as such procedure is not required under Wisconsin State Statutes or under Wisconsin Administrative Code.

- Wisconsin State Statutes section 9.10(4)(a) says that a Petition "may" be amended to correct any insufficiency within 5 days following the affixing of the original certificate.
- Wisconsin Administrative Code Chapter EL 2.05(4) also says that a nomination paper, ..., "may" be corrected by an affidavit of the circulator.

The "Recall of Local Elected Officials" June 2015 manual, Page 6 reiterates that correcting insufficiencies is an option and not a requirement.

Correcting an Insufficient Petition

If a recall petition is found to be insufficient the certificate shall state the particulars creating the insufficiency and a petitioner may amend the petition by filing affidavits or other proof correcting certain insufficiencies within 5 days following the attachment of the original certificate by the filing officer. §9.10(4)(a), Wis. Stats.

Correctable insufficiencies (See 9.10(2)(e) and (r), Wis. Stats.) include, but are not limited to:

- The failure of the circulator to sign the certification or to include all required information.
- The person signing the petition omitted the date or wrote the incorrect date.
- The failure of the circulator to write his or her complete address on the certification.

Further, the "Recall of Local Elected Officials" June 2015 manual, Page 9 does not require correcting insufficiencies prior to appealing a determination of insufficiency.

Counterclaim of Complainant

Clerk Beverly McCumber failed to follow procedures between August 12, 2016 and August 24, 2016 when she responded to the Sworn Written Complaint regarding the Recall of Ronald Kammerzelt.

Per Wisconsin Administrative Code EL 20.03(6), "Each party shall mail to, or personally serve on, each other party any subsequent pleading before filing the pleading with the commission and shall certify to the service on the pleading or in a cover letter filed with the pleading."

Per Wisconsin Administrative Code EL 20.04(3), "The respondent shall file with the commission a verified, written answer within 10 business days.

I certify that Beverly McCumber did not mail, personally serve or e-mail such response to me. I further certify that Ms. McCumber did not certify to such service on the pleading or in a cover letter filed with the pleading. Further, Ms. McCumber was reminded of such obligations via the August 12, 2016 letter from Nathan Judnic of the Wisconsin Elections Commission. Attached to this sworn written complaint is the August 12, 2016 letter from the Wisconsin Elections Commission. In the same paragraph that Mr. Judnic explained such requirements, Mr. Judnic also explained the potential consequences for failing to meet such obligation.

Per Wisconsin Administrative Code EL 20.04(7), A party that fails to obtain an extension of time to respond pursuant to sub. (2), or who fails to respond within 10 business days to a pleading mailed to the party's last known post office address that is not returned to the commission, may be deemed to have

admitted each allegation contained in the pleading, and to have accepted any other consequences for failing to respond to a pleading.

As the time has passed for Ms. McCumber to meet such obligation to provide such pleading to me before the commisison and she was reminded of such Wisconsin Elections Commission procedures at the time the Elections Commission forwarded the Sworn Written Complaint, I request Ms. McCumber's August 24, 2016 response be deemed to have not met the time requirement and thereby deemed to have admitted each allegation contained in the pleading per Wisconsin Administrative Code EL 20.04(7).

I certify that I have mailed Beverly McCumber, Respondent, a copy of this complaint prior to filing the pleading with the State of Wisconsin Elections Commission.

8-29-16
Date

Joseph Kolnik

STATE OF WISCONSIN

County of Milwaukee
(county of notarization)

ZACHARY WILLMERING
Notary Public
State of Wisconsin

Sworn to before me this 29 day of August, 2016.

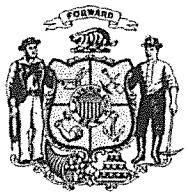
(Signature of person authorized to administer oaths)

My Commission expires: 06.23.20, or is permanent.
Notary Public or _____
(official title if not notary)**State of Wisconsin**

WISCONSIN ELECTIONS COMMISSION

212 EAST WASHINGTON AVENUE, 3RD FLOOR
POST OFFICE BOX 7984
MADISON, WI 53707-7984
(608) 261-2028
ELECTIONS@WI.GOV
ELECTIONS.WI.GOV

ADMINISTRATOR MICHAEL HAAS



COMMISSIONERS

BEVERLY R. GILL
JULIE M. GLANCEY
ANN S. JACOBS
STEVE KING
DON MILLIS
MARK L. THOMSEN, CHAIR

August 12, 2016

Clerk Beverly McCumber
Town of Paris
16607 Burlington Rd.
Union Grove, WI 53182

Sent via Email Only: townofparis@wi.net

Re: Complaints Filed With the Wisconsin Election Commission
In the Matters of: *Kolnik v. McCumber (EL 16-84) Recall Petition Against Kammerzelt*
Kolnik v. McCumber (EL 16-85) Recall Petition Against Gentz
Kolnik v. McCumber (EL 16-86) Recall Petition Against Monson

Dear Clerk McCumber:

This letter is in regard to three complaints filed by Joseph Kolnik which challenge your determination that the recall petitions filed against Ronald Kammerzelt, Virgil Gentz and Kenneth Monson were insufficient. Decisions of local election officials can be appealed to the Wisconsin Elections Commission ("Commission") for review under Wis. Stat. § 5.06 by filing a verified complaint. The Commission reviews the complaint and determines whether a local election official's determination was contrary to applicable election laws, or whether a local election official abused their discretion in administering applicable elections laws.

As part of resolving these complaints, the Commission requests that you file a **sworn**, written response to **each** of the complaints with the Commission at its offices at 212 East Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984, **by 4:30 p.m. on Wednesday, August 24, 2016. The Commission will accept electronic copies of your sworn responses via email, sent to nathan.judnic@wi.gov.** As three separate complaints have been filed, the Commission would prefer a separate response to each complaint, even if the issues involved are similar in each case.

Mr. Kolnik certified in his complaint that he has sent you a copy of the complaint, but if for some reason you do not have a copy, please let me know as soon as possible and I can provide copies to you electronically.

As to your written responses, the Commission requests a specific response to the allegations in each of the complaints. If there are any written or printed materials, or other exhibits that you

wish the Commission's staff to consider in their review of this matter, those materials should be included in your responses.

Board procedure requires that copies of the responses should be served on or mailed (by certified mail or e-mail) to Mr. Kolnik. Absence of a response may be treated by the Commission, in its deliberation or consideration of these matters as an acknowledgment of the truth of the assertions contained in the complaints.

This matter may be decided either by the Commission or by the Commission's Administrator. At the present time, the Commission's anticipates that these matters will be decided by the Commission's Administrator based on the submissions of the parties. If, for whatever reason, these matters will not be decided by the Commission's Administrator, we will notify you as soon as that determination is made.

If you have any questions, or if I can be of any other assistance, please contact me by phone at 608-267-0953 or by email at nathan.judnic@wi.gov. We appreciate your cooperation with this process.

Sincerely,

WISCONSIN ELECTIONS COMMISSION

/s/

Nathan W. Judnic
Legal Counsel

Cc: Michael Haas, Wisconsin Elections Commission Administrator
Joseph Kolnik via email: kjoe429@yahoo.com

State of Wisconsin
Elections Commission

AFFIDAVIT

The undersigned, after first being duly sworn, states under oath as follows:

That I affirm I am a resident of the State of Wisconsin and reside at 13215 38th street Kenosha, Wisconsin 53144 in the Township of Paris.

That I am offering this statement to the Wisconsin Elections Commission as a reply to the answer to complaint provided by Beverly McCumber on August 24, 2016 regarding the Complaint of Joseph Kolnik, Complainant(s) against Beverly McCumber, Respondent, whose address is 2717 168th Avenue, Kenosha, WI 53144 regarding the recall petition of Ronald Kammerzelt.

The clerk's continued emphasis on the reason statement being false is without merit.

Statement of Reason: Failure to serve in the best interests of all Town of Paris residents. State law requires towns to hold town meetings where all qualified electors who are age 18 or older or have lived in the town for at least ten days can discuss and vote on town matters. Mr. Kenneth Monson made a significant decision to sign an Intergovernmental Cooperation Agreement with the Village of Somers against the direct instruction of many town residents and such residents were not provided an opportunity to vote on such matter before such agreement was signed.

The clerk continues to focus in on the second sentence as being false. The subject of the second sentence is "state law" and the object of that sentence is "towns" (not the recalled officer). The second sentence is a combination of Wisconsin State Statutes 60.001, 60.11, 60.12, and 60.14.

- Per Section 60.001(3): "Town meeting" means the annual town meeting or a special town meeting.
- Per Section 60.11(1): REQUIREMENT: Each town shall hold an annual town meeting, as provided in this section.
- Per Section 60.14(1): QUALIFIED VOTERS: Any qualified elector of the town, as defined in Chapter 6, may vote at a town meeting.

The second sentence shows that qualified electors "can" discuss and vote on town matters per Wisconsin state law. Further, the 3rd sentence specifically mentions that residents were not provided an "opportunity" to vote – note that the reason statement does not say a "required right" to vote or say that such residents were illegally denied a right to vote.

WEC 01 SEP 2016 PM 4:17

The clerk's continued emphasis on the reason statement being misleading is without merit.
The 2nd sentence cannot misrepresent the official responsibilities of the recalled officer because the recalled officer is not the subject of the second sentence.

Further, to meet the burden of proof that the statement of reason was misleading, the challenger must have submitted by affidavit from an individual signing the petition, that such individual was misled when signing the petition. No such documentation of being misled was provided by anyone signing the petition. Contrarily, my signature that was thrown out by the clerk under the clerk's presumption I was misled and I have stated via affidavit that I was not misled. As such, the clerk has failed in her duties to require clear and convincing evidence of someone being misled in making her determination of insufficiency.

Having the recalled officer state that they believe the statement is misleading is not proof that the petitioners found the statement of reason misleading. Therefore, the challenger failed to present by affidavit or other supporting evidence a demonstration of being misled and such burden of proof applicable to establishing a challenge is clear and convincing evidence as required in Wisconsin Administrative Code Chapter EL 2.07.

Other Rebuttals to the Sworn Statement of the clerk
11.a: The clerk denies that the Administrative Code Sections limit the requirements of 9.10(2) and (4) of Wisconsin State Statutes.

- Wisconsin State Statutes Section 35.93 and Section 227.01(13) specify that the administrative code shall have the effect of law.

11.a: The clerk says that the complaint regarding her not being able to judge the petition is contrary to the specific directives given to her and then quotes Wisconsin State Statutes 9.10(2)(f), (g), (h), (m), and (q).

- Section 9.10(g) specifically states the burden of proof for any challenge rests with the individual bringing the challenge. The clerk has made the error in judgment when determining that the challenger met the burden of proof.

11.a: The challenge dated July 15, 2016 by the recalled officer only states that the reason statement was "misrepresented".

- Per Wisconsin State Statutes, the recalled officer's Reply to Rebuttal on July 20, 2016 can only respond to new information provided in the Rebuttal. The recalled officer should not be allowed to submit the July 20, 2016 Reply to Rebuttal unless addressing new information per Wisconsin State Statutes 9.10(3)(b). As new information was not presented in the July 18, 2016 Rebuttal (the Rebuttal solely responded to the challenge), the July 20, 2016 Reply to Rebuttal should not be allowed.
- The clerk's job is to review whether the challenger met the burden of proof in their challenge. Since the challenger did not challenge whether the statement was "false" but only that it was

misrepresented, the clerk must not rely on whether the statement was "false" in justification of her determination of insufficiency.

11.f: the clerk states that the Complainant's assertion that Joseph Kolnik and others were not mislead should be disregarded as Joseph Kolnik was one of the drafters of the stated reasons for recall and one of the circulators of the petitions.

- If I was one of the drafters of the reason statement, wouldn't that be even all the more reason why I was not misled. Yet, the clerk dismissed my signature as well as every other signature. The burden of proof applicable to establishing a challenge is clear and convincing evidence as required in Wisconsin Administrative Code Chapter EL 2.07, yet the clerk did not apply clear and convincing evidence when dismissing my signature along with others and I have stated via affidavit that I was not misled.

11.h: The clerk states that the commission should disregard the premise that the reason statement was advertising because such reason statement did not include biographical data or advertising for another person's campaign.

- The clerk is stating that an advertisement must contain "biographical data or advertising for another person's campaign" to be deemed advertising. I do not see such requirements in state statutes and I find no merit to the unsubstantiated opinion of the clerk.

Joseph Kolnik

Joseph Kolnik

8-31-16

Date

STATE OF WISCONSIN

County of Kenosha

(county of notarization)

Sworn to before me this 31st day of August, 2016.

(Signature of person authorized to administer oaths)

My Commission expires: August 21st, 2020 or is permanent.

Notary Public or N/A

(official title if not notary)

TIMOTHY R. LAMBIRIS
Notary Public
State of Wisconsin

STATE OF WISCONSIN
ELECTIONS COMMISSION

IN THE MATTER OF:

RECALL PETITION AGAINST RONALD KAMMERZELT

JOSEPH KOLNIK,

No. EL 16-84

v.

BEVERLY MCCUMBER.

SWORN STATEMENT OF BEVERLY MCCUMBER

STATE OF WISCONSIN)
) SS:
COUNTY OF KENOSHA)

I, Beverly McCumber, being first duly sworn on oath deposes and says as follows:

1. I am the Clerk/Treasurer for the Town of Paris, located in the County of Kenosha, State of Wisconsin.

2. That I am offering this sworn statement to the Wisconsin Elections Commission (the "Commission"), as requested in a letter dated August 31, 2016 from Nathan W. Judnic, Legal Counsel for the Commission, to provide a response to each Affidavit filed by Joseph Kolnik with the Commission dated August 29, 2016 (the "Complaint").

3. I agree with the contact information provided in the first and second unnumbered paragraphs of the Complaint. However, Joseph Kolnik has another email address that he uses to routinely correspond with me as Clerk and for requesting information from the Town prior to and during the year 2016 and that is jeepintoo@hotmail.com. During the months of June, July and August of 2016 he has utilized the email address jeepintoo@hotmail.com to contact me.

4. In reply to Mr. Kolnik's response to counterclaim, I agree that Mr. Kolnik could have filed an affidavit in attempt to correct the submissions but he chose not to.

5. In reply to Mr. Kolnik's counterclaim, I assert that:

a. I did follow the procedures and filed via email the copies of my sworn statements as instructed by the Commission and did so within 10 business days: "Board procedure requires that copies of the responses should be served on or mailed (by certified mail or e-mail) to Mr. Kolnik." I sent Mr. Kolnik a copy of my sworn statement via email on August 24, 2016 at the email address (jeepintoo@hotmail.com) that I know belongs to Mr. Kolnik based on his routine communications with my office. Attached as **Exhibit A** to this email is a copy of the email cover sheet showing that the email was sent to Mr. Kolnik. This email was my cover letter for transmittal of the sworn statement to Mr. Kolnik and to the Commission.

b. Mr. Kolnik routinely uses the email address of jeepintoo@hotmail.com to serve public record requests upon the Clerk's office and I have corresponded with him, as well as his spouse, at this email address.

c. The Administrative Code Sections cited by Mr. Kolnik provides the Wisconsin Elections Commission with some level of discretion. The Sections specify that the Commission may choose to disregard a filing that does not comply with the procedures, but is not required to do so. In this case, the record demonstrates that Mr. Kolnik was emailed a copy of the Clerk's Sworn Statement on August 24, 2016 and that he did receive a copy of the Sworn Statement by the Clerk as he filed a formal response with the Commission on September 1, 2016 (signed August 31, 2016 -- although Mr. Kolnik also did not certify he had sent copies to the Clerk in such affidavit). The Commission has the authority to waive any procedural irregularities, if any, if it so chooses and the Administrative Code Sections provide that authority under Section EL 20.04.

d. The purpose of the Code sections cited by Mr. Kolnik is to ensure copies of the documents filed with the Commission are received by the other party so that the other party can timely respond to the pleading. If there were technical defects in the certification or in the emailing as directed by the Commission, Mr. Kolnik was not prejudiced by the defect as evidenced by his filed responses with the Commission. As previously stated, the record of emails demonstrates that the purpose was met. The Commission should exercise its authority to deem the Clerk's Sworn Statements received and consider them in making its decision. If the Commission is going to disregard my sworn statements, it should also disregard Mr. Kolnik's complaint to be consistent. In this matter, there is no proof to show that I received the initial complaint prior to receiving the emailed copy from Nathan Judnic on August 12, 2016 as Mr. Kolnik asserts is required.

e. The Commission should take into consideration that there are conflicting provisions of the Code in regards to the timeframes to answer. For example, as Sec. EL 20.04 (8) specifies: "The time period for filing an

answer or reply begins 3 business days after the date of the transmittal letter from the administrator. An answer or reply will be treated as filed based on the postmark of the envelope transmitting the pleading." This process does not comport with the fact that the Commission directs and allows the filing to occur in a more informal way via email and then specifies a response is required within 10 business days. I do not quarrel with (and in fact support) the more informal nature of providing filings to the Commission via email. However, what should also be considered is the more informal way in which the Commission directed me to also email a copy to Mr. Kolnik. Such instruction provides for a simultaneous same day transmittal. Such transmittal is arguably better than a party mailing, via U.S. Mail, the document and then transmitting it via email to the Commission that same day. The effect of which would be the Commission receiving the document before the other party receiving the document. This is exactly what occurred with Mr. Kolnik's Affidavit that was dated September 1, 2016, I did not receive Mr. Kolnik's most recent Affidavit until September 7, 2016 via U.S. Mail. However, I received the same affidavit from the Commission via email on September 1, 2016 (the filing date with the Commission) and which was prior to receiving the Affidavits directly from Mr. Kolnik. In addition, I have no record of receiving the Affidavit dated August 29, 2016 directly from Mr. Kolnik. It would be counterproductive to disregard my sworn statements sent via email that are more timely delivered than Mr. Kolnik's via U.S. Mail. It would prejudice me and my office to disregard my sworn statements when I was following the Commission's instructions.

f. It is in the furtherance of the responsibilities of the Commission established under Sec. 5.05, Wis. Stat., and it is in the best interests of Complainant, the officials, the electorate, my office, and all Clerks and officials who may review petitions in the future for sufficiency, that the Commission address the substantive nature of this matter – that being whether the Clerk, in reviewing the petitions for sufficiency, also has the obligation and responsibility to (1) review whether <u>the statement of a reason for the recall is related to the official responsibilities of the official for whom removal is sought</u>; and (2) whether the statement should be required to correctly state the requirements of a Wisconsin law, if one is referenced in the statement by the person who offered the petition.

6. For all of the reasons stated above, the Commission should consider my sworn statements filed with the Wisconsin Elections Commission as it makes its decision in this matter and the Commission should address the substantive nature of this matter to provide guidance to electors who may submit recall petitions in the future and to the officials who must review them for compliance with the Wisconsin Statutes governing them.

7. I certify that I have emailed Joseph Kolnik a copy of this affidavit prior to and at the time of filing with the Commission.

Beverly McCumber

Subscribed and sworn to before me
this 13th day of September, 2016.

Amy E. Klemko
Notary Public, Kenosha County, WI
My Commission Expires: 5/10/19

AMY E. KLEMKO
NOTARY PUBLIC
STATE OF WISCONSIN

EXHIBIT
A

Clerk-Treasurer <townofparis@wi.net> August 24, 2016 2:23 PM
To: <Nathan.Judnic@wisconsin.gov>, "vicky kolnik" <jeepintoo@hotmail.com>, "Elaine Ekes" <esekes@peglawfirm.com>
Recall Petition against Paris Town Board

1 Attachment, 4.9 MB

Attached is the Sworn Statement of Beverly McCumber regarding the Recall Petition against the Town of Paris Board Member Ron Kammerzelt.

The Sworn Statement regarding the Recall Petitions for Board members Ken Monson and Virgil Gentz are in separate emails.

If there are any questions, please contact me at this email address. Office hours are Monday and Wednesday, 9 – 5: Tuesday 1 – 5 and Friday morning 9 – 1. The office is closed every Thursday.

Beverly McCumber
Clerk/Treasurer, Town of Paris
Phone: 262-859-3006
Fax: 262-859-3008

Scan0072.pdf (4.9 MB)

I hope the commission sees the lengths the clerk attempts to disrupt this process. Not only sending to the wrong e-mail address but also claiming she didn't receive documents we can prove she received.

WEC 15 SEP 2016 PM 02:17

E-Mail

As the Elections Commission forwarded the Clerks correspondence to me, I can confirm that I received each in a timely manner but the clerk failed to follow the instructions given.

In my initial challenge and each correspondence thereafter (3 different times), I specifically stated my address, my cell phone number and my e-mail address. The Commission has copies of such correspondence and can see the consistent use of kjoe429@yahoo.com.

Beverly McCumber "Clerk" sent the correspondence to jeepintoo@hotmail.com to purposefully cause a delay in my receipt of such correspondence.

My spouse owns such e-mail address and maintains the passwords for such. **I have never used such e-mail address nor do I have access to such e-mail address.** Further,

- I have never used such e-mail address to request information from the clerk or to correspond with the clerk.
- In 5a, the clerk incorrectly states that she "knows" such e-mail belongs to Mr. Kolnik.
- In 5b, the clerk incorrectly states that I routinely use this e-mail address and that she has corresponded with me at this e-mail address.

The clerk cannot provide proof of any of her assertions as they are untrue. The clerk made a willful attempt to both ignore the Wisconsin Administrative Code and the direct instructions of the Elections Commission when she sent the correspondence to jeepintoo@hotmail.com.

Receipt

In paragraph 5e, the clerk states that she didn't receive my most recent Affidavit until September 7, 2016. Each correspondence I mailed to the clerk, I mailed via certified mail and I required the clerk to personally sign for such mail so that I could be assured she received.

- The USPS attempted to deliver such correspondence to the clerk on September 1, 2016 (same date as the Elections Commission). **The only reason she didn't receive sooner is by her own volition.** The USPS maintains these records: EL349802575US documenting such receipt.

Further, in paragraph 5e, the clerk states she has no record of having received the Affidavit dated August 29, 2016.

- Besides receiving via e-mail from the Elections Commission, the clerk also signed for receipt of the August 29, 2016 Affidavit on August 30, 2016 (same as the Elections Commission). The USPS maintains these records: EL279111329US documenting such receipt.

I, JOSEPH KOLNIK, swear the above referenced information is true and correct to the best of my knowledge.

Dated this 14 day of September 2016.

Joseph Kolnik,

Committee to Recall Virgil Gentz
Committee to Recall Kenneth Monson
Committee to Recall Ronald Kammerzelt

Subscribed and sworn to before me
this 14th day of September, 2016.

ROSA HOGAN
Notary Public
State of Wisconsin

Notary Public, Kenosha County, WI
My Commission expires: 8/14/2020 (is permanent).

Wisconsin Elections Commission

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
(608) 261-2028
elections@wi.gov
elections.wi.gov

Administrator Michael Haas

COMMISSIONERS

Beverly R. Gill
Julie M. Glancey
Ann S. Jacobs
Steve King
Don Millis
Mark L. Thomsen, Chair

DATE: For the Meeting of October 14, 2016

TO: Members, Wisconsin Elections Commission

FROM: Michael Haas, Interim Administrator
Sharrie Hauge, Chief Administrative Officer

SUBJECT: Wisconsin Elections Commission's 2017-19 Biennial Budget

Overview and Process

On September 15, 2016, the agency submitted its 2017-2019 biennial budget request along with its proposal, as required by 2015 Act 201, for how the agency will meet the zero growth goal for each fiscal year of the 2017-19 biennium, and how to reduce the agency's state operations budget by 5 percent from its fiscal year 2016-17 adjusted base in each fiscal year of the 2017-19 biennium (see Attachment 1). The agency also posted the biennial budget request on its website at: http://www.gab.wi.gov/publications/other/2017-2019-budget-request.

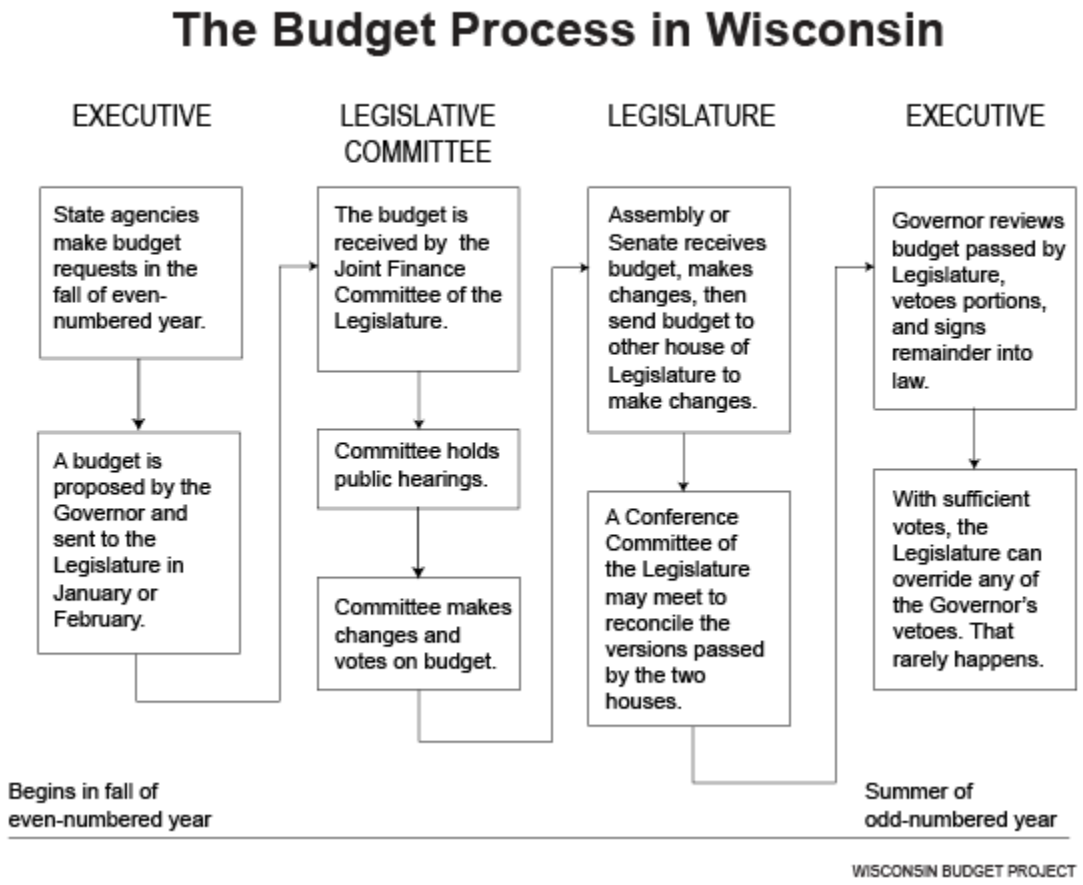
The State of Wisconsin's budget covers a 2-year period from July 1 of an odd-numbered year through June 30 of the next odd-numbered year. Development of the biennial budget involves a nearly year-long process. In the fall of an even-numbered year, state agencies submit their budget requests to the Department of Administration. Requests are compiled by the State Budget Office for review by the Governor. The Governor then uses those requests to propose a state budget, which is required by law to be delivered to the new legislature on or before the last Tuesday in January, although the legislature can extend the deadline at the Governor's request.

From there, the budget process moves to the legislative process. First, the Joint Committee on Finance conducts a series of hearings around the state to gather information and prepare its version of the budget bill.

Second, the budget process moves to the full Assembly or full Senate. One house takes up the Joint Finance version of the bill and its members propose and debate amendments. Eventually, the full membership of that house votes on the entire bill. Once it passes its version, the bill moves to the other house of the Legislature and the process starts over again. If the two houses pass versions of the bill that are significantly different from each other, a Conference Committee consisting of members from each house is appointed to iron out the differences.

After the Conference Committee finalizes a compromise version of the bill, it returns to both houses for approval. The budget bill is sent to the Governor upon approval of both houses. The Governor has the authority to make line-item vetoes, change dollar values, or delete language. The Legislature may override any veto by the Governor, but may do so only with a two-thirds vote of both houses.

To meet the state's budgetary cycle, the budget must be signed and effective by July 1 of the odd-numbered year. If the budget is late, revenues and expenditures are carried over at the level from the previous budget until the new budget is signed.



<u>Wisconsin Elections Commission Budget Proposal</u>

The Wisconsin Elections Commission proposed budget consists of the adjusted base funding level from FY16, standard budget adjustments and four decision items (see chart below).

	Decision Item	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
2000	Adjusted Base Funding Level	$5,069,400	$5,069,400	31.75	31.75
3002	Removal of Non-continuing Elements from the Base	($1,376,100)	($2,959,300)	(22.00)	(22.00)
3003	Full Funding of Continuing Position Salaries and Fringe Benefits	($177,100)	($177,100)	0.00	0.00
3005	Reclassifications and Semiautomatic Pay Progression	$34,500	$34,500	0.00	0.00
3010	Full Funding of Lease and Directed Moves Costs	($45,400)	$400	0.00	0.00
4000	Decrease in Spending Authority for Appr 21	($6,000)	($6,000)	0.00	0.00
4001	Convert Agency Operating Costs from Federal to GPR Funds	$1,337,900	$2,442,100	22.00	22.00
4002	Funding for Commissioner Per Diems and Meeting Expenses	$8,600	$8,600	0.00	0.00
4003	Increase Public Information Officer/Webmaster Position to 1 FTE	$20,500	$20,500	0.25	0.25
	TOTAL	**$4,866,300**	**$4,433,100**	**32.00**	**32.00**

The agency requested the extension of position authority for the federally-funded positions, which expire at the end of the current fiscal year, and to create 22 GPR-funded positions beginning July 1, 2018, as well as GPR funds for the continuation of IT services, software assurance, and the Four-Year Maintenance and Accessibility Audit programs. The agency also requested the addition of a .25 GPR funded FTE position to enable the agency to have a full-time webmaster/public information officer to maintain the agency's website, respond to public records requests, ensure compliance with records retention requirements, and handle media communications. The agency also requested sufficient funding to make legislatively-required per diem payments to Commission members.

While the Agency's Biennial Budget Summary (Attachment 2) indicates a 56% increase in General Purpose Revenue (GPR) from the base-year doubled, when considering the entire agency's funding revenues, it indicates an 8.3% decrease from the base year doubled standard. The GPR increase reflects the need to replace the expiring federal funds which have subsidized over half the agency's budget since 2004 with GPR funds.

ATTACHMENT 1

ACT 201

Proposal under s. 16.42(4)(b)2.: **0% change in each fiscal year**
FY: **FY18**
Agency: ELEC - 510

Exclusions: Federal
Debt Service

Columns A-G were prepopulated for agencies to reflect state operations adjusted base and reductions agreed to by DOA and LFB. See Appendix H for instructions on how to complete these templates.

Proposed $ and Proposed FTE columns reflect total agency proposed spending and positions for indicated fiscal year. These amounts should include standard budget adjustments (SBAs), any proposed reallocations or reductions to meet the target, and any other requests that the agency would want considered under this proposal.

Appropriations with zero dollars and zero FTEs are not loaded into the template. If you have any questions, contact your SBO analyst.

IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY18 TO FY18 AND 19.

	Appropriation		Fund	Adjusted Base		(See Note 1) 0% Change	**Proposed Budget 2017-18**		Item	Change from Adj Base		(See Note 2) Remove SBAs		Change from Adjusted Base after Removal of SBAs	
Agency	Alpha	Numeric	Source	$	FTE	Target	Proposed $	Proposed FTE	Ref.	$	FTE	$	FTE	$	FTE
510	1a	101	GPR	1,938,900	9.75	0	1,863,600	10.00		(75,300)	0.25	104,400	0.00	29,100	0.25
510	1be	105	GPR	25,000	0.00	0	1,900	0.00	1	(23,100)	0.00	0	0.00	(23,100)	0.00
510	1c	109	GPR	82,600	0.00	0	82,600	0.00		0	0.00	0	0.00	0	0.00
510	1h	121	PR	7,700	0.00	0	1,700	0.00	2	(6,000)	0.00	0	0.00	(6,000)	0.00
510	1t	160	SEG	100	0.00	0	100	0.00		0	0.00	0	0.00	0	0.00
Totals				**2,054,300**	**9.75**	**0**	**1,949,900**	**10.00**		**(104,400)**	**0.25**	**104,400**	**0.00**	**0**	**0.25**

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.
Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Target Reduction = 0

Difference = **0**
Should equal $0

Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency

1 Decrease appn 105 exp authority by $23,100 to meet $0 growth target
2 Decrease appn 121 exp authority by $6,000 to bring exp authority in line with available revenues

ATTACHMENT 1

ACT 201

Proposal under s. 16.42(4)(b)1.: **5% change in each fiscal year**

FY: **FY18**

Agency: ELEC - 510

Exclusions: Federal
Debt Service

Columns A-G were prepopulated for agencies to reflect state operations adjusted base and reductions agreed to by DOA and LFB. See Appendix H for instructions on how to complete these templates.

Proposed $ and Proposed FTE columns reflect total agency proposed spending and positions for indicated fiscal year. These amounts should include standard budget adjustments (SBAs), any proposed reallocations or reductions to meet the target, and any other requests that the agency would want considered under this proposal.

Appropriations with zero dollars and zero FTEs are not loaded into the template. If you have any questions, contact your SBO analyst.

IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY18 TO FY18 AND 19.

	Appropriation		Fund	Adjusted Base		(See Note 1) 5% Reduction	**Proposed Budget 2017-18**		Item	Change from Adj Base		(See Note 2) Remove SBAs		Change from Adjusted Base after Removal of SBAs	
Agency	Alpha	Numeric	Source	$	FTE	Target	Proposed $	Proposed FTE	Ref.	$	FTE	$	FTE	$	FTE
510	1a	101	GPR	1,938,900	9.75	(96,900)	1,834,500	10.00	1	(104,400)	0.25	104,400	0.00	0	0.25
510	1be	105	GPR	25,000	0.00	(1,300)	-	0.00	2	(25,000)	0.00	0	0.00	(25,000)	0.00
510	1c	109	GPR	82,600	0.00	(4,100)	11,000	0.00	3	(71,600)	0.00	0	0.00	(71,600)	0.00
510	1h	121	PR	7,700	0.00	(400)	1,700	0.00	4	(6,000)	0.00	0	0.00	(6,000)	0.00
510	1t	160	SEG	100	0.00	0	-	0.00		(100)	0.00	0	0.00	(100)	0.00
Totals				**2,054,300**	**9.75**	**(102,700)**	**1,847,200**	**10.00**		**(207,100)**	**0.25**	**104,400**	**0.00**	**(102,700)**	**0.25**

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.
Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Target Reduction = (102,700)

Difference = **0**
Should equal $0

Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency

1 The agency did not include DINs 4002-4003 (+29,100) in order to meet the 5% reduction
2 The agency will need to eliminate the Investigations appropriation as a part of the 5% budget reduction.
3 The agency will be forced to reduce its Voter ID training budget by $71,600 as part of the 5% reduction
4 Decrease appn 121 exp authority by $6,000 to bring exp authority in line with available revenues

DINs 4002-4003 were included in the calculation of the 5% reduction and then subsequently removed (see formula box). DINs 4002-4003 are a part of the WEC initial 18-19 request and then removed in the same cell. This was the agency's approach to meet the 5% reduction.

ATTACHMENT 1

ACT 201

Proposal under s. 16.42(4)(b)2.: **0% change in each fiscal year**

FY: **FY19**

Agency: ELEC - 510

IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY18 TO FY18 AND 19.

	Appropriation		Fund	Adjusted Base		(See Note 1) 0% Change	**Proposed Budget 2018-19**		Item	Change from Adj Base		(See Note 2) Remove SBAs		Change from Adjusted Base after Removal of SBAs	
Agency	Alpha	Numeric	Source	$	FTE	Target	Proposed $	Proposed FTE	Ref.	$	FTE	$	FTE	$	FTE
510	1a	101	GPR	1,938,900	9.75	0	1,881,600	10.00	1	(57,300)	0.25	86,400	0.00	29,100	0.25
510	1be	105	GPR	25,000	0.00	0	-	0.00	2	(25,000)	0.00	0	0.00	(25,000)	0.00
510	1c	109	GPR	82,600	0.00	0	78,500	0.00	3	(4,100)	0.00	0	0.00	(4,100)	0.00
510	1h	121	PR	7,700	0.00	0	7,700	0.00	4	0	0.00	0	0.00	0	0.00
510	1t	160	SEG	100	0.00	0	100	0.00		0	0.00	0	0.00	0	0.00
Totals				**2,054,300**	**9.75**	**0**	**1,967,900**	**10.00**		**(86,400)**	**0.25**	**86,400**	**0.00**	**0**	**0.25**

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Target Reduction = 0

Difference = **0**

Should equal $0

Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency

1 The agency did not include DIN 4001 (+$2,442,100) in order to meet the $0 target

2 The agency will need to eliminate the investigations appropriation to meet the $0 target

3 The agency will be forced to reduce its Voter ID training budget by $4,100 as part of the 5% reduction

4 Decrease appn 121 exp authority by $6,000 to bring exp authority in line with available revenues

DIN 4001 was included in the calculation of the 0% reduction , and then subsequently removed (see formula box). DIN 4001 is part of the WEC 18-19 request then removed in the same cell This was the agency's approach to meet the 0% reduction.

DIN 4000 was also included in the calculation of the 0% reduction, and then subsequently removed (see formula box). DIN 4000 is a part of the WEC 18-19 request then removed in the same cell. This was the agency's approach to meet the 0%.

ATTACHMENT 1

ACT 201

Proposal under s. 16.42(4)(b)1.: **5% change in each fiscal year**

FY: **FY19**

Agency: ELEC - 510

IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY18 TO FY18 AND 19.

Agency	Appropriation Alpha	Appropriation Numeric	Fund Source	Adjusted Base $	Adjusted Base FTE	(See Note 1) 5% Reduction Target	Proposed Budget 2018-19 Proposed $	Proposed Budget 2018-19 Proposed FTE	Item Ref.	Change from Adj Base $	Change from Adj Base FTE	(See Note 2) Remove SBAs $	(See Note 2) Remove SBAs FTE	Change from Adjusted Base after Removal of SBAs $	Change from Adjusted Base after Removal of SBAs FTE
510	1a	101	GPR	1,938,900	9.75	(96,900)	1,852,500	9.75	1	(86,400)	0.00	86,400	0.00	0	0.00
510	1be	105	GPR	25,000	0.00	(1,300)	-	0.00	2	(25,000)	0.00	0	0.00	(25,000)	0.00
510	1c	109	GPR	82,600	0.00	(4,100)	10,900	0.00	3	(71,700)	0.00	0	0.00	(71,700)	0.00
510	1h	121	PR	7,700	0.00	(400)	1,700	0.00	4	(6,000)	0.00	0	0.00	(6,000)	0.00
510	1t	160	SEG	100	0.00	0	100	0.00		0	0.00	0	0.00	0	0.00
Totals				**2,054,300**	**9.75**	**(102,700)**	**1,865,200**	**9.75**		**(189,100)**	**0.00**	**86,400**	**0.00**	**(102,700)**	**0.00**

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Target Reduction = (102,700)

Difference = **0**

Should equal $0

Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency

1 The agency did not include DINs 4001-4003 (+$2,442,100 +8,600+20,500) in order to meet the 5% reduction

2 The agency will need to eliminate the Investigation appropriationto reach as a part of the 5% reduction

3 The agency will be forced to reduce its Voter ID training budget by $71,700 as part of the 5% reduction

4 Decrease appn 121 exp authority by $6,000 to bring exp authority in line with available revenues

DINs 4001-4003 were included in the calculation of the 5% reduction and then subsequently removed (see formula box). DINs 4001-4003 are a part of the WEC 18-19 request and then removed in the same cell. This was the agency's approach to meet the 5% reduction.

ATTACHMENT 2

Elections Commission **1719 Biennial Budget**

Source of Funds		Prior Year Total	Adjusted Base	ANNUAL SUMMARY 1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE	Base Year Doubled (BYD)	BIENNIAL SUMMARY Biennial Request	Change From (BYD)	Change From BYD %
GPR	S	$0	$2,046,500	$1,971,200	$4,431,300	10.00	32.00	$4,093,000	$6,402,500	$2,309,500	56.4%
Total		$0	$2,046,500	$1,971,200	$4,431,300	10.00	32.00	$4,093,000	$6,402,500	$2,309,500	56.4%
PR	S	$0	$7,700	$1,700	$1,700	0.00	0.00	$15,400	$3,400	($12,000)	-77.9%
Total		$0	$7,700	$1,700	$1,700	0.00	0.00	$15,400	$3,400	($12,000)	-77.9%
PR Federal	S	$0	$195,700	$157,700	$0	0.00	0.00	$391,400	$157,700	($233,700)	-59.7%
Total		$0	$195,700	$157,700	$0	0.00	0.00	$391,400	$157,700	($233,700)	-59.7%
SEG	S	$0	$100	$100	$100	0.00	0.00	$200	$200	$0	0.0%
Total		$0	$100	$100	$100	0.00	0.00	$200	$200	$0	0.0%
SEG Federal	S	$0	$2,819,400	$2,735,600	$0	22.00	0.00	$5,638,800	$2,735,600	($2,903,200)	-51.5%
Total		$0	$2,819,400	$2,735,600	$0	22.00	0.00	$5,638,800	$2,735,600	($2,903,200)	-51.5%
Grand Total		$0	$5,069,400	$4,866,300	$4,433,100	32.00	32.00	$10,138,800	$9,299,400	($839,400)	-8.3%

Wisconsin Elections Commission

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elections.wi.gov

Administrator Michael Haas

COMMISSIONERS

Beverly R. Gill
Julie M. Glancey
Ann S. Jacobs
Steve King
Don Millis
Mark L. Thomsen, Chair

MEMORANDUM

DATE: For the October 14, 2016 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Michael Haas, Interim Administrator
Sharrie Hauge, Chief Administrative Officer

SUBJECT: Management and Administrative Update

Since the last Commission meeting (August 30), staff of the Elections Division and the Elections Commission have focused on the following tasks:

1. Financial Services Activity

- The State Controller's Office (SCO) and our financial team are working to close FY-16. The state closing cycle was extended from previous years due to the new STAR system.
- After State-wide FY-16 closing, SCO will meet with our financial team to formally close out the GAB.
- Staff is setting up the FY-17 operating budgets in the STAR system.
- FY-17 purchase orders are being processed in STAR, including those to hire and retain temporary staffing services related to the current election cycle.
- We continue working with suppliers and vendors to separate all GAB accounts into Elections and/or Ethics Commissions accounts.
- We are working on our annual Internal Controls report, along with STAR role mapping to ensure adequate financial controls are maintained.
- The quarterly FVAP report, period ending Aug. 31 2016 was timely filed; total cumulative expenditures from inception were $1,580,071.91 (82% of total $1,919,864 allowable), leaving the unobligated balance at $339,792.09.

- Current quarterly FVAP expenditure billing is in process.

- FY-17 rent has been allocated between the Commissions based on square footage used by each Commission, allocated by appropriation and department. The Elections Commission monthly rent allocation is $17,492.67.

- Expenses for the two month period ending 08/31/2016:
  - Salary and Fringe Expense: $389,568.13
  - Supplies and Services: $314,209.21

2. Procurements

Anticipating high call volume and workload due to the ERIC Voter Registration postcards; staff procured:

- Call center services of Beyond Vision (a certified work center) to handle increased call volume. Contract dates 9/15/2016-3/15/2017 and can be cancelled without cause with 30 days written notice: Purchase Order written for $12,000.

- To handle increased office workload, temporary staff from State mandatory contracts was procured for 8 staff; up to 6 weeks: Purchase Order written for $3,600.

- <u>ERIC Mailing</u>

Postcards Mailed	Total Cost of Postage	Total Cost of Printing*	Total Cost of Printing and Postage	Average Cost per Postcard Mailed	Postcard Mailing Dates
1,238,535	$ 175,063.39	$ 35,493.71	$ 210,557.10	$ 0.17	09/26/2016-09/28/2016

3. Staffing

Staffing continues to be a challenge for the agency. We currently have five-vacant Elections Specialist positions. We are continuing to work with the DOA Bureau of Personnel staff to finalize the job announcements, get the positions posted and to complete the examination and evaluation materials for the positions.

4. Meetings and Presentations

On September 7, Sharrie Hauge and Michael Haas attended an all-day session at the Department of Administration related to the proposed Shared Services initiative. The initiative was part of the 2015-17 budget and requires DOA to submit a report to the Legislature outlining a plan for DOA to assume responsibility for certain agency tasks, including human resources, finances, and IT support. The initiative is intended to improve efficiency of performing common tasks across state agencies. The conference involved leadership of state agencies to introduce strategic concepts and provide input regarding the Shared Services initiative.

On September 12 – 15, Ross Hein attended a meeting of the Technical Guidelines Development Committee (TGDC) in Gaithersburg, Maryland. The TGDC is an advisory committee to the U.S. Election Assistance Commission (EAC), and it provides recommendations on voluntary standards and guidelines related to voting equipment and technologies. It is composed of fourteen members selected from various standards boards and for their technical and scientific expertise related to voting systems and equipment. The TGDC is currently focused on developing the next iteration of national voting equipment certification standards. Ross serves as the Vice Chair of the TGDC, and his expertise and participation regarding voting equipment matters always reflect well on the agency and the State.