

Meeting of the Board
Wednesday, March 20, 2013

Agenda
Open Session

9:00 A.M.

Risser Justice Center, Room 150
120 Martin Luther King Jr. Boulevard

Thursday, March 21, 2013

9:00 A.M.

Government Accountability Board Offices
212 East Washington, Third Floor
Madison, Wisconsin

Wednesday, March 20, 2013

9:00 A.M.

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I. Closed Session

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|--------------------------------|---|
| 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, May 21, 2013 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

212 East Washington Avenue
Madison, Wisconsin
December 18, 2012
9:00 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
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C. Received Preliminary Report on Elimination of Election Day Registration	5
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Present: Judge David G. Deininger, Judge Michael Brennan, Judge Gerald C. Nichol, Judge Thomas H. Barland (by telephone), Judge Thomas Cane and Judge Timothy Vocke

Staff present: Kevin Kennedy, Jonathan Becker, Shane Falk, Michael Haas, Ross Hein, Sharrie Hauge, Richard Rydecki, Brian Bell, Sarah Whitt, and Reid Magney

A. Call to Order

Judge Deininger called the meeting to order at 9:02 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

October 23, 2012 Meeting

MOTION: Approve the Open Session minutes of the meeting of October 23, 2012. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried unanimously.

D. Personal Appearances from Members of the Public

State Representative Donald Pridemore of Milwaukee appeared on his own behalf to provide oral and written testimony about his experiences as an election observer on November 6, 2012, at Washington High School in Milwaukee. Representative Pridemore said he was asked to leave the polling place after representatives of Election Protection complained about him to the Chief Election Inspector for standing too close to the registration table.

Discussion. Judge Vocke engaged Representative Pridemore in discussion about his experiences. Judge Brennan described his experiences as an election observer in Marshfield.

Karen McKim of Waunakee appeared on behalf of Wisconsin Grassroots Election Integrity Network to discuss the importance of post-election audits, and report on her group's positive experiences in observing clerks conduct those audits. She said the group will submit a written report to the Board in the future.

Attorney Jim Mueller of Cross Plains appeared on behalf of Wisconsin Counts and discussed citizen recounts and the difficulties of getting access to ballots. He said one town used its copy machine to scan 3,800 ballots so his group had access to images of all the ballots at virtually no cost to the municipality, and encouraged the use of technology to open up the process.

Brown County Clerk-Elect Sandy Juno of Green Bay appeared on behalf of Brown County to ask the Board to move forward with testing and certification of the Elections Systems & Software Unity 3.4.0.1 system without waiting for certification from the U.S. Election Assistance Commission (U.S. EAC). Brown County would like to purchase the system with telecommunications capabilities to improve efficiency of transmitting election results, but it appears the Unity 3.4.0.1 system will not be reviewed by the U.S. EAC anytime soon.

Discussion.

Aaron Frailing of Green Bay, an elections specialist with the Brown County Clerk's Office, appeared to provide further background on the ES&S Unity 3.4.0.1 system, which has been tested by an accredited federal testing lab.

Discussion. Judge Deininger said the Board will take up the matter at its March 2013 meeting.

Mike Hoversten of Champlin, Minnesota, appeared on behalf of Election Systems & Software to discuss the Unity 3.4.0.1 system and the U.S. EAC's inability to do timely

certifications. He said other states have changed their electronic voting equipment laws to require independent testing, but not certification by the U.S. EAC.

Sally Eichstedt of Hartland appeared on her own behalf to express concerns about several possible violations of Wisconsin statutes by special voting deputies and nursing home employees based on her observations of voting at nursing homes.

Patti Logsdon of Franklin appeared on her own behalf to express concerns about possible nursing home voter fraud involving her mother, who has Alzheimer's disease and was taken by staff to vote, despite the family's wishes to be involved in any voting. But for intervention by the family, her mother could have voted twice.

Susan Hitchler of Oconomowoc appeared on her own behalf to express concerns about irregularities involving voting in nursing homes, based on her observations.

Marguerite Ingold of Muskego appeared on her own behalf to express concerns about the actions of special voting deputies in nursing homes, based on her observations. She also described irregularities at polling places during early voting and on Election Day.

Discussion regarding whether Ms. Ingold complained about irregularities at the time she witnessed them. She indicated she was told by lawyers representing the Romney presidential campaign not to report them to authorities.

Mary Ann Hanson of Brookfield appeared on her own behalf to discuss Election Day registration and the lack of timely verification of those registrations until after the election is over. She also commented on nursing home voting, saying the G.A.B. has a good manual but that there is inconsistent training, lack of ballot security and lack of uniform notice.

Tom Vandervest of Middleton, a chief inspector at St. Bernard's in Middleton, appeared on his own behalf to advocate for the continuation of Election Day registration. He said the Middleton City Clerk has developed a good process for smoothly handling Election Day registrations.

Ardis Cerny of Pewaukee appeared on her own behalf to express several concerns about electioneering and ballot security, based on her observations at polling places. She said observers were kept 20, 30 and 50 feet away from registration tables and were unable to see what was happening. She also raised issues about the G.A.B. staff's preliminary report on Election Day Registration.

Sara Rattan of Menomonee Falls appeared on her own behalf to describe problems she observed at three wards on Election Day. She said observers affiliated with the Democratic Party were allowed to interact with voters in line, and that some poll workers allowed more than one voter from the same address to use a single proof of residence document. She urged Board Members to go to a busy polling place on Election Day to observe problems for themselves.

Andrea Kaminski of Madison appeared on behalf of the League of Women Voters of Wisconsin to provide preliminary findings of the League's 300 volunteer election observers at the November 6 election. She reported that the Board's work to clarify observer rules really paid off, and there was less confusion about proof of residence than on June 5.

Milwaukee City Election Commissioner Bob Spindell of Milwaukee appeared on his own behalf to report on his observations at 20 to 30 polling places. He said the ones with the most chaos had the most Election Day registrations. He suggested having clerks prepare layouts for every polling place to ensure proper placement of tables, voting equipment and election observers. Mr. Spindell also praised the overall operations of polling places in the City of Milwaukee on Election Day.

Discussion.

Village of Waterford Clerk Vikki Zuehlke appeared on behalf of the Wisconsin Municipal Clerk's Association to thank Elections Division Administrator Nat Robinson for his service to the G.A.B. and his work with clerks. She said WMCA opposes the end of Election Day Registration. She thanked the Board for creating a task force to address clerks' workload concerns, and said the Association is preparing to survey its members.

Discussion.

Ken Dragotta of Hartland appeared on his own behalf to discuss problems with election observers being able to do their jobs at polling places in Milwaukee. He said the Board had made a mountain out of a molehill over election observer behavior in previous elections, and as a result, observers were prevented from monitoring Election Day registration.

Wendy Fjelstad of Cottage Grove appeared on behalf of the Dane County Republican Party to discuss her observation of nursing home voting in Dane County. She said things went relatively smoothly, but there were a few concerns, including undue influence by nursing home staff, and by special voting deputies who read ballots to nursing home residents but did not sign the ballot as assistants.

LaRay Gustina of Beloit appeared on behalf of the Republican Party to discuss her experience observing voting in nursing homes in Rock County. She said special voting deputies split up instead of working together, as required by law. She also discussed questions about the competency of certain nursing home voters, and whether observers are able to object.

Judge Deininger called a recess at 11:25 a.m.

The Board reconvened at 11:35 a.m.

E. Elections Division Report on Conduct of General Election in the City of Racine

Staff Counsel Michael Haas and Elections Supervisor Ross Hein presented oral and written reports regarding the Board's efforts to assist the City of Racine with polling place issues that became apparent in the June 5, 2012 recall election and the subsequent recount in Senate District 21. In addition to devoting resources to assisting the city with the recruitment and training of election inspectors, the Board sent Accessibility Auditors to Racine, Kenosha and Milwaukee with additional duties of noting general issues with polling places including lines, election observers, and any problems observed. Board staff has provided feedback on those observations to the Racine City Clerk. Mr. Hein said staff believes that increasing the G.A.B.'s assistance to Racine following the June election had a significant impact on the orderly conduct of subsequent elections.

Discussion. Judge Cane inquired about whether the Board staff might undertake similar efforts with the City of Milwaukee. Mr. Hein said staff will study that possibility. He noted staff is in frequent consultation with Neil Albrecht, executive director of the Milwaukee City Election Commission, and Milwaukee has been responsive to questions or concerns raised by G.A.B. staff.

F. Elections Division Report on Possible Elimination of Election Day Registration

Staff Counsel Michael Haas, Elections Data Manager Brian Bell and Elections Specialist Richard Rydecki presented an oral and written preliminary report regarding the possible elimination of Election Day Registration (EDR) in Wisconsin. The Executive Summary is included in the Board meeting materials, and the full preliminary report is available on the G.A.B. website. Attorney Haas also introduced legal intern Ashley Davis, who contributed to the report. He said the report focuses on the impact on state agencies and local election officials if the Legislature were to eliminate EDR.

The preliminary cost estimate is \$5.2 million for initial implementation and \$1.9 million each subsequent two years. Staff is still awaiting cost estimates from other state agencies – Department of Transportation Division of Motor Vehicles, Department of Workforce Development and Department of Children and Families – which will be included in the final report. The preliminary report indicates that ending EDR would mean Wisconsin would no longer be exempt from the National Voter Registration Act, which would greatly increase the number of provisional ballots, as well as the administrative burden on the G.A.B. and other state agencies and local election officials in tracking voter registrations and maintaining the voter registration list. He reminded the Board Members that in 2011 the Board had taken a position against eliminating EDR.

Discussion. Judge Deininger inquired about getting cost data from clerks, which Mr. Rydecki said staff is working on. Staff Counsel Haas said the cost estimates were based

on lessons the staff learned in preparing and implementing the Voter Photo ID Law in 2011 and 2012.

Judge Deininger also asked if the report could be criticized as containing inflated numbers to counter calls to eliminate EDR. Director Kennedy discussed the costs of registering voters, regardless of whether a state has Election Day registration, and cost savings from moving away from paper registration to electronic registration and the automated transfer of data.

Because this was a preliminary report, the Board took no action.

G. Elections Division Report on the Use of S.A.V.E. for SVRS List Maintenance

Director Kennedy introduced Elections Supervisor Ross Hein and SVRS IT Lead Sarah Whitt for oral and written presentations on the use of the Systematic Alien Verification for Entitlements Program (S.A.V.E) for maintenance of the Statewide Voter Registration System. An executive summary of the final report is included in the Board meeting materials, and the full report is posted on the G.A.B. website. Director Kennedy said that earlier this year he and other staff had been monitoring developments in other states that were seeking to use SAVE to perform citizenship tests on their voter lists, knowing the issue would likely be raised in Wisconsin. Senator Mary Lazich inquired about using SAVE in Wisconsin, after which Director Kennedy created a staff task force to study the issue in depth.

Ms. Whitt described the team's research, which included contact with seven other states, the Department of Homeland Security, and Wisconsin's Division of Motor Vehicles and Department of Workforce Development. She outlined the detailed process that would be required in order to use the SAVE program, as well as the administrative process for removing from the voter list anyone who was determined to be a non-citizen. If the Legislature were to decide to make changes in the law to allow use of SAVE, the initial cost would be approximately \$544,000, plus approximately \$642,000 in ongoing costs over the first five years of the program.

Discussion regarding details of the report. Judge Brennan inquired about the difference between noncitizens who are in the SAVE Program because they have an Alien Verification Number, and those who are not in the system. Ms. Whitt said SAVE tracks only those who have legal presence in the country. In Colorado and Florida where officials have identified fewer than 200 people in each state who were illegally registered, they found that some were not aware they were not allowed to vote, and some claimed that those states' Departments of Motor Vehicles registered them to vote without their approval.

MOTION: Accept the staff's Final Report of the SAVE Fact-Finding Team: *Recommendations for Use of the SAVE Program in Wisconsin*, and authorize its

submission to the Legislature and Governor. Moved by Judge Cane, seconded by Judge Nichol. Motion carried unanimously.

H. Proposed Change to GAB 6.05 (6) Eliminating Requirement for Duplicate Paper Filing of Campaign Finance Reports

Ethics & Accountability Division Administrator Jonathan Becker provided oral and written reports regarding the staff recommendation to move forward with submission of an amended rule GAB 6.05 (6) which would eliminate the requirement for campaign finance registrants to file duplicate paper copies of electronic campaign finance reports. In March 2009, the Board approved an administrative rule change that specifically spelled out that electronic filers of campaign finance reports must use the then-new Campaign Finance Information System (CFIS). Because of problems with the system at its outset, coupled with negative reaction from legislators, staff held off on final promulgation. Also, the Board declined to repeal the requirement that electronic filers must also file a paper copy of reports. Since then, CFIS has proven to be a reliable system and there have been no concerns about the data for some time now.

Discussion regarding time for records retention and the status of the rulemaking process. Mr. Becker said that because the rulemaking process was started before changes to state law regarding rulemaking, the Board is able to go to the last stage of rulemaking.

MOTION: Authorize staff to convey the proposed rule on Pages 31 to 33 of the Board materials to the Legislature for final approval and promulgation, with the following changes to 6.05 (5):

~~(6)(5) Each registrant who files a report in an the electronic format specified by this rule shall file, with the filing officer, a paper copy of the report that complies with the format set forth in Forms EB 2, EB 2a, EB 3, EB 4, EB 7, EB 10, EB 10a, EB 12 or EB 24. That paper copy of the report shall be signed by an individual authorized by the registrant to file and filed no later than the time prescribed by law for filing the report need not file a copy of the report in any other medium and shall be deemed to have satisfied the requirement of s. 11.21 (16); Stats. need not file a copy of the report in any other medium and shall be deemed to have satisfied the requirement of s. 11.21 (16), Stats.~~

Moved by Judge Nichol, seconded by Judge Brennan. Motion carried unanimously.

I. 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 and accepted by the Board.

Elections Division Report – election administration

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

Office of General Counsel Report – general administration

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

MOTION: Accept reports as submitted in writing. Moved by Judge Vocke, seconded by Judge Nichol.

Discussion. Judge Brennan expressed concern about the amount of staff time spent surveying clerks regarding compliance with the federal Military and Overseas Voter Empowerment Act because of a small number of clerks who were non-compliant. Director Kennedy discussed the agency’s efforts to have the U.S. Department of Justice focus on the few clerks who are non-compliant, rather than on the majority of clerks who do comply, and who do not have any voters affected by the MOVE Act.

Motion carried unanimously.

J. Closed Session

Adjourn to closed session to consider 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 Wis. Stats. §§5.05(6a), 19.85(1)(h), 19.851, 19.85(1)(g), and 19.85(1)(c), to consider 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 to consider employment, promotion and performance evaluation data of a public employee of the Board. Moved by Judge Vocke, seconded by Judge Brennan.

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

Motion carried unanimously. The Board recessed at 12:43 p.m. and convened in closed session at 1:27 p.m.

K. Adjourn

The Board adjourned in closed session at 4:30 p.m.

####

The next regular meeting of the Government Accountability Board is scheduled for Monday, January 14, 2013. The meeting will be conducted by teleconference from the Government Accountability Board office in Madison, Wisconsin beginning at 9 a.m.

December 18, 2012 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

December 21, 2012

December 18, 2012 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

March 20, 2013

State of Wisconsin\Government Accountability Board

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JUDGE TIMOTHY L. VOCKE
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

212 East Washington Avenue
Madison, Wisconsin
January 14, 2013
9:00 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
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B. Delegated Certain Authority to the Director and General Counsel	2
C. Approved Ballot Access Report	3

Present: Judge David Deininger (in person) Judge Thomas H. Barland, Judge Gerald Nichol, Judge Michael Brennan, Judge Thomas Cane, and Judge Timothy Vocke (by telephone)

Staff present: Kevin Kennedy, Jonathan Becker, Michael Haas, Shane Falk, Ross Hein, Sharrie Hauge and Reid Magney

A. Call to Order

Judge Deininger called the meeting to order at 9:08 a.m.

B. Signing of Amended Canvass

Judge Deininger signed an amended canvass for the Fall 2012 General Election. Director Kennedy explained that there was a 3,000 vote error for president in a town in Waupaca County on the original canvass, which did not affect the outcome of the election.

C. Director's Report of Appropriate Meeting Notice

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

D. Selection of Board Officers

The selection of Board Officers was done by lot. Director Kennedy drew Judge Vocke's name as G.A.B. Chair for 2013, and then drew the names of Judge Nichol as G.A.B. Vice-Chair and Judge Brennan as G.A.B. Secretary for 2013. Judge Vocke asked Judge Deininger to continue chairing the meeting.

E. Delegation of Certain Authority to the Director and General Counsel

Director Kennedy introduced the annual memorandum regarding the Board delegating certain authority to the Director and General Counsel.

MOTION: Amend the proposed motion on Page 5 of the Board materials to eliminate item #8 dealing with application for federal funds. Moved by Judge Barland, seconded by Judge Vocke. Motion carried unanimously.

MOTION: Amend item #10 in the proposed motion on Page 6 of the Board materials to read "To implement the Board's determinations regarding sufficiency of nomination papers or qualifications of candidates." Moved by Judge Cane.

Discussion.

Motion seconded by Judge Barland. Motion carried unanimously.

MOTION: Delegate certain provisions of the Board's authority to the Director and General Counsel set out on pages 5 and 6 of the G.A.B. meeting materials of January 14, 2013 as amended. Moved by Judge Cane, seconded by Judge Barland. Motion carried unanimously.

F. Personal Appearances on Ballot Access

Arthur Kohl-Riggs of Madison appeared on his own behalf to discuss his complaint against the Madison City Clerk's Office regarding its decision to deny him ballot access in the Spring Election for Second District Alder because of his failure to file timely a Statement of Economic Interests. Mr. Kohl-Riggs said the City Clerk's Office directed him to the G.A.B. website for guidance on ballot access requirements; however, he said the website contained conflicting information that was different from the requirements in city of Madison ordinances.

Director Kennedy said staff would consider Mr. Kohl-Riggs' complaint, the clerk's answer, and the complainant's reply. Staff will develop a ruling in consultation with Judge Vocke. A complaint against the Racine City Clerk's Office regarding deadlines for Statements of Economic Interests has also been filed with the Board.

G. Ballot Access Report

Division Administrator Michael Haas presented an oral and written report prepared by Lead Elections Specialist Diane Lowe regarding ballot status issues. Staff received 54 sets of nomination papers, including 12 on the deadline day. No challenges were filed.

Discussion regarding reports for the Spring Primary and the Spring Election. In some cases, the reports do not indicate there is an incumbent when there is one. Also, in some cases there are no candidates shown in the Spring Election Report. Director Kennedy explained that state law requires the Board to certify both the Spring Primary and the Spring Election, but in five races where there are primaries, the Board cannot yet certify, so no candidates appear in those races on the report.

MOTION: Affirm ballot status for all of the candidates listed on the Candidates on Ballot reports, starting on Pages 10 and 14 of the G.A.B. meeting materials of January 14, 2013. Moved by Judge Cane, seconded by Judge Vocke. Motion carried unanimously.

H. Status of Final Election Day Registration Report

Division Administrator Haas provided an oral and written report. The final report on Election Day Registration is not complete because staff is still waiting for cost information regarding ending Election Day Registration and implementing the National Voter Registration Act from two or three other partner agencies.

Judge Cane asked about the status of legislative proposals to end Election Day Registration. Mr. Haas said that even though elected officials have made public statements about not taking up the issue this session, there is still an active request for information from the Legislative Fiscal Bureau. Director Kennedy said it is important to have a more in-depth study of the issue, including best estimates of costs.

I. Director's Report

Kevin Kennedy provided an oral report. He said key matters the staff has been working on are the ballot access report, implementation of the new lobby application receipt of year-end campaign finance and lobby reports and preparation of the final report on Election Day Registration. Also, three new Elections Division staff members have started work recently. They are Lila Walsh, Barry Crook, and Sherri Ann Charleston.

MOTION: For Board members to waive their per diems for the January 2013 meeting. Moved by Judge Cane, seconded by Judge Vocke. Motion carried unanimously.

J. Closed Session

Adjourn to closed session to confer with counsel concerning pending litigation and to consider performance evaluation data of a public employee of the Board.

MOTION: Move to closed session pursuant to §§19.85(1)(g), and 19.85(1)(c), to confer with counsel concerning pending litigation and consider performance evaluation data of a public employee of the Board. Moved by Judge Brennan, seconded by Judge Cane.

Roll call vote: Barland:	Aye	Brennan:	Aye
Cane:	Aye	Deiningner:	Aye
Nichol:	Aye	Vocke:	Aye

Motion carried unanimously. The Board took a brief recess and convened in closed session at 9:51 a.m.

L. Adjourn

The Board adjourned in closed session at 11:38 a.m.

####

The next regular meeting of the Government Accountability Board is scheduled for Wednesday, March 20 at the Risser Justice Center on Martin Luther King Jr. Boulevard in Madison and Thursday, March 21, 2013, at the G.A.B. office, 212 E. Washington Avenue., in Madison, Wisconsin beginning at 9 a.m.

January 14, 2013. Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

January 15, 2013

January 14, 2013, Government Accountability Board meeting minutes certified by:

Judge Michael Brennan, Board Secretary

March 20, 2013

State of Wisconsin \ Government Accountability Board

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JUDGE TIMOTHY L. VOCKE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20 - 21, 2013 Board Meeting

TO: Members, Government Accountability Board

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

Prepared and Presented by:
Michael Haas, Elections Division Administrator
Brian Bell, Elections Data Manager
Richard Rydecki, Accessibility Coordinator

SUBJECT: Final Report on the Impacts and Costs of Eliminating Election Day Registration

On February 15, 2013, Board staff completed its *Final Report on the Impacts and Costs of Eliminating Election Day Registration in Wisconsin*. The research described in the report was requested by Director and General Counsel Kevin Kennedy in anticipation of legislative consideration of the possibility of eliminating Election Day Registration (EDR). Subsequently, the Legislative Fiscal Bureau requested that the G.A.B. provide an estimate of the financial costs and savings related to the elimination of EDR. The full Report was delivered separately to the Board and is available on the G.A.B.'s website at <http://gab.wi.gov/publications/reports/final-edr-report>.

As indicated in the Report, if EDR is eliminated as part of State law, Wisconsin will become subject to provisions of federal law from which it is currently exempt. Wisconsin voters have had the opportunity to register to vote, or update their existing registration, on Election Day at their polling place since 1976. If EDR is eliminated, Wisconsin will be required to implement the National Voter Registration Act of 1993 (NVRA), also known as the Motor Voter Law. Voter registration would need to be offered at offices of the Division of Motor Vehicles as well as other agencies which provide public assistance or assistance to persons with disabilities. In addition to being subject to the provisions of the NVRA, Wisconsin would also need to comply with additional provisions of the Help America Vote Act of 2002 (HAVA). The report concludes that these additional HAVA requirements would result in a significant increase in the number of provisional ballots cast in Wisconsin.

The information contained in this report is the result of extensive research conducted by G.A.B. staff. Board staff consulted with election officials from other states with comparable voting populations, and with municipal and county local election officials throughout Wisconsin. In addition, staff reviewed relevant published academic research, litigation summaries, and statistics regarding voter registration and provisional ballots. Staff members were also in frequent communication with partner state agencies that would be impacted by this potential legislative change. Staff believes that these methods facilitated a comprehensive analysis of how these potential changes would interact with and impact current Wisconsin election statutes and procedures.

Cost estimates to implement the elimination of EDR and to administer the resulting federal law requirements would depend upon the specific provisions of any enabling legislation, which would need to

include several key policy determinations. The G.A.B. staff estimates costs for its agency only over an initial two-year period to be between \$2,068,378 and \$5,993,796. Based on extensive research into new requirements, the G.A.B. has identified essential components of an efficient voter registration information sharing system and developed the framework for list maintenance and public education and outreach programs. Subject to more specific analysis that could be completed only with the details of any legislative proposal, the G.A.B. estimates the costs of these essential components to be \$4,761,696.

The G.A.B. requested additional information from State partner agencies that would be affected if EDR were to be eliminated. These Wisconsin agencies are the Department of Transportation, the Department of Health Services, the Department of Children and Families and the Department of Workforce Development. Each of these agencies developed cost estimates for providing voter registration services to their customers. These cost estimates are not based on uniform assumptions and do not provide cost estimates in equivalent categories. For example, not all agencies considered the cost of training their staff about new requirements and procedures in their analysis. If EDR is eliminated, the total estimated cost for State partner agencies ranges from \$9,194,502 to \$10,548,732 over an initial two-year period.

The total estimated costs described in this report resulting from the elimination of EDR for all affected agencies range from \$11,262,880 to \$16,254,112. Using the recommended practices for the G.A.B. components, the total cost would range from \$13,156,198 to \$14,510,428. These figures reflect the costs incurred over an initial two-year implementation period. The table below summarizes the ongoing costs after the initial time period.

State Total Ongoing Costs	\$5,007,328.50	-	\$5,224,443.50
List Maintenance			\$352,172.50
Information Technology			\$223,669.00
Training			\$147,696.00
Total G.A.B. Ongoing Costs			\$723,537.50
DOT			\$620,119.00
DHS	\$3,052,032.00	-	\$3,269,147.00
DCF			\$69,300.00
DWD			\$542,340.00
Total Partner Agency Ongoing Costs	\$4,283,791.00	-	\$4,500,906.00

The materials for the Board meeting include the Report's Executive Summary. The Report is an informational document regarding potential changes to the laws regarding the administration of elections, and no action is required of the Board other than to determine whether the Board wishes to accept the report.

Recommended Motion: The Board accept the staff's Final Report on the Impacts and Costs of Eliminating Election Day Registration in Wisconsin.

Final Report on the Impacts and Costs of Eliminating Election Day Registration in Wisconsin

I. Executive Summary

Permitting individuals to register to vote on Election Day, or to update their address or name as shown on their voter registration, has been a key feature of Wisconsin elections since 1976. If Election Day Registration (EDR) were to be eliminated, Wisconsin would immediately become subject to additional provisions of federal laws, including the National Voter Registration Act of 1993 (NVRA) and the Help America Vote Act of 2002 (HAVA).

NVRA requires that voter registration take place at the Division of Motor Vehicles (DMV) as well as at agencies that provide federal or state public assistance or administer programs that primarily assist persons with disabilities. Additional provisions of HAVA would significantly increase the number of provisional ballots issued on Election Day. Wisconsin is currently exempt from these federal requirements, but would permanently lose that exemption if EDR were to be eliminated or modified to remove the ability of the voter to register at their polling place.

This Report analyzes the anticipated impacts on the administration of Wisconsin elections and the procedures of several State agencies if Wisconsin Statutes were amended to eliminate the opportunity for EDR. This Report also provides estimated costs related to additional responsibilities of the Government Accountability Board and partner State agencies which would result from the elimination of EDR.

Highlights of this Report include:

- During major statewide elections, 10 – 15 percent of Wisconsin electors register to vote or update their voter registration on Election Day. Those registrants are required to present a driver license or other valid document establishing proof of their current residence.
- If EDR is eliminated, federal law would require Wisconsin to establish a system for offering voter registration services at the Division of Motor Vehicles and at agencies which provide public assistance or administer programs that assist persons with disabilities. Employees of those partner agencies would need to transmit voter registration applications and other voter data to the appropriate election officials.
- Eliminating EDR or modifying the ability of voters to register at their polling place would result in the State of Wisconsin losing its current exemption from the federal requirements of the NVRA and provisions of HAVA. This change would require additional federal oversight over the administration of elections in Wisconsin, and diminish the authority the State currently enjoys in determining most voter registration and voter list maintenance procedures.

- If EDR is eliminated, federal law would require poll workers to continue to allow voters who have moved within their jurisdiction to update their voter registration on Election Day and to cast a ballot. Poll workers would also be required to issue provisional ballots to individuals who do not appear on the poll list as qualified electors but who declare that they are registered voters, and possibly to individuals who have moved outside of their previous voting jurisdiction. Procedures for election officials to issue, process, and canvass provisional ballots are more complex and time-consuming than are those for regular ballots.
- If EDR is eliminated, the processes for maintaining current and accurate poll lists also would become more complex and costly. The names of voters who have moved and who have not voted in recent elections will remain on poll lists much longer than required under current Statutes. If EDR is eliminated, substantial technological changes would be required to the Statewide Voter Registration System as well as to facilitate the transfer of voter registration applications and other information from partner agencies to election officials.
- If EDR is eliminated, additional Government Accountability Board staff positions would be required to administer provisions of federal laws, coordinate voter registration activities with other State agencies, develop and implement IT solutions, provide training to local election officials and partner agencies, compile registration data and satisfy federal reporting requirements, and implement a public information and outreach program to educate the public about significant changes to voter registration procedures and provisional ballot rules.
- Cost estimates to implement the elimination of EDR and to administer the resulting federal law requirements would depend upon the specific provisions of any enabling legislation, which would need to include several key policy determinations. The G.A.B. staff estimates costs for its agency only over an initial two-year period to be between \$2,068,378 and \$5,705,380.
- Based on extensive research into new federal law requirements, the G.A.B. has identified essential components of an efficient voter registration information sharing system and developed the framework for list maintenance and public education and outreach programs. Subject to more specific analysis that could be completed only with the details of any legislative proposal, the G.A.B. estimates the costs of these essential components to be **\$3,961,696** over an initial two-year period, as summarized in the table below.

Major G.A.B. Cost Areas	Cost
Voter List Maintenance	\$704,345
Information Technology	\$1,231,371
Training and G.A.B. Staffing	\$802,980
Public Education and Outreach Campaign	\$1,223,000
TOTAL G.A.B. ESTIMATED COST	\$3,961,696

- The G.A.B. requested additional information from State partner agencies that would be affected if EDR were to be eliminated. These Wisconsin agencies are the Department of Transportation, the Department of Health Services, the Department of Children and Families and the Department of Workforce Development. The table below summarizes the cost estimates provided by these State partner agencies. These cost estimates are not based on uniform assumptions and do not provide cost estimates in equivalent categories. For example, not all agencies considered the cost of training their staff about new requirements and procedures in their analysis. If EDR is eliminated, the total estimated cost for State partner agencies ranges from **\$9,194,502 to \$10,548,732** over an initial two-year period.

PARTNER AGENCIES ESTIMATED COSTS	Total Agency Cost
Department of Transportation Estimated Costs	\$1,678,858
Department of Health Services Estimated Costs	\$6,263,564 - \$7,617,794
Department of Children and Families Estimated Costs	\$167,400
Department of Workforce Development Estimated Costs	\$1,084,680
TOTAL STATE AGENCIES ESTIMATED COSTS	\$9,194,502-\$10,548,732

- The total estimated costs described in this report resulting from the elimination of EDR for all affected agencies range from **\$11,262,880 to \$16,254,112**. Using the recommended practices for the G.A.B. components, the total cost would range from **\$13,156,198 to \$14,510,428**.

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JUDGE TIMOTHY L. VOCKE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20 and 21, 2013, Board Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:
Sherri Ann Charleston
Voting Equipment Election Specialist
Government Accountability Board

Ross Hein
Elections Supervisor
Government Accountability Board

SUBJECT: Election Systems and Software (ES&S)
Petition for Approval of Electronic Voting System
Unity 3.4.0.0

I. Introduction

Election Systems and Software (ES&S) is requesting that the Government Accountability Board approve ES&S Unity 3.4.0.0 for sale and use in the State of Wisconsin. No electronic voting equipment may be offered for sale or utilized in Wisconsin unless the Board first approves it. Wis. Stat. §5.91. The Board has also adopted administrative rules detailing the approval process. Wis. Admin. Code Ch. GAB 7.

Unity 3.4.0.0 is a paper based Election Management System (EMS) for end-to-end election management. Unity EMS allows jurisdictions to create and maintain a central database of election information, format and print paper ballots on demand, program election equipment, and collect and report election results

The Government Accountability Board (Board) previously approved the Unity Election Management Suite, version 3.2.0.0 Rev 3, which includes the DS200 digital scanner, version 1.6.1.0, and AutoMARK Voter Assist Terminal versions 1.3.2906 and 1.3.1, on August 28, 2012. The DS 200 and AutoMARK in Unity 3.4.0.0 use identical firmware to what was previously certified with 3.2.0.0 Rev 3. The Model 100 Precinct Tabulator which is part of Unity 3.4.0.0 was not certified with the 3.2.0.0 Rev 3 system. It was most recently certified by the State Elections Board in 2006 and approved for modification via an Engineering Change Order in 2010.¹ All of the pieces of equipment tested in

¹ Approval of modification to the previously certified M100 voting system occurred August 25, 2010 pursuant to Wis. Adm. Code GAB §7.03(1) and with authorization granted by the Board to Director Kennedy to approve applications for voting systems modifications to systems previously approved for use in Wisconsin.

February 2013 were upgrades to the above equipment that are currently approved for sale and use in Wisconsin. This is not a brand new voting system, but rather a previously approved voting system with updates that are more than de minimis and which require new approval.

II. Recommendation

Based on the federal testing and certification of this system and on Board staff’s own functional testing of this equipment, Board staff is recommending approval of ES&S Unity 3.4.0.0 for sale and use in Wisconsin. More detailed recommendations are listed on pages 11-12, following the analysis of the functional testing.

III. Background

On June 13, 2012, Board staff received an Application for Approval of Unity 3.4.0.0. This initial request was rejected for two reasons: 1) Unity 3.4.0.0 had not yet obtained a U.S. EAC certification and 2) the application was submitted on an outdated application form. Furthermore, the Application for Approval sought the G.A.B.’s approval of both Unity 3.2.0.0 Rev. 3 and Unity 3.4.0.0. On July 11, 2012 ES&S resubmitted a proper Application for Approval of Unity 3.2.0.0. Rev3 and the G.A.B. staff scheduled voting system testing and demonstrations. The Board approved Unity 3.2.0.0 Rev 3 for sale and use in Wisconsin at its August 28, 2012 meeting.

ES&S resubmitted a proper Application for Approval of Unity 3.4.0.0 on December 18, 2012. ES&S submitted complete specifications for hardware, firmware and software related to the voting system. In addition, ES&S submitted technical manuals, documentation and instruction materials necessary for the operation of the voting system. ES&S initially requested certification for the DS850 high speed central scanner. On February 7, 2013 ES&S withdrew the DS850 from its Unity 3.4.0.0 Application for Approval as they did not forecast that any units would be sold during the near term sales cycle in Wisconsin.

The Voting System Test Laboratory responsible for testing the ES&S systems at the federal level, Wyle Laboratories, recommended that the US EAC certify ES&S Unity 3.4.0.0. ES&S provided the Wyle report to the Board along with the Application for Approval of Unity 3.4.0.0. Voting systems submitted to the U.S. EAC for testing after December 13, 2007 are tested using the 2005 Voluntary Voting System Guidelines. However, as this was a modification of a system previously certified to the 2002 Voting System Standards, upon successful completion of testing, the US EAC certified the new version to the 2002 Voting System Standards. The EAC certified ES&S Unity 3.4.0.0 on October 31, 2012, and issued it certification number **ESSUnity3400**.

Board staff scheduled voting system evaluations and demonstrations for ES&S during the week of February 11, 2013. ES&S submitted the following equipment for testing:

Equipment	Hardware Version(s)	Firmware Version	Type
DS200	1.2	1.6.1.0	Precinct Tabulator
AutoMark Voter Assist Terminal (VAT)	1.0 1.1 1.3.1 with Print Engineering Board 1.65 1.3.1 with Print Engineering Board 1.70	1.3.2907	Ballot Marking Device
M100		5.4.4.5	Precinct Tabulator

A. DS200

The DS200 is a digital scanner and paper ballot tabulator used primarily as a precinct counting system to tabulate paper ballots at the polling place. Each system can process ballots for up to ten wards or reporting units. After the voter makes a selection with a marker, or a ballot marking device (AutoMARK VAT), the ballot is inserted into the DS200 for immediate tabulation. The precinct count optical scanner tabulates votes and feeds inserted ballots into an attached secured storage bin.

The system includes a large touch screen display to provide feedback to the voter on the disposition of his or her ballot. If any errors or irregularities (overvote/crossover vote/blank ballot) are identified, the voter has the ability to return the ballot for review, or instruct the system to read it as-is.² Both sides of the ballots are scanned using a high-resolution image-scanning device, and the votes and ballot images of an election are stored on an external USB flash drive. The flash drive with the results and ballot images can also be removed and transported to the central tabulation location. The DS200 does not store any ballot data, election totals or election images in its internal memory. Results may not be “modemed-in” from the DS200 to a central location.

B. AutoMARK VAT

The AutoMARK VAT is comprised of a color touch screen monitor and integral ballot printer. To use the device, the voter inserts a pre-printed blank ballot into the input tray of the device. The mechanism draws in the ballot and scans a preprinted bar code on the ballot to determine which form of ballot has been inserted. The VAT then displays a series of menu-driven voting choices on its screen. The voter uses the touch screen or key pad provided to make voting selections. The VAT stores these choices in its internal memory.

When the voter has completed the selection process, the VAT provides a summary report for the voter to review his or her choices, and the AutoMARK VAT marks the ballot using its built-in printer. The print mechanism is a duplex device and can print both sides of the ballot. When the printing of the ballot is completed, the VAT feeds the ballot back to the voter. Once the ballot has been marked and is provided to the voter, the AutoMARK VAT clears its internal memory and the paper ballot is the only lasting record of the voting selections made. The voter may visually confirm his or her selections, or the ballot may be re-inserted into the VAT and the voter selections summary report will provide an audio summary for voters with visual impairments. The voter proceeds to enter the ballot into an optical scan voting system for tabulation or a secured ballot box to be hand tabulated by election inspectors after the polls have closed.

Overvotes and crossover votes cannot occur on this equipment and a voter is warned about undervotes prior to the completion of voting. The AutoMARK VAT generates audio voting instructions that guide a visually impaired voter through the election sequence. The voter wears headphones to hear the spoken instructions. The voter makes his or her selections by pressing on a specially designed switch panel. The voter can adjust the volume and the screen may be “blacked out” to deactivate the LCD screen, to provide enhanced privacy. The voter may adjust the tempo (speed) of the audio instructions and the VAT accommodates a sip-puff device for voters who do not have use of their hands. The VAT can be programmed in multiple languages, although languages other than English are not currently required in most Wisconsin municipalities. The City of Milwaukee is subject to a Spanish language requirement under Section 203 of the Voting Rights Act and the VAT accommodates that requirement.

² ES&S preprogrammed the DS200 to automatically reject overvotes and crossover votes. Voters were given the option to accept or reject blank ballots.

C. Model 100 (M-100)

The M100 is an optical precinct ballot scanner and tabulator. ES&S upgraded the M100 to function with the Unity 3.4.0.0 package. Specifically, ES&S expanded the number of precincts that could be counted on Election Day from 10 to a maximum of 18. Early voting precincts were also expanded from 10 to a maximum of 450. Finally, ES&S enhanced support for 2007 Daylight Savings Rules, audit log messaging, and voter/poll worker messaging.

Voters make their selections and then insert their ballots directly into the M100 at the polling place. As soon as a voter inserts the ballot, the scanner tabulates votes, sorts the ballot, and then feeds it into the attached ballot storage bin. The system includes a small screen display that is manually operated to provide feedback to the voter on the disposition of their ballot. If any errors or irregularities (overvote /crossover) are identified, the M100 offers the voter the opportunity to reject or accept the ballot.³ Both sides of the ballots are scanned using a high-resolution image-scanning device. The system tabulates the votes and produces a printed report of the vote count together with report data stored on a battery backed-up PCMCIA memory card. The PCMCIA memory card with the results can also be removed and transported to the central tabulation location.

D. 3.4.0.0 Election Management System Software

The Unity 3.4.0.0 suite also includes the following software, which was verified by staff:

Software	Unity 3.2.0.0 R3	Unity 3.4.0.0
Audit Manager	7.5.2.0	7.5.2.0
Election Data Manager	7.8.1.0	7.8.1.0
ESS Image Manager	7.7.1.0	7.7.1.0
Hardware Programming Manager	5.7.1.0	5.8.0.0
Election Reporting Manager	7.5.4.0	7.8.0.0
AutoMark Information Management System (AIMS)	1.3.157	1.3.257
VAT Previewer	1.3.2906	1.32907
Log Monitor	1.0.0.0	1.0.0.0

³ ES&S preprogrammed the M-100 to automatically reject overvotes and crossover votes. Voters were given the option to accept or reject blank ballots.

IV. Functional Testing

As required by GAB 7.02(1), staff conducted three mock elections with each component of the voting system: a partisan primary, a general election with both a presidential and gubernatorial vote, and a nonpartisan election combined with a presidential preference vote. The mock elections offered an opportunity for staff to perform functional testing to ensure the system conforms to all Wisconsin requirements.

Staff designed a test deck of approximately 1,000 test ballots using various configurations of ballot positions over the three separate mock elections to verify the accuracy and functional capabilities of the system. The four AutoMARK hardware configurations were tested by marking approximately 80 ballots with the equipment using various ballot marking configurations and ballot styles. The Auto-MARKed ballots were then verified by staff before being tabulated by the DS200 and M100 tabulation equipment. Staff determined the results produced by each tabulator matched the expected results from the test plan.⁴

V. Public Demonstration

Following the mock elections, an evening public demonstration of the voting system was conducted February 13, 2013 from 5:00 – 7:00 p.m. and members of the public were able to use the system and provide comment. Three members of the public attended. The participants included one citizen, a representative from State Senator Lazich’s office, and a representative from the office of Brown County Clerk Sandy Juno.

Comments from the public demonstration are included in the appendices.

VI. Wisconsin Election Administration Council Demonstration

Also, on February 14, 2013 from 9:30 a.m. – 12:00 p.m., the Wisconsin Election Administration Council (WI-EAC), which is made up of municipal and county clerks, representatives of the disability community, and community advocates, participated in a demonstration by the manufacturer and evaluated the equipment.

Comments from the WI-EAC are included in the appendices.

⁴ In the mock Partisan Primary election, there were voter marking errors in twelve of the ballots produced for the test deck (57, 70, 71, 141, 151, 170, 171, 266, 267, 269, 270, 27). Temporary staffers were hired to create the markings on the test deck. In entering the configurations from the test design onto the ballots, the temporary staff member assigned to produce the deck committed several marking errors, including entering votes not on the test design, creating duplicate ballots, and failing to fill in the corresponding ovals for write-in votes. Staff members discovered these errors while tabulating results using the M100. Staff members examined the test deck, corrected the incorrect ballots, and were able to effectively reconcile the test results. After completing the reconciliation, staff determined that the partisan primary tabulations were without error. In the future, temporary staff members will be asked to verify each other’s work.

Staff tabulated the Partisan Primary election test deck using the DS200. The DS200 detected and recorded votes for twelve (12) races that were identified in the test design as “voter error” entries. Staff concluded that though temporary staffers were instructed to enter “voter errors” (extraneous marks in lieu of properly filled in ovals) the DS200 was able to detect marks that were not as difficult for the machine to detect as they should have been.

In the mock general election, there were voter marking errors on three (3) ballots (319, 50, 8) discovered during the testing of the DS200. The DS200 tabulated votes from Ballot #276, which included staff designed voter errors marks in fifteen races. Staff corrected the defective ballots, but did not remake ballot #276. Staff re-tabulated the results using the M100. The results were perfect with the exclusion of the overvotes created by ballot #276. Staff concluded that the voter errors entered by temporary staffers had not been extraneous enough.

The mock presidential preference election test deck included one ballot with voter marking errors. Additionally, staff initially failed to insert a photocopied ballot in lieu of a properly marked ballot thereby creating an excess vote. Staff members corrected the incorrect ballots and were able to effectively reconcile the test results with the machine totals for both the M100 and the DS200.

VII. Board Staff's Feedback

The Unity Election Management System in Unity 3.4.0.0 was used successfully to program each of the four hardware versions of the AutoMARK Voter Assist Terminal, one DS200 digital scan ballot tabulator, and one M100 precinct tabulator. ES&S demonstrated within Unity how to create the election/ballots for each given election. After the equipment counted the ballots, ES&S demonstrated the tabulation of the election results within Unity. Staff visually verified the version numbers for each component of the Unity 3.4.0.0 EMS by checking the component's configuration display.

As part of its certification of the system, the US EAC requires all election programming and results reporting to use a "hardened system" for the Unity EMS and AIMS. A "hardened system" is a computer that contains only the Unity EMS and / or AIMS program and is used only for programming and results reporting. No other program or application is permitted on the unit.

A. AutoMARK Voter Assist Terminal

- Although there were no errors with the physical marking of the test ballot by the AutoMARK and the four hardware configurations produced accurate marks, there were some instances in which the system produced error messages that would require intervention by an election inspector. The messages displayed by the systems during testing were "paper misfeed", "error while printing", and "ballot not recognized." These errors were generally infrequent and fixed by simply re-feeding the ballot into the machine.
- The AutoMARK does not arguably provide absolute privacy and independence for voters with disabilities, especially voters with dexterity or motor disabilities, as voters may need assistance inserting the ballot, removing the ballot and placing the ballot in the ballot box or tabulator. However, it does provide substantial compliance with these objectives.

B. DS200 Digital Scan Precinct Tabulator

- Although there were no errors with the tabulation of the test ballots by the DS200, there were some instances in which the DS200 produced error messages that may require intervention by an election inspector. Among the messages by the systems during testing were "ballot too long," "ballot not inserted far enough", "ballot not recognized," and "missed orientation marks." With each of these errors, there was an audio alert notifying the voter of an issue with the ballot. These errors were generally infrequent and occasionally fixed by simply re-feeding the ballot into the machine. However, on several occasions the ballot had to be reinserted using a different orientation. This might suggest the scanner has difficulty reading ballots that are not inserted face up and top forward, but because the problem was not consistent staff could not definitely determine that this was the case.
- The DS200 was able to correctly read marks in pencil, black pen, blue pen, red pen, and green pen as well as by the ES&S-provided markers.
- The ability of the DS200 to capture digital ballot images automatically may provide a more cost-effective alternative to groups requesting to conduct post-election audits of the vote by review of the paper ballots.
- Write-in votes in the DS200 ballot bin are marked with a small pink circle and depending on the ballot box used, may or may not be separated into a separate write-in bin. The system can be easily configured to capture ballot images of ballots with write-ins and store them on the external USB flash drive, which would permit write-in votes to be easily

verified within the Unity EMS. However, this would not replace the need for inspectors to manually inspect each ballot to detect write-in votes where the voter did not fill in the target area next to the write-in line.

- The DS200's ballot input slot may be difficult for individuals with certain types of disabilities to insert a ballot without assistance due to the height and location of ballot input slot.
- There were a few occasions where a ballot jam occurred while inserting the ballot into the DS200. An error message is displayed on the touch screen directing the voter to contact a poll worker and there is also an audio alert notifying the voter. The ballot is returned back to the voter and can be reinserted to be counted.
- While the DS200 includes a large touch screen display to provide feedback to the voter on the disposition of their ballot, the manufacturer's default configuration allows the voter to instruct the DS200 to accept the ballot as is, even if it contains any fatal errors or irregularities such as overvotes or crossover votes. The vendor had preprogrammed the configuration to automatically reject all ballots with overvotes or crossover votes, which requires the voter to correct the error by remaking his or her ballot and so as to ensure that electors do not mistakenly process a ballot on which a vote for one candidate or all candidates will not count.
- Ballots marked with a party preference choice selection only, but no individual votes in the partisan primary, are accepted with no feedback provided to the voter on the disposition of their ballot. The DS200 reads this marking as a contest.
- The voting systems upgrades will not be compatible with other ES&S precinct-based optical scan voting equipment currently approved for sale and use in Wisconsin. Municipalities using other ES&S precinct-based optical scan voting equipment will have to either upgrade older versions of firmware or purchase equipment included within this test. Some legacy systems approved under NASED have the ability to "modem-in" their results to a central office for tabulation. Many municipalities wishing to purchase and use Unity 3.4.0.0 would need to change their process for tabulating the election results. This may create delays in how quickly unofficial results are made available to the public as flash drives will need to be physically delivered to the central tabulation site. While the ability to "modem-in" results is not a requirement for Wisconsin approval, the lack of such capacity in a voting system is noted as a drawback by many local election officials. This issue is addressed more fully in the separate Memorandum regarding ES&S Unity 3.4.0.1.

C. M100 Precinct Tabulator

- Although there were no errors with the tabulation of the test ballots by the M100, there were some instances in which the M100 produced error messages that may require intervention by an election inspector. Among the messages by the systems during testing were "no back image detected," "Unable to read time band, please re-feed ballot," "Top scanbar has blocked sensors." With each of these errors, there was an audio alert notifying the voter of an issue with the ballot. These errors were generally infrequent and occasionally fixed by simply re-feeding the ballot into the machine. However, on several occasions the ballot had to be reinserted using a different orientation. This might suggest the scanner has difficulty reading ballots that are not inserted face up and top forward, but because the problem was not consistent staff could not definitely determine that this was the case.

- The M100 was able to correctly read marks in pencil, black pen, blue pen, red pen, and green pen as well as by the ES&S-provided markers.
- The M100 does not capture electronic ballot images.
- The M100 has a small screen display to provide feedback to the voter on the disposition of their ballot. The screen may be difficult for voters with physical or visual impairments to view without assistance.
- The manufacturer’s default configuration allows the voter to instruct the M100 to accept the ballot even if it contains any fatal errors or irregularities such as overvotes or crossover votes. The vendor had preprogrammed the configuration to automatically reject all ballots with overvotes or crossover votes, which permitted the voter to correct the error by remaking his or her ballot. This also ensures that electors do not mistakenly process a ballot on which a vote for one candidate or all candidates will not count.

D. Statutory Compliance

Wis. Stat. §5.91 provides the following requirements voting systems must meet to be approved for use in Wisconsin. Please see the below text of each requirement and staff’s compliance analysis.

§ 5.91 (1)
The voting system enables an elector to vote in secret.
Staff Analysis
The ES&S voting system meets this requirement by allowing a voter to vote a paper ballot in the privacy of a voting booth or at the accessible voting station without assistance.

§ 5.91 (3)
The voting system enables the elector, for all elections, except primary elections, to vote for a ticket selected in part from the nominees of one party, and in part from nominees from other parties and write-in candidates
Staff Analysis
The ES&S voting system allows voter to split their ballot among as many parties as they wish during any election that is not a partisan primary.

§ 5.91 (4)
The voting system enables an elector to vote for a ticket of his or her own selection for any person for any office for whom he or she may desire to vote whenever write-in votes are permitted.
Staff Analysis
The ES&S voting system allows write-ins where permitted.

§ 5.91 (5)
The voting systems accommodate all referenda to be submitted to electors in the form provided by law.
Staff Analysis
The ES&S voting system meets this requirement.

§ 5.91 (6)
The voting system permits an elector in a primary election to vote for the candidates of the recognized political party of his or her choice, and the system rejects any ballot on which votes are cast in the primary of more than one recognized political party, except where a party designation is made or where an elector casts write-in votes for candidates of more than one party on a ballot that is distributed to the elector.
Staff Analysis
The ES&S voting system can be configured to always reject crossover votes without providing an opportunity for the voter to override. It is recommended that the Board continue to require this configuration due to potential voter confusion over the error message and voter's ability to submit a ballot upon which no votes will be counted. Additionally, staff recommends that the system be configured to automatically reject all improper ballots, excluding blank votes, without giving the voter the option to override.

§ 5.91 (7)
The voting system enables the elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; to vote for or against any question upon which the elector is entitled to vote; and it rejects all choices recorded on a ballot for an office or a measure if the number of choices exceeds the number which an elector is entitled to vote for on such office or on such measure, except where an elector casts excess write-in votes upon a ballot that is distributed to the elector.
Staff Analysis
The voting system meets these requirements with one exception: where the elector casts excess write-in votes in addition to voting for a named candidate. All currently-certified systems will interpret this scenario as an overvote and reject such ballots and require the voter to make the necessary revisions to the ballot. To meet this requirement, election procedures require election inspectors to inspect all ballots for write-in votes that may not be properly counted and separated into the proper receptacle by the voting system; this ensures all ballots are properly accounted for.

§ 5.91 (8)
The voting system permits an elector at a General Election by one action to vote for the candidates of a party for President and Vice President or for Governor and Lieutenant Governor.
Staff Analysis
The ES&S voting system meets this requirement.

§ 5.91 (9)
The voting system prevents an elector from voting for the same person more than once, except for excess write-in votes upon a ballot that is distributed to the elector.
Staff Analysis
The ES&S voting system meets this requirement.

§ 5.91 (10)
The voting system is suitably designed for the purpose used, of durable construction, and is usable safely, securely, efficiently and accurately in the conduct of elections and counting of ballots.
Staff Analysis

The ES&S voting system meets this requirement.

§ 5.91 (11)

The voting system records and counts accurately every vote and maintains a cumulative tally of the total votes cast that is retrievable in the event of a power outage, evacuation or malfunction so that the records of votes cast prior to the time that the problem occurs is preserved.

Staff Analysis

The ES&S voting system meets this requirement.

§ 5.91 (12)

The voting system minimizes the possibility of disenfranchisement of electors as the result of failure to understand the method of operation or utilization or malfunction of the ballot, voting system, or other related equipment or materials.

Staff Analysis

The ES&S voting system meets this requirement if it is configured to automatically reject all overvote and crossover ballots like other optical scan systems currently in use in Wisconsin. Staff recommends that the system be configured to automatically reject all improper ballots, excluding blank votes, without giving the voter the option to override. This is a requirement of the Board's prior 2009 and 2012 certification.

§ 5.91 (13)

The automatic tabulating equipment authorized for use in connection with the system includes a mechanism which makes the operator aware of whether the equipment is malfunctioning in such a way that an inaccurate tabulation of the votes could be obtained.

Staff Analysis

The ES&S voting system meets this requirement.

§ 5.91 (14)

The voting system does not use any mechanism by which a ballot is punched or punctured to record the votes cast by an elector.

Staff Analysis

The ES&S voting system does not use any such mechanism to record votes.

§ 5.91 (15)

The voting system permits an elector to privately verify the votes selected by the elector before casting his or her ballot.

Staff Analysis

The ES&S voting system meets this requirement.

§ 5.91 (16)

The voting system provides an elector the opportunity to change his or her votes and to correct any error or to obtain a replacement for a spoiled ballot prior to casting his or her ballot.

Staff Analysis

The ES&S voting system meets this requirement.

§ 5.91 (17)
Unless the ballot is counted at a central counting location, the voting system includes a mechanism for notifying an elector who attempts to cast an excess number of votes for a single office the ballot will not be counted, and provides the elector with an opportunity to correct his or her ballot or to receive a replacement ballot.
Staff Analysis
The ES&S voting system meets this requirement if it is configured to automatically reject all overvote and crossover ballots like other optical scan systems currently in use in Wisconsin. Staff recommends that the system be configured to automatically reject all improper ballots, excluding blank votes, without giving the voter the option to override. This is a requirement of the Board’s prior 2009 and 2012 certification.

§ 5.91 (18)
If the voting system consists of an electronic voting machine, the voting system generates a complete, permanent paper record showing all votes cast by the elector, that is verifiable by the elector, by either visual or nonvisual means as appropriate, before the elector leaves the voting area, and that enables a manual count or recount of each vote cast by the elector.
Staff Analysis
Since the ES&S voting system presented for approval requires paper ballots to be used to cast votes, this requirement does not apply.

The Help America Vote Act of 2002 (HAVA) also provides the following applicable requirements that voting systems must meet:

HAVA § 301(a)(1)(A)
The voting system shall: <ul style="list-style-type: none"> (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and (iii) if the voter selects votes for more than one candidate for a single office – <ul style="list-style-type: none"> (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and, (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted
HAVA § 301(a)(1)(C)
The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.
HAVA § 301(a)(3)(A)
The voting system shall— <ul style="list-style-type: none"> (A) be accessible for individuals with disabilities, including nonvisual accessibility for

the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters
Staff Analysis
<p>The ES&S voting system meets these requirements. However, concerns were stressed regarding the accessibility and privacy of the AutoMARK and the DS200 optical scan system and that the entire voting process is not completely accessible. There are approximately 1,000 AutoMARK units used in polling places to provide accessible means to the disabled voters and the upgrades would supplement these systems if the jurisdiction determined to upgrade their entire system.</p> <p>The AutoMARK voting systems for which approval is being sought, do not change the degree of accessibility currently provided by previously approved AutoMARK systems. Accessibility was determined by the former Elections Board to apply to the act of voting, not the insertion or removal of the ballot into the marking device and placing the ballot into the ballot box or optical scan voting system.</p>

VIII. Conclusion

To determine whether a voting system should be approved for use in Wisconsin, the following recommendations are based upon three goals.

1. Can the voting system successfully run an open, fair and secured Wisconsin election in compliance with Wisconsin Statutes?

Staff's Response: Yes. Each system accurately completed the mock elections and was able to accommodate the voting requirements of the Wisconsin election process.

2. Does the system enhance access to the electoral process for individuals with disabilities?

Staff's Response: This system does not enhance access to the electoral process for individuals with disabilities over previously approved Unity voting systems, and neither does it reduce or mitigate access for disabled voters. The current scope and degree of accessibility remains substantially the same as previously approved Unity voting systems.

3. Does the voting system meet Wisconsin's statutory requirements?

Staff's Response: Yes. The voting system complies with all applicable state and federal requirements. However, staff recommends that the system be configured to automatically reject all improper ballots, excluding blank votes, without giving the voter the option to override. This is a requirement of the Board's prior 2009 and 2012 certification.

IX. Recommendations

1. Board staff recommends approval of this ES&S voting system, Unity 3.4.0.0 and components set forth in the tables on pages 2 and 4 above. The system accurately completed the mock elections and was able to accommodate the voting requirements of the Wisconsin election process.
2. Board staff recommends that as a continuing condition of the Board's approval, that ES&S may not impose customer deadlines contrary to requirements provided in Wisconsin Statutes, as determined by the Board. In order to enforce this provision, local jurisdictions purchasing ES&S equipment shall also include such a provision in their respective purchase contract or amend their contract if such a provision does not currently exist.

3. Board staff recommends that as a continuing condition of the Board’s approval, that this system must always be configured to include the following options:
 - a. Automatic rejection of overvoted ballots with no opportunity for the voter to override.
 - b. Automatic rejection of crossover ballots with no opportunity for the voter to override.
 - c. Automatic rejection of all improper ballots except blank ballots.
 - d. Digital ballot images to be captured for all ballots tabulated by the system (if capable).
4. Board staff recommends election inspectors shall remake all absentee ballots automatically rejected so that the ballot count is consistent with total voter numbers.
5. As part of US EAC certificate: ESSUnity3400, only systems included in this certificate are allowed to be used together to conduct an election in Wisconsin. Previous versions that were approved for use by the former Elections Board are not compatible with the new ES&S voting system, and are not to be used together with the equipment versions seeking approval by the Board, as this would void the US EAC certificate. If a jurisdiction upgrades to Unity 3.4.0.0, they need to upgrade each and every component of the system to the requirements of what is approved herein.
6. Unity EMS 3.4.0.0. may only program the AutoMARK Voter Assist Terminal (VAT), versions 1.0, 1.1, 1.3.1 ((Print Engineering Board (PEB)1.65)), 1.3.1 (PEB 1.70).
7. Board staff recommends that as a condition of approval, ES&S shall abide by applicable Wisconsin public records laws. If, pursuant to a proper public records request, the customer receives a request for matters that might be proprietary or confidential, customer will notify ES&S, providing the same with the opportunity to either provide customer with the record that is requested for release to the requestor, or shall advise Customer that ES&S objects to the release of the information, and provide the legal and factual basis of the objection. If for any reason, the Customer concludes that Customer is obligated to provide such records, ES&S shall provide such records immediately upon Customer’s request. ES&S shall negotiate and specify retention and public records production costs in writing with customers prior to charging said fees. In absence of meeting such conditions of approval, ES&S shall not charge customer for work performed pursuant to a proper public records request, except for the “actual, necessary, and direct” charge of responding to the records request, as that is defined and interpreted in Wisconsin law, plus shipping, handling, and chain of custody.

X. Proposed Board Motion

MOTION: The Government Accountability Board adopts the staff’s recommendation for approval of the ES&S voting system’s Application for Approval of Unity 3.4.0.0 to be sold or used in Wisconsin, in compliance with US EAC certificate: ESSUnity3400, including the conditions described above.

Attachments

- ✓ Appendix 1: Wisconsin Election Administration Council Feedback
- ✓ Appendix 2: Public Feedback
- ✓ Wisconsin Statutes § 5.91
- ✓ Wisconsin Administrative Code GAB 7
- ✓ US-EAC Certificate of Conformance
- ✓ US-EAC Scope of Certification

APPENDIX 1: Wisconsin Election Administration Council’s Feedback
 These comments were provided via a structures feedback form.

1. How would you rate the functionality of the equipment?

Very Poor	Poor	Fair	Good	Excellent
			3	3

- Automark does take a while to print out the ballot, but screen display is good.
- It seems to work very well. During our “playing” all worked well. I like the tape, the speed, and the lighter weight.
- I like the DS200, especially that it shows the voter where the error occurred on the ballot. This gives the voter more privacy and the ability to self-correct rather than having to consult with the election inspector to determine what’s wrong. I also like that the system is much easier for poll workers to use, move, etc.
- The machines work well and are intuitive. The changes will help clerks.
- The [automark] properly marked all ballots. Automark is very slow process when compared to mark by hand but does serve voters that have problems using pen or sight.

2. How would you rate the accessible features?

Very Poor	Poor	Fair	Good	Excellent
		1	2	3

- Concerned how a person with a physical disability takes ballot from the Automark to the scanner tabulator.
- I think this serves the need. A person in wheelchair should be able to use DS200 although I would like to see the height of the unit a little lower so the voter can see where to put the ballot more easily.
- Easy to use-not much different than current equipment.
- There were no changes to the accessibility features and so I have no additional comments to make in this regard.

3. Rate your overall impression of the system.

Very Poor	Poor	Fair	Good	Excellent
		1	1	4

- We are waiting to upgrade to the DS200, but will not do so until we can modem results. In my case, I would have to drive to two different counties with results.
- I would like to see this board reconsider their view on over-riding ballots. All good parts of a ballot will also be counted on an override. But if you require a ballot to be remade, now you introduce human error at the end of a very long day.
- I would like the write-ins dropped into a separate bin. This will help us catch more write-ins.
- It is a huge improvement, which we need a.s.a.p. Please do what you can to include modem technology as it helps to simplify end of day processing, which is getting more and more demanding with requirements for provisional ballot tracking, posting of outstanding absentees, etc.
- GAB Board really needs to find a way to approve a modem system. Many municipalities are looking to upgrade from our old optech eagles (which have modem ability now) and are reluctant to upgrade without this feature. Approve a 3401 (modem) to be used for “unofficial results.”
- I especially like the design of the Unity 3400. The fact that there is a not modem capability would not prohibit me from purchasing it.
- If modem issue is resolved with the 3401, it would be a very good system. Not sure about the cost to change our existing county wide system to this particular system, but I would be curious to know some of the costs.
- Great system.

APPENDIX 2: Public Demonstration Feedback

These comments were provided via a structures feedback form.

1. How would you rate the functionality of the equipment?

Very Poor	Poor	Fair	Good	Excellent
				1

2. How would you rate the accessible features?

Very Poor	Poor	Fair	Good	Excellent
				1

- Greatly improved functionality based on useable ink alone.

3. Rate your overall impression of the system.

Very Poor	Poor	Fair	Good	Excellent
				1

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JUDGE TIMOTHY L. VOCKE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20 and 21, 2013 Board Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:
Sherri Ann Charleston
Voting Equipment Elections Specialist
Government Accountability Board

Ross Hein
Elections Supervisor
Government Accountability Board

SUBJECT: Election Systems and Software (ES&S)
Petition for Approval of Electronic Voting System
Unity 3.4.0.1

Introduction

I. Introduction and Recommendations:

Election Systems & Software (ES&S) has sought Board approval for Election Management Suite Unity 3.4.0.1. Unity 3.4.0.1 currently lacks federal certification and will never receive it because ES&S has withdrawn it from certification with the United States Election Assistance Commission (U.S. EAC) and informed Board staff on October 3, 2012 that it would not re-submit it for review by the U.S. EAC. Unity 3.4.0.1 is a modification to the Unity 3.4.0.0 (EAC#ESSUnity3400). The modification provides support for land line modeming of unofficial results from the DS200 tabulator to a Secure File Transfer Protocol (SFTP) server. This function enables jurisdictions to modem unofficial results from a polling place to a central location, where the unofficial results are aggregated by use of election management software on election night. In addition to the modeming capability, the Hardware Programming Manager (HPM) and Election Reporting Manager (ERM) applications were modified to support the addition of modem functionality. All modifications of the system were tested to the 2005 Voluntary Voting System Guidelines (VVSG) Standard by Wyle Laboratories; however the system as a whole is only compliant to the 2002 VVSG Standards.

On November 2, 2012, Wyle Laboratories issued its test report for the ES&S Unity 3.4.0.1. During the testing campaign, Wyle issued three notices of Anomalies to ES&S.¹ Wyle concluded that the Unity 3.4.0.1 Technical Data Package documentation conflicted with the actual operation of the system.

¹ A Notice of Anomaly is generated upon occurrence of a verified failure, an unexpected test result, or any significant unsatisfactory condition.

Wyle also concluded that the 3.4.0.1 failed to meet the 2005 VVSG standards pertaining to Data Transmission (2005 VVSF Volume 1, Section 7.6.1) and Maintaining Data Integrity (2005 VVSG Volume 1, Section 7.5.1.b).² ES&S refused to submit a resolution of these anomalies to Wyle for review and subsequently withdrew the Unity 3.4.0.1 from the U.S. EAC certification process. As a result, Unity 3.4.0.1 will not receive federal certification.

Despite the fact that the Unity 3.4.0.1 has not received federal certification, and apparently never will, ES&S has requested that the Board consider functional testing and certification of the Unity 3.4.0.1 based on its interpretation of the Wisconsin Administrative Code. ES&S posits that Wis. Adm. Code Ch. GAB 7 does not require U.S. EAC certification as a condition of testing and approval in Wisconsin.

Several county clerks have also requested that the G.A.B. disregard the prerequisite for U.S. EAC certification. Specifically, on February 14, 2013 during the most recent meeting of the Wisconsin Election Administration Council (WI-EAC), several county clerks expressed a desire to acquire new equipment with the capability to transmit unofficial results from their polling place tabulators to their SFTP server. At the March 4, 2013 meeting of the Wisconsin County Clerks Association, numerous clerks reiterated their support for equipment with modem capability. Several jurisdictions in Wisconsin have benefited from the use of landline modems to transmit unofficial results using the Optech Eagle, namely Brown, Dane, Rock, Marathon, and Jefferson counties.

G.A.B. Staff Recommendations:

- G.A.B. staff requests that the Board provide input regarding the desirability of testing Unity 3.4.0.1 and the establishment of testing processes for non-U.S. EAC certified voting systems, where the underlying voting system received U.S. EAC certification to either the 2002 or 2005 VVSG, but any additional modemming component will not meet the 2005 VVSG.
- G.A.B. staff is also seeking input from the Board regarding establishing application protocols. These protocols will be used as guidelines for evaluating future (and concurrent) applications for approval of non-U.S. EAC certified voting systems, where the underlying voting system received U.S. EAC certification to either the 2002 or 2005 VVSG, but any additional modemming component will not meet the 2005 VVSG.

II. Background

- A. Current interpretation of Wisconsin's statutes and administrative rules pertaining to approval of voting systems requires U.S. EAC certification prior to conducting testing.

No electronic voting equipment may be offered for sale or utilized in Wisconsin unless the Board approves it. Wis. Stat. § 5.91. The Board has also adopted administrative rules detailing the approval process. Wis. Admin. Code Ch. GAB 7. In particular, G.A.B. administrative rules require that an application for approval of an electronic voting system shall be accompanied by reports from an independent testing authority accredited by the United States Election Assistance Commission (U.S. EAC) (formerly, National Association of State Election Directors (NASED)), demonstrating that the voting system conforms to all the standards recommended by the Federal Election Commission (FEC).³ Wis. Adm. Code 7.01(1)(e). Past interpretation by the Board of Wis. Adm. Code Ch. 7 and policies

² In October of 2012, the U.S. EAC issued two Requests for Interpretations addressing both of these standards. Both have been included with this report as Appendix 1.

³ Prior to the passage of the Help America Vote Act of 2002 (HAVA), voting systems were assessed and qualified by the National Association of State Election Directors (NASED), a nonpartisan association consisting of state level election directors nationwide. These voting systems were tested against the 1990 and 2002 voting system standards developed by the Federal Election Commission (FEC). With HAVA's enactment, the responsibility for developing voting system standards was transferred from the FEC to the U.S. Election Assistance Commission (U.S. EAC) and they are now called Voluntary Voting System Guidelines.

regarding the approval of voting equipment requires U.S. EAC certification prior to conducting testing for approval for sale or use in Wisconsin.

- B. The U.S. EAC requires that all voting systems seeking federal certification submit to testing to evaluate its conformance to the Voluntary Voting System Guidelines (VVSG).

The Help America Vote Act of 2002 (HAVA) instructed the United States Election Assistance Commission (U.S. EAC) to develop voluntary voting system guidelines—a set of specifications and requirements against which voting systems can be tested to determine if the systems provide all of the basic functionality, accessibility and security capabilities required of these systems. 42 U.S.C. § 15481. HAVA also requires that the U.S. EAC provide certification, decertification, and recertification of voting systems and the accreditation of testing laboratories.

On December 13, 2005, the U.S. EAC adopted the 2005 Voluntary Voting System Guidelines (VVSG), which significantly increased security requirements for voting systems and expanded access, including opportunities to vote privately and independently, for individuals with disabilities. The guidelines update and augment the 2002 Voting System Standards, as required by HAVA, to address advancements in election practices and computer technologies. These guidelines are voluntary. States therefore decide to adopt them either entirely or in part.

In 2007, the Technical Guidelines Development Committee (TGDC) delivered a complete rewrite of the 2005 VVSG to the EAC.⁴ This revision, known as the VVSG 1.1, has not been implemented. Implementation of the VVSG 1.1 is an action that can only be carried out with the approval of at least three of the four U.S. EAC commissioners. 42 U.S.C. § 15328. Implementation of the revised standards is therefore not possible since there are currently four vacancies on the U.S. EAC.⁵ Given the lack of U.S. EAC commissioners, the U.S. EAC has not been able to promulgate up to date technology standards, a contributory factor in the current stagnation in election technology innovation.

Currently, vendors seeking U.S. EAC certification of equipment with a telecommunications component must demonstrate that their equipment is compliant with the 2005 VVSG requirements governing the use of public telecommunications in voting systems. To do so, vendors seeking federal certification must first submit their voting systems to a U.S. EAC accredited test laboratory which will test the equipment against the 2005 VVSG requirements.⁶

- C. Unity 3.4.0.1 will not receive U.S. EAC certification because it is not compliant with the telecommunications requirements as identified in the 2005 VVSG.

ES&S was the first voting equipment manufacturer to apply for federal certification with a voting system having a telecommunications component, Unity 3.4.0.1. Wyle Laboratories began testing the Unity 3.4.0.1 to the 2005 VVSG standards related to the use of telecommunications and cryptography in voting systems (2005 VVSG 7.5 and 7.6) on November 9, 2011. The 2005 VVSG Volume 1, Section 7.6.1 (Data Transmission) requires that all systems that transmit data over public telecommunications networks shall require that at least two authorized election officials activate any

⁴ The TGDC assists U.S.EAC in developing the Voluntary Voting System Guidelines. The chairperson of the TGDC is the director of the National Institute of Standards and Technology (NIST). The TGDC is composed of 14 other members appointed jointly by U.S. EAC and the director of NIST. Visit NIST at <http://www.nist.gov/itl/vote/> or the U.S. EAC at http://www.eac.gov/about_the_eac/technical_guidelines_development_committee.aspx to view TGDC resolutions, meeting minutes and additional information.

⁵ HAVA specifies that four commissioners are nominated by the President on recommendations from the majority and minority leadership in the U.S. House and U.S. Senate.

⁶ The U.S. EAC accredits test laboratories (voting system test laboratories or VSTLs) that evaluate voting systems, voting devices, and software against the voluntary voting system guidelines to determine if they provide all of the basic functionality, accessibility, and security capabilities required of these systems. The test laboratory provides a recommendation to the U.S. EAC, and the Commission's executive director makes the determination whether to issue a certification.

critical operation regarding the processing of ballots transmitted over a public communication network. Additionally, 2005 VVSG Volume 1, Section 7.5.1.b (Maintaining Data Integrity) requires that voting systems that use telecommunications to communicate between system components and locations before the polling place is officially closed shall implement an encryption standard currently documented and validated for use by an agency of the U.S. government.

On October 1, 2012, the U.S. EAC released two Requests for Information (RFI) related to the use of telecommunications and cryptography in voting systems. The RFI's were issued after ES&S had already begun the test campaign at Wyle Laboratories for the telecommunications component found in Unity 3.4.0.1. The October 1, 2012 RFI's clarified the 2005 VVSG telecommunications standards for both Data Transmission⁷ and Cryptography⁸. The U.S. EAC explained that to comply with 2005 VVSG Volume 1, Section 7.6.1, voting equipment transmitting data over public telecommunications networks shall require two digital signatures.⁹ Furthermore, to comply with 2005 VVSG Volume 1, Section 7.5.1.b, the U.S. EAC required Federal Information Processing Standard (FIPS) 140-2 or the most current FIPS certified cryptographic modules.¹⁰ Additionally, all portions of the voting system, including precinct and central locations, would have to include this level of encryption.¹¹ The October 2012 RFI's further clarified the U.S. EAC's May 2012 Decision on the Transmission of Results.¹² In the May RFI, the EAC clarified that voting systems using telecommunications technologies shall be tested to all telecommunications requirement for the technology (i.e. wired or wireless) without distinction between official *and unofficial* results. The EAC now requires federally accredited testing laboratories to test all voting systems without an approved application according to these amended standards.

In response to the October RFI's, Wyle Laboratories tested the Unity 3.4.0.1 to the clarified 2005 VVSG standards. On November 6, 2012, Wiley Laboratories issued two notices of anomaly, indicating that the Unity 3.4.0.1 did not meet the requirement in 2005 VVSG Section, Section 7.61 because it did not require at least two authorized election officials to activate critical operations as noted. Additionally, Unity 3.4.0.1 did not meet Section 7.5.1.b as it did not use the specifically required encryption standard. ES&S chose not to resolve the anomalies and refused to resubmit Unity 3.4.0.1 for review.

On November 19, 2012, the G.A.B. received an Application for Approval of Unity 3.4.0.1. The Application for Approval of 3.4.0.1 was filed without the U.S. EAC's certification. During a meeting between ES&S representatives and G.A.B staff on October 3, 2012, the vendor informed staff that the Unity 3.4.0.1 would never be submitted to the U.S. EAC for certification, thus it will never obtain U.S. EAC certification.

G.A.B. staff also received and responded to a letter from the former Brown County Clerk, Darlene Marcelle, expressing her support for ES&S's proposal for the G.A.B. to approve Unity 3.4.0.1 without first requiring federal certification. In a December 14, 2012 letter, Director and General Counsel Kevin J. Kennedy informed Clerk Marcelle that the G.A.B could not schedule testing until the Board actually considers whether it will alter past interpretation of Wis. Adm. Code Ch. 7 and its policy regarding the requirement to have a U.S. EAC certification prior to conducting testing for approval in Wisconsin.

On January 28, 2013, staff explained to ES&S representatives that the Board will have to consider whether it will alter past interpretation of Wis. Adm. Code Ch. 7 and its policy regarding the

⁷ EAC, RFI 2012-06, EAC Decision on Use of Public Telecommunications Networks and Data Transmission

⁸ EAC, RFI 2012-05, EAC Decision on Public Telecommunications and Cryptography

⁹ EAC, RFI 2012-06, EAC Decision on Use of Public Telecommunications Networks and Data Transmission

¹⁰ The National Institute of Standards and Technology (NIST) issues the FIPS (Federal Information Processing Standard 140 Publication Series to coordinate the requirements and standards for cryptographic modules which include both hardware and software components for use by departments and agencies of the United States federal government.

¹¹ EAC, RFI 2012-05, EAC Decision on Public Telecommunications and Cryptography

¹² EAC, RFI 2012-02, EAC Decision on Transmission of Results (Official and Unofficial)

requirement to first have a U.S. EAC certification before staff conducts its testing. Additionally, staff clarified that before the G.A.B. would act on the Application for Approval of Unity 3.4.0.1, knowing that it does not have a U.S. EAC certification and never will, the Board would have to evaluate and establish testing processes sufficient to ensure the integrity of the voting system. Staff expressed its intent to present our conclusions regarding the testing of Unity 3.4.0.0 and request Board guidance regarding the Application for Approval of 3.4.0.1 at the March 2013 Board meeting.

III. Discussion

ES&S's application for the Approval of Unity 3.4.0.1 does not include evidence of U.S. EAC certification and would require the Board to consider altering its policy regarding testing voting systems for sale and use in Wisconsin. In formulating recommendations, staff considered a number of issues while assessing whether the present application necessitates a change in established protocol. Staff addressed the following issues:

- How does Wisconsin compare to other states with regard to the use of voting equipment with telecommunications components?
- Will the application for approval of the Unity 3.4.0.1 require the staff to develop new testing protocols for equipment having modeming capability?
- Should staff recommend that the Board's conclusions regarding the Unity 3.4.0.1 also become a new Wisconsin policy applicable to other systems with telecommunications components seeking approval from the Board without U.S. EAC approval?

Staff reviewed the statutory requirements and testing protocols of select states with similar statutory constructions who are testing the Unity 3.4.0.1, or that allow equipment with modeming capability into the state without first having U.S. EAC approval. Staff then assessed possible state generated models for testing to assess the viability of stepping outside of the U.S. EAC certification structure. Finally, staff considered the implications that the Board's determinations in this present case might have for other vendors who have expressed interest in submitting applications for equipment with non-U.S. EAC certified telecommunications components.

Analysis:

No equipment with modeming capabilities has been certified by the U.S. EAC. Hence, the states that have tested the ES&S Unity 3.4.0.1 or allow the modeming of unofficial results do not require U.S. EAC certification. G.A.B. staff reviewed the statutory requirements of select states that either have tested the Unity 3.4.0.1 or have indicated that they will do so in the future. The Unity 3.4.0.1 is currently only certified in one state, Iowa. Several other states, Illinois, Minnesota, and Virginia, are in the process of testing the voting system. GAB staff then conducted a preliminary examination of the testing procedures of several states, namely Illinois, Iowa, and Florida, who have established their own testing protocols and procedures to examine equipment with telecommunications capabilities. Each of these states is considered a non-U.S. EAC state in that they do not require U.S. EAC certification prior to conducting testing. New York State was also examined because of its usefulness as a model for developing state level voting equipment testing program. New York does not require U.S. EAC certification prior to conducting testing, but unlike the other states reviewed in this memorandum does not allow modeming of results.

Of the states where the Unity 3.4.0.1 has been tested or will be in the future, all have more lenient statutory and regulatory structures than Wisconsin. Iowa only requires a passing testing report from an Independent Testing Authority before testing and approving a voting system for sale or use in Iowa. Similarly, Illinois requires testing by a federally accredited laboratory, but has eliminated the need for a U.S. EAC certification number. Minnesota also requires testing by an independent authority, but

requires only that the equipment be tested to the federal voting system standards without having first obtained a U.S. EAC certification. Finally, Virginia only requires that equipment is tested to federal standards, but does not require testing by a federally accredited laboratory.

In states where the Unity 3.4.0.1 has either been tested or will be tested, the state has previously allowed equipment with modeming capabilities without ever testing the modem functionality or integrity independently. Three states, namely Iowa, Illinois, and Minnesota, do not conduct independent testing on the voting system's modem. Their testing protocols consist of verifying the transmission of the results during an observational demonstration. Virginia will conduct a test of Unity 3.4.0.1 on March 18, 2013, during which time the Virginia elections staff, the director of the U.S. EAC certification program, staff from ES&S, and scientists from the involved voting systems testing laboratory will conduct joint testing of Unity 3.4.0.1, including the modem functionality and integrity.

Iowa state law does not require federal certification of a voting system. Iowa requires a report from an Independent Testing Authority indicating that the system examined meets either the 2002 or subsequently adopted VVSG standards. This allows Iowa to approve the modem components of voting systems which meet the lesser requirements of the 2002 VVSG standards. For Unity 3.4.0.1, the Iowa board accepted the Independent Testing Authority report from Wyle Laboratories indicating the modem components met the 2002 VVSG standards as sufficient evidence for approval.

Illinois has a similar statutory structure to Iowa, only requiring vendors to submit a testing report from a federally accredited laboratory. Illinois did not conduct independent testing on the modem component for Unity 3.4.0.1. The Illinois State Board of Elections is currently in the process of completing testing.

G.A.B. staff also examined the testing requirements in Florida, which does allow modeming. Florida, which has its own voting systems technical team, has created the Florida Voting System Standards. Florida has different requirements than those necessary for federal compliance and has therefore established its own technical and procedural application process. Voting equipment vendors submit applications for approval to the Florida Bureau of Voting Systems Certification (BVSC). BVSC conducts its own equipment testing according to the regulations prescribed in the Florida Voting System Standards. As to the modem aspect, the BVSC outlines two different procedures based on analog modem or wireless communication. The equipment testing team conducts transmission simulations between at least eight precincts and at least two tabulators within the same precinct. Additionally, the testing team simulates transmission anomalies, stress loading, and security attacks.

G.A.B. staff also examined the testing requirements in New York, which does not allow modeming, but has the most expensive test campaign structure of any state in the country. New York does not require U.S. EAC certification, but does conduct its own full state certification. New York has adopted the 2005 VVSG in its entirety, but has amended it by changing all the recommended testing requirements (written as "should" in the 2005 VVSG) to make them requirements (changed to "shall" in the New York code). Staff believes that New York requires a line by line source code review, which is responsible for the majority of the testing costs. Given the requirements of the New York certification program, testing campaigns tend to cost vendors in the neighborhood of \$1 million.

G.A.B. Staff Suggestions:

G.A.B. staff assessed the feasibility of instituting several models for testing modem functionality including: establishing Wisconsin specific voting system standards to augment or replace the requirements of the 2005 VVSG; requiring additional testing specifically on the modem component by an independent testing authority, G.A.B. IT staff, or security specialists from the Wisconsin Division of Gaming; or instituting substantial post-election auditing and reporting requirements substantive enough to offset any security related concerns. To do so, staff conducted a preliminary review of the costs, personnel, and infrastructure requirements borne by other states, such as Florida, and a review of current research related to security and testing.

At this time, staff recommends that the Board direct staff to research and develop new testing protocols and procedures specifically related and restricted to the testing of the modem component of voting systems submitted for approval in the State of Wisconsin for any non-U.S. EAC certified voting systems, where the underlying voting system received U.S. EAC certification to either the 2002 or 2005 VVSG, but any additional modeming component will not meet the 2005 VVSG. These recommended protocols and procedures could potentially be presented to the Board for approval at the May 21, 2013 Board meeting. This would allow staff the necessary time to formulate a testing plan sufficient to satisfy the requirements of our statutes and spirit of the administrative code, while balancing the need for improved technology within the state. Test protocols and procedures would be based upon an assessment of other states' testing plans, including the Virginia testing, which will occur on March 18, 2013. Hopefully, staff will be able to obtain written documentation from Virginia for review shortly after Virginia completes its March 18 testing.

The proposed protocols and procedures that staff would prepare for presentation at the May 2013 Board meeting would likely include a number of security and procedural recommendations. The protocols would likely clarify that the modeming component shall only be used for the transmission of unofficial results. Additionally, staff would intend to develop testing procedures required for state approval of non-U.S. EAC certified voting systems, where the underlying voting system received U.S. EAC certification to either the 2002 or 2005 VVSG, but any additional modeming component will not meet the 2005 VVSG.

Finally, staff would likely suggest more aggressive post-election equipment audits during the equipment's initial period of use. The suggested protocols and procedural requirements would enumerate specified time periods for modeming unofficial results after election inspectors have already "closed the polls" on each piece of voting equipment as well as enhanced post-election auditing procedures. Such requirements are consistent with current suggestions of academics and security experts who are increasingly opining that security gains could be achieved through Election Day processes and more stringent post-election auditing procedures. Based on a preliminary review of relevant literature, staff has determined that many of the security concerns associated with modeming unofficial results can be alleviated through auditing, canvassing, and additional procedural safeguards in place on Election Day, rather than solely through pre-approval testing.

Staff suggests limiting the scope of the testing protocols to the modeming component for non-U.S. EAC certified voting systems, where the underlying voting system received U.S. EAC certification to either the 2002 or 2005 VVSG, but any additional modeming component will not meet the 2005 VVSG. This recommendation is based on a number of specific factors. First, the Unity 3.4.0.1 is based on a presently U.S. EAC approved system, Unity 3.4.0.0. Wyle Laboratories has indicated that the Unity 3.4.0.1 is a slight modification of the Unity 3.4.0.0. However, because Unity 3.4.0.1 has a separate telecommunications module that will have to be added into the machine, this is a more extensive modification than what might be covered under an Application for Approval of an Engineering Change Order that is de minimis to the functioning of a voting system. Secondly, given the current state of the U.S. EAC and the ongoing stagnation in the availability of innovative equipment, staff recommends considering protocols that might allow for new equipment to be sold and used in Wisconsin. Finally, the recommendation to move forward with testing may allow municipalities the opportunity to replace aging equipment (should the Board ultimately approve the Application for Approval of Unity 3.4.0.1.), while not sacrificing the modeming capability on which many have relied for decades.

Given the nature of the Unity 3.4.0.1 Application for Approval, staff suggests that the recommendations in this memo should only apply to the modeming features of otherwise U.S. EAC approved systems. Each vendor applying for Wisconsin approval should continue to make application under the current requirements. Several vendors, including Dominion and Unisyn, have indicated that they will put forth systems with a telecommunications component for testing to the U.S. EAC within the next year. These systems have been designed to meet the 2005 VVSG and should not require special consideration. A

new protocol limited to reviewing telecommunications features should not serve as a precedent for considering and approving entire voting systems which have not obtained a U.S. EAC certification.

Proposed Motions:

MOTION: The Board directs staff to review the practices of other states in order to determine what testing models could be adapted and implemented by the Board, if the Board later directs staff to conduct testing for non-U.S. EAC certified voting systems, where the underlying voting system received U.S. EAC certification to either the 2002 or 2005 VVSG, but any additional modeming component will not meet the 2005 VVSG.

MOTION: Staff is directed to develop testing procedures and standards (after consultation with other states, the academic community, and industry professionals) regarding a testing protocol for non-U.S. EAC certified voting systems, where the underlying voting system received U.S. EAC certification to either the 2002 or 2005 VVSG, but any additional modeming component will not meet the 2005 VVSG, and return to the Board at its May 21, 2013 meeting to report findings for consideration and possible adoption by the Board.

Attachments

- ✓ EAC, RFI 2012-06, EAC Decision on Use of Public Telecommunications Networks and Data Transmission
- ✓ EAC, RFI 2012-05, EAC Decision on Public Telecommunications and Cryptography
- ✓ EAC, RFI 2012-02, EAC Decision on Transmission of Results (Official and Unofficial)
- ✓ Wisconsin Statutes § 5.91
- ✓ Wisconsin Administrative Code, GAB 7



EAC Decision on Request for Interpretation 2012-06 (Use of Public Telecommunications Networks and Data Transmission)

2005 VVSG Volume I, Section 7.6.1

Date:

October 1, 2012

Question:

Two primary questions are intended to be addressed in this RFI:

- Do the Data Transmission requirements of the 2005 VVSG apply to voting systems that transmit aggregate vote totals?
- How should Voting System Test Laboratories and Voting System Manufacturers interpret these requirements?

Section of Guidelines:

2005 VVSG Volume 1, Section 7.6.1 - Data Transmission

All systems that transmit data over public telecommunications networks shall:

- a) Preserve the secrecy of voter ballot selections and prevent anyone from violating ballot privacy
- b) Employ digital signatures for all communications between the vote server and other devices that communicate with the server over the network
- c) Require that at least two authorized election officials activate any critical operation regarding the processing of ballots transmitted over a public communications network, i.e. the passwords or cryptographic keys of at least two employees are required to perform processing of votes

Discussion:

In discussing the Data Transmission requirements with Voting System Test Laboratories (VSTLs) and voting system manufacturers, multiple parties asserted that voting systems transmitting aggregate vote totals are not subject to these requirements. 2005 VVSG Volume 1, Section 7.1.2 states the following about the "Use of Public Communications Networks" section:

Use of Public Communications Networks: *These standards address security for systems that communicate individual votes or vote totals over public communications networks.*

Because this section explicitly states “*for systems that communication individual votes or **vote totals***,” [emphasis added] the EAC concludes the requirements of section 7.6.1 apply to voting systems transmitting aggregate vote totals over public telecommunications networks. As the 2005 VVSG public telecommunications requirements have not been evaluated against any voting system to date, the EAC will provide guidance for these three requirements.

Requirement 7.6.1.a pertains to confidentiality. Transmitting aggregate vote totals can potentially safeguard the secrecy of an individual voter’s ballot selections and prevent violations of ballot privacy. VSTLs shall devise tests to ensure the format of the aggregated vote totals does not violate this requirement.

Requirement 7.6.1.b requires manufacturers to digitally sign individual votes or vote totals (e.g., aggregate totals) before they are transmitted. The vote server must verify the digital signature of the vote or vote totals. In an effort to not limit the innovation and design of voting systems, the EAC will not define the term “vote server.” Vote server may refer to a single server, but multiple devices could also work together to provide this functionality. VSTLs shall confirm votes or vote totals are digitally signed, and work as intended. Digital signatures are cryptographic functions which, per RFI 2012-05, are to be FIPS 140-2 certified.

Requirement 7.6.1.c applies to critical operations of processing returns received via data transmission from various precincts. The action of processing these votes or vote totals must be a deliberate action performed by only election officials authorized by the voting system.

Additionally, Section 6.1 of the 2005 VVSG states:

A wide area network (WAN) public telecommunications component consists of the hardware and software to transport information, over share public (i.e., commercial or governmental) circuitry or among private systems. For voting systems, the telecommunications boundaries are defined as the transport circuitry, on one side of which exists the public telecommunications infrastructure, outside the control of voting system supervisors. On the other side of the transport circuitry are the local area network (LAN) resources, workstations, servers, data and applications controlled by voting system supervisors.

Finally, Section 6.1.2 of the VVSG States:

This section applies to voting-related transmissions over public networks, such as those provided by local distribution and long distance carriers. This section **also** applies to private networks regardless of whether the network is owned and operated by the election jurisdiction. (emphasis added)

Conclusion:

The requirements of section 7.6.1 apply to all voting systems with public telecommunications capabilities. The guidance provided here by the EAC is intended to assist VSTLs and voting

system manufacturers in determining the applicability, implementation, and testing of these requirements to verify their operation within the voting system.

Effective Date:

Effective immediately for all voting systems without an approved application for testing.

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EAC Decision on Request for Interpretation 2012-05 (Public Telecommunications and Cryptography)

2005 VVSG Volume I, Section 7.5.1.b

Date:

October 1, 2012

Question:

Which 2005 VVSG encryption requirements apply to systems using public telecommunications technologies?

Section of Guidelines:

2005 VVSG Volume 1, Section 7.5.1.b - Maintaining Data Integrity

Voting systems that use telecommunications to communicate between system components and locations before the polling place is officially closed shall:

- i. Implement an encryption standard currently documented and validated for use by an agency of the U.S. government
- ii. Provide a means to detect the presence of an intrusive process, such as an Intrusion Detection System

Discussion:

2005 VVSG Volume 1, requirement 7.5.1.b is unclear on the following items:

1. What is meant by telecommunications?
2. When is a polling place officially closed?
3. Which technologies does this requirement apply to?

The definition of telecommunications provided by the first paragraph of 2005 VVSG Section 6 states:

2005 VVSG Section 6

For the purpose of the Guidelines, telecommunications is defined as the capability to transmit and receive data electronically using hardware and software components over distances both within and external to a polling place.

The phrase “*external to a polling place*” leads the EAC to conclude all devices that are part of the voting system’s network residing inside and/or outside the polling place, including the

central election office, are subject to this requirement. The applicability of requirement 7.5.1.b to all locations is further demonstrated by references in the requirement to communication between “system components and locations.”

The second point needing clarification in the requirement references the time at which a “polling place is officially closed.” The requirement is difficult to enforce as this is a legal matter decided by states and election jurisdictions. Closing the polling place is a multi-step process including the following:

1. Closing the polls on each individual voting component or system;
2. No longer allowing voters to cast votes at a polling site;
3. Concluding all post-election activities at the polling site; and
4. Closing the physical location of the polling site.

While the first method of closing the polling place is a technical solution, it does not directly align with all voting channels, such as early voting. The second method is extremely variable from election to election, and in some scenarios differs by polling place. Many polling sites share a location with centralized vote centers at election offices, further complicating the official close because the election office may not close until much later that night.

For the purposes of this requirement, polling places are officially closed when *all election-related duties conclude at the polling site*. This ensures that voting systems adhere to the 2005 VVSG and can be used in election jurisdictions regardless of state or local laws related to the close of polls. Therefore, voting systems using telecommunications before the polling place is officially closed shall implement an encryption standard currently documented and validated for use by an agency of the U.S. government. This interpretation is consistent with the next iteration of the VVSG.

There are many open source solutions available to assist in implementing these requirements, and if implemented properly, should appear transparent to the voting system’s users. Voting systems using public telecommunications usually operate as part of a larger network owned and operated by the county. When new systems are connected to public telecommunications networks, there are new threats introduced into the entire network. Protecting data in this manner is one of many standard risk mitigating practices present in systems using public telecommunications technologies.

The 2005 VVSG differentiates between wired and wireless technologies by applying different security requirements for each medium. As expected, more stringent requirements exist for systems with wireless capabilities. However, requirement 7.5.1.b does not mention technology specific requirements; it applies to all systems utilizing public telecommunications technology.

Conclusion:

This decision ensures EAC certified voting systems conform to the 2005 VVSG in any configuration election officials choose to use the voting system. The requirements and information discussed here leads the EAC to conclude that all aspects of the system that are

exposed to the threats of a public/private network need to be protected using FIPS 140-2 or the most current FIPS certified cryptographic modules. These shall be used in FIPS-compliant mode for all portions of the voting system, including precinct and central locations, and for both public and private networks.

Effective Date:

Effective immediately for all voting systems without an approved application for testing.



EAC Decision on Transmission of Results 2012-02 (Official and Unofficial Results)

Date:

May 30, 2012

Question:

What is the distinction between official and unofficial results?

Section of Guidelines:

2005 VVSG Volume 1 Sections 2, 6, and 7

2005 VVSG Volume 2 Sections 1, 2, 6, and Appendix A

Discussion:

The 2005 VVSG requirements for voting systems using telecommunications technologies to broadcast results can be divided into two categories; official and unofficial results. The 2005 VVSG does not supply a definition for either term. Historically, voting system manufacturers declared if their system transmitted official and/or unofficial results, and their systems were tested to the applicable requirements. When voting systems are fielded, the election jurisdictions using the voting system ultimately decide how results are treated on election night. Therefore, the distinction between official and unofficial results is procedural, not technical.

Conclusion:

The EAC cannot enforce the distinction between official and unofficial results. Each election jurisdiction using a voting system with telecommunications capabilities follows state and local election administration practices the EAC cannot anticipate during testing. Voting systems using telecommunications technologies **shall** be tested to all telecommunications requirements for the technology (i.e., wired or wireless), without distinction between official and unofficial results. This decision ensures EAC certified voting systems adhere to the 2005 VVSG in any manner election officials choose to use the voting system.

Effective Date:

Effective immediately for all systems without an approved Test Report.

tronic voting machines are used, the board of canvassers shall perform the recount using the permanent paper record of the votes cast by each elector, as generated by the machines.

(2) Any candidate, or any elector when for a referendum, may, by the close of business on the next business day after the last day for filing a petition for a recount under s. 9.01, petition the circuit court for an order requiring ballots under sub. (1) to be counted by hand or by another method approved by the court. The petitioner in such an action bears the burden of establishing by clear and convincing evidence that due to an irregularity, defect, or mistake committed during the voting or canvassing process the results of a recount using automatic tabulating equipment will produce incorrect recount results and that there is a substantial probability that recounting the ballots by hand or another method will produce a more correct result and change the outcome of the election.

(3) A court with whom a petition under sub. (2) is filed shall hear the matter as expeditiously as possible, without a jury. The court may order a recount of the ballots by hand or another method only if it determines that the petitioner has established by clear and convincing evidence that due to an irregularity, defect, or mistake committed during the voting or canvassing process the results of a recount using automatic tabulating equipment will produce incorrect recount results and that there is a substantial probability that recounting the ballots by hand or another method will produce a more correct result and change the outcome of the election. Nothing in this section affects the right of a candidate or elector aggrieved by the recount to appeal to circuit court under s. 9.01 (6) upon completion of the recount.

History: 1979 c. 311; 1987 a. 391; 2005 a. 92, 451; 2007 a. 96.

Cross-reference: See also ch. GAB 7, Wis. adm. code.

5.905 Software components. (1) In this section, “software component” includes vote-counting source code, table structures, modules, program narratives and other human-readable computer instructions used to count votes with an electronic voting system.

(2) The board shall determine which software components of an electronic voting system it considers to be necessary to enable review and verification of the accuracy of the automatic tabulating equipment used to record and tally the votes cast with the system. The board shall require each vendor of an electronic voting system that is approved under s. 5.91 to place those software components in escrow with the board within 90 days of the date of approval of the system and within 10 days of the date of any subsequent change in the components. The board shall secure and maintain those software components in strict confidence except as authorized in this section. Unless authorized under this section, the board shall withhold access to those software components from any person who requests access under s. 19.35 (1).

(3) The board shall promulgate rules to ensure the security, review and verification of software components used with each electronic voting system approved by the board. The verification procedure shall include a determination that the software components correspond to the instructions actually used by the system to count votes.

(4) If a valid petition for a recount is filed under s. 9.01 in an election at which an electronic voting system was used to record and tally the votes cast, each party to the recount may designate one or more persons who are authorized to receive access to the software components that were used to record and tally the votes in the election. The board shall grant access to the software components to each designated person if, before receiving access, the person enters into a written agreement with the board that obligates the person to exercise the highest degree of reasonable care to maintain the confidentiality of all proprietary information to which the person is provided access, unless otherwise permitted in a contract entered into under sub. (5).

(5) A county or municipality may contract with the vendor of an electronic voting system to permit a greater degree of access to

software components used with the system than is required under sub. (4).

History: 2005 a. 92.

5.91 Requisites for approval of ballots, devices and equipment. No ballot, voting device, automatic tabulating equipment or related equipment and materials to be used in an electronic voting system may be utilized in this state unless it is approved by the board. The board may revoke its approval of any ballot, device, equipment or materials at any time for cause. No such ballot, voting device, automatic tabulating equipment or related equipment or material may be approved unless it fulfills the following requirements:

(1) It enables an elector to vote in secrecy and to select the party for which an elector will vote in secrecy at a partisan primary election.

(3) Except in primary elections, it enables an elector to vote for a ticket selected in part from the nominees of one party, and in part from the nominees of other parties, and in part from independent candidates and in part of candidates whose names are written in by the elector.

(4) It enables an elector to vote for a ticket of his or her own selection for any person for any office for whom he or she may desire to vote whenever write-in votes are permitted.

(5) It accommodates all referenda to be submitted to the electors in the form provided by law.

(6) The voting device or machine permits an elector in a primary election to vote for the candidates of the recognized political party of his or her choice, and the automatic tabulating equipment or machine rejects any ballot on which votes are cast in the primary of more than one recognized political party, except where a party designation is made or where an elector casts write-in votes for candidates of more than one party on a ballot that is distributed to the elector.

(7) It permits an elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; to vote for or against any question upon which the elector is entitled to vote; and it rejects all choices recorded on a ballot for an office or a measure if the number of choices exceeds the number which an elector is entitled to vote for on such office or on such measure, except where an elector casts excess write-in votes upon a ballot that is distributed to the elector.

(8) It permits an elector, at a presidential or gubernatorial election, by one action to vote for the candidates of a party for president and vice president or for governor and lieutenant governor, respectively.

(9) It prevents an elector from voting for the same person more than once for the same office, except where an elector casts excess write-in votes upon a ballot that is distributed to the elector.

(10) It is suitably designed for the purpose used, of durable construction, and is usable safely, securely, efficiently and accurately in the conduct of elections and counting of ballots.

(11) It records correctly and counts accurately every vote properly cast and maintains a cumulative tally of the total votes cast that is retrievable in the event of a power outage, evacuation or malfunction so that the records of votes cast prior to the time that the problem occurs is preserved.

(12) It minimizes the possibility of disenfranchisement of electors as the result of failure to understand the method of operation or utilization or malfunction of the ballot, voting device, automatic tabulating equipment or related equipment or materials.

(13) The automatic tabulating equipment authorized for use in connection with the system includes a mechanism which makes the operator aware of whether the equipment is malfunctioning in such a way that an inaccurate tabulation of the votes could be obtained.

5.91 ELECTIONS — GENERAL PROVISIONS; BALLOTS & VOTING Updated 09–10 Wis. Stats. Database 22

(14) It does not employ any mechanism by which a ballot is punched or punctured to record the votes cast by an elector.

(15) It permits an elector to privately verify the votes selected by the elector before casting his or her ballot.

(16) It provides an elector with the opportunity to change his or her votes and to correct any error or to obtain a replacement for a spoiled ballot prior to casting his or her ballot.

(17) Unless the ballot is counted at a central counting location, it includes a mechanism for notifying an elector who attempts to cast an excess number of votes for a single office that his or her votes for that office will not be counted, and provides the elector with an opportunity to correct his or her ballot or to receive and cast a replacement ballot.

(18) If the device consists of an electronic voting machine, it generates a complete, permanent paper record showing all votes cast by each elector, that is verifiable by the elector, by either visual or nonvisual means as appropriate, before the elector leaves the voting area, and that enables a manual count or recount of each vote cast by the elector.

History: 1979 c. 311; 1983 a. 484; 1985 a. 304; 2001 a. 16; 2003 a. 265; 2005 a. 92; 2011 a. 23, 32.

Cross-reference: See also ch. GAB 7, Wis. adm. code.

5.92 Bond may be required. Before entering into a contract for the purchase or lease of an electronic voting system or any ballots, voting devices, automatic tabulating equipment or related equipment or materials to be used in connection with a system, any municipality may require the vendor or lessor to provide a performance bond with a licensed surety company as surety, guaranteeing the supply of additional equipment, parts or materials, provision of adequate computer programming, preventive

maintenance or emergency repair services, training of election officials and other municipal employees or provision of public educational materials for a specified period, or guaranteeing the security of the computer programs or other equipment or materials to be utilized with the system to prevent election fraud, or such other guarantees as the municipality determines to be appropriate.

History: 1979 c. 311.

Cross-reference: See also ch. GAB 7, Wis. adm. code.

5.93 Administration. The board may promulgate reasonable rules for the administration of this subchapter.

History: 1979 c. 311; 1985 a. 332 s. 251 (1).

Cross-reference: See also ch. GAB 7, Wis. adm. code.

5.94 Sample ballots; publication. When an electronic voting system employing a ballot that is distributed to electors is used, the county and municipal clerk of the county and municipality in which the polling place designated for use of the system is located shall cause to be published, in the type B notices, a true actual-size copy of the ballot containing the names of offices and candidates and statements of measures to be voted on, as nearly as possible, in the form in which they will appear on the official ballot on election day. The notice may be published as a newspaper insert. Municipal clerks may post the notice if the remainder of the type B notice is posted.

History: 1979 c. 311; 2001 a. 16.

5.95 Elector information. The board shall prescribe information to electors in municipalities and counties using various types of electronic voting systems to be published in lieu of the information specified in s. 10.02 (3) in type B notices whenever the type B notice information is inapplicable.

History: 1979 c. 311.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

Chapter GAB 7

APPROVAL OF ELECTRONIC VOTING EQUIPMENT

GAB 7.01 Application for approval of electronic voting system.
GAB 7.02 Agency testing of electronic voting system.

GAB 7.03 Continuing approval of electronic voting system.

Note: Chapter EIBd 7 was renumbered chapter GAB 7 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register April 2008 No. 628.

GAB 7.01 Application for approval of electronic voting system. (1) An application for approval of an electronic voting system shall be accompanied by all of the following:

(a) A signed agreement that the vendor shall pay all costs, related to approval of the system, incurred by the board, its designees and the vendor.

(b) Complete specifications for all hardware, firmware and software.

(c) All technical manuals and documentation related to the system.

(d) Complete instruction materials necessary for the operation of the equipment and a description of training available to users and purchasers.

(e) Reports from an independent testing authority accredited by the national association of state election directors (NASED) demonstrating that the voting system conforms to all the standards recommended by the federal elections commission.

(f) A signed agreement requiring that the vendor shall immediately notify the board of any modification to the voting system and requiring that the vendor will not offer, for use, sale or lease, any modified voting system, if the board notifies the vendor that the modifications require that the system be approved again.

(g) A list showing all the states and municipalities in which the system has been approved for use and the length of time that the equipment has been in use in those jurisdictions.

(2) The board shall determine if the application is complete and, if it is, shall so notify the vendor in writing. If it is not complete, the board shall so notify the vendor and shall detail any insufficiencies.

(3) If the application is complete, the vendor shall prepare the

voting system for three mock elections, using offices, referenda questions and candidates provided by the board.

History: Cr. Register, June, 2000, No. 534, eff. 7-1-00.

GAB 7.02 Agency testing of electronic voting system. (1) The board shall conduct a test of a voting system, submitted for approval under s. GAB 7.01, to ensure that it meets the criteria set out in s. 5.91, Stats. The test shall be conducted using a mock election for the partisan primary, a mock general election with both a presidential and gubernatorial vote, and a mock non-partisan election combined with a presidential preference vote.

(2) The board may use a panel of local election officials and electors to assist in its review of the voting system.

(3) The board may require that the voting system be used in an actual election as a condition of approval.

History: Cr. Register, June, 2000, No. 534, eff. 7-1-00.

GAB 7.03 Continuing approval of electronic voting system. (1) The board may revoke the approval of any existing electronic voting system if it does not comply with the provisions of this chapter. As a condition of maintaining the board's approval for the use of the voting system, the vendor shall inform the board of all changes in the hardware, firmware and software and all jurisdictions using the voting system.

(2) The vendor shall, at its own expense, furnish, to an agent approved by the board, for placement in escrow, a copy of the programs, documentation and source code used for any election in the state.

(3) The electronic voting system must be capable of transferring the data contained in the system to an electronic recording medium, pursuant to the provisions of s. 7.23, Stats.

(4) The vendor shall ensure that election results can be exported on election night into a statewide database developed by the board.

(5) For good cause shown, the board may exempt any electronic voting system from strict compliance with ch. GAB 7.

History: Cr. Register, June, 2000, No. 534, eff. 7-1-00.

State of Wisconsin \ Government Accountability Board

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JUDGE TIMOTHY L. VOCKE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20, 2013 Board Meeting

TO: Members, Government Accountability Board

FROM: Michael Haas
Elections Division Administrator
Government Accountability Board

Prepared and Presented by:
David Buerger, Elections Specialist

SUBJECT: Clerks' Election Workload Concerns Taskforce Update

At its June 27, 2012 meeting, the Wisconsin County Clerks Association (WCCA) unanimously decided that correspondence be directed to the Government Accountability Board (Board) regarding the difficulties that county clerks were facing in providing Statewide Voter Registration System (SVRS) services to the municipalities that relied on them. This correspondence detailed the WCCA's specific concerns regarding the current election administration workload and their suggestions to and expectations of G.A.B. in addressing these concerns.

After hearing these concerns in August 2012, Board staff organized a team to work with WCCA and the Wisconsin Municipal Clerks Association (WMCA) to collaborate and focus on the concerns identified. As addressing these concerns is a shared responsibility of all levels of Wisconsin government, staff also included other partner organizations such as the Wisconsin Counties Association, Wisconsin Towns Association, and the Wisconsin League of Municipalities. Staff continues our collaboration with the leadership of the Legislature on these issues as well. Board staff solicited nominations from these organizations and developed an inter-organizational taskforce to address clerks' election administration workload concerns.

The Taskforce first met on October 18, 2012, via teleconference for an initial organization meeting. At that meeting, the Taskforce was given the following charge:

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 clerks' concerns; and,
4. Recommend legislative action designed to promote effective election administration.

The Taskforce then discussed the various concerns raised in the WCCA communication and identified three priority issues it wished to address first.

1. SVRS Provider-Relier Relationships
2. Wisconsin Election Data Collection System
3. Four-Year Voter List Maintenance

The WMCA also indicated that they were surveying its membership to identify further election-related concerns for the Taskforce to address.

The Taskforce met for its first substantive discussions on January 29, 2013. In addition to the members of the Taskforce, other interested parties attended to observe the meeting including the legislative aides of Senator Lazich and Representative Bernier, chairs of the Senate and Assembly elections committees. The Taskforce received a briefing from the WMCA regarding its survey results before beginning discussion of the three issues identified above. The Taskforce adopted recommendations for each topic area discussed as well as one general recommendation (see attached memos). The Taskforce then identified two topics for discussion at the next meeting.

1. Absentee Voting
2. Public Records Requests

Board staff will continue to work with the Taskforce to develop recommendations for reducing clerks' election administration workload, present those recommendations to the Board, and take further action as directed by the Board.

This memorandum provides an ongoing status report to the Board regarding staff's involvement with the Taskforce and no Board action is requested on this memo. However, Board action is requested in the attached memos that individually address each area of concern.

Attachments

1. SVRS Provider-Relier Taskforce Recommendations
2. Wisconsin Election Data Collection System Taskforce Recommendations
3. Four-Year Voter Record Maintenance Taskforce Recommendations
4. Election Costs Levy Exception Taskforce Recommendation

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JUDGE TIMOTHY L. VOCKE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20, 2013 Board Meeting

TO: Members, Government Accountability Board

FROM: Michael Haas
Elections Division Administrator
Government Accountability Board

Prepared and Presented by:
David Buerger, Elections Specialist

SUBJECT: Clerks' Concerns Taskforce Recommendation – SVRS Provider-Relier Relationship

Background

In October 2002, the federal government passed the Help America Vote Act (HAVA). This legislation created new election administration requirements for all states and called for an upgrade of voting systems. Specifically, HAVA called for the creation of a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state.

Wisconsin's State Elections Board (now the Government Accountability Board) procured a commercial product from Accenture as Wisconsin's HAVA-compliant statewide voter registration system (SVRS). Accenture began development of the system in 2003. The first version of the SVRS was released for use in 2005. Due to technological and budgetary constraints for several Wisconsin municipalities, a system of SVRS providers and reliers was instituted. Municipalities that could not or would not be able to provide their own SVRS service signed Memorandums of Understanding (MOU) with their county or other municipalities to provide SVRS service on their behalf. The fee arrangements varied in cost and structure, based on fees per transaction, hour, or year, with some providers providing services at no charge at all.

Since implementation, the SVRS has expanded to provide a range of technological solutions to both new federal and state statutory requirements. While these SVRS-based solutions may be more efficient than manual processes, the total amount of effort required to administer an election has increased due to these additional requirements. However, providers have generally not renegotiated their MOUs to reflect the additional work they have had placed upon them. This has caused a strain in the provider-reliar relationship as staff costs of providers are not being sufficiently recouped.

Analysis

The original conditions (lack of technology and financial resources) that made the existing provider-reliar system the only option remain relatively true today. There remain several municipalities without

access to the high-speed internet service necessary to be a self-provider and budgets continue to be strained due to decreasing state and local aid. However, according to data from the Wisconsin County Clerks Association survey, 88 municipalities have moved from being reliers to self-providers since the SVRS was first implemented versus only 8 which have moved from self-provider to relier. The G.A.B. also receives regular requests from relier clerks for SVRS training sessions so that they can become self-providers. While this trend is encouraging, there is no doubt that many municipalities will continue to be SVRS reliers for the foreseeable future.

Due to the part-time nature of the municipal clerk's office in many areas throughout the state and the rate of turnover in those offices, providers also offer additional stability by serving as a more reliable contact for the G.A.B. with the training and experience to handle SVRS tasks more efficiently.

While most of the additional requirements placed on providers are statutory in nature, there are some burdens placed on providers that can be addressed at the administrative level (e.g., WEDC survey questions). However, this memo is limited in scope to examining the provider-relied relationship as it currently exists, specifically the following two primary issues:

1. Renegotiation/Termination of SVRS Memorandums of Understanding (MOUs)

If costs continue to exceed revenues for Providers, one potential solution is to renegotiate these MOUs to increase the charges billed back to municipalities, limit the scope of service, or terminate the agreement. Each Provider will need to review their existing MOU with their corporation counsel to determine the terms and conditions of the existing MOU and what rights and responsibilities the parties to the agreement have.

While the G.A.B. cannot replace Corporation Counsel in advising Providers and Reliers on their existing agreements, G.A.B. can provide sample MOUs for municipalities and counties to adapt to their specific circumstances. These sample MOUs may help educate reliers on the range of tasks that SVRS service includes and assist providers in establishing clear expectations/deadlines for their reliers. These sample MOUs can also serve to educate providers and reliers on the various cost-structures that have been used along with their benefits/drawbacks. For example, it is the experience of some clerks that population-based cost structures are ineffective because the quality of a relier's materials can make a significant difference in the total time required to complete tasks.

Division of SVRS responsibilities in the MOU may also be an alternative solution. Relier municipalities who may not have the capacity to be full Self-Providers may have the capacity to handle some of the tasks required such as GAB-190 reporting or Ineligible Voter List production. The G.A.B. could also issue "view-only" credentials to Relier clerks so they could more easily assist their Provider with troubleshooting data-quality issues.

Finally, the G.A.B. can provide additional transition assistance for municipalities which seek to move from Relier to Self-Provider status.

2. Recruitment of Additional Providers

With a growing number of municipalities in Self-Provider status across the state, it may be possible for overburdened Providers to seek out Self-Providers in their counties who may have the ability to serve as a Provider for at least some of the Reliers in the county. This may reduce the burden on Providers, while possibly providing some Self-Provider municipalities the revenue they need to keep an SVRS-related position funded.

Taskforce Recommendation

At the Taskforce's January 29, 2013 meeting, the Taskforce discussed the above analysis and other potential solutions and adopted a multi-pronged recommendation:

The G.A.B. will develop sample MOUs with tiered levels of responsibilities and varying levels of service. These sample agreements would be developed to allow for customization and flexibility to fit a variety of situations and needs. In addition, the G.A.B. will seek to increase opportunities for SVRS training and educational outreach to municipalities and counties regarding SVRS cost components, the requirements and responsibilities regarding SVRS, and other targeted assistance for reliers moving toward becoming self-providers.

This recommendation can essentially be distilled into four primary tasks:

1. Develop sample MOUs for varied levels of SVRS responsibility for counties and municipalities to customize for their own use.
2. Increase the availability of SVRS training.
3. Communicate with municipal and county governing bodies regarding SVRS cost components and other election responsibilities.
4. Provide targeted assistance to reliers as necessary to promote more municipalities moving to self-provider status.

Staff Recommendation

Board staff concurs with the Taskforce recommendation.

Recommended Motion: The Board accepts the Taskforce's recommendation for facilitating and improving SVRS Provider-Relier relationships and workflow, and directs staff to implement this recommendation.

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JUDGE TIMOTHY VOCKE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

DATE: For the March 20, 2013 Board Meeting

TO: Government Accountability Board Members

FROM: Michael Haas
Elections Division Administrator
Government Accountability Board

Prepared and Presented by:
Brian M. Bell, M.P.A.
Elections Data Manager

SUBJECT: Discussion and Recommendations Regarding the Wisconsin Election Data Collection System (WEDCS)

Background

WEDCS was developed using a grant from the United States Election Assistance Commission (USEAC), and launched in 2008. The primary purpose of WEDCS was to improve the election data collection process for clerks to meet Wisconsin and Federal statutory reporting requirements. WEDCS also provides an opportunity to compare data between it and the Statewide Voter Registration System (SVRS), allowing clerks to reconcile voter data after elections. WEDCS provides an electronic alternative to the paper version of the Voting and Registration Statistics Report (GAB-190).

The G.A.B. uses the WEDCS data to validate information in SVRS and to collect data not available in SVRS, in order to complete the State and Federal reporting requirements on behalf of all 1,851 municipalities and 72 counties. For example, the GAB-190 Form for the 2012 Presidential and General Election contained 15 questions on three pages. Every question on the GAB-190 Form helps complete a reporting requirement. G.A.B. staff used that information and SVRS data to complete the USEAC Election Administration and Voting Survey (EAVS) for every municipality in Wisconsin. The EAVS contained 49 questions and was 30 pages long.

Beginning with the April 3, 2012 Presidential Preference and Spring Election, the G.A.B. began collecting election cost data from each municipality and county. The G.A.B. amended the GAB-190 Form to include cost data. This was viewed at the time as the best available means of collecting the information. Cost data is reported as a section of the GAB-190 through WEDCS for statewide elections only.

Clerks' Initial Concerns Shared with G.A.B. Staff

G.A.B. staff received some feedback from clerks over the past year regarding concerns about WEDCS. While this summary is not all-inclusive, the intent is to highlight the most common issues shared with G.A.B. staff.

The first major concern is the timeframe for reporting GAB-190 data. Wis. Stats. §§6.275 and 6.276 require that election statistics are reported within 30 days of every statewide election. However, Wis. Stat. §6.33(5)(a) allows for 45 days with a possible extension to 60 days after a general election to enter Election Day Registration (EDR) voter information and to record voter participation data in SVRS, and 30 days after all other elections with no possible extension. These timelines are determined by statute and not G.A.B. policy.

Currently, municipalities report cost data at the same time as the election statistics. Some clerks have stated that they do not have complete cost data within 30 days of an election, and want to be able to provide complete and accurate costs. Some have also suggested that some cost items should be reported for each election (e.g. pollworker wages), while other costs should be reported on a regular basis such as annually or semiannually (e.g. clerk and staff salary costs). Some have also raised concerns about how to report costs for their salary and benefits and those of their staffs, particularly whether or how to determine the percentage of their time spent on elections.

Another identified concern is the depth of the questions on the GAB-190 Form. Some examples include the ages of pollworkers and the types of electronic voting equipment. Clerks have also shared concern about reporting information on the GAB-190 Form that is also entered in SVRS, and the additional time required to complete the WEDCS reporting requirements.

Clerk Concerns Task Force Discussion and Recommendations

The second issue addressed by the Clerk Concerns Task Force at the January 29, 2013 meeting was WEDCS and the GAB-190 Election Voting and Registration Statistics Report. The Task Force discussed issues relating to the timelines for reporting the information. Members pointed to the disconnect in Wisconsin Statutes that require the statistics within 30 days of an election, but the 45-60 day deadline for entering EDRs and recording participation after a general election. Some members felt that the GAB-190 data duplicated the data entry completed in SVRS. Several clerks also voiced concern about the quality and accuracy of data and how the data are used, particularly how some clerks may enter information into SVRS differently than others. Many clerks would also like to see a better way to reconcile the information between the two systems.

Members of the Task Force also explained the difficulty of reporting cost information within 30 days because they do not have all of their bills within that timeframe. They also articulated their concern about how the cost information is utilized, as well as variance in how fellow clerks are interpreting the cost categories and reporting their costs. The Task Force also discussed how frequently the cost information should be reported. The members generally supported the idea of separating costs that only related to a specific election from other annual costs. The Task Force noted that all clerks need to have and use more detailed instructions for completing all questions on the GAB-190 Form.

The Task Force unanimously approved five recommendations related to WEDCS and four recommendations regarding election cost reports, as outlined below.

WEDCS Recommendations:

1. The G.A.B. should better communicate to election officials why GAB-190 information is needed.
2. The G.A.B. should educate clerks on the difference between Legislative action and G.A.B. implementations of those laws.

3. The G.A.B. should integrate systems so data can be imported from SVRS to WEDCS without clerk input.
4. The G.A.B. should create a template Excel spreadsheet that could be uploaded into WEDCS.
5. The G.A.B. should send out GAB-190 Forms to county clerks before ballots are distributed.

Cost Report Recommendations:

1. Require cost reporting only after Spring Elections in odd-numbered years and General Elections in even-numbered years.
2. Extend the deadline to report costs to 60-days after the election.
3. Require annual costs to be reported with the last regularly scheduled election of the year, not after each election.
4. The G.A.B. should create more inclusive definitions of cost categories.

G.A.B. Staff Recommendations

WEDCS Recommendations

Board Staff agrees with the Task Force members that we need to continue to communicate with clerks and their staffs, local elected officials, local election workers, as well as the State Legislature, and the general public about how we collect information, and why we collect the data. It is also important to reinforce how we use the data internally, how clerks can use this valuable information, and how the information is used by other organizations and the general public.

Board Staff also agrees that we should continue to emphasize actions that are statutorily required. When actions are required or advised by the Board, we should more effectively communicate how and why those decisions were made, and involve clerks in that process as much as possible.

Board staff does not, however, agree with the recommendation to allow clerks to automatically populate information from SVRS into WEDCS. In the process of reconciling information to complete the USEAC's Election Administration and Voting Survey (EAVS), staff identified more than 300 of the 1,851 municipalities with discrepancies in the number of EDRs between SVRS and WEDCS. Board staff would not have been able to follow up with these municipalities to ensure that these voters were entered correctly into SVRS and that those voters would appear on the poll book for the next election if the SVRS data were automatically loaded into WEDCS. Some additional examples of issues identified include entering registrations into SVRS with an application source of *Clerk's Office* instead of *Election Day Registration*, and clerks who only updated a voter's record, instead of recording the registration if the form was submitted for a name change or an address change within the jurisdiction.

Staff members do support improving how clerks enter data into WEDCS and wish to develop the ability for clerks to receive a pre-formatted spreadsheet with all required questions for all of the municipality's reporting units, and then to upload that file back into SVRS. Staff would like to involve clerks in designing the appearance of this spreadsheet and how the process for the file upload would interact with WEDCS.

In order to meet the recommendation to have the GAB-190 Form available for distribution to relier clerks before ballots are distributed, Board Staff recommends creating two standard forms: one for federal elections and one for non-federal elections (the difference between the two forms is whether or not questions are included related to permanent overseas absentee voters who can only vote in federal elections).

Cost Report Recommendations

On February 15, 2013, G.A.B. Staff posted a memo extending the deadline for reporting election cost data from 30 day to 60 days after each election in 2013. This memo is available on the G.A.B. website here: <http://gab.wi.gov/node/2757>. Several clerks have expressed that they do not have all of their election-related bills until about 60 days from an election. Staff decided to extend the deadline for reporting cost information to accommodate this concern from clerks, and because the deadline for reporting this data is not explicitly defined by State Statutes, as are other statistics reporting timelines (Wis. Stats. §§ 6.275 and 6.276).

Board Staff agrees with the Task Force that there should be more involvement with clerks to define the most appropriate cost categories that should be used. Staff would like the Task Force, either as a full body or as a subcommittee of the Task Force, to assist G.A.B. staff in identifying the most robust list of cost categories. Staff would also like this group to identify which categories should be reported after each election, and which costs should be reported annually.

Staff recommends a few changes to the frequency of reporting elections costs. First, there should be two types of reports: one for costs related to a specific election, and one for annual election-related costs. Board Staff agrees with the Task Force that certain costs relate only to a specific election, while others apply generally across multiple elections. For example, if a clerk purchases a memory device for voting equipment, the use of that memory card is not limited to only one election. Similarly, costs relating to training election inspectors continue to provide benefits for each election that election inspectors work, and not for only the upcoming election.

Second, staff believes that election-related costs should be reported 60 days after each April and November election. Collecting election cost data after every April election accomplishes several goals. It allows for a comparison between federal and non-federal spring elections. Some jurisdictions conduct their elections in odd-numbered years and others in even-numbered years. Collecting data for elections in all years allows for analyzing and predicting the costs depending on the elections for that jurisdiction. From the initial analysis of the 2012 election cost data, primaries tend to have higher costs for programming equipment due to the complexity of the ballot. Most other cost areas are influenced by turnout, and the spring primaries and partisan primaries generally experience turnout similar to spring elections (partisan primaries are similar to presidential preference elections, and spring primaries are similar to non-federal spring elections). Therefore, collecting election costs for those primaries could be estimated based on the spring elections and projected turnout. An alternative would be to incorporate the cost of the primaries with the subsequent elections (report February and April election costs together, and report August and November election costs together).

Third, annual election-related costs should be reported January 15th for all non-election specific costs incurred during the previous calendar year. This would allow clerks to report all general election-related costs from a calendar year (coinciding with their budgets) on a regular and predictable schedule. For even years, clerks would also be able to submit their annual costs with the November general election costs. The downside to the Taskforce recommendation of reporting

annual costs in odd years after the April election and in even years after the November election is that there would then be a 21-month gap until the next annual cost report. This would require clerks to either go back at the end of the year and validate their annual costs, or report 21 months of costs for even-numbered years and only three months of costs on the odd-numbered year annual report.

Below is a summary of G.A.B. Staff recommendations regarding WEDCS and election cost reporting.

WEDCS Recommendations

1. The G.A.B. should better communicate to election officials why GAB-190 information is needed.
2. The G.A.B. should continue to educate clerks on the distinction between Legislative requirements and G.A.B. implementations of those laws.
3. The G.A.B. should create a template Excel spreadsheet that can be uploaded into WEDCS.
4. The G.A.B. should send out GAB-190 Forms to count clerks before ballots are distributed.

Cost Report Recommendations

1. Extend the deadline to report costs to 60 days after an election.
2. The G.A.B. should create more inclusive definitions of cost categories.
3. Require cost reporting after every Spring Election and after General Elections in even-numbered years.
4. Require the annual cost report January 15th of every year.

G.A.B. Staff is optimistic that it can work with the Task Force to improve the usability of WEDCS for clerks while reducing their workload, increasing confidence in the accuracy of the data collected, improving how clerks can use the data for their budgeting and planning purposes, and provide better information to the public based on the election statistics and costs collected through WEDCS.

Recommended Motion: The Board accepts the Staff's recommendations to improve WEDCS and election cost reporting, and directs Staff to implement these recommendations.

cc: Kevin J. Kennedy
Director and General Counsel

Ross D. Hein
Elections Supervisor

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Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20, 2013 Board Meeting

TO: Members, Government Accountability Board

FROM: Michael Haas
Elections Division Administrator
Government Accountability Board

Prepared and Presented by:
Ann Oberle, Elections Specialist

SUBJECT: Clerks' Concerns Taskforce Recommendation – Four-Year Voter Record Maintenance

Background

Under Wis. Stat. §6.50(1), municipal clerks are required within 90 days following each general election to identify and send notices to electors who have not voted within the previous four years in that municipality. The mailing notifies voters that if they do not respond within 30 days, their registration will be inactivated. Prior to 2006, municipalities with a population of less than 5,000 were not required to maintain registration lists, and thus this maintenance requirement did not apply to them. Larger municipalities did perform the maintenance on an individual basis, using varied timetables and methods. With the implementation of the Statewide Voter Registration System (SVRS), all municipalities are required to perform this maintenance.

SVRS was intended to be able to identify all electors who had not voted in the previous four years, suspend their registration, and generate a postcard to be mailed to each elector. However, ongoing software problems prevented the system from automatically identifying nonvoting electors and producing the required mailing. The Legislative Audit Bureau (LAB) recommended that G.A.B. improve the process for the suspension of voter registrations. *Legislative Audit Bureau Report 07-16, An Evaluation: Compliance with Election Laws, Elections Board November 2007, pages 38-39.*

For the 2008 General Election, the Board authorized staff to perform the Four-Year Voter Record Maintenance on behalf of all municipalities. The G.A.B. printed and mailed 313,205 postcards at a cost of \$71,355.94. For the 2008 record maintenance, the postcards were returned to the G.A.B. which hired temporary staff to process the returned postcards.

In 2010, the G.A.B. considered having municipal clerks resume the responsibility for mailing the Four-Year Record Maintenance postcards. Because many clerks had relied on the assumption that the G.A.B. would be sending the maintenance mailing and had not budgeted for the expense, however, the G.A.B. decided to identify the eligible voter records and to print and mail the maintenance postcards on behalf of municipal clerks. After the 2010 General Election municipal clerks received the returned postcards and the clerks were responsible for processing and updating the voter records in SVRS. After the 2010 General Election, the G.A.B. printed and mailed 240,505 postcards at a cost of \$61,588.00.

When the 2010 General Election voter record maintenance was complete the G.A.B. informed clerks that the 2010 General Election would be the last election where the G.A.B. would be mailing the Notices of Suspension of Registration postcards on behalf of the municipalities. For General Elections after the 2010 General Election the G.A.B. would continue to manage and support clerks in identifying voters who qualify for the Four-Year Voter Record Maintenance, but clerks would regain responsibility for sending the Notices of Suspension of Registration and making the updates to the voter records in their municipalities.

In both 2008 and 2010 many municipalities had not completed entering and reconciling voter registration information and voter history in SVRS in time to meet the statutory 90-day deadline for mailing the postcard audit. As a result, in both 2008 and 2010 the G.A.B. was unable to meet the deadline for sending the mailing. In 2008, some voters who had actually voted in the 2008 General Election were incorrectly sent Notices of Suspension of Registration.

For the 2012 General Election, the G.A.B. initially planned to develop a process where municipalities could control when the postcards were sent for their own municipality, and avoid the problem of the postcard mailing for the entire state being delayed because of a number of municipalities which were late in recording their voter history and entering voter registration information into SVRS. However, in late 2012, clerks raised concerns regarding increased election administration workloads and costs. In response the G.A.B. announced that it would be performing the 2012 Four-Year Voter Record Maintenance and sending the Notice of Suspension of Registration mailing on behalf of municipal clerks. The process used for the 2012 Four-Year Voter Record Maintenance would follow the same procedures and timeline as the 2010 Four-Year Voter Record Maintenance with some improvements based on the experiences from 2008 and 2010.

Analysis

The G.A.B., in response to LAB audits conducted in 2005 and 2007, has been committed to coordinating and managing the list maintenance process in a manner that ensures consistency and uniformity. However, meeting the statutory 90 day deadline to mail out the postcards has been a significant challenge. Delays in municipalities recording voting history and entering registration data, and the proximity of the Spring Elections have caused voters to incorrectly be sent Notices of Suspension of Registration, and have caused confusion for voters about the status of their eligibility to vote in the Spring Election and whether their vote in the General Election was counted.

While some municipalities may be able to independently print and mail the maintenance postcards within the statutory deadline, given the increased administrative work load and costs, many SVRS provider clerks have indicated that they will not be able to perform the list maintenance on behalf of their relier municipalities within the statutory deadline. The G.A.B. can implement a more uniform and consistent process, but the agency cannot sustain the cost of printing and mailing the postcards for future General Elections. One suggestion made in the Task Force discussion was to have municipalities compensate the G.A.B. to undertake the printing and mailing process.

Wis. Stat. §6.50(1) and (2) directs municipal clerks to send notices within 90 days following each general election. This means that the mailing must be sent every two years. Some Taskforce members questioned the cost effectiveness of the list maintenance given that the rate of voters requesting continuation of registration as a result of the postcard audit is between 5-10 percent. It was noted that the purpose of list maintenance is to help maintain accurate data quality, not to keep any active voter's name off of the poll list. The Taskforce considered the possibility of performing list maintenance every four years instead of every two years, or doing away with a mailing entirely. Legislative changes would be required for either of these suggested changes to the process.

Task Force Recommendation

At the Task Force's January 29, 2013 meeting, members discussed how to handle the maintenance process for future General Elections. The Taskforce made the following recommendation:

In the interest of fiscal responsibility and to preserve the integrity of the voter registration list, the G.A.B. should be responsible for list maintenance, but the Legislature should provide funding to the agency for this responsibility. If funding is not available for this process, list maintenance should still be conducted but voter verifications would not be sent.

The process should be conducted once every four years following each Presidential election, if the list maintenance process included mailing postcards, or once every two years if postcards are not sent.

Staff Recommendation

Board staff believes that the Taskforce's recommendation requires further discussion and collaboration with the State Legislature. Staff agrees with the Taskforce's recommendation regarding the G.A.B.'s role in conducting list maintenance on behalf of municipalities, and the need for sufficient state funding. However, in order to maintain the highest degree of voter list integrity, staff recommends the list maintenance continue to be conducted every two years. Finally, staff recommends exploring additional voter list maintenance options, such as using the National Change of Address database (NCOA) in a procedure similar to that described in Wis. Stat. §6.50(8).

Recommended Motion: The Board accepts the staff recommendation that the G.A.B. should continue to print and mail the Four-Year Record Maintenance postcards on behalf of municipalities and should seek sufficient funding for that process, and that the G.A.B. should explore alternative methods of completing the Four-Year Record Maintenance.

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Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20, 2013 Board Meeting

TO: Members, Government Accountability Board

FROM: Michael Haas
Elections Division Administrator
Government Accountability Board

Prepared and Presented by:
David Buerger, Elections Specialist

SUBJECT: Clerks' Concerns Taskforce Recommendation – Property Tax Levy Limit Exemption for Special Election Costs and Costs to Comply with Additional Election Requirements

Background

The election cycle of 2011-2012 was filled with unanticipated elections. In a typical two-year election cycle there are six statewide elections involving state officeholders -- two spring primaries, two spring elections, a partisan primary, and a general election. In 2011-2012 there were thirty-two elections, eight of which were statewide elections. These unanticipated elections were not budgeted for and ultimately had to be paid for by local units of government.

Additionally, election administration continues to grow more complex. The 2011-2012 cycle saw several legislative acts passed at both the state and federal level changing election laws and imposing new requirements. Local election officials required additional training on these changes to the law as well as additional time to comply with the new administrative requirements. These additional hours were also not originally budgeted for and ultimately had to be paid for by local units of government either in overtime wages or in decreased services as existing municipal staff were assigned to comply with these new requirements instead of working on other tasks.

Currently Wis. Stat. §66.0602 limits the property tax levy for towns, villages, and cities to the greater of a "valuation factor" or the percent of new construction. The valuation factor in 2012 was zero percent and very few municipalities have seen significant new construction. Therefore many municipalities were and will continue to generally be limited to a zero percent tax levy increase.

As raising additional revenue was generally not an option, many municipal clerks were forced to reduce other budgeted items within their office accounts, thus negatively affecting other services provided by these clerks. In other municipalities the extra costs of the unanticipated elections and increased costs to administer all elections were taken out of discretionary accounts in other departments, such as transportation funds, thus reducing these communities' ability to maintain local highways as needed or address other priorities established by the governing body.

Analysis

Budgeting for unexpected costs is always difficult. It is not financially responsible to ignore potential unexpected financial costs, but neither is it prudent to budget excessive amounts into reserves at the expense of current needs. While some unexpected election costs could be reasonably absorbed at the local level through judicious use of discretionary accounts and tapping of municipal reserves, the cost to conduct an extra election cycle (primary and general) is likely beyond what a reasonable budget would allow for reserves.

Election costs are a mix of static costs that every election will incur in relatively the same amount and variable costs that can scale up or down depending on expected turnout. For example, election notices and voting equipment programming tend to be static costs that do not vary much from election to election. However, ballot printing costs and poll worker wages can vary dramatically with expected turnout. As such, it is difficult to plan for an unexpected election cycle as costs could have a wide range. If prudent budgeting cannot adequately provide for unexpected election costs, a reasonable alternative may be to seek a one-time infusion of additional revenue.

Wis. Stat. §66.0602(3) provides a number of total or partial exceptions to the levy limit. Some ongoing costs such as county levies for public libraries and emergency medical services are exempt as well as specific temporary costs such as those incurred during a declared state of emergency. Wis. Stat. §66.0602(3)(e). To avoid the difficulties inherent in budgeting for election costs the Legislature could choose to include an exemption of election costs so municipal budgets would not be overwhelmed with unexpected election costs when they arise.

Taskforce Recommendation

The impact of unanticipated elections and added requirements to administer elections imposes a burden on many individual clerks' offices and their communities as a whole. As these special elections and additional requirements are mandated by state and federal law, the Clerks Concerns Taskforce requests that the Government Accountability Board request the Legislature to consider an exception to the levy limits under Wis. Stat. §66.0602 to cover the increased costs of local governments for unanticipated elections and additional requirements resulting from new legislation which are imposed to administer all elections.

Staff Recommendation

Especially in light of the numerous special elections over the past two years, there is merit to the tax levy exemption proposal. However, Board staff is not able to assess the broader tax and budget priorities and implications of this proposal and does not make a recommendation regarding it.

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JUDGE TIMOTHY L. VOCKE
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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20-21, 2013 Board Meeting

TO: Members, Government Accountability Board

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

Prepared and Presented by:

Michael Haas, Elections Division Administrator
Allison Coakley, Elections Training Coordinator
David Buerger, Elections Specialist

SUBJECT: Revision of Manual regarding Absentee Voting in Nursing Homes, Retirement Homes and Adult Care Facilities

In response to comments expressed during the personal appearances segment of the Board's December 18, 2012 meeting and requests for guidance from county and municipal clerks, Elections Division staff revised the Absentee Voting in Certain Care Facilities manual. The revised manual has been renamed Absentee Voting in Nursing Homes, Retirement Homes and Adult Care Facilities, to better reflect the type of facilities that are required or may qualify for absentee voting conducted by Special Registration Deputies (SVDs) appointed by the municipal clerk.

The majority of the revisions fall into five categories: indefinitely confined electors, rules for observers, delivery of ballots by SVDs, ballot security, and assistance to the voter, including power of attorney and guardianship. Board staff has also developed and included in the manual new documents to help ensure ballot security (GAB-104SVD), and to assist clerks when scheduling SVD visits to qualified facilities in their municipalities (Sample Notice). Overall, Board staff intends the revised manual to aid in the education and training of SVDs, county and municipal clerks, election observers and voters. The revised manual is attached.

Recommended Motion: The Board accept and approve the attached revised manual entitled Absentee Voting in Nursing Homes, Retirement Homes and Adult Care Facilities.

Absentee Voting in Nursing Homes, Retirement Homes and Adult Care Facilities

March 2013



**Wisconsin Government
Accountability Board**

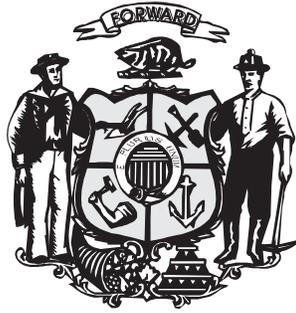
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Introduction

The Wisconsin Legislature has determined that the vigorous exercise of our constitutional right to vote should be strongly encouraged. The Legislature recognizes that it is difficult for many individuals to get to the polling place on Election Day. This is particularly true for individuals residing in nursing homes, community-based residential facilities, retirement homes, residential care apartment complexes, and adult family homes. Wis. Stats. §§6.84(1), 6.875.

In order to meet this need, the Legislature has established the privilege of absentee voting as an extension of the right to vote on Election Day. The Legislature recognizes that the privilege of voting absentee is exercised wholly outside the traditional safeguards of the polling place. The privilege of absentee voting must be carefully regulated to prevent the potential for fraud or abuse, prevent overzealous solicitation of absent electors who may prefer not to participate in an election, and prevent undue influence on an absentee elector to vote for or against a candidate or referendum. Wis. Stat. §6.84(1). The procedures described in this manual are the exclusive means of absentee voting for voters who are occupants of nursing homes and other qualified care facilities.

The purpose of this manual is to describe the procedures for absentee voting in Wisconsin nursing homes, qualified community-based residential facilities, qualified retirement homes, qualified residential care apartment complexes, and qualified adult family homes. These procedures have been developed in order to encourage residents of these facilities to participate in the process of choosing their elected representatives.

Definitions

Nursing Home – a facility occupied by 10 or more unrelated individuals for the primary purpose of obtaining full-time personal or nursing care which is necessitated by their physical or mental conditions, but does not include a hospital. Wis. Stat. §6.875(am).

Qualified Retirement Home – a facility occupied as a primary place of abode by 10 or more unrelated individuals, where it is determined by the municipal clerk or board of election commissioners that a significant number of the occupants lack adequate transportation to the appropriate polling place, need assistance in voting, are aged 60 or over, or are declared as indefinitely confined electors. Wis. Stat. §6.875(1)(at), (c), and (2)(b).

Qualified Community-Based Residential Facility (CBRF) – a facility licensed under Wis. Stat. §50.01(lg), except that it must be occupied by at least 10 unrelated adults, and it is determined by the municipal clerk or board of election commissioners that a significant number of the occupants lack adequate transportation to the appropriate polling place, need assistance in voting, are aged 60 or over, or are declared as indefinitely confined electors. Wis. Stat. §6.875(1)(a), (as), and (2)(b).

Qualified Adult Family Home – a facility that is certified or licensed to operate as an adult family home under Wis. Stat. §§50.032 or 50.033, and it is determined by the municipal clerk or board of election commissioners that a significant number of the

occupants lack adequate transportation to the appropriate polling place, need assistance in voting, are aged 60 or over, or are declared as indefinitely confined electors. Wis. Stat. §6.875(1)(ap) and (2)(d).

Qualified Residential Care Apartment Complex – a facility that is certified or registered to operate as an adult family home under Wis. Stat. §50.034, and it is determined by the municipal clerk or board of election commissioners that a significant number of the occupants lack adequate transportation to the appropriate polling place, need assistance in voting, are aged 60 or over, or are declared as indefinitely confined electors. Wis. Stat. §6.875(1)(asm) and (2)(d).

If you are uncertain if there are any such facilities in your municipality or if a certain facility may fit one of the above definitions, please visit the Wisconsin Department of Health Services website at: <http://www.dhs.wisconsin.gov/bqaconsumer/directories.htm> for a full list of licensed facilities by county.

Prior to Voting Day

SVDs appointed by the municipal clerk bring absentee ballots to the care facility. The SVDs represent the two major political parties whenever they are appointed based upon lists submitted by the political parties. If no lists are received from the two major political parties, the clerk appoints unaffiliated SVDs. No person who is or was in the last two years employed or retained at a qualified facility, or a member of the immediate family of such an individual may serve as an SVD. Wis. Stat. §6.875(4). The SVDs take the Oath of Special Voting Deputy (GAB-155). Wis. Stat. §6.875(5). SVDs may not deputize other individuals to administer the voting process.

Special Voting Deputies shall arrange one or more convenient times with the administrator of the facility to conduct absentee voting for the election. The SVDs shall contact the administrator of the facility as soon as possible, but no later than 5:00 p.m. on the Friday before an election. Absentee voting may be conducted no earlier than the fourth Monday before the election and no later than 5:00 p.m. on the Monday before the election. As soon as possible after arrangements are made for the visit, but not less than 24 hours before the visit, the municipal clerk shall post a notice at the facility indicating the date and time that absentee voting will take place at that facility (see Sample Notice, page 22).

Upon the request of a relative of an occupant of a facility, the administrator of the facility may notify the relative of the time or times at which SVDs will conduct absentee voting and permit the relative to be present in the room where the voting is conducted. Wis. Stat. §6.875(6)(c)2.

Prior to sending SVDs to a facility, the municipal clerk should compile a list of residents at the facility who have absentee ballot requests on file. This list should be shared with the facility administrator. The administrator should survey the residents on the list to inform them of the date and time of the SVD visit. The administrator should also note on the list which residents will be able to meet the SVDs for voting and which residents are

unable or unwilling to meet the SVDs at the designated time.

Who May Vote Absentee

Any qualified elector who for any reason is unable or unwilling to appear at the polling place on Election Day may vote absentee. Wis. Stat. §6.85. A qualified elector is a United States citizen, age 18 or older on Election Day, who has resided in an election district 28 consecutive days before any election where the person offers to vote, and is not currently serving a felony sentence (including any term of extended supervision) or has not been adjudicated incompetent to vote. Wis. Stats. §§6.02(1), 6.03. If an individual has been adjudicated incompetent to vote, that information is provided to the Government Accountability Board, which cancels their registration to vote.

Voter Registration

If a person is voting for the first time in Wisconsin, or has changed their name or address since the last time they voted, they are required to complete a Voter Registration Application (GAB-131) before they vote. Before receiving an absentee ballot, the elector must be registered. Wis. Stat. §6.86(1).

- Special Registration Deputies (SRDs) are appointed by the municipal clerk to register individuals outside of the clerk's office until the third Wednesday before an election. Wis. Stat. §6.28.
- A qualified elector may also register to vote by mail no later than the third Wednesday before an election. Wis. Stat. §6.30(4). First-time voters registering to vote by mail, must provide "proof of residence." See Wis. Stat. §6.34(3), for a list of acceptable forms of "proof of residence." Registration forms may be obtained by request from the municipal clerk or from the Government Accountability Board's website, <http://gab.wi.gov>.
- An elector may also register at the municipal clerk's office until the Friday before the election. Wis. Stat. §6.29(2). When registering in the clerk's office *after* the third Wednesday before an election, the elector must provide "proof of residence." See Wis. Stat. §6.34(3), for a list of acceptable forms of "proof of residence." An elector registering in the clerk's office *before* the third Wednesday before an election is not required to provide "proof of residence."
- Electors who vote at the polls may register at the polling place on Election Day. Wis. Stat. §6.55(2). Electors registering at the polling place on Election Day must provide "proof of residence." See Wis. Stat. §6.34(3), for a list of acceptable forms of "proof of residence."

NOTE: If the SVDs are also trained and appointed as Special Registration Deputies and are conducting absentee voting at a care facility on or before the third Wednesday before the election, they may register eligible electors to vote. If the SVDs are conducting absentee voting at a facility after the third Wednesday before the election, all prospective voters must already be registered to vote. After the third Wednesday before an election,

registration may only occur in the office of the municipal clerk or at the polling place on Election Day.

How to Obtain an Absentee Ballot

Any elector wishing to vote absentee at an election must make a written application to the municipal clerk or board of election commissioners. Wis. Stat. §6.86(1). If made by mail, this written application must be received no later than 5:00 p.m. on the Thursday preceding the election. Applications from indefinitely confined electors must be received no later than 5:00 p.m. on the Friday preceding the election. The clerk will not accept absentee ballot applications received after 5:00 p.m. or the close of business (whichever is later) the Friday preceding the election. However, any time SVDs are visiting a care facility, they may accept an application for absentee ballot from a qualified voter and issue an absentee ballot while at the facility. Wis. Stat. §6.875(6).

The application must be signed by the absentee elector. It cannot be signed by anyone else on behalf of the elector unless the absentee elector needs assistance in signing his or her name. If someone else signs the application for the elector, that person must certify that the individual is unable to sign their name. However, a Power of Attorney may request an absentee ballot for their principal without signing the certification of assistance (See Power of Attorney section below). An elector may request an absentee ballot for a single election or all elections in a calendar year with a single application.

The Government Accountability Board has developed an Application for Absentee Ballot (GAB-121), which is available on the agency website, <http://gab.wi.gov>. An elector may also apply for an absentee ballot by delivering or sending a written request to the municipal clerk in person, by regular mail, fax or email. Absentee ballots may NOT be requested by telephone.

Application by Indefinitely Confined Elector

Many residents of the facilities covered in this manual are confined to the facility and are unable to travel to the polling place on Election Day. An elector indefinitely confined due to age, physical illness, infirmity, or who is disabled for an indefinite period may make a single request and be permitted to vote absentee automatically at each election. Wis. Stat. §6.86(2). This request must be in writing. See Section 6 on the Application for Absentee Ballot (GAB-121).

The municipal clerk keeps a list of indefinitely confined electors and automatically sends or arranges for delivery of an absentee ballot to the indefinitely confined elector for each primary and election. If an elector does not return a ballot for a spring, general or special election sent under this provision, the clerk shall notify the elector that he or she must reapply within 30 days of receiving the notice in order to automatically receive an absentee ballot for the next election. This process does not apply to voters who do not return a ballot for a primary election.

If the clerk receives reliable information that an indefinitely confined elector is no longer eligible for this service, they shall remove the elector from the indefinitely confined voter

list. The clerk shall send the voter a notice within five days, if possible. Wis. Stat. §6.86(2)(b).

Residence of Absentee Voter

In Wisconsin an elector can maintain a voting residence, even if temporarily absent, so long as they continue to have intent to return to their residence. Wis. Stat. §6.10(5). Electors residing in a nursing home or other qualified care facility located in a municipality other than the municipality in which they were last registered to vote may wish to maintain their former residency, rather than voting in the municipality where the facility is located. Alternatively, any person living in nursing home or a qualified care facility for at least 28 consecutive days before any election at which the person offers to vote, who is not currently serving a felony sentence (including any term of extended supervision) and who has not been adjudicated incompetent to vote may vote in the municipality in which the facility is located. The resident must be registered to vote in addition to meeting the other qualifications of an elector. Wis. Stats. §§6.02(1), 6.03.

If a clerk receives an absentee ballot application from a resident who now lives in a nursing home or qualified care facility located in another municipality, the absentee ballot is sent to the municipal clerk where the facility is located for delivery to the voter by the SVDs of the municipality where the facility is located. If a clerk receives an absentee ballot application from a voter living in a nursing home or qualified care facility located in the municipality, but who is a resident and registered voter of another municipality, the clerk must, as soon as possible, notify the clerk of the municipality in which the elector is registered, and request that an absentee ballot be issued to the voter living in the facility for delivery by the SVDs of the municipality where the facility is located. Wis. Stat. §6.875(3).

Designation of Qualified Care Facilities Served by SVDs

Municipal clerks are only required to use SVDs for nursing homes. Other care facilities (see Definitions, page 5) may be served by SVDs if the municipal clerk determines that a significant number of the occupants lack adequate transportation to the appropriate polling place, need assistance in voting, are aged 60 or over, or are declared as indefinitely confined electors. However, once the clerk has made this determination, the facility will be designated for SVD service for all elections until the clerk makes a contrary formal determination as to the facility's eligibility for future SVD service.

Clerks should NOT switch a facility's SVD eligibility in the period between a primary election and a general or spring election, or between a special primary and a special election. Clerks are also strongly recommended to advise the administrator of any facility of the clerk's determination so that the administrator can properly advise the facility's residents regarding the change in status.

Residents who live in facilities visited by SVDs are no longer eligible to request a traditional by-mail absentee ballot, but instead must vote absentee via SVD and follow the procedures included in this manual. Residents may still vote at the polls on Election Day.

Family Members

Some family members of voters residing in care facilities served by SVDs express concerns that the relative must vote absentee in this manner. In such cases, clerks, facility administrators and SVDs should explain to the relative that this method of voting is required by law. Family members should be advised that they may be present when the SVDs conduct absentee voting at the facility, and that they may assist the voter if the voter so desires.

Rules for Observers

One observer from each of the two recognized political parties whose candidate for governor or president received the greatest number of votes in the municipality at the most recent general election may accompany the SVDs to each facility where absentee voting will take place. Each party wishing to have an observer present shall submit the name of the observer to the clerk no later than the close of business on the last business day prior to the visit. Wis. Stat. § 6.875(7). No other observers may be present.

The observers may observe the public aspects of the process in the common areas of the facility. The SVDs may exercise the authority granted to the chief inspector under Wis. Stat. §7.41 to regulate the conduct of observers. For the purposes of the application of Wis. Stat. §7.41, the facility shall be treated as a polling place. Wis. Admin. Code GAB 4.05(2). Challenges to the voter's eligibility may not be made at the facility, but must be made at the municipal clerk's office or at the polling place on Election Day.

The SVDs shall establish observer areas in the common room where absentee voting is to occur that allow observers to view all public aspects of the process. Wis. Admin. Code GAB 4.05(3). If the SVDs go to a resident's private room to offer the resident an opportunity to vote, the SVDs shall establish an observation area in the nearest common area, for example, the hallway, but observers may not enter a resident's private room. When practical, observer areas should be 6 – 12 feet from where the voting takes place.

Observers may not use still or video cameras inside the facility during the hours that absentee voting is being administered. Wis. Admin. Code GAB 4.05(5). Observers shall direct any questions to the SVDs. Wis. Admin. Code GAB 4.05(6). Election observers are prohibited from engaging in electioneering. An observer who engages in any loud, boisterous, or otherwise disruptive behavior, that in the opinion of the SVDs, threatens the orderly conduct of the absentee voting process shall be issued a warning, and if the observer does not cease the offending conduct, be ordered to leave the facility. Wis. Admin. Code GAB 4.05(5).

Delivery of Ballots

Absentee ballots are brought to the care facility by the SVDs. The municipal clerk or board of election commissioners shall issue a supply of ballots sufficient to provide for the proper applications received, and also an additional number of ballots and application forms.

The municipal clerk or board of election commissioners is required to keep a careful

record of all ballots issued to the SVDs and require the SVDs to return every ballot. Wis. Stat. §6.875(6)(b). SVDs should complete the GAB-104SVD, a diary of voting activity at the facility. (See GAB-104SVD, page 20).

The municipal clerk or board of election commissioners shall issue all ballots to be used by the SVDs in a ballot container or envelope that is secured with a tamper-evident serialized tag or seal. The municipal clerk or board of election commissioners should record the number of the serialized tag or seal on the GAB-104SVD. The SVDs should also be issued another tamper-evident serialized tag or seal to secure the container after the facility visit is complete. The number of this second serialized tag or seal should also be recorded on the GAB-104SVD by the SVDs after the facility visit is complete.

Both SVDs should verify the seal or tag number and that the seal or tag is intact before opening the ballot container. The SVDs should indicate that this verification was completed by initialing the respective section of the GAB-104SVD. Upon opening the ballot container, the SVDs should confirm the total number of issued ballots is the same as the number indicated on the GAB-104SVD and that they have the correct ballot styles. During the facility visit, both SVDs shall keep the opened ballot container in their presence at all times and are jointly responsible for the security of the ballots issued to them.

Two SVDs shall visit the facility at the designated time. Wis. Stat. §6.875(6)(a). The SVDs shall conduct absentee voting as a team. Both SVDs, together, shall personally offer each absentee elector who has filed the proper application an opportunity to cast his or her ballot. Facility staff may not handle ballots.

Absentee ballots must be voted only by the absentee elector, unless the voter needs assistance. The SVDs shall assist the elector in marking the absentee ballot if requested (see Persons Assisting Voters, page 12). No one other than an SVD or relative of an elector may assist the elector. Wis. Stat. §6.875(6)(c)1. The term “relative” refers to a spouse or individual related within the 1st, 2nd or 3rd degree of kinship.

Kinship	Relative
1 st degree	The voter’s children or parents
2 nd degree	The voter’s grandparents, grandchildren, brothers and sisters
3 rd degree	The voter’s great-grandparents, grandchildren, uncles, aunts, nephews, nieces

The person providing the assistance must certify in the space provided on the ballot that it was completed with his or her assistance. Wis. Stats. §§6.82(2), 6.875(6)(c)1.

Voting shall be conducted in a common area of the facility. Also, SVDs shall visit the room of each resident with an absentee ballot request on file who is unable or unwilling to meet in the common area to offer the elector a ballot or to confirm the elector does not wish to vote in the election. This includes visiting the rooms of residents who already

have informed the administrator (or staff member) of the facility of their intent not to vote. The SVDs should also visit the rooms of any residents who have informed facility staff of their intent to vote, but whose name does not appear on the absentee ballot log.

Special Voting Deputies, election observers, family members and facility staff should afford the voter privacy to vote his or her ballot.

After marking the ballot in the presence of the SVDs, the voter places the marked ballot(s) in the certificate envelope (GAB-122) and seals the envelope. The voter completes and signs the certification on the envelope. **Both** of the SVDs must sign as witnesses on the certificate envelope. Wis. Stat. § 6.875(6)(c)1.

An indefinitely confined elector whose name appears on the absentee ballot log may not wish to vote an absentee ballot, but may want to maintain their status as an indefinitely confined voter. In that case, the SVDs should ask the elector to enclose a blank ballot in the certificate envelope and sign the certificate. If the resident is unable to vote at the time scheduled for the facility, the clerk must arrange for a second visit. If the requesting resident is still unable to vote after two SVD visits, the municipal clerk may mail the absentee ballot to the resident of the facility in the same manner as other absentee ballots are mailed. Absentee ballots issued by mail must be postmarked by Election Day and received by 4 pm the Friday following the election. Wis. Stat. § 7.515(3).

If the facility or resident(s) is under quarantine or otherwise closed to visitors at the designated time for voting, the clerk must arrange for a second visit. If the facility or resident(s) is still inaccessible after two SVD visits, the municipal clerk may mail the absentee ballot to the resident(s) in the same manner as other absentee ballots are mailed.

If the municipal clerk receives a new absentee application after the first visit to the facility, the clerk must attempt to schedule another visit.

NOTE: The SVDs may accept an application for absentee ballot from a registered, qualified voter and issue an absentee ballot while at the qualified care facility. Wis. Stat. § 6.875(6)(c)1. Residents must complete the absentee ballot application (GAB-121). Completing the certificate envelope (GAB-122) is not sufficient because the voting is taking place outside of the municipal clerk's office.

Persons Assisting Voters with Physical Disabilities

A voter with a physical disability may direct another person to assist them with the voting process. At the voter's request, any person may assist a voter in completing election forms, such as the Voter Registration Application (GAB-131), Application for Absentee Ballot (GAB-121) or letter requesting an absentee ballot and the Absentee Certificate Envelope (GAB-122). The assistor may also read and/or mark the ballot for the voter at the direction of the voter. If the voter is unable to sign any document necessary for voting, the voter may direct the assistor to sign the voter's name to the document. An assistor must always operate under the direction of the voter.

Generally, a voter may select any person (except their employer or officer/agent of a

labor union who represents the voter) to assist them with the voting process. However, when voting by SVD, assistors are limited to an SVD or a relative of the voter.

NOTE: An SVD explaining a ballot to a voter or explaining how to mark a ballot is not “assisting.”

Power of Attorney and Guardianship

The basic difference between a power of attorney and guardianship is that the power of attorney is a private, pre-planned arrangement between the principal and the agent where the court is involved only if there is a dispute. A guardianship is not planned in advance by the ward, but is ordered by a court, usually after a medical evaluation of competency.

Power of Attorney

A “power of attorney (POA)” is a contract in which one person (the principal) transfers certain rights to act on behalf of the principal to another person (the agent). The agent is able to make certain decisions and perform certain actions for their principal. However, voting is not a transferable right. The two basic types of POA are financial and health care. The type of POA applicable to this discussion is limited to POA for health care.

A POA designation is not indicative of the principal’s mental capacity, nor is the agent able to declare the principal to be incompetent without court intervention. A POA may file a guardianship action in probate court seeking a court determination of incompetency, but the POA acting alone without Court intervention does not have the ability to conclude that the principal is incompetent.

The actions that an agent may take on behalf of their principal with respect to the electoral process are limited. A POA may not register their principal to vote. A POA may not vote a ballot for their principal; this includes completing the Absentee Certificate Envelope for their principal. However, the agent may request an absentee ballot for their principal. Also, a relative of an elector in a facility may act as an assistor, at the elector’s request, whether or not the relative is the elector’s POA.

Guardianship

A “guardianship” is a legal relationship created by a court which authorizes the guardian to make decisions for another person (the ward). Guardianships are usually created only after an evaluation of competency. The court’s appointment of a guardian includes a finding regarding competency. However, appointment of a guardian, even with a general finding of incompetency, does not automatically mean that the ward is not competent to vote.

The format used currently for court guardianship orders indicates that a ward is competent to retain all rights unless a specific right has been indicated as forfeited. The format of older guardianship orders finds the ward incompetent to retain any rights unless specific rights are indicated as retained. Regardless of the format, the right to vote must be specifically indicated as a forfeited right in order for the ward to be excluded from the electoral process.

Who May Undertake the Following Actions for Electors Voting by Special Voting Deputy?

Action	Anybody	Family Member	SVD	Power of Attorney or Guardian
Assist a voter in completing a Voter Registration Application. +	X	X	X	X
Assist the voter by signing the voter's name on the Voter Registration Application.+	X	X	X	X
Assist a voter in completing a request for absentee ballot	X	X	X	X
Assist the voter by signing the voter's name on an absentee ballot request	X	X	X	X
Assist a voter in marking a ballot at the direction of a voter		X	X	
Assist the voter by completing the Absentee Certificate Envelope		X	X	
Assist the voter by signing the voter's name on the Absentee Cert Envelope		X	X	
Assist a voter by requesting an absentee ballot for the voter				X
Register a voter*				
Vote a ballot for a voter*				
Complete an Absentee Certificate Envelope for a voter*				

Assisting = Providing help to the voter, at the voter's request, in the presence of the voter.

+ Before the open registration cut off only.

* Indicates an action without the voter's request for assistance. These actions may only be performed by the voter.

Return of Ballots

Upon completion of absentee voting at the facility, the SVDs shall count the number of voted and unvoted ballots, record those numbers on the GAB-104SVD, and confirm all issued ballots are accounted for. The SVDs should then re-secure the ballot container with a new tamper-evident serialized tag or seal, recording the number of the tag or seal on the GAB-104SVD before signing the certification section.

Upon completion of voting, the deputies shall promptly deliver, either personally or by first class mail, any absentee ballot applications and the sealed certificate envelopes containing each ballot to the municipal clerk of the municipality in which the elector casting the ballot resides within such time as to permit delivery to the polling place by Election Day. An SVD may personally deliver the ballots to the polling place no later than noon on Election Day. Wis. Stat. §6.875(6)(d).

Special Precautions

In order to ensure the integrity of the absentee voting process, the Government Accountability Board recommends that the personnel in care facilities familiarize themselves with the absentee voting process. Administrators of these facilities should communicate regularly with the municipal clerk concerning the status of absentee voters at their facility. The administrator should also make an effort to ensure that any resident who desires to vote is properly registered. Persons who are found by a court to be incapable of understanding the electoral process are not permitted to vote. Wis. Stat. §6.03(1)(a), (3). The facility should have a social worker available who may be consulted regarding any competency determinations made by a court for a resident.

Facility administrators and personnel, election observers, and residents of care facilities should be aware that failure to comply with these requirements may result in invalidation of the votes of residents. See Wis. Stat. §6.84(2). It is also a misdemeanor to interrupt or disturb the voting process. Wis. Stat. §12.13(3)(x).

Candidates may visit care facilities to present their positions to residents of these facilities. Additionally, candidate literature may be distributed to residents. However, the same restrictions on electioneering apply to the facility while SVDs are conducting absentee voting as a polling place on Election Day. Candidates are not allowed in the voting area. Additionally, there should be no campaign activity in the facility or within 100 feet of any entrance to the facility while voting is taking place.

Any questions concerning any aspect of voting in Wisconsin should be directed to the municipal clerk or the Government Accountability Board. (See contact information below).



Wisconsin Application for Absentee Ballot

Confidential Elector ID#
(HINDI - sequential #) (Office Use Only)

SVRS ID #
(Office Use Only)

Instructions

Instructions for completion are on the back of this form. Return this form to your municipal clerk when completed.

- Please use uppercase (**CAPITAL**) letters only. Fill in circles as appropriate.
- You must be registered to vote before you can receive an absentee ballot. You can confirm your voter registration at <https://myvote.wi.gov>

VOTER INFORMATION

1	Municipality	<input type="radio"/> Town <input type="radio"/> Village <input type="radio"/> City		County	
2	Last Name			First Name	
	Middle Name			Suffix (e.g. Jr, II, etc.)	
	Phone		Fax		Date of Birth <small>(MM/DD/YYYY)</small>
3	Residence Address: Street Number & Name				
	Apt. Number		City		State & ZIP
4	If you are a military or permanent overseas elector, fill in the appropriate circle (see instructions for definitions): <input type="radio"/> Military <input type="radio"/> Permanent Overseas				

I PREFER TO RECEIVE MY ABSENTEE BALLOT BY: (Ballot will be mailed to the address above if no preference is indicated)

5	<input type="radio"/> MAIL	Mailing Address: Street Number & Name			
		Apt. Number		City	State & ZIP
	<input type="radio"/> CLERK'S OFFICE	Nursing Home Name (if applicable)			
		C / O (if applicable)			
	<input type="radio"/> FAX	Fax Number	Military and Permanent Overseas only		
<input type="radio"/> EMAIL	Email Address	Military and Permanent Overseas only			

I REQUEST AN ABSENTEE BALLOT BE SENT TO ME FOR: (mark only one)

6	<input type="radio"/> The election(s) on the following date(s): _____
	<input type="radio"/> All elections from today's date through the end of the current calendar year (ending 12/31).
	<input type="radio"/> Every election subsequent to today's date. I further certify that I am indefinitely confined because of age, illness, infirmity or disability and request absentee ballots be sent to me until I am no longer confined or fail to return a ballot.

TEMPORARILY HOSPITALIZED VOTERS ONLY (please fill in circle)

7	<input type="radio"/> I certify that I cannot appear at the polling place on election day because I am hospitalized, and appoint the following person to serve as my agent, pursuant to Wis. Stat. § 6.86(3).				
	Agent Last Name		Agent First Name		Agent Middle Name
	AGENT: I certify that I am the duly appointed agent of the hospitalized absentee elector, that the absentee ballot to be received by me is received solely for the benefit of the above named hospitalized elector, and that such ballot will be promptly transmitted by me to that elector and then returned to the municipal clerk or the proper polling place.				
	Agent Signature	X	Agent Address		

ASSISTANT DECLARATION / CERTIFICATION (if required)

I certify that the application is made on request and by authorization of the named elector, who is unable to sign the application due to physical disability.			
Assistant Signature	X	Today's Date	

VOTER DECLARATION / CERTIFICATION (required for all voters)

I certify that I am a qualified elector, a U.S. Citizen, at least 18 years old, having resided at the above residential address for at least 28 consecutive days immediately preceding this election, not currently serving a sentence including probation or parole for a felony conviction, and not otherwise disqualified from voting. Please sign below to acknowledge that you have read and understand the above.			
Voter Signature	X	Today's Date	



Wisconsin Application for Absentee Ballot Instructions

General Instructions: *Please Review Fully* This form should be submitted to your municipal clerk, unless directed otherwise.

- This form should only be completed by registered voters; if you are not a registered voter or military elector, please submit a Voter Registration Application (GAB-131) with this form.

- | | |
|---|---|
| 1 | <ul style="list-style-type: none"> Indicate the municipality and county of residence. Use the municipality's formal name (For example: City of Plymouth, Village of Chenequa, or Town of Aztalan). |
| 2 | <ul style="list-style-type: none"> Provide your name as you are registered to vote in Wisconsin. If applicable, please provide your suffix (Jr, Sr, etc.) and/or middle name. If your current name is different than how you are registered to vote, please submit a Voter Registration Application (GAB-131) with this form to update your information. Provide your month, day and year of birth. Remember to use your birth year, not the current year. Providing your telephone/fax number or email address allows elections officials to contact you if there is a problem with your absentee application. |
| 3 | <ul style="list-style-type: none"> Provide your home address (legal voting residence) in Wisconsin. Provide the full house number (including fractions, if any). Provide your full street name, including the type (St, Ave, etc.) and any pre- and/or post-directional (N, S, etc.). Provide the city name and ZIP code as it would appear on mail delivered to the home address. <u>You may not enter a PO Box as a voting residence.</u> A rural route box without a number should not be used. |
| 4 | <ul style="list-style-type: none"> A "Military elector" is a person, or the spouse or dependent of a person who is a member of a uniformed service or the merchant marines, a civilian employee of the United States, a civilian officially attached to a uniformed service and serving outside the United States, or a Peace Corp volunteer. Military electors do not need to register to vote. Military electors will continue to receive ballots for all elections unless otherwise requested. A "Permanent Overseas elector" is a person who is a United States citizen, 18 years old or older, who resided in Wisconsin immediately prior to leaving the United States, who is now living outside the United States <u>and has no present intent to return</u>, who is not registered in any other location, or who is an adult child of a United States citizen who resided in this state prior to establishing residency abroad. Permanent Overseas electors will receive ballots for federal offices only and must be registered to vote prior to receiving a ballot. |
| 5 | <ul style="list-style-type: none"> Fill in the circle to indicate your preferred method of receiving your absentee ballot. Only Military and Permanent Overseas voters may receive an absentee ballot by email or fax. If no preference is indicated, your absentee ballot will be mailed to your residence address listed in Box 3. You are encouraged to provide a physical mailing address as backup in case of electronic transmission difficulties. Please only fill the circle for your preferred means of transmission. If you are living in a nursing home, please provide the name of the facility. If someone will be receiving the ballot on your behalf, please list them after C/O. <u>Please note:</u> The absentee elector is still required to vote their own ballot, although they may request assistance in physically marking the ballot. |
| 6 | <ul style="list-style-type: none"> Select the first option if you would like to receive a ballot for a single election or a specific set of elections. Select the second option if you would like to have a standing absentee request for any and all elections that may occur in a calendar year (ending December 31). Select the third option only if you are indefinitely confined due to age, illness, infirmity or disability and wish to request absentee ballots for all elections until you are no longer confined or fail to return a ballot for an election. |
| 7 | <ul style="list-style-type: none"> This section is only to be completed by an elector or the agent of an elector who is currently hospitalized. A hospitalized elector must certify that he or she cannot appear at the polling place on Election Day. An agent completing this form for a hospitalized elector must provide his/her name, signature and address on this application. |

Assistant Signature: In the situation where the elector is unable to sign the Voter Declaration / Certification due to a physical disability, the elector may authorize another elector to sign on his or her behalf. Any elector signing an application on another elector's behalf shall attest to a statement that the application is made on request and by authorization of the named elector, who is unable to sign the application due to physical disability

Voter Signature: By signing and dating this form, you certify that you are a qualified elector, a U.S. citizen, at least 18 years old, having resided at your residential address for at least 28 consecutive days immediately preceding this election, not currently serving a sentence including probation or parole for a felony conviction, and not otherwise disqualified from voting.

OFFICIAL ABSENTEE BALLOT APPLICATION/CERTIFICATION

NOTE: *With certain exceptions, an elector who mails or personally delivers an absentee ballot to the municipal clerk at an election is not permitted to vote in person at the same election on Election Day. Wis. Stat. § 6.86(6).*

<p style="text-align: center;">VOTER: THE INFORMATION BELOW IS REQUIRED!</p> <p>▼ <i>Complete the information below and sign the certification that follows in the presence of a witness who must also sign.</i> ▼</p> <p>Name (First, Middle, Last) including suffix _____</p> <p>Street Address – include street number or fire number and name of street, or rural route and box number _____</p> <p>City, State, Zip _____</p>	<p style="text-align: center;">▼ Shaded Section for Clerk Use Only ▼</p> <p>Voted in clerk's office <input type="checkbox"/></p> <p>Date of Election (month, day, year) _____</p> <p>County _____</p> <p>Municipality: Town <input type="checkbox"/> Village <input type="checkbox"/> City <input type="checkbox"/> of _____</p> <p>District (if applicable) _____ Ward _____</p>
<p style="text-align: center;">▼ CERTIFICATION OF VOTER ▼ (Required!)</p> <p>I certify, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), that I am a resident of the ward of the municipality in the county of the state of Wisconsin indicated hereon and am entitled to vote in the ward at the election indicated hereon; that I am not voting at any other location in this election; that I am unable or unwilling to appear at the polling place in the ward on Election Day, or I have changed my residence within the state from one ward to another within 28 days before the election. I certify that I exhibited the enclosed ballot, unmarked, to the witness, that I then in the presence of the witness and in the presence of no other person marked the ballot and enclosed and sealed the ballot in this envelope in a manner that no one but myself and any person providing assistance under Wis. Stat. § 6.87(5), if I requested assistance, could know how I voted. I further certify that I requested this ballot.</p>	
<p>X _____ / _____ / _____</p> <p style="text-align: center;">▲ Signature of Voter (ALL Voters Must Sign) ▲</p>	<p style="text-align: center;">▼ CERTIFICATION OF WITNESS ▼ (Required!)</p> <p>I, the undersigned witness, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), certify that I am an adult U.S. Citizen and that the above statements are true and the voting procedure was executed as stated. I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk). I did not solicit or advise the voter to vote for or against any candidate or measure. I further certify that the name and address of the voter is correct as shown.</p> <p>1. X _____</p> <p style="text-align: center;">▲ Signature of ONE Witness, who is an adult US Citizen ▲</p> <p>▲ Address of U.S. Citizen Witness ▲ _____</p> <p>----- (▼ <i>Second Special Voting Deputy signs and provides address below.</i> ▼)</p> <p>2. X _____</p>
<p style="text-align: center;">▼ CERTIFICATION OF ASSISTANT, if applicable</p> <p>(Assistant may also be witness)</p> <p>I certify that the voter named on this certificate is unable to sign his/her name or make his/her mark due to a physical disability, and that I signed the voter's name at the direction and request of the voter.</p> <p>X _____</p> <p style="text-align: center;">Signature of Assistant</p>	
<p>ATTENTION MILITARY AND OVERSEAS VOTERS: Your date of birth is required or your ballot may not be counted. As a military or overseas voter, I further certify my birth date is _____ / _____ / _____</p>	

Special Voting Deputy Log of Absentee Voting Activity at

_____ (insert name of care facility)

TO BE COMPLETED BY MUNICIPAL CLERK

Primary or Election Date: _____

Date of Special Voting Deputy Visit to this Care Facility: _____

Names of Special Voting Deputies:

Number of absentee ballots issued to the Special Voting Deputies? _____

Tamper-Evident Seal Serial Number _____

TO BE COMPLETED BY SPECIAL VOTING DEPUTY

Tamper-evident seal number verified by Special Voting Deputies (SVDs): _____
(SVD #1 initials) (SVD #2 initials)

Number of voted ballots returned to clerk? _____

Number of un-voted absentee ballots returned to clerk? + _____

Total: = _____

(Total should equal number of ballots issued by clerk.)

Upon sealing the ballot bag or container to which this Inspectors' Statement pertains, **record the number of the tamper-evident seal used for this purpose here** _____.

Incident Number	Notes and Incidents	SVD signatures

CERTIFICATION OF SPECIAL VOTING DEPUTIES

We, the undersigned Special Voting Deputies, certify that we conducted absentee voting at the above-listed care facility on the date listed above. We further certify that the information contained in this document is a true and correct record of activity and incidents occurring at this care facility during the conduct of absentee voting.

_____ (signature of Special Voting Deputy) _____ (date)

_____ (signature of Special Voting Deputy) _____ (date)

Oath of Special Voting Deputy



STATE OF WISCONSIN }
_____, County } ss.

I, _____, having been appointed to the office of special voting deputy in and for the (town, village, city) of _____, swear (or affirm) that:

I will support the constitution of the United States and the constitution of the State of Wisconsin and will faithfully and impartially discharge the duties of a special voting deputy to the best of my ability.

I am qualified to act as a special voting deputy pursuant to §6.875, Wis. Stats.; I have read the statutes governing absentee voting; I understand the proper absentee voting procedure; I understand the penalties set out in §12.13, Wis. Stats., for noncompliance with the absentee voting procedure.

I understand that my sacred obligation is to fully and fairly implement the absentee voting law and to seek to have the intent of the electors ascertained. I realize that any error in conducting the absentee voting procedure may result in invalidation of an elector's vote under §7.51(2)(e), Wis. Stats. I realize that absentee voting is a privilege and not a constitutional right.

(Signature of Special Voting Deputy)

Subscribed and sworn to before me this _____ day of _____, _____.

(Signature of person authorized to administer oaths)

My commission expires _____, or is permanent

Notary Public or _____
(Official title, if not a notary)

Prepared by: GOVERNMENT ACCOUNTABILITY BOARD, ELECTIONS DIVISION, P.O. Box 7984, Madison, WI 53707-7984, 608-266-8005, <http://gab.wi.gov>
The information on this form is required by §§6.875(5), 7.30(5), 19.01(1), (1m), Stats.

NOTICE OF PUBLIC MEETING

Absentee Voting to be Administered at [insert facility]

[insert start time]

[insert date]

[insert location]

Special Voting Deputies appointed by the [City/Village/Town of XXX] will be administering absentee voting for the residents of this facility for the [insert election] at the above time and place. Any qualified elector who is unable or unwilling to appear at the polling place on Election Day may request to vote an absentee ballot. A qualified elector is any U.S. citizen, who will be 18 years of age or older on Election Day, who has resided in the ward or municipality where he or she wishes to vote for at least 28 consecutive days before the election. The elector must also be registered in order to receive an absentee ballot.

Only observers from each of the two recognized political parties whose candidates for governor or president received the greatest number of votes in the municipality at the most recent general election may accompany the deputies to each facility where absentee voting will take place. The observers may observe the process of absentee ballot distribution in the common areas of the home, facility, or complex. Each party wishing to have an observer present shall submit the name of the observer to the clerk or board of election commissioners no later than the close of business on the last business day prior to the visit.

Family members of residents may be present at the time of voting.

If you have further questions, please contact:

[clerk name]

[clerk address]

[clerk telephone]

[clerk email]

State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE TIMOTHY L. VOCKE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20-21, 2013 Board Meeting

TO: Members, Government Accountability Board

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

Prepared and Presented by:

Brian Bell, Elections Data Manager
Nate Judnic, Campaign Finance Auditor
Ross Hein, Elections Supervisor

SUBJECT: Legislative Status Report

The following is a summary of legislative proposals relevant to the agency that staff is currently monitoring.

INTRODUCED LEGISLATION

1. Senate Bill 6: prohibiting the use of telephone automatic dialing-announcing devices for political messages and providing a penalty.

This bill prohibits any caller from using an automatic dialing-announcing device to disseminate a prerecorded or synthesized voice message that has a political purpose. This practice is commonly known as "robo-calling". The prohibition applies to a voice message that has a "political purpose," defined under current state campaign finance law. The bill applies to any interstate or intrastate voice message that is received by a person in this state.

The bill requires the Department of Agriculture, Trade and Consumer Protection to investigate violations of the bill and bring enforcement actions for violations. The bill also creates a civil forfeiture of no more than \$100 for each violation of the bill.

2. Assembly Bill 18 and Senate Bill 20: residency of election officials.

These bills provide that an individual who serves as an election official at a polling place on election day need be an elector only of a county in which the municipality where the official serves is located, except as the law currently permits the individual to reside elsewhere. AB 18 and SB 20 make no change, however, to the residency requirement applicable to a high school pupil who serves as an inspector.

The bills also permit, for up to 50 percent of the positions to be filled, a political party officer to specify the ward for which an individual is nominated to serve. The bills require municipalities to appoint individuals who are nominated to serve in a specified ward in the ward for which they are

nominated for at least 50 percent of the positions to be filled, unless the G.A.B. or the attorney general permits non-appointment for good cause shown. The bills permit a nominee whose non-appointment is authorized by the G.A.B. to appeal the decision to the attorney general, who may affirm or reverse the decision of the G.A.B.

3. Assembly Bill 24 and Senate Bill 14: the method of recounting votes cast with automatic tabulating equipment.

These bills permit the board of canvassers conducting a recount to determine to conduct the recount of a specific election by hand unless a court orders the recount to be conducted by another method.

4. Assembly Bill 26: fees charged for access to public records.

This bill amends the public records law to provide that an authority may impose a fee upon a requester for the actual, necessary, and direct cost of deleting, redacting, or separating information that is not subject to disclosure from a record.

5. Assembly Bill 51 and Senate Bill 33: employment by a former member of the legislature as a lobbyist.

These bills prohibit any individual who serves as a member of the legislature, for 24 months following the date on which the individual ceases to hold office, from being employed as a lobbyist.

Violators of the prohibition are subject to a forfeiture of not more than \$5,000 for each violation. Intentional violators are guilty of a misdemeanor and are subject to a fine of not less than \$100 nor more than \$5,000 or imprisonment for not more than one year, or both, for each violation.

6. Assembly Bill 40: state finances and appropriations, constituting the executive budget act of the 2013 legislature.

This bill is the "executive budget bill" under section 16.47 (1) of the statutes. It contains the governor's recommendations for appropriations for the 2013-2015 fiscal biennium.

7. Assembly Bill 54: limiting the times for voting by absentee ballots in person.

This bill also limits the time period for in-person absentee requests to Monday through Friday between the hours of 7:30 a.m. and 5 p.m. It does not mandate that voting take place during all of those hours and does not require that the clerk's office be open 40 hours a week to receive applications made in person. AB 54 also states that the clerk's office or designated site for absentee voting may not be open more than 40 hours a week beginning on the third Monday preceding the election and ending on 5 p.m. on the Friday preceding the election.

DRAFT LEGISLATION

8. LRB 1761/1: to allow municipalities to designate additional sites for in-person absentee voting.

9. LRB 1422/3 and 1810/1: to allow a municipality of more than 35,000 to combine election returns for wards with populations of less than 20.

10. LRB 0871: to require out-of-state committees influencing elections in Wisconsin to comply with state campaign finance reporting requirements.

11. LRB 1722/1: to raise the threshold for campaign finance disclosure of referendum-related activity from \$750 to \$2500.

State of Wisconsin \ Government Accountability Board

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JUDGE TIMOTHY VOCKE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20-21, 2013 Board Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Jonathan Becker, Nathan Judnic, Cindy Kreckow
Ethics and Accountability Division

SUBJECT: Ethics and Accountability Division Program Activity

Campaign Finance Update

Richard Bohringer, Nate Judnic, Adam Harvell and Molly Sessler,
Campaign Finance Auditors

Spring Pre-Primary Reports

Materials for the Spring Pre-Primary filing were sent to all candidates participating in the Spring Primary and to all non-candidate committees. This report covered campaign finance activity from January 1 through February 4, 2013 and was due on or before February 11, 2013. All candidates required to file this report have filed.

January Continuing 2013 Reports

Materials for the January Continuing 2013 filing were sent to all registrants. As of March 11, 2013, 1523 reports have been filed. Of the 1523 reports, 974 reports were filed by registrants and 548 were uploaded or data entered by the G.A.B. staff. 56 reports are still outstanding. All outstanding filers have been contacted by G.A.B. staff on multiple occasions. Staff will continue to follow up with non-filers and will do so until all required reports have been filed. Registrants (excluding candidate committees) exceeding \$2500 in activity in calendar year 2012 are required to pay a \$100 filing fee along with their report. 447 registrants were required to pay a \$100 filing. \$44,100 has been collected in filing fees. 8 registrants that owe the \$100 filing fee are still outstanding and staff will continue to follow up with these registrants until the required fees are paid.

Fall Pre-Election, Fall-Primary and July Continuing 2012 Reports

A number of registrants have failed to file Fall Pre-Election, Fall Pre-Primary and/or July Continuing 2012 reports. Staff has provided sufficient notice of their failure to file these reports via email, phone and mailed communications. Staff will continue to follow up with non-filers and pursue forfeitures for non-filing where appropriate.

Upcoming Campaign Finance Reports

Materials for the Spring Pre-Election filing were sent to candidates participating in the Spring elections and to all non-candidate committees. Spring Pre-Election reports are due on or before March 25, 2013 and cover activity from February 5, 2013 or the last time a report was filed through March 18, 2013. The next report due for all registrants is the July Continuing 2013 report and is due July 22, 2013.

Audits

Staff conducts various audits on campaign finance data received through the many reports filed with our office. An audit is one tool used to ensure compliance with campaign finance laws enforced by the G.A.B. Over the course of the next year, staff intends to conduct the following audits: \$10,000 annual individual limit, campaign period limit for individual office holders, employer and occupation information, termination and corporate contributions. This is not an exhaustive list as other audits are triggered by complaints or from issues discovered by staff review of reports on their face.

Campaign Finance Training

Staff regularly conducts one-on-one campaign finance training with candidates and treasurers on an appointment basis. Staff also conducts training session for groups upon request. In February, Richard Bohringer conducted a training session in Stevens Point for Democratic Party county chairs and treasurers on the basics of campaign finance law and reporting requirements. Richard Bohringer and Adam Harvell conducted a training session in Madison for WEAC members on the basics of campaign finance law and reporting requirements. Staff continues to schedule group training sessions on an “as requested” basis.

Lobbying Update

Molly Sessler and Nate Judnic
Campaign Finance Auditors

Eye on Lobbying Website Project Update

The new Eye on Lobbying website went live on Monday, November 26, 2012. Since then, a significant amount of time has been spent processing 6-Month Statement of Lobbying Activities and Expenditures reports for the July-December 2012 period, assisting principals and lobbyists in registering for the 2013-2014 session and working with the Department of Enterprise Technology to fix discovered bugs and convert the remaining lobbying data from the 2011-2012 session into the new system.

- **Eye on Lobbying Training**
Nathan Judnic and Molly Sessler conducted application training sessions on the new system in the GAB office on November 29, December 6, December 11, 2012 and January 8, 2013. Staff also conducted a training session at the Association of Wisconsin Lobbyists Technology Seminar at the Madison Club on December 4, 2012 and in Milwaukee at the Hunger Task Force on December 19, 2012.
- **Eye on Lobbying Demonstration**
Jonathan Becker, Nathan Judnic and Molly Sessler presented a demonstration of the Eye on Lobbying website to legislators and legislative staff on February 15, 2013 at the State Capitol.
- **Lobbying Law Training**
Jonathan Becker, Nathan Judnic and Molly Sessler conducted training sessions for lobbyists and representatives of lobbying principals on the lobbying law. The sessions also included a demonstration of the reporting tools contained in the new Eye on Lobbying website. The sessions were conducted in the GAB office on January 10, January 15, January 17, January 28, February 8 and February 13, 2013. The sessions were well attended with a total of 68 individuals attending the class across the 6 sessions.

- Lobbying Community Discussion

Jonathan Becker, Nathan Judnic, Molly Sessler and Reid Magney attended the Association of Wisconsin Lobbyists annual meeting on February 27, 2013 at The Madison Club. A list of enhancements planned for future versions of the Eye on Lobbying website was provided to the lobbyists in attendance. Jonathan Becker provided an overview of the enhancements planned and staff received feedback from the lobbyists in attendance on changes to the new website.

Staff continues to assist the public, lobbying principals and lobbyists as we transition from the old site to the new site.

Lobbying Registration and Reporting Information

G.A.B. staff began registration with the new Eye on Lobbying website for the 2013-2014 legislative session on November 26, 2012. Staff continues to process 2013-2014 lobbying registrations, licenses and authorizations and will continue to do so throughout the session. Processing performance and revenue statistics related to the 2013-2014 session so far is provided in the table below.

2013-2014 Legislative Session: Lobbying Registration by the Numbers (Data Current as of March 7, 2013)			
	Number	Cost	Revenue Generated
Organizations Registered – Full Lobbying	570	\$375	\$213,750
Organization Registered – Limited Lobbying	7	\$20	\$140
Lobbyists Licenses Issued (Single)	420	\$350	\$147,000
Lobbyists Licenses Issued (Multiple)	105	\$650	\$68,250
Lobbyists Authorizations Issued	1068	\$125	\$133,500

Financial Disclosure Update

Cindy Kreckow, Ethics and Financial Disclosure Specialist

Statements of Economic Interests –Candidates for Spring Election and Assembly Candidates for Special Election

Government Accountability Board staff has processed Statements of Economic Interests for candidates running in the spring election to include the office of Superintendent of Public Instruction, Supreme Court Justice, Court of Appeals, Circuit Court and various Municipal Judges. Also processed are the statements for the special election candidates for the vacant 98th District Assembly seat.

Statements of Economic Interests – Annual Filing

In addition to the statements mailed to spring and special election candidates, Government Accountability Board staff sent an additional 2,000+ pre-printed Statements of Economic Interests to state public officials required to file a statement with the Board under Chapter 19, *Wisconsin Statutes*. Statements were mailed in January and February and are due on or before April 30, 2013. Staff will continue to process incoming statements as they are received, and as the filing deadline draws near will follow up with those officials who have yet to file to ensure they are aware of the statutory deadline.

Staff also processed the quarterly reports for the fifty members and employees of the State of Wisconsin Investment Board who are required to file them, as well as the semi-annual Legislative Liaison reports for 101 state agencies. Both of these reports were due January 31st.

Ethics Update

Jonathan Becker, Division Administrator

Ethics Training

In cooperation with the Governor's staff, Jonathan Becker has scheduled 6 ethics training sessions for officials in the Governor's office and other state agency officials. The training sessions cover a variety of topics under the Ethics Code for Public Officials and lobbying laws.

Jonathan Becker presented a segment of a Wisconsin State Bar Association continuing education class on Ethics, Campaign Finance and Local Elections, focusing in part on ethical restrictions on local elected officials and the duties of local government attorneys in advising officials.

State of Wisconsin\Government Accountability Board

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JUDGE TIMOTHY L. VOCKE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20-21, 2013 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:
Michael Haas
Elections Division Administrator

SUBJECT: Elections Division Update

Since its last Update (December 18, 2012) the Elections Division staff has focused on the following tasks:

1. Administration of Spring Primary and Spring Election/Special Partisan Primary and Election

As detailed in the Ballot Access Memo from the January 14, 2013 meeting, nonpartisan offices up for election in the spring of 2013 are: State Superintendent of Public Instruction; Justice of the Supreme Court; Court of Appeals Judge in Districts 2, 3 and 4; 29 Circuit Court Judge positions in 21 counties; and county, municipal and school district offices throughout the state. There is also a special partisan primary and election for the office of Representative to the Assembly, District 98.

A. Conducting February 19, 2013 Spring Primary and Special Partisan Primary

The Spring Primary was conducted on Tuesday, February 19, 2013. State nonpartisan offices requiring a primary were: Justice of the Supreme Court and Circuit Court Judge in Dodge, (Branch 3), Manitowoc (Branch 1) and Milwaukee (Branch 45) Counties. Various county, municipal and school districts offices also required primaries. The office of Representative to the Assembly, District 98, also required a five-candidate Republican Party special primary.

As required, election administration and SVRS staff assisted county and municipal clerks in preparing for and conducting the primary by providing extended hours of staff availability. Staff was available on Thursday, February 14, Friday, February 15, Monday, February 18, and Tuesday, February 19 beginning at 6:30 a.m. Staff was also available on Thursday and Friday until 6:00 p.m., on Monday until 8:00 p.m., and on Tuesday, until 10:00 p.m.

B. Election-Day Issues

The Spring Primary was conducted with minimal reports of polling place problems. However, staff fielded the usual calls and emails with respect to acceptable proof of residence, counting votes and procedures used by election inspectors. The following are a few notable reported incidents:

- Election inspectors arrived at a polling place located in a church and found the doors locked. (The electronic locking device was reportedly set to automatically unlock before the inspectors arrived.) The inspectors had been told that, as a contingency plan, if the door was locked, they could gain entry by using a key hidden under a rock. The inspectors found the rock but it was frozen to the ground and could not be moved. The inspectors finally gained entry at 7:15 a.m. and the polls opened at approximately 7:30 a.m. Inspectors reported that 10-15 voters left without voting. G.A.B. staff advised the municipal clerk to alert residents, via the press and social media, that the polls were now open and would remain so until 8:00 p.m.
- The Village of Neosho had a power outage resulting in no electricity or heat at the polling place. The inspectors were considering relocation of the polling place when power was restored.
- The Village of Spring Green Clerk reported that one of the election inspectors allegedly cast two ballots on Election Day. Apparently, the inspector had gone through the procedure of signing the poll list, obtaining a voter number and a ballot, voting her ballot and placing the ballot in the optical scan tabulator. Sometime later, the other inspectors observed her exiting a voting booth and placing another ballot into the tabulator. When questioned by the other inspectors, the alleged double voter denied having voted twice. However, at the end of the night the tabulator registered one more ballot than voters. The clerk advised that the accused has a medical condition that can cause memory lapses or confusion. The other inspectors reported that the accused individual seemed confused throughout the day. The incident is being referred to the Sauk County District Attorney.

C. Canvass of the Spring Primary

2011 Wisconsin Act 227 requires the Municipal Board of Canvassers (MBOC) to convene after the election to process late-arriving absentee ballots and provisional ballots. If any absentee ballots are outstanding after 8 p.m. on election night, the MBOC is required to convene no later than the Monday after the election to process any absentee ballots that are postmarked no later than Election Day and are received by the last mail delivery on the Friday after the election. Even if none of the outstanding absentee ballots are received timely, the MBOC member must convene to officially declare that none were received, and that the election night results stand.

Due to the expense to municipalities of paying the MBOC members for their time, municipal clerks have begun to make a concerted effort to avoid outstanding absentee ballots. Clerks are following up with absentee voters to encourage them to return their ballots, even if the ballot is un-voted. Several municipal clerks have also requested G.A.B. approval of inserts to be included with absentee ballots encouraging voters to return their absentee ballots by Election Day.

A similar question arose when a number of clerks inquired whether the MBOC needed to convene after the election if the only outstanding absentee ballots were never going to be returned because the voter claimed to have thrown the ballot away. Unfortunately, the clerk has no authority to determine that ballots will not be returned and that no change will be made to the election night results. Only the MBOC may make these determinations.

The deadline for county clerks to submit canvasses electronically to the Elections Division was February 28, 2013. Canvasses began arriving on February 25th, and the last three canvasses arrived on February 28th. The canvass statement was signed by Judge Vocke on March 6, 2013.

Certifications of candidates for the April 2, 2013 Spring Election were transmitted to county clerks as soon as the canvass statements were signed.

D. Recounts

No recount petitions were filed for any office that required a primary. The Republican Primary in Assembly District 98 had the closest outcome, with a 29-vote difference between the top two candidates. The vote difference was not within the .5% of the total votes cast that would entitle the petitioner to a recount at no cost. The losing candidate did not file a recount petition by the deadline of March 5, 2013.

E. Preparing for April 2, 2013 Spring Election

G.A.B. staff drew candidate names for ballot order prior to certification in order to enable county clerks to set up their ballots and be ready to print as soon as the primary results were certified. County clerks have submitted ballot proofs for the Spring Election for approval by G.A.B. staff. A document listing candidates certified for the April 2nd Spring Election accompanies this memorandum as Attachment 1.

F. Provision of Targeted Assistance to Municipalities

G.A.B. staff continued to serve as a resource to the City of Milwaukee Election Commission staff as the Commission developed 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. The agency continued to work with the U.S. Department of Justice concerning the rigidity of the surname analysis tool that was developed to assist the Milwaukee Election Commission in determining their need for bilingual election inspectors. U.S. Department of Justice was provided an updated version of the report and committed to provide feedback to the G.A.B. concerning the accuracy and comprehensiveness of the surname analysis tool.

2. The GAB-190 Form: Voting and Registration Statistics and Elections Costs Report

All 1,851 municipalities and 72 counties have completed the GAB-190 in the Wisconsin Election Data Collection System (WEDCS) for the 2012 Presidential and General Election. Due to high voter turnout and other ongoing responsibilities, many municipalities and counties were not able to complete the GAB-190 through WEDCS by the 30-day statutory deadline. This issue is discussed further in a report regarding the Clerks Workload Concerns Task Force which is included in the Board materials for this meeting.

Statistics from WEDCS and SVRS were utilized to complete several required federal reports recently on behalf of all municipalities and counties. The first major report was the U.S. Election Assistance Commission's Election Administration and Voting Survey. Using the Board's available datasets, staff compiled information and provided answers to over 400 questions for each of the 3,451 reporting units from the 2012 Presidential and General Election. Staff also completed a General Election Survey with 155 questions for the Federal Voting Assistance Program (FVAP) for all 1,851 municipalities. The final major report completed using data from SVRS and WEDCS was the FVAP grant report, addressed later in this report.

A statewide summary of the 2012 General Election statistics collected through WEDCS is provided in the following tables:

Total Ballots, Electors, and Regular Absentees

Total Ballots	3,085,015	3,068,434 votes for President in Canvass	
Total Electors	3,080,628		
Absentee Issued	736,466	23.87%	of ballots cast
Absentee Issued In Person	514,115	69.81%	of absentee ballots issued
Absentee Not Returned	15,431	2.10%	
Absentee Undeliverable	3,093	0.42%	
Absentee Returned By Election Day	680,238	92.37%	
Absentee Returned By Friday	6,958	0.94%	
Absentee Counted	658,302	89.39%	
Absentee Rejected	3,618	0.49%	
Absentee Late	498	0.07%	

UOCAVA Absentees

Military Issued	6,154	0.20%	of ballots cast
Military Not Returned	1,889	30.70%	of military absentee ballots issued
Military Undeliverable	304	4.94%	
Military Returned By Election Day	3,349	54.42%	
Military Returned By Friday	440	7.15%	
Military Counted	3,595	58.42%	
Military Rejected	99	1.61%	
Military Late	119	1.93%	
Overseas Issued	3,299	0.11%	
Overseas Not Returned	625	18.95%	of overseas absentee ballots issued
Overseas Undeliverable	15	0.45%	
Overseas Returned By Election Day	2,273	68.90%	
Overseas Returned By Friday	229	6.94%	
Overseas Counted	2,299	69.69%	
Overseas Rejected	74	2.24%	
Overseas Late	108	3.27%	
FWAB Received	476	0.02%	of ballots cast
FWAB Counted	401	84.24%	of FWAB received
FWAB Rejected	68	14.29%	
FWAB Late	10	2.10%	

Registrations and Provisional Ballots

Registrants	3,568,692		
Late Registrants	67,912	2.20%	of electors
EDRs	337,033	10.94%	
Provisional Cast	135	0.00%	of ballots cast
Provisional No DL#	69	51.11%	of provisional ballots cast
Provisional No POR	66	48.89%	
Provisional Counted	44	32.59%	
Provisional Rejected	77	57.04%	

How Ballots Are Cast

Paper Ballots	197,305	6.40%	of ballots cast
Optical Scan	2,554,320	82.80%	
DRE	322,604	10.46%	
Auto MARK	5,477	0.18%	

Election Inspectors

Total Election Inspectors	34,925	1.13%	of electors
16-17	543	1.55%	of election inspectors
18-25	567	1.62%	
26-40	1,611	4.61%	
41-60	8,125	23.26%	
61-70	13,453	38.52%	
71+	10,465	29.96%	

During 2012, G.A.B. staff also gathered 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, the June 5th Recall Election, the August 14th Partisan Primary, and the November 6th Presidential and General Election. For each statewide election, the table below provides a summary of the reported costs of these elections by each of 11 cost categories. These figures reflect costs to municipalities and counties to administer elections, and do not reflect costs incurred by the G.A.B. Please note that clerks have advised that cost data should not be considered as precise figures, as municipalities may calculate costs differently.

Election	2012 Pres. Pref. and Spring Election	2012 May 8 Recall Primary Election	2012 June 5 Recall Election	2012 Partisan Primary	2012 Presidential and General Election	Total
Training	\$655,381.63	\$161,250.35	\$250,225.28	\$201,024.06	\$491,952.60	\$1,759,833.92
Ballots	\$956,166.27	\$724,960.33	\$983,857.58	\$739,795.16	\$1,428,626.56	\$4,833,405.89
Memory Devices	\$90,508.12	\$117,798.05	\$55,924.82	\$46,509.70	\$73,865.98	\$384,606.67
Programming Equipment	\$773,679.55	\$616,890.90	\$600,951.93	\$764,558.75	\$663,520.46	\$3,419,601.59
Ballot Bags	\$16,219.14	\$11,618.49	\$10,791.22	\$38,853.65	\$15,282.39	\$92,764.89
Pollworker Wages	\$2,296,011.84	\$2,292,419.91	\$2,568,884.85	\$2,032,702.64	\$3,276,180.33	\$12,466,199.57
LEO Staff	\$1,920,863.97	\$1,768,462.01	\$1,978,093.77	\$1,392,593.62	\$3,081,563.00	\$10,141,576.37
Polling Place Rental	\$31,753.17	\$29,188.45	\$27,297.45	\$29,351.00	\$30,668.18	\$148,258.25
Notices	\$320,576.25	\$242,821.27	\$252,030.07	\$238,676.45	\$274,304.59	\$1,328,408.63
Polling Place Documents	\$148,522.09	\$101,366.65	\$97,442.97	\$92,853.50	\$152,807.45	\$592,992.66
Miscellaneous	\$468,965.46	\$244,804.24	\$404,898.01	\$312,213.79	\$554,004.66	\$1,984,886.15
Total Cost	\$7,678,647.48	\$6,311,580.64	\$7,230,397.94	\$5,889,132.32	\$10,042,776.20	\$37,152,534.57

3. Final Report on the Impacts and Costs of Eliminating Election Day Registration in Wisconsin

On February 15, 2013, the G.A.B. provided its final report regarding the potential elimination of Election Day Registration to the Legislative Fiscal Bureau. The final report was posted to the G.A.B. website on February 18th and was previously transmitted to the Board. A separate memo regarding the completion of the report and its findings are included in the Board's meeting materials.

4. Clerks' Election Administration Workload Concerns Task Force

The Clerks' Workload Concerns Task Force met on January 29, 2013 to discuss three items that had been identified as priority issues. Materials related to the Task Force's discussions and recommendations are included in the Board's meeting materials.

5. Voting Equipment Testing and Demonstration

On February 12 – 14, 2013, G.A.B. staff tested voting equipment for compliance with functionality standards established by Wisconsin Statutes and hosted demonstrations for the public and the Wisconsin Election Administration Council. A detailed analysis of the process is included with the Board's meeting materials.

6. Federal Voting Assistance Program (FVAP) Grant and the MyVote Wisconsin Website

G.A.B. staff submitted a final report to the Department of Defense Federal Voting Assistance Program (FVAP) regarding the G.A.B.'s creation of the MyVote Wisconsin website on March 1, 2013. Overall, G.A.B. found a reduction in transit time with the implementation of the new online system versus the traditional delivery method. In many cases the transit time was cut in half. Military voters, on average, experienced a larger reduction in ballot transit time, compared to overseas voters. The overall reduction in ballot transit time for individuals classified as UOCAVA (Uniformed and Overseas Civilians Absentee Voter Act) voters likely increased the number of UOCAVA ballots counted because the voters were able to return their ballot on time. The following table compares ballot transit time for ballots submitted via the MyVote Wisconsin website compared to traditional ballot transmittal (mail, fax, email).

	MyVote Transit Time	Number of MyVote Ballots	Traditional Transit Time	Number of Traditional Ballots
All UOCAVA Voters	12 days	1,863	25 days	3,496
Military Voters	11 days	1,388	24 days	1,652
Overseas Voters	15 days	475	25days	1,844

UOCAVA voters in Wisconsin have experienced slightly higher absentee ballot rejection rates than non-UOCAVA voters. UOCAVA rejection rates also follow similar trends compared to non-UOCAVA rejection rates. In both cases, rejection rates increased from the 2008 Presidential Election to the 2010 General Election, and then decreased during the 2012 Presidential Election. One possible explanation for the consistently higher rejection rates for UOCAVA ballots is that UOCAVA voters are more likely to be issued multiple ballots. For example, if a military voter submits a Federal Write-In Absentee Ballot (FWAB), but then was also able to get an official ballot and return it, the FWAB would be rejected. This has the potential to artificially inflate rejection rates. The table below provides a comparative analysis of absentee ballot rejection rates for UOCAVA and non-UOCAVA ballots.

Election	UOCAVA Absentees Rejected	Percentage of UOCAVA Absentees	Non-UOCAVA Absentees Rejected	Percentage of Non-UOCAVA Absentees	Total Absentee Ballots Rejected
2012 General Election	241	2.44 %	3,618	0.49 %	3,859
2010 General Election	204	4.66 %	2,890	1.47 %	3,094
2008 General Election	213	2.72%	2,588	0.38 %	2,801

The availability of absentee ballots online for military and overseas voters assisted clerks in providing absentee ballots electronically and quickly. The option for military and permanent overseas voters to access their absentee ballots immediately has also assisted in the Board's work with the U.S. Department of Justice to comply with the Military and Overseas Voter Empowerment (MOVE) Act. G.A.B. staff is continually working to promote the advantages of the MyVote Wisconsin website, for both voters and for clerks.

7. **The AccessElections! Accessibility Compliance Program**

A. Meeting with Wisconsin Disability Vote Coalition

On February 4, 2013, G.A.B. staff met with members of the Wisconsin Disability Vote Coalition. Representatives of Disability Rights Wisconsin and the Wisconsin Board for People with Developmental Disabilities participated in the meeting and briefed the G.A.B. on their advocacy efforts leading up to the November 6th Presidential and General Election. G.A.B. staff conducted a demonstration of the tablet computers used to conduct the electronic polling place accessibility survey and provided attendees with information on the status of the AccessElections! Program. Coalition members shared the results of an accessible voting machine study that was conducted in October and November of 2012. The study was designed to provide insight from members of the disability community about their experiences using accessible voting machines in Wisconsin. A summary of the results of that survey is attached to this memorandum as Attachment 2.

B. The February 19, 2013 Spring Primary

For the 2013 Spring Primary, 139 Accessibility Audits were completed. This number is in addition to the 925 audits that were conducted during seven different elections in 2012. Twelve temporary workers were hired and trained to conduct onsite accessibility compliance audits in 36 municipalities in Portage, Wood, Rock and Dane counties. The inclement weather for the Spring Primary created some accessibility-related problems that differ from the most common problems identified by prior audits. For example, the third most common audit finding for the Spring Primary was that accessible pathways were not kept clear of hazards, such as ice and snow, on Election Day. This finding is not currently one of the fifty (50) most commonly cited issues identified by polling place auditors, and exemplifies how accessibility concerns can shift from election to election depending on weather and other factors. As a reference, both the top ten most common audit findings from the Spring Primary and the overall most common issues identified by accessibility audits are provided below.

Top Ten Accessibility Compliance Issues from the Spring Primary

- Required election notices are not always posted and those posted are not printed in 18-point font.
- The accessible pathway was not maintained and kept clear of hazards throughout Election Day.
- Lack of accessible parking spaces and/or insufficient signage for accessible parking spaces.
- Insufficient signage for accessible entrances.
- Doors that require more than 8 lbs. of force to open.
- Gaps and uneven pavement in the pathway from the parking area to the accessible entrance.
- Lack of privacy for voters casting a paper ballot.
- Voting booths or tables on which accessible voting equipment was stationed did not meet ADA standards.
- Accessible voting equipment that was not functional or was not clearly available for voters to use.
- The off-street accessible parking spaces were not located nearest to the accessible entrance.

Overall Top Ten Accessibility Compliance Issues

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

C. Analysis of Accessibility Audit Results

Board staff has analyzed audit results from the June and August 2012 elections and reported audit findings to the municipalities' clerks and executive officers. To date, staff has received and is processing plans of actions for polling places audited during the May 8, 2012 Recall Primary and June 5, 2012 Recall Election. Staff is currently analyzing audit results and preparing to report findings from audits performed during the November Presidential and General Election and December 4, 2012 Special Election. Staff will continue to process plans of action received from municipalities audited during these elections.

D. Ongoing Accessibility Compliance Efforts

Staff continues 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 arranged for the distribution of grant-funded accessibility supplies to 114 municipalities in response to documented needs. Staff is monitoring the use and effectiveness of previous accessibility grant funding by municipalities. Staff is also working with the agency IT Development Team to automate multiple aspects of the AccessElections! Compliance Audit administrative process.

8. Education/Training/Outreach/Technical Assistance

Following this memorandum as Attachment 3 is a summary of information on core and special election administration training conducted by G.A.B. staff. In response to questions and concerns raised at the Board's meeting in December regarding voting administered by special voting deputies in nursing homes, retirement homes and adult-care facilities, staff has also drafted revisions of the Special Voting Deputy Manual. The proposed revised manual is included with the Board's meeting materials.

9. Four-Year Voter Record Maintenance

The G.A.B. will be performing the Post-2012 General Election Voter Record Maintenance and will be sending the Notice of Suspension of Registration postcards on behalf of municipal clerks. The process will be substantially the same process that was used in 2010 with some improvements based upon the experiences from the 2008 and 2010 audits. A more detailed discussion of the Four-Year Voter Record Maintenance is provided with the recommendations from the Clerks Concerns Task Force in the Board's meeting materials. The estimated number of postcards to be sent statewide is 310,077 as of February 7, 2013. A request for bids for printing and mailing the postcards was posted on February 15, 2013. The printing and mailing contract was awarded based on bids submitted by March 8, 2013.

10. Voter Data Interface

Clerks continue to use the Statewide Voter Registration System (SVRS) to run HAVA Checks to validate voter information 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.

11. SVRS Core Activities

A. Software Upgrades

Several updates have been made to SVRS applications:

- On January 6, 2013, an update was made to SVRS to improve absentee ballot tracking and absentee ballot label features. The absentee labels in SVRS now auto-shrink municipal names over 33 characters which previously were not appearing in full on the absentee ballot envelope labels. The Notice to Permanent Absentees Mailing was updated to reflect the 28- day residency requirement rather than 10 days. A new field was added to the SVRS user interface to allow clerks to select ballot instructions for contests. For example, the clerks can now select for an instruction, "Vote For One" or "Vote For Not More Than ...". This was necessary for online ballots issued through the MyVote Wisconsin website. Additional updates were made to improve system performance and resolve issues with unit numbers and apartment numbers in the address field in SVRS.
- On March 2, 2013, a new version of the SVRS code was installed. The code update addressed many outstanding issues with SVRS usability, including improved data entry fields, higher quality address mapping features, and updated poll lists with fewer blank pages at the end of sections. The March 2, 2013 update also included a change to the Canvass Reporting System that will allow the Village of Menomonee Falls to upload a file produced by its voting compilation software directly into the Canvass Reporting System (CRS). Currently the Village of Menomonee Falls and the City of Milwaukee are the only two municipalities that upload election results into CRS.
- An update to the My Vote Wisconsin website was installed in conjunction with the SVRS update on March 2, 2013. Explanations were added to the ballot status codes on the absentee ballot tracking page to better explain to voters the tracking codes labeled as Issued, Returned or Cancelled. Several fixes were made to improve site navigation and ease of use. Other fixes improved data quality in SVRS, based on information voters entered on the My Vote Wisconsin website.

B. System Outages

There were no unscheduled outages of G.A.B. systems during this reporting period.

12. Voter Registration Statistics

The following statistics summarize the statewide voter registration activity since the previous Elections Division Update (December 18, 2012) as of February 27, 2013:

- 3,691,061 active voter registrations.
- 940,677 inactive voter registrations.
- 351,503 cancelled voter registrations.
- 982,249 HAVA checks.
- 7,680 merged voter registrations

13. Data Requests

Staff regularly receives 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 first deployed.

The following statistics demonstrate the activity in this area since the 2012 Presidential and General Election through February 26, 2012:

- 123 SVRS data requests were received.
- 81 electronic voter lists were purchased.
- \$43,941.00 was collected for SVRS voter data requests which were fulfilled.

14. 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 Spring Primary canvass and the GAB-190 Form data reporting, and with 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 is monitoring state enterprise network changes and status, 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 related to assistance with setting-up the February 19 Spring Primary and closing out the November 6 General Election in SVRS; logging into the CRM system; printing ineligible voter lists; tracking absentee and provisional ballots; printing poll books; absentee processing; producing SVRS reports; and related election processes. Customer Service staff assisted in contacting clerks to correct verification postcard addresses.

Public and elector inquiries came primarily from the Wisconsin electorate which had questions about absentee voting, registration requirements, registration locations, EDR requirements, acceptable proof of residence documents, and other election-related inquiries.

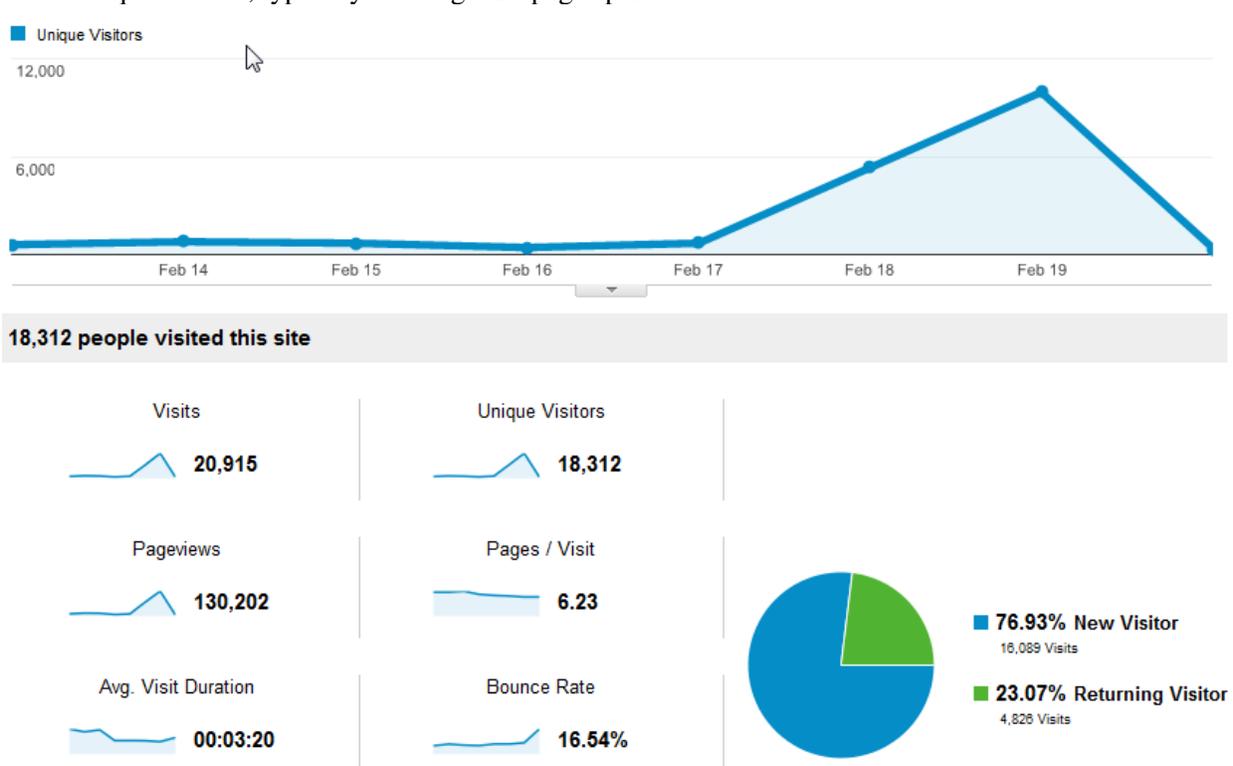
Staff assisted a number of electors with navigating the MyVote Wisconsin website. Call volume has been unusually quiet after the Spring Primary.

Calls for this period also consisted of campaign finance reporting issues, lobbyist reporting and the Statements of Economic Interests filing. The Ethics Division’s CFIS and Lobbying systems also generated a measurable amount of call traffic prior to the filing deadlines.

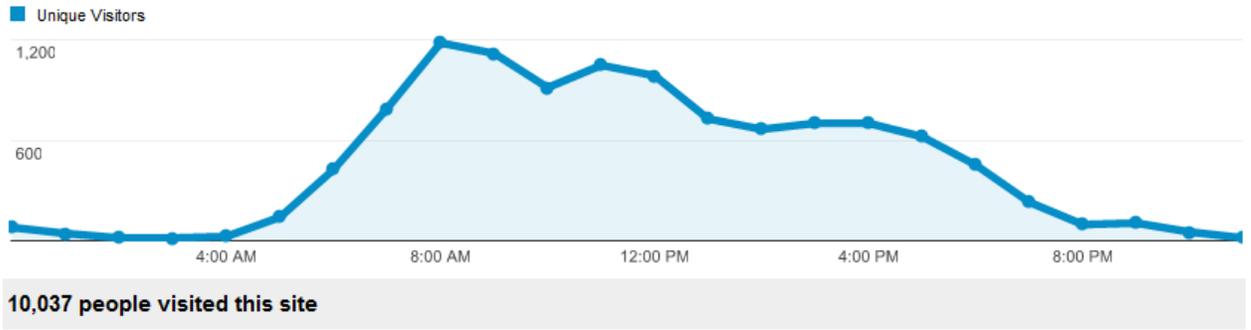
G.A.B. Customer Service Center Call Volume
 (608-261-2028)

December 2012	1,176
January 2013	2,310
February 2013	1,441
Total Calls for Reporting Period	4,927

The graph below illustrates unique voter visits accessing the G.A.B.’s MyVote.wi.gov website for the week prior to and including the February 19th Spring Primary. Primary Day generated 10,037 unique visitors, typically viewing 6.23 pages per visit.



The graph on the following page illustrates traffic by the hour only on Primary Day, February 19, 2013.



Melissa Mulliken
3306 Gregory Street
Madison, Wisconsin 53711
608/231-3859 608/206-1818 (cell)
melissa@mmulliken.com

TO: Interested Parties

FROM: Melissa Mulliken
Melissa Mulliken Consulting

RE: WDVC/ADA Partnership Accessible Voting Machine Study Results

DATE: January 2013

Project Overview

In October and November 2012, The Wisconsin Disability Vote Coalition (WDVC) in collaboration with the ADA Partnership (Partnership) conducted a research project designed to gather quantitative and qualitative information from Wisconsin's Disability community in order to better understand that community's knowledge about, experience with, and use of, accessible voting machines.

Accessible voting machines are required in all Wisconsin polling places. A 2007 study on Compliance with Election Laws by the Legislative Audit Bureau (LAB) noted: "Federal and state law require voting systems and polling places to be accessible to individuals with disabilities in a manner that provides the same opportunity for participation accorded to other voters. Polling places must have at least one voting machine equipped for individuals with disabilities. Using federal HAVA funds, the Elections Board spent \$14.7 million through fiscal year (FY) 2006-07 to reimburse municipalities up to \$6,000 per polling place to purchase the machines."¹

The 2011 WDVC/Partnership research project (the Project) was designed to gather both quantitative (an online survey and an automated telephone poll) and qualitative (in depth interviews) information in order to analyze:

- How extensively those machines are being used by members of Wisconsin's disability community;
- The Disability community's experience with those machines; and
- How well the machines are functioning in increasing accessibility to voting for that community.

Project Methodology

The Wisconsin Disability Vote Coalition (WDVC) has compiled and maintains a data base of Wisconsin's disability community. That list contains about 25,000 records and approximately 14,000 records include telephone numbers. The list includes consumers, guardians, family

¹ An Evaluation of Compliance with Election Laws by the Wisconsin Legislative Audit Bureau, <http://legis.wisconsin.gov/lab/Reports/07-16full.pdf>

members and providers. That list is a powerful tool and provides a unique basis for research projects that broaden our understanding of voting issues including accessibility and access.

The Project consisted of three components:

1. An automated phone survey was made to 14,000 phone numbers, statewide. The survey contained eight questions (Appendix A). The response rate was about 9% (1237 responses).
2. An on-line survey consisting of 11 questions was created. Participation was solicited using on-line vehicles such as list-servs, Facebook pages and websites; and outreach to provider organizations and advocacy groups. 50 respondents completed the online questionnaire (Appendix B).
3. In-depth telephone interviews were conducted by Melissa Mulliken Consulting with five (5) individuals in three categories (Appendix C and D).
 - a. Those who had used the machines and for whom the machines worked well;
 - b. Those who had used the machines and for whom the machines did not work well; and
 - c. Those who were unaware of the machines.

There is no margin of error on these surveys. The results cannot be extrapolated to the entire Wisconsin disability community but are reliable for the universe we surveyed.

Project Findings

Automated phone survey

- Almost three fourths of respondents were aware that there are accessible voting machines: 72% of all respondents answered yes when asked if they are aware there are accessible voting machines at every polling place.
- People with disabilities are less likely to say they are aware of the machines (66% compared to 72% of all respondents) and more likely to have used the machines: 47% of people with disabilities tell us they are used the machine to vote compared to 38% of all respondents.
- People with disabilities are 1.5 times more likely to say the machine didn't work well than other respondents.

Online survey

- Respondents to the online survey were more likely to be people with disabilities than respondents to the phone survey: 44% of online respondents identified themselves as a person with a disability compared with 15% of respondents to the phone survey.
- Again, a large percentage of respondents were aware accessible voting machines are at polling places: about 67% of all online respondents said they were aware there were accessible voting machines and 62% had used the machines.
- 74% of online respondents said the machines worked well while 26% said the machines did not.

- 67% of online respondents had used the machines more than once.

In depth interviews

Respondents included a mix of people with disabilities, providers, family members and advocates. Through a series of questions and follow ups, respondents were encouraged to share more about their experiences with the accessible voting machines. Respondents included individuals who found the machines had worked well; individuals for whom the machines had not worked well; and individuals who were unaware of the machines (people with disabilities only).

- It is clear that for many people in the disabilities community, going to the polling place to vote is challenging on a number of fronts: in addition to transportation, interviewees cited the difficulty of waiting in line to vote and difficulty in reading or marking the ballot because of visual impairment.
- Many of the respondents have resolved difficulties in voting in person by choosing to vote absentee.
- Many respondents who used the machines, despite whether the machines worked well or not, mentioned getting help from poll workers.
- Both a service provider and a family member reported they resolved the issues for clients/family members clients by going through “trial runs” before going to the polling places. The service provider said “The entire experience is very overwhelming for a lot of people with disabilities, so even when we prepare ahead of time, they get nervous or make mistakes on the paper ballot. I think the accessible voting machine would be just as nerve wracking for them, and they don’t necessarily need it to vote.”
- Some interviewees had not used the accessible voting machines, but rather referenced the accessible voting booths at polling places as the accommodation they used to make voting at the polling place possible for them.
- Respondents who were not aware of the machines reported they had “never noticed” the machines or “did not recall” seeing anyone use them; or voted exclusively absentee. One respondent said, “I would use the machine if I knew it was there.”
- Issues with the machines respondents identified included:
 - the machine not being set up and “primed” for use;
 - poll workers unfamiliar with how the machines work;
 - difficulty seeing and/or “following” the screen.
- Suggestions from respondents about increasing awareness of the machines were straightforward and practical:
 - Signs in polling places so people know the machine is there
 - Station someone at the head of the line telling people the machine is available
 - Distribute sample ballots to those in line so they can familiarize themselves with the ballot before voting
 - Paid advertisements about the machines

ATTACHMENT #3

GAB Election Division's Training Initiatives
12/19//29/2012 – 3/19/2013

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	82
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.	2	30
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.	6 classes: 3 webinars conducted by G.A.B. staff; 3 training classes conducted by certified clerk-trainers; recordings posted to website for training.	50
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.	14 classes: 2 webinars conducted by G.A.B. staff; 12 training classes conducted by certified clerk-trainers; recordings posted to website for training.	350

ATTACHMENT #3

GAB Election Division's Training Initiatives
12/19//29/2012 – 3/19/2013

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.	January 9, 2013: Lessons Learned From the 2012 Elections; January 16, 2013: Completing Election Day Forms; January 30, 2013: Election Day Topics; March 13, 2013: Review of Special Procedures.	Average 275 per webinar; 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; relies are also able to access the site upon request.
Other	<ul style="list-style-type: none"> • March 5, 2013: Board staff gave an election administration and SVRS presentation to county clerks at WCCA winter Conference in Madison. • Board staff updated Absentee Voting in Nursing Homes manual to 				

ATTACHMENT #3

GAB Election Division's Training Initiatives
12/19//29/2012 – 3/19/2013

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
	<p>reflect requests for guidance from members of the public and county and municipal clerks.</p> <ul style="list-style-type: none"> • SVRS training staff updated chapters of the Application Training manual. • February 14, 2013: Zach Robinson and Sarah Whitt gave a presentation at the annual conference of the Wisconsin Land Information Association (WLIA). The session discussed how local maps from municipal and county land offices are being used in SVRS to determine what districts voters should be assigned. • January 11, 2013: Conducted webinar conference with new county clerks for staff introductions and February primary preparedness. 				

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the March 20-21, 2013 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 on financial services activity, procuring goods and services, contract sunshine administration, recruiting staff, communicating with agency customers, and developing legislative and media presentations.

Noteworthy Activities

1. Financial Services Activity

- Updated the G.A.B.'s internal controls plan, then processed the annual certification of internal controls and timely filed with DOA Secretary's Office & with State Controller's Office.
- Projected the anticipated increase in federal postcard printing and mailing costs, along with I.T. service cost increases for the remainder of FY2013, then created and submitted for approval an appropriation transaction in WiSMART.
- Financial staff prepared the fourth, quarterly SF 425 Report due March 31st for the FVAP federal aid grant. Claimed reimbursements online totaling \$ 150,640 for December, January, and February expenditures for the FVAP grant, prepared journal entries to record these revenue receipts, and coordinated the accounting for incoming wire transfers with DOA-Treasury staff. Approximately \$ 663,851 of the \$1,919,864 grant has been expended since its inception in March, 2012.
- Attended DOA training sessions on reconciling agency payroll & travel balance sheet accounts.
- Began logging employee time worked on the next round of voting equipment testing, for purposes of billing costs incurred by G.A.B. staff to ES&S, the voting equipment and software vendor, per our cost recovery agreement.

- Worked with Accessibility program staff to secure a federal lobbying certification from Disability Rights Wisconsin, prior to releasing federal funds to reimburse them for updating and printing their voter guide.
- Trained new hires on financial services teamwork and how to fill out their federal timesheets.
- Journal entries were prepared and booked to properly allocate monthly interest earnings and mixed server usage charges to their appropriate federal or state programs, while monthly DOA General Service Billing charges were audited prior to payments being processed.
- Responded to several Government Accounting Standards Board (GASB) surveys from SCO, including GASB 14 – The Financial Reporting Entity, GASB 39 – Determining Whether Certain Organizations Are Component Units, in addition to confirming our GAAP fund accounting codes for the FY2013 CAFR.
- All FY13 transactions have been entered into QuickBooks and reconciled back to the internal accounting Excel files, running parallel between the two sets of subsidiary ledgers. Testing of QuickBooks as our replacement ledger is almost complete. It was determined that the purchase order capabilities within QuickBooks are limited with respect to payments against those PO's, so our financial team will continue to utilize Purchase Plus for writing PO's and paying those encumbrances.

2. Procurements

The purchasing and procurement section has been busy providing the agency with supplies and services since the last Board meeting. We received a quote for a video conferencing system for the agency, and are looking into implementation logistics. We also hired a court reporter to produce a transcription associated with a G.A.B. investigation. There have also been many printing projects recently, including the four-year voter registration maintenance printing bid, which was posted to VendorNet. There was also printing associated with sending out the Statements of Economic Interests in the Ethics Division. The various subject matter reports that have recently been produced by G.A.B. staff have also been printed for distribution. We also hired 3 temporary employees to conduct Accessibility audits during the December special election in Waukesha County, and 12 temporary employees to conduct Accessibility audits during the February 19th election. Temporary employees were also hired to mark test ballots for the voting equipment audit that occurred in February. We also purchased some new supplies for the office, including upgrading some staff headsets and purchased a new date and time stamper for the agency.

3. Contract Sunshine

Contract Sunshine had another successful certification period from October to December of 2012. All agencies that are required to certify for this time period, plus one optional agency, responded on time.

In conjunction with the Public Information Officer, we provided a response to a request for information regarding Contract Sunshine by the Wisconsin Public Interest Research Group (WISPIRG). WISPIRG conducts an annual report of each state’s transparency website, and grades each website based on the information and features that are available to the public. Our response highlighted the information that is provided by the website to the public, but also noted the limitations of the website based on the statutes and funding available. We also urged our contact at WISPIRG to contact DOA regarding the upcoming release of OpenBook Wisconsin, which will provide further transparency about the state’s contracts and spending to the public.

4. 2013-15 Biennial Budget Fiscal Impacts

In February, the Governor delivered the 2013-2015 Executive Budget. The Governor’s budget recommendations include an extension of voter identification project positions, permanent general purpose revenue reductions and standard budget adjustments. The Governor did not approve the creation of 1-FTE IT Director position or the creation of 6-FTE positions for Elections Administration as requested in the agency’s budget submission. The Joint Committee on Finance has notified the agency that it will not hold a briefing on the agency budget. The Committee Co-Chairs offered to meet with agency staff if we chose.

Below is a table outlining the budget impacts.

Source of Funds	FY13 Adjusted Base	FY14 Recommended	% Change Over FY13	FY15 Recommended	% Change Over FY14
GPR	2,664,700	2,818,800	5.8	2,826,500	0.3
PR-F (FVAP Grant)	1,919,900	844,000	-56.0	508,300	-39.8
SEG-F (HAVA)	1,452,000	2,754,100	89.7	2,756,500	0.1
PR-O (Lobbying)	546,500	510,500	-6.6	511,100	0.1
SEG-O (HAVA)	100	100	0.0	100	0.0
TOTAL	6,583,200	6,927,500	5.2	6,602,500	-4.7

5. Staffing

We have made significant progress in our recruitment efforts since the last Board meeting to fill our position vacancies. We hired Tony Bridges and Michael Kukula on February 11, 2013, to fill two vacant Office Operations Associate positions. We also posted a vacant Ethics Specialist position for transfer and Colleen Adams from the Elections Division applied for and accepted the position.

We hired a GIS LTE Elections Specialist, Zach Robinson and are also recruiting for two Attorney LTEs to fill in while we pursue the recruitment process for the vacant attorney position.

6. Communications Report

Since the December 18, 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 media and public inquiries on a variety of subjects, especially issues related to the 2013 Spring Election, the Final Election Day Registration Report, and Four-Year Voter Record Maintenance. The PIO set up interviews with print and electronic journalists for Director Kennedy and also gave multiple interviews when he was not available.

Between December 1, 2012, and March 6, 2013, the PIO has responded to more than 600 requests from news media and the public for information and interviews – 204 telephone calls and 406 emails.

The PIO has been assisting Elections Division and Ethics & Accountability Division with several projects including serving on teams studying the impacts of eliminating Election Day Registration, and assisting with the launch of the new Eye on Lobbying website.

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 December 18, 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 on agency internal administration, management and IT issues as well as preparing for the 2013-14 legislative session.

On January 8, 2013, Ethics and Accountability Division Administrator Jonathan Becker and Director Kennedy met with new legislators to provide information on the application of the State Ethics Code along with information on the Government Accountability Board. This presentation was part of the New Member Institute for Legislators organized by the Legislative Council.

On January 9, 2013, Kevin Kennedy provided an in-depth interview with the Wheeler Report looking back on the 2012 elections and looking forward to the new legislative session. On January 10-11, 2013, Director Kennedy attended the annual meeting of the Joint Election Officials Legislative Committee in Washington, D.C. This meeting provides an opportunity to meet with congressional staff and federal agencies, including the U.S. Department of Justice, to discuss anticipated legislation and changes in the area of elections.

Brian Bell and Barry Crook attended the Overseas Vote and U.S. Vote Foundation annual Voting Summit on Thursday, January 24th, 2013 at George Washington University in Washington, D.C. Director Kennedy also attended the opening sessions of the Summit before going to the NASED meeting. The Summit provided an excellent opportunity to learn about experiences of military and overseas voters in the the 2012 elections.

Director Kennedy attended the winter meeting of the National Association of State Elections Directors (NASED) on January 24-26, 2013, in Washington, D.C. He provided a litigation update on elections issues for Election Directors. On February 4, 2013, Kevin Kennedy made a presentation at the State Capitol to a delegation of Ukrainian public officials on the administration of elections in Wisconsin.

The Pew Center for the States released its Elections Performance Index for 2008 and 2010 on February 5, 2013. Wisconsin's elections, which are administered in partnership between the Government Accountability Board and nearly 2,000 local election officials, ranked at the top in 2008 and in the top 7 in 2010 in the Pew Elections Performance Index. The Index is a set of 17 performance measures culled from data that is readily available from public reports and academic research. Most importantly, the statistical information is consistently gathered across states and over a period of several election cycles. This enables election officials, scholars, and the general public to compare a state's performance over time and in conjunction with other states. Kevin Kennedy and University of Wisconsin–Madison professor Barry Burden were part of a study group of election officials and academics who reviewed the proposed statistical measurements and vetted their relevance to evaluating election administration performance.

On February 12, 2013, Chief Justice Shirley Abrahamson selected the new members of the Government Accountability Candidate Committee. As required by law, the Chief Justice selected the Committee members by drawing the names of Court of Appeals Judges from each of the four appellate districts in the presence of all members of the State Supreme Court. Court of Appeals Judges Ralph Adam Fine (District 1), Paul F. Reilly (District 2), Michael W. Hoover (District 3), and Paul Lundsten (District 4) will serve two-year terms that began March 1, 2013.

A mailing was sent to a list of former judges provided by the Director of State Courts on behalf of the Committee seeking persons interested in serving on the Government Accountability Board. Application materials are due by the close of business on March 25, 2013. The Committee will meet to select at least two nominees to fill the vacancy created by the expiration of Judge Thomas Cane's term on May 1, 2013. The nominees are presented to the Governor whose selection is subject to confirmation by a two-thirds vote of the State Senate.

On February 14, 2013, the Wisconsin Election Administration Council (WI-EAC) met to review and conduct an evaluation of electronic voting equipment submitted to the G.A.B. for approval by Elections Systems and Software (ES&S). The WI-EAC consists of the directors of the City of Milwaukee and Milwaukee County boards of election commissioners, election officials of other counties and municipalities, representatives of organizations that advocate for the interests of individuals with disabilities and organizations that advocate for the interests of the voting public, along with other electors appointed by the Elections Division Administrator pursuant to Wis. Stat. §15.607.

The Assembly Committee on Elections met on February 26, 2013. Director Kennedy appeared on behalf of the G.A.B. to provide information and respond to questions on 2013 Assembly Bill 18 relating to the appointment and residency of election officials (poll workers) and 2013 Assembly Bill 24 relating to the method of recounting votes cast with automatic tabulating equipment. The Committee also reviewed two G.A.B. administrative rule chapters, *GAB 11 Training and Certification of Election Inspectors* and *GAB 12 Certification and Training of Municipal Clerks*, as part of the Legislature's Right the Rules initiative. The Committee, which does not take public comment as part of the review process, will send its conclusions to the G.A.B. for consideration. After reviewing the response of the G.A.B., the Committee will determine what recommendations to make to the Joint Committee for the Review of Administrative Rules (JCRAR).

On March 12, 2013, Director Kennedy appeared before the Assembly Committee on Elections in response to the report prepared by the Committee following its review of *GAB 11 Training and Certification of Election Inspectors* and *GAB 12 Certification and Training of Municipal Clerks*. At the Committee's request, Director Kennedy also provided detailed information on the G.A.B.'s preparation for and administration of the biennial four-year voter registration list maintenance process.

On February 24, 25, 2013, Sarah Whitt participated in a working group of information technologists, election officials and voter advocacy groups on election data standards at the National Institute of Standards and Technology (NIST). This working group is focused on developing a common data format for election technologies including voting equipment, election management systems and voter registration systems. Elections Supervisor Ross Hein and Elections Specialist Sherrie Charleston participated in a symposium on the *Future of Voting Systems*. The symposium was sponsored by NIST and the U.S. Elections Assistance Commission's on February 26-28, 2013. Both meetings were in Gaithersburg, Maryland.

On February 28, March 1, 2013, Director Kennedy and Elections Specialist David Buerger attended an Election Center special workshop, *Right and Wrong: Lesson Learned from Election 2012*. They also completed a Professional Education Program class on training election officials on March 2, 3, 2013. Both events are part of the continuing certification requirements for the Certified Elections and Registration Administrator (CERA) program. The Election Center is a non-partisan organization dedicated to training election officials.

On March 5, 2013, Director Kennedy and Mike Haas led a team of G.A.B. Elections Division staff to the Winter Meeting of the Wisconsin County Clerks Association in Madison. The presentation focused on Four-Year Voter Record Maintenance, Election Day Registration, County Canvass Procedures, Voting Equipment Audit and Testing, Clerks' Concerns Committee, Mapping in SVRS and Training Resources.

On March 8, 2013, Director Kennedy participated in an American Law Institute (ALI) Advisers Group meeting in Philadelphia. The project is *Principles of Election Law: Resolution of Election Disputes*. The meeting focused on developing principles for "early in-person voting" and "open absentee voting".

On March 15, 2013, Jonathan Becker and Kevin Kennedy were part of the faculty for a State Bar of Wisconsin Government Lawyers Division seminar: *The Battle for Your Vote: Election Law in Wisconsin*. Jon Becker's presentation focused on ethics, campaign finance and local elections. Director Kennedy presented on campaign issues in the electronic era as well as a separate presentation on issues confronting public and private attorneys involved in elections and campaigns. Mike Haas, Nate Judnic and Shane Falk also attended the seminar in Madison.

Looking Ahead

The primary focus of the agency staff is on wrapping up the 2013 Spring elections. This includes completing the canvass, consulting on recounts at the state and local levels, along with issuing certificates of election. Monitoring legislative action on the budget as well as legislation relating to campaign finance, elections, ethics, lobbying and contact sunshine will also be a primary focus of agency staff. The staff will be engaged in continuing training for local election officials, candidates, campaign personnel and lobbyists. This includes updating and developing new training materials. A number of IT updates will be implemented on the various agency software applications. There are also a number of internal management processes that will be the focus of agency task forces including records management.

Action Items

None