

State of Wisconsin\Government Accountability Board

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MEMORANDUM

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

FROM: Michael Haas
Elections Division Administrator

Mai Choua Thao
WisVote Election Specialist

DATE: May 2, 2016

SUBJECT: A Few Thoughts Regarding Data Entry Deadlines for the Spring Election

We have heard from a number of clerks who have expressed concerns about their inability to complete data entry tasks for the 2016 Spring Election and Presidential Preference by the statutory deadline, specifically with regards to completing entry of Election Day Registrations (EDR) and the GAB-190F report in the Wisconsin Election Data Collection System (WEDCS). We appreciate those who have personally contacted the G.A.B. expressing their concerns and requesting for a possible extension. While the G.A.B. does not have the authority to grant extensions beyond the 30-day statutory requirement for this election, we wanted to take this opportunity to provide a reminder about the source of those deadlines and our approach to compliance with the deadlines.

Under Wis. Stat. § 6.33(5)(a), EDR data must be entered within 30 days of each election, except after a general election when the deadline is extended to 45 days. After a general election, the G.A.B. may, upon the request of a municipal clerk, permit the clerk to update EDR entries within 60 days after that election. The statute does not authorize the G.A.B. to grant any similar extension after elections other than a general election and therefore the G.A.B. cannot and does not grant extensions regarding the EDR data for the Spring Election and Presidential Preference.

Under Wis. Stat. § 7.15(4), municipal clerks must enter voter participation data within 30 days of each election, without any longer timeline or extension available after a general election. Since entering EDR data also updates the voter's participation, there is a bit of a conflict in the two deadlines after a general election, but the deadline is 30 days for both EDR and voter participation data entry after all other elections.

Also, under Wis. Stat. §§ 6.275 and 6.276, municipalities are required to provide statistics to the G.A.B. related to voter registration, voting, and absentee ballots within 30 days after each primary and election at which a state or national contest is on the ballot. This is the deadline for

completing the GAB-190 data in WEDCS. The G.A.B. is required to report some of that data to the U.S. Election Assistance Commission under state and federal law, and in doing so, avoids the need for local clerks to complete that federal reporting requirement. Finally, under Wis. Stat. 6.275(3), starting in 2016, municipal clerks must enter EDR postcard verification statistics within 90 days of each primary and election involving a state contest.

These deadlines are established by the Legislature and they set the Legislature's expectations for when data is entered into either WisVote or WEDCS following each election. We understand that the deadlines present challenges to many municipalities, especially following a high turnout election and in light of numerous other non-election responsibilities and priorities. As you know, our practice is to provide periodic reminders to municipalities and their WisVote providers when the reporting requirements have not been satisfied by the statutory deadlines.

Occasionally we are asked by municipal clerks what will happen to them if they are unable to meet the reporting deadlines and what legal penalties may be assessed. The short answer is that there is no specific penalty or efficient means to enforce the deadlines. In theory, the G.A.B. could receive a complaint if a municipality does not fulfill the reporting obligations, and the G.A.B. could issue an order for the clerk to comply with the law. In reality, that is unlikely to happen unless a clerk is completely ignoring this responsibility and refusing to make progress to complete the data entry and reporting requirements. In extreme cases, Wis. Stat. §12.13(2)(a) provides that it is a Class I Felony for an election official to willfully neglect or refuse to perform any of the duties prescribed in the election statutes, but it is highly unlikely that a district attorney would pursue such a charge except in extreme cases.

Instead, we rely on the good faith effort of all clerks to complete the WisVote and WEDCS data entry responsibilities before the respective deadlines or as soon after as possible. We know there have been some glitches with the transition to WisVote and becoming familiar with that system which have delayed reporting for the spring elections. We also know that circumstances sometime make it impossible to meet the deadlines, and it is helpful for us to receive an indication of what kind of progress is being made or unique reasons why the data will be delayed when we send out the reminders. If there is a systemic or chronic reason for a municipality to be consistently and significantly delayed in the reporting obligations, we ask that you attempt to address those issues if feasible. While the data provides a snapshot of elections at the local level, combining and analyzing that data at the state level over time is important to many parties, including the G.A.B. and the federal government, researchers and the media.

In summary, we want to remind clerks that we cannot grant extensions regarding the reporting requirements for the Spring Election. We ask that you continue to do your best to complete those requirements and to let us know if you expect a significant delay in doing so, especially after receiving reminders from our office regarding outstanding reports. We will continue to send out those reminders but we do not expect to come knocking on your door the day after a reporting deadline.

G.A.B. staff is happy to assist or help answer any questions you may have as you continue to complete these statutory requirements. As always, we thank you and your staff for all of the work and effort you have put into completing post-election tasks as we continue to close out the Spring Election and look forward to the fall elections. If you have questions with respect to this memorandum, please contact the G.A.B. Help Desk at 608-261-2028 or gabhelpdesk@wi.gov.