

Meeting of the Board

Tuesday, October 23, 2012

Agenda
Open Session

9:00 A.M.

G.A.B. Conference Room

212 East Washington Avenue, Third Floor

Madison, Wisconsin

Tuesday, October 23, 2012

9:00 A.M.

A. Call to Order

B. Director's Report of Appropriate Meeting Notice

C. Minutes of Previous Meeting

1. August 28, 2012 Meeting Page 3

D. Personal Appearances

**E. Elections Division Preparedness Report for November 6, 2012
Presidential and General Election**

F. Legal Team Report on Observer and Proof of Residence Issues Page 12

G. Ethics and Accountability Division Demonstration of Lobbying Website

H. Director's Report

1. Ethics and Accountability Division Report - campaign finance, ethics, and lobbying administration. Page 60

2. Elections Division Report – election administration. Page 64

3. Office of General Counsel Report – general administration. Page 83

I. Closed Session

- 5.05 (6a) and 19.85 (1) (h) The Board's deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.
- 19.85 (1) (g) The Board may confer with legal counsel concerning litigation strategy.
- 19.851 The Board's deliberations concerning investigations of any violation of the ethics code, lobbying law, and campaign finance law shall be in closed session.
- 19.85 (1) (c) The Board may consider performance evaluation data of a public employee over which it exercises responsibility.

The Government Accountability Board has scheduled its next meeting for Tuesday, December 18, 2012 at the Government Accountability Board offices, 212 East Washington Avenue, Third Floor in Madison, Wisconsin beginning at 9:00 a.m.

The Government Accountability Board may conduct a roll call vote, a voice vote, or otherwise decide to approve, reject, or modify any item on this agenda.

State of Wisconsin\Government Accountability Board

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JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

Room 412 East, State Capitol

Madison, Wisconsin

August 28, 2012

9:00 a.m.

Open Session Minutes

| <u>Summary of Significant Actions Taken</u> | <u>Page</u> |
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| A. Approved Minutes of Previous Meeting | 1 |
| B. Approved Ballot Access for Independent Candidates for President | 2 |
| C. Approved Use of Electronic Proof of Residence Documents | 4 |
| D. Approved Elections Systems & Software Request for Approval Unity 3.2.0.0 Revision 3 Voting System | 6 |
| E. Adopt 2013 Meeting Schedule | 6 |
| F. Approve Agency's Proposed 2013-2015 Budget | 7 |

Present: Judge David G. Deininger, Judge Michael Brennan, Judge Gerald C. Nichol,
Judge Thomas H. Barland, Judge Thomas Cane and Judge Timothy Vocke

Staff present: Kevin Kennedy, Nathaniel E. Robinson, Jonathan Becker, Shane Falk, Michael
Haas, Ross Hein, Sharrie Hauge, David Buerger, and Reid Magney

A. Call to Order

Judge Deininger called the meeting to order at 9:01 a.m.

B. Director's Report of Appropriate Meeting Notice

Director and General Counsel Kevin Kennedy informed the Board that proper notice was given for the meeting.

C. Minutes of Previous Meeting

June 8, 2012 Meeting

MOTION: Approve the Open Session minutes of the meeting of June 8, 2012. Moved by Judge Nichol, seconded by Judge Cane. Motion carried unanimously.

D. Personal Appearances from Members of the Public

Attorney Susan Crawford of Cullen Weston Pines & Bach appeared behalf of Jerome S. White and Phyllis M. Scherrer of the Socialist Equality Party and Jill Stein and Ben Manski of the Green Party to urge the Board to accept staff recommendations to include their names as Independent candidates for President and Vice President in the 2012 General Election. She said errors in nominating petitions were oversights due to redistricting.

E. Independent Presidential Candidates

Elections Specialist David Buerger and Staff Counsel Shane Falk presented oral and written reports regarding ballot access and nomination paper sufficiency for the Green Party and the Socialist Equality Party. Mr. Falk reported that the Wisconsin Supreme Court had ruled that residency requirements for presidential electors were directory and not mandatory, although that ruling was not made in an official decision of the Court. If the GAB were to litigate this matter, it is likely that a Court would make a similar ruling.

MOTION: Find that Jerome White and Phyllis Scherer submitted 2,799 valid nomination signatures and approve staff's August 14, 2012 analysis and determination of ballot status for Jerome White and Phyllis Scherrer as Independent candidates for President and Vice President at the November 6, 2012 General Election, representing the Socialist Equality Party. Also find that Jill Stein and Ben Manski submitted 2,276 valid nomination signatures and approve staff's August 14, 2012 analysis and determination of ballot status for Jill Stein and Ben Manski as Independent candidates for President and Vice President at the November 6, 2012 General Election, representing the Green Party. Moved by Judge Barland, seconded by Judge Nichol. Motion carried unanimously.

D. Personal Appearances from Members of the Public (continued)

Mary Ann Hanson of Brookfield appeared on her own behalf to express concerns about special voting deputies in nursing homes, and urged the Board to make training about special voting deputies part of its Back to Basics training program for local election officials.

Discussion.

Ardis Cerny of Pewaukee appeared on her own behalf to comment on and ask questions about procedures for mailing verification postcards to people who register to vote. She reported having asked 12 clerks and was told that the clerks did not do the verification postcards, but New Berlin was doing them. She stated that there is no G.A.B. memo directing clerks to mail these verification postcards and therefore no one is doing them.

She also indicated that for the June 5, 2012 election, there were 266,700 people registered and she wanted to know whether verification postcards were sent to these voters.

Debbie Morin of West Allis appeared on her own behalf to express concerns about the complexity of processing absentee ballots. She stated a concern that clerks have not had sufficient time to integrate new procedures, including security for ballots returned during the three days following the election when they can still be counted. She indicated that 675,000 absentee ballots were requested in 2008 and 640,000 were returned. We have not had that large of an election yet and she fears there will be issues with the November 6, 2012 election. In general, she said that the Election Administration Manual is now 206 pages and the absentee manual is 80 pages, which is a lot for clerks and election officials to comprehend.

Andrea Kaminski of Madison appeared on behalf of the League of Women Voters of Wisconsin and urged the Board to accept electronic versions of proof of residence (POR) documents.

Discussion.

Attorney Ann Jacobs of Milwaukee appeared on behalf of Wisconsin Election Protection to discuss use of electronic POR and urge the Board to adopt its use.

Rebecca Mason of Racine appeared on behalf of the Institute for One Wisconsin to discuss electronic POR, and said she was surprised by the staff's recommendation against adopting it prior to the November General Election. She said some clerks already use it, e.g. Madison, Milwaukee, and Racine.

Discussion.

Dane County Clerk Karen Peters appeared to discuss electronic POR and said it is the best thing that could happen so clerks do not have to turn away otherwise qualified voters. She indicated that she polled 61 municipal clerks and they were not worried about forged documents, but were worried about implementing this change so quickly. She indicated that some clerks already were accepting electronic POR documents. She also indicated that some clerks were worried they would be required to have internet access at the polling site, which in some places is impossible. Finally, she indicated that use of electronic POR documents in Madison would be very helpful.

City of Sun Prairie Clerk Diane Hermann Brown appeared to discuss POR. She urged the Board to make a decision on the issue today instead of waiting for October. She said electronic POR has been accepted in her office when staff look up voter applicants on tax rolls and water bills. She conducted a survey and found that clerks were split 50/50 on the use of electronic POR documents. She indicated that she provides multiple laptops on election day and some clerks have them in the polling places. Finally, she indicated that clerks do not want to be required to provide laptops at the polling places.

Analiese Eicher of Madison appeared on behalf of the United Council of UW Students in favor of electronic POR. She indicated that tuition is paid on-line, financial aid is applied for and processed on-line, and she even received her lease on-line. She explained that printing documents is an issue because not every student has access to a printer. The loss of the student housing list for registration is a problem and in the past students would bring in a lap top and printer to the polling place and assist with providing POR documents.

Eric Johnson of Milwaukee appeared on his own behalf to speak in favor of electronic POR. He said it would help students who move frequently. He indicated that he receives no paper mail.

Alexander Haas of Milwaukee appeared on his own behalf to speak in favor of electronic POR. He indicated that his electronic T-Mobile phone and WE energy bills are exactly the same as paper versions. He also indicated that electronic POR documents are actually more secure than paper versions.

Zach Madden of Madison appeared on his own behalf to speak in favor of electronic POR. He lives in a dorm and does not receive utility bills. His bank statements are all on-line and he does not receive paper statements. He also indicated that all his work payroll functions are done on-line - clocking in and out and pay.

Thomas Trehus of La Crosse appeared on his own behalf to speak in favor of electronic POR. He indicated that all his bills are electronic. He has witnessed friends being turned away at the polls. It seems ridiculous that a student has to print off the UW LaCrosse enrollment form to be a valid POR document. He argued that the printing requirement amounted to a poll tax because it costs \$.06 per page.

Michael Tecca of Madison appeared on his own behalf to speak in favor of electronic POR. She indicated that this is a convenience for students and helps to encourage student participation in elections. In addition, since she is a student that came to Wisconsin from another state, it is very important.

Lilah Myhre of Sauk City appeared on her own behalf to speak in favor of electronic POR. She indicated that most students cannot use their driver's license as a POR document, so they need another readily available way to provide POR.

Sean Kennedy of Madison appeared on his own behalf to speak in favor of electronic POR.

Rachel Cohen of Madison appeared on her own behalf to speak in favor of electronic POR.

Michael Browne of Madison appeared on behalf of the Institute for One Wisconsin to support electronic POR. He clarified that no one is asking the Board to expand the types

of documents that are valid, but only asking that voters be permitted to provide the currently valid documents in the form that they are received, electronic.

I. Electronic Proof of Residence

Staff Counsel Michael Haas presented an oral and written report. Mr. Haas said the staff is recommending against electronic POR at this time to give municipal and county clerks the opportunity to provide feedback on this change in policy. The staff has already begun its Back to Basics training for local election officials, which does not include electronic POR.

Discussion.

Judge Cane said the statutes require registrants to provide an identifying document, and providing means showing, regardless of its form.

Director Kennedy said the staff is reluctant to make a change in policy without Board direction, and urged the Board to address the issue today instead of at the next meeting right before the November election. Staff's biggest concern is that local election officials require proper documentation, based on criticism from the June 5 recall election about proper documentation.

MOTION: Approve use of electronic proof of residence forthwith, to be used only for statutorily required proof of residence documents. Moved by Judge Nichol, seconded by Judge Brennan.

Judge Vocke offered a friendly amendment that it is the responsibility of the voter to provide the electronic device upon which the document is to be displayed, not the municipal clerk.

Discussion.

Judge Deininger restated the motion and called the question.

MOTION: Interpret identifying document as used in Wis. Stat. § 6.34 to include electronic documents displayed on electronic devices which may be used for registration purposes. It shall not be the responsibility of municipalities to provide devices or internet access to facilitate this process.

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|--------------------------|-----|------------|-----|
| Roll call vote: Barland: | Aye | Brennan: | Aye |
| Cane: | Aye | Deininger: | Aye |
| Nichol: | Aye | Vocke: | Aye |

Motion carried unanimously.

Judge Deininger called a recess at 11 a.m. The Board reconvened at 11:07 a.m.

D. Personal Appearances from Members of the Public (continued)

Edward Kuharski of Madison appeared on his own behalf to oppose the request of Elections System & Software (ES&S) for approval of the Unity 3.2.0.0 Revision 3 Voting System. He said he attended the equipment demonstration, and believes we need human beings to count ballots, not machines.

Attorney Jim Mueller of Cross Plains appeared on behalf of Wisconsin Counts to comment on the ES&S request. He said it is good that the system will produce images of the ballots, and urged the Board to give clerks guidance to turn that functionality on. He also said ES&S should be required to allow access to its source code.

Brian Bliss of Madison appeared on his own behalf to comment on the ES&S request. He claimed to be able to damage the equipment using a rare earth magnet, and described his efforts at the public demonstration to insert a commercial USB memory stick into the equipment. He indicated that the VSTL (Wyle) actually farmed out the testing of this system to a subcontractor in Cincinnati. He noted that this system failed in New York and Florida.

Attorney John Washburn of Germantown appeared on his own behalf to comment on the ES&S request and to renew his request for documentation on electronic voting equipment used in Wisconsin. He urged the Board not to approve the ES&S equipment until more testing has been done. He indicated that our testing did not test for the defect that was discovered in New York. He asked the Board to reign in out-of-control staff regarding the “no touch” advice provided to clerks in response to their receipt of requests for public inspection of voted ballots. He still wants a response to his February 27, 2012 public records request as he believes Command Central violated its approval by providing replacement equipment to certain clerks.

Steve Pearson appeared on behalf of Election Systems and Software. He is the Vice President of Certification for ES&S, and he introduced Regional Sales Representative Mike Hoverston and State Certification Director Mark Manganaro. Mr. Pearson made an oral presentation regarding issues with the previous version of the system, which the new version has resolved.

Discussion regarding claims about the equipment’s vulnerability tampering and damage by various means, including magnets. Mr. Pearson said it was not possible to do what Mr. Bliss described regarding the magnet. He said the system detected and recorded the presence of Mr. Bliss’ unauthorized USB memory stick.

At 12:06 p.m. the Board members viewed a demonstration of the ES&S voting equipment, which concluded at 12:28 p.m.

**F. Elections Systems & Software Request for Approval
Unity 3.2.0.0 Revision 3 Voting System**

Elections Supervisor Ross Hein and Elections Specialist David Buerger made an oral and written presentation regarding ES&S application for approval, and the testing conducted by G.A.B. staff.

Discussion regarding staff's reliance on U.S. Election Assistance Commission Certification, the use of certified testing laboratories, certification methods used by other states, and Wisconsin's electronic voting equipment security requirements.

MOTION: Approve staff's recommendation for the ES&S voting systems application to be used in Wisconsin, in compliance with EAC certificate: ESSUnity3200Rev3. Moved by Judge Cane, seconded by Judge Barland. Motion carried unanimously.

Judge Deininger called a lunch recess at 12:54 p.m. The Board reconvened at 1:34 p.m.

G. Report on Recount in State Senate District 21 Recall Election

Staff Counsel Michael Haas presented an oral and written report. The most significant issue that came up was ballots being counted when the voter did not sign the poll book. Staff determined that voters should not be penalized because of poll worker errors. The recount itself went smoothly.

Discussion regarding the small difference in votes, problems with aggressive election observers, and the staff's plans to educate poll workers and law enforcement about election observers in advance of the November General Election.

H. Adoption of Guideline Relating to Scope of Campaign Finance Regulation

This item was withdrawn from the agenda.

J. Proposed Meeting Schedule for 2013

Director Kennedy referred Board members to the list of dates in the agenda packet, and said there was a minor change in the March meeting to March 21 and 22. The schedule is:

Monday, January 14, 2013 (Teleconference)
Tuesday, March 26 and Wednesday, March 27, 2013
Tuesday, May 21, 2013
Tuesday, August 20, 2013
Tuesday, October 22, 2013
Tuesday, December 17, 2013

MOTION: Adopt the proposed 2013 meeting schedule. Moved by Judge Vocke, seconded by Judge Barland. Motion carried unanimously.

K. Proposed Decision Items for 2013-2015 Agency Budget

Director Kennedy and Chief Administrative Officer Sharrie Hauge presented an oral and written report. Most staff positions are funded with federal Help America Vote Act grant funds, which will soon be exhausted. Staff has been talking with members of the Legislature regarding replacing the federal funds with state general purpose revenue.

Decision Item 3001 is to build information technology infrastructure capacity to support campaign finance, Contract Sunshine, elections, ethics and lobbying programs.

Decision Item 3002 is to convert 14 federal project positions to permanent GPR positions.

Discussion regarding ongoing funding for the agency.

MOTION: Approve decision items 3001 and 3002 and authorize the Director and General Counsel to submit the agency’s proposed 2013-2015 budget to the Department of Administration for inclusion in the executive budget. Moved by Judge Nichol, seconded by Judge Brennan.

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| Roll call vote: Barland: | No | Brennan: | Aye |
| Cane: | Aye | Deiningger: | Aye |
| Nichol: | Aye | Vocke: | No |

Motion carried.

L. Director’s Report

Ethics and Accountability Division Report – campaign finance, ethics, and lobbying administration

Written report from Division Administrator Becker was included in the Board packet.

Elections Division Report – election administration

Written report from Division Administrator Robinson was included in the Board packet.

Office of General Counsel Report – general administration

Written report from Kevin J. Kennedy, Sharrie Hauge, and Reid Magney was included in the Board packet.

M. Closed Session

Adjourn to closed session to consider written requests for advisory opinions and the investigation of possible violations of Wisconsin’s lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; and confer with counsel concerning pending litigation.

MOTION: Move to closed session pursuant to §§5.05(6a), 19.85(1)(h), 19.851, 19.85(1)(g), and 19.85(1)(c), to consider written requests for advisory opinions and the investigation of possible violations of Wisconsin’s lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; and confer with counsel concerning pending litigation and consider performance evaluation data of a public employee of the Board. Moved by Judge Vocke, seconded by Judge Barland.

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| Roll call vote: Barland: | Aye | Brennan: | Aye |
| Cane: | Aye | Deininger: | Aye |
| Nichol: | Aye | Vocke: | Aye |

Motion carried unanimously. The Board recessed at 2:30 p.m. and convened in closed session at 2:42 p.m.

H. Adjourn

The Board adjourned in closed session at 5:20 p.m.

####

The next regular meeting of the Government Accountability Board is scheduled for Tuesday, October 23, 2012, at the Government Accountability Board office in Madison, Wisconsin beginning at 9 a.m.

August 28, 2012 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

October 5, 2012

August 28, 2012 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

October 23, 2012

State of Wisconsin \ Government Accountability Board

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the October 23, 2012 Board Meeting

TO: Members, Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel
Government Accountability Board

Prepared and Presented by:
Michael Haas, Staff Counsel
David Buerger, Elections Specialists

SUBJECT: Guidance regarding Proof of Residence and Election Observer Issues

During the course of preparations and training for the November 6 General Election, Board staff has responded to numerous inquiries regarding the role of election observers and the requirements for certain voters to present a document proving their residence when registering to vote. The requirement to present proof of residence applies to individuals who are first-time voters in Wisconsin who register by mail, and to individuals who register during the late registration period and on Election Day. The issue of observer rules and behavior has become highlighted in recent elections, including in reports concerning the June recall election in Racine County.

The most thorough inquiry on these topics received by the Board is the attached correspondence from the Republican Party of Wisconsin requesting the Board's guidance regarding several issues. Also attached is correspondence from the Wisconsin Election Protection organization offering its input related to the issues raised by RPW, and the staff memorandum responding to the Republican Party. Finally, late in the day on Thursday, October 18, 2012, the Board received correspondence from the Wisconsin Institute for Law & Liberty, Inc., on behalf of the organization We're Watching Wisconsin Elections, raising concerns regarding the Board's application of statutes related to observers and proof of residence. The staff response to this inquiry will not be distributed until Monday, October 22, 2012.

These materials are intended to keep the Board apprised of the staff's guidance regarding high-profile election-related issues and the legal basis for that guidance. Given that these issues continue to generate discussion among voters and the public, and to dispel any uncertainty regarding the Board's guidance in these areas, Board staff recommends that the Board reaffirm the guidance described in the attached documents.

The Board's guidance regarding the proof of residence requirements is based upon the language in Wis. Stat. 6.34, which lists the documents that are acceptable forms of proof of residence. The RPW correspondence asserts that several unacceptable documents were used to establish residency at polling places in June. Several other organizations have requested more specific guidance regarding proof of residence documents, particularly those which qualify as a document issued by a unit of government as well as various documents which do not qualify as valid under the statutes. Following the staff's response to the RPW is a detailed informational guide to acceptable forms of proof of residence as well as an informational guide regarding the use of electronic proof of residence documents.

The Board's guidance regarding election observers is rooted in the following two statutes governing conduct at polling places and the authority and responsibility of clerks and chief inspectors to ensure orderly conduct.

Wis. Stat. §5.35(5) ACTIVITIES RESTRICTED. No polling place may be situated so as to interfere with or distract election officials from carrying out their duties. The municipal clerk and election inspectors shall prevent interference with and distraction of electors at polling places.

Wis. Stat. §7.37(2) PRESERVE ORDER. The inspectors shall possess full authority to maintain order and to enforce obedience to their lawful commands during the election and the canvass of the votes. They shall permit only one person in a voting booth at a time and shall prevent any person from taking notice of how another person has voted, except when assistance is given under s. 6.82. They shall enforce s. 5.35 (5) and prevent electioneering and distribution of election-related material from taking place in violation of ss. 12.03 and 12.035. If any person refuses to obey the lawful commands of an inspector, or is disorderly in the presence or hearing of the inspectors, interrupts or disturbs the proceedings, they may order any law enforcement officer to remove the person from the voting area or to take the person into custody.

These provisions also are relevant to the activity of groups that wish to interact with voters outside of polling places. While the rules prohibiting electioneering are well-established, Board staff has received several inquiries from organizations seeking permission to approach voters and verify whether they are registered, or direct them to the correct voting line or other polling place. This activity raises concerns about keeping order at polling places, voters having the impression they are dealing with an election official rather than a private individual, and voters potentially receiving incorrect information about their voting status from someone other than an election official.

Board staff has developed and issued guidance on this topic which is also included following the series of correspondence and materials regarding proof of residence and election observers.

Recommended Motion: Reaffirm staff guidance contained in the attached memorandum to the Republican Party of Wisconsin, in the informational guides regarding acceptable forms of proof of residence and electronic proof of residence, and in the staff response to the correspondence from Wisconsin Institute for Law & Liberty, Inc.

DATE: Monday, September 17, 2012

TO: Government Accountability Board
C/O Mike Haas

FROM: Republican Party of Wisconsin
Kristina Sesek, Legal Counsel

SUBJECT: Election Issues

During and since the June 5, 2012 election, concerns have arisen regarding certain aspects of the election process. In detailing those concerns below, we would ask the GAB to provide written memoranda clarifying each issue so they do not become reoccurring problems.

I. PROOF OF RESIDENCY

Wisconsin State Statute § 6.34(3) provides a limited, comprehensive list of documentation acceptable to establish proof of an elector's residence in order to cast a vote in the State of Wisconsin during an election. While this list is extensive, it is exclusive. On June 5, 2012, many election observers witnessed various Chief Election Inspectors and poll workers across the State accepting documentation for proof of residency that is not specifically delineated in § 6.34(3). Set forth below are specific items witnessed by observers and the reasons why we think these documents should not have been accepted as proof of residency. We seek written guidance from the GAB that the following specific items are not acceptable to establish proof of an elector's residence.

1. An elector in Winnebago County presented a prescription bottle for proof of residency. *Wilding Aff. 4*. A prescription bottle is not specifically mentioned anywhere in Wis. Stat. § 6.34(3), nor was it issued by a unit of government. As such, it should not have been accepted as proper proof of residency.
2. At polling locations in Winnebago County, Dane County, and Outagamie County personal checks were presented by electors for proof of residency. *Costello Aff. 4*. *Darrow Aff. 4*. *Wilfer Aff. 4*. In each instance, the personal check was accepted as proper documentation and the elector was allowed to register and vote. *Id.* While Wis. Stat. § 6.34 allows for a paycheck as documentation for proof of residency, a personal check is not a paycheck. A paycheck is issued to an employee for payment of salary and wages, while a personal check is a check drawn against funds deposited in an individual's personal checking account. The paycheck is issued by the employer and has some third party involved, while a personal check is issued by the voter and can be obtained easily through newspaper mailings or by ordering on the Internet. Therefore, the personal checks should not have been accepted as proper proof of residency.
3. At a polling location in Racine County, an elector presented a handwritten tear-out rent receipt as proof of residency. Though an election observer objected to the use of this document, an

objection that was ignored, the poll worker accepted the receipt as proper proof of residency. D'Abbraccio Aff. 4-8. A rent receipt is not specifically mentioned in Wis. Stat. § 6.34(3) and is not a lease or utility bill. It should not have been accepted as proof of residency.

4. At a polling location in Dane County, a Chief Election Inspector accepted credit card statements from several electors as proper proof of residency. Johnson Aff. 4. The Chief Election Inspector reasoned that a credit card statement was connected to a bank, so it was considered a bank statement. *Id.* We respectfully disagree with the CEI's reasoning. Wisconsin Statute § 6.34(3)(9) specifically says "bank statement." The plain language says nothing about a credit card attached to a bank statement. A bank statement is a printed record of the balance in a bank account and the amounts that have been paid into it and withdrawn from it, issued periodically. A credit card statement, by contrast, does not always have to be issued by a financial institution and is not always connected to bank account, unless it is a debit card. By definition, a credit card statement is a listing of all the payments and other debits and credits made to a credit card account within a billing cycle. The legislature could have chosen to include a credit card statement in the list of acceptable proof of residency. However, they did not and nowhere in the statutes does the term "credit card" appear. Since a credit card statement and a banking statement are two different transactional records and the statute specifically lists bank statement, not credit card statement, this should not have been accepted as proper proof of residency.
5. In Racine County, Waukesha County and Milwaukee County, electors presented mail containing a yellow sticker from the post office showing a new address as proof of residency. Till Aff. 4, Wagner Aff. 4, Newell Aff. 4. In each instance, the document was accepted as proper proof of residency and the elector was allowed to vote. While the yellow forwarding sticker was placed on the envelope by the United States Postal Service, a unit of government, this is not an official document issued by them as required under Wis. Stat. § 6.34(3)(11). As such, these envelopes with yellow forwarding stickers should not have been accepted as proof of residency.
6. In Milwaukee County, several electors presented Time Warner Cable envelopes as proof of residency. Newell Aff. 5. The envelopes were not opened and the billing statement inside was never verified. *Id.* While the utility bill contained inside the envelope may have been a proper proof of residency, the poll worker made no such effort to verify the documentation and ensure it was the elector's current and complete name on the bill, that the elector's current and complete address was on the bill and the bill was dated no earlier than 90 days before June 5, 2012. As such, the utility bill *envelope* should not have been considered a proper proof of residency and the poll worker should have made the elector open the envelope and present the bill contained inside to verify proof of residency.
7. An election observer in Brown County witnessed an elector present an envelope from an insurance company for proof of residency. Bourbonnais Aff. 4. The Chief Election Inspector accepted this documentation and the elector was allowed to vote. Wisconsin Statute § 6.34(3)(11) does not make mention of any information from an insurance company as an acceptable proof of residency, nor is an insurance company a unit of government. Neither the envelope, nor the insurance statement contained inside should have been accepted as proof of

residency. This rationale should further extend to items like hospital bills, Netflix envelopes, birthday cards, etc. *Jill Jones Aff.* 4.

8. According to the Milwaukee Journal Sentinel, in Waukesha County, a poll worker accepted a receipt from Jiffy Lube as proof of residency. See Exhibit 2. This should not have been accepted as proper proof of residency, as it does not fall under any of the proof of residency categories laid out in § 6.34(3). See Exhibit 2.
9. In Racine County, there were reports of poll workers accepting utility bills addressed to “occupant.” See Exhibit 2. The reason for providing documentation for proof of residency is to ensure an elector lives at the address he or she claims as his or her residency. Under Wis. Stat. § 6.34(3)(b)(1)-(2) the proof of residency document must provide the elector’s current and complete name and current and complete residential address. While a utility bill addressed to “occupant” may provide the current and complete address, “occupant” does not suffice for the name requirement and should not be sufficient documentation for proof of residency.
10. In the recent GAB meeting of August 28, 2012, several college students spoke about the usage of cell phone bills to establish proof of residency under § 6.34(3)(a)(8). Cell phone bills are not utility bills and should not be considered a proper proof of residency. In the traditional sense, utility bills are fees for a commodity or service at a certain location. The utility bill identifies the particular location associated with the charges. For example, a water bill is issued to an occupant or landlord at the residence in which the water was used. A cell phone bill, in contrast, does not do this. There is no connection between the cell phone bill and the residence the bill is sent to. Further, college students have other means to show proof of residency. As outlined in Wis. Stat. § 6.34(3)(a)(7), students may provide their college identification card along with either a fee receipt or verification of the student’s name on the housing list provided by the university, college or technical college. As such, cell phone bills should not be considered utility bills under the statute and should not be accepted as proof of residency.

II. REASONABLE ACCOMMODATIONS FOR ELECTION OBSERVERS

During the June 5, 2012 election, an election observer entered the polling location at Head Start, 122 East Olin Ave., Madison, Wisconsin, introduced herself to the Chief Election Inspector and asked where she should go to observe. *Darrow Aff.* 3. The Chief Election Inspector pointed to an area and informed the observer she could stand there. *Id.* at 4. The observer informed the Chief Election Inspector she was not able to stand for long periods of time and she intended on being at the polling location for the remainder of the day. *Id.* The Chief Election Inspector ignored the request, even though there were three unoccupied chairs sitting in the corner of the polling location. *Id.* When asked again about seating, the Chief Election Inspector allowed the observer to sit, but told her if any other observers arrived, everyone would have to stand for the entire day. *Id.*

Under Wisconsin Statute § 7.41, any member of the public is allotted the right to observe the election process. The statute does not limit the right to observe to only those that have the capability to stand while observing and the language should not be construed in such a manner. Reasonable

accommodations, like providing a chair should be made for those observers, like the above mentioned, who are not physically able to stand all day.

It is completely unacceptable to tell an observer she must stand during her civic duty of ensuring fair elections in Wisconsin when there are chairs readily available in the polling location.

III. ELECTION OBSERVER VIEWING DISTANCE AND VIEWING OF SAME DAY REGISTRATION DOCUMENTS

Wisconsin Statute § 7.41 grants members of the public the right to observe the election process in certain designated areas. The statute further provides the “[d]esignated observation areas shall be so positioned to permit any authorized individual to readily observe all public aspects of the voting process.” Wis. Stat. § 7.41(2).

The GAB promulgated Rule 4, to seemingly provide more clarity on the election observing process. Section 5 of Rule 4 limits the placement of election observers to not less than 6 feet nor more than 12 feet from the table which electors are announcing their name and address and being issued a voter number, meaning the ballot table. 6 to 12 feet is a fair distance away from the ballot table. In a room filled with voters, poll workers and election observers, this makes it almost impossible for observers to hear voters announce their name and address. While, the GAB allows observers to ask the poll worker to repeat the voter’s name and address, this can get frustrating for the poll worker if they need to repeat every elector’s name and address. Further, there is no way a reasonable observer could see the voter number being placed next to the voter’s name on the registration list. The registration list is a public document and a public aspect of the voting process, as well as the voter announcing his or her name or address. The 6 -12 feet rule is impinging on election observer’s statutory right to readily observe all public aspects of the voting process, as at being placed at this distance there is no possible way reasonable observers can see and hear what is occurring at the ballot table. We ask the GAB to allow observers to be closer to the ballot table, in a 3-6 foot range or even closer if possible, so the observer can adequately observe this aspect of the voting process.

GAB Rule 4 goes on to provide that, if necessary, the Chief Election Inspector should set up additional observation areas near the same-day registration table. There is no guideline as to the distance this observation area should be placed. But, more times than not, observers are being required to sit 6 -12 feet away to observe the same-day registration process. Again, the registration process is a public aspect of the voting process. Observers should be able to hear the conversations occurring between poll workers and electors and see the documentation provided for proof of residency to ensure the documentation is proper under Wis. Stat. § 6.34. If the observer cannot see or hear what is occurring, he or she has no way of knowing if improper documentation is being provided by electors or improper procedure is being followed by the poll workers.

Election observers should also be able to view the same day registration documents so as to ensure completion and accuracy. Wisconsin Statute § 7.41(2) allows observers to “*readily observe all public aspects of the voting process*” (emphasis added).

Wisconsin Statute § 7.41(4), which specifically describes what observers may not view and what is not a public aspect of the voting process, does not include any limits on viewing the same day registration form. This makes sense because the GAB-131 does not contain confidential information, as the same information is being captured by workers assisting with voter registration drives. The individuals assisting with voter registration drives could be anyone, the same as election observers. Additionally, voter registration drive workers are not required to undergo the same training as special voting deputies. In lieu of training, these individuals are required to collect a copy of the elector's proof of residency. GAB § 3.20(4). There is no difference between these voter registration drive workers and election observer and both should have access to the same information. As such, the phrase "readily observe" should not just include the seeing and hearing of the overall operations of an election, but should also include all forms being completed by poll workers and Chief Election Inspectors on election day, except those specifically prohibited in 7.41(4).

We hope the GAB will instruct the Chief Election Inspectors to set up an election observer viewing area closer than 6-12 feet from the ballot table and registration table and to allow election observers to view the same day registration forms so as to prevent frustrations and tensions between the inspectors, poll workers and observers during the upcoming election.

IV. CLERICAL ERRORS

During the recount of the June 5, 2012 recall election results in the 21st Senate District, several instances were discovered where voters, in particular those who registered on election day, failed to sign the poll books or supplemental list as required by Wis. Stat. § 6.79(2)(a). In response, the GAB determined this was an administrative error and the votes were still counted.

In light of the state-wide media attention this issue received due to the recount in the 21st Senate District, we ask all poll workers in the State be adequately informed for the November 2012 election, and all subsequent elections, that signing the poll book is requirement, not an option, under state law. The plain language of Wis. Stat. § 6.79(2)(a) stresses this point by using language "require[d]," not "if the poll worker remembers." It is simply unacceptable for a poll worker to forget to have an elector, especially one registering on election day, sign the poll book or supplemental list.

Further, in order to ensure this statutory requirement is being followed and clerical errors are not committed this election, we ask the GAB to instruct municipal clerks to monitor the poll books at their polling locations on election day for compliance. If any clerical errors are discovered, they can be immediately corrected and the poll worker can be instructed of the proper procedure. This should minimize mistakes on election day and ensure the integrity of our process through conformity with the statutory requirements.

V. WISCONSIN GUIDE TO VOTER RIGHTS AND RESPONSIBILITIES

In the GAB's newly released document entitled "Wisconsin Guide to Voter Rights and Responsibilities," the GAB appears to approve of immediate removal of the election observer from the

polling location, a practice that is inconsistent with the rules promulgated by the GAB. GAB Rule 4.01(9) states:

[i]f any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the chief inspector, threatens the orderly conduct of the election or interferes with voting, the chief inspector *shall warn the offending* observer(s) that such conduct shall cease or the observer shall have to leave the polling place.

Rule 4.01(10) continues that if the observer does not cease that activity, the Chief Election Inspector may then remove the observer from the polling location. Therefore, there should be a step prior to expulsion from the polling location that the GAB Guide does not address. Before being removed from a polling location, observers should at least be alerted to the fact that their conduct is not acceptable to the Chief Election Inspector. We would like the Guide to be altered to remediate the inconsistencies created with the GAB Rules.

VI. ELECTRONIC DOCUMENTS FOR VOTER REGISTRATION

At the GAB Board Meeting of August 29, 2012, the board approved the use of electronic documents for proof of residency. In a memorandum released by the GAB on August 29, 2012, Director Kevin Kennedy stated “many people today have gone paperless in their lives including banking, utilities and taxes. . . . The Board’s decision recognizes that documents from *these* secure electronic transactions are just as valid on a screen as they are on a piece of paper” (emphasis added). In interpreting this statement, it appears the GAB has limited the acceptance of electronic documents for proof of residency to bank statements, utility bills and taxes.

If this is not the GAB’s interpretation, we ask for reconsideration to limiting the application of electronic documents to those expressed by Director Kennedy in the August 29, 2012 statement. Many of the documents presented in Wis. Stat. § 6.34(3)(a) simply are not documents that are found on electronic devices. For example, one does not present an electronic form of their Wisconsin driver’s license to an officer if stopped for a speeding violation. It would seem contrary to the reliability of our election system and to the heart of the presentation of a proof of residency document—to ensure an elector lives at the address they claim as their residence—to accept electronic documentation that modern commerce and society have not gone paperless with.

The statement made by Director Kennedy further explains that the Board’s decision was to recognize “*secure* electronic transactions” (emphasis added). In order to uphold the integrity of our process, poll workers need to be able to determine the authenticity of documents presented to them. In order to ensure the validity of the electronic document presented as proof of residency, the GAB should instruct poll workers that the electronic document must be directly from the bank, utility company or IRS’ website. If presented from one of these sources, the poll workers can verify the proof of residency is an unaltered, authentic document issued by a financial institution, utility company or government agency.

Finally, we hope the GAB will instruct poll workers to indicate the use of an electronic document on the elector's registration form when verifying the proof of residency in order to provide clarity and transparency on the registration form.

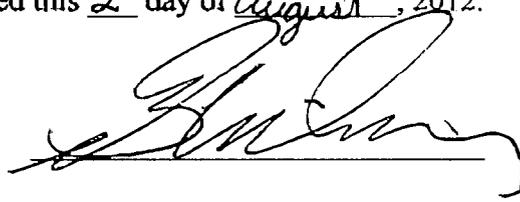
DAVID WILDING AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF WINNEBAGO)

I, David Wilding, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Winnebago County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. I observed the June 5, 2012, election at St. John's Church, 808 N. Main Street, Oshkosh, WI, from 4:00 p.m. until the polls closed.
4. While observing at the registration table, I saw an elector present a prescription bottle as their documentation for proof of residency. Whether or not, the worker accepted the bottle as the only proof of residency and allowing the elector to vote, without additional information, I do not remember at this time.

Dated this 2 day of August, 2012.



David Wilding

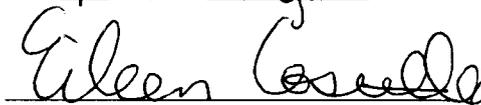
EILEEN COSTELLO AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF WINNEBAGO)

I, Eileen Costello, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Winnebago County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. I observed the June 5, 2012, election from 7:00 am until 11:00 am at the City Services Building, 1495 Tullar Road, Nennah, WI.
4. While observing at the registration table, I saw an elector present a checkbook for proof of residency. The poll worker accepted the personal check as proper proof of residency and the elector proceeded to cast a ballot.

Dated this 1 day of August, 2012.



Eileen Costello

DEE DARROW AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF DANE)

I, Nadine Darrow, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Dane County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. I observed the June 5, 2012, election at Arbor Hills, 2809 Curry Parkway, Madison, WI.
4. While observing at the registration table, I saw an elector present a checkbook for proof of residency. The poll worker accepted the personal check as proper proof of residency and the elector proceeded to cast a ballot.

Dated this 30 day of July, 2012.

Nadine M. Darrow

Nadine Darrow

LOU D'ABBRACCIO AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF RACINE)

I, Lou D'Abbraccio, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Racine County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. I observed the June 5, 2012, election at multiple polling locations in the City of Racine.
4. Around 5:35 p.m., I was at the John Bryant Community Center, where I observed an individual attempting to register to vote in Ward 3, District 2, using a handwritten tear-out rent receipt, bearing the date 6/5/2012, to establish residency. I made a comment to the poll worker at the registration desk that the document did serve as proof of residency.
5. The Chief Election Inspector, Lillie Cameron, heard my comment, walked over and began to chastise me for talking to the poll worker. I told her that it was my intention to challenge the elector. She ignored my statement.
6. I told her, again, that I challenged the elector. This challenge was ignored.
7. Once the voter reached the ballot table, I made one final challenge. Ms. Cameron and the poll workers made no acknowledgement of my challenge.
8. The elector was given a ballot and allowed to vote.

Dated this 24~~th~~ day of July, 2012.



Lou D'Abbraccio

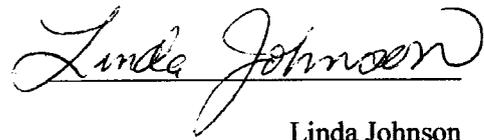
AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF DANE)

I, Linda Johnson, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Dane County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. I observed the June 5, 2012, election at Bridge Lake Point, 1979 Lake Point Drive, Madison, WI, from 4:00 p.m. until the polls closed.
4. Around 4:45 p.m., a gentleman entered the polling location and proceeded to the registration table. He filled out the registration application and presented a Gander Mountain credit card bill for his proof of residency. I objected to the Chief Election Inspector, believing this document was not a proper proof of residency. The Chief Election Inspector responded a credit card is connected to a bank, so it was considered a bank statement. Thus, the credit card bill was accepted as proof of residency, the gentleman was registered and proceeded to cast a ballot.
5. Around 7:15 p.m. another elector came into the polling location and presented a credit card bill as proof of residency. Again, the poll workers accepted this documentation for proof of residency.

Dated this 17 day of July, 2012.


Linda Johnson

HILARY TILL AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF RACINE)

I, Hilary Till, being duly sworn under oath, state as follows:

1. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
2. I observed the June 5, 2012, election at Festival Park Hall, 5 5th Street, Racine, WI.
3. Around 11:20 a.m., an elector presented a bill displayed on an electronic device, a cell phone, as proof of residency. The elector did not have an alternate form of paper documentation. The Chief Election Inspector said the GAB had ruled this was an acceptable form of proof of residency. The elector was registered and cast a ballot.
4. Another elector presented, from a distance what looked like, a piece of forwarded mail containing a yellow sticker from the Post Office showing a new address. The poll worker accepted this as proper proof of residency and the elector was allowed to cast a ballot.

Dated this __3rd day of __August, 2012.



Hilary Till

WILLIAM T. WAGNER AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF WAUKESHA)

I, William T. Wagner, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Waukesha County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. I observed the June 5, 2012, election from 11:00 a.m. until 4:00 p.m. at E & R UCC Church, 413 Wisconsin Avenue, Waukesha, WI.
4. While observing at the registration table, around 12:49 p.m., I saw an elector present an auto insurance envelope with a forwarding sticker on the front from the United States Postal Service. The poll worker commented this was an acceptable proof of residency according to Waukesha City Hall. Therefore, the envelope with the forwarding sticker was accepted as proper proof of residency and the elector was allowed to vote.

Dated this 1st day of August , 2012.

William T. Wagner

William T. Wagner

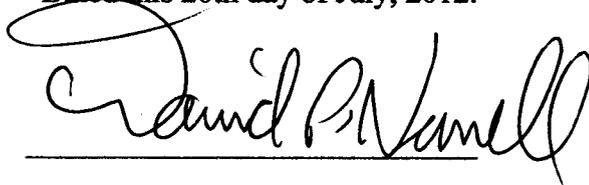
DAVID NEWELL AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF MILWAUKEE)

I, David Newell, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Ozaukee County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. I observed the June 5, 2012, election at Milwaukee Housing Authority, 5003 W. Lisbon Ave., Milwaukee, WI., from 7:20 AM to 5:01 PM.
4. While observing at the registration table, I witnessed an elector hand a poll worker an envelope with a yellow forwarding address label affixed to the front. The label was from the U.S. Postal Service. The poll worker accepted the labeled envelope as a proper proof of residency and the individual was allowed to vote.
5. Around 8:05 a.m., an elector presented a Time Warner Cable envelope for proof of residency. The envelope was not opened. The poll worker did not open the envelope or ask the elector to open the envelope, to verify the billing statement contained inside. The poll worker accepted the unopened envelope as proper proof of residency and the elector was allowed to cast a ballot. This individual was the first of many, many more individuals that used a Time Warner Cable envelope as their proof of residency address.

Dated this 26th day of July, 2012.



David Newell

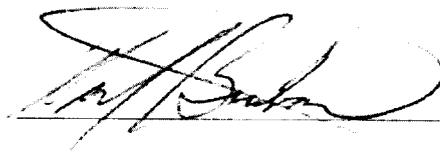
WILLIAM BOURBONNAIS AFFIDAVIT

STATE OF WISCONSIN)
) ss
COUNTY OF BROWN)

I, William Bourbonnais, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Brown County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. I observed the June 5, 2012, election at the Labor Temple Building, 1570 Elizabeth Street, Green Bay, WI from 11:00 am until the polls closed.
4. I witnessed an elector present an envelope containing an insurance statement for proof of residency. A Poll Worker accepted the envelope with the elector's name and address as proper proof of residency. The elector was subsequently given a ballot and allowed to vote.

Dated this 8th day of August, 2012.



William L. Bourbonnais

JILL JONES AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF BROWN)

I, Jill Jones, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Brown County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. I observed the June 5, 2012, election at Edison Middle School, 442 Alpine Drive, Green Bay, WI from 7:00 a.m. until 12 noon.
4. While observing at the registration table, I heard one of the poll workers turn away an elector for improper proof of residency. A little while later, the elector returned, with what appeared to be a different proof of residency. While I could not see the proof of residency document the elector presented, I heard the poll worker say something about a Netflix envelope. As such, I believe elector presented and the poll worker accepted a Netflix envelope as a proper proof of residency. The elector was allowed to cast a ballot.

Dated this 13 day of Aug, 2012.


Jill Jones

DEE DARROW AFFIDAVIT

STATE OF WISCONSIN)
)ss
COUNTY OF DANE)

I, Nadine Darrow, being duly sworn under oath, state as follows:

1. I am a qualified voter of the State of Wisconsin and reside in Dane County.
2. I make this affidavit freely and voluntarily based upon personal knowledge and my observations from June 5, 2012. I believe all of the following information to be truthful and reliable.
3. On June 5, 2012, around 11:00 a.m., I went to observe the election at Head Start, 122 East Olin Ave., Madison, Wisconsin.
4. When I arrived, I introduced myself to the Chief Election Inspector and asked where I should observe at. The Chief Election Inspector pointed to an area and told me I could stand over there and observe. I informed her I was not physically able to stand for long periods of time and intended to be at that polling location all day. The Chief Election Inspector would not let me sit down, though there were about 3 available, unoccupied chairs sitting in a corner of the room. When asked again about seating, the CEI allowed me to sit but stated if any other observers came, we would all have to stand up the entire day.

Dated this 30 day of July, 2012.

Nadine M. Darrow

Nadine Darrow

Exhibit 1



88°

Madison Politiscope: A valiant poll worker saves some student votes

JUNE 05, 2012 4:45 PM • JACK CRAVER | THE CAPITAL TIMES | JCRAVER@MADISON.COM

As my CT colleague Todd Finkelmeyer has reported, some have already raised concerns about students being unable to vote because of confusion over new residency requirements, proof of residency and other challenges.

Indeed, sources at the polls indicate turnout in the student wards is falling well short of 2008 levels, even though election officials throughout the state are predicting the statewide vote total will likely match that of a typical presidential election.

"It's not as good as I would have hoped," says Ald. Mike Verveer, who is working at Memorial Library, where voters in two student-heavy districts cast ballots.

At 4:15 p.m., only about 250 people had voted at Ward 56, where over 1,300 voted in the presidential election in 2008.

And at Wards 58 and 59, which includes many of the now-vacant dorms, only 251 had voted at 4 p.m. At first glance, it is an alarming drop-off from 2008, when just under 1,600 voted at that location.

However, much of that drop-off can be explained by the simple fact that those students are no longer living in the dorms. Thus, the question is: How many of them made sure to vote absentee or register at a new location? With the 28-day residency requirement, it will likely be very hard for students who voted on campus for the May 8 primary to try to vote elsewhere today.

Verveer and other poll workers from downtown districts tell me many voters have been having issues with the residency requirement and proof of residency.

However, there is some good news. One of Verveer's fellow poll workers is so dedicated that she brought her computer and printer so that students could print out a proof of residency, such as a tuition statement, to be allowed to vote.

"If not for her, we would have had to turn away many more voters," says Verveer.



Exhibit 2



Protests over Racine vote point to statewide confusion

By Alison Bauter of the Journal Sentinel
June 18, 2012

Madison - State Rep. Robin Vos (R-Burlington) has joined a chorus of Republicans continuing to raise questions over Racine County's election practices in Democrat John Lehman's narrow defeat of GOP Sen. Van Wanggaard in the June 5 recall.

Their concerns come as reports have accumulated of confusion - among voters and poll workers - over residency requirements statewide, especially with student voters.

Vos, powerful co-chairman of the Joint Finance Committee, focused on problems with the 28-day residency requirement, among other election issues, Sunday on "UpFront with Mike Gousha" on WISN-TV (Channel 12).

The issue is not unique to Racine. Poll watchers statewide reported confusion over the residency requirement implemented this year.

Under the law passed last summer, voters are required to live at their voting address for 28 consecutive days before the election, up from the previous 10-day residency requirement. To register to vote, voters must prove residency using a limited list of identification sources, including state-issued ID cards and driver's licenses as well as an employer-issued ID, a paycheck, a bank statement, a residential lease, a utility bill and other valid documents bearing the resident's name.

But according to preliminary findings from Wisconsin's League of Women Voters, many election officials applied those standards inconsistently.

In one Waukesha County district, a poll worker accepted a receipt from Jiffy Lube as proof of residency, according to the league's Carolyn Castore. In Racine, local Republican Party poll watcher Lou D'Abbraccio reported multiple instances of clerks accepting water bills addressed only to "occupant" as proof of residency.

"Our biggest concern is that there was a lack of uniformity in how to apply (the residency requirement)," Castore said. "This has got to get under control one way or another."

The 28-day residency requirement is one of the only elements left standing from a voter ID law passed in May 2011. In a suit brought by the league, a Dane County judge found that the law's requirement of showing photo ID at the polls violated the state constitution. The ruling is being appealed.

Castore said the new residency requirement proved especially difficult for student voters who moved out of university dorms and campus apartments just before the recall election. Those students would have to vote absentee from their campus address, unless their most recent voting location was their summer

<http://www.printthis.clickability.com/pt/cpt?expire=&title=Protests+over+Racine+vote+po...> 7/12/2012

address.

The situation was compounded by new clerks who were unfamiliar with the required documents and specifics of the 28-day requirement, Castore said.

Although the Government Accountability Board, which runs state elections, has been hearing "a number of concerns" about student voting, spokesman Reid Magney disputed the notion that election officials were to blame for the registration confusion.

"The proof of residence has been the same regardless of 10 days or 28 days," Magney said. "At some point, students have to be responsible for being sure where they can and can't vote."

In the run-up to the Aug. 14 state primary elections, Magney said, the accountability board anticipates further issues for students who might not have the documents to prove residency at their summer address, particularly those living with their parents.

Magney said the board will continue its normal training process for county and municipal clerks, and anticipates sending out news releases with information for voters, including students, before the next election.

Also Monday, the board formally ordered a recount for the Racine County recall election at the request of Wanggaard, who lost to Lehman by 834 votes, according to official results. If Lehman's lead holds, Democrats will take control of the Senate from Republicans.

Vos blamed Wanggaard's loss on what he called fraud at the polls.

"Unfortunately, a portion of (the vote) was fraud," Vos said on Gousha's program Sunday, adding that photo ID requirements were necessary to eliminate that potential.

Assembly Minority Leader Peter Barca (D-Kenosha) said local clerks are competent and Republicans are unfairly calling their work into question by demanding a recount and raising the "specter" of voter fraud. He noted that Republican state Attorney General J.B. Van Hollen had investigators watching the polls in the area, and they haven't reported any major problems.

Magney said the GAB had not received reports of fraudulent activity but noted that the Racine County sheriff's office is investigating at least two cases of alleged impropriety.

The recount is set to begin Wednesday and must conclude by July 2.

Patrick Marley of the Journal Sentinel staff contributed to this report.

Find this article at:

<http://www.jsonline.com/news/statepolitics/protests-over-racine-vote-point-to-statewide-confusion-kj5qfrf-159496425.html>

Check the box to include the list of links referenced in the article.

<http://www.printthis.clickability.com/pt/cpt?expire=&title=Protests+over+Racine+vote+po...> 7/12/2012

ELECTION PROTECTION **YOU HAVE THE RIGHT TO VOTE**

To: Wisconsin Government Accountability Board

From: Atty. Ann S. Jacobs
Wisconsin Election Protection
Legal Coordinating Committee

Date: September 27, 2012

Re: Response to RPW Communication of 9/17/12

Wisconsin Election Protection has received a copy of recent communication from the Republican Party of Wisconsin raising various issues germane to the upcoming November 6 Presidential Election. We wish to bring a few comments to the Board's attention in response to that letter.

PROOF OF RESIDENCE DOCUMENTS

Cell Phone Bills **Are** Utility Bills And Therefore Acceptable Proof Of Residence

Cell phone carriers are considered telecommunications utilities under Wisconsin Law. As noted in "Regulation of Telecommunications Services," Wisconsin Legislative Council Information Memorandum 2011-07 at 1:

In general, a person that provides telecommunications services to the public, directly or indirectly, in this state is termed a telecommunications utility. Telecommunications utilities that existed before the 1984 break-up of the Bell System or those resulting from that break-up are termed incumbent local exchange carriers (ILECs). ***The other two main classes of telecommunications utilities are*** alternative telecommunications utilities (ATUs) and ***cellphone service providers.***¹ (emphasis added).

Similarly, the website of the Wisconsin Public Service Commission includes a link to the "Annual Questionnaire for Telecommunications ***Utilities***" (emphasis added), at which are found

¹ http://legis.wisconsin.gov/lc/publications/im/IM2011_07.pdf

numerous cellular telephone company reports.² We also note that GAB's longstanding policy and practice is to permit the use of cell phone bills as proof of residence, and strongly urge that no change be made at this late date.

USPS Mail Forwarding Stickers **Are** Government Documents

Wis. Stat. § 6.34(3)(a)(11), which sets out what government documents may be used to prove residence does not include the word "official;" it just says – "11. A check or other document issued by a unit of government" [may be used as proof of residence].

There is no dispute that the U.S. Postal Service is a unit of government. See also, 39 USC § 201 ("There is established, as an independent establishment of the executive branch of the Government of the United States, the United States Postal Service.") Therefore, there is no basis to say that a forwarding mail sticker is not a "document issued by a unit of government," as it is both generated AND actually affixed to mail by the unit of government.

ANY VALID PROOF OF RESIDENCE SHOULD BE PERMITTED TO BE SUBMITTED IN ELECTRONIC FORM

Based upon the ruling of the GAB on August 28, 2012, Wisconsin Election Protection strongly believes that **any** kind of proof of residence document may be provided in electronic format.

At the meeting on Aug. 28, 2012, the GAB board members voted unanimously to permit voters to show electronic documents as "proof of residence" in order to register to vote. The GAB board members did **not** limit that decision to certain types of documents or assert that only certain kinds of electronic documents could be used to register. Testimony before the board and statements by the executive director mentioned that many voters use secure electronic documents, but the GAB's decision was not limited to those kinds of documents. As the GAB noted in announcing this decision, "'Providing means showing,' Judge Thomas Cane said at the meeting. 'The only question is whether what you show is an identifying document. I don't see the difference.'" (GAB Release, Aug. 29, 2012).

Further, the actual resolution unanimously approved by the GAB did not limit electronic proof of residence to specific kinds of proofs, instead stating that the "Board interprets term 'identifying document' to including electronic documents, or documents displayed on electronic screens and may be used for registration purposes under the statutes. It is not the responsibility of any municipality to provide access or internet to any voter." For these reasons, we also object to efforts to force voters to show elections officials private security logins or other features.

² See, <http://psc.wi.gov/utilityinfo/tele/annualreports/annualreports-index.htm> and <http://psc.wi.gov/apps40/annlreport/content/viewReport.aspx?whatannl=TELE> which, for example, at the page for "**Utility** Name Listing - Start with : V..." includes Verizon Wireless LLC.

In addition, the Board’s decision was that voters can display electronic versions of identifying documents. It was not to require voters to display or explain to elections officials how to login to the document. Instead, so long as the electronic document meets the requisites of § 6.34, it must be accepted.

PRIVACY OF REGISTRATION FORMS AND PROOF OF RESIDENCE DOCUMENTS MUST BE MAINTAINED

Wisconsin Election Protection strongly objects to efforts to demand voters display their registration forms and proof of residence documents to observers as invading voter privacy and raising the potential for identity theft. This is not just a hypothetical concern; we routinely receive contacts from voters who are extremely concerned about the fact that poll workers write down bank account numbers on registration forms, and must be reassured that this information will be used solely for internal private elections purposes and not be made public.

Wis. Stat. §7.41(4) Is Not The Only Limit On Voter Information

Contrary to assertions that Wis. Stat. § 7.41(4), which prohibits public access to registration lists of confidential voters, is the only limit on what is publicly viewable in the registration process, it appears much more clear that this provision is intended to distinguish the confidential voter *list* from the public registration *list*. But neither Wis. Stat. § 7.41, nor any other provision of state law, declare that there is public access to registration forms and documents.

There Are Strong Privacy And Identity Theft Concerns

Privacy and identity theft concerns strongly support allowing only elections officials to view this information. While it is claimed that the same-day registration forms contain no private information, those claims are simply wrong.

For virtually all voters, registration forms contain quintessential private information that is not included in publicly available registration lists: drivers’ license and/or social security numbers. Permitting public disclosure of this information would likely violate the Drivers’ Privacy Protection Act (DPPA), 18 USC § 2721, et seq. *See*, § 2725(3), defining “personal information” protected from public disclosure to include “an individual’s photograph, social security number, [and] driver identification number . . .”³

³ Note also the recently decided case of *Senne v. Village of Palatine*, --- F.3d ----, 2012 WL 3156335 at *4 (7th Cir. Aug. 6, 2012) (en banc) holding that a police department’s disclosure of driver’s full name, address, driver’s license number, date of birth, sex, height and weight by writing it on parking ticket and placing ticket on windshield – even absent any showing that anyone else had seen the ticket – stated claim under DPPA. The court held:

The action alleged here, placing the information on the windshield of the vehicle in plain view on a public way, is certainly sufficient to come within the activity regulated by the statute regardless of whether another person viewed the information or whether law enforcement intended it to be viewed only by Mr. Senne himself. The real effect of the placement of the ticket was to make available Mr. Senne's motor vehicle record to any passer-by. This sort of publication is certainly forbidden by the statute.

Moreover, the same-day registration forms require a registrar to write down private information, such as a bank account number for a person who uses a bank statement as proof of residence. The underlying documents used to prove residence are at least as likely to contain protected personal information as the registration forms themselves. In addition to drivers' licenses, which raise the DPPA issues discussed above, these documents include many kinds of documents that contain sensitive private information:

- Financial information including information like balances, monies owed, where a voter has made electronic transactions (bank statements, utility bills, leases, bills from government entities, paychecks, government benefit statements);
- Educational information including grades, classes chosen, status as receiving aid (student class schedules, fee payment receipts, and report cards);
- Medical information including where care was received, nature and type of care, who is paying for that care (Medicare, Badgercare and VA health care notices and statements);
- Other highly personal information (homeless shelter verifications, letters from Social Security).

None of this private information is itself relevant to the ability to vote; it is provided solely as an adjunct to proving an individual's name and address.

Numerous laws – both state and Federal – emphasize the public policy supporting, and necessity for, such private information to remain shielded from public disclosure. *See, e.g.:*

- Privacy Act, 5 U.S.C. § 552a;
- 15 U.S.C. § 6801 (a) (“It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers’ nonpublic personal information.”);
- Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g (privacy of student records);
- HIPAA, 42 U.S.C. § 1320d–6 (a)(3) (prohibiting, *inter alia*, disclosure of individually identifiable health information);
- Wis. Stat. §49.81(2) (public assistance bill of rights includes right to confidentiality of records);
- Wis. Stat. §118.125(2) (“All pupil records maintained by a public school shall be confidential. . .”);
- Wis. Stat. §134.43 (2) (No person may intrude on the privacy of another by . . . : (b) Provid[ing] anyone with the name or address or other information that discloses or reasonably leads to the disclosure of any aspect of the behavior, including but not limited to . . . finances, of the [cable television] subscriber or of a member of the subscriber's household.”);
- Wis. Stat. §175.60(12)(c) (prohibiting disclosure of information regarding holders of concealed weapons permits);

- Wis. Stat. §196.209(1) (requiring Public Service Commission to publish rules that establish privacy guidelines for telecommunications service);
- Wis. Adm. Code VA § 1.10 (confidentiality of veterans' records by state Dept. of Veterans Affairs and county veterans service offices).

While a voter may agree to permit a trained, sworn registrar the right to review and document very personal information, s/he does not consent to the disclosure of his most recent report card or medical bill to every person asking to see it.

Of note, it is also unclear precisely how such a supposed "right" would be enforced. Would a registrar be required to display a POR to the entire room? Permit a line of observers to walk up and look at it? It is unacceptable to demand that a person display what medical care they received to a room full of strangers in order to exercise his/her right to vote.

OBSERVER RULES AND DISTANCES SHOULD BE MAINTAINED

Wisconsin Election Protection *strongly* supports the GAB's determination that observers should be located 6 to 12 feet from the locations where voting and/or registration is taking place. In addition to facilitating the privacy and confidentiality issues noted above, there are many recent reports of observers again hovering over voters and/or elections officials, creating a more stressful atmosphere for both voters and officials. During the June recall elections, as our report noted, in Racine, observers sat so close to elections officials they were nearly touching them. This is reminiscent of the 2004 election, wherein observers were literally over the backs of elections officials – a situation that helped prompt the current set of rules.

We support the rights of observers to observe public aspects of the voting process, but we also support voters' right to privacy and the orderly administration of poll sites. The GAB's distance guidelines strike an appropriate balance to achieve those goals. We do concur that it would appear to be a reasonable accommodation for polling sites to allow voters with disabilities to sit in chairs while observing (although not at closer distances to the voters), space permitting.

CLERK DUTIES & POLL BOOK SIGNING

There are 1,851 clerks in Wisconsin. We do not object to the GAB reminding clerks and poll workers of the obligation for voters to sign the poll lists⁴, However, municipal clerks have many obligations on Election Day, and we do not think it is necessary or appropriate for the GAB to order the clerks to focus on one aspect of the voting process – poll book signing – to the exclusion of other important duties.

⁴ We would urge that any such reminder also include information on the ability of a person who normally signs with an X or mark to do so at the polls, and on exemptions for persons with disabilities, as in the June recall elections there were several cases in which persons with disabilities affecting their ability to write were nevertheless required to sign the books.

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: October 15, 2012

TO: Republican Party of Wisconsin
Kristina Sesek, Legal Counsel

FROM: Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board

PREPARED BY: David Buerger, Elections Specialist

SUBJECT: Response to Election Issues Memo of September 17, 2012

On September 17, 2012, the Republican Party of Wisconsin (RPW) submitted a memorandum outlining a variety of issues and questions related to the administration of elections and requested a written response to its inquiry. Government Accountability Board (G.A.B.) staff has examined each concern and provide our analysis and guidance regarding the relevant election laws below.

I. Proof of Residence

Proof of residence is required to register to vote in three situations:

- All electors, except military and overseas electors, who register by mail and have not previously voted in an election in this state. Wis. Stat. § 6.34(2).
- All electors, except military or overseas electors, who register in the time period beginning 19 days before Election Day and ending the Friday before the election. Wis. Stat. § 6.29(2).
- All electors, except military or overseas electors, who register on Election Day. Wis. Stat § 6.55(2)(b).

In the September 17th memo, RPW asserted a variety of examples of proof of residence allegedly submitted by electors and requested that G.A.B. address the validity of each specific item.

A. Prescription Bottle (Wilding Affidavit)

A prescription bottle is not included in the list of acceptable proof of residence documents in Wis. Stat. § 6.34(3)(a). While the list of acceptable forms of proof of residence from Wis. Stat. § 6.34(3)(a) does provide some general categories such as “a document issued by a unit of government,” there is no allegation here that the prescription bottle contained any information that would suggest it qualified under such a provision. As such, G.A.B. staff concurs that a prescription bottle as described in the Wilding Affidavit does not constitute valid proof of residence.

It should be noted that the Wilding Affidavit only alleges that a prescription bottle was presented as proof of residence, not that the election official accepted this as valid proof of residence.

B. Personal Check (Costello, Darrow, and Wilfer Affidavits)

A personal check is not included in the list of acceptable proof of residence documents in Wis. Stat. § 6.34(3)(a). The only checks described are a “paycheck” or “check... issued by a unit of government.” Wis. Stat. § 6.34(3)(a)10-11. As these checks are not described as such, we concur that personal checks are not valid proof of residence. A personal check does not fall under the category of a statement from a financial institution. Wis. Stats. § 6.34 (3)(b)9.

C. Rent Receipt (D’Abraccio Affidavit)

A receipt for payment of rent is not included in the list of acceptable proof of residence documents in Wis. Stat. § 6.34(3)(a). While the list of acceptable forms of proof of residence from Wis. Stat. § 6.34(3)(a) does provide some general categories such as “a document issued by a unit of government,” there is no allegation here that the rent receipt contained any information that would suggest it qualified under such a provision. As such, we concur that a rent receipt as described in the D’Abraccio Affidavit would not constitute valid proof of residence.

D. Credit Card Statement (Johnson Affidavit)

A credit card statement is not included in the list of acceptable proof of residence documents in Wis. Stat. § 6.34(3)(a). According to the Johnson Affidavit the credit card statement was accepted by the election official under the provision allowing a “bank statement” under Wis. Stat. § 6.34(3)(a)9. G.A.B. staff has considered this argument previously and rejected it.

Absent a statutory definition, G.A.B. staff applies a word’s common definition. A bank statement is “a report issued periodically (usu. monthly) by a bank to a customer, providing certain information on the customer’s account, including the checks drawn and cleared, deposits made, charges debited, and the account balance.” Black’s Law Dictionary 1417 (7th ed. 1999). A bank is “A financial establishment for the deposit, loan, exchange, or issue of money and for the transmission of funds; esp., a member of the Federal Reserve System.” Black’s Law Dictionary 139 (7th ed. 1999). This is distinguishable from a “credit card”, which is “an identification card used to obtain items on credit, usu. on a revolving basis.” Black’s Law Dictionary 375 (7th ed. 1999).

G.A.B. staff has consistently made this distinction in election official training materials and voter education materials. While credit cards may be issued by banks and accounts consolidated onto a single statement, the defining attributes of a bank statement revolve around the deposit of money, which then has checks drawn or debits made against it. As such, we concur that a credit card statement as described in the Johnson Affidavit would not constitute valid proof of residence.

While Wis. Stat. § 6.34(3)(a)9. permits the use of a bank statement as proof of residence, the G.A.B. has consistently advised local election officials that statements from other financial institutions as defined in Wis. Stats. § 705.01 (3), may also be used as proof of residence. This includes a bank, building and loan association, credit union, trust company, savings bank, and savings and loan association.

E. United States Postal Service – Forwarding Address Sticker (Till, Wagner, and Newell Affidavits)

The Till, Wagner, and Newell affidavits all allege separate instances of election inspectors accepting envelopes with yellow forwarding mail stickers on them as proof of residence. Presumably, the election inspectors were accepting these stickers under Wis. Stat. § 6.34(3)(a)11., “a check or other document issued by a unit of government.”

Undeniably, the United States Postal Service (USPS) is a unit of government. In fact it may be the most visible and well-known of any unit of federal government. The RPW does not argue this point.

RPW does contend that the sticker is not an “official” document. In its correspondence on this topic, the Election Protection organization asserts that RPW is inserting language into the statute that does not exist. Response to RPW Communication of 9/17/12 at 2. However, G.A.B. staff is of the opinion that the only documents intended to be included in the definition are “official” documents. Indeed it is difficult to imagine what document could be issued by a unit of government that was not “official.” Regardless, the staff opinion does not hinge on the official character of the document.

A sticker also appears to be a document. Absent a statutory definition, G.A.B. staff applies a word’s common definition. A document is “something tangible on which words, symbols, or marks are recorded.” Black’s Law Dictionary 498 (7th ed. 1999). Forwarding address stickers are definitely tangible and contain words.

However, staff concurs with RPW’s conclusion that forwarding address stickers should not be accepted as proof of residence under Wis. Stat. § 6.34(3)(a)11. It appears that the statutory intent is to require the document itself to be issued by a unit of government, not merely that the delivery envelope indicate that it was delivered by the Postal Service. While the forwarding sticker is generated from a database of the USPS, the label is not part of the governmental document which the statutes intended to approve as an acceptable form of proof of residence.

F. Sealed Utility Bills (Newell Affidavit)

A utility bill is included in the list of acceptable proof of residence documents in Wis. Stat. § 6.34(3)(a). However, the Newell Affidavit alleges that a sealed utility bill was presented and the election official did not open the envelope to verify its contents.

Wis. Stat. § 6.34(3)(a)8. states, “A utility bill for the period commencing not earlier than 90 days before the day registration is made.” If a utility bill is not removed from its envelope, even if the recipient’s name and address are visible through a window on the envelope, it is unlikely the election official could verify the period the utility bill covers from an outward inspection. As such, G.A.B. staff concurs that without opening the envelope to inspect the period of the utility bill, the sealed utility envelope itself does not constitute valid proof of residence.

G. Insurance Statement (Boubonnais Affidavit)

An insurance statement is not included in the list of acceptable proof of residence documents in Wis. Stat. § 6.34(3)(a). While the list of acceptable forms of proof of residence from Wis. Stat. § 6.34(3)(a) does provide some general categories such as “a

document issued by a unit of government,” there is no allegation here that this document contained any information that would suggest it qualified under such a provision. As such, we concur that an insurance statement as described in the Bourbonnais Affidavit would not constitute valid proof of residence.

H. Netflix Envelope (Jones Affidavit)

A Netflix return envelope is not included in the list of acceptable proof of residence documents in Wis. Stat. § 6.34(3)(a). Netflix is a commercial business and its materials do not qualify as a document issued by a unit of government or as another acceptable form of proof of residence pursuant to Wis. Stat. § 6.34. As such, we concur that a Netflix return envelope as described in the Jones Affidavit would not constitute valid proof of residence.

It should be noted that in her affidavit, Jill Jones states that she did not see a Netflix return envelope accepted as proof of residence. Jones Aff. ¶ 4. Ms. Jones states that an elector was turned away for improper proof of residence and later returned with a different proof of residence. *Id.* Jones indicated in her affidavit that she “heard the poll worker say something about a Netflix envelope,” but it is unclear if that was referencing the first proof of residence that was rejected or the second proof of residence that was accepted. *Id.*

I. Jiffy Lube Receipt (Exhibit 2)

A receipt from Jiffy Lube is not included in the list of acceptable proof of residence documents in Wis. Stat. § 6.34(3)(a). Jiffy Lube is a commercial business and its materials do not qualify as a document issued by a unit of government or as another acceptable form of proof of residence pursuant to Wis. Stat. § 6.34. As such, we concur that a Jiffy Lube receipt as described in Exhibit 2 would not constitute valid proof of residence.

J. Utility Bill Addressed to “Occupant” (Exhibit 2)

Wis. Stat. § 6.34(3)(b)1. states, “. . .the identifying documents prescribed in par. (a) shall contain all the following in order to be considered proof of residence:

1. A current and complete name, including both the given and family name.”

Utility bills addressed to “Occupant” fail this first criterion for proof of residence. As such, G.A.B. staff concurs that even if the document was otherwise valid, if it does not contain the registrant’s current and complete name, it is not acceptable as proof of residence.

K. Cell Phone Bill (Testimony – August G.A.B. Meeting)

Wis. Stat. § 6.34(3)(a)8. states, “A utility bill for the period commencing not earlier than 90 days before the day registration is made.” However, the RPW argues that a cell phone bill is not a utility bill and should not be accepted as valid proof of residence.

Absent a statutory definition, G.A.B. staff applies a word’s common definition. A utility is “a business enterprise that performs essential public service and that is subject to governmental regulation.” Black’s Law Dictionary 1154 (7th ed. 1999). Furthermore, a public utility is “A company that provides necessary services to the public, such as telephones, electricity, and water. Most utilities operate as monopolies but are subject to governmental regulation.” *Id.*

G.A.B. staff has consistently included cell phone service bills as utility bills. This is a longstanding interpretation of the staff for both the Government Accountability Board and the former State Elections Board. In support of the G.A.B. staff interpretation, Wisconsin Election Protection points to a Wisconsin Legislative Council Memo that states: “In general, a person that provides telecommunications services to the public, directly or indirectly, in this state is termed a telecommunications utility... The other two main classes of telecommunications utilities are alternative telecommunications utilities (ATUs) and cellphone service providers.” Wisconsin Legislative Council Information Memorandum 2011-07, Regulation of Telecommunications Services, at 1 (2011), *available at*: http://legis.wisconsin.gov/lc/publications/im/im2011_07.pdf.

Contrary to what the RPW suggests in its memo, there is no statutory requirement that the utility bill be for services at the elector’s residence. A utility bill for a rental unit address, sent to the landlord’s residential address, would be sufficient proof of residence for the landlord as it is a utility bill with the elector’s current name and address. Furthermore, that a particular class of electors such as college students may have access to another form of proof of residence is irrelevant in assessing the statutory validity of this type of document.

As such, G.A.B. staff maintains its long-standing policy of including cell phone bills as “utility bills” under Wis. Stat. § 6.34(3)(a)8. and allowing them as valid forms of proof of residence.

II. Public’s Right to Observe

The G.A.B. policies with respect to members of the public observing elections are based on state law which permits any member of the public, other than a candidate whose name appears on the ballot, to be present to observe the voting process. Wis. Stat. § 7.41(1). The municipal clerk or chief inspector may restrict the areas within a polling place where observers may be stationed. The designated areas are required to be clearly delineated. The observation areas should be established so that a member of the public may readily observe all public aspects of the voting process. Wis. Stat. § 7.41(2). The G.A.B. is authorized to develop rules governing the proper conduct of observers including the interaction of observers with poll workers and other election officials. Wis. Stat. § 7.41(4).

In 2006, the former State Elections Board developed a series of administrative rules related to election observers after consultation with a number of political organizations, including both major political parties, which recruit and encourage individuals to observe the voting process. The administrative rules were modified and adopted by the G.A.B. pursuant to 2007 Wisconsin Act 1 in December 2009 after a public hearing. The emergency administrative rule promulgated by the Board has expired, but the policy continues in the form of an informational brochure provided to local election officials and members of the public. A copy may be found online at: <http://gab.wi.gov/publications/brochures/observer-rules>. The policy is also articulated in the agency’s Election Day Manual for Wisconsin Election Officials developed pursuant to Wis. Stat. §7.08(3). The information on election observers is on pages 67-69. The manual can be accessed at: <http://gab.wi.gov/clerk/education-training/election-day-manual>.

In response to questions raised by election officials and observers over the course of the last several elections, the Board staff has provided additional guidance to ensure members of the public have the opportunity to exercise the right to observe the public aspects of voting and local election officials are able to do their job of administering the election. The touchstone for our guidance is that the public has a right to observe the public aspects of the voting process and the election officials have the right to do their job without interference or disruption.

Observers are required to:

- Identify themselves to the chief inspector;
- Sign-in on a roster with their name, address and the name of any sponsoring organization;
- Wear tags identifying themselves as observers;
- Stay within the designated observation area;
- Address all questions to the chief inspector;
- Refrain from engaging in activity that disrupts the operation of the voting location.

Election officials are required to:

- Establish designated observation areas that enable members of the public to observe the public aspects of the voting process;
- Ensure that observers can hear the name and address of a voter requesting a ballot;
- Administer challenges permitted by law;
- Conform their conduct to the requirements for administering the election.

A. Reasonable Accommodations for Election Observers

In the 2nd Darrow Affidavit, Nadine Darrow alleged that the Chief Election Inspector at the polling place where she was observing stated that if she wished to observe, she would be required to stand. There is no such requirement in state law or G.A.B. administrative code. While the precise setup of the observer area is not codified beyond its minimum and maximum distance from election officials, seating is a reasonable accommodation that should be provided to all observers where possible to facilitate the public's right to access under Wis. Stat. § 7.41. Clerks and chief inspectors should strive to make reasonable accommodations for persons with disabilities, but there is no affirmative statutory duty to make seating available for all observers.

B. Location of the Observer Area

Observation areas should be between six and twelve feet from the poll workers. This distance was established in consultation with both major parties and a number of political organizations that send individuals to observe the voting process. This distance guideline was never intended as a one-size-fits-all rule. Given the wide range of buildings used as polling places, adjustments to this distance guideline can be made to suit the specific physical characteristics of the voting area. But the litmus test is that in each polling place, members of the public should be able to observe the interaction between the voters and poll workers. If a reasonable observer would be unable to hear the interaction between election officials and voters, the chief inspector should adjust the observation area accordingly to facilitate the public's right to observe the proceedings.

Additionally, while observers are directed to ask questions of the chief inspector, they are entitled to make requests of the other poll workers to ensure that they are able to hear the name and address of a voter requesting a ballot. Similarly, an observer may inform a poll worker that they wish to challenge a voter pursuant to Wis. Stat. §§ 6.92 *et seq.*

C. Observer Access to Voter Registration Materials on Election Day

Observers are not entitled to view every identifying document offered as proof of residence. A document is not public merely because it is displayed to an election official to satisfy the proof of residence requirement. If a copy of the document is submitted and

retained by the election official, observers may request to view that copy when that request will not result in disruption to the voting process. If the document is not retained, the observer may inquire with the election inspector in charge of registration regarding the type of proof of residence provided when such a request will not disrupt the process of voter registration.

There is also no right to view same day registration documents at the polling place. A voter registration application contains the voter's date of birth, operator's license number and/or the last four digits of the voter's social security number, and any indication of a voter's need for accommodation. Election officials are barred from releasing this information to the public. *See Wis. Stat. § 6.36(1)(b)*. It does not logically follow that such information would be publicly available at the polling place, but treated as confidential once entered into the Statewide Voter Registration System. As such, staff has long interpreted this provision to restrict the public's right to view a voter registration application unless the confidential information can be obscured. The G.A.B. encourages election inspectors to make every effort to facilitate the public's right to observe the public aspects of the voting process, but the public right to access has to be balanced with the election officials' responsibility to efficiently and effectively administer the election.

III. Election Officials' Failure to Require Voters to Sign the Voter List

In light of the facts determined at the 21st Senate Recount earlier this summer, RPW asks the G.A.B. to remind municipal clerks of the requirement of Wis. Stat. § 6.79(2)(a) that each elector be required to sign the voter list before receiving a ballot and ask them to monitor voter lists at their polling locations for compliance. A ballot should not be issued if the voter has not signed the poll list. However, as recommended by the G.A.B., the Racine County recount canvassing board did not accept challenges to ballots in cases where the voter did not sign the poll list. Consistent with the language emphasizing elector intent in Wis. Stat. § 5.01, an individual's constitutional right to vote should not be affected due to an election official's error.

G.A.B. staff has made numerous references to the new signature requirement in various training sessions and materials prepared since 2011 Act 23 became law. Special outreach was also made to the election officials in the 21st Senate District following staff review of the recount minutes to correct the deficiencies discovered in practices and procedures.

In addition, in response to issues and incidents reported during recent elections, the G.A.B. determined that Wisconsin would benefit from a renewed emphasis on the fundamentals of election administration. Shortly after the June 5 Recall Election, the Director and General Counsel and the Elections Division Administrator convened a Fall Election Strategic Planning Team which has developed a Back-to-Basics initiative for ensuring a problem-free General Election in November 2012. Full details on the Back-to-Basics initiative can be found at: <http://gab.wi.gov/node/2418>

IV. Wisconsin Guide to Voter Rights and Responsibilities

RPW expresses concern that in the G.A.B.'s new "Voter Rights and Responsibilities" document, that G.A.B. appears to approve of "immediate removal of the election observer from the polling location." As RPW did not quote any particular section of the Voter Rights and Responsibilities document, staff believes the RPW is referring to the section entitled "Repercussions" in the Observer section which states:

- "If you disobey an order of an election official or disturb the polling or canvass place:
- You may be asked to leave if you are causing a disruption"

RPW rightly points out that GAB 4.01(9) indicates a warning shall be issued before ordering removal. However, the language on the Rights and Responsibilities document does not contradict the instruction to warn an offender before ordering removal. In an effort to condense detailed rules and procedures, the informational document advises observers of the most serious consequence for failing to obey lawful orders of the chief inspector. The document is aimed at an audience of voters and observers. Election officials are trained to follow the full procedures outlined in the rule GAB Chapter 4, and the role and regulation of observers has been a point of emphasis in the Board's Back-to-Basics initiative.

V. Electronic Versions of Proof of Residence

In response to the Board's determination on August 28, 2012, that electronic versions of existing proof of residence document types would be acceptable as proof of residence, RPW is asking for clarification. RPW interpreted the G.A.B.'s August 29th news release where Director Kennedy was quoted as saying, "many people today have gone paperless in their lives, including banking, utilities and taxes," to mean that the decision of the Board was limited to those three types of proof of residence.

In the alternative, the RPW asks the Board to reconsider the decision and limit the application of electronic versions of proof of residence to those three categories. RPW asserts that electronic versions of the other proof of residence types would not be reliable. Furthermore, in the interests of security, RPW asks the G.A.B. to instruct election officials that only electronic documents directly from a bank, utility company, or IRS' website should be permissible.

The Board was clear in unanimously passing the following motion at its meeting on August 28, 2012: "Interpret 'identifying document' as used in Wis. Stat. § 6.34 to include electronic documents displayed on electronic devices which may be used for registration purposes. It shall not be the responsibility of municipalities to provide devices or internet access to facilitate this process." This motion was passed unanimously. The motion of the Board had no such limiting language to just bank statements, utility bills, or taxes. The statement by Director Kennedy was merely an example, not intended to limit the Board's decision.

G.A.B. staff released an instructional memorandum regarding the Board's decision to election officials on August 29, 2012. Staff has recently issued more detailed guidance on how to handle the presentation of electronic versions of proof of residence at the polls, and has incorporated it into training for election officials and voter education materials. See attachment which can be found at <http://gab.wi.gov/node/2603>. G.A.B. staff and other local election officials who testified at the August 28, 2012 Board meeting were emphatic that if the Board chose to accept electronic versions of proof of residence, the decision should be made immediately so that sufficient time was allowed for training and voter education on this new policy. G.A.B. staff recommends that the Board not revisit its August 28th decision regarding electronic proof of residence documents.

Because your correspondence and this response touches on a number of issues often raised by voters and local election officials, we will share the essential details of this communication with local clerks and with organizations that provide training to election observers. We trust that this memorandum addresses the concerns and issues you raised. Please feel free to contact the G.A.B. if you have any additional questions.

Electronic Proof of Residence for Voter Registration

Information provided by the Wisconsin Government Accountability Board



| | |
|---|---|
| <p>What has changed?</p> | <p>On August 28, 2012, the Government Accountability Board voted unanimously to allow voters to use electronic versions of acceptable documents to serve as proof of residence.</p> |
| <p>Do polling places have to provide electronic devices and/or internet access for voters to use?</p> | <ul style="list-style-type: none"> ➤ No. It is the responsibility of the voter to provide the electronic device (smartphone, tablet computer, laptop, etc.). ➤ It is also the responsibility of the voter to provide the internet access for their electronic device. Polling places are not required to have internet access or wireless networks available. ➤ Polling places may voluntarily supply electronic devices and internet access to assist voters in the voter registration process, but are not required to do so. |
| <p>Is there a different standard for the examination of electronic proof of residence documents?</p> | <ul style="list-style-type: none"> ➤ No. Election officials should use uniform standards for determining if a document is acceptable no matter the format. ➤ Election officials may not reject an acceptable proof of residence document merely because it is in electronic format. |
| <p>What should an election official do if they are having trouble reading the electronic document or locating the necessary information?</p> | <ul style="list-style-type: none"> ➤ If the document is not readable, the inspector should ask the voter to expand the size of the type on the screen or seek assistance from another election official. ➤ The voter must, upon request of the election official, navigate and/or zoom in on the document so that the election official may view the required information on the electronic document (name, address, account number, date, and type of document) in a readable form. ➤ Just as with paper proof of residence documents, if a voter is unable or unwilling to present their proof of residence document in a format that is readable to the election official, it may be rejected and the voter may not be able to register with that document. |
| <p>Are election officials required to handle the voter's electronic device?</p> | <ul style="list-style-type: none"> ➤ No. Election officials are not required to handle the device to locate the required information on the electronic document. ➤ The voter should hold the device or place it in front of the election official in a manner that ensures that the election official can read the necessary information. ➤ Election officials are not prohibited from handling an electronic device, but should first confirm with the voter that it is acceptable to do so. |

Electronic Proof of Residence for Voter Registration (Continued)

Information provided by the Wisconsin Government Accountability Board



May election observers handle or view a voter's electronic device or their electronic proof of residence document?

No. The law does not entitle election observers to handle or view the device on which an electronic proof of residence document is displayed. Election observers also cannot handle or view electronic or paper proof of residence documents.

Has anything changed about the information that an election official must record on the GAB-131?

No. The election official must still record the same information on the voter registration form, including information about the type of document provided and any identifying account number associated with the document, if a number is available.

Are there any 'best practices' for election officials that are recommended for handling electronic proof of residence documents?

- Voters should have the acceptable document readily displayed on the screen when they arrive at the voter registration area.
- Patience and cooperation are encouraged on the part of both election officials and voters to ensure that the voter registration process, when using electronic proof of residence, goes smoothly.
- Election officials are required and expected to diligently examine the electronic document and make sure to record the required information.
- Election officials should not hesitate to ask for assistance from other poll workers or the Chief Inspector if they have questions about the validity of a document, or if they are having trouble reading or locating the required information on the electronic device.

Voter Information: <http://myvote.wi.gov>

For more information, please visit the Government Accountability Board website: <http://gab.wi.gov> or call 1-866-VOTE-WIS or contact the G.A.B. Help Desk at 608-261-2028 or TTY 1-800-947-3529.



List of Possible Proof of Residence Documents

Information is provided by the Wisconsin Government Accountability Board

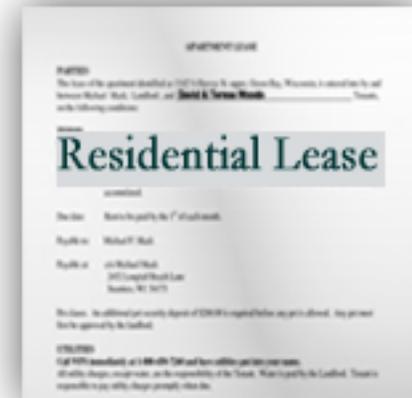
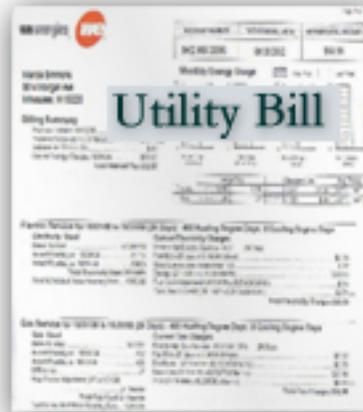
| | |
|--|--|
| <p>What are examples of government agencies who can issue Proof of Residence documents?</p> | <p>THIS IS NOT A COMPREHENSIVE LIST. THESE ARE ONLY EXAMPLES OF UNITS OF GOVERNMENT.</p> <p>Government agencies can include local, state, or federal units of government.</p> <ul style="list-style-type: none"> ➤ Local units of government include: city, town or village clerk or treasurer’s office, your county clerk or treasurer, and many others. ➤ State units of government include: Division of Motor Vehicles (DMV or DOT), Department of Natural Resources (DNR), Department of Workforce Development (DWD), Department of Human Services, and many others. ➤ Federal units of government include: Internal Revenue Service (IRS), Medicare (not second party vendors), Social Security, and many others. |
| <p>What are examples of Proof of Residence documents issues by a government agency?</p> | <p>THIS IS NOT A COMPREHENSIVE LIST. THESE ARE ONLY EXAMPLES OF PROOF OF RESIDENCE DOCUMENTS.</p> <ul style="list-style-type: none"> ➤ Fishing and hunting licenses ➤ Vehicle registrations ➤ Food stamps, Wisconsin Works, Wisconsin Shares, and BadgerCare notices and correspondence ➤ Medicare notices and Medicare Explanation of Benefits (not from 2nd party providers or other health insurance providers) ➤ Social Security and SSI notices and benefits statements ➤ Public high school, technical college, and public university correspondence and documents, including: admissions correspondence, financial aid notices, report cards, and schedules ➤ Federal student loan correspondence and notices ➤ Billing statements and collection notices from a governmental entity ➤ Correspondence from a federally recognized Native American Tribe living in Wisconsin. |
| <p>What if I am unsure if my document will qualify?</p> | <ul style="list-style-type: none"> ➤ If you are unsure if your document will qualify as acceptable proof of residence, please call: <ul style="list-style-type: none"> • Your municipal clerk, contact information can be found at http://myvote.wi.gov • The Government Accountability Board: 1-866-VOTE-WIS or gab@wi.gov |

REMEMBER: Acceptable Proof of Residence documents must always include the voter’s name and current address.

Voter Information: <http://myvote.wi.gov>

For more information, please visit the Government Accountability Board website: <http://gab.wi.gov> or call 1-866-VOTE-WIS or contact the G.A.B. Help Desk at 608-261-2028 or TTY 1-800-947-3529

Acceptable Proof of Residence



Bank Statement from First Bank of Wiki. Account Number: 123456789. Statement Period: 01/01/10 to 01/31/10. Balance: \$1,234.56.

| Date | Description | Debit | Credit | Balance |
|----------|-----------------|--------|----------|------------|
| 01/01/10 | Opening Balance | | | \$1,234.56 |
| 01/05/10 | Payment Deposit | | 500.00 | 1,734.56 |
| 01/10/10 | ATM Withdrawal | 100.00 | | 1,634.56 |
| 01/15/10 | ATM Withdrawal | 100.00 | | 1,534.56 |
| 01/20/10 | Payment Deposit | | 200.00 | 1,734.56 |
| 01/25/10 | ATM Withdrawal | 100.00 | | 1,634.56 |
| 01/30/10 | 100.00 | | 1,534.56 | |
| 01/31/10 | Ending Balance | | | 1,534.56 |

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JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

DATE: October 17, 2012

TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
City of Milwaukee Election Commission
Milwaukee County Election Commission

FROM: Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board

SUBJECT: Voter Advocacy Groups at Polling Places on Election Day

The Government Accountability Board (G.A.B.) has received a number of inquiries regarding the conduct of organizations that seek to assist voters in or outside polling places. Individuals associated with such organizations, which may or may not be political organizations, often wish to help voters confirm whether they are at the correct polling place and to ensure that voters have all the information needed to register to vote.

In recent elections, the G.A.B. has received an increasing number of complaints alleging that some individuals affiliated with such advocacy organizations have interfered with or distracted voters or disturbed the voting process. This communication provides guidance regarding rules that apply to advocacy groups or individuals that wish to assist voters at polling places.

Several statutory provisions are important to keep in mind. Wis. Stat. §§5.35(5) states that “The municipal clerks and election inspectors shall prevent interference with and distraction of electors at polling places.” Also, Wis. Stat. §7.37(2) states that

The inspectors shall possess full authority to maintain order and to enforce obedience to their lawful commands during the election and the canvass of the votes. . . . They shall enforce s. 5.35(5) and prevent electioneering and distribution of election-related material from taking place in violation of ss. 12.03 and 12.035. If any person refuses to obey the lawful commands of an inspector, or is disorderly in the presence or hearing of the inspectors, interrupts or disturbs the proceedings, they may order any law enforcement officer to remove the person from the voting area or to take the person into custody.

Chapter 12 of the Statutes also governs conduct at polling places. Wis. Stat. §12.03 prohibits any person from engaging in electioneering within 100 feet of any entrance to a building containing a polling place. Wis. Stat. §12.035(3)(a) prohibits any person from posting or distributing election-related material during polling hours at a polling place or on public property within 100 feet of an entrance to a building containing a polling place.

Election-related material is defined as “any written matter which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place....” Violations of §12.03 are subject to felony prosecution and violations of §12.035 may result in civil forfeitures. In addition, Wis. Stat. §12.13(3)(x) prohibits an individual from refusing to obey a lawful order of an inspector made for the purpose of enforcing the election laws; engaging in disorderly behavior at or near a polling place, or interrupting or disturbing the voting proceedings. Violations of this section are subject to misdemeanor prosecution.

These provisions protect the rights of voters to avoid being distracted or interfered with at polling places, as well as the authority of municipal clerks and election inspectors to maintain order on behalf of voters and the election process. Full authority for preservation of order at election proceedings is entrusted to the election inspectors and municipal clerks. To maintain order, election officials may place limitations on the access or location of advocacy groups and may ultimately order the removal of any individual or group that does not comply with lawful commands of inspectors.

Based upon these provisions, local election officials, advocacy organizations, and the public are advised of the following guidance:

1. Within 100 feet of an entrance to a polling place, individuals that are not under the supervision of the municipal clerk are prohibited from interacting with voters to check or verify the voter’s registration status or their correct polling location, or direct voters to the proper lines for voting or registration. If an organization offers to supply volunteers to provide this type of assistance, the municipal clerk may accept the offer but the individual volunteers must work under the supervision of the clerk or election commission. Volunteers must be sworn in as election workers and may not perform other duties of election inspectors. It is the clerk’s prerogative to assign such volunteers to polling places or to choose to decline the offer.

Organizations seeking to offer this assistance should inquire with the clerk prior to Election Day for planning purposes. The G.A.B. discourages clerks from accepting such offers and assigning new volunteers on Election Day, and chief inspectors may not assign such volunteers without the clerk’s consent. Individuals acting in this manner may not wear apparel or identification indicating that they are affiliated with an organization other than the municipality. This restriction applies to the end of any voting line which extends beyond the 100-foot zone.

2. Outside of the 100-foot area, individuals may offer to look up a voter's registration status or correct polling location, or provide suggestions for the voter's correct polling location, **only if** that activity does not interfere with or distract voters, or interrupt or disturb the voting process. Voters may not be given the impression that they are required to consult such individuals or interact with them as a requirement of entering into the polling place.
3. Chief inspectors should monitor such activity throughout the day and respond to any complaints raised by voters regarding the conduct of individuals outside of the polling place, even if it takes place outside of the 100-foot area adjacent to the entrance. Inspectors shall order any activity in violation of this guidance to immediately cease. If the activity continues, the inspector may request the assistance of law enforcement and order a law enforcement officer to remove the offending person from the voting area or take the person into custody.
4. This guidance does not affect the ability of individuals to assist voters in the voting process if requested to do so by the voter pursuant to Wis. Stat. §6.82.

The Board encourages public participation in the voting process and appreciates the efforts of private individuals and organizations to assist voters in obtaining accurate information. Such activity, however, must be balanced with the rights of voters to cast a ballot in an orderly environment that is free from disruption or distraction, as well as the responsibility of local election officials to conduct a problem-free election. This guidance seeks to ensure the proper balance and priority of those interests.

Questions regarding information in this memorandum should be directed to the Government Accountability Board at 608-261-2018, or at gab@wi.gov.



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October 18, 2012

Mr. Kevin Kennedy
Director and General Counsel
Wisconsin Government Accountability Board
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984

Dear Mr. Kennedy:

I am writing on behalf of We're Watching Wisconsin Elections ("We're Watching"), an unincorporated association involved, among other things, in educating non-partisan election observers. I also write on behalf of Ardis Cerny and Mary Anne Hanson, Wisconsin electors, who have observed elections in the past and are active in education and other activities with We're Watching.

Our clients are concerned with the interference with the legal rights of election observers that may stem from – even if they are not intended by – certain actions taken by the Government Accountability Board and statements made by the Board's staff with respect to the use of electronic documents for in-person absentee and same day voter registration. A correction or clarification by the Board may avoid the problems that We're Watching and Ms. Cerny and Hanson fear.

Sec. 7.41(1) of the Wisconsin statutes provides that "[a]ny member of the public may be present at any polling place, in the office of any municipal clerk whose office is located in a public building on any day that absentee ballots may be cast in that office, or at an alternate site under s. 6.855 on any day that absentee ballots may be cast at that site *for the purpose of observation of an election and the absentee ballot voting process*" (emphasis added). Observers must be positioned so that they can observe "all public aspects of the voting process." Sec. 7.41(2).

There are a limited number of restrictions on this right set forth in the statutes. First, election officials may reasonably limit the number of observers. Second, no observer may commit an overt act that disrupts the voting process or that violates statutory restrictions on campaigning at the polls or displaying or distributing political messages. Finally, no observer may observe the

confidential portions of a registration list maintained under s. 6.36 (4) or a poll list maintained under s. 6.79 (6). Sec. 7.41(4).

There are no other statutory restrictions on the right of observation and neither the GAB nor its staff is authorized to create any. It is important to note, moreover, that the last restriction is quite limited, applying only to the identity of electors who have obtained a statutorily authorized and defined confidential listing.

In a letter to election observer organizations dated August 7, 2012, Nathaniel Robinson, the Elections Administration Director of the GAB, stated that observers ought to, when physically feasible, be kept six to twelve feet away from the table at which voters announce their name and address and, presumably, six to twelve feet away from same day registration tables as well. There is absolutely no statutory authority for such a blanket restriction and such a limitation is unauthorized if it serves to position observers where they cannot view all public aspects of the voting process, including the tender of identifying electronic documents for purposes of same day registration.

The Board's adoption of a "six foot rule" may interfere with rights of observers in a number of ways. For example, it prevents observers from being able to see the completed registration form to make sure the elector has filled in all the required fields such as prior name or address and signature. It prevents a poll worker from seeing that the poll worker has properly documented proof of residence and has witnessed the voter's signature. It prevents observers from seeing whether a driver's license given to the poll worker is a Wisconsin license and whether the poll worker has checked the ineligible list. It may even prevent them from hearing the elector state his or her name and address.

In the past, GAB staff appears to have suggested that sec. 6.36(1)(b)(1.a), which places limits on the public's right to inspect registration lists, also restricts the right of observers to see what is happening when voters register in public. But sec. 6.36(b)(1) does not address observation of public aspects of the voting process and ought to be read consistently with sec. 7.41. As noted above, that section creates only two exceptions to the right of observation and those are far more narrow than those applicable to the inspection of registration lists under sec. 6.36(1)(b)(1.a).

In any event, invocation of sec. 6.36(1)(b)(1.a) proves too much. It is one thing to say that observers ought not to see or make a record of certain personal information. Our observers have no interest in doing that. It is quite another to say that they may not see what type of identifying document is being used.

These problems have been exacerbated by the recent decision of the Board to permit identifying documents to be proffered in electronic form on personal devices such as smartphones. While observers may have been able to tell whether a proffered paper document was of a type permitted by law from a distance of six feet, they will never be able to do so if the document is presented on a screen as small as three or four inches.

We're Watching and Ms. Cerny and Hanson were disappointed in the Board's decision to allow the display of electronic documents without providing time for adequate training of poll workers

and full consideration of the operational difficulties that such use may create. It is one thing to acknowledge that many documents that the law permits to be used to register are created or maintained in digital form. It is quite another to permit them to be displayed on a small screen on which the entire document may not be legible or the nature of the document may not be readily discernible.

We are concerned that permitting voters to navigate between screens that do not, in and of themselves, permit review of an entire identifying document may create the potential for confusion and abuse. We are also concerned that GAB staff appears to permit voters to “digitalize” documents that are originally created in paper form, unnecessarily complicating the verification process.

At the same time, we are encouraged on these issues by certain of the statements in Mr. Robinson’s October 12, 2012 memo to Kristina Seseck, Legal Counsel to the Republican Party of Wisconsin. While the memo repeats that “[o]bservation areas should be between six to twelve feet from poll workers,” it also states that the “litmus test is that in each polling place, members of the public should be able to observe the interaction between the voters and poll workers.” We agree.

Unfortunately, the memo suggests that election observers may be treated in ways that will not pass this litmus test. It states that observers “are not entitled to observe every identifying document.” It states that observers may only see those identifying documents retained by election officials and, for documents not retained, may only inquire as to the type of proof of residence provided. This is not a substitute for observing the registration transaction and, quite frankly, has the potential to be far more disruptive than simply placing observers where they can see what is happening.

To ensure that this “litmus test” is correctly applied on election day, we ask that the Board and its staff make clear that, in the absence of disruption of the voting process, election observers must be positioned so that they may reasonably observe all aspects of the voting process, including the tender of identifying documents for registration. At minimum, this includes the ability to see the identifying document that is being tendered. We ask that the Board make clear that, if this requires that the observer be placed closer than six feet, then that is what should be done.

We also believe that, since the staff has correctly recognized that observers have the right to see documents used to register (because it says that they may see those documents that are retained), there should be no prohibition against observers seeing registration forms. Again, the fact that these forms contain information that the public cannot see if it is included in compiled registration lists does not mean that it cannot be seen when publicly tendered as part of the voting process. Indeed, GAB Rule 3.20 recognizes that such information may be seen by individuals conducting voter registration drives, providing only that it may not be retained. While we recognize that observers ought not to be permitted to record such information, they ought to be able to see a document created publicly as part of the voting process.

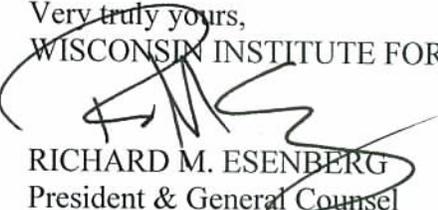
Contrary to the allegations of certain partisans, it is not the purpose or desire of election observers to disrupt the voting process or discourage the exercise of the franchise. Participation in our democracy is important. But that participation also includes the right of the public to know what is happening. Just as it is important to avoid unnecessary interference with balloting, it is crucial that the public have confidence in the process. This is particularly so in light of reports that election officials have registered voters with improper identifying documents – as addressed in Mr. Robinson’s memo of October 12.

The legislature has determined that ensuring that one critical way in which the integrity of the process can be protected and public confidence can be maintained is to conduct the process in the open and to permit the public to see what’s happened. The clarification that we request will serve that purpose.

If the staff feels it is unable or if it is unwilling to issue this clarification, we respectfully request that the matter be put on the agenda for the Board’s next public meeting on October 23, 2012. We appreciate that the request comes late, but the public would be served by clarification of these issues.

Thank you for your consideration.

Very truly yours,
WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.



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JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the October 23, 2012 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Legal Counsel
Wisconsin Government Accountability Board

Prepared by: Jonathan Becker, Administrator
Ethics and Accountability Division

SUBJECT: Ethics and Accountability Division Program Activity

Campaign Finance Program

Richard Bohringer, Nate Judnic, Adam Harvell and Molly Sessler,
Campaign Finance Auditors
Tracey Porter, Ethics and Accountability Specialist

Fall Pre-Election Reports

Materials for the Fall Pre-Election filing were sent to all candidates and committees participating in the Fall Election, the week of October 1, 2012. This report will cover campaign finance activity from July 31 through October 22, 2012 and is due on or before October 29, 2012. Staff will be busy processing reports and assisting committees with filing questions through the election on November 6, 2012.

Fall Pre-Primary Reports

Materials for the Fall Pre-Primary filing were sent to candidates participating in the Fall Primary election and to all non-candidate committees. This report covered campaign finance activity from July 1 through July 30, 2012 and was due on or before August 6, 2012. 594 pre-primary reports were filed with the G.A.B., 351 of those reports were filed by candidates. 21 candidates required to file a Fall Pre-Primary report have not filed. None of the 21 candidates with outstanding Pre-Primary reports are on the November General Election ballot. Staff will continue to follow up with the non-filers and do so until all required Fall Pre-Primary reports are received. An update will be provided at the next meeting.

July Continuing Reports

Materials for the July Continuing finance report filing were sent to all registrants. This report covered campaign finance activity from January 1 or the date of the last report, through June 30, 2012 and was due on or before July 20, 2012. Filing statistics are as follows:

- 610 of the 644 registered candidates filed reports, leaving 34 candidate reports still outstanding.
- 609 of the 654 registered non-candidate committees filed reports, leaving 45 non-candidate committees still outstanding.

- 182 of the 190 registered sponsoring organizations filed reports, leaving 8 sponsoring organizations still outstanding.
- 181 of the 185 registered conduits filed reports, leaving 4 conduits still outstanding.

Staff has followed up with the non-filers and will continue to do so until all reports are received. Staff will begin pursuing monetary penalties for failure to file a campaign finance report and an update will be provided at the next meeting.

Audits for 2011 Filing Fee and 10,000 Annual Contribution Limits

486 non-candidate committees spent more than \$2500 in 2011 and were required to pay a \$100 filing fee to the G.A.B.

- 49 committees with outstanding filing fees were contacted beginning in August. 15 of those committees did not owe filing fees based on further investigation, or were forgiven the filing fee upon termination of their committee or other extenuating circumstances.
- 32 committees paid a total of \$9,000 in late filing fees. 2 committees have late fees still outstanding. Staff will continue to follow up with these committees until all outstanding fees are received.

Twenty-one individuals were contacted about exceeding the \$10,000 individual annual contribution limit in calendar year 2011.

- 14 cases were closed with no forfeiture due after committees corrected their reported transactions to show amounts split between spouses, or amounts applied to recall/recount expenditures, or otherwise reported incorrectly.
- One forfeiture of \$5,175 has been paid. 6 cases are still outstanding. Staff will continue to follow up with these individuals until all cases are resolved.

Record Retention

Old campaign finance reports were transferred to the State Historical Society per the agency's record retention policy during the week of September 24, 2012. Almost 50 boxes of old reports (at least 6 years after being filed with the G.A.B.) were picked up by representatives of the State Historical Society. The records transfer has opened up much needed space in the G.A.B. office and storage areas in preparation for large campaign finance filings coming up in late 2012 and early 2013.

Lobbying Update

Tracey Porter, Ethics and Accountability Specialist

Statement of Lobbying Activities and Expenditures Reports

Chapter 13.68, *Wisconsin Statutes*, requires all registered lobbying organizations to complete a 6 month Statement of Lobbying Activities and Expenditures (SLAE) report that contains information related to the organizations' lobbying effort between January 1 and June 30, 2012. The SLAE report was due on or before July 31, 2012. As a part of the SLAE report, those lobbyists who are authorized to lobby for the organization are required to complete a time report that identifies those hours spent communicating or working on other lobbying related matters for the organization. This report is also due on or before July 31, 2012. All lobbyists and lobbying principals have filed their time reports and SLAE reports for this time period. The reports are all available on the G.A.B. website.

Lobbying Registration and Reporting Information

Government Accountability Board staff continues to process 2011-2012 lobbying registrations, licenses and authorizations. Processing performance and revenue statistics related to this session's registration is provided in the table below. The six month Statement of Lobbying Activities and Expenditure summary report has been generated and is ready for public release.

| 2011-2012 Legislative Session: Lobbying Registration by the Numbers (Data Current as of October 16, 2012) | | | |
|--|---------------|-------------|--------------------------|
| | Number | Cost | Revenue Generated |
| Organizations Registered | 762 | \$375 | \$285,750 |
| Lobbyists Licenses Issued (Single) | 664 | \$350 | \$232,400 |
| Lobbyists Licenses Issued (Multiple) | 135 | \$650 | \$87,750 |
| Lobbyists Authorizations Issued | 1751 | \$125 | \$218,875 |

Lobbying Website Project Update

A significant amount of time has been allocated to finishing the development and testing of the new lobbying application. The new lobbying application "went live" on Monday, October 15, 2012 to a small group of selected lobbyists, legislators and other interested parties. Staff will take final feedback from this small group of users, make any necessary changes, and fully release it on November 1, 2012. Users will be re-directed from the old lobbying site to the new site starting November 1, 2012. All principals and lobbyists will use the system to file the last 6-month SLAE report of 2012 and to register and report interests in the upcoming 2013-2014 legislative session. Staff will conduct training sessions on the new system as well as post step-by step training manuals to the G.A.B. website to assist users in transitioning to the new system.

Staff Departure

Tracey Porter has accepted a job offer in the private sector as a paralegal and her last day with the G.A.B. was October 19, 2012. As the point person on the lobbying program and the primary back-up on many of the other activities in the Ethics and Accountability Division, she will be greatly missed both professionally and personally by everyone at the G.A.B. Her dedication, positive attitude and unmatched work ethic set an example for everyone in the agency. Molly Sessler has been assigned as the new lobbying program point person. Recruitment for the vacancy created by Tracey's departure will begin immediately.

Financial Disclosure Update

Cindy Kreckow, Ethics and Lobbying Support Specialist

Statements of Economic Interests – Ongoing and Annual Filing

Statements are received on an ongoing basis for Governor Appointees as well as new state officials who are required to file them. Staff has been in contact with all of the Wisconsin technical colleges to identify those positions that each college's board determines are required to file a Statement of Economic Interests with the G.A.B. Staff will also be working in the next month or so to identify active reserve judges in order to mail pre-printed copies of their Statement of Economic Interests to them in early December. Reserve judges are required to file a Statement of Economic Interests with the G.A.B. within 21 days of taking a case, so their statements are sent out prior to the annual filing statements. Municipal judge candidates, as well as state court candidates are required under Chapter 19.43(4), *Wisconsin Statutes*, to file a Statement of Economic Interests with the Government Accountability Board in order to have their name appear on the ballot for the spring election. In

late November, pre-printed Statements of Economic Interests will be mailed out to incumbent judges who are up for re-election in the spring of 2013. GAB staff will be preparing for the 2013 Statement of Economic Interests annual filing period throughout the month of November. Database records, forms, instructions and reports will be updated to reflect the upcoming filing year.

Governor Appointments

Appointments continue to increase and are being processed on an ongoing basis, to include securing statements of economic interests from all appointees who have not already filed this calendar year, and referring copies of their statements to the Senate for future confirmation hearings.

State of Wisconsin Investment Board Quarterly Transaction Reports

Ethics and Accountability staff sent out 49 quarterly financial disclosure reports to State Investment Board members and employees on October 2nd. The 2012 third quarter reports are due on or before October 31st. Once received, copies of the reports will be delivered to the Legislative Audit Bureau for their review and analysis.

State of Wisconsin\Government Accountability Board

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the October 23, 2012 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel
Wisconsin Government Accountability Board

Prepared by Elections Division Staff and Presented by:
Nathaniel E. Robinson
Elections Division Administrator

SUBJECT: Elections Division Update

Election Administration Update

Introduction

1. August 14, 2012 Partisan Primary

The Partisan Primary was conducted on August 14, 2012. 393 candidates participated.

| Party | U.S. Senator | Congress | State Senate | Assembly | D.A. | Total |
|-------|--------------|----------|--------------|----------|------|-------|
| REP | 4 | 9 | 15 | 114 | 45 | 187 |
| DEM | 1 | 11 | 19 | 135 | 40 | 206 |
| CON | 0 | 0 | 0 | 0 | 0 | 0 |
| AME | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 5 | 20 | 34 | 249 | 85 | 393 |

2. November 6, 2012 General Election

323 Candidates will appear on the November 6, 2012 General Election ballot across the state, including seven slates of candidates for President and Vice President. There are no Americans Elect Party candidates. The Constitution Party fielded a Presidential/Vice Presidential slate, but fielded no candidates for any other state or federal office. There are a total of 29 independent candidates, including four independent slates for the offices of President/Vice President. The four independent slates represent the Libertarian Party, Party for Socialism and Liberation, Socialist Equality Party and the Green Party.

Below is a chart of the number of candidates by office and party:

| Party | Pres./ Vice Pres | US Senate | Congress | State Senate | Assembly | D.A. | Total |
|--------------|------------------------|--------------|----------|-----------------|----------|------|-------|
| REP | 1 | 1 | 8 | 12 | 75 | 42 | 139 |
| DEM | 1 | 1 | 8 | 14 | 95 | 35 | 154 |
| CON | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| AME | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| IND | 4 | 2 | 2 | 2 | 15 | 4 | 29 |
| TOTAL | 7 | 4 | 18 | 28 | 185 | 81 | 323 |

Registered Write-in Candidates

As of this writing, there are two slates of candidates for President and Vice President that have qualified as registered write in candidates. The deadline for write-in candidates for the office of President and Vice to file Declarations of Candidacy and a list of electors is 4:30 p.m. on Tuesday, October 23, 2012.

There are currently 11 registered write in candidates for offices other than President/Vice President. One of the registered write-in candidates is Representative Peggy Krusick, who lost in the primary. She is running for her Assembly 7 seat.

3. November 6, 2012 Special Election in State Senate District 33

A special election for State Senator, District 33 was called by the Governor on September 18, 2012. The 33rd Senate District is Waukesha County only. The special election is scheduled for December 4, with the primary, if necessary, conducted on November 6, 2012, in conjunction with the General Election. Nomination papers are due October 9, 2012. At this writing, there are three candidates registered. One candidate has submitted sufficient nomination papers.

4. 2013 Spring Primary and Election

Staff has begun preparing for the Spring Primary and Election. Several candidates have registered and filed Declarations of Candidacy. The Type A Notice must be sent to county clerks no later than November 15, 2012. Nomination papers may be circulated beginning December 1, 2012 and are due Wednesday, January 2, 2013.

5. Extended Operating Hours to Support Clerk Partners and Voter Customers Before, During and After the August 14, 2012 Recall Primary

The Government Accountability Board (G.A.B.) regular business hours are 7:45 a.m. to 4:30 p.m. The Board staff extended hours of operation starting Wednesday, August 8, 2012 through Friday, August 17, 2012 in order to provide assistance to our local elections partners and the general public regarding the August 14 Partisan Primary. The extended office hours schedule included:

Week Leading up to the August 14 Partisan Election

- Wednesday, August 8: 4:30 - 6:00 p.m.
- Thursday, August 9: 4:30 - 6:00 p.m.
- Friday, August 10: 4:30 - 6:00 p.m.

Week During the August 14 Partisan Election

- | | |
|--|-------------------------------|
| ➤ Monday, August 13: | 4:30 - 8:00 p.m. |
| ➤ Tuesday, August 14 (Election Day) | 6:00 a.m. - 11:00 p.m. |
| ➤ Wednesday, August 15: | (No Extended Hours) |
| ➤ Thursday, August 16: | (No Extended Hours) |
| ➤ Friday, August 17: | 4:30 - 6:00 p.m. |

6. 2012 Fall Election Strategic Planning Team

The 2012 Fall Election Strategic Planning Team is in its final phase of work to ensure a problem-free fall 2012 election experience for all of our customers. Established in June, this group has identified and completed more than three dozen tasks, with several more projects on track to be completed in the coming days. This *Back-to-Basics* program has three parts:

1. Clerk and poll worker training focused on the basics of election administration.
2. Voter education.
3. Enhanced use of technology to assist voters and local election officials better manage the election process.

Some of the projects completed this fall include:

- Ten webinar trainings for local election officials reviewing a variety of policies and procedures, including absentee voting, voter registration, polling place management. Recordings of these trainings are posted online.
- Two training manuals for local election officials – the Election Administration Manual and the Election Day Manual – have been revised with additional instructions on the most complex topics. The updates have been posted online. Clerks may order copies of the updated manuals.
- Six trainings for local election officials held at locations around the state on how to use the Statewide Voter Registration System (SVRS).
- Several different reviews of the data in SVRS for completeness to ensure poll books are accurate.
- Development of *Voting 101* voter education materials and presentation, with staff invited to speak at five events at locations around the state. The materials and a recording of the presentation are posted at <http://gab.wi.gov/voters>.
- Creation of a “Voter Information Center” at <http://gab.wi.gov/voters>, which features easy-to-understand answers to the most common questions from voters.

In the coming days, this team will finish work on the following projects:

- A webinar training for law enforcement around the state on their role in assisting local election officials in maintaining order and security polling places

- A video training series on the most commonly used functions of SVRS
- Greater use of Facebook and Twitter to educate voters on their rights and responsibilities

A more detailed explanation of the *Back-to-Basics* program developed by the 2012 Fall Election Strategic Planning Team is posted on the G.A.B. website: <http://gab.wi.gov/node/2418>

Provision of Targeted Assistance to Municipalities with Unique Needs

➤ Waukesha County Clerk/Waukesha Municipal Clerks

Staff will continue to assist the Waukesha County Clerk and Waukesha County Municipal Clerks for the November 6, 2012 Presidential and General Election. On September 18, 2012 the governor called a Special Election for the Thirty-Third (33) State Senate District. The Thirty-Third Senate District lies entirely within Waukesha County. Because the primary for this Special Election will be held on November 6, 2012, special assistance to Waukesha County and its municipality is necessary.

The official ballots for the November 6, 2012 election were required to be sent to absentee voters on September 20, 2012. The filing period for nomination papers for the Special Election ends on October 8, 2012. Consequently, after it is determined that a Special Primary is required and the candidates are certified, the clerks in Senate District 33 will be required to send a second absentee ballot to the voters who have already received the official ballot that did not include the Special Primary contest for Senate District 33. The G.A.B. staff has prepared and distributed instructions to Waukesha County and the municipalities in Senate District 33. Staff will continue to assist the county and municipalities impacted by the Special Primary Election in State Senate District 33.

➤ City of Milwaukee/Milwaukee Election Commission

G.A.B. staff have continued to serve as a resource to the Milwaukee Election Commission staff as they develop a U.S. Department of Justice required compliance plan to meet the minority language requirements of their designation under Section 203 of the 1965 Voting Rights Act. On July 12, 2012, Director and General Counsel Kevin J. Kennedy hosted a meeting with representatives from the Mayor's Office, Milwaukee Election Commission, and the Milwaukee City Attorney's Office to discuss the status of Milwaukee's compliance of Section 203. Staff have also been working with the agency's IT Development Team to create a surname analysis tool to assist the Milwaukee Election Commission in determining their need for bilingual election inspectors. Staff members visited polling places in Milwaukee during the August 14 Partisan Primary to observe the election process.

➤ Collaborating with the University of Wisconsin System-Madison

At the invitation of Matt Lind, Associate Legal Counsel for the UW System, GAB staff participated in a teleconference on student residency on August 3, 2012. The purpose of the teleconference meeting was to bring together UW staff, municipal and county clerks, and the GAB staff to clarify when a student can establish residency, proof of residency documents provided by UW schools, and different scenarios students face in establishing residency for voting. Representatives from public universities and municipalities in Madison, Oshkosh, Milwaukee, Green Bay, Stevens Point, Eau Claire and La Crosse attended. Before the teleconference, GAB staff also distributed an updated student residency document and a new student residency guide to get the participants' feedback and suggestions. Overall, UW staff and municipal clerks reported the teleconference was useful, and the documents on student residency will help students when they register to vote this fall.

The 2012 Fall Election Strategic Planning Team recognizes the importance of swiftly addressing issues and problems which arise in the administration of elections, and to ensure election procedures are implemented uniformly throughout Wisconsin. Implementing the “Back-to-Basics” initiative will continue to enhance and advance Wisconsin’s proud tradition of ensuring open and fair elections.

7. G.A.B. Election Voting and Registration Statistics Report (The GAB-190 Form: Elections Cost Tracking)

G.A.B. staff successfully gather election cost data from all of Wisconsin’s 1,851 municipalities and 72 counties for the April 3rd Presidential Preference and Spring Election, the May 8th Recall Primary Election, and the June 5th Recall Election. For each statewide election, the table below provides a summary of the reported county and municipal costs of these elections.

| Election | Statewide Costs | County Costs | Municipality Costs |
|------------------|------------------------|-----------------------|---------------------------|
| April 3, 2012 | \$7,676,264.02 | \$1,845,134.76 | \$5,831,129.26 |
| May 8, 2012 | \$6,290,247.98 | \$1,554,726.22 | \$4,735,521.76 |
| June 5, 2012 | \$7,190,974.56 | \$1,539,193.33 | \$5,651,781.23 |
| YTD TOTAL | \$21,157,486.56 | \$4,939,054.31 | \$16,218,432.25 |

G.A.B. staff continue to collect cost data for the conducted August 14, 2012 Partisan Primary. As of October 12, 2012, there were 27 municipalities and 4 counties that had not entered their GAB-190 data into WEDCS. Two Municipalities need to complete the statistics section only; four counties and 17 municipalities need to complete just the cost section; and 8 municipalities need to complete both sections.

An analysis of these cost data is being conducted. Staff will provide a full report on the cost of all the 2012 statewide elections at a subsequent meeting.

8. Status of Wisconsin’s Compliance with the Military and Overseas Voter Empowerment (MOVE) Act

Board staff has worked with municipal and county clerks to complete the second set of four reporting requirements of the 2012 Consent Decree, specific to the 2012 Presidential and General Election. The first reporting requirement asked municipal clerks to report on their municipality’s capability to email and fax absentee ballots to military and overseas voters. After follow up from Board staff, all municipalities responded to this reporting requirement and confirmed that they had the capability to email and fax absentee ballots, or would be able to work with another jurisdiction to email or fax ballots.

The second reporting requirement was verification from county clerks that they had their ballot prepared on September 19, 2012; 48 days before the Presidential and General Election. Board staff received information from all 72 counties that their ballots were prepared and ready for municipalities on or before September 19, 2012. State law requires county clerks to have ballots prepared for municipal clerks no later than 48 days before the November General Election. Municipal clerks are required to transmit absentee ballots to military and overseas voters no later than 47 days before the November General Election according to state law. The 2012 Consent Decree requirements however, focused on the 45 day ballot transit deadline required by the Federal MOVE Act.

The next reporting requirement was a survey to municipal clerks requesting the number of absentee ballot requests from military and overseas on file for the 2012 Presidential and General Election as of September 20, 2012, how each elector requested their ballot be transmitted, when the ballot was

transmitted, and if all absentee ballots were transmitted to military and overseas voters by the 45 day MOVE Act deadline.

Board staff and temporary staff hired specifically to assist the complying with this Federal reporting stipulation, were required to make hundreds of phone calls and repeat calls to municipal clerks in order to get 100% compliance with this reporting requirement. G.A.B. staff are currently tracking 26 municipalities that transmitted 34 ballots after the 45-day deadline. There were only five ballots that would not have the 45-day transit time when taking into account state law that allows ballots to be counted if they are postmarked by Election Day and received by 4 p.m. on the Friday after the election. Of those five, four were transmitted electronically, and these voters should have ample time to return their vote ballot. Only one of these five ballots was transmitted by mail, which was sent to a military voter in the State of Georgia. Subsequently, the voter accessed a ballot via the My Vote Wisconsin Online Absentee Balloting System on October 10, 2012.

The Federal Consent Decree required Municipal clerks to report on the number of absentee ballot requests they received for the 2012 Presidential and General Election from military and overseas voters between September 21, 2012 and October 7, 2012. This final reporting requirement for the 2012 consent decree had the shortest deadline for municipal clerks; the information was due to the USDOJ on October 8, 2012. Again, Board and temporary staff made hundreds of phone calls and spent well over 200 hours following up with municipal clerks to acquire 100% compliance with this reporting requirement. An estimated 700 total staff hours have been spent on gathering responses to all four of the surveys.

9. Federal Voting Assistance Program (FVAP) Grant (MyVoteWisconsin)

The new Online Absentee Balloting System created with funds received from the \$1.9 million grant the Government Accountability Board was awarded to improve transmitting absentee ballots to military and overseas voters was launched on Thursday, September 13, 2012. The grant awarded from the Department of Defense and administered by the Federal Voting Assistance Program, allowed Board staff to develop a variety of tools for military and overseas voters. These tools interfaced with the Voter Public Access website that was available for all voters to view their voter information.

The voter resources that were available on the Voter Public Access were incorporated and expanded into the new site created from the FVAP Grant. The new website is My Vote Wisconsin is available at <http://myvote.wi.gov>. The site is meant to deliver information to voters based on the type of voter so their information provided is the most relevant and helpful.

Military and permanent overseas voters may apply for and access their absentee ballots using My Vote Wisconsin. All voters can view their registration status, find their polling place and clerk information and view a sample ballot. Non-registered voters or voters who need to change their name or address can begin the registration process at MyVoteWisconsin. Their registration forms will still need to be delivered to the appropriate municipal clerk. Municipal clerks are sent nightly notifications informing the clerk of any activity from voters in their municipality using My Vote Wisconsin. It also informs the clerk if any action is needed on their part.

MyVoteWisconsin has incorporated the Voter Public Access (VPA) website. VPA has a message on the webpage informing voters of the change and provides a link for voter to the new MyVoteWisconsin. A news release introducing MyVoteWisconsin was distributed and Director Kennedy held a news conference announcing the new tool to the press. Below is a chart summarizing the usage of MyVoteWisconsin:

| Summary of MyVoteWisconsin Usage as of October 7, 2012 | | | |
|---|-------------------------|---|---|
| Number of Visitors | Number of Registrations | Number of Absentee Requests by Military and Overseas Voters | Number of Ballot Downloaded by Military and Overseas Voters |
| 50,200 | 4,868 | 1,235 | 721 |

All military and overseas voters with absentee requests on file in the Statewide Voter Registration System (SVRS) were sent an email or letter informing them of the option to access their absentee ballot online. Board staff have been in contact with different military agencies requesting their assistance in promoting the use of MyVoteWisconsin among Wisconsin's military voters.

The availability of absentee ballots online has assisted clerks in proving absentee ballot electronically and quickly. The ability for military and permanent overseas voters to access their absentee ballot immediately has also assisted in the Board's work with the U.S. Department of Justice to comply with the MOVE Act.

10. An Inter-Organizational Taskforce Appointed to Addressing Clerks' Election Administration Workload Concerns

Under the sponsorship of the agency Director and General Counsel, the Elections Division Administrator solicited and appointed an Inter-Organizational Taskforce that will develop an action plan for addressing clerks' election administration workload concerns. The G.A.B. staff will lead and provide administrative support to the Taskforce. Participating organizations include the:

- Wisconsin County Clerk Association;
- Wisconsin Municipal Clerk Association;
- Wisconsin Counties Association;
- Wisconsin Towns Association;
- Wisconsin League of Municipalities; and,
- Government Accountability Board's staff.

Please refer to the Attachments #1 and #2 for the Taskforce Charge Statement and membership respectively.

11. The AccessElections! G.A.B.'s Accessibility Compliance Program
(Elections and Voting Accessibility)

Number of Polling Places in Wisconsin: To date (2012), the following number of Accessibility Audits that have been completed:

- | | |
|---|------------|
| ▪ For the February 21, 2012 Spring Primary: | 105 |
| ▪ For the April 3, 2012 Spring Election and Presidential Preference Vote: | 095 |
| ▪ For the May 8, 2012 Recall Primary: | 192 |
| ▪ For the June 5, 2012 Recall Election: | 162 |
| ▪ For the August 14, 2012 Partisan Primary: | <u>128</u> |
| Total: | 682 |

Under management direction, board staff prioritized the analysis and reporting of Audit results from the June and August Elections in the City of Milwaukee. Board staff currently are analyzing Audit results and preparing to report findings from outside the City of Milwaukee during the May,

June, and August Elections. Board staff continue to process plans of action received from municipalities audited during the February and April Elections. To date, one hundred nine (109) plans of action have been received.

Staff continue to coordinate with municipal clerks to ensure that Accessibility problems uncovered during previous Onsite AccessElections! Accessibility Compliance Audits are resolved as quickly and cost-effectively as possible. In addition, staff are arranging the distribution of grant-funded Accessibility supplies to municipalities in response to documented needs. At the same time, staff are monitoring the use and effectiveness of previous Accessibility grant funding by municipalities. Staff are also working with the agency IT Development Team to automate multiple aspects of the AccessElections! Compliance Audit administrative process. Finally, staff are preparing to conduct Audits during the November 6, 2012, General Election.

➤ Emerging Top Ten Accessibility Compliance Issues

1. Required election notices are not always posted and those posted are not printed in 18-point font.
2. Lack of accessible parking spaces and/or insufficient signage for accessible parking spaces.
3. Insufficient signage for accessible entrances.
4. Doors that require more than 8 lbs. of force to open.
5. Gaps and uneven pavement in the pathway from the parking area to the accessible entrance.
6. Lack of privacy for voters casting a paper ballot
7. Interior routes that had obstacles, were poorly lit, and/or were not clearly marked.
8. Accessible voting equipment that was not functional or was not clearly available for voters to use.
9. Doors that do not have lever door handles or an electronic feature such as an automatic opener, power-assist, or bell/buzzer.
10. Pathways to the accessible entrance that were not clearly marked.

Education/Training/Outreach/Technical Assistance

Please refer to the Attachment #3 titled “Training Summary,” for a summary of information on core and special election administration training conducted by staff.

Other Noteworthy Initiatives

1. Voter Data Interface

Clerks continue to use SVRS to run HAVA Checks to validate against Department of Transportation (DOT) and Social Security Administration (SSA) records, and confirm matches with Department of Corrections (DOC) felon information and Department of Health Services (DHS) death data, as part of on-going HAVA compliance.

Clerks process HAVA Checks and confirm matches on a continuous basis during the course of their daily election administration tasks. This process has been followed since the Interfaces became functional in SVRS on August 6, 2008. Since the last Board meeting, clerks processed approximately 52,959 HAVA Checks with DOT/SSA on voter applications in SVRS.

2. Retroactive HAVA Checks Status

There has been no update on this project since the last Board Meeting. The G.A.B. Help Desk continues to provide assistance to clerks with HAVA check non-matches using DOT's driver license look-up tool (the PARS system). After the fall elections, Board Technical Staff will resume discussions with DOT on enhancing the HAVA Check to include more information for clerks to assist in resolving non-matches.

3. Voter Registration Statistics

As of Monday, October 8, 2012. There were:

- **3,467,027** active voters in the Statewide Voter Registration System
- **998,249** inactive voters
- **329,728** cancelled voters
- **4,672** voters that had been merged by clerks as duplicates since the last report.

Definitions of Voters

- An active voter is one whose name will appear on the poll list.
- An inactive voter is one who may become active again, e.g. convicted felon or someone who has not voted in four years.
- A cancelled voter is one who will not become active again, e.g. deceased person.

4. G.A.B. Customer Service Center

The G.A.B. Customer Service Center is supporting over 2,000 active SVRS users, the public and election officials. The Customer Service Center staff assisted with processing the canvass, GAB-190 Form data reporting and testing SVRS improvements. The Customer Service Center is continuing to upgrade and maintain the two training environments that are being utilized in the field. Staff are monitoring state enterprise network changes and statuses, assisting with processing data requests and processing voter verification postcards. Customer Service Center staff assisted clerks with configuring and installing SVRS and WEDCS (GAB-190) on new computers.

Overall, the majority of inquiries the G.A.B. Customer Service Center received from clerks during this period regarded assistance with setting up the November 6 General Election; reconciling the August Primary and June 5 Election; running SVRS reports; redistricting; and election process changes. Customer Service Staff assisted and contacted clerks for completing GAB-190 reports and the mandatory USDOJ Consent Decree reporting surveys. There was a volume of calls from clerks regarding the Military and Overseas Absentee applications. Calls from local officials and election officials during this period were about absentee processing, election procedures, post-election reporting and POR requirements.

Public and elector inquiries consisted of a number of electors that are moving within the 28 day window and were unsure where or how to register and vote; students and parents with similar questions that included electors with "early voting" (absentee) questions; electors that had been redistricted out of their old districts voicing concerns; and, public voicing concerns about mailings, robo-calls and campaign materials they had received. Staff assisted a number of electors with navigating the new MyVote.wi.gov website.

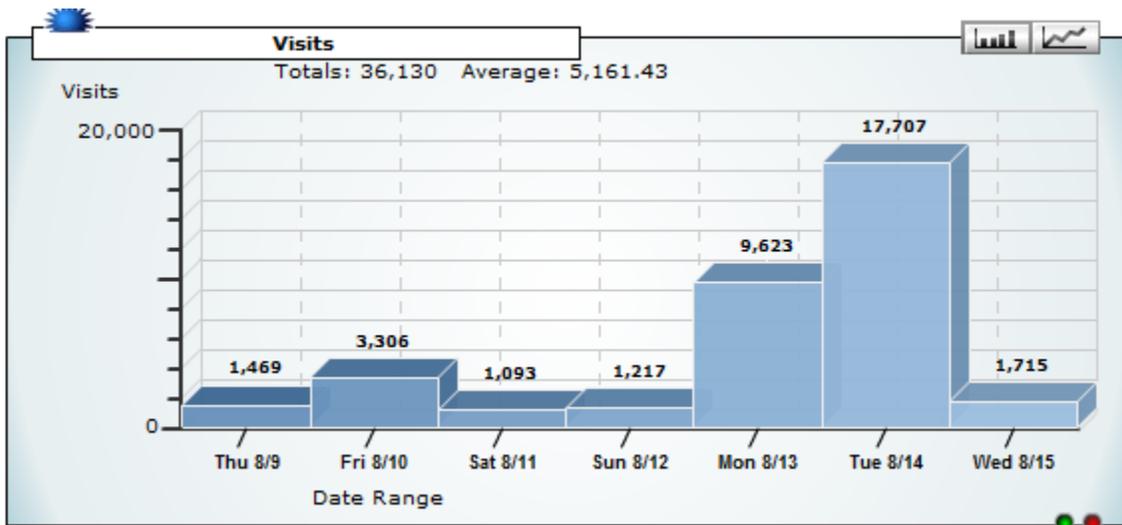
Calls for this period also consisted of campaign finance reporting issues, lobbyist reporting and the Statement of Economic Interest filing. The Ethics Division's CFIS and Lobbying systems also

generated a measurable amount of call traffic prior to the filing deadlines.

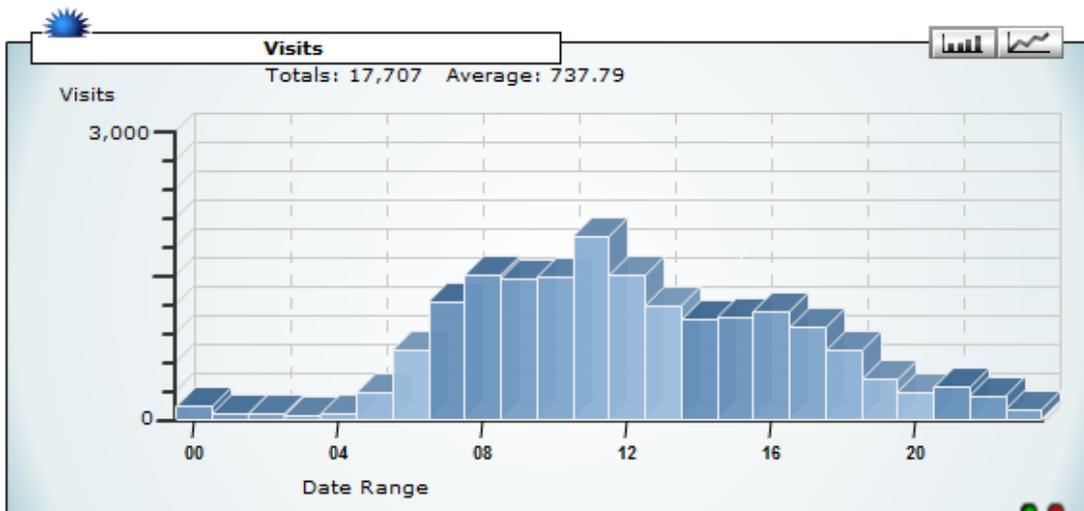
G.A.B. Customer Service Center Call Volume
(608-261-2028)

| | |
|---|--------------|
| August 2012 | 2,458 |
| September 2012 | 2,735 |
| October 2012 (through 10/4/12) | 324 |
| Total Calls for Reporting Period | 5,517 |

The graph below illustrates unique voter visits accessing the GAB Voter Public Access (VPA) website for the week prior to and including the August 14, 2012 Partisan Primary. Primary Day had 17,707 unique visitors, typically viewing 15.1 pages per visit.



The graph on the next page illustrates traffic by the hour just on August 14, Primary Day.



5. The 2010 SVRS Census Redistricting Project

As previously reported, most of the activity for the 2010 Decennial Redistricting in SVRS is now complete. G.A.B.'s Redistricting staff continue to focus on the on-going mapping support to clerks. Some of these on-going activities include:

- The team has nearly completed a new in-depth training guide on how to use the mapping features in SVRS, as part of the SVRS Training Manual. This new training guide will be made available to clerks in October.
- Staff are preparing a short 5-7 minute instructional video for clerks giving demonstrations of some of the more complicated mapping functions that are easier to explain by showing.
- Staff are monitoring district data quality statistics in preparation for the November 6, 2012 General Election. On October 4, Board Staff contacted clerks who had active voters with no district combination in SVRS for clerks to review. Voters need to be assigned to a district combination in order to appear on the poll list.

During the week of October 8, Staff contacted clerks who had boundary exceptions (voters who live within 50 meters of a district boundary line) that had not yet been reviewed, as well as clerks who have Geo Code Exceptions (addresses where the functionalities in SVRS cannot determine the exact geographic location) that need to be corrected. These steps ensured that all registered voters appear on the correct poll list in and are given the correct ballot style.

- Staff plan to review the mapping functions in SVRS after the November Election and will make recommendations for improving the user-friendliness of the mapping features for easier clerk use, and more intuitive, based on feedback received from clerks.
- Staff continue to work with local land use and GIS experts at the municipalities and counties to improve the quality of the maps in SVRS as well as the geographic locations of the voters' addresses. Several municipalities had district lines updated in SVRS for the November Election based on incidents reported by clerks.

6. Click and Mail On-Line Voter Registration Tool

As previously reported, the new Click and Mail on-line voter registration tool became available to voters on Monday, August 6, 2012 on the G.A.B.'s Voter Public Access (VPA) website. On Monday, September 10, 2012, the new MyVoteWisconsin website became available, which incorporated the Click and Mail on-line voter registration tool. On Monday, September 17, 2012, the VPA website began redirecting voters to the new MyVoteWisconsin site, completing the transition of Click and Mail from VPA to MyVoteWisconsin.

Several updates were made to Click and Mail as part of the transition, including a more user-friendly "look and feel," requiring voters to search for themselves to see if they are already registered before being able to possibly register again. Some wording and cosmetic updates that were reported during the Click and Mail Public Test were also made to improve this application.

As of Monday, October 8, 2012, approximately 6,144 voter applications have been filled out using Click and Mail:

- 2,947 applications were delivered to clerks and those voters became registered.
- 68 applications have been denied (usually because the paper form was never received, or the

form was delivered to the wrong municipality).

- 3,129 applications remain pending, meaning that the voter has not yet delivered their signed voter registration form to their municipal clerk.

7. SAVE Database Research

The Elections Division Administrator appointed a team of Board staff to research the Systematic Alien Verification for Entitlements (SAVE) program administered by the Federal Department of Homeland Security. Several states have recently been reported in the news media for using (or investigating use of) the SAVE database to verify citizenship, including Florida, Ohio, Colorado, and Arizona. The Team is charged with gathering information and facts on the SAVE database, its purpose, how it is used for election integrity purposes, etc., and preparing reports on findings to be presented to the Board at the Board's December 2012 meeting.

8. SVRS Core Activities

A. Software Upgrade(s)

Several updates have been made to SVRS applications:

- A new version of the SVRS code (SVRS 8.2.2) was installed on September 12, 2012. SVRS 8.2.2 included updates need to implement the Military and Overseas voter grant received from the US Department of Defense's Federal Voting Assistance Program (FVAP). The Voter Public Access Website was updated and integrated into the new MyVoteWisconsin website. The Click and Mail application available on the MyVoteWisconsin website was updated with clearer instructions regarding residency and Wisconsin driver license or WI DOT-issued ID numbers, and when to use the last four digits of the Social Security Number.
- With the new MyVoteWisconsin website, Click and Mail applications now are sent directly to the SVRS. Prior versions of Click and Mail transferred data to the SVRS on a nightly basis. This code change will allow clerks to use Click and Mail from the MyVoteWisconsin site from the polling place on Election Day.
- Various updates were made to improve performance and resolve issues related to addressing that occurred after implementing GIS based addressing.
- On September 25, 2012, a small code update (SVRS 8.2.2.1). The code installed addressed glitches that needed to be corrected before the November 6, 2012 Election. The code update corrected an issue with some email addresses not printing on the Voter Absentee Label. The build also corrected some minor issues with unnecessary pop-up screens and certain updated fields not saving when a record was closed..

No new versions of the SVRS code are planned until after the November 6, 2012 Presidential and General Election.

B. System Outages

There were no unscheduled outages of the SVRS system during this reporting period. The G.A.B. was affected by an AT&T voicemail service outage on June 6 that was resolved late in the day. Callers were unable to leave voice messages and staff were unable to retrieve messages.

C. Data Requests

Staff regularly receive requests from customers interested in purchasing electronic voter lists. SVRS has the capability and capacity to generate electronic voter lists statewide, for any county or municipality in the state, or by any election district, from congressional districts to school districts. The voter lists also include all elections that a voter has participated in, going back to 2006 when the system was deployed.

The following statistics demonstrate the activity in this area since the last Elections Division Update through October 8, 2012:

- Sixty-four (64) inquiries were received requesting information on purchasing electronic voter lists from the SVRS system.
- Forty (40) electronic voter lists were purchased.
- \$55,370.00 was collected for SVRS voter data.

30-45-60 Day Forecast

Elections Division staff will:

1. Continue to prepare staff, clerk partners and voter customers for the November 6, 2012 General and Presidential Election by continuing to implement the Elections Division's 2012 *Back-to-Basics* Fall Election Strategic Initiative.
2. Recruit and oversee training of temporary staff to conduct onsite AccessElections! Accessibility Compliance Audits during the November 6, 2012 General and Presidential Election at Polling Places in Milwaukee, Racine and Kenosha.
3. Continue implementation of the \$1.9 million dollar grant award received from the US Department of Defense, Federal Voter Assistance Program (FVAP). The purpose of the grant is to create an Online Ballot Delivery System for Military and Overseas Electors that must be launched and activated in time for Wisconsin's military and overseas voters to access and use at least 45 days before the November 6, 2012 General and Presidential Election. A major milestone of the grant was met on Thursday, September 13, 2012, when the MyVoteWisconsin (<http://myvote.wi.gov>) website was launched. Please refer to Page 6-7, item #9 for details.
4. Continue to lead and provide administrative support a G.A.B.-appointed Inter-Organizational Taskforce that will develop an action plan for addressing clerks' election administration workload concerns. Please refer to Page 7, item #10 for details.

Action Items

None.

State of Wisconsin \ Government Accountability Board

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

ATTACHMENT#1

A Framework for Addressing Clerks' Concerns Regarding Election Administration Workload September 24, 2012

Background: On August 9, 2012, Green County Clerk Mike Doyle, State Representative Howard Marklein, and Wisconsin Counties Association's Executive Director Mark O'Connell met with G.A.B. Director Kennedy, G.A.B. Chairperson Judge David Deininger, and staff regarding concerns relating to clerks' election administration workload. During that meeting, Clerk Doyle presented a letter (copy attached) and survey results from the Executive Board of the Wisconsin County Clerks Association that expressed concerns and detailed the growing election administration challenges facing clerks.

G.A.B.'s Framework to Response to Clerks' Concerns: Director Kennedy asked the Elections Division Administrator to form an inter-organizational taskforce to address concerns raised by local election officials. Membership of the taskforce includes representatives from:

- Wisconsin County Clerks Association
- Wisconsin Municipal Clerks Association
- Wisconsin Counties Association
- Wisconsin Towns Association
- Wisconsin League of Municipalities
- Government Accountability Board

The taskforce comprised of representatives from the above six statewide organizations, will address county and municipal clerks' election-related workload, and how the following election administration burdens on clerks may be able to be reduced:

- Expansion of SVRS and WEDCS Services: What can be done to simplify/reduce these tasks?
- SVRS' Full Absentee Functionality: What needs to be done before across-the-board usage is required?
- GAB-190 Statistics/Cost of Elections: Revisit timetable and methodology for cost of election data.
- The Four-Year Voter Record Maintenance: How can this process be efficiently/effectively managed?
- Voter EDR Verification Postcards: How can this process be efficiently/effectively administered?
- The Provider-Relier Relationship: What needs to be done to enable municipalities to become Self-Providers?
- Other Matters identified that are strategic to improving the Clerk/G.A.B. Partnership.

Charge to the Inter-Organizational Taskforce: The Charge to the taskforce is to review and identify options and recommendations for addressing municipal and county clerks' election administration workloads:

1. Assess the statutory (legal) roles and requirements for clerks and the G.A.B. respectively;
2. Within the statutory requirements, explore options for reducing clerks' election administration duties;
3. Develop an action plan including a timetable for addressing above-referenced clerks' concerns;
4. Recommend legislative action designed to promote effective election administration; and,
5. Report as follows:
 - Preliminary Report Due: January 31, 2013
 - Final Report Due: February 28, 2013.

Organizational Meeting: Appointments to the taskforce are expected to be completed by the end of September 2012. An organizational meeting is expected to be convened by mid-October 2012.

ATTACHMENT #2

Taskforce Membership

(October 2012)

Wisconsin County Clerks Association (WCCA)

| Appointee | Municipality/County | Phone | E-Mail |
|--------------------------|---------------------|--------------|---------------------------------------|
| Wendy Christensen, Clerk | Racine County | 262-636-3482 | wendy.christensen@goracine.org |
| Jamie Aulik, Clerk | Manitowoc County | 920-683-4004 | jamieaulik@co.manitowoc.wi.us |
| Melanie Stake, Clerk | Waushara County | 920-787-0442 | melanies.courthouse@co.waushara.wi.us |
| DeeAnn Cook, Clerk | Barron County | 715-537-6200 | deeann.cook@co.barron.wi.us |
| Ginny Dankmeyer, Clerk | La Crosse County | 608-785-9622 | dankmeyer.ginny@co.la-crosse.wi.us |
| Jean Gottwald, Clerk | Price County | 715-339-3325 | jean.gottwald@co.price.wi.us |
| Bruce Strama, Clerk | Taylor County | 715-748-1460 | bruce.strama@co.taylor.wi.us |
| Brenda Jaszewski, Clerk | Washington County | 262-335-4305 | brenda.jaszewski@co.washington.wi.us |
| Lisa Weiner, Clerk | Milwaukee County | 414-278-4061 | lweiner@milwcnty.com |

Wisconsin Municipal Clerks Association (WMCA)

| | | | |
|-----------------------------------|------------------------|--------------|------------------------------------|
| Diane Hermann-Brown, Clerk | City of Sun Prairie | 608-837-2511 | dhermann@cityofsunprairie.com |
| Vikki Zuehlke, Clerk | Village of Waterford | 262-534-3980 | vwaterford.clerk@tds.net |
| Chris Astrella, Deputy Clerk | Town of Blooming Grove | 608-223-1104 | board1@blmgrove.com |
| Barbara Goeckner, Clerk | Village of Germantown | 262-250-4740 | bgoeckner@village.germantown.wi.us |
| Melissa Hongisto, Deputy Clerk | Village of Suamico | 920-434-2212 | melissa@suamico.org |
| Sara Ludtke, Deputy Clerk | Town of Middleton | 608-833-5887 | sludtke@town.middleton.wi.us |
| Carla Ledesma, Clerk | City of Wauwatosa | 414-479-8918 | clesdesma@wauwatosa.net |
| Sue Peck, Clerk | Village of Marshall | 608-655-4017 | speck@marshall-wi.com |
| Charlene Peterson, Clerk | City of Appleton | 920-832-6443 | charlene.peterson@appleton.org |
| Karen Weinschrott, Clerk | Town of Grand Chute | 920-832-1573 | karen.weinschrott@grandchute.net |
| Maribeth Witzel-Behl, Clerk | City of Madison | 608-266-4601 | mwitzel-behl@cityofmadison.com |
| Nancy Zastrow, Clerk | Village of Pewaukee | 262-691-5660 | nzastrow@villageofpewaukee.com |
| Neil Albrecht, Executive Director | City of Milwaukee | 414-286-3491 | neil.albrecht@milwaukee.gov |

Wisconsin Counties Association (WCA)

| | | | |
|---|--------------------|--------------|--------------------------|
| David Callender, Legislative Associate (Mark O'Connell, WCA Executive Dir.) | Statewide Interest | 608-663-7188 | callender@wicounties.org |
|---|--------------------|--------------|--------------------------|

Wisconsin Towns Association (WTA)

| | | | |
|--|--------------------|----------------|-------------------------|
| Rick Stadelman, WTC Executive Dir. (A back-up will be nominated) | Statewide Interest | (715) 526-3157 | wtowns1@frontiernet.net |
|--|--------------------|----------------|-------------------------|

Wisconsin League of Municipalities (WLM)

| | | | |
|--|--------------------|--------------|--------------------------------|
| Matt Trebatoski, Clerk City of Fort Atkinson (Curtis Wytinski, WLM Asst Ex. Dir.) | Statewide Interest | 920-563-7760 | mtrebatoski@fortatkinsonwi.net |
|--|--------------------|--------------|--------------------------------|

Leadership and Administrative Support to the Taskforce: This Taskforce initiatives will be led by Government Accountability Board's (G.A.B.) staff, and administrative support will be provided by the G.A.B. staff.

ATTACHMENT #3

GAB Election Division's Training Initiatives
08/29/2012 – 10-22/2012

| Training Type | Description | Class Duration | Target Audience | Number of Classes | Number of Students |
|--|---|--|---|--|---------------------------|
| SVRS "Initial" Application and Election Management/HAVA Interfaces | Instruction in core SVRS functions – how to navigate the system, how to add voters, how to set up elections and print poll books. | 16 hours | New users of the SVRS application software. | 5 | 75 |
| SVRS "Advanced" Election Management | Instruction for those who have taken "initial" SVRS training and need refresher training or want to work with more advanced features of SVRS. | 2 types of classes: Absentee Process; Reports, Labels & Mailings; 4 hours each | Experienced users of the SVRS application software. | 5 | 65 |
| Municipal Clerk | 2005 Wisconsin Act 451 requires that all municipal clerks attend a state-sponsored training program at least once every 2 years. | 3 hours | All Municipal clerks are required to take the training; other staff may attend. | 3 classes: 1 webinar conducted by G.A.B. staff; 2 training classes conducted by certified clerk-trainers; recordings posted to website for training. | 40 |
| Chief Inspector | Instruction for new Chief Inspectors before they can serve as an election official for a municipality during an election. | 3 hours | Election workers for a municipality. | 9 classes: 1 webinar conducted by G.A.B. staff; 8 training classes conducted by certified clerk-trainers; recordings posted to website for training. | 300 |

ATTACHMENT #3

GAB Election Division's Training Initiatives
08/29/2012 – 10-22/2012

| Training Type | Description | Class Duration | Target Audience | Number of Classes | Number of Students |
|---|---|---|--|---|--|
| Election Administration Training Webinar Series | Series of 8 - 12 programs designed to keep local government officers up to date on the administration of elections in Wisconsin. | 45 – 120 minute webinar conference, hosted and conducted by Elections Division staff. | Clerks and chief inspectors; campaign treasurers and candidates. | September 12, 2012: Absentee Voting Rules and Procedures; September 19, 2012: Election Day Duties from 7 am – 8 pm; Election Day Officials/Special Topics; Preparing for the November General Election. | Average 275 per webcast; recordings and materials available for download from website. |
| WBETS | Web Based Election Training System. Still under development. Reference materials were made available to the clerks in February; voter registration training made available to clerks 3/24/2008. | Varies | County and municipal clerks and their staff. | Phase 1 of eLearning training plan close to completion; Phase 2 under discussion. | Site is available for clerks to train temp workers in data entry; reliers are also able to access the site upon request. |

ATTACHMENT #3

GAB Election Division's Training Initiatives
08/29/2012 – 10-22/2012

| Training Type | Description | Class Duration | Target Audience | Number of Classes | Number of Students |
|---------------|--|----------------|-----------------|-------------------|--------------------|
| Other | <ul style="list-style-type: none"> • September 24, 2012: Board staff gave an election administration and SVRS presentation to county clerks at WCCA fall Conference in La Crosse. • Board staff trained and certified 7 county and municipal clerks to administer Baseline Chief Inspector training. • October 4, 2012: Board staff presented information on the MY Vote WI system to clerks attending the WMCA District meeting in Thorp. WMCA August conference in Middleton. • October 16, 2012: Board staff gave an election administration and SVRS presentation to town clerks at the WTA fall conference in | | | | |

ATTACHMENT #3

GAB Election Division's Training Initiatives
08/29/2012 – 10-22/2012

| Training Type | Description | Class Duration | Target Audience | Number of Classes | Number of Students |
|----------------------|--------------------|-----------------------|------------------------|--------------------------|---------------------------|
| | Appleton. | | | | |

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the October 23, 2012 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel
Wisconsin Government Accountability Board

Prepared by: Kevin J. Kennedy, Director and General Counsel
Sharrie Hauge, Chief Administrative Officer
Reid Magney, Public Information Officer

SUBJECT: Administrative Activities

Agency Operations

Introduction

The primary administrative focus for this reporting period has been preparing the agency's 2013-15 biennial budget requests, procuring goods and services, recruiting staff, communicating with agency customers, and developing legislative and media presentations.

Noteworthy Activities

1. 2013-15 Biennial Budget Request

On September 17, 2012, the agency submitted its 2013-2015 biennial budget request. The agency had two-decision items for inclusion in the budget.

1. Build IT Infrastructure Capacity to Support G.A.B. The agency requests the approval and funding for (1FTE) IT Bureau Director Position to manage the IT strategic direction of the agency. The agency requests \$92,600 GPR in FY-14 and \$123,500 GPR in FY-15 to fund the salary and fringe benefits of this position. The agency also requests \$224,200 GPR for the ongoing maintenance and support of the Campaign Finance Information System.
2. Create 6.0 Permanent GPR Positions for Elections Administration. The agency requests 6.0 permanent GPR positions for Elections Administration. In the 2011 Legislative session eight major Wisconsin Acts were enacted that affect the integrity of election administration. These changes include voter ID, absentee voting, voter residence, voting procedures, military and overseas voting, provisional voting and canvassing election results among many other changes. We cannot implement these new acts with only three permanent FTE. The agency requests \$290,900 GPR in FY-14 and \$388,000 GPR in FY-15 to fund the salary and fringe benefits of these positions.

2. Procurements

Since the last Board meeting, the procurement section has worked on several high-priority projects. In preparation for the upcoming November election, the procurement section has purchased various office supplies, software for editing training materials, and print materials to inform our municipal clerk partner and voters on conducting elections and voting in November. The procurement section has also hired temporary services staff to make phone calls to municipal clerks to elicit responses to the MOVE Act Consent Decree surveys in September and October. The procurement section has also hired a contract Data Architect 3, Mohideen Kader, to join the G.A.B. IT team.

3. Contract Sunshine

Contract Sunshine has nearly completed another certification period. As of Friday October 12, thirty of the thirty-two agencies that are required to report, plus one optional-reporting agency, have certified their data for the certification period July 2012 through September 2012. It is expected that the remaining three agencies that are required to report will have their certification submitted before the deadline on October 19, 2012.

4. Other Financial Services Section Activity

- Prepared and timely filed the second quarterly SF 425 Report for the FVAP federal aid grant. Claimed monthly reimbursements totaling \$150,031 for July, August, and September expenditures, prepared journal entries to record revenue receipts, and coordinated the accounting for incoming wire transfers with DOA-Treasury staff. Monthly FVAP reimbursements have now been accelerated by two weeks because of a temporary waiver of normal 30-day OMB payment requirements for small businesses and contractors. Prepared for the migration of our agency's information from the former federal Central Contractors Registration website to the newly-created System for Awards Management website, to allow for continued monthly payments by the federal government and for future federal award applications.
- Calculated and booked the third quarter payroll adjusting entry, to properly allocate salaries and fringe benefits between federal and state programs, in compliance with federal costing standards. Logged agency staff time worked on the voting equipment testing project, and then invoiced the ES&S manufacturer for \$ 4,861 per the cost recovery agreement.
- Compiled the agency's reporting schedules and disclosure forms in accordance with Generally Accepted Accounting Principles for the State of Wisconsin fiscal year 2012 Comprehensive Annual Financial Report.
- Working with the Elections Division to recover the \$200,686 receivable from the federal government for the final WEDCS grant reimbursements due the G.A.B., along with the \$302,541 payable to the federal government for the Section 102 voting equipment grant, both closed out in prior fiscal years.
- The Assistant State Controller for Audits issued the G.A.B. a clean audit report, noting any error rates for compliance with applicable rules, regulation, and policies related to non-travel, travel and purchasing card were acceptable, except for the processing of two expenditure refunds. Training has been scheduled with DOA auditors on periodically reconciling the travel and payroll balance sheet accounts.

- Setting up FY13 appropriation budgets in QuickBooks accounting and budgeting software, along with reconciling transactions entered in QuickBooks back to the old Excel files.

5. Staffing

Currently, we are working on a recruitment strategy for hiring 26 new federally funded positions that began on July 1, 2012. To-date, we have filled eight of the 26 positions.

6. Communications Report

Since the August 28, 2012 Board meeting, the Public Information Officer has engaged in the following communications activities in furtherance of the G.A.B.'s mission:

The PIO continued to respond to a high number of media and public inquiries on a variety of subjects, especially issues related to military and overseas absentee ballot delivery and the upcoming Presidential election. The PIO set up interviews with print and electronic journalists for Director Kennedy and also gave multiple interviews when he was not available.

The PIO spent considerable time developing and promoting voter resources for the upcoming election, including redesigned voter information pages for the agency website and the new MyVote.WI.gov website. In late September, the PIO headed up agency efforts to produce a 30-second public service announcement video with Time-Warner Cable promoting My Vote Wisconsin. This public service announcement was to be aired 160 times on Time-Warner's systems in Green Bay, Kenosha, Milwaukee and Waukesha. It was produced and aired at no cost to taxpayers beyond staff's development time.

Between August 28 and October 15, the PIO has responded to approximately 200 telephone calls from media and the public requesting information and interviews. These media contacts do not count the many media and public emails received and responded to.

The PIO has been assisting with several Elections Division projects including coordinating the public demonstration of new electronic voting equipment, serving on the team studying use of the SAVE database, and serving on the team planning for the Fall Election Cycle.

The PIO has also worked on a variety of other projects including responding to concerns from Legislators on a variety of topics, and communicating with our clerk partners.

7. Meetings and Presentations

During the time since the August 28, 2012 Board meeting, Director Kennedy has been participating in a series of meetings and working with agency staff on several projects. The primary focus of the staff meetings has been to address litigation related issues and prepare for the November 6, 2012 General, Special and Presidential election. On September 18, 2012, Governor Walker called a special election to fill a vacancy in the 33rd State Senate seat. The primary election will be held in conjunction with the November 6, 2012 General and Presidential Election. The general election will be held on Tuesday, December 4, 2012.

Agency activity has also focused on the Federal Voting Assistance Program (FVAP) grant to facilitate delivery of ballots to military and overseas voters, implementation of 2011 Wisconsin Act 227 which significantly changed absentee voting requirements for elections following the April 3,

2012 Spring Election and the launching of new social media initiatives. The staff has been preparing for all aspects of the November 6, 2012 election with an emphasis on our Back-to Basics training initiative and public outreach programs.

The media has made a number of inquiries on legal issues as well as the rules, and costs associated with the November elections. This has led to extended interviews with print journalists and a number of television and radio appearances.

On August 30, 2012 Director Kennedy participated in a teleconference meeting of the Board of the National Association of State Elections Directors (NASSED) to discuss state compliance with post-election surveys from the Federal Voting Assistance Program. Director Kennedy also attended a NASSED Board meeting in Denver on September 27, 28, 2012.

On September 6, 2012, Director Kennedy was interviewed by Bill Osmulski of the MacIver Institute about a number of issues related to election integrity. Portions of that interview were spliced into a report on ballot security issues in Racine. The MacIver report can be accessed at this link: <http://www.youtube.com/watch?v=D4dB33o9jXI>.

On September 10, 2012, Director Kennedy and Ethics and Accountability Division Administrator Jon Becker met with government officials and journalists from Afghanistan to discuss the role of the Government Accountability Board in administering and regulating aspects of the political process. On October 3, 2012, they also met with Canadian officials to discuss the Government Accountability Board's role in administering and regulating the recall process. A representative of Governor Walker's office also participated in the meeting. Both visits were conducted in coordination with the International Visitor Program of the International Institute of Wisconsin. The International Visitor Program is an initiative of the United States Department of State.

The Organization for Security and Cooperation in Europe/Office of Democratic Institutions and Human Rights (OSCE/ODIHR) will again have observers in Wisconsin for the November 6, 2012 Presidential election. These election observation teams are invited by the U.S. State Department to observe our elections process. Representatives from France and Germany will be in Wisconsin in the days preceding the election to meet with our staff and other participants in the electoral process.

On September 24, 2012, Elections Division Administrator Nat Robinson led a team of staff to the annual meeting of the Wisconsin County Clerks Association in LaCrosse. Administrator Robinson announced the formation of a special task force of local election officials and their representative organizations to review the burgeoning workload faced by local election officials.

On September 25, 2012, Director Kennedy held a press conference to discuss the elements of our Back-to Basics election official training initiative and voter outreach program. One of the primary aspects showcased was our voter information portal: My Vote Wisconsin: <https://myvote.wi.gov/>. This outreach to Wisconsin voters is an essential tool in ensuring citizens have the information necessary to fully participate in the November 6, 2012 election.

On October 2, 2012, Director Kennedy and Lead Elections Specialist, Diane Lowe, provided administrative support for the presidential elector nominating conventions held in the State Capitol Building. This is a statutory meeting where candidates for legislative office nominated by the political parties with ballot status and the elected state officials whose office are not on the ballot gather to select the electors to represent their political party in the Electoral College. The electors of the presidential ticket receiving the most votes in Wisconsin will meet at noon, on December 17, 2012 to cast their vote as part of the Electoral College selection of the next President and Vice-President of the United States. Diane Lowe has overseen the organizational details for the party

election conventions as well attend the meeting of the Electoral College on behalf of the agency and the former State Elections Board for several presidential elections.

On October 12, 2012, Director Kennedy, Elections Division Administrator Nat Robinson, Staff Counsel Mike Haas, along with Election- Specialists Jason Fischer and Meagan McCord Wolfe met with the Elisabeth MacNamara, President of the League of Women Voters of the United States and Andrea Kaminski, Executive Director of the League of Women Voters of Wisconsin. The staff provided a briefing on the agency's preparedness for the November 6, 2012 election. The briefing included an overview of election administration in Wisconsin, our Back-to Basics initiatives, voter education and outreach and our My Vote Wisconsin voter portal on our website. We also discussed election observers and the challenge process.

On October 16, 2012, Director Kennedy led a team to the annual convention of the Wisconsin Towns Association in Appleton to discuss preparations of the November 6, 2012 election. Ross Hein, Allison Coakley and Katie Mueller presented vital information to town clerks and elected officials to enable them to be prepared for the election. Upon his return from Appleton, Director Kennedy was interviewed by Steve Walters of Wisconsin Eye. The focus of the interview was the top 10 questions electors may have as we head into the November 6, 2012 elections for President, Congress, Legislative and County Courthouse offices. The interview can be viewed at this link: <http://www.wiseye.org/Programming/VideoArchive/EventDetail.aspx?evhdid=6789>.

On October 24, 2012, Staff Counsel Mike Haas will present a webinar for Wisconsin law enforcement officials focused on Election Day Preparations for Law Enforcement. On November 1, 2012, Director Kennedy will again present a webinar for state prosecutors on Election Day Law: A Practical Guide to Polling Place Issues for the Prosecutor and Investigator. Director Kennedy will also speak at Carthage College in Kenosha on October 31, 2012.

Looking Ahead

The primary focus of the agency staff is on our duties and responsibilities related to the November 6, General, Special and Presidential Election. The staff has been preparing for all aspects of the election including our *Back-to Basics* training initiative and public outreach program. In addition, staff has been working with registrants to ensure full and timely disclosure of campaign activity. There are number of key post-election activities including overseeing county canvasses along with any recounts, conducting the state canvass, certifying election results and organizing the meeting of presidential electors on December 17, 2012. The Spring 2013 election season begins on December 1, 2012. Candidates will be registering for office, circulating nomination papers and filing ballot access documents by the January 2, 2013 filing deadline at 5 p.m. The Spring primary is February 19, 2013 and the Spring election is April 2, 2013.

Action Items

None