

Meeting of the Board

Wednesday, May 21, 2014

Thursday, May 22, 2014

9:00 A.M.

Agenda  
Open Session

Government Accountability Board Offices

212 East Washington Avenue, Third Floor

Madison, Wisconsin

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**Wednesday, May 21, 2014**

**9:00 A.M.**

<b>A.</b>	<b>Call to Order</b>	<b><u>Page</u></b>
<b>B.</b>	<b>Director’s Report of Appropriate Meeting Notice</b>	
<b>C.</b>	<b>Minutes of April 17, 2014 Meeting</b>	<b>3</b>
<b>D.</b>	<b>Personal Appearances for Public Comment</b>	<b>Oral</b>
<b>E.</b>	<b>Reports on Electronic Voting Equipment</b>	
	<b>1. Prime III Accessible Voting Pilot Election</b>	<b>7</b>
	<b>2. ES&amp;S Modem Approval</b>	<b>38</b>
	<b>3. Background Report on Voting Equipment Approval</b>	<b>55</b>
<b>F.</b>	<b>Report on Nomination Paper Review and Candidate Ballot Access Timetable and Procedures</b>	<b>60</b>
<b>G.</b>	<b>Proposed Guidance on Lobbyists Furnishing</b>	<b>76</b>
<b>H.</b>	<b>Request for Opinion on Scheduling Referenda</b>	<b>83</b>
<b>I.</b>	<b>Legislative Implementation Report 2014 Wisconsin Act 153</b>	<b>91</b>

**J. Director's Report**

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|--|------------|
| <b>1. Ethics and Accountability Division Report – campaign finance, ethics, and lobbying administration.</b> | <b>94</b>  |
| <b>2. Elections Division Report – election administration.</b>   | <b>98</b>  |
| <b>3. Office of Director and General Counsel Report – agency administration.</b>                             | <b>113</b> |

**K. Closed Session**

**Wednesday, May 21, 2014**

**Thursday, May 22, 2014**

**After Completion of the Open Session Agenda the Board Will Not Return to Open Session Following the Closed Session**

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|--------------------------------|---|
| 5.05 (6a) and<br>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, June 10, 2014 in Room 412 East, in the State Capitol Building, Madison, Wisconsin beginning at 9:00 a.m.

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

## Wisconsin Government Accountability Board

212 East Washington Avenue  
Madison, Wisconsin  
April 17, 2014  
9:30 a.m.

### Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Approved Minutes of March 19, 2014 Meeting	2
B. Approved Nomination Paper Sufficiency Standards	2
C. Received Legislative Status Report	3

Present: Judge Thomas H. Barland, Judge Harold Froehlich, Judge Michael Brennan, Judge Elsa Lamelas, Judge Gerald Nichol, and Judge Timothy Vocke (all by telephone)

Staff present: Kevin Kennedy, Jonathan Becker, Michael Haas, Shane Falk, Nathan Judnic, Sharrie Hauge, David Buerger, Pauline Shoemaker, and Reid Magney

#### **A. Call to Order**

Judge Barland called the meeting to order at 9:31 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. Closed Session**

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

**MOTION:** Move to closed session pursuant to §19.85(1)(g) to confer with counsel concerning pending litigation. Moved by Judge Nichol, seconded by Judge Brennan. Motion carried unanimously on a roll call vote.

The Board convened in closed session at 9:33 a.m.

The Board reconvened in open session at 9:48 a.m.

#### **D. Minutes of March 19, 2014 Meeting**

**MOTION:** Approve the minutes of the March 19, 2014 Board Meeting. Moved by Judge Vocke, seconded by Judge Froehlich. Motion carried unanimously on a roll call vote.

#### **E. Report on Nomination Paper Sufficiency Standards**

Elections Division Administrator Michael Haas introduced Elections Specialist David Buerger, who made an oral presentation based on a written report starting on Page 14 of the revised April 2014 Board Meeting Materials.

Mr. Buerger asked the Board to consider two issues related to nomination paper sufficiency. The first is the requirement of, and standards for evaluating, a legible printed name for nomination paper signers, as required by 2013 Wisconsin Act 160. The second issue involves updating the certification of the petition circulator as required by 2005 Wisconsin Act 451 to reflect a federal court ruling in *Frami v. Ponto*, 255 F. Supp, 2d 962 (2003).

The Board discussed issues related to the requirement for a legibly printed name.

**MOTION:** Adopt the Board staff's analysis on pages 14 and 15 of the April Board Meeting Materials regarding the standards for evaluating the legibility of printed names on nomination papers and other election-related petitions, and approve the attached guidance prepared by Board staff related to that topic. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried unanimously on a roll call vote.

Mr. Buerger briefed the Board on the issue of updating the certification of petition circulator.

Discussion.

**MOTION:** Adopt the Board staff's analysis on pages 15 and 16 of the April Board Meeting Materials regarding the required language in the certification of circulators of nomination papers and other election-related petitions, and approve the attached

guidance issued by Board staff related to that topic. Moved by Judge Nichol, seconded by Judge Vocke. Motion carried unanimously on a roll call vote.

## **F. Legislative Status Report**

Mr. Haas made an oral presentation based on a written report starting on Page 22 of the revised April 2014 Board Meeting Materials, which lists 20 bills that passed the Legislature and have already been signed into law by the Governor or are awaiting his signature. Mr. Haas highlighted the staff's efforts to inform clerks and the public regarding item #15, 2013 Act 182 which requires every person registering to vote to provide proof of residence. Staff is also working on analyzing the other legislation and planning changes to manuals, forms, training, and other published materials to reflect the changes in the law.

Mr. Haas also briefed the Board on an informational hearing scheduled for April 22 by the Assembly Committee on Campaigns and Elections regarding online voter registration. The hearing is not on a specific bill, but on the topic in general, and is intended to educate legislators about the issue when they are not in the middle of a session. Director Kennedy has been invited to testify, and has provided the committee with the names of other national experts to testify, including Ben Ginsberg, co-chair of the Presidential Commission on Election Administration.

The Board briefly discussed specific legislation regarding registration of write-in candidates (2013 Wisconsin Act 178), recounts (2013 Wisconsin Act 176), exemption of Internet activity from campaign finance reporting (2013 Wisconsin Act 153), and transfer of responsibility for updating the Statewide Voter Registration List to the G.A.B. (2013 Wisconsin Act 149).

## **G. Closed Session**

Adjourn to closed session as required by statutes to deliberate on requests for advice under the Code of Ethics for Public Officials and Employees, lobbying law, and campaign finance law; to consider the investigation of possible violations of Wisconsin's lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; to confer with counsel concerning pending litigation; and to consider performance evaluation data of a public employee over which it exercises responsibility.

**MOTION:** Move to closed session pursuant to §§5.05(6a), 19.85(1)(h), 19.851, 19.85(1)(g), and 19.85(1)(c), to deliberate on requests for advice under the Code of Ethics for Public Officials and Employees, lobbying law, and campaign finance law; 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 Brennan, seconded by Judge Nichol.

Roll call vote:	Lamelas:	Aye	Vocke:	Aye
	Froehlich:	Aye	Brennan:	Aye
	Nichol:	Aye	Barland:	Aye

The Board convened in closed session at 10:48 a.m.

**L. Adjourn**

The Board adjourned in closed session at 12:42 p.m.

####

The next regular meeting of the Government Accountability Board is scheduled for Wednesday, May 21, and Thursday, May 22, 2014, at the G.A.B. office, 212 E. Washington Ave., in Madison, Wisconsin beginning at 9 a.m. each day.

April 17, 2014 Government Accountability Board meeting minutes prepared by:

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Reid Magney, Public Information Officer

April 18, 2014

April 17, 2014 Government Accountability Board meeting minutes certified by:

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Judge Michael Brennan, Board Secretary

May 21, 2014

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the May 21-22, 2014 Board Meeting

**TO:** Members, Wisconsin Government Accountability Board

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

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

Prepared By:  
Jason Fischer  
Elections Specialist  
Government Accountability Board

Richard Rydecki  
Election Specialist-Accessibility  
Government Accountability Board

**SUBJECT:** Prime III Voting System

### **I. Introduction and Recommendation**

This memorandum is intended to update the Board on the conclusion of the pilot of the Prime III voting system and to outline staff's recommendations regarding further development of the system.

Wis. Stat. 5.76 provides the following:

The governing body or board of election commissioners of any municipality may by ordinance or resolution adopt, experiment with, or discontinue any electronic voting system authorized by this subchapter and approved under s. 5.91 for use in this state, and may purchase or lease materials or equipment for such system to be used in all or some of the wards within its jurisdiction, either exclusively in combination with mechanical voting machines, or in combination with paper ballots where such ballots are authorized to be used.

Both the Town of Kossuth and Town of Newton in Manitowoc County approved experimentation with the Prime III voting system at the April 1, 2014 election, and the Government Accountability Board (Board) affirmed its approval of the pilot program at its February 25, 2014 special teleconference. In order to assess the Prime III comprehensively,

Board staff with specializations in various aspects of election administration contributed to this project and analysis.

The Prime III pilot has demonstrated that the Prime III voting system is an improvement over existing technology in several key areas and is in line with recommendations released by the Presidential Commission on Election Administration. However, because this was the first opportunity for the Prime III to be tested in an in-person Election Day scenario, more input from election officials throughout the country will be needed to improve the system's functionality and customizability for use by election officials. There are a number of questions that will need to be addressed from an election administration perspective before this system can be deployed on a broader scale.

While the Prime III system is not yet an option for deployment, Board staff encourages the U.S. Election Assistance Commission (U.S. EAC) and the Clemson University Prime III research team (Clemson) to seek more input from election officials and states interested in this technology to customize it for election administration and in-person voting scenarios. This report is therefore focused on reviewing the pilot program and making recommendations regarding how to improve the system moving forward. Board staff will continue to provide feedback to the Clemson team and the U.S. EAC on the pilot program.

## **II. Background**

As the Presidential Commission on Election Administration recently noted, by the end of the decade a large share of the nation's voting machines, which were purchased nearly 10 years ago with HAVA funds, will reach the end of their natural life and require replacement. To address this impending challenge and to usher in the next generation of voting machines, the Commission specifically recommended that the standards and certification process for new voting technology be reformed so as to encourage innovation and to facilitate the adoption of widely available, off-the-shelf technologies and "software-only" solutions.

The U.S. EAC has sought to address this issue, at least in part, by supporting research that will increase the accessibility of technological solutions incorporated into the design of voting systems that utilize open source technology. Its grant program was specifically targeted towards making such technology available to state election officials and voting equipment vendors. Prime III is the result of a three-year, \$4.5 million U.S. EAC grant to Dr. Juan Gilbert and his team of researchers in the Human Centered Computing Laboratory at Clemson University to increase the accessibility of new, existing, and emerging technological solutions in the design of voting systems. This grant was aimed at supporting the development of a system that utilizes open source technology and resulted in the Prime III, a system that could potentially be made available to state election officials and voting equipment vendors. Though the system is designed as an accessible voting solution, it has a universal design interface that can be used by all voters.

In accordance with the Board directive from the February 25, 2014 meeting, Board staff implemented a pilot of the Prime III for use in the April 1, 2014 election. Board staff obtained an agreement from Manitowoc County Clerk Jamie Aulik to serve as the pilot location. Additionally, through the work of County Clerk Aulik, Board staff secured municipal participants for the pilot. County Clerk Aulik as well as municipal clerks Jolyn Schuh (Town of Kossuth) and Barbara Pankratz (Town of Newton) collaborated with the G.A.B. in piloting the Prime III in the April 1, 2014 Spring Election.

Board staff worked collaboratively with members of the Clemson team and local election officials from Manitowoc County to design the voting interface and tabulation components. Board staff held a full day working meeting on January 24, 2014 in Madison with members of the Clemson team, the Manitowoc County Clerk, municipal clerks, and several Board staff members. Leading up to the election, Board staff conducted multiple trainings both with local election officials and the public in Manitowoc County on how to use the Prime III.<sup>1</sup> Board staff was also present to assist with the required public testing of the tabulation equipment conducted in the Towns of Newton and Kossuth, on March 27 and 28, 2014, respectively.

### **III. System Overview and Description**

The Clemson team provided a link to the Prime III software, which was housed on an encrypted server and delivered through a unidirectional connection with the server. The interface with the server is considered unidirectional because no voter selections are being transferred back to the server or being housed either on the server or on the local device. The only record of voter selections is the paper ballot that the voter prints at the conclusion of their voting session. The Clemson team also provided a local version of the Prime III that could be run from the computers' hard drive. Board staff elected to use the secured server based version because it offered a higher grade performance for the vote-by-voice software, one of the system's key innovations in the area of accessible voting technology. The local version of Prime III was installed on each voting station as a back-up, if Internet service was interrupted at the polling place. There were no Internet service outages on Election Day.<sup>2</sup>

Board staff provided the Clemson team with an XML file containing the contests and candidates for the Towns of Newton and Kossuth. In doing so, Board staff was able to determine that Prime III was able to receive input directly from the Statewide Voter Registration System (SVRS), if it were to be configured to do so. However, because staff transferred the XML file manually, Dr. Gilbert and his team in turn manually entered the data into Prime III and configured the software to reflect the available elections in both the Towns of Kossuth and Newton. In addition to providing Board staff with access to the Prime III software, the Clemson team provided the following equipment:

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<sup>1</sup>The first training was held in the Town of Newton on February 13, 2014 and focused on introducing the system to the municipal clerks and election inspectors. Board staff returned to Manitowoc County and held two additional trainings on Election Day preparedness and solving potential issues with the voter interface. Trainings were held in the Town of Newton on March 27, 2014 and in the Town of Kossuth on March 28, 2014.

<sup>2</sup> Board staff opted to run the Internet based Prime III version using Google Chrome because this configuration proved to be most optimal for all components. The local version was set up to run using Firefox because pre-election testing found this configuration to be a suitable alternative to Google Chrome. Prime III is not configured to run using Internet Explorer.

<b>Equipment</b>	<b>Hardware Version(s)</b>	<b>Type</b>
(1) Dell Ultrabook	XPS 12	Polling Place Tabulator
(3) Canon Scanners	DR-2510C	Ballot Scanning Device
(14) HP All in One Computer	23" HP Envy (Touchscreen)	Ballot Selection Touchscreen Device
(14) HP Mobile Color Printer	OfficeJet H470	Printer for Ballot Marking
(14) Motorola Scanners	Motorola DS6707	QR Code Readers
(14) Logitech Headsets	Model A-00006	Headsets w/Microphones for Accessibility

The G.A.B. provided one HP Ultrabook laptop for use as a tabulator. The Clemson team provided the Board staff with the commercially available optical character recognition software, OmniPage Batch Manager, as well as the tally software, which had been constructed and developed by the Clemson team. Verizon Wireless also donated the use of an encrypted wireless router and a data plan to enable some of the system’s functionality, including the voter interface and the vote-by-voice accessible feature. This device was used in the Town of Kossuth because no wireless Internet service existed at the town’s polling place. An existing encrypted wireless network was used to access the Internet in the Town of Newton. Board staff in turn configured each of the voting station and tabulation station components for use in the April 1, 2014 election.<sup>3</sup>

The ability to integrate Prime III with commercial off-the-shelf (COTS) components allows election officials to pair the software with touchscreen monitors that have large displays. Currently available hardware-based voting systems have fixed-size screens that allow users to toggle between the standard font size and a single larger font size setting. With Prime III, election officials could choose to utilize larger screens that would improve the ability of voters with visual impairments to navigate their ballot without assistance. The touchscreen monitors utilized during the pilot each had “pinch to zoom” capability which allowed voters familiar with the technology to adjust the size of the font on the screen to meet their preferences.

### **A. Ballot Design**

Board staff worked with the county and municipal clerks, as well as the Clemson team, to design two ballots: one ballot for use on Election Day that the Prime III tabulation system could count and one ballot for hand marking for absentee voters and for voters who requested a paper ballot at the polling place on Election Day. Though the Clemson team developed a tally function to tabulate the absentee ballots, Board staff did not utilize this functionality during the pilot. The consensus among the clerks, Board staff and Clemson team was that, given the low number of absentee voters in these communities in past Spring Elections and the fact that these towns are both traditional hand count municipalities, the absentee ballots could easily be counted by hand.

The ballots were printed on standard, white, 8 ½ by 11 in. sheets of paper in the offices of the G.A.B. and Manitowoc County Clerk. Because the tabulation equipment relies on

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<sup>3</sup> Board staff spent three working days setting up and configuring the 14 Prime III voting stations and two tabulation stations at the G.A.B. office, secured the components, packed them, and transported them to the pilot polling places. Several more hours over the course of two days was spent at each polling place to ensure each voting station was operating as intended.

optical character recognition software, it was important that the ballot design allow voter selections to be printed on a blank page. Board staff met this requirement by printing voter instructions on one side of the ballot and directing voters to insert their ballot into the printer with the blank side facing them. Only one voter in one of the municipalities had problems with this instruction and printed their selections on top of the voter instructions. Each voter accessed their ballot by using a scanner to read a QR code that was printed on the ballot given to them by the election inspectors.

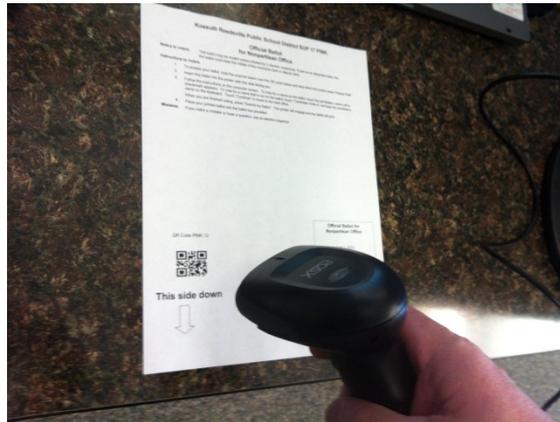


Fig. 1. Prime III Ballot with QR code printed at bottom left.

Each ballot style contained a unique QR code. When scanned, the QR codes input a two digit code into the system which took the voter directly to the screens listing the contests they were entitled to vote. Alternately, if necessary, an election inspector could also input the code provided on the ballot into the system using the touchscreen. This also was an option for voters, but voters were instructed to scan the QR code in an effort to avoid incorrect codes being entered presenting a situation where electors would access and vote the wrong ballot.

#### **B. Voter station: HP All In One Computer, Printer, and Scanner**

The voter interface ran on COTS hardware. Each voter station was comprised of the following components:

- (1) HP All in One Computer
- (1) HP Mobile Color Printer
- (1) Motorola Barcode/QR Scanner
- (1) Logitech Headset with Microphone (Accessibility Component)

HP All in One Computers are COTS touchscreen computers. The computers are so named because all components of the operating system are housed in a single unit. Each HP All in One Computer is comprised of a color touchscreen monitor with several USB ports to connect a printer, mouse, and keyboard. The mouse and keyboard were used by Board staff for setup prior to Election Day and by election inspectors for troubleshooting on Election Day. Voters did not have access to these components on Election Day.

For the April 1 Spring Election, the voter entered the voting booth and scanned the QR code on the ballot to begin voting. The voter then inserted their blank ballot initialed by election

inspectors into the printer. After the ballot was loaded in the printer, the monitor then displayed a series of menu-driven contests and candidates on the screen. The voter used the touchscreen, on screen key pad (for write-in votes), or vote-by-voice function to make selections. Overvotes cannot occur on this equipment because the system does not allow a voter to vote for more candidates than allowed for a contest and a voter is warned about undervotes with a notation of “No Selection” next to the contest name at the ”Ballot Summary” screen prior to the completion of the ballot.

When the voter completed the voting process, Prime III provided a ballot summary report for the voter to review his or her choices. The voter then touched “Submit My Ballot” to send their selections to the printer. For voters with visual impairments using the vote-by-voice function, an audio summary of the voted ballot was provided before the ballot was printed. Once the ballot was marked and printed, Prime III cleared its internal memory and the paper ballot was the only lasting record of the selections made by the voter. The voter was then able to again visually confirm his or her selections on the printed ballot, if able to do so. The voter then proceeded to deposit the ballot into a secured ballot box to be tabulated by election inspectors after the polls were closed.

### **C. Dell Ultrabook and Canon Scanner**

The Dell Ultrabook was paired with a Canon High Speed Document Scanner, a COTS digital scanner. In tandem, both components operated as a polling place counting system to tabulate Prime III generated ballots at the polling place. Each system was evaluated for its ability to process ballots for the wards or reporting units for which it was expected to provide results. After the voter completed their selections using the Prime III software and printed their ballot, the ballot was inserted into a secure ballot box. After the polls closed, the designated election inspector retrieved the ballots from the secured storage bin and fed them into the digital scanner. The digital scanner created a picture image of each ballot as it was scanned as well as a text file that was used to generate a results report. The images and results could be stored either on the equipment, transferred to an external USB flash drive, or printed. If the municipal clerk chose to do so, he or she could also email the results file to the county clerk on Election Night.

### **D. Accessibility Components**

As designed, Prime III has at least two options for an accessible voter interface: the vote-by-voice functionality and the A/B switch. For this pilot, the A/B switch option was not employed. However, Board staff tested and utilized the vote-by-voice functionality during testing and the demonstration days in Manitowoc County. Board staff did not observe any voters using the accessible component on Election Day.

The vote-by-voice function creates an audio ballot which provides instructions, lists contest and candidate choices, allows for write-in options and provides a ballot summary prior to ballot printing. When using this functionality, the ballot is read to the voter through a headset with a built-in microphone. At each junction where a navigation decision or ballot choice can be made, the audio ballot creates a five-second window that allows a voter to use a verbal command to represent their intentions. Any verbal prompt made during this window will be recognized by the system, which allows the voter to preserve the privacy of their ballot choices. For example, a user can merely say the word “vote” to select a

candidate or ballot choice rather than stating the name of the candidate they intend to support.

The vote-by-voice functionality of Prime III represents an upgrade over the accessible options of the current voting systems approved for use in Wisconsin. All of those systems require physical, rather than verbal, interaction during the ballot marking process. Prime III eliminates this need, but does not allow for voters to interact with the voting process with complete independence. In order to use Prime III in its current configuration a voter with dexterity issues or limited use of their hands would need assistance loading their blank ballot in the printer, scanning the QR code to access their ballot, removing the ballot from the printer and placing it into the ballot box. Dr. Gilbert and his team have indicated that they are currently working on a hands-free balloting component for Prime III that may alleviate some of these concerns, but it was still in development at the time of the pilot.

#### **IV. Overview of Pilot Program**

##### **A. Town of Kossuth and Town of Newton**

Both the Town of Kossuth and Town of Newton are rural communities. The Town of Kossuth has 1,445 active voters and the Town of Newton has 1,469 active voters.<sup>4</sup> Each township uses a hand count, paper ballot voting system. For the Spring Election, the Town of Kossuth is divided among three school districts—Manitowoc, Mishicot, and Reedsville. It has one county supervisor district: 17. The Town of Newton is divided into two county supervisor districts: 11 and 12. Each county supervisory district is further divided into two school districts, Manitowoc and Valders. In each community there were four contests on each ballot style: Court of Appeals, County Executive, County Supervisor, and School Board Member.

##### **B. Voter Education**

Board staff provided voter education training and materials to each municipality in preparation for the pilot. Staff developed a voter education picture guide to visually illustrate voter interaction with the system. A picture guide was placed in each voting booth on Election Day. Staff also developed a training video that was designed to air throughout the day at a demonstration station setup at each polling place. Finally, staff, along with the county and municipal clerks, hosted demonstration days in both municipalities.

In the Town of Newton, the demonstration day was held on March 27, 2014 from 11 a.m. to 8 p.m. and provided residents an opportunity to test the system and ask questions about the pilot. More than 100 people attended the demonstration day. A similar event was held in the Town of Kossuth on March 28, 2014 from 11 a.m. to 8 p.m. Again, close to 100 people

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<sup>4</sup> According to the Wisconsin Election Data Collection (WEDC) report filed for the Town of Kossuth for the April 1, 2014 election, the town had a total of 1,339 active voters twenty (20) days prior to the election. There were no late voter registrations. Six electors registered to vote on Election Day. Three Hundred and Fifty three (353) ballots were cast. Twelve (12) ballots were issued to absentee voters and all of these ballots were returned. The WEDC report for the Town of Newton shows the town had a total of 1,458 active voters twenty (20) days prior to the election. There were no late voter registrations. Eleven electors registered on Election Day. Three Hundred and Eighty four (384) ballots were cast. Nineteen (19) ballots were issued to absentee voters and 18 were returned.

attended. These demonstration days were promoted through community newsletters, e-mail communications to residents, public notices, and a press release to area media issued by the Manitowoc County Clerk. Many county and municipal clerks from throughout the state attended one of the demonstration days. Their comments and feedback are included in Appendix III.

### **C. Polling Place Set-up and Configuration**

Board staff delivered the voting equipment to the Towns of Newton and Kossuth on March 26, 2014. Board staff ensured all equipment was functional on Election Day prior to the opening of the polls. Clemson team members also were on site in both towns on Election Day. During the day, municipal election inspectors were chiefly responsible for instructing voters on the use of the system and answering any questions. In both locations, election inspectors provided an exceptional level of voter assistance and were able and willing to provide hands on assistance to voters who were having difficulty. On Election Day, all voters in Town of Kossuth cast their ballots using Prime III. In the Town of Newton, only two voters (spouses) asked to vote a paper ballot.



Fig. 2. Kossuth Polling Place Set-Up with a Prime III Voting Station

There were no changes in the voter check-in process in either location. After stating their name and address and signing the poll book at the check-in table, voters were issued a voter number and ballot. Though voters were offered an opportunity to work with the Prime III system in a test environment prior to checking in and receiving a ballot, very few voters in each location visited the demonstration station prior to voting.

### **D. Voter Experience in the Town of Kossuth and Town of Newton**

In the Town of Kossuth, 353 voters turned out on Election Day at the Town Hall, the only polling place in the community. Throughout the day, there were five election inspectors, with the municipal clerk and one Board staff member available to assist voters, as needed. Two members of the Clemson team also were present to address technical issues with the system. After receiving their ballots, voters were directed to an open voting station. There were six Prime III voting stations.

In the Town of Newton, 384 voters cast ballots on Election Day. Similar to the Town of Kossuth, Newton only has one polling place, its Town Hall. Throughout the day, there were

five election inspectors, in addition to the municipal clerk and one Board staff member available to assist voters. Dr. Gilbert also was in the polling place to provide technical support. After receiving their ballots, voters were directed to an open voting station. There were six Prime III voting stations.

In each location, voter turnout was steady throughout the day. Board staff observed low to no wait times for a Prime III voting station. At times voters had to wait in line during the check-in process in each location as election inspectors chose to provide a brief overview of the system as they issued ballots. Many voters were in and out of the polling place quickly and required no additional assistance. However, Board staff noticed the following challenges voters faced while using the Prime III:

- **Initial Activation.** The biggest challenge for all voters was accessing their ballot. Many voters struggled to use the QR code scanner, with most of them unaware of where to point the scanner on their ballot, how far to hold the scanner from the QR code, and how to operate the scanner. Election inspectors helped many voters through this step. Once the ballot was accessed, some voters also were confused with how to navigate through the Prime III system. Again, election inspectors helped many voters get to the first contest on the ballot. Board staff found that once electors voted one contest they required less assistance navigating the system.
- **Contest Skipping.** Board staff observed Prime III skipping the top contest on the ballot (Court of Appeals) and going directly to the second contest (County Executive) when the voter tapped the “Start Voting” button on the initial screen. This issue was observed on several voting stations in each location. The Clemson team had been made aware of the problem prior to Election Day and had attempted to repair it but was not successful by Election Day. The Clemson team has indicated that more research will have to be done to isolate a source of the problem.

In all instances, including those where the system skipped a contest, the system’s configuration enabled voters to correct any blank contests prior to printing and again prior to submitting their ballots. Voters were provided an opportunity to review their ballot selections at the “Ballot Summary” screen prior to printing. Polling place staff reminded all voters to review the printed ballot to make sure the choices that printed matched the choices the voter wanted to cast. Voters who had second thoughts about their ballot choices after the ballot was printed had the option of spoiling the ballot and getting a second ballot. No spoiled ballots were recorded in Kossuth. There were a small number of spoiled ballots in Newton, but the number was similar to past Spring Elections.

- **Touch Technique.** Some voters had difficulty touching the screen in a manner that Prime III would recognize. For instance, some voters tapped with their fingernail or tapped too softly. In these cases, election inspectors demonstrated how to properly touch the screen. It is unclear if the issues regarding the touch technique were due to the COTS hardware used for the pilot or to the Prime III system itself.

- **Ballot Printing.** There were several problems with Prime III connecting with the printer to print the ballot at the end of a voter's session. On several occasions, this required the system interface to be restarted and the voter to re-enter their selections. Since votes are not cast until the ballot is placed in the ballot box, no votes were "lost". The Clemson team was unable to identify a solution to this issue and has indicated that they will need to conduct further testing.

All voters were asked to complete a five question survey about their experience before leaving the polling place. The exit poll was developed by the Clemson team. A majority of respondents felt confident using the system and would like to use it again in the future. Likewise, a majority thought the system was easy to use and navigate. However, there were written comments that expressed concern over the cost of the system and the time it took to vote compared to a paper ballot. Generally, Board staff observed that those with negative comments about the system experienced technical difficulties while voting or required significant assistance to mark their ballot. Results of the survey are included in Appendices I and II.

#### **E. Vote Tabulation**

In both locations, ballots were collected in a standard hand count paper ballot box. After the polls closed, one election inspector opened the ballot boxes and collected the ballots. In the Town of Kossuth, the ballots were sorted by school district – Maniwoc, Mishicot, and Reedsville. The package of ballots for each school district was then scanned individually and counted using the tabulation equipment. Three results reports were printed, one for each school district. Each package of ballots then was counted by hand by the election inspectors.

In the Town of Newton, the ballots were divided by County Supervisory District—11 and 12—and then scanned and counted. Two results reports were printed, one for each supervisory district. After scanning, the ballots were subdivided into the two school districts—Maniwoc and Valders. The package of ballots for each subdivided supervisory district was counted by hand by the election inspectors.

In Kossuth, G.A.B. staff managed the electronic tabulation of the ballots. In Newton, the municipal clerk conducted the electronic tabulation. In both places, the results of the electronic tabulation were compared to the results of the hand count of each ballot set. Each ballot style was hand counted as a condition of the pilot to ensure an accurate and complete tally of all votes.

#### *Challenges with Vote Tabulation*

In each location, the voting tabulation by the tally machine was producing an erroneous vote total for the School Board Member—Maniwoc Public School District contest. The Clemson team was asked to determine a cause for the discrepancy. Upon review of the ballot images, the text files from the scanned ballots, and the hand count tally, it was determined that the OCR software was reading a special character on four ballots, which resulted in four votes that were not cast being attributed to one candidate. In each location,

the electronic tabulation of all other contests matched the hand count on the first attempt to tally the votes.

The Clemson team was onsite in the Town of Kossuth and was able to manually program the OCR software to not read this character. Once this fix was in place, the ballots were scanned again and the electronic tally and hand count tally matched. These ballots were scanned a second time and again the electronic tally and hand count tally matched.

On Election Night, Board staff dispatched the Clemson team to the Town of Kossuth; hence, they were not onsite in the Town of Newton during the reconciliation process and could not apply the same fix that had been administered in Kossuth. Following the election, the Clemson team performed the same analysis on the Newton election as had been performed on Election Night in Kossuth and determined that the OCR error in the software had been the cause of four votes being recorded for a candidate where those votes had not been cast.

#### *Strengths for Vote Tabulation*

The Prime III system evidenced some benefits to the voter tabulation process that were noteworthy.

- The format of the ballot, with its clarity and lack of ambiguity, aided election inspectors in counting the ballots quickly and efficiently.
- The pilot provides strong evidence for paper ballots that eliminate stray marks and ambiguity about the voter's intent. Deciding who a voter voted for was not an issue because the printed ballot listed only candidates who received votes.
- The tally system converts the ballot scans into searchable text files. This feature could be useful in identifying problem ballots in the case of recount, an audit or when reconciling results if there are clear discrepancies in the vote totals.

## **V. Lessons Learned and Recommendations**

In assessing whether there was adequate justification to explore the use of Prime III, Board staff identified a number of potential benefits to the implementation of the Prime III voting system to the State of Wisconsin. Most significantly, exploring the Prime III system could potentially allow municipalities the opportunity to replace aging equipment (should the Board ultimately approve an Application for Approval) with more flexible and up-to-date technology.

Specifically, Board staff explored whether the Prime III was able to make advancements in several key areas.

1. ***Providing access to up-to-date technology.*** Because the system utilizes open source rather than proprietary software, it can be updated easily without requiring extensive upgrades. The software also has the benefit of being hardware agnostic, such that it can run on a wide array of COTS products.

#### *Discussion:*

Unlike voting systems that use proprietary software, the Prime III software, along with its source code, would be available to election officials. Hence, election officials who

possessed the expertise and wished to customize the Prime III system could do so in-house without having to purchase an upgraded product. Similarly, because Prime III is a software based election management solution, it is not required to be run on dedicated hardware products. By contrast, current software is embedded into dedicated operating systems that require updates to operating programs (such as Windows). As Board staff has noted, many of the currently certified systems have reached their end of life, with Microsoft no longer supporting, providing updates, or security patches to the Windows versions that drive many of the voting systems used in Wisconsin. Software based systems, such as Prime III, have the potential to alleviate this problem.

The benefits of adopting such an option would be experienced most acutely by county and municipal clerks. Chief among the benefits to such an approach is the potential cost savings. Clerks would no longer have the cost of purchasing proprietary software and service agreements. Clerks also could potentially save money by purchasing licensing agreements for commercially available software in conjunction with other county or municipal purchases. Because systems such as Prime III are hardware agnostic, this option would also allow clerks to purchase commercially available hardware that suited their particular budget. Such an option could also increase the amount of control clerks have over their voting equipment, enabling them to program contest and candidate information without the assistance of a private vendor.

*Recommendations:*

While there are benefits that can be derived from utilizing open source software, there are a number of challenges that would have to be addressed prior to implementation. The purchasing locality would need to have a plan in place for updating the software and maintaining the hardware. It would be recommended that the locality arrange to have access to an Information Technology (IT) professional to assist.

The Board, or other state authority in charge of certification and approval in other states, would need to develop or implement standards related to purchasing and operating specifications in order to ensure that the system is being utilized in the most secure and effective manner.

2. **Accessibility.** Prime III offers the G.A.B. the ability to explore and clerks to acquire innovative technology that could improve the voting experience of Wisconsin voters. The current generation of voting equipment has increased voter accessibility, but many voters continue to report difficulties with casting a private and independent ballot utilizing these systems.

*Discussion:*

Prime III has the potential to improve the manner by which voters with disabilities and elderly voters cast ballots. The vote-by-voice functionality of the system allows voters to make ballot choices without having to physically mark a ballot or use a touchscreen interface. Voters who choose to use the Prime III touchscreen interface find that it is intuitive, easy to navigate and clearly presents contests and candidates on the screen. The Prime III system also produces an unambiguous voted ballot whose format makes it easier for voters to verify their selections before casting their ballot.

The voter interface and ballot format of Prime III represent a simplification of the voter interaction that should benefit voters with cognitive disabilities and voters with visual impairments. The system allows for the use of ballot screens which present candidate and contest information in a clear format, with large touch screen buttons for ballot choices and concise instructions. The interface also allows voters the flexibility to navigate their ballot a variety of ways and choose the order in which they vote contests. The system also produces a printed ballot in a format that lists all candidate and ballot choices in an unambiguous manner, with undervoted contests clearly identified on the printout with the notation of “No Selection” listed next to the contest name. This simplified voted ballot format should increase confidence for all voters as there is minimal ambiguity in determining voter intent.

*Recommendations:*

The vote-by-voice functionality of Prime III should continue to be developed and refined. This innovation represents a significant upgrade over the accessibility options of voting equipment currently in use in Wisconsin. This functionality, however, also is emblematic of the challenges faced by Board staff when Prime III was configured for use on the COTS hardware used during the pilot. While the adaptability of Prime III offers many benefits, properly customizing its features would be an additional task of local clerks which they do not currently undertake.

During both pre-election testing conducted in preparation for the pilot and during the actual election, Board staff encountered difficulties with the reliability of the vote-by-voice option. Effective use of this option requires configuring several volume and microphone settings for several components of the COTS hardware, including the monitor, operating software, and microphone headset. Board staff and representatives from the Clemson team had difficulties identifying the most effective settings for the equipment used for the pilot. Without proper configuration, the vote-by-voice option will not reliably mark the ballot in accordance with voter intent.

Board staff did not observe anyone utilizing this functionality on Election Day. Several users, however, attempted to use the vote-by-voice option during public demonstration events and reported reliability problems. The problems that were reported were consistent with problems encountered by Board staff during pre-election testing and equipment set up.

It is recommended that the Clemson team continue to explore the interaction between Prime III and various COTS hardware components. When problems with the vote-by-voice option were referred to Dr. Gilbert, he was unable to recreate those issues on his Prime III setup and he suggested that the problems were related to the settings on the COTS equipment. Since the interaction between COTS hardware and the Prime III software is essential to the effective functioning of the system, Prime III should be tested on a variety of COTS components and configured so that a standard, or default, hardware settings protocol can be developed and implemented. This standardization could alleviate reliability issues with the system.

The hands-free balloting component that is currently under development would ease concerns over the amount of assistance a voter with a disability needs to use the system. The Prime III set-up used during the pilot required all voters to insert their

ballot into a printer to begin the voting process. Once finished voting, each user would have to remove the printed ballot from the printer and place it in the ballot box. A voter with dexterity issues could require assistance that would limit their ability to cast a private and independent ballot. The implementation of a hands-free addition to the system would increase the usability and accessibility of the system for voters with disabilities.

3. **Transparency.** Because the system has been developed using open source software it could provide a level of increased transparency in the voting process.

*Discussion:*

Open source software is software that can be freely used, changed, and shared (in modified or unmodified form). The Prime III software, along with its source code, could potentially be transferred to the G.A.B., which could in turn change or modify the code to reflect state-specific requirements. Currently, voting equipment vendors do not disclose the source code that is used to program voting equipment. That code is reviewed by federal testing laboratories but is not reviewed or maintained on the state level. Vendors are required to place the source code in an escrow account. By allowing open source software to be acquired for use in Wisconsin, potentially the Board, or by extension the clerks could maintain greater control over the voting equipment software that is in use in the State.

*Recommendations:*

If the Board were to allow the use of open source software within the State, testing standards would have to be put in place to ensure the effective operation of voting systems. Currently, the U.S. EAC, which has not approved voting equipment guidelines since 2005, has not promulgated up to date standards that can accommodate an open source framework. One potential option would be to require developers of open source software, such as the Prime III, to submit to testing by a voting system testing laboratory for compliance with state-developed testing standards.

4. **Increased Efficiency.** A system that has been configured specifically to interface with existing G.A.B. applications could reduce the amount of time clerks and Board staff must dedicate to ballot design, data input, etc., since this information could potentially be transferred via system interchanges.

*Discussion:*

At present, Prime III is able to interact with SVRS. Board staff determined that the Prime III interface could be configured to accept an XML file containing candidate names and contest information for each jurisdiction. This functionality is essential and is a considerable improvement over currently existing technology operating within the state. This functionality could reduce the possibility of human error since clerks would only have to enter the candidate information into one central database, SVRS. Currently, election officials need to enter local contests and candidates into SVRS and then must separately report this same information to voting equipment programmers and ballot producers. Data entered into SVRS could then be drawn directly into Prime III, which would in turn be loaded onto each voter kiosk. This step alone could save

clerks a considerable amount of time, especially in elections with numerous contests and referenda on the ballot. Likewise, there is evidence that Prime III may be able to interface with the Canvass Reporting System for reporting returns. This also has the potential to reduce human error in the reporting of results while streamlining the process and providing more timely results to the public.

*Recommendations:*

Prime III has an election management interface that allows clerks to enter contest information manually and program the Prime III. However, since Board staff transferred the XML file to the Clemson team for entry into Prime III, staff did not test the election management software that would typically be used to enter contests manually. Staff did review the system used to program the ballots, however, which revealed a simple interface that could be navigated with some instructions from the developers. Given the parameters of the pilot, Board staff did not test an export of the results data to the Canvass Reporting System. Hence, it is not clear how this process would work for local election officials. As the system continues to be developed, the Clemson team is encouraged to create an interface that allows for easy export of common data formats into election results reporting applications.

This is one example of how Prime III would benefit from more work on the side of the system used by election administrators. Currently, Prime III has a voter interface supported by the results of usability studies. The side of the system used by election administrators is not as intuitive.

5. ***Reduced Costs to Clerks.*** In general, open source technology has many benefits including the potential to reduce costs which clerks incur for purchase, maintenance, programming, and replacement of election equipment. The Prime III software in particular could be made available to clerks at a reduced cost, reducing the substantial financial costs associated with administering elections.

*Discussion:*

As previously noted, clerks incur considerable election administration costs associated with the purchase, maintenance, and programming of election equipment. Purchasing and maintenance agreements with voting equipment vendors can range from several thousand to tens of thousands of dollars per year, depending on the individual negotiations, the size of the municipality, and the level of support they require. If clerks were allowed to utilize Prime III, they could potentially bypass some of the currently incurred costs associated with programming and ballot printing.

*Recommendations:*

If the Board were to allow Prime III to be implemented, Board staff would likely have to work with local jurisdictions to coordinate updates to the software and to maintain the interface between Prime III and existing G.A.B. applications such as SVRS and the Canvass Reporting System.

6. ***Voter Confidence.*** Prime III is a printed paper ballot program that enables the voter to clearly review selections multiple times before casting a ballot. Votes are not recorded on a device, but rather are retained on paper ballots.

*Discussion:*

Prime III affords voters multiple opportunities to verify their selections. Prior to printing their ballot, voters first have the opportunity to review their vote on the screen within the contest. A checkmark appears next to the voter's choice when the system recognizes the voter's touch or voice command. Secondly, voters have the opportunity to review all of their selections on the "Ballot Summary" screen, which is the final step before printing. The selections can be reviewed again after the ballot is printed. Once the ballot is printed, the selections are cleared and the next voter has a blank slate.

Unlike Direct Record Electronic (DRE) voting systems, no information regarding the voter's selections is stored by Prime III. The tabulation component of Prime III scans an image of each ballot and also creates a text file of the data read by the scanner. Together, these files provide an added check on the vote counting process. Moreover, because voters are able to cast a paper ballot, that they are easily able to verify, Prime III's configuration has an advantage over both DRE and optical scan systems. The design of Prime III's ballot eliminates ambiguity and stray marks, and therefore has the potential to increase the accuracy of vote tabulation.

*Recommendations:*

Voters at the pilot locations generally were receptive to the configuration of Prime III. Many were pleased to learn that the system allowed them to mark a ballot according to their intentions, while not retaining their selections or tabulating votes. The separation of ballot marking from tabulation is a key strength of the system in terms of security and should remain in order to inspire voter confidence.

The ballot design also lends itself to a vote tabulation system that not only eases the process of counting votes, but supports the ability of election officials to search for problematic ballots. The tabulation software is able to not only scan ballot images similar to existing technology, but also convert those images into searchable text. Board staff was able to search the results files in order to identify ballots that might have been misplaced by voters or counted incorrectly during the hand count or tabulation. The results, along with the ballot scans and text files are saved as part of the tabulation process. This information could be vitally useful to election officials in the event of a recount and could simplify the procedure significantly.

7. ***Enabling use of COTS products.*** Because the system operates using COTS products, clerks have the ability to purchase equipment through standard purchasing agreements at reduced costs, and potentially use a greater diversity of components in the election process.

*Discussion:*

Integrating COTS products into the voting experience has a number of advantages for both the voter and the clerk. By utilizing products that are readily available in the mainstream, voters have a greater likelihood of being familiar with the technology they are using. Particularly for voters with dexterity issues or accessibility needs, the introduction of a COTS-based interface could allow them to cast their ballots with equipment that they have specifically configured for their use.

For clerks, COTS products offer several tangible benefits. Clerks will have the option of utilizing computers, or printers, for other duties prior to Election Day for other official business, and then lock them down for use during the election. COTS equipment can also be more easily replaced, repaired, or modified, given the fact that COTS products are by definition available to clerks off the shelf. This could potentially enable clerks, whether county or municipal, to more effectively mitigate the financial costs of handling elections.

In preparation for the pilot, Board staff acquired and utilized only COTS components for the interface. Staff noted that, while significant time and resources were necessary to learn the individual settings that needed to be configured to make the components work as a system, configuring each kiosk once those settings were determined was not particularly laborious. Staff was able to utilize a variety of COTS products, ranging from office printers available in-house, to tablets, to monitors, to smart phones. Prime III operated without fail on each of these devices. These interactions engendered a significant amount of confidence in the ability of the system to operate on a number of platforms.

With the assistance of the Clemson team, Board staff acquired top-of-the-line equipment including new monitors, printers, QR code scanners, and headphones for the Manistowoc County pilot. Large 23" all-in-one touch screen monitors were selected in order to provide voters with the most comfortable voting experience. In communities with different requirements, monitors of a different size could also have been chosen. Though Clemson University supplied Board staff the equipment through a computer rental company, the estimated cost of each kiosk was under \$1,500. Fourteen voting kiosks were set up—six voting stations, the minimum number required by the number of voters in each municipality in the last General Election, and one demonstration station at each polling place. If the system is utilized as a universally accessible voting solution on Election Day, while also enabling the clerks to utilize it throughout the year for other duties, there could be some cost savings over the current hardware dedicated solely for elections.

*Recommendations:*

While COTS products have significant potential benefits in terms of offering greater flexibility, ease of use, and transparency from a voter perspective, there are a number of potential obstacles to a full scale implementation in in-person voting scenarios. COTS require a significant investment on the part of election officials; the use of COTS hardware requires election officials to configure settings for each individual machine, which can be very time consuming. Election officials may not be used to the additional time and internal resources needed to set up Prime III as current systems are

able to be operated immediately once programmed. Board staff would recommend that clerks who utilized COTS products would likely need to either employ or have access to IT personnel.

More research and Election Day pilots must be conducted using COTS equipment. Board staff found that while it is incredibly flexible, that flexibility also increased the number of configuration variables that have to be analyzed and resolved. Board staff would recommend that the Clemson team, or any entity incorporating the technology, make efforts to standardize the configurations.

Security concerns associated with allowing the use of COTS equipment beyond election season would also have to be addressed. Most of the security concerns raised are associated with concerns over viruses or malware that could tamper with the voting process. Those concerns do not, however, specifically apply to Prime III. Prime III does not record votes on the computer, and only records votes through the printed paper ballot, which is verified by the voter before being scanned by another piece of equipment or hand counted. Rather than raising security concerns, the configuration of Prime III provides an answer to many common security questions. The particular interface of the Prime III combines technology with paper ballot voting in a useable way that may be just as reliable, if not more, than traditional paper ballots which leave room for voter ambiguity in selections.

## **VI. Conclusion and General Feedback**

There were many positive outcomes from the Prime III pilot and the Clemson team will continue to work on improving the system. Board staff has encouraged the team to implement some of the feedback it received during the pilot and to bring the Prime III back for consideration as it is developed in the future.

Moving forward, the Clemson team has indicated that it will address the following challenges:

- Create a graphical user interface on top of the tabulation interface to make it more usable for election officials.
- Create a seamless COTS implementation so that election officials have fewer variables to configure.
- Modify the identified issues with the tabulation software and implement additional safeguards for the tabulation.

Finally, Board staff would like to commend Dr. Gilbert and the Clemson team, Manitowoc County Clerk Jamie Aulik, and municipal clerks Barb Pankratz and Joyln Schuh for their contribution to this project. Their leadership in this endeavor has enabled Board staff, the Clemson team, and the U.S. EAC an invaluable opportunity to assess the viability of open source COTS-based systems for use in U.S. elections. In addition, election inspectors in both Kossuth and Newton are to be commended for their efforts in managing this new technology and introducing it to voters, as are the voters for being open to participating in the pilot.

**Recommended Motion:**

The Board accepts staff's analysis of the Prime III pilot program and endorses the staff recommendations as outlined in this memorandum.

Attachments:

- ✓ Appendix I: Feedback from participants in the Town of Kossuth
- ✓ Appendix II: Feedback from participants in the Town of Newton
- ✓ Appendix III: Feedback from Clerks



**APPENDIX I:** Feedback from Participants in the Town of Kossuth, Manitowoc County. These comments were provided via a structured feedback form.

**Demographic**

*Gender*

<b>Female</b>	<b>153</b>
<b>Male</b>	<b>171</b>
<b>Decline</b>	<b>1</b>

*Age*

<b>18-29</b>	<b>10</b>
<b>30-39</b>	<b>29</b>
<b>40-49</b>	<b>44</b>
<b>50-54</b>	<b>46</b>
<b>55 and older</b>	<b>184</b>
<b>Decline</b>	<b>12</b>

**Experience with the Voting System- Evaluation Rubric**

Voters were asked to rate their experience with the following statements with 1 indicating that the voter *strongly disagreed* and 5 indicating that the voter *strongly agreed*.

- 1. I think that I would like to use this voting system again in future elections.**

<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Not Sure</b>	<b>Agree</b>	<b>Strongly Agree</b>
<b>25</b>	<b>17</b>	<b>31</b>	<b>56</b>	<b>196</b>

- 2. I felt confident using this voting machine.**

<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Not Sure</b>	<b>Agree</b>	<b>Strongly Agree</b>
<b>24</b>	<b>15</b>	<b>42</b>	<b>55</b>	<b>189</b>

- 3. I thought the voting system was easy to use and navigate.**

<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Not Sure</b>	<b>Agree</b>	<b>Strongly Agree</b>
<b>19</b>	<b>13</b>	<b>26</b>	<b>66</b>	<b>201</b>

Optional General Feedback:

- Any electronic system can be compromised.
- Once you receive training, it was easy.
- Too modern - I don't feel like I'm voting.
- I don't like it.
- I think it is a waste of my money.
- Something to get used to. Older generation will hate it. I like it!!
- Nice progress.
- I had no problem with the traditional pencil/bubble ballot.
- The old way was better and safer!
- Staff was very helpful.
- Old people may still insist on using a booth.
- No opinion, would be better to eliminate the paper, other than that it was ok.
- Party affiliation listing would be helpful.
- Glad to see presence of paper ballot in addition to the computer.
- I prefer paper voting for the reason of lower cost.
- Concern about time and access when there are a lot of people voting at once.
- Ballots did not show party affiliation. I think this is important.

**APPENDIX II:** Feedback from Participants in the Town of Newton, Manitowoc County. These comments were provided via a structured feedback form.

**Demographic**

*Gender*

<b>Female</b>	<b>171</b>
<b>Male</b>	<b>180</b>
<b>Decline</b>	<b>5</b>

*Age*

<b>18-29</b>	<b>10</b>
<b>30-39</b>	<b>14</b>
<b>40-49</b>	<b>46</b>
<b>50-54</b>	<b>48</b>
<b>55 and older</b>	<b>230</b>
<b>Decline</b>	<b>8</b>

**Experience with the Voting System- Evaluation Rubric**

Voters were asked to rate their experience with the following statements with 1 indicating that the voter *strongly disagreed* and 5 indicating that the voter *strongly agreed*.

- 1. I think that I would like to use this voting system again in future elections.**

<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Not Sure</b>	<b>Agree</b>	<b>Strongly Agree</b>
<b>25</b>	<b>23</b>	<b>38</b>	<b>87</b>	<b>183</b>

- 2. I felt confident using this voting machine.**

<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Not Sure</b>	<b>Agree</b>	<b>Strongly Agree</b>
<b>29</b>	<b>19</b>	<b>48</b>	<b>93</b>	<b>167</b>

- 3. I thought the voting system was easy to use and navigate.**

<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Not Sure</b>	<b>Agree</b>	<b>Strongly Agree</b>
<b>18</b>	<b>22</b>	<b>44</b>	<b>100</b>	<b>172</b>

Optional General Feedback:

- Don't think this system is any easier... Especially for the elderly.
- Great as long as there is assistance.
- Had to "swipe" the screen to get started and that was not mentioned in the instructions.
- Tell people not to fold ballot prior to putting in box.
- Thank you Jamie Aulik for supporting this new voting system! It was very easy to understand/use. You rock!
- I like the way it was, like voting in the 1800s.
- A lot of extra cost to get the same result and it takes longer than it did.
- It seemed pretty simple to me.
- More unnecessary cost and difficult to use.
- Thanks to poll workers for your help.
- I liked the old way.
- Will become comfortable with repetition.
- It's OK.

**APPENDIX III:** Feedback from county and municipal clerks who attended one of the Prime III Demonstration Days in Manitowoc County. These comments were provided in response to e-mail from G.A.B. staff to all local election officials who attended one of the events.

**Barb Pankrantz, Clerk, Town of Newton (Manitowoc County)**

It was a pleasure hosting what should be a very nice system of voting when the bugs are ironed out. I was a little disappointed with the tallying part of the program but felt that the actual voting went very well. It is like anything - people don't normally like change but I do believe that once they acclimated themselves to using the system that it would be as easy as using paper ballots. In speaking to my poll workers they felt that the system was very good also and once a system is developed it will be a great way of voting. I also thought that either the ballot should be scanned or a number should be entered and the people should not have been given an either/or way to start the ballot voting process. I think entering a number would have been a lot easier than picking up the scanner and doing it that way because so many people were not sure how to "work" the scanner. I will be interested in seeing how this program develops.

**Lori O'Bright, Outagamie County Clerk**

Both my deputy Sara Hickey and I attended the Prime III Voting System Demonstration in the Town of Newton on March 27. As an election administrator for Outagamie County, I've been very interested in this developed system. A particular concern of mine is the aging of current election equipment and the fact that now only one system has now been certified by the State.

At the demonstration, both Manitowoc County Clerk Jamie Aulik and Newton Clerk Barbara Pankratz were enthusiastic about the Prime III system and its benefits.

The Prime III voting system would provide benefits as follows:

- Handicapped voting:
  - Provides voters opportunity to vote easily by several methods (seeing, hearing, or reading-larger print).
  - Touch screen voting is intuitive and used in many different applications (voter familiarity).
  - Ballot summary provided for the voter to review.
  - QR coding could possibly provide handicapped voters an easier method to predetermine their ballot from home and then cast it at the polling place.
- Election inspector (EI) benefits:
  - As standard equipment would be utilized, election inspectors would have the benefit of familiarity with the equipment. As standard computers, printers, and other peripheral devices are generally easier for the EI's to use, they most likely would have more common knowledge of those types of devices.

- Future possible interfaces with SVRS and electronic poll books could eliminate human errors with ballot mix-ups when voters from different reporting units are voting within one polling location.
- QR coding could provide handicapped voters quicker voting at the polls if those voters were allowed to pre-determine their ballots from home and then cast at the polls.
- Often EI's are intimidated by the current Edge machines, particularly relative to resetting the machine for time changes and in changing paper rolls. The new system was much easier to utilize.
- Equipment benefits:
  - Standard equipment could be used providing municipalities and counties significant cost savings with programming and ballot printing
  - QR coding provides for quicker voting for handicapped voters
  - Voter verified printed ballot uses standard paper
  - Printed ballot for later verification (recount)
- Election administration benefits:
  - Ballot printing errors could be significantly reduced as equipment could be interfaced with SVRS.
  - System security – as each ballot is stored both as a .pdf and paper, verifiable information would be provided. Video recordings provide for a record of screen interactions.
  - Ballot counting is provided quickly at the end of the evening.
- Potential significant costs savings:
  - Standard Equipment vs. Vendor Specific Equipment - Utilizing standard equipment would provide municipalities an opportunity to utilize that equipment between elections for other needs. Even if the equipment possibly could not be utilized in another manner, standard equipment would be much less costly than maintaining current election equipment. Standard equipment could also be more easily updated by municipalities/counties on a regularly scheduled basis.
  - Programming – As it is my understanding that the equipment could interface with SVRS, the State's database would provide needed information to enable voting on election day and print ballots for absentee voting. This eliminates another layer of possible errors with programming and provides for greater accuracy for elections. Programming costs are significant and a statewide interface could ensure uniformity and quick changes if necessary due to election law changes.
  - Ballot Printing – Currently, because coding is required on electronically scanned ballots, specialty printers are needed to provide the coding and properly print ballots to be read by that equipment. This equipment would eliminate the need for those costs as the system utilizes standard paper.
  - Error Reductions – Errors in misprinting ballots have required costly reprinting of ballots. In addition, Outagamie County – City of Kaukauna just had an error with the Spring election requiring a costly recount due to

ballots crossing in reporting units where the voters voted in a similar polling location. Additionally in this last election, the City of Appleton has a costly mistake in their ballot printing relative to the Appleton Area School District race. GAB could probably provide additional examples of costly errors. Computerizing and interfacing the election process through SVRS provides that once the information regarding candidates is accurately placed into SVRS, down line information that would be provided to ballots, electronic poll books, etc. would be correct. Even if an error was found, the error could most likely quickly be corrected at a significantly lesser cost.

- Training – As noted above, standard equipment would provide for ease in learning. Training election inspectors and newer municipal clerks on standard equipment allows for a familiarity that has been established previously with their use of computers, printers, scanners that are utilized in business, government and nonprofit organizations. Training costs likely would be less. Retention of information by those being trained would more readily occur.

In discussions at the demonstration, it is my understanding that the likelihood of the Prime III system moving forward for approval may be limited due to the fact that the EAC has no protocols for approving a system utilizing standard equipment. In addition, the GAB was not receptive to moving forward with electronic poll books, which is most unfortunate.

Having now been county clerk since 2011 and reviewing, experiencing several different issues with human error in the election process, my recommendation is that the GAB reconsider their approach to technology. Technology does and would improve the election process, providing for significant cost-savings for counties and municipalities, which are continually strained for resources. An additional overriding benefit with the Prime III system would be integration with SVRS that could provide for error reductions, which are not only embarrassing and costly for officials, but damaging to the public's perception with the election process. My hope is that careful consideration is given to these issues.

### **Kim Bushey, Walworth County Clerk**

I enjoyed the opportunity to view this new concept in voting equipment. Below is list of updates to the software which I believe would need to be incorporated into the program in order for it to be a good fit for Wisconsin Elections.

- 1) The software would need to be able generate a zero report to prove definitely that the counters started at zero on Election Day.
- 2) There needs to be some way for the number of cards cast on the units to be displayed through out the day. Many times voters on the optical scan machines compare their voter

number to the number that appears in the LED on the optical scan unit.

Another important reason to make sure the cards cast are shown on the device throughout the day is to insure that the number of voters and ballots reconcile throughout the day. Election Inspectors routinely check the counters on the optical scan devices to insure that the number of ballots exactly matches the number of the last voter in the poll book

3) In my demo, I do not believe that the software gave us the number of ballot cards cast on the final results from the unit. It gave the total votes for the offices but I do not believe it listed the cards cast. In order for us to conduct the County Canvass/Recount, we need the number of cards cast to compare against the number of voters.

4) The software would need to be able to transmit the results electronically to the County. Manual entry of results at the County level are **not an option**. The problems that occurred in Waukesha County clearly illustrate the problems that manual entry of results can cause.

Currently, all of our results are transmitted by municipalities electronically so if the software did not have the ability to do this it would be a significant step backward.

The above concerns are all items which I believe can be rectified via software updates. Below is a list of other concerns that I have about the system which are more difficult questions which need to be addressed.

1) To use this system there would need to be a computer/tablet/laptop, a printer and hand held scanner in each voting booth. I think that sheer number of units would make this system prohibitively expensive in municipalities with more than just a few voting booths.

2) Currently Election Inspectors/Municipal Clerks would need to provide tech support to the voting devices in the County. There are generally 2-4 pieces of voting equipment per polling place. I am concerned that with the new system the Election Inspectors/Municipal Clerk would be vested with the responsibility to insure that numerous laptop/tablets, printers and scanners are working properly in each voting booth.

3) Voting system security is my next concern. Over the last few years the security of our voting devices has been a significant issue. To respond to this issue the then Elections Board developed new standards to secure our systems including the requirement to use tamper evident seals to secure the memory devices and the requirement to record and initial these seals to prove that no one has had access to the memory devices after the public test is conducted.

Since I know one of the selling points of this system is that these laptops/tablets can be used for other purposes throughout the year when voting is not occurring, I am concerned that utilization of these devices could reopen the issue of the security of the counting

software. I am not certain how we would "seal" these devices after the public test and have the ability to prove that they have not been tampered with following the public test. I have attended GAB meetings where certain constituents expressed significant discussion regarding the security of the equipment and the ability to prove that the devices are secure and have not been tampered with.

**Brenda Jaszewski, Washington County Clerk:**

I did attend the demonstration of the Prime III Voting System in Manitowoc County and have several concerns relating to the system in general, and also specifically to Washington County.

Generally, one of my first concerns is that there is no way to print out a "zero" report if using the software that would accumulate results if ballots were inserted into a scanner to be read (counted). I believe it is imperative that the software would need to be changed to allow some type of report to print out that shows that the accumulation software was starting at "zero".

Another concern of the general system is that if a municipality wanted to use a scanner to "count" ballots, there is no secure ballot box in which the ballot would automatically fall into once read by the scanner.

When asking about the software that accumulates the votes cast when using a scanner to "count" ballots, we were told that at any time during the day, a person could check the accumulation software to see how the votes were cast. As you may guess, I was extremely concerned about someone having the ability to know what actual accumulating results of the races were throughout election day. After questioning this further, I was told that only someone with proper authority to the accumulating software would have the ability to do this, such as a Chief Inspector or Municipal Clerk. Again, this was very concerning because no one, including Chief Inspectors or Municipal Clerks, should have any access to accumulating results until the election is over and the polls close at 8:00 p.m. Eventually, I was told that no one would have the ability to review accumulating results throughout election day. This must be addressed since I received conflicting information at the demonstration and it must be absolutely clear that no one has the ability to view any accumulated results of any races throughout election day and that results could only be provided after the polls close.

The idea that the "equipment", meaning the laptop, tablet, PC, or whatever device the voter uses to mark their ballot, could be used by the municipality for non-election related purposes will be a security issue with certain people in the general public. You will hear concerns that some type of "program" or "virus" could be put on that equipment prior to election day that could interfere with the election software. Basically, the equipment would not be secure since it could be used by a variety of individuals within that municipality and any number of software programs could be installed on that equipment.

With the rapid changes in technology, you could expect municipalities to have different voting devices every few years. If a municipality upgrades some of their devices (PC, tablet, or laptop), but not all, will the printers used for printing the ballot also need to be upgraded? Will the hand-held scanner work with new upgraded PCs, tablets, or laptops? What about those municipalities who purchase a \$4,000 scanner to count ballots and then need to upgrade the device that the voters use? Will their scanner be compatible with their new devices? Who upgrades the software so that it runs on all types of operating systems? Devices may need to be upgraded due to manufacturers no longer supporting operating systems of those devices.

Many polling locations are staffed by individuals who are not comfortable using electronic devices. What happens on election day when poll workers have to troubleshoot these devices, even something as simple as a printer jam? If numerous devices, printers, or hand-held scanners were to have issues during election day, that reduces the number of voting booths available to voters.

Some of my concerns specific to Washington County are:

1. Cost would be a significant factor, especially in our larger municipalities. Some municipalities have up to 20 voting booths set up for their voters during November elections. At the demonstration, we were informed that a typical cost with the Prime III system for each voting "booth" would be approximately \$1,000 because each booth would need a device (PC, laptop, tablet, etc.), a printer, and a hand-held scanner. This would equate to \$20,000 worth of voting equipment for some Washington County polling locations, and that would be without the added cost of a \$4,000 scanner to count the ballots.
2. Our voters are used to seeing their ballot "counted" (the number of ballots advances by one on the display of the optical scan machine) when they place their ballot into the optical scan unit. It then drops into a secure, locked ballot box. In any municipality that currently has optical scan machines, these voters would definitely have an issue with just placing their ballot into a ballot box for poll workers to count later that day or for poll workers to run through a scanner to be counted later that day. Voters want to know when they leave the building that their ballot has been "counted".
3. In many locations, there would not be sufficient room to set up enough voting booths with all of the required equipment (device, printer, hand-held scanner).
4. I was informed that currently, there is no way for the Prime III software to provide results electronically to Counties on election night. I was told that eventually, the GAB would like to be able to upload results from the Prime III software to the GAB Canvass Reporting System website, but until that software were to be written, counties would need to manually enter results on election night. Because Washington County currently

has accumulation software, this a major concern. Several years ago, we all witnessed what can happen when election night results are manually entered and there is an error.

5. If large counties, such as Washington County, had to manually enter results on election night, getting the results to the public will be delayed significantly. I've been working in the County Clerk's office for 23 years and I recall when November election results were not available until early morning hours (5:00 a.m. - 6:00 a.m.) on Wednesday, the day after the election. If we have to manually enter election night results, most County Clerks (if not all) would require verification by double checking every manual entry prior to releasing the results. This will add numerous hours to the time when results would be released to the general public.

Basically, I left the demonstration feeling that for those municipalities who currently hand count ballots, this system would definitely be an improvement; however, for municipalities currently utilizing optical scan machines, this would be several steps backwards and in almost all instances, be more costly.

**Julie Winkelhorst, Ozaukee County Clerk**

My only response would be that I agree with Brenda's comments and concerns.

**Sara Hickey, Deputy Clerk, Outagamie County**

I was able to attend the Prime III Voting System demonstration at the Newton Town Hall in Manitowoc County and was very impressed with the system. One feature that impressed me most about Prime III was that all voters will vote privately, securely and independently with equal access. I think the voters will like how Prime III is incorporated into the current voting process being used. The large fonts and neutral colors add ease to voting for certain populations.

The only concern I have is processing absentee ballots on election day at the polling location. At the demonstration I attended it was reported that absentee ballots would be processed through the Prime III machine on election day after the polls close. This may be fine for a small municipality and/or a small voter turnout. How much time will this process take for a larger municipality and/or large voter turnout (i.e. Governor's Election or Presidential Election)?

Thank you for the invitation to attend the demonstration.

**Mari Born, Clerk, Town of Mitchell (Sheboygan County)**

I attended the seminar in Newton in March 2014 before the April election. I presented the information to our town board and the residents at our Annual Town Meeting on April 15. I think it would be a great asset to the election system. I hope that it goes

forward and more municipalities will have the opportunity to try it out. I wanted to be part of the trial, I hope that I can if they do it again.

**Jo Ann Lesser, Clerk, Village of Howards Grove (Sheboygan County)**

My Deputy and I attended the demonstration in the Town of Newton, we were very impressed with the system and the functionality of it. The system was very user friendly with or without the scanning capabilities. I was lucky enough to slip away on Election Day to visit the Town of Newton to see the system being used live and to hear of any comments for or against it, I was pleasantly surprised that there wasn't anything negative. I was able to talk with the Election Inspectors as I chose a slower time to visit and heard many compliments.

My only concern in using the system is of course the cost and will there be any funding available to municipalities to help offset the cost of the required equipment. According to the requirements the Village of Howards Grove would need 11 equipped stations, with having 2,117 eligible voters and one machine per 200 voters. That could be quite an expense.

I definitely prefer this system over the current system of having the Edge and Insight. The Edge is cumbersome and slow, and I know that there were other options offered in 2006, and the municipality I was working for at the time didn't opt for the Edge for that simple reason, but it appears that many chose it and now regret that. I do for sure, since I have worked with them for the past 6 years.

I am very interested in seeing more on this system and would be willing to do what I can to help further the inquiry into using the Prime III Voting System.

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the May 21-22, 2014 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

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

### **I. Introduction and Summary of Board Actions**

This memorandum summarizes the performance of the ES&S Unity 3.4.0.1 voting equipment at the 2014 Spring Primary and Spring Election, as well as the recommendation of G.A.B. staff that the Board give final approval to the equipment.

No electronic voting equipment may be offered for sale or utilized in Wisconsin unless the Government Accountability Board (Board) approves it. Wis. Stat. § 5.91 (see attached). The Board has also adopted administrative rules detailing the approval process. Wis. Admin. Code Ch. GAB 7 (see attached). Accordingly, Election Systems & Software (ES&S) is requesting that the Board grant final approval of the ES&S Unity 3.4.0.1 for sale and use in the State of Wisconsin.

At the August 13, 2013 Board meeting, the Board granted *conditional* approval of the Unity 3.4.0.1, pending the outcome of acceptance and functional testing, as well as the successful performance of the system during the 2014 Spring Primary and Spring Election. The Unity 3.4.0.1 is a modification to the Unity 3.4.0.0 (EAC#ESSUnity3400), which was previously approved by the Board at the March 20, 2013 Board meeting. The modification provides support for landline 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. The modem function does not affect tabulation or reporting of official election results.

In addition to the modeming capability, ES&S modified the Hardware Programming Manager (HPM) and Election Reporting Manager (ERM) applications to support the addition of modem functionality. All modifications of the system were tested to the 2005 Voluntary Voting System Guidelines (VVSG) by Wyle Laboratories; however the system as a whole is only compliant to the 2002 Voting System Standards (VSS).<sup>1</sup>

The components of Unity 3.4.0.1 are summarized in the following tables:

<b>ES&amp;S UNITY 3.4.0.1 HARDWARE COMPONENTS</b>			
<b>3401 Equipment</b>	<b>Hardware Version(s)</b>	<b>Firmware Version</b>	<b>Type</b>
DS200	1.2	1.6.0.0	Precinct Tabulator
AutoMark Voter Assist Terminal (VAT)	1.0 1.1 1.3	1.3.2907	Ballot Marking Device

<b>ES&amp;S UNITY 3.4.0.1 SOFTWARE COMPONENTS</b>	
<b>Software</b>	<b>Unity 3.4.0.1</b>
Audit Manager	7.5.2.0
Election Data Manager	7.8.1.0
ESS Image Manager	7.7.1.0

<sup>1</sup> Voting systems submitted for testing after December 13, 2007, are tested to the 2005 VVSG. However, in cases where the systems are modifications to existing systems approved under the 2002 VSS, only the modifications will be tested to the 2005 standards. Systems so modified can only be certified to the 2002 VSS.

Hardware Programming Manager	5.8.0.0VAT
Election Reporting Manager	7.8.0.0
AutoMark Information Management System (AIMS)	1.3.257
VAT Previewer	1.3.2907
Log Monitor	1.0.0.0

Unity 3.4.0.1 currently lacks federal certification and is not expected to receive it because ES&S has withdrawn the system from the United States Election Assistance Commission (U.S. EAC) certification program. Though ES&S initially informed Board staff on October 3, 2012 that it would not re-submit Unity 3.4.0.1 for review by the U.S. EAC, ES&S stated at the Board’s March 20, 2013 meeting that it was considering resubmitting the Unity 3.4.0.1 to the U.S. EAC for certification. At present, ES&S has not resubmitted the Unity 3.4.0.1 for review and has indicated that it will not do so.<sup>2</sup>

At the Board’s March 20, 2013 meeting, despite the fact that the Unity 3.4.0.1 had not received federal certification, ES&S requested that the Board consider conducting functional testing and certification of the Unity 3.4.0.1. The Board exercised authority per Wis. Adm. Code 7.03(5), according to which, for good cause shown, the Board may exempt any electronic voting system from strict compliance with Wis. Adm. Code Ch. 7. The Board subsequently directed staff to establish protocols that 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 VVS or 2005 VVSG, but any additional modeming component does not meet the 2005 VVSG.

At the May 21, 2013 Board meeting, staff presented proposed *Voting System Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices in Wisconsin*, which the Board approved and which are attached as Appendix 1. The Board approved the following three motions:

1. Pursuant to authority granted in Wis. Stat. § 5.91 and Wis. Adm. Code Ch. 7, and based upon the analysis and findings outlined in the May 21, 2013 staff memorandum, the Board adopted the testing procedures and standards pertaining to modeming and

<sup>2</sup> ES&S has indicated that if Wisconsin certifies the ES&S Unity 3.4.0.1 there will no longer be a need for them to seek U.S. EAC certification.

communication as detailed in the *Voting System Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices in Wisconsin*. These testing protocols apply to non-U.S. EAC certified voting systems, where the underlying voting system received U.S. EAC certification to either the 2002 VSS or 2005 VVSG, but any additional modeming component does not meet the 2005 VVSG.

2. The Board directed staff (pursuant to a properly submitted Wisconsin application for approval) to test 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 does not meet the 2005 VVSG, to the testing standards contained in the approved *Voting System Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices in Wisconsin*.
3. Finally, the Board clarified that any modem hereafter approved for use in Wisconsin must have been tested to the requirements contained in the most recent version or versions of the Voluntary Voting System Guidelines (VVSG) or Voting System Standards (VSS) currently accepted for testing and certification by the U. S. EAC.

In accordance with the Board directive from the May 21, 2013 meeting, G.A.B. staff conducted testing of the 3.4.0.1. modem in four counties: Brown, Marathon, Dane, and Rock, from July 9 to July 18, 2013. Staff decided to select four municipalities in each of the four counties as test locations.<sup>3</sup>

At the August 2013 Board meeting, based on the Voting System Testing Laboratory (VSTL) report provided by Wyle Laboratories and on Board staff's own functional testing of this equipment, Board staff recommended and the Board granted *conditional* approval of ES&S Unity 3.4.0.1 for sale and use in Wisconsin.

The Board determined that it would grant final approval for the ES&S Unity 3.4.01 after the Board determined that the system had met the following requirements:

- a) the purchasing locality had (with guidance from G.A.B. staff) conducted acceptance testing to assure the system met their needs and is identical to the certified system;
- b) the purchasing locality had performed a functional test as part of the procurement process for the voting system; and
- c) the system had successfully been used in test elections during both the 2014 Spring Primary and Spring Election.

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<sup>3</sup> Brown County: City of Green Bay, City of De Pere, Village of Ashwaubenon, Town of Morrison  
Marathon County: Town of Edgar, Village of Stratford, City of Mosinee, Town of Bevent  
Dane County: City of Sun Prairie, Town of Blooming Grove, Town of Middleton, Town of Verona  
Rock County: City of Milton, Town of Turtle, Town of Avon, City of Beloit

Purchasing counties were also required to perform a post-election audit of the modem function by comparing the transmitted preliminary results to the voting machine generated results tapes. Board staff also recommended continuing conditions of use for municipalities that would purchase the Unity 3.4.0.1 after its final approval.

The Board established that it would make its final determination regarding the system's approval based on the results of the acceptance test, the functional test, the test election, and any other credible information regarding the system's performance in their possession. The Board further declared that if it chose not to grant final approval, ES&S would be required to remove all modems and associated firmware from the DS200's, rendering the modem functionality inoperable and effectively reverting the ES&S Unity 3.4.0.1 to the previously approved Unity 3.4.0.0.

Subsequent to the Board granting conditional approval, three counties purchased the ES&S Unity 3.4.0.1: Brown, Dane, and Jefferson. Each of the counties submitted to the Board documentation attesting to the completion of the Board approved acceptance and functional testing requirements, and confirming the successful performance of the modem component during the 2014 Spring Primary and Spring Election.

### **Recommendation:**

As outlined on pages 7 and 8 below, Board staff recommends final approval of the ES&S Unity 3.4.0.1, based on the successful completion of the following requirements:

- Certification of the underlying system (ES&S Unity 3.4.0.0) according to the 2002 VVSG;
- Board staff's own functional testing of this equipment;
- Acceptance testing conducted by purchasing counties;
- Functional testing conducted by purchasing counties;
- Performance in a test election (2014 Spring Primary and Spring Election); and
- Modem performance audit.

## **II. Discussion of Acceptance, Functional, and Test Election Requirements**

In accordance with the Board's requirements associated with the *conditional* approval granted the ES&S Unity 3.4.0.1, Brown, Dane, and Jefferson Counties acquired the equipment ES&S Unity 3.4.01 and accompanying equipment. These counties subsequently submitted all required documentation to attest to the system's performance.

1. *Acceptance Testing*. Each of the purchasing localities (Brown, Dane, and Jefferson Counties) has:
  - a. conducted acceptance testing to assure that the system meets their needs and is identical to the certified system;
  - b. conducted acceptance tests with the guidance of G.A.B. staff, and

- c. forwarded certification documentation to the G.A.B., signed by both the county and municipal clerks, confirming that the system has successfully met the acceptance testing requirements provided by the G.A.B.
2. *Functional Testing.* Each of the purchasing localities (Brown, Dane, and Jefferson Counties) has performed functional testing as part of the procurement process for the voting system. The functional test demonstrated the system's ability to execute its designed functionality as advertised and tested, including but not limited to:
  - a. Successful transmission of results via simulator;
  - b. Successful transmissions of results using analog telephone line on site;
  - c. Successful receipt of all results from mock election;
  - d. Accurate generation system status and error messages;
  - e. Production or generation of an interim report, or final report of the election as required; and
  - f. Production of an audit log;
3. *Election Preparation Testing.* Each municipality tested the analog lines that would be used for the modem transmission. Prior to each election, testing was conducted on each analog line and DS200 to ensure reliable and efficient data transmissions on election night. These tests should include line specification and quality tests along with operational verification testing of each modem equipped DS200 scanner.
4. *Test Election.* The system was successfully used in the 2014 Spring Primary and 2014 Spring Election. Successful completion of a test election included a post-election verification of the transmitted results.

Board staff reviewed documentation submitted by each of the county clerks pertaining to the performance of the ES&S Unity 3.4.0.1. The clerks reported no significant problems related to the performance of the modem on election night. However, there were minor problems associated with modeming that were identified and should be noted.

- Municipal clerks noted slow transmissions in several locations during peak modeming times, though all locations were successfully able to transmit results.
- Municipal clerks reported connection issues associated with programming the modem dial-in numbers into each of the modems.

County clerks attested that there were no problems attributable to the functionality of the modem component during the testing or test elections. Board staff received the verification of election night returns from each of the counties, attesting that all preliminary election night returns were accurate.

- Dane County reported successful transmissions from 54/54 municipalities in each test.
- Jefferson County reported successful transmissions from 36/36 municipalities in each test.
- Brown County reported successful transmissions from 23/23 municipalities in each test.

### III. Recommendations

Based on the results of the acceptance test, the functional test, the test election, and other credible information regarding the system's performance, Board staff recommends that the Board grant final approval of the ES&S Unity 3.4.0.1 for use and sale in Wisconsin. If the Board does not grant final approval, ES&S shall remove all modems and associated firmware from the DS200's, rendering the modem functionality inoperable and effectively reverting the ES&S Unity 3.4.0.1 to the previously approved Unity 3.4.0.0.

Board staff also recommends the following continuing conditions shall remain ongoing should the Board ultimately decide to grant final approval of Unity 3.4.0.1.

1. *Acceptance Testing.* Any locality purchasing the Unity 3.4.0.1 shall conduct acceptance testing according to the specifications outlined above in the Board's conditional approval.
2. *Functional Testing.* Any municipality and county that is using the Unity 3.4.0.1 in any election shall conduct functional testing according to the specifications outlined above in the Board's conditional approval for every election in which the Unity 3.4.0.1 shall be used.
3. *Election Preparation Testing.* Prior to each election, each municipality (or the county on its behalf) should work with ES&S and the local telephone provider to conduct testing on each analog line and DS200 to ensure reliable and efficient data transmissions on election night. These tests should include line specification and quality tests along with operational verification testing of each modem equipped DS200 scanner.
4. As a continuing condition of the Board's approval, 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.
5. Only systems tested during this certification 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. If a jurisdiction upgrades to Unity 3.4.0.1, it needs to upgrade each and every component of the system to the requirements of what is approved herein.
6. Unity EMS 3.4.0.1. may only program the AutoMARK Voter Assist Terminal (VAT), versions 1.0, 1.1, 1.3.1 (Print Engineering Board (PEB)1.65), and 1.3.1 (PEB 1.70).

7. As a condition of approval, ES&S shall abide by applicable Wisconsin public records laws. If, pursuant to a proper public records request, a customer receives a request for matters that might be proprietary or confidential, the customer will notify ES&S, providing the same with the opportunity to either provide the customer with the record that is requested for release to the requestor, or shall advise the 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 it is obligated to provide such records, ES&S shall provide such records immediately upon the 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 costs.

**Proposed Motion:**

**MOTION:** The Government Accountability Board adopts the staff's recommendation for final approval of the ES&S voting system's Application for Approval of Unity 3.4.0.1 to be sold or used in Wisconsin, including the conditions described above.

Attachments

- ✓ Appendix I: *Voting System Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices*
- ✓ Wisconsin Statutes §5.91
- ✓ Wisconsin Administrative Code, GAB 7

## **APPENDIX I: VOTING SYSTEM STANDARDS, TESTING PROTOCOLS AND PROCEDURES PERTAINING TO THE USE OF COMMUNICATION DEVICES**

### **PART I: PROPOSED TESTING STANDARDS**

#### **Applicable VVSG Standard**

The modem component of the voting system or equipment must be tested to the requirements contained in the most recent version or versions of the Voluntary Voting System Guidelines (VVSG) currently accepted for testing and certification by the U.S. Election Assistance Commission (EAC). Compliance with the applicable VVSG may be substantiated through federal certification by the EAC, through certification by another state that requires compliance with the applicable VVSG, or through testing conducted by a federally certified voting system test laboratory (VSTL) to the standards contained in the applicable VVSG. Meeting the requirements contained in the VVSG may substantiate compliance with the voting system requirements contained in Section 301 of the Help America Vote Act of 2002 (HAVA).

#### **Access to Election Data**

Provisions shall be made for authorized access to election results after closing of the polls and prior to the publication of the official canvass of the vote. Therefore, all systems must be capable of generating an export file to communicate results from the election jurisdiction to the Central processing location on election night after all results have been accumulated. The system may be designed so that results may be transferred to an alternate database or device. Access to the alternate file shall in no way affect the control, processing, and integrity of the primary file or allow the primary file to be affected in any way.

#### **Security**

All voting system functions shall prevent unauthorized access to them and preclude the execution of authorized functions in an improper sequence. System functions shall be executable only in the intended manner and order of events and under the intended conditions. Preconditions to a system function shall be logically related to the function so as to preclude its execution if the preconditions have not been met.

### **Accuracy**

A voting system must be capable of accurately recording and reporting votes cast. Accuracy provisions shall be evidenced by the inclusion of control logic and data processing methods, which incorporate parity, and checksums, or other equivalent error detection and correction methods.

### **Data Integrity**

A voting system shall contain provisions for maintaining the integrity of voting and audit data during an election and for a period of at least 22 months thereafter. These provisions shall include protection against:

- the interruption of electrical power, generated or induced electromagnetic radiation
- ambient temperature and humidity
- the failure of any data input or storage device
- any attempt at an improper data entry or retrieval procedure

### **Reliability**

Successful Completion of the Logic and Accuracy test shall be determined by two criteria

- The number of failures in transmission
- and the accuracy of vote counting

The failure or connectivity rate will be determined by observing the number of relevant failures that occur during equipment operation. The accuracy is to be measured by verifying the completeness of the totals received.

## **PART II: TEST PROCEDURES AND PROTOCOLS**

### **Overview of Telecommunication Test**

The telecommunication test focuses on system hardware and software function and performance for the transmission of data that is used to operate the system and report election results. This test applies to the requirements for Volume I, Section 6 of the EAC 2005 VVSG. This testing is intended to complement the network security requirements found in Volume I, Section 7 of the EAC 2005 VVSG, which include requirements for voter and administrator access, availability of network service, data confidentiality, and data integrity. Most importantly, security services must restrict access to local election system components from public resources, and these services must also restrict access to voting system data while it is in transit through public networks. Compliance with Section 7, EAC 2005 VVSG shall be evidenced by a VSTL report submitted with the vendor's application for approval of a voting system.

In an effort to achieve these standards and to verify the proper functionality of the units under test, the following methods will be used to test each component of the voting system:

#### **Wired Modem Capability Test Plan**

**Test Objective:** To transfer the results from the tabulator to the Election Management System via a wired network correctly.

**Test Plan:**

1. Attempt to transmit results prior to the closing of the polls and printing of results tape
2. Set up a telephone line simulator that contains as many as eight phone lines
3. Perform communication suite for election night reporting using a bank with as many as seven analog modems:
  - a. Connect the central site election management system to the telephone line simulator and connect the modems to the remaining telephone line ports
  - b. Setup the phone line numbers in the telephone line simulator
  - c. Use the simulated election to upload the election results

- i. Use at least eight tabulators in different reporting units
    - ii. Use as many as two tabulators within the same reporting units
  - d. Simulate the following transmission anomalies
    - i. Attempt to upload results from a tabulating device to a computer which is not part of the voting system
    - ii. Attempt to upload results from a non-tabulating device to the central site connected to the modem bank
    - iii. Attempt to load stress by simulating a denial of service (DOS) attack or attempt to upload more than one polling location results (e.g., ten or more polling locations)

### **Wireless Capability Test Plan**

**Test Objective:** To transfer the results from the tabulator to EMS via a wireless network correctly.

**Test Plan:**

1. Attempt to transmit results prior to the closing of the polls and printing of results tape.
2. Perform wireless communication suite for election night reporting:
  - a. Use the simulated election to upload the election results using wireless transfer to the secure FTP server (SFTP)
  - b. Use at least eight tabulators in different reporting units
  - c. Use as many as two tabulators within the same reporting unit
3. Simulate the following transmission anomalies
  - a. Attempt to upload results from a tabulating device to a computer which is not part of the voting system
  - b. Attempt to upload results from a non-tabulating device to the SFTP server
  - c. Attempt to load stress by simulating a denial of service (DOS) attack or attempt to upload more than one polling location results (e.g., ten or more polling locations)
  - d. If possible, simulate a weak signal
  - e. If possible, simulate an intrusion

### **Test Conclusions for Wired and Wireless Transmission**

- System must be capable of transferring 100% of the contents of results test packs without error for each successful transmission.
- Furthermore, system must demonstrate secure rate of transmission consistent with security requirements.
- System must demonstrate the proper functionality to ensure ease of use for clerks on election night.
- System must be configured such that the modem component remains inoperable until after the official closing of the polls and printing of one (1) copy of the results tape.

### **PART III: PROPOSED SECURITY PROCEDURES**

Staff recommends that as a condition of purchase, any municipality or county which purchases this equipment and uses modem functionality must also agree to the following conditions of approval.

1. Devices which may be incorporated in or attached to components of the system for the purpose of transmitting tabulation data to another data processing system, printing system, or display device shall not be used for the preparation or printing of an official canvass of the vote unless they conform to a data interchange and interface structure and protocol which incorporates some form of error checking.
2. Any jurisdiction using a modeming solution to transfer results from the polling place to the central count location may not activate the modem functionality until after the polling place closes.
3. Any municipality using modeming technology must have one set of results printed before it attempts to modem any data.
4. Any municipality purchasing and using modem technology to transfer results from the polling location to the central count location must conduct an audit of the voting equipment after the conclusion of the canvass process.
5. Default passwords provided by ES&S to county/municipality must be changed upon receipt of equipment.

6. Counties must change their passwords after every election.

**PART IV: CONDITIONS FOR APPROVAL (VENDOR)**

Additionally, staff recommends that, as a condition/continuing condition of approval, ES&S shall:

1. Reimburse actual costs incurred by the G.A.B. and local election officials, where applicable, in examining the system (*including travel and lodging*) pursuant to state processes.
2. Configure modem component to remain inoperative (incapable of either receiving or sending transmissions) prior to the closing of the polls and the printing of tabulated results.

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.

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(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.



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Chair

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the May 21-22, 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

**SUBJECT:** Approval of Electronic Voting Systems

### **I. Introduction**

This memorandum is to provide context for the current and forthcoming review of applications for voting equipment approval that are or will be before the Government Accountability Board (Board) in the near future. This is a review of current Board policies and Board staff's implementation of voting equipment testing standards. Therefore, this memorandum is for the Board's information only and no action by the Board is being requested at this time.

### **II. Statutory Framework**

A. No electronic voting equipment may be offered for sale or utilized in Wisconsin unless approved by the Board, which currently interprets Wisconsin's statutes and administrative rules pertaining to approval of voting systems to require U.S. EAC certification.

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 (NASSED)), demonstrating that the voting system conforms to all the standards recommended by the Federal Election

Commission (FEC).<sup>1</sup> Wis. Adm. Code 7.01(1)(e). Current interpretation by the Board of Wis. Adm. Code Ch. 7 and policies regarding the approval of voting equipment requires U.S. EAC certification prior to conducting testing for approval for sale or use in Wisconsin. For good cause, the Board may exempt any system from strict compliance with the provisions of Wisconsin Statute § 5.91. The Board has recently exercised its authority by granting *conditional* approval for the ES&S Unity 3.4.0.1.

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, marking the first time in history that the federal government holds this responsibility. While states are not required to participate in the program, a majority of states have enacted laws that require some level of participation or testing to federally developed standards.

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.<sup>2</sup> 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.<sup>3</sup> Given the lack of U.S. EAC commissioners, the U.S. EAC has not been able to promulgate up to date

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<sup>1</sup> 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.

<sup>2</sup> 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](http://www.eac.gov/about_the_eac/technical_guidelines_development_committee.aspx) to view TGDC resolutions, meeting minutes and additional information.

<sup>3</sup> 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.

technology standards, a contributory factor in the current stagnation in election technology innovation.

Currently, vendors seeking U.S. EAC certification of equipment must demonstrate that their equipment is compliant with the 2005 VVSG requirements. 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. 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.

### **III. An Overview of G.A.B. Voting Equipment Testing**

In developing and maintaining voting equipment testing standards and protocols, Board staff has reviewed the statutory requirements and testing protocols of other states, the voting equipment testing protocols of accredited voting equipment testing laboratories, and the suggested testing procedures for voting equipment as developed by the U.S. EAC. The following is an overview of the test protocols that have been used by staff in voting equipment testing campaigns. Within the last two and a half years, Board staff has augmented the G.A.B. testing program by developing more robust state specific testing protocols.

The State of Wisconsin's testing requirements include a requirement for Federal U.S. EAC testing and certification, State functionality and integrity testing, and Acceptance Testing.<sup>4</sup> As a condition of the Federal Compliance Testing, vendors must demonstrate that they are in compliance with the most recent version or versions of the Voluntary Voting System Guidelines (VVSG) or Voting System Standards (VSS) currently accepted for testing and certification by the U.S. EAC. Compliance with the applicable VVSG/VSS is substantiated through federal certification by the U.S. EAC. Furthermore, as a condition of State approval, voting equipment vendors seeking approval must submit to the G.A.B. a certified application for approval and a developed testing plan pertaining to voting systems. As part of the application process, the voting equipment manufacturer is required to agree to reimburse the G.A.B. for all cost incurred during the testing campaign. Finally, during Acceptance Testing, the final phase, counties or municipalities are required to verify that they have received the same equipment that has been tested by the state and verify that it is working properly. The Board has also required the successful completion of a test election and a post-election audit as an ongoing condition of approval with certain systems.

Wisconsin testing and approval protocols include requirements pertaining to the following: (a) Functionality and Integrity; (b) System Performance; (c) Physical and design characteristics; (d) Documentation requirements; and (e) Evaluation criteria.

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<sup>4</sup> Federal Compliance testing is conducted by a VSTL, state certification testing is conducted by the G.A.B, and Acceptance testing is conducted on the county/municipal level, where the receiving entity verifies that the system received was the system that has been tested at the Federal and State levels.

Accordingly, the manufacturer is required to provide both a full and a redacted set of the following documentation as part of the application:

- Complete specifications for all hardware, firmware and software;
- All technical manuals and documentation related to the system;
- Complete instruction materials necessary for the operation of the equipment and a description of training available to users and purchasers;

Board staff reviews the Technical Data Package, Corporate Information, and other material provided and notifies the vendor of any deficiencies. Staff conducts a preliminary analysis of the Technical Data Package, Corporate Information, and other materials provided and prepares a testing plan. After the vendor agrees to the plan, the G.A.B. voting equipment team conducts the testing campaign described in the testing proposal and then submits a report of the findings to the Board for review.

Functional and integrity testing provides assurance that the voting system is functioning correctly, that the voting system complies with the conditions of the product acquisition document, and that the voting system is correctly configured for use in an election. This test is performed to ensure that the correct Federal certified version(s) of the software/firmware are installed in the voting unit and that the system will perform correctly during an election. It will test both the functionality of the unit and its ability to successfully interface with the Election Management Software.

The functional test consists of loading a mock election onto the unit, casting a known pattern of votes, closing the election, printing the reports, and then computing the test results with the known vote pattern. As part of the functionality and integrity testing, and as required by GAB 7.02(1), Board staff conducts 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 offer an opportunity for staff to perform functional testing to ensure the system conforms to all Wisconsin requirements. The staff designs 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. Staff then determines whether the results produced by each tabulator matched the expected results from the test plan. During testing, staff also assesses the usability of the system, including its design and performance under various conditions.

Board staff independently tests the modeming component of voting equipment as part of the functionality and integrity testing of a system under review. Upcoming voting equipment applications that will be brought before the Board by vendors seeking approval will likely require that staff test the modeming component. At the March 20, 2013 meeting, the Board approved protocols that 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 Voluntary Voting System Guidelines (VVSG), but any additional modeming component does not meet the 2005 VVSG. Based on the review of other states' testing protocols, Wisconsin's statutory requirements, and industry standards, Board staff has developed proposed testing protocols and procedures for modeming components. The Board approved *Voting System Standards, Testing*

*Protocols and Procedures Pertaining to the Use of Communication Devices*, which are included separately with the Board materials related to the approval of the ES&S Unity 3.4.0.1 voting equipment.

Staff also developed a number of security and procedural processes that apply to the use of telecommunications in elections. The Election Day security protocols clarify that the modeming component shall only be used for the transmission of unofficial results. The Board has also adopted post-election equipment audit requirements that apply during the equipment's initial period of use. For example, the protocols and procedural requirements 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. 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.

Following the functional and integrity testing, Board staff coordinates two publically noticed demonstrations of the system. At the public test, members of the public are able to use the system and provide comment. Similarly, the G.A.B. hosts a meeting of the Wisconsin Election Administration Council (WI-EAC), which is made up of municipal and county clerks, representatives of the disability community, and community advocates. The members participate in a demonstration by the manufacturer and evaluate the equipment.

Following the conclusion of a given testing campaign, Board staff uses the following criteria to analyze whether a voting system should be recommended to the Board for use in Wisconsin:

- Can the voting system successfully run an open, fair and secured Wisconsin election in compliance with Wisconsin Statutes?
- Does the system enhance access to the electoral process for individuals with disabilities?
- Does the voting system meet Wisconsin's statutory requirements and the provisions of the Help America Vote Act of 2002?

Board staff then presents these recommendations, along with an analysis of the testing outcomes to the Board for consideration. Upon the Board's approval, the voting equipment may be sold for use in Wisconsin subject to any conditions included in the Board's action.

This memorandum is to provide background for the Board's consideration in upcoming applications for approval pertaining to voting equipment. No Board action is being requested at this time.



# State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the Meeting of May 21-22, 2014

**TO:** Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:  
Michael Haas, Elections Division Administrator  
Ngozi Agbo, Legal Intern

**SUBJECT:** Nomination Paper Challenge Procedure

June 2, 2014 is the deadline for filing nomination papers for offices to be elected in the November 4, 2014 Fall Elections. Invariably, once nomination papers are filed, challenges to those nomination papers are filed. The Board's members will be asked to rule on these challenges at the June 10, 2014 meeting. The challenge complaints received by the Thursday, June 5, 2014 deadline will be made available to the Board in advance of the Board meeting. Because the deadline for responses to any challenge is June 9, 2014, the staff's recommendations regarding ballot access for challenged candidates will not be available until the Board meeting. This memorandum outlines the procedures and standards used by the staff and Board to evaluate and rule on challenges to nomination papers.

### **I. PROCEDURE**

1. June 2, 2014 - Nomination papers must be filed not later than 5:00 p.m. for all nominations for the fall elections mandated by statute for November 4, 2014. Wis. Stat. § 8.15(1). G.A.B. staff follows a standardized procedure for the intake, processing and review of nomination papers, which is summarized on the attached Exhibit A. Two different staff members conduct facial reviews of each set of nomination papers to determine whether the candidate has collected a sufficient number of valid signatures.
2. June 5, 2014 – Any correcting affidavits to rehabilitate signatures struck by staff are due no later than 4:30 p.m. Rule GAB 2.05(4). Challenges to nomination papers also must be filed not later than 4:30 p.m. Rule GAB 2.07(2)(a). A copy of the complaint

will be delivered by the Board's staff to the candidate whose papers are being challenged. *Id.*

- a. Challenges must be made by verified complaint and must establish probable cause that the paper or signature challenged does not comply with Wisconsin Statutes or the rules of the Government Accountability Board. (See annotation below.)
  - b. The challenge should be accompanied by affidavits or other relevant documentation. Any challenge which is not established by the materials submitted as of the deadline for challenge shall be denied.
3. June 9, 2014 - If received not later than 4:30 p.m., a written response to the challenge (that will be photocopied or emailed for Board members for the June 10, 2014 meeting) may be filed by the candidate. Rule GAB 2.07(2)(b). A written response should also be verified and should also be accompanied by affidavits or other documentation. *Id.* Just as the burden of establishing a challenge is upon the challenger, the burden of rebutting an established challenge is upon the candidate whose papers are challenged. Rule GAB 2.07(3).
  4. June 5 – 9, 2014 - The Board's staff will prepare a written report on the challenges and any available responses. To whatever extent necessary and possible, the Board's staff will contact circulators, affiants, and other persons with personal knowledge of the circumstances under which the signatures were obtained. Given the time frame involved, staff verification will likely be limited to close cases.
  5. June 10, 2014 - The Board will meet to consider the challenges and responses, and hear any oral presentation. Attached is a copy of the relevant provisions of Wis. Stat. ch. 8 governing nomination papers and nominations. Also attached are the Board's rules, GAB 2.05 and 2.07, governing treatment and sufficiency of nomination papers and challenges thereto.
  6. If an incumbent officeholder does not file nomination papers and a declaration of candidacy form by the filing deadline, and also has not filed a declaration of noncandidacy by May 23, 2014, the filing deadline for all other candidates for that office is extended by 72 hours. The effect on the process and associated deadlines for any such offices is as follows:
    - a. June 5, 2014 - Nomination papers must be filed not later than 5:00 p.m.
    - b. June 9, 2014 - Challenges to nomination papers must be filed not later than 4:30 p.m.
    - c. June 12, 2014 – A written response to the challenge may be filed by the candidate not later than 4:30 p.m.

- d. If necessary the Board will meet again to consider any cases with delayed deadlines. If the Board has sufficient information, or challenges are not filed, certification of these offices may be decided at the June 10, 2014 meeting.

**Please note:** Because challenge proceedings are an administrative proceeding subject to statutory administrative procedures and potential court review, Board staff recommends that any challenge proceedings be handled on a case-by-case basis. In other words, rather than having the Board entertain public comments on all cases before considering staff recommendations, staff recommends that the Board Chair announce each file and the Board conduct a separate proceeding on each file. This procedure would help the Board to recall the facts of each case and the public comments at the time of the Board's decision, and to create a concise record for any potential court review of a particular decision.

In previous years, the Board Chair has requested any public comments regarding each matter, then the Board has received the staff recommendation before discussing and voting on the case. Often the public comments and debate between challenger and candidate would benefit from, or become moot by, the staff analysis of challenges and correcting affidavits. Therefore, staff is recommending that the Board alter the structure of the proceedings so that the staff analysis and recommendation is presented first, followed by the public comments and then the staff can answer any questions raised by the public comments. Staff believes this process will result in more productive public comments and more efficient analysis of the issues.

## II. ANNOTATION

As a general rule, the policy of the former Elections Board and of the Government Accountability Board with respect to the nomination process has been to promote or facilitate candidate ballot access, not to find a justification for impeding that access, and the challenge procedure was applied in that spirit. As much as possible, the selection and elimination of candidates should be left to the electorate.

For the Board to consider a challenge, the complaint must establish probable cause that a violation of election law has occurred. A complaint must allege facts which, if true, would constitute a failure to comply with Wisconsin's election (not campaign finance) statutes. The complaint must allege a violation of Wis. Stat. ch. 8, the statutory chapter governing nominations to the general election ballot. The statutory standard for compliance is "substantial compliance" as set forth in Wis. Stat. § 5.01(1) as follows:

*5.01 Scope. (1) CONSTRUCTION OF CHS. 5 TO 12. Except as otherwise provided, chs.5 to 12 shall be construed to give effect to the will of the electors, if that can be ascertained from the proceedings, notwithstanding informality or failure to comply with some of their provisions.*

The Board's administrative rule, GAB 2.05, sets forth the standards for determining whether nomination papers comply with ch. 8, Stats. And its rule, GAB 2.07, sets forth the bases and procedures for challenges to those papers. Note that GAB 2.05(4) provides that "Any

information on a nomination paper is entitled to a presumption of validity." Consequently, any challenge to that information must rebut that presumption, (under §.903.01, Stats.), by clear and convincing evidence that "the nonexistence of the presumed fact is more probable than its existence."

Challenges must be based on the personal knowledge of the complainant or of a person whose affidavit or sworn statement accompanies the challenge. As an example: a complaint challenging the eligibility of a signatory to a nomination paper based on the signer's non-residency must be accompanied by reference to MyVote Wisconsin or "Who is My Legislator?" web searches, by a map of the district demonstrating that the address is outside the district, or by a signed statement from the election official, (municipal clerk or deputy clerk), whose responsibility it is to determine the residency of electors of the district. Without such references, the complainant challenger's bare assertion of the signer's non-residency is not sufficient to sustain the challenger's burden of proof.

Challengers will be informed that new grounds for a challenge which are not raised in an initial complaint and which are raised after 4:30 p.m., Thursday, June 5, 2014, will not be considered by the Board.

Challenge complaints are filed by delivering an original and a copy to the Government Accountability Board at its offices, pursuant to GAB 2.07, and by the Board's staff delivering a copy to the respondent whose nomination papers are being challenged.

### **III. CORRECTIONS TO NOMINATION PAPERS**

Historically, this Board, as well as its predecessor the former State Elections Board, has recognized that some deficiencies in nomination papers may be corrected by way of an affidavit from the circulator of the nomination paper. This is true whether the deficiencies were identified by staff review of the nomination paper or were identified by a challenge complaint. Consequently, signatures which have been disallowed by the staff in its initial review of a nomination paper may have been "rehabilitated" by a correcting affidavit submitted after the deadline for filing nomination papers. Rule GAB 2.05(4).

It is important to note the complications which may arise because errors on nomination papers may be corrected during the same period that challenges to nomination papers are filed. Because deficiencies on nomination papers may be rehabilitated until the deadline for challenges, signatures stricken during staff review are **not** considered officially debarred until the rehabilitation deadline of June 5, 2014, and may still be susceptible to additional challenges on other grounds. Any challenges to signatures initially struck during the initial staff review also must be raised not later than 5:00 p.m. on Thursday, June 5, 2014, whether or not those papers or signatures have been corrected as of that time.

Court decisions have established a distinction between statutory requirements that are mandatory, such as filing deadlines for nomination papers and for challenges, and those that are directory and are evaluated on a substantial compliance basis, such as the sufficiency of information included on nomination papers.

Errors that may be corrected:

a.) Elector errors:

- i. The elector wrote in a date other than the one on which he/she signed, wrote an incomplete date or left the box for the date blank undated.
- ii. The elector used an address which does not reflect his actual residence, or wrote an incomplete address.
- iii. The elector wrote in a municipality which does not reflect his actual residence.
- iv. The elector failed to include a legible printed name with the signature.

The elector or circulator may correct the first three errors listed above, but only the elector may correct the fourth error listed, except the elector may request assistance in both printing their name and completing an affidavit to correct the failure to include a legible printed name.

b.) Certificate of Circulator errors:

The circulator failed to sign or otherwise complete the certificate, or entered inadvertently erroneous data (for instance: the circulator dated the certificate before circulation, not after). Errors in the Certificate of Circulator must be corrected by the circulator.

Errors that may not be corrected:

- a.) Signatures may not be added to nomination papers after the filing deadline, and may not be added to a particular page after the certificate of circulator has been executed. (However, the date of certification may be corrected.)
- b.) None of the information in the heading of the nomination paper, (i.e., candidate's name, candidate's address, political party represented, date of election, office sought, name of jurisdiction or district in which candidate seeks office), may be altered, amended, or added after circulation of the nomination paper. This is the nomination information that each signatory saw and relied upon in deciding to sign the paper.
- c.) The date of signing may not be changed to a date other than the one on which the signatory actually signed; nor may any other signatory information be changed from that which was correct at the time the signatory signed.

Attachments: Wis. Stats. Sections. 8.15, 8.21, 8.30  
GAB 2.05, 2.07 Wis. Adm. Code



# SUMMARY OF PROCEDURES FOR PROCESSING NOMINATION PAPERS AND CERTIFYING CANDIDATES FOR BALLOT PLACEMENT

GENERAL ELECTION – NOVEMBER 4, 2014

## Front Desk Staff – Nomination Paper Intake

### When Nomination Papers Are Delivered in Person

Check if candidate is registered for this election. If not, send candidate (or candidate’s agent) to Elections Specialist who will register the candidate in CFIS and SVRS.

If candidate is registered for this election:

- A. Check SVRS to determine if Declaration of Candidacy (DOC) has been filed.
  1. If yes, remove from accordion folder marked “DOC.”
  2. If no, either
    - a. Receive DOC from candidate or candidate’s agent. Date stamp and stamp “Hand Delivered.” Record receipt of DOC in SVRS.
    - b. If candidate needs to complete a DOC, indicate this on the blue “Ballot Access Check-in” form.
- B. Receive nomination papers from candidate.
  1. Ensure pages are numbered. If not, have candidate number pages.
  2. Confirm with candidate the approximate number of signatures.
    - a. If number of pages is more than the maximum number allowed, have candidate or agent submit only maximum. (\*See signature chart below.)
    - b. Record receipt of nomination papers and enter the approximate number of pages in SVRS. Approximate number MAY NOT exceed maximum number allowed by law.
    - c. Record the name of candidate or other person submitting papers.
    - d. Change nomination paper status to “submitted.”

<u>Office</u>	<u>Min. # of Signatures</u>	<u>*Max. # of Signatures</u>
Statewide Constitutional Offices (Gov., Lt. Gov., AG, SOS, State Treas.)	2,000	<b>4,000</b>
Rep. in Congress	1,000	<b>2,000</b>
State Senator	400	<b>800</b>
Rep. to the Assembly	200	<b>400</b>

- C. Prepare nomination papers and other documents for delivery to Elections Specialist.
  1. Print Nomination Paper Sufficiency form and Receipt from SVRS.
  2. Use a binder clip to secure nomination papers.
  3. Place DOC, Sufficiency Form and Receipt on top of nomination papers.
  4. Include “Ballot Access Check-in” form, if any forms are missing.
  5. Place entire bundle in expandable folder marked with registrant and receipt number.
  6. Send the candidate or agent with folder to an elections specialist who will review the documents with the candidate or agent.

### When Nomination Papers Arrive in the Mail

Check if candidate is registered for this election. If not, use a binder clip to secure papers and route to elections specialists by placing in basket marked “Candidate Not Registered.” (Elections Specialist will contact candidate.)

If candidate is registered for this election:

- A. Check SVRS to determine if Declaration of Candidacy (DOC) has been filed.
  - 1. If yes, remove from accordion folder marked "DOC."
  - 2. If no,
    - a. If received with nomination papers, date stamp and stamp "Hand Delivered." Record receipt of DOC in SVRS.
    - b. If candidate needs to complete a DOC, indicate this on the blue "Ballot Access Check-in" form.
  
- B. Check in nomination papers.
  - 1. Ensure pages are numbered. If not, number pages.
  - 2. Record receipt of nomination papers and enter the approximate number of pages in SVRS. If the number of pages is more than the maximum number allowed, only enter the maximum number per the above chart.
  - 3. Record that the papers were received by mail.
  - 4. Change nomination paper status to "submitted."
  
- C. Assemble nomination papers and other documents.
  - 1. Print Nomination Paper Sufficiency form from SVRS.
  - 2. Use a binder clip to secure nomination papers.
  - 3. Place DOC and Sufficiency Form on top of nomination papers.
  - 4. Include "Ballot Access Check-in" form, if any forms are missing.
  - 5. Place entire bundle in expandable folder marked with registrant and receipt number.
  - 6. Route papers to elections specialist by placing folder in basket marked "Mailed Nomination Papers."

**When Supplemental Nomination Papers or Amending Affidavits Are Filed**

If the candidate has filed nomination papers and been issued a receipt and then later delivers additional nomination papers:

- I. When the candidate already has a receipt number in the SVRS system, indicating he has already filed nomination papers:
  - A. Record in SVRS that supplemental papers have been received and enter the date received.
    - 1. If SVRS indicates that other supplemental papers have been turned in, then nothing is recorded.
  
  - B. The candidate or agent completes the Supplemental Nomination Paper Receipt [GAB-151 (Supp)]. Initial on "Agency Staff" line.
    - 1. If Supplemental papers are received thru the mail, complete the GAB-151 (Supp) yourself.
  
  - C. Date stamp the back of each copy of the supplemental receipt:
    - 1. Give the yellow copy to the candidate.
    - 2. Attach the white copy to the top page of the nomination papers.
    - 3. *When supplemental papers are received thru the mail, attach both the white and yellow copies to the top page of the nomination papers.*
    - 4. Retain the pink copy of the supplemental receipt and file in the card file box provided.
    - 5. Bundle the nomination papers securely and place in the designated Supplemental Nomination

Paper/Amending Affidavit basket.

II. When amending affidavits are received, place in “Supplemental/Amending Affidavit” basket.



## **Elections Administration Staff – Nomination Paper Review:**

- I. Review Paper with Candidate or Candidate's Agent
  - A. Review ballot access forms with the candidate for accuracy and completeness.
    1. Assist the candidate in completing the forms when required.
    2. Verify the form of the candidate's name as it will appear on the ballot, based on DOC.
  - B. Verify the following has been recorded in SVRS:
    1. All documents received. Note any form deficiencies that cannot be remedied immediately under "Status," and describe problem in "Comments."
    2. Approximate number of pages and signatures
    3. Name of person who submitted the papers.
  - C. Scan the nomination papers for proper format and to determine if there are any apparent problems.
  - D. Complete sufficiency form and issue receipt to candidate.
  - E. Return the papers to the expandable file. Route papers to Elections Specialist who will perform detailed sufficiency review.
- II. Sufficiency Review - Review each nomination paper following the criteria set out in the attached addendum.
  - A. After the papers have been checked, and sufficiency has been determined, make the proper notations on the sufficiency form and place all papers in "final review" basket.
- III. Final Review
  - A. An Elections Specialist, other than the specialist who performed the first review, audits the first review by
    1. Checking the header and Certification of Circulator for completeness
    2. Performing an audit using the criteria set out in the attached addendum.
    3. Verifying 1<sup>st</sup> reviewer's marks and math and making any corrections.
    4. Notify the candidate immediately of any insufficiency and any remedy, and document the contact.
  - B. The Specialist enters the number of valid signatures in SVRS and verifies that all required information has been entered and all ballot access documents have been received.
    1. If any document is missing or incomplete, record this information in the "Incomplete Filing" field.
  - C. The Specialist will print a "verification form," and highlight any insufficiency on the verification. Mail the verification to the candidate.
  - D. If all documents are received and signatures are sufficient, the Specialist indicates in SVRS that the signatures are sufficient and that candidate is approved for ballot placement, pending board approval. The nomination paper file is routed to support staff for filing.
    1. If any document is missing or signatures are insufficient, Specialist keeps the nomination paper file at his or her desk until remedied.
- IV. Supplemental Signatures and Amending Affidavits
  - A. If the candidate's signatures are currently insufficient, review the supplemental signatures or affidavits

and determine the number of additional valid signatures or number of rehabilitated signatures.

1. Add the number of additional signatures or rehabilitated signatures to the current total.
  2. Change the number of valid signatures in SVRS.
  3. If all documents are received and signatures are now sufficient, the Specialist indicates in SVRS that the signatures are sufficient and that candidate is approved for ballot placement, pending board approval. The nomination paper file is routed to support staff for filing.
  4. If all documents have not been received or signatures still are not sufficient, the Specialist keeps the nomination paper file at his or her desk until remedied.
- B. If the candidate already has sufficient signatures, the supplemental papers or amending affidavits are placed in the nomination paper file. Supplemental papers or amending affidavits will be reviewed if a successful challenge brings the number of signatures to less than the minimum number required for ballot access.

ballot. The petition may be circulated no sooner than the first Tuesday in January of such year, or the next day if Tuesday is a holiday, and shall be signed by a number of qualified electors equal in each congressional district to not less than 1,000 signatures nor more than 1,500 signatures. The form of the petition shall conform to the requirements of s. 8.40. All signers on each separate petition paper shall reside in the same congressional district.

(d) The board shall forthwith contact each person whose name has been placed in nomination under par. (b) and notify him or her that his or her name will appear on the Wisconsin presidential preference ballot unless he or she files, no later than 5 p.m. on the last Tuesday in January of such year, with the board, a disclaimer stating without qualification that he or she is not and does not intend to become a candidate for the office of president of the United States at the forthcoming presidential election. The disclaimer may be filed with the board by certified mail, telegram, or in person.

(2) **BALLOTS.** The form of the official ballots shall be prescribed by the board. The ballot shall provide to an elector the opportunity to vote for an uninstructed delegation to represent this state at the presidential nominating convention of his or her party, or to write in the name of a candidate for the presidential nomination of his or her party.

(3) **REPORTING OF RESULTS.** No later than May 15 following the presidential preference primary, the board shall notify each state party organization chairperson under sub. (1) (b) of the results of the presidential preference primary within the state and within each congressional district.

**History:** 1973 c. 334 ss. 16, 57; 1975 c. 93, 185, 199, 422; 1977 c. 427; 1979 c. 34, 260, 311, 355; 1983 a. 484; 1985 a. 304 ss. 100 to 106, 156; 1987 a. 391; 1989 a. 192; 1993 a. 184; 1995 a. 16 s. 2; 1999 a. 182; 2003 a. 24; 2011 a. 45.

The national democratic party has a protected right of political association and may not be compelled to seat delegates chosen in an open primary in violation of the party's rules. *Democratic Party of U.S. v. Wisconsin*, 450 U.S. 107 (1981).

**8.125 Accessibility of presidential caucuses.** Any political party which holds a caucus open to the public for the purpose of selecting delegates to the national presidential nominating convention of the party shall hold the caucus in a place which is accessible to persons in wheelchairs.

**History:** 1985 a. 304.

**8.13 Commission city primary.** At the first primary after adoption of the commission form of government the 2 candidates for mayor and the 4 candidates for council members receiving the highest number of votes shall be nominated. At subsequent primaries the 2 candidates receiving the most votes for either office shall be nominated. Only the names of the nominees shall appear on the spring election ballot.

**History:** 1985 a. 135 s. 83 (2).

**8.15 Nominations for partisan primary.** (1) Nomination papers may be circulated no sooner than April 15 preceding the general election and may be filed no later than 5 p.m. on June 1 preceding the partisan primary, except as authorized in this subsection. If an incumbent fails to file nomination papers and a declaration of candidacy by 5 p.m. on June 1 preceding the partisan primary, all candidates for the office held by the incumbent, other than the incumbent, may file nomination papers no later than 72 hours after the latest time prescribed in this subsection. No extension of the time for filing nomination papers applies if the incumbent files written notification with the filing officer or agency with whom nomination papers are filed for the office which the incumbent holds, no later than 5 p.m. on the 2nd Friday preceding the latest time prescribed in this subsection for filing nomination papers, that the incumbent is not a candidate for reelection to his or her office, and the incumbent does not file nomination papers for that office within the time prescribed in this subsection. Only those candidates for whom nomination papers containing the necessary signatures acquired within the allotted time and filed before

the deadline may have their names appear on the official partisan primary ballot.

(2) Only one signature per person for the same office is valid. In addition to his or her signature, in order for the signature to be valid, each signer of a nomination paper shall legibly print his or her name in a space provided next to his or her signature and shall list his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing.

(3) All signers on each separate nomination paper for all state offices, county offices, and the offices of U.S. senator and representative in congress shall reside in the jurisdiction or district which the candidate named on the paper will represent, if elected.

(4) (a) The certification of a qualified circulator stating his or her residence with street and number, if any, shall appear at the bottom of each nomination paper, stating he or she personally circulated the nomination paper and personally obtained each of the signatures; he or she knows they are electors of the ward, aldermanic district, municipality or county, as the nomination papers require; he or she knows they signed the paper with full knowledge of its content; he or she knows their respective residences given; he or she knows each signer signed on the date stated opposite his or her name; and, that he or she, the circulator, is a qualified elector of this state, or if not a qualified elector of this state, is a U.S. citizen age 18 or older who, if he or she were a resident of this state, would not be disqualified from voting under s. 6.03, Wis. stats.; that he or she intends to support the candidate; and that he or she is aware that falsifying the certification is punishable under s. 12.13 (3) (a), Wis. stats. The circulator shall indicate the date that he or she makes the certification next to his or her signature. The certification may be made by the candidate or any qualified circulator.

(b) Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate for state or local office has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office shall also file a statement of economic interests with the board under s. 19.43 (4) no later than 4:30 p.m. on the 3rd day following the last day for filing nomination papers under sub. (1), or no later than 4:30 p.m. on the next business day after the last day whenever that candidate is granted an extension of time for filing nomination papers under sub. (1).

(5) (a) Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of (insert candidate's last name plus first name, nickname or initial, and middle name, former legal surname, nickname or middle initial or initials if desired, but no other abbreviations or titles) residing at (insert candidate's street address) be placed on the ballot at the (general or special) election to be held on (date of election) as a candidate representing the (name of party) so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

(b) Each candidate shall include his or her mailing address on the candidate's nomination papers.

(6) The number of required signatures on nomination papers shall be as follows:

(a) For statewide offices, not less than 2,000 nor more than 4,000 electors.

(b) For representatives in congress, not less than 1,000 nor more than 2,000 electors.

(c) For state senators, not less than 400 nor more than 800 electors.

(d) For representatives to the assembly, not less than 200 nor more than 400 electors.

(dm) For district attorneys, not less than 500 nor more than 1,000 electors in prosecutorial units over 100,000 population and not less than 200 nor more than 400 electors in prosecutorial units of 100,000 population or less.

(e) For county offices, not less than 500 nor more than 1,000 electors in counties over 100,000 population and not less than 200 nor more than 400 electors in counties of 100,000 population or less.

(7) A candidate may not run in more than one party primary at the same time. No filing official may accept nomination papers for the same person in the same election for more than one party. A person who files nomination papers as the candidate of a recognized political party may not file nomination papers as an independent candidate for the same office at the same election.

(8) Nomination papers shall be filed:

(a) For state offices and the offices of U.S. senator and representative in congress, in the office of the board.

(b) For county offices, in the office of the county clerk or board of election commissioners.

**History:** 1971 c. 304 ss. 13, 29 (1), (2); 1973 c. 334 s. 57; 1977 c. 107, 427; 1979 c. 249, 260, 311; 1983 a. 29, 484; 1985 a. 304; 1989 a. 31; 1993 a. 140, 213, 266; 1999 a. 182; 2001 a. 109; 2005 a. 451; 2007 a. 1; 2011 a. 32, 75; 2013 a. 160.

**Cross-reference:** See also ss. GAB 2.09, 2.11, and 6.04, Wis. adm. code.

The ban on multiple party nominations under sub. (7) does not burden the associational rights of political parties and is justified by compelling state interests. *Swamp v. Kennedy*, 950 F.2d 383 (1991).

**8.16 Partisan nominations. (1)** Except as provided in sub. (2), the person who receives the greatest number of votes for an office on a party ballot at any partisan primary, regardless of whether the person's name appears on the ballot, shall be the party's candidate for the office, and the person's name shall so appear on the official ballot at the next election.

(2) A person who receives only write-in votes shall not appear on the ballot as the candidate of a recognized political party for an office whenever no candidate's name appears on the ballot for that office unless the person receives at least 5% of the vote cast in the jurisdiction or district for the party's gubernatorial candidate at the last general election or the number of votes equivalent to the minimum number of signatures required on nomination papers for that office under s. 8.15 (6), whichever is greater, and unless:

(a) The person files a declaration of candidacy under s. 8.21 no later than 5 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the person by the filing officer or agency for the office sought;

(b) If the person is a candidate for state office, the person files a statement of economic interests under s. 19.43 (4), no later than 4:30 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the person by the board; and

(c) If the person is a candidate for state or local office, the person files a registration statement under s. 11.05.

(2m) Independent candidates may not be nominated by write-in votes but shall file nomination papers under s. 8.20.

(3) Where the boundaries of a district in which the candidate of a political party seeks office have been changed since the most recent gubernatorial election such that it is not possible to calculate the exact percentage of write-in votes, under sub. (2), which are needed by that candidate to become the nominee of the party, the number of votes cast for a political party's nominee for governor at the last general election in each ward or aldermanic district, or each municipality where there are no wards, which is wholly contained within the boundaries of the newly formed district shall be calculated. If a candidate of a political party in a newly formed district does not obtain 5% of the number of votes calculated or the number of votes equivalent to the minimum number of signatures required under s. 8.15 (6), whichever is greater, the candidate shall not appear on the ballot as the candidate of that party for the office sought.

(4) A recognized political party which participated in the most recent gubernatorial election but loses its ballot position and subsequently regains such position under s. 5.62 (2) does not cease to be a political party for purposes of qualification under subs. (2) and (3).

(6) The persons who receive the greatest number of votes respectively for the offices of governor and lieutenant governor on any party ballot at a primary shall be the party's joint candidates for the offices, and their names shall so appear on the official ballot at the next election.

(7) Nominees chosen at a national convention and under s. 8.18 (2) by each party entitled to a partisan primary ballot shall be the party's candidates for president, vice president and presidential electors. The state or national chairperson of each such party shall certify the names of the party's nominees for president and vice president to the board no later than 5 p.m. on the first Tuesday in September preceding a presidential election. Each name shall be in one of the formats authorized in s. 7.08 (2) (a).

**History:** 1975 c. 41, 93, 199; 1977 c. 107, 383, 427, 447; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31; 2011 a. 32, 75.

**Cross-reference:** See also s. GAB 6.04, Wis. adm. code.

The vote percentage requirement set forth in sub. (2) applies to special partisan primary elections. 61 Atty. Gen. 172.

The 5 percent requirement of sub. (2) does not violate equal protection nor burden the right to associate and cast votes effectively. *Blair v. Hebl*, 498 F. Supp. 756 (1980).

**8.17 Political party committees. (1)** (a) Political parties qualifying for a separate ballot under s. 5.62 (1) (b) or (2) shall elect their party committeemen and committeewomen as provided under sub. (5) (b). The function of committeemen and committeewomen is to represent their neighborhoods in the structure of a political party. Committeemen and committeewomen shall act as liaison representatives between their parties and the residents of the election districts in which they serve. Activities of committeemen and committeewomen shall include, but not be limited to, identifying voters; assistance in voter registration drives; increasing voter participation in political parties; polling and other methods of passing information from residents to political parties and elected public officials; and dissemination of information from public officials to residents. For assistance in those and other activities of interest to a political party, each committeeman and committeewoman may appoint a captain to engage in these activities in each ward, if the election district served by the committeeman or committeewoman includes more than one ward. In an election district which includes more than one ward, the committeeman or committeewoman shall coordinate the activities of the ward captains in promoting the interests of his or her party.

(b) Each political party shall elect one committeeman or committeewoman from each election district. In this section, each village, each town and each city is an "election district"; except that in cities having a population of more than 7,500 which are divided into aldermanic districts, each aldermanic district is an "election district"; and in cities having a population of more than 7,500 which are not divided into aldermanic districts and villages or towns having a population of more than 7,500, each ward or group of combined wards under s. 5.15 (6) (b) constituting a polling place on April 15 of the year in which committeemen or committeewomen are elected is an "election district". To be eligible to serve as its committeeman or committeewoman, an individual shall be, at the time of filing nomination papers or at the time of appointment under this section, a resident of the election district which he or she is chosen to represent and shall be at least 18 years of age.

(4) The term of office of each committeeman or committeewoman shall end on the date of the meeting held under sub. (5) (b) following each partisan primary.

(5) (a) The county committee of each political party shall consist of the duly elected committeemen and committeewomen and appointed committeemen and committeewomen residing in the county.

on which the signer resides, and the date of signing. Signers of each nomination paper shall reside in the same jurisdiction or district which the candidate named therein will represent, if elected.

(6) Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate for state or local office has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office shall also file a statement of economic interests with the board under s. 19.43 (4) no later than 4:30 p.m. on the 3rd day following the last day for filing nomination papers under sub. (8) (a), or no later than 4:30 p.m. on the next business day after the last day whenever that candidate is granted an extension of time for filing nomination papers under sub. (8) (a).

(7) Nomination papers shall be filed in the office of the board for all state offices and the offices of U.S. senator and representative in congress, and in the office of county clerk or board of election commissioners for all county offices.

(8) (a) Nomination papers for independent candidates for any office to be voted upon at a general election, except president, vice president and presidential elector, may be circulated no sooner than April 15 preceding the election and may be filed no later than 5 p.m. on the June 1 preceding the partisan primary, except as authorized in this paragraph. If an incumbent fails to file nomination papers and a declaration of candidacy by 5 p.m. on June 1 preceding the partisan primary, all candidates for the office held by the incumbent, other than the incumbent, may file nomination papers no later than 72 hours after the latest time prescribed in this paragraph. No extension of the time for filing nomination papers applies if the incumbent files written notification with the filing officer or agency with whom nomination papers are filed for the office which the incumbent holds, no later than 5 p.m. on the 2nd Friday preceding the latest time prescribed in this paragraph for filing nomination papers, that the incumbent is not a candidate for reelection to his or her office, and the incumbent does not file nomination papers for that office within the time prescribed in this paragraph.

(am) Nomination papers for independent candidates for president and vice president, and the presidential electors designated to represent them, may be circulated no sooner than July 1 and may be filed not later than 5 p.m. on the first Tuesday in August preceding a presidential election.

(b) Nomination papers for independent candidates for any office to be voted upon at a partisan special election shall be circulated and filed as provided in s. 8.50 (3) (a).

(9) Persons nominated by nomination papers without a recognized political party designation shall be placed on the official ballot at the general election and at any partisan election to the right or below the recognized political party candidates in their own column or row designated "Independent". If the candidate's name already appears under a recognized political party it may not be listed on the independent ballot, column or row.

**History:** 1971 c. 242, 304; 1973 c. 334 s. 57; 1975 c. 369; 1977 c. 107, 287, 427; 1979 c. 249, 260; 1981 c. 377; 1983 a. 29, 484; 1985 a. 304; 1987 a. 391; 1993 a. 140, 266; 1999 a. 6, 32, 182, 186; 2001 a. 109; 2005 a. 451; 2007 a. 1; 2011 a. 32, 75; 2013 a. 160.

**Cross-reference:** See also ss. GAB 2.09, 2.11, and 6.04, Wis. adm. code.

**8.21 Declaration of candidacy.** (1) Each candidate, except a candidate for presidential elector under s. 8.20 (2) (d), shall file a declaration of candidacy, no later than the latest time provided for filing nomination papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), or the time provided under s. 8.16 (2) or 8.35 (2) (c). A candidate shall file the declaration with the officer or agency with which nomination papers are filed for the office that the candidate seeks, or if nomination papers are not required, with the clerk or board of election commissioners of the jurisdiction in which the candidate seeks office.

(2) The declaration of candidacy shall be sworn to before any officer authorized to administer oaths. The declaration shall con-

tain the name of the candidate in the form specified under s. 8.10 (2) (b) for candidates for nonpartisan office or s. 8.15 (5) (a) or 8.20 (2) (a) for candidates for partisan office and shall state all of the following:

(a) That the signer is a candidate for a named office.

(b) That the signer meets, or will at the time he or she assumes office meet, applicable age, citizenship, residency, or voting qualification requirements, if any, prescribed by the constitutions and laws of the United States and of this state.

(c) That the signer will otherwise qualify for office if nominated and elected.

(3) The declaration of candidacy shall include the candidate's name in the form in which it will appear on the ballot.

(4) Each candidate for state and local office shall include in the declaration of candidacy all of the following:

(a) A statement that the candidate has not been convicted of any misdemeanor designated under state or federal law as a violation of the public trust or any felony for which the candidate has not been pardoned.

(b) A statement that discloses the candidate's municipality of residence for voting purposes, and the street and number, if any, on which the candidate resides.

(5) The declaration of candidacy is valid with or without the seal of the officer who administers the oath.

(6) A candidate for state or local office shall file an amended declaration of candidacy under oath with the same officer or agency if any information contained in the declaration of candidacy changes at any time after the original declaration of candidacy is filed and before the candidate assumes office or is defeated for election or nomination.

**History:** 1983 a. 484 s. 94; 1985 a. 304; 1987 a. 391; 1993 a. 140; 1999 a. 182; 2001 a. 109; 2005 a. 149.

**Cross-reference:** See also s. GAB 6.04, Wis. adm. code.

A candidate for election to Congress need not be a resident of the district at the time he or she files nomination papers and executes the declaration of intent to accept the office if elected. A candidate for Congress must be an inhabitant of the state at the time of election. 61 Atty. Gen. 155.

**8.25 Election of state and federal officers.** (1) **PRESIDENTIAL ELECTORS.** By general ballot at the general election for choosing the president and vice president of the United States there shall be elected as many electors of president and vice president as this state is entitled to elect senators and representatives in congress. A vote for the president and vice president nominations of any party is a vote for the electors of the nominees.

(2) **UNITED STATES SENATOR.** One senator to serve in the United States congress shall be chosen at the general election in 1962 and every 6 years thereafter and another in 1964 and every 6 years thereafter.

(3) **REPRESENTATIVE IN CONGRESS.** One representative to serve in the United States congress shall be chosen from each congressional district at the general election held in each even-numbered year.

(4) **CONSTITUTIONAL OFFICERS; TERMS.** (a) A governor, lieutenant governor, secretary of state, treasurer and an attorney general shall be elected at the general election in 1970 and quadrennially thereafter. A state superintendent shall be elected on the first Tuesday in April 1917 and quadrennially thereafter.

(b) 1. The regular full term of office of the state superintendent commences on the first Monday of July, next succeeding the superintendent's election.

2. The regular full term of each other officer enumerated in par. (a) commences on the first Monday of January, next succeeding the officer's election.

(5) **DISTRICT ATTORNEY; TERM.** A district attorney shall be elected for each prosecutorial unit specified in s. 978.01 at the general election in 2008 and quadrennially thereafter. The regular

term of the office of district attorney commences on the first Monday in January next succeeding the officer's election.

**History:** 1981 c. 62, 314; 1987 a. 391; 1989 a. 31; 2007 a. 158.

**8.28 Challenge to residency qualifications. (1)** Any individual who believes that an individual holding or elected to state or local office is not a resident or inhabitant of this state or of the jurisdiction or district in which he or she serves, whenever such qualification is required by the constitution of this state or by any applicable law, may file a verified complaint with the attorney general alleging such facts as may cause him or her to believe that the individual is not qualified to hold office because of failure to meet a residency requirement.

**(2)** The attorney general may thereupon investigate whether such allegations are true. If the attorney general finds that the allegations of the complaint are true or for any other reason finds that the subject person who is holding or elected to office is not qualified because of failure to meet a residency requirement, the attorney general may commence an action under ch. 784 for a writ of quo warranto to have the subject person's office declared vacant or to restrain any person not entitled to take office from assuming it. In the case of a person who is elected to office in the legislature, the clerk of court shall transmit a copy of the judgment to the presiding officer of the appropriate house, and the house shall determine whether the person is qualified to be seated or whether a vacancy exists.

**History:** 1979 c. 249; 1983 a. 484.

**8.30 Candidates ineligible for ballot placement.**

**(1)** Except as otherwise provided in this section, the official or agency with whom declarations of candidacy are required to be filed may refuse to place the candidate's name on the ballot if any of the following apply:

(a) The nomination papers are not prepared, signed, and executed as required under this chapter.

(b) It conclusively appears, either on the face of the nomination papers offered for filing, or by admission of the candidate or otherwise, that the candidate is ineligible to be nominated or elected.

(c) The candidate, if elected, could not qualify for the office sought within the time allowed by law for qualification because of age, residence, or other impediment.

**(2)** If no registration statement has been filed by or on behalf of a candidate for state or local office in accordance with s. 11.05 (2g) or (2r) by the applicable deadline for filing nomination papers by such candidate, or the deadline for filing a declaration of candidacy for an office for which nomination papers are not filed, the name of the candidate may not appear on the ballot. This subsection may not be construed to exempt a candidate from applicable penalties if he or she files a registration statement later than the time prescribed in ss. 11.01 (1) and 11.05 (2g).

**(2m)** The official or agency with whom nomination papers and declarations of candidacy are required to be filed shall not place a candidate's name on the ballot if the candidate's name is ineligible for ballot placement under s. 5.05 (2m) (d) 2. or 15.60 (6).

**(3)** The official or agency with whom declarations of candidacy are required to be filed may not place a candidate's name on the ballot if the official or agency is prohibited from doing so under s. 19.43 (4) or an ordinance adopted under s. 19.59 (3) (b).

**(4)** The official or agency with whom a declaration of candidacy is required to be filed may not place a candidate's name on the ballot if the candidate fails to file a declaration of candidacy within the time prescribed under s. 8.21.

**History:** 1975 c. 93; 1979 c. 120, 328; 1979 c. 355 ss. 28, 29; 1983 a. 484; 1985 a. 304; 1987 a. 391; 2001 a. 109; 2005 a. 149, 177; 2007 a. 1.

**Cross-reference:** See also ss. GAB 2.09 and 2.11, Wis. adm. code.

A petitioner who timely filed with the county clerk rather than with the elections board under s. 8.10 (6) (a) is barred from the ballot. *State ex rel. Ahlgrimm v. State Elections Board*, 82 Wis. 2d 585, 263 N.W.2d 152 (1978).

**8.35 Vacancies after nomination. (1)** Any person who files nomination papers and qualifies to appear on the ballot may not decline nomination. The name of that person shall appear upon the ballot except in case of death of the person. A person who is appointed to fill a vacancy in nomination or who is nominated by write-in votes is deemed to decline nomination if he or she fails to file a declaration of candidacy within the time prescribed under sub. (2) (c) or s. 8.16 (2).

**(2) (a)** If a vacancy occurs after nomination due to the death of a candidate of a recognized political party for a partisan office, the vacancy may be filled by the chairperson of the committee of the proper political party under s. 7.38, or the personal campaign committee, if any, in the case of independent candidates. Similar vacancies in nominations of candidates for nonpartisan local offices may be filled by the candidate's personal campaign committee or, if the candidate had none, by the body which governs the local governmental unit in which the deceased person was a candidate for office. The chairperson, chief officer of the committee, or clerk of the body making an appointment shall file a certificate of appointment with the official or agency with whom declarations of candidacy for the office are filed. For purposes of this paragraph, the official or agency need not recognize members of a personal campaign committee whose names were not filed under s. 11.05 prior to the death of the candidate.

(b) If a vacancy in nomination occurs due to the death of a candidate, the officer or agency with whom nomination papers are filed for the office shall promptly notify the chairperson, committee or body, if any, that the vacancy may be filled within 4 days of the date of the notice, as shown by the postmark if the notice is mailed. The chairperson, committee or body may file a sworn certificate of nomination with the official or agency within the 4-day period.

(c) The official or agency with whom a proper certificate is filed under par. (b) shall promptly notify the candidate who is nominated and transmit to the candidate a declaration of candidacy form and, in the case of a candidate for state or local office, a financial registration statement form under s. 11.05. No later than 5 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the new nominee by the official or agency, the nominee shall file a declaration of candidacy and, in the case of a candidate for state or local office, a registration statement under s. 11.05. No later than 4:30 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to a new nominee for state office or municipal judge by the official or agency, the nominee shall file a statement of economic interests under s. 19.43 (4). If the nominee fails to file the declaration of candidacy, the official or agency may refuse to place the candidate's name on the ballot. If the nominee fails to file the registration statement or statement of economic interests, the official or agency may not place the candidate's name on the ballot.

(d) If the ballots have been prepared, the committees or body filling the vacancy shall supply stickers as provided under s. 7.38 (3). No vacancy in a nomination occurs prior to the time of the primary election for an office, unless no primary is required for the office for which the nomination is made.

(e) This subsection does not apply in the event of the death of a candidate for nonpartisan office who has no opponent appearing on the election ballot.

**(3)** Whenever a nominee dies after the election ballots are prepared, and no nomination is made under this section, the votes cast for the deceased shall be counted and returned. If he or she receives a plurality of the votes cast, the vacancy shall be filled as in the case of a vacancy occurring by death after election.

**(4) (a) 1.** When a candidate is appointed to fill a vacancy under this section, the funds remaining in the former candidate's depository after payment of the former candidate's lawful campaign debts, if any, shall be:

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## Chapter GAB 2

### ELECTION RELATED PETITIONS

GAB 2.05 Treatment and sufficiency of nomination papers.  
GAB 2.07 Challenges to nomination papers.

GAB 2.09 Treatment and sufficiency of election petitions.  
GAB 2.11 Challenges to election petitions.

**Note:** Chapter EIBd 2 was renumbered chapter GAB 2 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 2. and 7., Stats., Register April 2008 No. 628.

**GAB 2.05 Treatment and sufficiency of nomination papers.** (1) Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements.

(2) In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline. Each of the nomination papers shall be numbered, before they are filed, and the numbers shall be assigned sequentially, beginning with the number "1". Notwithstanding any other provision of this chapter, the absence of a page number will not invalidate the signatures on that page.

(3) The filing officer shall review all nomination papers filed with it, up to the maximum number permitted, to determine the facial sufficiency of the papers filed. Where circumstances and the time for review permit, the filing officer may consult maps, directories and other extrinsic evidence to ascertain the correctness and sufficiency of information on a nomination paper.

(4) Any information which appears on a nomination paper is entitled to a presumption of validity. Notwithstanding any other provision of this chapter, errors in information contained in a nomination paper, committed by either a signer or a circulator, may be corrected by an affidavit of the circulator, an affidavit of the candidate, or an affidavit of a person who signed the nomination paper. The person giving the correcting affidavit shall have personal knowledge of the correct information and the correcting affidavit shall be filed with the filing officer not later than three calendar days after the applicable statutory due date for the nomination papers.

(5) Where any required item of information on a nomination paper is incomplete, the filing officer shall accept the information as complete if there has been substantial compliance with the law.

(6) Nomination papers shall contain at least the minimum required number of signatures from the circuit, county, district or jurisdiction which the candidate seeks to represent.

(7) The filing officer shall accept nomination papers which contain biographical data or campaign advertising. The disclaimer specified in s. 11.30 (2), Stats., is not required on any nomination paper.

(8) An elector shall sign his or her own name unless unable to do so because of physical disability. An elector unable to sign because of physical disability shall be present when another person signs on behalf of the disabled elector and shall specifically authorize the signing.

(9) A person may not sign for his or her spouse, or for any other person, even when they have been given a power of attorney by that person, unless sub. (8) applies.

(10) The signature of a married woman shall be counted when she uses her husband's first name instead of her own.

(11) Only one signature per person for the same office is valid. Where an elector is entitled to vote for more than one candidate for the same office, a person may sign the nomination papers of as many candidates for the same office as the person is entitled to vote for at the election.

(12) A complete address, including municipality of residence for voting purposes, and the street and number, if any, of the residence, (or a postal address if it is located in the jurisdiction that the candidate seeks to represent), shall be listed for each signature on a nomination paper.

(13) A signature shall be counted when identical residential information or dates for different electors are indicated by ditto marks.

(14) No signature on a nomination paper shall be counted unless the elector who circulated the nomination paper completes and signs the certificate of circulator and does so after, not before, the paper is circulated. No signature may be counted when the residency of the circulator cannot be determined by the information given on the nomination paper.

(15) An individual signature on a nomination paper may not be counted when any of the following occur:

(a) The date of the signature is missing, unless the date can be determined by reference to the dates of other signatures on the paper.

(b) The signature is dated after the date of certification contained in the certificate of circulator.

(c) The address of the signer is missing or incomplete, unless residency can be determined by the information provided on the nomination paper.

(d) The signature is that of an individual who is not 18 years of age at the time the paper is signed. An individual who will not be 18 years of age until the subject election is not eligible to sign a nomination paper for that election.

(e) The signature is that of an individual who has been adjudicated not to be a qualified elector on the grounds of incompetency or limited competency as provided in s. 6.03 (3), Stats., or is that of an individual who was not, for any other reason, a qualified elector at the time of signing the nomination paper.

(16) After a nomination paper has been filed, no signature may be added or removed. After a nomination paper has been signed, but before it has been filed, a signature may be removed by the circulator. The death of a signer after a nomination paper has been signed does not invalidate the signature.

(17) This section is promulgated pursuant to the direction of s. 8.07, Stats., and is to be used by election officials in determining the validity of all nomination papers and the signatures on those papers.

**History:** Emerg. cr. 8-9-74; cr. Register, November, 1974, No. 227, eff. 12-1-74; emerg. r. and recr. eff. 12-16-81; emerg. r. and recr. eff. 6-1-84; cr. Register, November, 1984, No. 347, eff. 12-1-84; r. and recr. Register, January, 1994, No. 457, eff. 2-1-94; CR 00-153: am. (2), (4), and (14), r. (15), renum. (16), (17), and (18) to be (15), (16) and (17), and am. (15) (b) as renum., Register September 2001 No. 549, eff. 10-1-01.

**GAB 2.07 Challenges to nomination papers.** (1) The board shall review any verified complaint concerning the sufficiency of nomination papers of a candidate for state office that is filed with the board under ss. 5.05 and 5.06, Stats.; and the local filing officer shall review any verified complaint concerning the sufficiency of nomination papers of a candidate for local office that is filed with the local filing officer under s. 8.07, Stats. The filing officer shall apply the standards in s. GAB 2.05 to determine the sufficiency of nomination papers, including consulting extrinsic sources of evidence under s. GAB 2.05 (3).

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(2) (a) Any challenge to the sufficiency of a nomination paper shall be made by verified complaint, filed with the appropriate filing officer. The complainant shall file both an original and a copy of the challenge at the time of filing the complaint. Notwithstanding any other provision of this chapter, the failure of the complainant to provide the filing officer with a copy of the challenge complaint will not invalidate the challenge complaint. The filing officer shall make arrangements to have a copy of the challenge delivered to the challenged candidate within 24 hours of the filing of the challenge complaint. The filing officer may impose a fee for the cost of photocopying the challenge and for the cost of delivery of the challenge to the respondent. The form of the complaint and its filing shall comply with the requirements of ch. GAB 20. Any challenge to the sufficiency of a nomination paper shall be filed within 3 calendar days after the filing deadline for the challenged nomination papers. The challenge shall be established by affidavit, or other supporting evidence, demonstrating a failure to comply with statutory or other legal requirements.

(b) The response to a challenge to nomination papers shall be filed, by the candidate challenged, within 3 calendar days of the filing of the challenge and shall be verified. After the deadline for filing a response to a challenge, but not later than the date for certifying candidates to the ballot, the board or the local filing officer shall decide the challenge with or without a hearing.

(3) (a) The burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency. The invalidity or disqualification of one or more signatures on a nomination paper shall not affect the validity of any other signatures on that paper.

(b) If a challenger establishes that an elector signed the nomination papers of a candidate more than once or signed the nomination papers of more than one candidate for the same office, the 2nd and subsequent signatures may not be counted. The burden of proving that the second and subsequent signatures are that of the same person and are invalid is on the challenger.

(c) If a challenger establishes that the date of a signature, or the address of the signer, is not valid, the signature may not be counted.

(d) Challengers are not limited to the categories set forth in pars. (a) and (b).

(4) The filing officer shall examine any evidence offered by the parties when reviewing a complaint challenging the sufficiency of the nomination papers of a candidate for state or local office. The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.

(5) Where it is alleged that the signer or circulator of a nomination paper does not reside in the district in which the candidate being nominated seeks office, the challenger may attempt to establish the geographical location of an address indicated on a nomination paper, by providing district maps, or by providing a statement from a postmaster or other public official.

**History:** Emerg. cr. 8-9-74; cr. Register, November, 1974, No. 227, eff. 12-1-74; emerg. r. and recr. eff. 12-16-81; emerg. r. and recr. eff. 6-1-84; cr. Register, Novem-

ber, 1984, No. 347, eff. 12-1-84; emerg. am. (1), (4) to (6), eff. 6-1-86; am. (1), (4) to (6), Register, November, 1986, No. 371, eff. 12-1-86; r. and recr. Register, January, 1994, No. 457, eff. 2-1-94; CR 00-153; am. (2) (a) and (b), Register September 2001 No. 549, eff. 10-1-01; reprinted to restore dropped copy in (2) (b), Register December 2001 No. 552; **correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register April 2008 No. 628.**

**GAB 2.09 Treatment and sufficiency of election petitions.** (1) Except as expressly provided herein, the standards established in s. GAB 2.05 for determining the treatment and sufficiency of nomination papers are incorporated by reference into, and are made a part of, this section.

(2) In order to be timely filed, all petitions required to comply with s. 8.40, Stats., and required by statute or other law to be filed by a time certain, shall be in the physical possession of the filing officer not later than the time set by that statute or other law.

(3) All petitions shall contain at least the number of signatures, from the election district in which the petition was circulated, equal to the minimum required by the statute or other law establishing the right to petition.

(4) Only one signature per person for the same petition, is valid.

(5) This section applies to all petitions which are required to comply with s. 8.40, Stats., including recall petitions, and to any other petition whose filing would require a governing body to call a referendum election.

**History:** Cr. Register, January, 1994, No. 457, eff. 2-1-94.

**GAB 2.11 Challenges to election petitions.** (1) Except as expressly provided herein, the standards established in s. GAB 2.07 for determining challenges to the sufficiency of nomination papers apply equally to determining challenges to the sufficiency of petitions required to comply with s. 8.40, Stats., including recall petitions, and to any other petition whose filing requires a governing body to call a referendum election.

(2) (a) Any challenge to the sufficiency of a petition required to comply with s. 8.40, Stats., shall be made by verified complaint filed with the appropriate filing officer. The form of the complaint, the filing of the complaint and the legal sufficiency of the complaint shall comply with the requirements of ch. GAB 20; the procedure for resolving the complaint, including filing deadlines, shall be governed by this section and not by ch. GAB 20.

(b) The complaint challenging a petition shall be in the physical possession of the filing officer within the time set by the statute or other law governing the petition being challenged or, if no time limit is specifically provided by statute or other law, within 10 days after the day that the petition is filed.

(3) The response to a challenge to a petition shall be filed within the time set by the statute or other law governing that petition or, if no time limit is specifically provided by statute or other law, within 5 days of the filing of the challenge to that petition. After the deadline for filing a response to a challenge, the filing officer shall decide the challenge with or without a hearing.

**History:** Cr. Register, January, 1994, No. 457, eff. 2-1-94.

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the May 21-22, 2014 Board Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel

Prepared by Jonathan Becker  
Ethics and Accountability Division Administrator

**SUBJECT:** Proper Interpretation of 2013 Wis. Act 153

A recently enacted law changes the lobbying law's restrictions on lobbyists furnishing campaign contributions in a rather dramatic, and apparently unintended way. Under the lobbying law, a lobbyist may furnish campaign contributions only during a "window" of time previously beginning June 1 and now April 15 in the year of a general election and ending on the day of the general election. Under a decades long interpretation by the Ethics Board (reaffirmed by the Government Accountability Board), a lobbyist could furnish both his/her own personal contribution as well as furnish contributions made by others such as a PAC or conduit during the "window." Outside the "window" neither activity was permitted. Candidates' solicitation of lobbyists for contributions was also only permitted during the "window."

2013 Senate Bill 655 originally proposed allowing lobbyists to furnish others' contributions at any time and only restricting the furnishing of the lobbyists' own personal contribution during the "window". Here is the statute as proposed to be amended in the original bill:

13.625 (1) No lobbyist may furnish:

(b) 3. Food, meals, beverages, money or any other thing of pecuniary value, except that a lobbyist may furnish a campaign contribution that is not made personally by the lobbyist at any time and no lobbyist may personally make a campaign contribution except as permitted under this subdivision or par. (c). A lobbyist may personally make a campaign contribution to a partisan elective state official ~~or~~, to a candidate for national, state, or local office, or to the official's or candidate's personal campaign committee; but a lobbyist may make a contribution to which par. (c) applies only as authorized in par. (c).

13.625 (1) (c) (intro.) Except as permitted in this subsection, personally make a campaign contribution, as defined in s. 11.01 (6), to a partisan elective state official for the purpose of promoting the official's election to any national, state, or local office; or to a candidate for a partisan elective state office to be filled at the general election or a special election; or to the official's or candidate's personal campaign committee. A lobbyist may personally make a campaign contribution to a partisan elective state official or candidate for partisan elective state office or ~~his or her~~ to the personal campaign committee ~~may be made~~ of the official or candidate in the year of a candidate's election between June 1 the first day authorized by law for the circulation of nomination papers as a candidate at a general election or special election and the day of the general election or special election, ....

The bill was then amended to remove the changes made to Wis. Stat. §13.625 (1) (b) 3. because of objections to the absence of any time restriction on a lobbyist furnishing PAC or conduit contributions at any time. However, in doing so, the drafters left in the changes made in (1) (c) so the statute now is written to only permit a lobbyist to make a personal contribution during the “window” and *there appears to be no provision to allow a lobbyist to furnish anyone else’s contribution at any time.* Since a candidate may only solicit what is permitted (Wis. Stat. §13.625 (3)), under the change no candidate may ever solicit a lobbyist for a PAC or conduit contribution.

This understanding comes from the following analysis: The statute (§13.625 (1) (b)) says, in essence, that no lobbyist may furnish anything of pecuniary value to any elected state official or candidate for state office except campaign contributions. Then it limits that by saying that a lobbyist may make campaign contributions to which §13.625 (1) (c) applies only as authorized in that paragraph. Paragraph (c) applies to contributions to candidates for partisan state offices and contributions to partisan elected incumbents running for any office. Previously, the paragraph (c) restriction was the timing restriction created by the “window.” Now, the restriction also appears to limit such contributions to those a lobbyist “personally” makes. Given the drafting history, we interpret that to mean contributions from a candidate’s personal funds.

But there is another possible reading of the statutory language which is that the paragraph (b) reference to “contributions to which par. (c) applies” now refers only to personal contributions and there is no timing restriction at all on non-personal contributions.<sup>1</sup>

In either case, every indication is whatever resulted was an inadvertent drafting error. The Legislative Council memo on the amendment introduced by Senator Lazich states, “**Senate Amendment 1** removes the bill’s provision allowing a lobbyist to furnish a campaign contribution at any time. Instead, the amendment maintains the current law which prohibits a lobbyist from furnishing anything of pecuniary value other than personal contributions made during the permitted window of time.” That is either an incorrect statement of current law

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<sup>1</sup> It has also been suggested that the term “personally” in the statute should be read only to restrict the in-person delivery of a campaign contribution. That would appear to be a stretch, appearing to be a stilted interpretation of that word.

(which does permit a lobbyist to furnish others' contributions during the window) or an incorrect assessment of what the law now does (it changes current law).

We have spoken to Senator Lazich's staff, the Legislative Reference Bureau, and Legislative Council. All have indicated that the intent of the amendment was not to change the current law, but to return the bill to the current law (with the exception of changing the window). LRB explained that two different employees had responsibility for the separate paragraphs of Wis. Stat. §13.625 that were amended by the original bill and only one of those individuals worked on Senate Amendment 1 to the bill.

Legislators and lobbyists have asked many questions about the meaning and effect of the revised statute. The most dramatic real-world effect is that a legislator may no longer solicit a lobbyist for a PAC or conduit contribution at any time. This changes the way in which legislators and legislative leadership have in the past raised campaign contributions after the end of a legislative session.

The questions for the Board are: (1) Whether the timing limitations on lobbyist contributions apply only to personal contributions and never to contributions lobbyists furnish from PACs and conduits; (2) Whether there is no longer a "window" at all for a lobbyist furnishing such contributions; and (3) Whether staff should enforce the statute to honor what appears to be the Legislature's intent (or lack of intent to change the law) and continue to permit the solicitation and acceptance from lobbyists of PAC, conduit, and other contributions but only during the otherwise permissible "window" of time.



# State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** Draft

**TO:**

**FROM:** Jonathan Becker

**SUBJECT:** Lobbyist campaign contributions

### Lobbyists furnishing campaign contributions to candidates

Q. When may a lobbyist furnish a campaign contribution from the lobbyist's own funds to a candidate?

A. To a candidate for partisan state office (or a partisan elected state official running for any office) between April 15 and the general election, except as noted below. To a candidate for any other office (as long as the candidate is not currently a partisan elected state official) at any time.

Q. Are there additional restrictions for furnishing a campaign contribution from the lobbyist's own funds to a legislative candidate?

A. Yes. A lobbyist may furnish a campaign contribution to a candidate for the Legislature (whether an incumbent or non-incumbent) after April 15 but only after the Legislature has concluded its final floor period. This "window" for furnishing a contribution closes during any special or extraordinary session.

Q. Do these additional restrictions apply to a Legislator running for another partisan office?

A. No, only the April 15 restriction applies.

Q. When may a lobbyist furnish a PAC or conduit contribution to a candidate?

A. A lobbyist may never furnish a PAC or conduit contribution to a candidate for partisan state office (or a partisan elected state official running for any office). A lobbyist may furnish a PAC or conduit contribution to a candidate for any other office (as long as the candidate is not currently a partisan elected state official) at any time.

Q. What does “furnishing” mean?

A. “Furnishing” means to deliver or convey, in person or by writing, or by signing a contribution check.

Q. When may a PAC furnish a campaign contribution to a candidate?

A. At any time.

Q. Even if the PAC is controlled by a lobbying principal?

A. Yes.

Q. When may a conduit furnish a campaign contribution to a candidate?

A. At any time, unless the contribution is from a lobbyist. If it is from a lobbyist, all the timing restrictions on a lobbyist furnishing a contribution apply.

Q. What services may a lobbyist furnish to a candidate apart from furnishing a campaign contribution?

A. A lobbyist may endorse a candidate, be listed as a sponsor of a fundraising event, and provide uncompensated personal (non-professional) services to a campaign.

Q. When may a lobbyist furnish a contribution to a PAC, political party, or legislative campaign committee?

A. At any time. Moreover, the lobbyist may furnish a contribution, not only from the lobbyist’s own funds, but also contributions from a PAC or conduit.

Q. May a lobbyist arrange a fundraising event for a legislator’s personal campaign committee?

A. No, statutes forbid a lobbyist to furnish anything of pecuniary value, other than campaign contributions, to a candidate, including the contribution of time and resources for arranging a fundraiser.

#### Candidates soliciting campaign contributions from lobbyists

Q. When may a candidate ask a lobbyist to furnish a campaign contribution from the lobbyist’s own funds?

A. During the time during which the intended recipient may accept such a contribution from a lobbyist.

Q. When may a candidate ask a lobbyist to furnish a PAC or conduit contribution?

A. A candidate for partisan state office (or a partisan elected state official running for any office) may never ask a lobbyist to furnish or arrange for such contributions.

Q. May a candidate ask a lobbyist for a non-lobbyist contact from whom the candidate may request a PAC or conduit contribution?

A. Yes. Statutes do not prevent a candidate's asking a lobbyist -- without elaboration about the nature, amount, or need for a campaign contribution --for the name of a non-lobbyist from whom the candidate may request a PAC or conduit campaign contribution. This may occur at any time.

Q. May a candidate ask a lobbyist to convey information about a fundraiser to others?

A. The statutes forbid a candidate to ask a lobbyist for any campaign contribution or other item or service of pecuniary value. The Legislature has not limited the prohibition to seeking a contribution from the lobbyist's own pocket. Asking a lobbyist for a campaign contribution regardless of the source from which the money will be derived is what the Legislature has prohibited. Asking a lobbyist to pass along information to others about the legislator's desire for a campaign contribution is a solicitation. However, a lobbyist may pass along such information at the lobbyist's own accord.

Q. May a candidate ask another person to solicit a lobbyist on the candidate's behalf?

A. No. A candidate may not do an act through an agent that the candidate is prohibited from doing.

Q. May a candidate send an invitation to a fundraiser to a lobbyist?

A. As administrator of the statute that forbids a candidate's solicitation of a lobbyist for a campaign contribution, the Government Accountability Board asks that candidates use their best efforts to purge lobbyists from their invitation lists. The Board recognizes that in spite of a person's best intentions and efforts to avoid directing an invitation to a fundraiser to a lobbyist an invitation may nevertheless find its way to a lobbyist; accordingly, we recommend that an invitation include something like this:

"Lobbyists: if you received this invitation, please disregard" OR

"We have tried to exclude Wisconsin lobbyists from this mailing list, if you are a lobbyist and received this notice, please disregard."

Q. May a legislative campaign committee invite a lobbyist to a fundraiser for the legislative campaign committee?

A. Yes. Statutes do not prevent any of the four legislative campaign committees from inviting a lobbyist to a fundraiser for the committee. Because neither a legislator nor a legislative employee may solicit a campaign contribution from a lobbyist except during permitted times, neither a legislator nor a legislative employee should sign the invitation nor issue it in his or her name.

Q. May a legislative campaign committee's employee solicit contributions to the legislative campaign committee?

A. Yes. Statutes do not prevent a person not employed by the Legislature but employed by any of the four legislative campaign committees to solicit a lobbyist for a contribution to the legislative campaign committee.

Q. May a legislative campaign committee's employee solicit contribution to a legislator's personal campaign committee?

A. Yes. Statutes do not prevent a person not employed by the Legislature but employed by any of the four legislative campaign committees to solicit a lobbyist for a contribution to a legislator's personal campaign committee IF the legislative campaign committee is acting independent of, and not as the agent of, the legislator for whose campaign committee the contribution is sought. The legislative campaign committee's action cannot, as a practical matter, be independent of the legislators who direct the committee's activity.

Q. May a lobbyist arrange a fundraising event for a legislative campaign committee?

A. Yes, a lobbyist may make arrangements for and obtain potential contributors for a fundraising event for a legislative campaign committee.

Q. May a lobbyist ask a candidate for advice about where to direct campaign contributions?

A. Yes. Statutes do not prevent a candidate's replying to an unsolicited communication from a lobbyist asking who should be the recipients of PAC or conduit contributions.

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JUDGE THOMAS H. BARLAND  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the Meeting of May 21-22, 2014

**TO:** Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:  
Michael Haas, Elections Division Administrator  
Nathan Judnic, Staff Counsel

**SUBJECT:** Request for Advisory Opinion  
Deadline for Direct Legislation Referendum Questions

Wis. Stat. §5.05(6a) authorizes the Board to issue formal or informal advisory opinions in response to requests from individuals seeking guidance related to the laws which are under the Board's jurisdiction. Board staff has received a request for an advisory opinion from Erik Kirkstein, on behalf of United Wisconsin, regarding statutory deadlines for the submission of referendum questions to be included on an election ballot. There is a potential conflict in the language in Wis. Stat. §9.20(4), which governs direct legislation petitions, and Wis. Stat. §8.37, which establishes a deadline for referendum questions to be submitted to the clerk preparing ballots.

Following is the text of Mr. Kirkstein's inquiry:

**From:** Erik Kirkstein [<mailto:erik@unitedwisconsin.com>]  
**Sent:** Wednesday, April 09, 2014 5:12 PM  
**To:** Buerger, David - GAB  
**Subject:** Request for written opinion

Dear Mr. Buerger,

Per our conversation on 4/9/14, I am writing to request a written opinion regarding the number of days in advance a referendum question must be submitted for placement on the ballot.

Regarding referendum placed submitted for the ballot by way of a City Council's or Village Board's failure to pass a resolution for which citizens have submitted a sufficient number of petition signatures, State Statute 9.20(4) states:

*The common council or village board shall, without alteration, either pass the ordinance or resolution within 30 days following the date of the clerk's final certificate, or submit it to the electors at the next spring or general election, if the election is more than 6 weeks after the date of the council's or board's action on the petition or the expiration of the 30-day period, whichever first occurs. If there are 6 weeks or less before the election, the ordinance or resolution shall be voted on at the next election thereafter. The council or board by a three-fourths vote of the members-elect may order a special election for the purpose of voting on the ordinance or resolution at any time prior to the next election, but not more than one special election for direct legislation may be ordered in any 6-month period.*

This appears to demand that the referendum appear on the ballot during the next regular spring or general election unless the election is less than 6 weeks (42 days) later.

Meanwhile, State Statute 8.37 states:

*Unless otherwise required by law, all proposed constitutional amendments and any other measure or question that is to be submitted to a vote of the people, or any petitions requesting that a measure or question be submitted to a vote of the people, if applicable, shall be filed with the official or agency responsible for preparing the ballots for the election no later than 70 days prior to the election at which the amendment, measure or question will appear on the ballot.*

This statute appears to require 70 days before the question may appear on the ballot. However, we believe that 9.20(4) supercedes 8.37's requirement that the question be submitted to the agency preparing the ballot at least 70 days in advance of an election because 8.37 clearly begins with, "Unless otherwise required by law," leading us to believe that the 6 week requirement to place a referendum on the ballot upon failure of the municipal body to pass a resolution in 9.20(4) would satisfy such requirement.

While we did not discuss this in our conversation, I am hoping you can also address the language in 8.37 indicating that "any petitions requesting that a measure or question to be submitted to a vote of the people, if applicable, shall be filed with the official or agency responsible for preparing the ballots for the election no later than 70 days prior to the election." We believe that this means the petitions must be submitted by the citizen petitioner(s) to the municipal clerk's office at least 70 days before the election at which the question will appear. Please clarify this, as well.

Therefore, we request a written opinion regarding the questions posed above.

Thank you for your assistance,

Erik Kirkstein  
Political Director  
United Wisconsin  
[erik@unitedwisconsin.com](mailto:erik@unitedwisconsin.com)

Board staff has analyzed the statutory provisions and drafted an advisory opinion for the Board's review, which is attached. Also attached is the text of the relevant statutory language. Given that the purpose of the 70-day deadline is simply to ensure the timely printing of ballots, the opinion of staff is that clerks must include referendum questions on a ballot if the question is filed after the 70-day deadline but ballots have not been prepared or the municipality will not incur any additional costs in adding the question to the ballot. Absentee ballots must be

available 47 days before the Partisan Primary, General Election, and Presidential Preference Primary, and 21 days before all other elections. For direct legislation questions, the submission deadline is measured from the time that the question is filed with the clerk after the governing body either rejects the proposed legislation or allows 30 days to pass without action.

**Recommended Motion:**

The Board approves the attached opinion as a formal advisory opinion of the Board pursuant to Wis. Stat. §5.05(6a).



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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

Sent by email only to [erik@unitedwisconsin.com](mailto:erik@unitedwisconsin.com)

May 21, 2014

Erik Kirkstein  
Political Director  
United Wisconsin

Dear Mr. Kirkstein:

In an email dated April 9, 2014, you requested a written opinion regarding the number of days in advance a referendum question must be submitted for placement on the ballot. Specifically, you note a potential conflict between the language in Wis. Stat. §9.20(4) pertaining to direct legislation and that in Wis. Stat. §8.37 regarding the deadline for submitting petitions requesting that a referendum question be placed on the ballot.

Wis. Stat. §9.20(4) governs the timing of a direct legislation referendum in the event that a city council or village board has chosen not to adopt the proposed resolution or ordinance as presented in a valid petition, and it states:

The common council or village board shall, without alteration, either pass the ordinance or resolution within 30 days following the date of the clerk's final certificate, **or submit it to the electors at the next spring or general election, if the election is more than 6 weeks after the date of the council's or board's action on the petition or the expiration of the 30-day period**, whichever first occurs. If there are 6 weeks or less before the election, the ordinance or resolution shall be voted on at the next election thereafter. The council or board by a three-fourths vote of the members-elect may order a special election for the purpose of voting on the ordinance or resolution at any time prior to the next election, but not more than one special election for direct legislation may be ordered in any 6-month period. *Emphasis added.*

As you note, this provision appears to require that the referendum appear on the ballot during the next regular spring or general election unless the election is less than 6 weeks (42 days) after the governing body either rejects the proposed legislation or 30 days pass after the clerk's certification that the petition is valid. The governing body may also call a special election to consider proposed direct legislation. As you also note, however, Wis. Stat. §8.37 states:

Unless otherwise required by law, all proposed constitutional amendments and any other measure or question that is to be submitted to a vote of the people, or any petitions requesting that a measure or question be submitted to a vote of the people, if applicable, **shall be filed with the official or agency responsible for preparing the ballots for the election no later than 70 days prior to the**

**election** at which the amendment, measure or question will appear on the ballot.  
*Emphasis added.*

While a county clerk may physically create a ballot containing a municipal referendum, that task is done on behalf of the municipal clerk who is responsible for preparing the ballot question. Therefore, the deadline for filing a direct legislation question applies to the time that the proposed measure is in the hands of the municipal clerk following either the governing body's rejection of the proposal or the lapse of the 30-day time period without the governing body taking action. The deadline is not measured from the date that petitioners file the direct legislation petition with the municipal clerk or the date of the clerk's certification of the petition to the governing body.

The phrase, "Unless otherwise required by law," at the beginning of s. 8.37 might imply that the more specific language and shorter deadline in s. 9.20 always applies to referendum elections resulting from direct legislation petitions. However, the staff of the Government Accountability Board does not believe that would be the correct interpretation of the statutes, at least in the case of questions to be placed on the fall partisan primary or general election ballots or the presidential preference primary.

The purpose of the 70-day deadline in s. 8.37 is to ensure that municipal and county clerks have sufficient time to prepare and print ballots so that they are available 47 days before the partisan primary or general election, as required by Wis. Stat. §7.15(1)(cm). That provision states that municipal clerks must deliver absentee ballots to electors who have requested them 47 days in advance of any presidential preference primary, partisan primary, or general election.

The 70-day deadline in s. 8.37 was previously 42 days but it was amended by 2011 Act 75. That legislation brought Wisconsin into compliance with federal law by moving the partisan primary from September to August and altering a number of corresponding deadlines related to ballot preparation and delivery. Therefore, the "otherwise required by law" in s. 8.37 language does not give precedence to s. 9.20 because it conflicts with state and federal laws that require absentee ballots to be available for military electors sooner than the 42-day deadline established in s. 9.20.

However, the "otherwise provided by law" phrase must be interpreted in the context of the purpose of the 70-day deadline, which was simply to accommodate the process of preparing and printing of ballots. In the opinion of the Government Accountability Board, if a clerk receives a referendum question after the 70-day deadline and can include it on the ballot without disrupting or delaying the printing of ballots, then the question should be included on the ballot. If ballots are already being printed and the municipality would incur additional costs by including a referendum question, then the clerk is not required to include the referendum question on the ballot.

Wis. Stat. §7.15(1)(cm) requires municipal clerks to make absentee ballots available to electors 21 days before each spring election and therefore the 42-day deadline in s. 9.20 does not necessarily conflict with that obligation. Given that the statutes permit printing ballots later in the process for spring elections and that the more specific deadline for direct legislation questions does not interfere with the creation of those ballots, the "otherwise provided by law" language seems to supersede the 70-day deadline in s. 8.37. In the opinion of the Board, clerks must place direct legislation questions on the ballot at a spring (or special election) if the

governing body has rejected the proposal, or if the 30-day period for governing body action has elapsed, at least 42 days before the election. In addition, clerks should include such questions on the ballot if they are filed later than that deadline if doing so will not disrupt or delay making ballots available 21 days before the election.

I hope this information is helpful but please contact us if you have any additional questions. This advisory opinion was approved by the Government Accountability Board at its meeting of May 21, 2014, pursuant to Wis. Stat. §5.05(6a).

**Government Accountability Board**

Michael Haas  
Elections Division Administrator



## 7.10 County clerks.

### (1) ELECTION SUPPLIES AND BALLOTS.

(a) Each county clerk shall provide ballots for every election in the county for all national, state and county offices, including metropolitan sewerage commission elections under s. [200.09 \(11\) \(am\)](#), for municipal judges elected under s. [755.01 \(4\)](#) and for state and county referenda. The official and sample ballots shall be prepared in substantially the same form as those prescribed by the board under s. [7.08 \(1\) \(a\)](#).

(b) The county clerk shall supply sufficient election supplies for national, state and county elections to municipalities within the county. The election supplies shall be enclosed in the sealed package containing the official ballots and delivered to the municipal clerk.

(c) With county board approval any county clerk may purchase or print the official forms of nomination papers for distribution to any person at cost or free.

(d) The county clerk may receive and store any unused ballots after an election upon request of any municipal clerk of a municipality within the county, and may destroy such ballots pursuant to s. [7.23 \(1\) \(am\)](#).

(2) PREPARING BALLOTS. The county clerk shall prepare copy for the official ballots immediately upon receipt of the certified list of candidates' names from the board. Names certified by the board shall be arranged in the order certified. The county clerk shall place the names of all candidates filed in the clerk's office or certified to the clerk by the board on the proper ballot or ballots under the appropriate office and party titles. The county clerk shall prepare a special ballot under s. [5.60 \(8\)](#) showing only the candidates in the presidential preference primary.

### (3) TIME SCHEDULE.

(a) The county clerk shall distribute the ballots to the municipal clerks no later than 48 days before each partisan primary and general election and no later than 22 days before each other primary and election, except that the clerk shall distribute the ballots under sub. (2) for the presidential preference primary no later than 48 days before the presidential preference primary. Election forms prepared by the board shall be distributed at the same time. If the board transmits an amended certification under s. [7.08 \(2\) \(a\)](#) or if the board or a court orders a ballot error to be corrected under s. [5.06 \(6\)](#) or [5.72 \(3\)](#) after ballots have been distributed, the county clerk shall distribute corrected ballots to the municipal clerks as soon as possible.

(b) The county clerk shall distribute an adequate supply of separately wrapped official ballots to each municipal clerk so the municipal clerk may supply ballots to absent elector applicants. The remaining ballots shall be sent in separately sealed packages clearly designating the ward for which each is intended and the approximate number of ballots of each kind enclosed.

....

## 7.15 Municipal clerks.

(1) SUPERVISE REGISTRATION AND ELECTIONS. Each municipal clerk has charge and supervision of elections and registration in the municipality. The clerk shall perform the following duties and any others which may be necessary to properly conduct elections or registration:

(a) Equip polling places.

(b) Provide for the purchase and maintenance of election equipment.

(c) Prepare ballots for municipal elections, and distribute ballots and provide other supplies for conducting all elections. The municipal clerk shall deliver the ballots to the polling places before the polls open.

(cm) Prepare official absentee ballots for delivery to electors requesting them, and except as provided in this paragraph, send an official absentee ballot to each elector who has requested a ballot by mail, and to each military elector, as defined in s. [6.34 \(1\) \(a\)](#), and overseas elector, as defined in s. [6.34 \(1\) \(b\)](#), who has requested a ballot by mail, electronic mail, or facsimile transmission no later than the 47th day

before each partisan primary and general election and no later than the 21st day before each other primary and election if the request is made before that day; otherwise, the municipal clerk shall send or transmit an official absentee ballot within one day of the time the elector's request for such a ballot is received. The clerk shall send or transmit an absentee ballot for the presidential preference primary to each elector who has requested that ballot no later than the 47th day before the presidential preference primary if the request is made before that day, or, if the request is not made before that day, within one day of the time the request is received.

(d) Prepare the necessary notices and publications in connection with the conduct of elections or registrations.

....

**8.37 Filing of referenda petitions or questions.** Unless otherwise required by law, all proposed constitutional amendments and any other measure or question that is to be submitted to a vote of the people, or any petitions requesting that a measure or question be submitted to a vote of the people, if applicable, shall be filed with the official or agency responsible for preparing the ballots for the election no later than 70 days prior to the election at which the amendment, measure or question will appear on the ballot. No later than the end of the next business day after a proposed measure is filed with a school district clerk under this section, the clerk shall file a copy of the measure or question with the clerk of each county having territory within the school district.

### **9.20 Direct legislation.**

(1) A number of electors equal to at least 15% of the votes cast for governor at the last general election in their city or village may sign and file a petition with the city or village clerk requesting that an attached proposed ordinance or resolution, without alteration, either be adopted by the common council or village board or be referred to a vote of the electors. The individual filing the petition on behalf of the electors shall designate in writing an individual to be notified of any insufficiency or improper form under sub. (3).

(2) The preparation and form of the direct legislation petition shall be governed by s. 8.40.

(2m) After the petition has been offered for filing, no name may be erased or removed. No signature may be considered valid or counted unless the date is less than 60 days before the date offered for filing.

(3) Within 15 days after the petition is filed, the clerk shall determine by careful examination whether the petition is sufficient and whether the proposed ordinance or resolution is in proper form. The clerk shall state his or her findings in a signed and dated certificate attached to the petition. If the petition is found to be insufficient or the proposed ordinance or resolution is not in proper form, the certificate shall give the particulars, stating the insufficiency or improper form. The petition may be amended to correct any insufficiency or the proposed ordinance or resolution may be put in proper form within 10 days following the affixing of the original certificate and notification of the individual designated under sub. (1). When the original or amended petition is found to be sufficient and the original or amended ordinance or resolution is in proper form, the clerk shall so state on the attached certificate and forward it to the common council or village board immediately.

(4) The common council or village board shall, without alteration, either pass the ordinance or resolution within 30 days following the date of the clerk's final certificate, or submit it to the electors at the next spring or general election, if the election is more than 6 weeks after the date of the council's or board's action on the petition or the expiration of the 30-day period, whichever first occurs. If there are 6 weeks or less before the election, the ordinance or resolution shall be voted on at the next election thereafter. The council or board by a three-fourths vote of the members-elect may order a special election for the purpose of voting on the ordinance or resolution at any time prior to the next election, but not more than one special election for direct legislation may be ordered in any 6-month period.

# State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the May 21-22, 2014 Board Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Jonathan Becker  
Ethics and Accountability Division Administrator

Prepared by: Brian M. Bell, MPA  
Elections and Ethics Specialist

**SUBJECT:** Implementation of 2013 Wisconsin Act 153 (Senate Bill 655)

This memorandum outlines the provisions of Wisconsin campaign finance and lobbying laws changed by 2013 Wisconsin Act 153, and describes steps taken by G.A.B. staff to implement these changes. Staff finalized updating forms, manuals, and guidelines by April 25, 2014. Staff informed PCC, the IT vendor for the Campaign Finance Information System (CFIS) website, of all required changes to the website. Staff estimates these changes should all be complete by June 30, 2014.

Ethics and Accountability Division Staff, along with Staff Counsel, dedicated approximately 80 hours to implement the changes outlined below. Staff will also incorporate these changes into future campaign finance and lobbying training.

1. *The registration threshold for referendum activity by groups or individuals changes from \$750 to \$2,500.*
  - a. Update information on the G.A.B. website.
  - b. Update manuals.
  - c. Update guidelines.
  - d. Update forms (GAB-1).
  - e. Update CFIS statement on exemption.
2. *The registration threshold for a committee, group, or individual, other than a candidate committee, that accepts contributions, incurs obligations, or makes disbursements changes from \$25 to \$300.*
  - a. Update information on the G.A.B. website.
  - b. Update manuals.
  - c. Update guidelines.
  - d. Update forms (GAB-1).
  - e. Update CFIS compliance flags.

3. *Transfers between personal campaign committees count toward the 65 percent rule (from all committees), but not the 45 percent rule (from committees other than political party and legislative campaign committees).*
  - a. Update CFIS compliance flags.
  - b. Update manuals.
  - c. Update guidelines.
  
4. *The limit that a corporation or association (also known as sponsoring organizations) may expend annually to solicit contributions to its separate segregated fund is the greater of \$20,000 or 20 percent of the amount of contributions to the separate segregated fund in the prior year.*
  - a. Update CFIS.
  - b. Update manuals.
  - c. Update guidelines.
  - d. Update forms (GAB-12).
  
5. *A conduit may redirect certain contributions to a sponsor (committee associated with the conduit) or to an administrative fund of the conduit under limited and specified conditions.*
  - a. Update CFIS to include information for redirected contributions:
    - i. Must include date of original contribution, date of redirection, name, address, occupation, employer name, employer address, and amount.
    - ii. Contribution may only be redirected to the administrative fund of the sponsor.
  
6. *This law excludes certain Internet activity from reporting under the campaign finance law by excluding this activity from the definitions of contribution and disbursement. Certain Internet-related activity is still included in the definition of disbursement and is reportable (e.g., payment for certain Internet activity).*
  - a. Staff is developing a new guideline document regarding internet activity to explain what filers must still report and what activity is exempt from reporting.
  
7. *This law excludes certain media coverage and communications to the public from reporting under the campaign finance law by excluding the activity from the definitions of contribution and disbursement. The excluded media coverage does not apply to the cost of a news story that appears in a medium owned or controlled by a candidate, personal campaign committee of a candidate, support committee of a candidate, or a political party.*
  - a. Update manuals.
  - b. Update guidelines.
  
8. *The time for late reporting changes from 24 to 48 hours.*
  - a. Change compliance flag in CFIS.
  - b. Update forms (GAB-3, GAB-4, GAB-7s).

9. *The Campaign Finance Information System (CFIS) must allow electronic signatures. A registrant that files a report in an electronic format may file a paper copy of the signature portion of the report. The law eliminates the requirement for filing a hard copy of the report if the registrant files electronically.*
  - a. Update CFIS to allow users to enter the name of the person submitting the report and update the certification statement.
  - b. Update forms (GAB-2, GAB-3, GAB-4, GAB-6, GAB-7, GAB-10, GAB-12).
  
10. *A lobbyist may personally make a contribution in the year of the candidate's election between the first day authorized by law for the circulation of nomination papers as a candidate (currently, April 15<sup>th</sup>) and the date of the general election. A lobbyist may still only contribute to a candidate for legislative office during that time only if the Legislature has concluded its final floor period, and is not in special or extraordinary session. Furnishing contributions of others to partisan candidates or officeholders is now always prohibited.*
  - a. On April 14, 2014, staff emailed all registered lobbyists, registered principals, as well as the legislative clerks to disseminate to all Legislators providing a detailed explanation of how the new law affects when lobbyists can contribute.
  - b. Staff will send a second e-mail in late May indicating the end of the final scheduled floor period and notifying lobbyists that furnishing the contributions of others is always prohibited.



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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the May 21-22, 2014 Board Meeting  
**TO:** Members, Wisconsin Government Accountability Board  
**FROM:** Kevin J. Kennedy, Director and General Counsel  
Wisconsin Government Accountability Board

Prepared by: Jonathan Becker, Colleen Adams, Brian Bell,  
Richard Bohringer, Adam Harvell, and Molly Nagappala  
Ethics and Accountability Division

**SUBJECT:** Ethics and Accountability Division Program Activity

### Campaign Finance Update

Richard Bohringer, Colleen Adams, Adam Harvell, Molly Nagappala and Brian Bell  
Campaign Finance Auditors

### Legislative Changes

2013 Act 153 made a number of changes to campaign finance law, including changes to the registration thresholds for political committees and referenda groups, more precise definition of internet activity, changes to statutes governing conduit and sponsoring organization activity, and removal of the requirement to file paper campaign finance reports if the report has been properly filed electronically. Campaign finance staff has revised forms, guidelines, manuals, and other documents to reflect the statutory changes. Updates will be complete by May 15<sup>th</sup>.

### January Continuing 2014 Reports

All non-exempt registrants were required to file the January Continuing 2014 report by January 31, 2014. As of April 25<sup>th</sup>, 19 reports are still outstanding. Staff has phoned, emailed, and mailed two late notices to all outstanding committees, and will continue to make attempts to contact and assist with filing the missing reports.

### Spring Pre-Election 2014 Campaign Finance Reports

All candidates on the ballot in April were required to file a spring pre-election report on March 24, 2014. One candidate who lost in the primary has not filed a pre-election report. Staff has phoned, emailed, and mailed a notice to that candidate, and will continue to attempt contact with the committee.

### **Upcoming Campaign Finance Reports**

The next report due for all registrants is the July Continuing 2014 report and is due July 21, 2014. Notices for this filing will be sent in June.

### **Filing Fee for Calendar Year 2013**

Non-candidate committees with over \$2500 in activity in 2013 were required to pay a \$100 filing fee by January 31<sup>st</sup>. As of April 25<sup>th</sup>, 352 committees have paid \$100 and three committees had paid \$300 for a total of \$36,100. Two committees were still outstanding. Staff will continue to make attempts to contact those committees.

### **Campaign Finance Audits**

In 2013, staff ran a number of audits on data reported for 2012 activity. Audits covered the \$10,000 annual contribution limit, corporate contributions, reporting of employer information, lobbyist contributions, individual contributions limits, and committee contribution limits. Over \$74,000 in forfeitures were collected from 102 violations. There were two outstanding committees from the last report. Friends for Randy Hopper has since contributed \$2,800 to charity for accepting individual contributions in excess of the statutory limit. Friends of Molly McGartland has paid \$80 for accepting individual contributions in excess of the limit, and \$250 for late filing of reports. Elizabeth Cogg's committee has been placed on administrative suspension for failure to respond to requests for her termination audit.

- Due to recent statutory changes, annual audits on 2013 data have been postponed and will begin in May 2014 and continue through the spring and summer. Due to the *McCutcheon* case, no audit of the \$10,000 annual contribution limit will be performed.

Other audits may be triggered by complaints or from issues discovered by staff review of reports on their face. G.A.B. staff continues to work with our software vendor and our in-house IT staff to automate the audits we conduct.

### **Campaign Finance Training**

On April 22, staff conducted a campaign finance webinar for new candidates and treasurers, covering the basics of registration, reporting, and the Campaign Finance Information System. Over 50 people attended. A recording of the webinar has been posted on our website. Additional webinars are scheduled for May and June.

### **Lobbying Update**

Molly Nagappala and Brian Bell  
Ethics and Accountability Specialists

### **Statement of Lobbying Activities and Expenditures Reports – July-December 2013**

As of April 29, 2014, no Statements of Lobbying Activities and Expenditures (SLAE) reports are outstanding. The SLAE was due on January 31, 2014. Forfeitures for late filing have been collected from four (4) principals; also, staff recently completed an audit of the 15-day reports and anticipates collecting further forfeitures from a number of violators in the coming months. Staff also received the last outstanding forfeiture payments from the January-June 2013 reporting period. No forfeiture payments are currently outstanding.

### **Eye on Lobbying Website Project Update**

Kavita Dornala has been working on creation of the new FOCUS subscription service and continues to make excellent progress. Kavita has been meeting regularly with G.A.B. staff to provide updates on the process; staff has also been providing suggestions and new ideas for the service, as well as testing several FOCUS functions to ensure a positive future user experience.

Staff continues to assist the public, lobbying principals and lobbyists regarding access to public information on the website as well as policy and reporting requirement questions from the lobbying community.

### **Lobbying Registration and Reporting Information**

G.A.B. staff continues to process 2013-2014 lobbying registrations, licenses and authorizations and will continue to do so throughout the session, although new registrations are beginning to decrease. A small number of lobbyists have changed from a single license to a multiple license; likewise, after an audit showed that some limited lobbying principals had overspent the \$500 limit in 2013, a small number of principals had to adjust their registration from limited lobbying to full lobbying. Processing performance and revenue statistics related to the 2013-2014 session so far are provided in the table below.

<i>2013-2014 Legislative Session: Lobbying Registration by the Numbers</i> (Data Current as of April 29, 2014)			
	<b>Number</b>	<b>Cost</b>	<b>Revenue Generated</b>
<b>Organizations Registered – Full Lobbying</b>	719	\$375	\$269,625
<b>Organization Registered – Limited Lobbying</b>	15	\$20	\$300
<b>Lobbyists Licenses Issued (Single)</b>	541	\$350	\$189,350
<b>Lobbyists Licenses Issued (Multiple)</b>	115	\$650	\$74,750
<b>Lobbyists Authorizations Issued</b>	1526	\$125	\$190,750
		<b>Total Revenue:</b>	<b>\$724,775</b>

### **Financial Disclosure Update**

Colleen Adams and Adam Harvell  
Campaign Finance Auditors and Ethics Specialists

### **Statements of Economic Interests**

The annual mailing to all officials required to file was sent in early January. As of April 25<sup>th</sup>, fewer than 450 of the 2,370 statements due for 2014 were still outstanding. All annual SEI filings are due April 30, 2014. Staff will continue to send reminders and follow up with delinquent filers.

### **Governor Appointments**

New appointments continue to be processed on an ongoing basis, to include securing statements of economic interests from all appointees and referring copies of their statements to the Senate for future confirmation hearings.

### **State of Wisconsin Investment Board Quarterly Transaction Reports**

Staff sent out 54 quarterly financial disclosure reports to State Investment Board members and employees at the beginning of April. The 2014 first quarter reports are due on or before April 30<sup>th</sup>, 2014. Once received, copies of the reports will be delivered to the Legislative Audit Bureau for their review and analysis.

### **Ethics, Complaints and Investigations Update**

Jonathan Becker, Division Administrator

Division staff continue to answer questions from legislators, legislative staff and the public on various provisions of the State Ethics Code. Division staff intake numerous complaints from various parties and deal with them appropriately according to the Division's standard procedures. Division staff continue to devote time to assist on investigations and the resolution of complaints when called upon by the Division Administrator and/or the Director and General Counsel.

### **Ethics and Lobbying Training**

Jonathan Becker, Division Administrator

Jonathan Becker, assisted by ethics division staff, conducted a number of ethics training sessions during March and April. Six presentations were made to gubernatorial staff, four to legislators and legislative staff, and one to the Department of Corrections.

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the May 21-22, 2014 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 (March 19, 2013) the Elections Division staff has focused on the following tasks:

### **1. General Activities of Election Administration Staff**

#### Spring Election

The Spring Election was conducted on Tuesday, April 1, 2014. Fifty-two counties conducted elections for state offices.

In order to provide additional election assistance to clerks during the last minute preparations for election day, staff began working extended hours on Thursday, March 27<sup>th</sup>. Staff was available to assist clerks until 6 p.m. on Thursday, Friday and Monday, March 31<sup>st</sup>. On April 1<sup>st</sup>, Election Day, staff was available from 6 a.m. until well after 10 p.m.

Staff was busy answering emails and phone calls on Election Day, not only from clerks and election inspectors, but from voters, legislators, the media and the general public. The Election Day contacts involved a variety of issues and allegations, including the following:

Absentee ballot issues:

- No signature of elector and/or witness on certificate envelope.
- Voters correcting incorrect address on certificate envelope.
- Clerks sending absentee ballots to unregistered individuals.
- Voters bringing unvoted absentee ballots to polling place.

Inspector issues:

- Instances of inspectors giving incorrect ballots to voters. In one municipality, inspectors gave out approximately 120 ballots to voters in the wrong county supervisory district. This resulted in a recount in both districts and appeal to circuit court in one of the contests.
- Several instances of voters knowingly voting an incorrect ballot, and then wanting to vote again on the correct ballot.
- Questions regarding counting write-in votes.
- Many questions about the appropriateness of a spouse of candidate serving as an inspector.
- Difficulty maintaining inspector party imbalance when inspectors abruptly have to leave or do not show up for work.

Clerk issues:

- Questions with respect to whether the Municipal Board of Canvassers (MBOC) must reconvene when no late-arriving absentee ballots have been returned.
- Questions on MBOC procedures and forms.
- Many questions about breaking tie votes.

Canvasses for the Spring Election began arriving electronically on April 7, 2014, with the majority (31) arriving on April 8<sup>th</sup>. By the deadline of April 11<sup>th</sup>, all but two counties had submitted canvasses. The last two were received on April 14, 2014. No petitions for recount were received, and Judge Nichol certified the Spring Election on April 24, 2014.

Fall Election Preparations

Staff continues to receive and process Campaign Registration Statements (Form GAB-1) and Declarations of Candidacy (GAB-162) from candidates intending to run for office at the 2014 General Election. There are currently 250 candidates registered for state and federal offices for the fall General Election. The nomination paper circulation period began April 15<sup>th</sup>, and by April 21<sup>st</sup>, the first candidate submitted papers. Candidates have until June 2<sup>nd</sup> to submit sufficient nomination papers.

2013 Act 160, which requires a signer of a nomination paper to also provide a legibly printed name, was signed into law a few days before the fall election circulation period was to commence. G.A.B. staff promptly revised nomination paper forms which are posted on the agency website to include a column for a printed name and also to correct an outdated Certification of Circulator.

Along with SVRS staff, Election Administration staff also created the Elections Division Readiness Tracker, an electronic task manager for SVRS, election administration and the IT staff to view and update election related tasks. The tracker has multiple “views” allowing staff and management to monitor the status of nearly 100 assigned tasks ranging from pre-election to post-election reporting requirements.

### Newly Enacted Legislation

Staff has begun the substantial task of analyzing and interpreting the recent changes to election statutes, contained in 18 separate Acts, in order to implement new procedures and to provide accurate guidance to local election officials and voters. Implementation teams have been formed and tasks assigned. The process is a reminder that even seemingly simple and straightforward legislative changes often raise complex administrative issues and potential conflicts or inconsistencies with other existing statutes. One of the first steps is to incorporate the various changes into existing forms, manuals, notices, procedures, instructional pamphlets and training materials, followed by training for clerks and inspectors so they are prepared for the fall elections.

### Ballot Improvement Continues

Staff continues to work with clerks, ballot preparers and printers to harmonize various perspectives regarding ballot design and implement improvements. With the input of several ballot preparers, staff has drafted basic standards and font size guidelines to begin making ballots more uniform across the state. This effort will be assisted by the expertise of Dana Chisnell, an authority on ballot and election materials design, who will visit the G.A.B. later this summer.

In working with ballot preparers, staff has gained a clearer understanding about the challenges printers face when laying out a ballot, and how much the companies' philosophy and mechanical methods differ from each other. Regardless of differing ideas and opinions, all parties are committed to the evolution of ballots and producing the best product possible.

## **2. Clerks' Election Administration Workload Concerns Task Force**

Board staff has continued to implement the Board directives resulting from recommendations of the Clerk Concerns Task Force. Staff continues to work toward developing model agreements between SVRS providers and reliers to outline alternate models of workload-sharing.

## **3. Voting Equipment Testing and Demonstration**

Elections administration staff, the G.A.B. IT team and the elections staff continued to collaborate with Dr. Gilbert and his team to conduct a pilot program for the Prime III voting equipment at the April 1, 2014 election. A complete report summarizing the performance of the Prime III and staff recommendations regarding its future development is included separately in the meeting materials.

Staff also collected reports of county clerks using the Unity 3.4.0.1 voting equipment at the Spring Election pursuant to the Board's conditional approval. A complete report regarding the performance of the equipment and staff's recommendations for final approval is included separately in the meeting materials.

#### **4. The AccessElections! Accessibility Compliance Program**

##### **A. Polling Place Audits for the April 1<sup>st</sup> Spring Election**

For the 2014 Spring Election, 140 polling places were audited. Twelve temporary workers were hired and trained to conduct onsite accessibility compliance audits in 129 municipalities in Calumet, Dodge, Dunn, Eau Claire, Fond Du Lac, Jefferson, Monroe, Outagamie, Shawano, Washington, and Winnebago counties. An initial review of audit results for the Spring Election indicates that many of the most commonly identified problems remained. However, auditors also identified significant issues with snow and ice removal in parking areas and along pathways. Board staff also piloted a change to the program by notifying two counties, Dodge and Monroe, that they will be visited for accessibility audits. The county clerks were notified in advance and assisted Board staff with distributing reference materials to the local election officials in these counties. The results from these counties will be analyzed to determine if outreach and education efforts prior to the election impacted survey results.

##### **B. Public Education and Outreach Materials**

G.A.B. staff continues to create informational material to better serve voters with disabilities and produce materials for use by clerks and poll workers. In an effort to provide an additional resource for voters who use the AutoMARK ballot marking device, Board staff has finalized a tutorial video that demonstrates the voting process using that equipment and its accessibility functions. This video has been posted to the agency website in the voting equipment section and is available for viewing by the public or use by local election officials. In addition, Board staff continues to work on a partnership agreement with the Wisconsin Disability Vote Coalition to produce public education materials such as a voter guide for individuals with disabilities and a series of poll worker training videos that focus on interacting with and providing assistance to voters with disabilities. The projects should be completed in conjunction with public outreach and education efforts for the fall election cycle.

##### **C. Analysis of Accessibility Audit Results**

Staff has been working on editing and finalizing audit reports for the spring election cycle and plans to distribute those reports in early May 2014. Since March 2014, staff has received and processed 18 plans of actions for polling places audited during recent elections. Staff will continue to process plans of action received from municipalities audited during previous elections and for audits conducted during the 2014 spring election cycle.

##### **D. Ongoing Accessibility Compliance Efforts**

Staff continues to coordinate with municipal clerks to ensure that accessibility problems uncovered during previous audits are resolved as quickly and cost-effectively as possible. In addition, staff arranged for the distribution of 25 grant-

funded accessibility supplies to 8 municipalities in response to documented needs. Staff continues to work with the agency IT Development Team to automate multiple aspects of the AccessElections! Compliance Audit administrative process. This effort includes revisions to sections of the electronic version of the 2009 Polling Place Accessibility Survey in order to increase data quality and accuracy.

Staff also is in the process of planning the spring 2014 meeting of the Accessibility Advisory Committee. A tentative date of June 17<sup>th</sup> has been determined for this meeting, which will take place at the agency offices. Staff is in the process of developing and finalizing the agenda for this meeting, but recent legislative changes and public outreach efforts for the fall election cycle are expected to be discussed.

## **5. Education/Training/Outreach/Technical Assistance**

Following this memorandum as Attachment 1 is a summary of information on core and special election administration training conducted by G.A.B. staff.

## **6. GIS Update**

The G.A.B. has been working to facilitate and improve the process for municipalities to contact the agency upon the completion of annexations. One of the ongoing maintenance responsibilities of local election officials is to ensure the most up-to-date municipal, ward, and school district boundary data is used to administer elections, so that voters use the correct polling places and ballots. Acquiring statewide annexation information to verify that the most updated information is within SVRS has been a challenge but staff has initiated recent improvements.

G.A.B. staff has been working on obtaining updated annexation information from the Department of Administration (DOA). Under Wis. Stat. 66.0217(9)(b), the Secretary of State is required to send a copy of the annexation ordinance, certificate, and plat of annexation to DOA. DOA has recently offered (but is not required) to send to the G.A.B a quarterly list of all the annexations that they have received in order to better facilitate the acquisition of updated boundaries in the SVRS system. This cooperative effort resulted from earlier discussions with DOA to improve the annexation notification process.

These discussions also led to an update of the GAB-100 Annexation Notification Form and communication with clerks, increased interaction with the Wisconsin Land Information Community, and improved communication between annexing municipalities, their County Land Information Departments and County Clerks, and other state agencies concerned with maintaining updated ward and municipal boundary data. Partnerships between G.A.B. and the Wisconsin GIS community are critical to the ongoing support of SVRS and will continue to result in more accurate data for clerks to use to better administer elections for their voters.

## 7. IT Projects

Several IT projects are in progress for the Elections Division:

### A. SVRS Updates

An emergency patch to SVRS was installed on March 14, 2014. This patch corrected a display issue with district and voter maps in SVRS that resulted from updates that Google made to the mapping plug-in used in SVRS. When clerks made a correction on the map, the screen would appear as if it was “processing” even after the change had been completed and saved. The patch corrected this problem.

On April 28, 2014 updates were made to the SVRS servers to improve performance and disk space utilization.

Staff is beginning work on SVRS version 8.6 that will include necessary changes to SVRS to support recently enacted laws, especially with regard to new proof of residence requirements when registering to vote. The new version of SVRS is targeted to be deployed before the August 2014 Partisan Primary.

### B. SVRS Modernization

The G.A.B. IT Team continues to work with G.A.B. program staff to set up the building blocks of the new modernized SVRS. Preliminary screens and features have been created to support district and address management, and staff is currently working on voter data management. The next target area will be election management. Staff hopes to accomplish as much development in 2014 as possible to allow time in early 2015 for testing and deployment of the new system. The new modernized SVRS is scheduled to go live in the fall of 2015.

### C. MyVote Wisconsin

MyVote 1.7 sprint 2 was installed on April 29, 2014. This build included a couple of minor fixes reported by clerks and voters, as well as some database improvements to better utilize database resources and improve security.

Staff is beginning work on MyVote 1.8 that will include necessary changes to MyVote to support new laws recently enacted by the Legislature. The new version of MyVote is targeted to be deployed before the August 2014 Partisan Primary

Staff executed an agreement with nationally-recognized elections usability specialist Dana Chisnell to conduct a usability assessment of the MyVote site. The usability assessment will be used to plan for improvements that will be made in the next major release of the system, referred to as MyVote Wisconsin version 2.0.

Ms. Chisnell will be coming on-site to train staff on usability testing and conduct usability assessments with Wisconsin voters in July of 2014.

D. Voter Felon Audit

Over the past year the Government Accountability Board has been developing a new internal tracking system intended to improve and facilitate the process used to complete the statutorily required post-election comparison of voters with the list of persons who were under Department of Corrections (DOC) supervision for a felony conviction on the date of the election.

The goal of the G.A.B. felon audit automation project is to improve the efficiency and accuracy of audits conducted after every statewide election. The G.A.B. takes great care to ensure that a referral made to a district attorney is based on sound information and that due diligence has been completed prior to making a referral. Issues that arose in the post-election Voter Felon Audit for the November 4, 2008 Presidential Election prompted the G.A.B. to review the entire post-election voter felon comparison protocol, and put in place a stricter review of the information used to make referrals. Ultimately, the improved voter felon audit process will save valuable time and resources of district attorneys and law enforcement.

The new process and procedures were used for the first time to complete the post-election voter felon audit for the November 6, 2012 Presidential and General Election. Given other intervening agency priorities including a series of unprecedented recall elections, a statewide recount, and numerous legislative changes that required significant time and resources, the G.A.B. is still in the process of conducting Voter Felon Audits for the elections after the April 2009 Spring Election. The G.A.B. plans to complete all of the audits for regular elections held between the 2010 Spring Primary and the 2014 Spring Election, as well as the 2012 statewide gubernatorial recall election, before the August 12, 2014 Partisan Primary.

The testing phase of the project finished on April 11, 2014, and G.A.B. staff, clerks, and district attorneys are currently using the new automated tracking tool to complete the post-election Voter Felon Audits for the November 6, 2012 Presidential and General Election, the February 16, 2012 Spring Primary Election, and the April 6, 2010 Spring Election.

The G.A.B. has made 29 referrals to district attorneys for the November 6, 2012 Presidential and General Election. The following chart lists the number of referrals by county.

County Name	Count
ASHLAND COUNTY – 02	1
DANE COUNTY – 13	1
JEFFERSON COUNTY - 28	2
LA CROSSE COUNTY – 32	1
MILWAUKEE COUNTY - 41	18
OZAUKEE COUNTY – 46	1
PIERCE COUNTY – 48	1
RACINE COUNTY – 52	4
<b>Grand Total</b>	<b>29</b>

A total of 89 potential matches were identified in the audit for the November 6, 2012 Presidential and General Election. Of the 89 potential matches, 56 match records were closed. The matches were closed because a vote had been recorded in SVRS incorrectly, the municipal clerk confirmed that the two records were not the same person, or the Department of Corrections updated the offender information because the offender was not serving a felony sentence on the day of the election. In two cases the individual had already been referred to the district attorney by the municipal clerk. In those cases the G.A.B. is contacting the district attorney for a report on the disposition of the case. There are 4 matches in the City of Milwaukee that remain open until the City of Milwaukee Election Commission can retrieve the necessary documentation from its storage facility.

The G.A.B. has received a report of a disposition from a district attorney for one referral from the November 6, 2012 Presidential and General Election. The file was closed after further investigation by the district attorney. While the records of the two individuals indicated the same name or alias, address and birthdate, the district attorney was able to determine that the driver license numbers did not match. The driver license number of felons is not part of the matching process with DOC but the district attorney was able to obtain it through further investigation. The prosecutor determined that the voter and the felon who was incarcerated at the time of the election were not the same person, although they may be fraternal twins.

Only one potential voter felon match was found for the February 12, 2010 Spring Primary Election, and 5 potential matches were found for the April 6, 2010 Spring Election.

G.A.B. staff has received positive feedback on the new process from the DOC, clerks, and district attorneys, and will continue to work with all parties to make improvements. The G.A.B. is on track to complete the audits for regular elections held between the 2010 Spring Primary and the 2014 Spring Election, as well as the May 8, 2012 Recall Primary Election and the June 5, 2012 Recall Election, before the August 12, 2014 Partisan Primary.

## 8. Voter Registration Statistics

The following statistics summarize statewide voter registration activity as of April 21, 2014:

Active Voter Registrations	3,380,550
Inactive Voter Registrations	1,205,730
Cancelled Voter Registrations	394,037
HAVA Checks Processed In 2014	33,396
Merged Voter Registrations Processed In 2014	4,121

## 9. Voter Data Requests

Staff regularly receives requests from customers interested in purchasing electronic voter lists. Staff works to create a voter file for each request. The standard file includes each voter's name, address, each electoral district the voters resides in from their ward up to their Congressional district, and their voting history for every regularly scheduled election and special elections for state and federal offices.

Revenue from these requests helps to support the costs for maintaining the Statewide Voter Registration System (SVRS), and for training municipal and county clerks on how to use SVRS. The following statistics summarize voter data requests as of April 29, 2014:

<b>Fiscal Year</b>	<b>Total Number of Requests</b>	<b>Requested Files Purchased</b>	<b>Percentage of Requests Purchased</b>	<b>Total Revenue</b>
FY2014 to date	276	207	75.00%	\$96,026.25
FY2013	356	259	72.75%	\$254,840.00
FY2012	428	354	78.04%	\$127,835.00

G.A.B. staff launched **BADGER Voters** (<http://BADGERVoters.gab.wi.gov>), an online application for processing common requests for voter data. This new website allows candidates, political, parties, and the public to request SVRS voter data online, including voter participation based on jurisdiction or district, participation in a particular election or elections, or absentee voter information. Data request customers can submit their requests, make payments online, and download the completed file from this new website.

Confidential information in the Statewide Voter Registration System (SVRS) remains protected under state law. Private data that cannot be purchased include a voter's date of birth, driver license number, Social Security number, special accommodation needs for voters with disabilities, financial information, or any information about "confidential voters" who are victims of domestic abuse, stalking or sexual assault.

Users must create an account through the State of Wisconsin's external account system, and online payments are managed by the Department of Administration through U.S. Bank. This new site leverages available security features to protect confidential information and ensure that the available data cannot be accessed free of charge. The database is read-only and the site only allows access to specific non-confidential information and is only available after successful processing of the payment. The details of these security measures are not enumerated here to help safeguard the process and confidential voter information.

This new site will free up the equivalent of approximately 0.50 FTE previously needed to process data requests manually. The BADGER Voters site will also reduce the average total process time from about five days to about 15 minutes for about 97 percent of all voter data requests processed. Revenue from the BADGER Voters site will

continue to support SVRS maintenance, as well as SVRS training and support for county and municipal clerks.

### 10. G.A.B. Customer Service Center

The G.A.B. SVRS Help Desk is supporting over 2,000 active SVRS users, the public, and election officials. The Service Center is continuing to upgrade and maintain the two training environments utilized in the field. Staff has started testing a virtual training server located at the data center to facilitate remote SVRS training. Staff is monitoring state enterprise network and data center changes and status, assisting with processing data requests, and processing voter verification postcards. The end of support for Windows XP has resulted in an unusual number of municipalities replacing computers for SVRS. Help Desk staff assisted clerks with configuring and installing SVRS and WEDCS (GAB-190) on new computers.

Overall, the majority of inquiries the G.A.B. Help Desk received from clerks during this period related to assistance with preparing for the Spring 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. A technical issue that arose during this period consisted of clerks experiencing browser compatibility issues with SVRS and the latest version of Internet Explorer and Firefox browsers, which the Help Desk staff has been able to resolve on an individual basis.

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

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 an amount of call traffic prior to the filing deadlines.

Help Desk staff have been serving on various project teams such as the Records Retention Taskforce; the Clerks Concerns Committee; and the SVRS Modernization and MyVote Wisconsin teams. Staff assisted with testing SVRS and system improvements. Staff also has recently begun administering the SANS Security Awareness training program instituted by DOA for data security awareness.

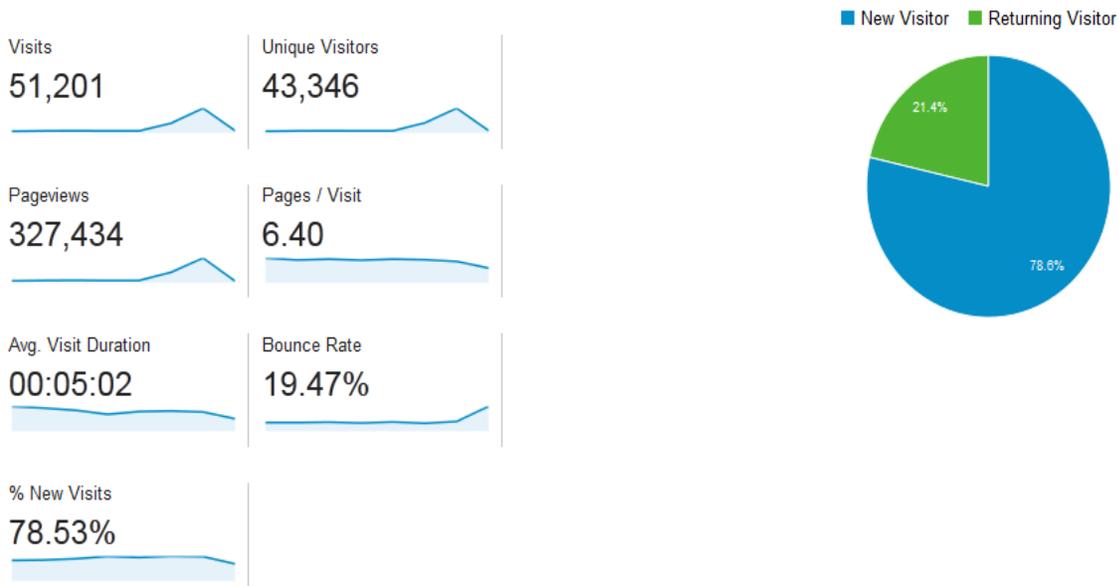
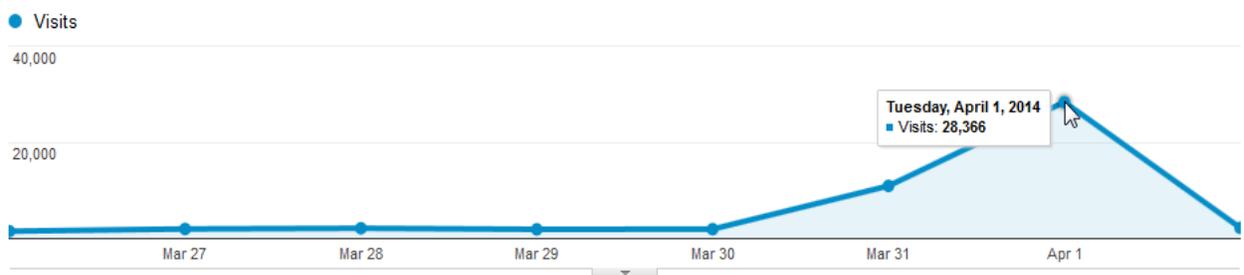
#### G.A.B. SVRS Help Desk Call Volume (608-261-2028)

March 2014	1,550
April 2014	1,294
<b>Total Calls for Reporting Period</b>	<b>2,844</b>

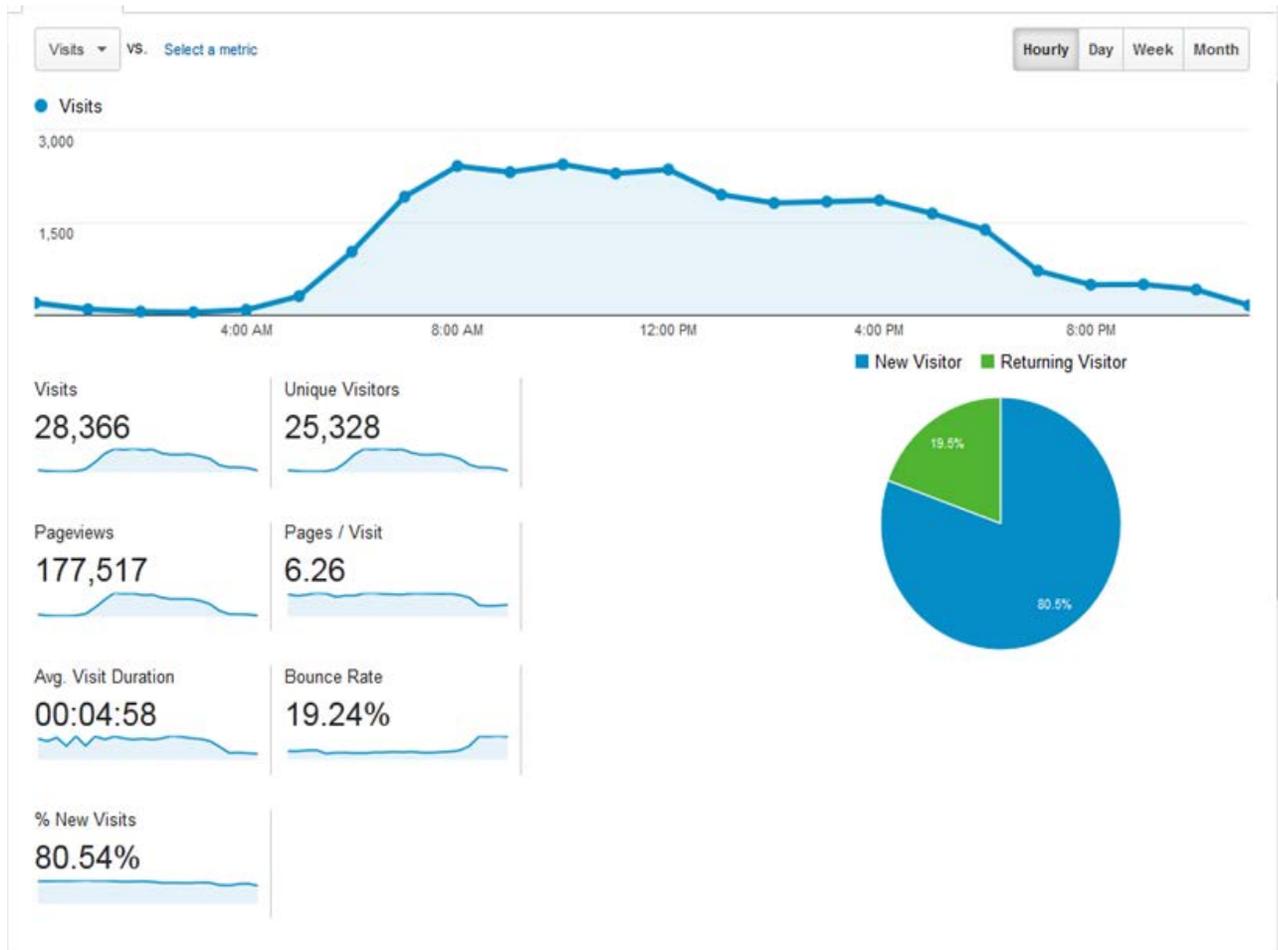
**G.A.B. Front Desk Call Volume**  
 (608-266-8005)

March 2014	602
April 2014	671
<b>Total Calls for Reporting Period</b>	<b>1,273</b>

The graph below illustrates visitor traffic to the MyVote Wisconsin website for the week of the April 1 Spring Election. Election day had 28,366 visitors looking up election related materials.



Below is MyVote activity on Election day. The high point was 2,440 visitors at 10:00 a.m. and 80% were new visitors.



## 11. Voter Outreach Services

Since the G.A.B.'s launch of its Facebook and Twitter accounts in April of 2012 the number of people the agency is able to reach through social media continues to grow.

The G.A.B. Facebook account currently has over 850 likes (people following the page). On average, each post reaches a viral audience of 300 additional people, with the more popular posts generating an additional reach of over 1,000 people. G.A.B. staff typically publishes two or more posts daily on Facebook during the six to eight weeks before an election. During periods of time between elections, the frequency of posts decreases to around three per week.

The G.A.B. Twitter account currently has over 1,000 followers. Additional statistics for reach and viral impact are not available for Twitter. However, a number of news media sources "re-tweet" G.A.B. posts regularly. Because of these "re-tweets" each G.A.B. post reaches additional Twitter users, beyond the 1,000 followers. G.A.B. staff typically publishes two or more posts daily on Twitter during the six to eight weeks before an

election. During periods of time between elections, the frequency of posts decreases to around three per week.

## **12. Voter ID Cases and Status**

G.A.B. staff communicated to local election officials the decision of the federal court in two cases challenging the voter photo identification requirement which enjoined the G.A.B. and local election officials from implementing the requirement. The photo identification requirement also continues to be enjoined due to a state court decision which is currently under appeal to the Wisconsin Supreme Court.

## **13. Program Audit**

Elections Division staff has spent considerable time working with Legislative Audit Bureau staff to provide information related to its ongoing audit of the agency. Staff has participated in several extensive meetings to describe agency programs and initiatives and provided numerous documents and data files to LAB staff.

## **14. Staffing Change**

Division staff is completing the recruitment process to fill two vacant Elections Specialist positions. Also, Elections Specialist Sherri Ann Charleston has announced that she will be leaving the agency shortly to take a position with the University of Wisconsin-Madison, directing its undergraduate pre-law program and pre-law advisory center. Sherri has done a tremendous job leading the agency's efforts regarding voting equipment testing and approval, as well as voting equipment audits. She has accomplished a great deal since joining the G.A.B. in January 2013. Sherri's last day in the office will be May 23, 2014 and she will be greatly missed.



**ATTACHMENT #1**

GAB Election Division’s Training Initiatives  
3/20/2014-5/20/2014

<b>Training Type</b>	<b>Description</b>	<b>Class Duration</b>	<b>Target Audience</b>	<b>Number of Classes</b>	<b>Number of Students</b>
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.	0	0
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.	0	0
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.	1	16
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.	6	135
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.	4 live action videos with narrative developed by staff: Challenging an Elector; Provisional Voting; Pre-Election Preparations; Voting Equipment Testing and Security	Posted to website

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
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 completed; Phase 2 under discussion.	Site is available for clerks to train temp workers in data entry; reliers are also able to access the site upon request.
Other	<ul style="list-style-type: none"> <li data-bbox="388 570 875 1003">• Board staff gave SVRS and election administration presentations to municipal clerks attending Wisconsin Municipal Clerks Association District Meetings: March 5, 2014, District 7 in Rockland; March 6, 2014, District 5 in Menomonee Falls; March 14, 2014, Districts 1 &amp; 2 in Rice Lake; April 14, 2014, District 4 in Madison; May 7, 2014, District 8 in Rhinelander.</li> <li data-bbox="388 1047 842 1187">• Board staff updated County Clerks on new legislation at the WCCA spring conference on March 12, 2014 in Madison.</li> </ul>				

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the May 21-22, 2014 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 preparing information for the Legislative Audit Bureau's Agency Audit, planning for the 2015-17 biennial budget, 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. Legislative Audit Bureau Agency Audit

Staff is responding to additional inquiries from the Legislative Audit Bureau analysts by providing additional information about the agency's elections, ethics, campaign finance and lobbying programs. The auditors expect to have their research and audit report complete sometime within the next couple of months.

2. 2015-2017 Biennial Budget Preparations

Staff has begun planning for the agency's 2015-17 Biennial Budget submission, which is due in mid-September. In preparation, staff has identified several budgetary concerns that will need to be addressed in the upcoming biennial budget. In our analysis thus far, we have determined the following needs:

a. Create Permanent Positions for the Elections Division

Given that most of the Elections Division positions will sunset on June 30, 2015, the agency will need to request permission to convert 26 federally-funded project positions to permanent positions. Because staff projects an adequate federal fund balance through mid-2017, we would like to request federally-funded permanent positions starting July 1, 2015 through June 30, 2017.

Additionally, we would propose on July 1, 2017 the federally-funded permanent positions be converted to general purpose revenue funded permanent positions and funding for the positions be provided with general purpose revenue.

b. Increase in Base Budget for Board Meeting Per Diems and Expenses

When the legislature created the Government Accountability Board, it budgeted \$28,300 in funding for Board per diems. However, this amount was never in the agency's original base and subsequently the agency had to make a special request for the funding. This amount covers meeting expenses for six, one-day, in-person meetings annually, which includes: per diems, travel expenses, meal reimbursements and board meeting preparations. The average cost per meeting is \$4,100 (see chart below).

Meeting	# Days	# Board Members	Daily Per Diem	Per Diem Cost Per Meeting
	1	6	\$450	\$2,700

	# of Meetings	* Meeting Expenses	Total
1-day meeting	1	\$1,400	\$1,400

\* Meeting Expenses include: Board materials (photocopying, mailing); travel expenses, meal reimbursements

**TOTAL \$4,100**

The agency also has six scheduled canvass signings per biennium, along with as many as six additional canvass meetings for special elections. Historically, the agency has not paid a per diem because the canvass was signed by a Madison-area based Board Member. On one occasion a half-day per diem has been paid for the canvass signing when a Board Member traveled to Madison to sign the canvass.

Since the Board member per diem rates have increased and the frequency of meetings has increased, additional funding is needed. Staff anticipates expenses for six additional meetings annually, some of which will be telephone conference calls. While the telephone conference call meetings will not result in travel expenses, the agency needs to factor in additional meeting expenses when in-person meetings last more than one day. The agency also needs to factor in possible expenses for canvass signings.

The annual increase needed for six additional meetings would be \$24,600. Over the course of the biennium, the amount needed would be \$49,200.

c. Funding for Biennial Updating of Voter Registration List (Voter Verification Post Cards)

2013 Wisconsin Act 149 transfers responsibility for biennial updating of the voter registration list from municipal clerks to the Government Accountability Board.

- The G.A.B. is responsible for mailing the Notice of Suspension of Registration forms to conduct voter list maintenance every two years following the November general election.
- Municipal clerks are responsible for changing the registration status of electors requesting to continue their voter registration, and for processing undeliverable postcards.
- The G.A.B. will mail Notices of Suspension of Registration no later than June 15 following each general election.

In the past, the G.A.B. has paid for these mailings with federal HAVA funds. This saved costs for municipalities who were required to do the mailings. Given the depletion of our HAVA funds in FY-17, we anticipate the cost to administer this legislation will be approximately \$102,900, which includes printing and postage for 300,000 postcards.

d. Address the Lobbying Fiscal Deficit

Under 2009 Act 28, the biennial lobbying license fees were increased beginning January 1, 2011 and ending December 31, 2014 (the 2011-12 and 2013-14 legislative sessions) to provide funding to upgrade the Board's lobbying database and website:

- (a) for a lobbyist representing a single principal, from \$250 to \$350; and
- (b) for a lobbyist representing multiple principals, from \$400 to \$650.

Staff estimated an additional \$108,300 in revenue would be generated annually. While revenues increased in FY-11/12, in FY-13/14 the agency did not generate as much lobbying revenue. This was due to the economy and a reduction of lobbyist and principal registrations. When lobbying fees revert back to their original fee structure in the next legislative session, the lobbying program will have a shortage in its cash balance needed to fund expenses in the next budget cycle.

Financial Staff has projected the lobbying program cash balance at the end of FY-15 could be short by \$140,000 to fund FY-16 expenditures. The increase in the cost to maintain the lobbying system needs to be addressed. Staff is working with the Ethics and Accountability Division on exploring ways to address the fiscal deficit. It is likely that a permanent increase in lobbying fees will be proposed.

### 3. Financial Services Activity

- Staff calculated and booked the first quarter payroll adjusting entry to properly allocate salaries and fringe benefits between federal and state programs, and effected payroll funding changes in the payroll system, to account for federal employee assignment changes, new hires, and for staffing transfers between programs.
- Labor and ancillary costs of \$8,066 were received from Dominion for G.A.B. costs incurred while working on a second round of the Dominion voting equipment update project, which was previously invoiced to the vendor per the cost recovery agreement. ES&S previously reimbursed the G.A.B. \$28,767 and Dominion previously reimbursed the G.A.B. \$688 for voting equipment testing costs. These cash receipts are accounted for as refunds of expenditure and allocated amongst several ledger accounts.
- FY15-17 biennial budget work continues, with cost, revenue, cash balance, and fund depletion projections being calculated for both the state lobbying program and for the federal HAVA programs at this time. Financial staff is also tracking GPR salary savings from vacant and reduced positions, for purposes of fiscal year-end 2014 budget planning.
- The Legislative Audit Bureau (LAB) released its single audit report for the fiscal year 2012-2013. The G.A.B. was included in the scope of the federal compliance portion of the single audit, but was not one of those eight state agencies that administered a major federal program being audited during the fiscal year 2012-2013. The LAB has submitted the single audit report on our behalf to the federal government. Staff also reviewed the Voter ID historical expenditures and provided an update to the Legislative Fiscal Bureau.
- Staff claimed reimbursements of \$31,063 for March and April Federal Voting Assistance Program grant expenditures, then coordinated the accounting for incoming wire transfers with Department of Administration (DOA)-Treasury staff, and prepared journal entries to record revenues receivable. The annual report of inventions created, if any, as a result of the FVAP program was timely filed as 'not applicable' during March. Financial staff timely filed the quarterly SF 425 Report with the U.S. Department of Defense, due March 31 for this federal aid grant, reporting \$1,037,249 (54 percent) of the \$1,919,864 grant expended since its inception in March 2012.
- Financial staff members regularly attend the State Transforming Agency Resources (STAR) Project meetings, to learn about the State's new Enterprise Resource Planning (ERP) system and to plan for this system conversion. For example, financial staff attended the chart of accounts office hours, to determine the agency's future account coding structure for the new PeopleSoft general ledger. Staff also recently attended a training session on the new PeopleSoft budget structures, which our agency financial team will set up for the G.A.B., in anticipation of an upcoming office hours session with STAR budget personnel. In addition to the ERP

conversion, one staff member attended a training session on the new WiSMART report writer software, and relayed those training materials to the other financial teammates. This is a replacement of the current vendor's software as of the end of this fiscal year, and user testing of this new mainframe report writer has begun within all state agencies.

- Budget-to-actual operating results for the fiscal nine months ended March 31 were summarized and communicated to management. All federal and state programs are either close to or under budget at this time, but staff did prepare a current fiscal year lobbying appropriation transfer entry, to shift \$32,000 of budgeted salaries authority to the supplies and services line unit, allowing our agency to continue paying operating bills associated with the lobbying program for the rest of FY14.
- Journal entries were prepared and booked to reclass purchasing card expenditure object codes and to properly allocate both monthly interest earnings and mixed usage server costs to their appropriate federal or state programs. Monthly DOA General Service Billing charges are being monitored for erroneous desktop/laptop charges and are being audited prior to payments being processed, while rent and utility cost allocations were updated for recent payroll funding changes.
- The WiSMART Federal Aid Inference Table codes for the new 2015 fiscal year were updated by financial staff, while WiSMART ADNT codes have been created for the new fiscal year 2015 General Service Billings and older FY13 codes have now been deleted. The expense/revenue budget transactions and the zero dollar appropriations for the new fiscal year 2015 were also reviewed and loaded into WiSMART.
- General ledger accounts for both federal and state payroll and travel balance sheet liabilities were analyzed each month, to facilitate the reconciliation of these 50 ledger account balances. Journal entries were prepared and booked to correct any balance sheet account coding errors.
- Final testing of the new e-payment application for the electronic receipt of federal voter data list sales has been completed and the U.S. Bank customer activation approval form was filed with DOA-Treasury, allowing the new application to be publicly launched. This new system provides for both electronic check and debit/credit card options as payment for SVRS voter data lists, and several cash receipt transactions have been successfully processed and received.

#### 4. Procurements

As part of the April election accessibility audit, 12 Program Assistant II temporary employees were hired and trained to conduct surveys of polling places throughout the state. Visual Studio licenses were also upgraded and/or purchased for the IT contractors. The training laptop operating systems were upgraded from Windows XP to Windows 7, as Microsoft discontinued support for the prior operating system.

5. Contract Sunshine

Since the last Board meeting, the certification process for the January to March 2014 period was completed. All 37 of the requisite agencies required to report qualified purchases returned their certification in a timely manner. The next certification period ends June 30, 2014.

6. Staffing

Currently we have two vacant Elections Specialist positions for which we are recruiting. The application process is complete. Staff is in the process of developing interview questions and scheduling interviews. We expect to complete the recruitment process by June.

7. Communications Report

Since the March 19, 2014, Board meeting, the Public Information Officer (PIO) has engaged in the following communications activities in furtherance of the G.A.B.'s mission:

**Online:** As the agency's webmaster, the PIO oversaw maintenance of the website and development of new sections, including pages for Campaign Finance training videos.

**Media:** The Board has been in the news recently on several major stories: Voter Photo ID Law ruling in *Frank v. Walker*, Wisconsin's high ranking in the Pew Center on the States Elections Performance Index, the Spring Election, signed bills making changes to election administration and campaign finance laws, the April 30 filings of Statements of Economic Interests and the start of the filing period for the Fall 2014 General Election. The PIO coordinated interviews with journalists for Director Kennedy and Division Administrators. He also gave multiple interviews when they were not available. Between March 1 and April 30, the PIO responded to more than 550 contacts from news media and the public for information and interviews.

**Public Records:** The pace of public records requests has slowed somewhat since the first two months of 2014, when the agency received 24 requests compared to the same number in all of 2013. The agency has received seven additional public records requests in March and April.

**Testimony and Presentations:** The PIO assisted Director Kennedy in the preparation of testimony for three legislative hearings in March, April and May, including a second appearance before the U.S. Senate Committee on Rules and Administration.

**Other:** On March 27, the PIO gave a luncheon speech to members of the Southern Wisconsin Chapter of the Association of Government Accountants about the steps the Board and staff take to be nonpartisan. In addition, the PIO has worked on several other projects, including responding to concerns from Legislators on a variety of topics and communicating with our clerk partners.

8. Meetings and Presentations

During the time since the March 19, 2014, 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 preparations for legislative hearings, working with the Legislative Audit Bureau (LAB), preparations for the Prime III pilot initiative and implementation of new legislation. Agency staff continues to engage with LAB staff to assist them in gathering information as part of the audit. Elections Division staff was also active in a series of training meetings with municipal clerks along with preparations for the beginning of the nomination paper circulation period. Director Kennedy and staff counsel also consulted with the Department of Justice on several pending cases.

On March 14, 2014, Elections Division Administrator Mike Haas attended a meeting of agency chief counsels organized by Brian Hagedorn, the Governor's Chief Counsel on behalf of the agency. On May 6, 2014, Director Kennedy attended a subsequent meeting of agency chief counsels. Attorneys from several cabinet level and independent agencies also attended the meetings.

On March 24, 2014, Director Kennedy, along with Reid Magney and Jonathan Becker, met with a delegation of elected officials, government employees and journalists from Venezuela to discuss the administration of elections, ethics and campaign finance in Wisconsin. Agency staff came away with a deeper appreciation for Wisconsin policies and practices after learning of the challenges faced by elected officials, government employees and journalists in Venezuela.

On March 27 and 28, 2014, Director Kennedy participated in a meeting with election officials and representatives of motor vehicle agencies from around the country in San Francisco. The meeting was organized by the Pew Charitable Trusts as part of its election initiatives. The meeting explored opportunities and efficiencies between election officials and motor vehicle agencies through increased awareness and cooperation. The program also included observing a meeting of the Board of the Electronic Registration Information Center (ERIC). ERIC is a cooperative voter registration data sharing arrangement involving eight states and the District of Columbia, designed to improve the accuracy of the participating states' voter registration lists. It also includes a program to reach out to unregistered voters within the respective states.

On April 1, 2014, G.A.B. staff oversaw a pilot of the Prime III voting system in Manitowoc County. Sherri Charleston and Jason Fischer provided support for the election officials in the towns of Kossuth and Newton. Director Kennedy spent part of the day at the town polling places, observing the voters' interaction with the voting system.

Director Kennedy, Elections Division Administrator Mike Haas, staff counsel Nate Judnic, along with Brian Bell and Meagan Wolfe, participated in a teleconference with the U.S. Department of Justice (U.S. DOJ) to review Wisconsin's preparations to serve

military and overseas voters in the 2014 federal elections. U.S. DOJ was seeking a voluntary data reporting regimen to keep abreast of the delivery of ballots to UOCAVA voters in the 2014 partisan elections.

Elections Division Administrator Mike Haas and Director Kennedy met with representatives of the National Conference of State Legislatures (NCSL) on April 3, 2014. NCSL is working with the Chairs of the Senate and Assembly election committees, the G.A.B. and the Sun Prairie city clerk to set up a program to provide select legislators and legislative staff with an insight into the use of technology in administering elections. NCSL has a grant from the MacArthur Foundation to develop these workshops. The Wisconsin program will be held in Sun Prairie on June 19, 2014.

Ethics Division Administrator Jonathan Becker and Director Kennedy made a series of presentations to legislative staff on the state ethics code and its interplay with the 2014 partisan election season. Two presentations were held each day on April 8 and 10, 2014. As part of the resolution of the "Caucus Scandal," legislative employees are required to attend training provided by the G.A.B. at the beginning and end of each legislative session.

On April 22, 2014, Director Kennedy testified at an informational hearing before the Assembly Committee on Campaigns and Elections. The hearing focused on the implementation of online voter registration. Two county clerks, Jamie Aulik of Manitowoc County and Wendy Christensen of Racine County, opened the hearing. They were followed by several prominent experts from around the country who preceded Director Kennedy's testimony. They included Tammy Patrick, an election administrator in Maricopa County (Phoenix) Arizona; Benjamin Ginsberg, Republican Co-Chair of the Presidential Commission on Election Administration; David Becker of the Pew Charitable Trusts along with Wendy Underhill from the National Conference of State Legislatures. The hearing was broadcast on Wisconsin Eye and can be found here: <http://www.wiseye.org/Programming/VideoArchive/ArchiveList.aspx?cm=326>. A copy of the testimony and related documents can be found on our website at <http://gab.wi.gov/publications/testimony/assembly-committee-online-registration-4-22-2014>.

On Wednesday, April 30, 2014 Judge Barland was interviewed by representatives from the University of Chicago Institute of Politics, for a symposium entitled *Blueprint to Implementation: Election Administration Reform for 2014, 2016, and Beyond*. The interview is part of a video package for the symposium. Wisconsin was chosen as a leading state in elections reform. The interview highlights the Government Accountability Board as an example of state-based reform efforts.

Director Kennedy made a presentation on voting rights and requirements for the American Democracy Project at the University of Wisconsin-Oshkosh on May 1, 2014.

On May 2, 2014, Director Kennedy and Attorney Mike Wittenwyler presented a panel discussion on the U.S. Supreme Court's *McCutcheon* decision and the implementation of 2013 Wisconsin Act 153. That legislation made several changes in campaign finance and lobby law and procedures.

Reid Magney, Mike Haas and Director Kennedy hosted a delegation of government officials and journalists from Armenia to discuss the administration of elections, ethics and campaign finance in Wisconsin. Like the earlier meeting with visitors from Venezuela, this is part of the U.S. Department of State's International Visitor Leadership Program on Promoting Ethics in Government. The program is coordinated in Wisconsin by the International Institute of Wisconsin.

On May 14, 2014, Director Kennedy again testified in Washington D.C. before the United States Senate Committee on Rules and Administration. The focus of the hearing was "*Collection, Analysis and Use of Elections Data: A Measured Approach to Improving Election Administration.*" A copy of the testimony can be found on our website at: <http://gab.wi.gov/publications/testimony>.

Meagan Wolfe, the G.A.B. voter services specialist, and Director Kennedy attended the Council of State Government's Overseas Voting Initiative Policy Advisory Board Meeting in Chicago on Sunday, May 18, 2014. Director Kennedy is one of a handful of state and local election officials selected by the Federal Voting Assistance Program (FVAP) of the U.S Department of Defense to serve on the policy board.

As part of the meeting, Director Kennedy and Elections Specialist Wolfe attended the *Blueprint to Implementation: Election Administration Reform for 2014, 2016, and Beyond* discussed earlier.

On May 20, 2014, staff met with a visiting fellow from Turkey to discuss the administration of campaign finance, elections, ethics and lobbying in Wisconsin. The meeting was arranged by Senator Lena Taylor, whose office is hosting the parliamentary counselor to the Turkish Parliament as part of the U.S. Department of State's Professional Fellows Program.

### **Looking Ahead**

The next Board meeting is scheduled for Tuesday, June 10, 2014. The meeting will be held in Room 412 East of the State Capitol, beginning at 9:00 a.m.

### **Action Items**

Continue to work with the Legislative Audit Bureau to provide information needed for the agency audit. Prepare for the agency's 2015-17 biennial budget submission.