

State of Wisconsin \ Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 29, 2015 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel
Michael Haas, Elections Division Administrator

PRESENTED BY: Brian M. Bell, MPA, Elections and Ethics Specialist

SUBJECT: Potential Changes to Wisconsin Elections Statutes

Background

Throughout its existence, the Wisconsin Government Accountability Board has recommended action to the State Legislature for several reasons. Some recommendations sought clarification on existing statutes. Other requests recommended changes to implement nationally recognized best practices. The Board has also directed staff to communicate concerns of county and municipal clerks to the Legislature. Beginning with its first meeting, the Board reviewed applicable statutes and administrative code, as well as the policy and procedures of the previous Ethics Board and Elections Board. The Board also adopted a legislative agenda for each of its divisions in the past. Within the last year, the Board recommended statutory changes related to campaign finance, lobbying, and the code of ethics for public officials, and communicated those suggestions to the Wisconsin Legislature.

The Board has suggested or endorsed legislative changes to promote enacting best practices and implementing policies consistent with the Board's mission to administer and enforce ethics, lobbying, campaign finance, and elections laws, to enhance representative democracy, and ensure the integrity of the electoral process in Wisconsin.

Introduction

Staff members compiled recommended changes to current laws identified by members of the State Legislature, municipal and county clerks, and the public through either contacts with staff or comments made at Board meetings. Staff also conducted a detailed review and analysis of current statutes, administrative code, and Board policies in order to identify potential changes that may improve efficiency, cost-effectiveness, public comprehension, and general policy administration. The recommended changes below are those which staff believes would improve administrative processes, provide clarity or simplification to existing policies and procedures, or update policies to reflect modern practices.

Staff organized recommendations into four different categories. *Major Policy Initiatives* are those that staff suggests that the Board highly recommend because they would likely significantly improve election administration and have a substantially positive impact on those affected by the policy, or policies for which the Board has demonstrated strong support. *Minor Policy Initiatives* include the changes that would improve election administration and represent minimal policy decisions, such as improving efficiency or providing clarity. *Technical Changes* are recommendations that address issues of inconsistency in the laws or drafting oversights. *Legislative Policy Decisions* include potential changes that staff believes the Board may wish to simply inform the Legislature of, but that would require clarification of legislative intent.

MAJOR POLICY INITIATIVES

Chapter 6

1. The Legislature should enact legislation that would allow online voter registration in Wisconsin. The Wisconsin County Clerks Association's 2015 Legislative Objectives include the implementation of online voter registration.

Background

Online voter registration (OVR) is a process by which eligible voters can initiate a new voter application or update their existing registration through electronic, paperless means. The voter must provide all of the information required for a voter registration application on a paper form. The OVR system then compares this information against data from the state's division of motor vehicles records to validate the person's name, address, ID number (driver license, state-issued ID, or social security number) and date of birth. Twenty-eight states have enacted some form of OVR.¹ In addition to a majority of states already enacting OVR, OVR is also a bipartisan initiative as both Republican and Democratic Legislatures have enacted OVR. The Board has previously endorsed the implementation of online voter registration.

Costs and Benefits

In 2013, a team of graduate students from the University of Wisconsin's La Follette School of Public Affairs conducted a cost-benefit analysis (CBA) comparing the current voter registration system to implementing OVR. Their report estimated virtual certainty of a net benefit ranging between about \$372,000 and \$1 million, depending on the costs associated with a public outreach campaign to promote the use of OVR. The effectiveness of a public outreach effort was not calculated. The complete CBA report is available on the G.A.B. website.²

Costs

Initial implementation costs to update both G.A.B. and DOT infrastructure would cost an estimated \$608,000. Ongoing costs to maintain the system and provide support would cost an estimated \$96,000 annually. A public outreach effort comparable to the implementation of voter photo ID would cost an estimated \$638,000. An estimate of the effectiveness of public

¹ <http://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>, New Mexico also recently enacted OVR.

² http://gab.wi.gov/publications/other/CBA_projects.

outreach efforts resulting in OVR applications is not currently available. Any public outreach campaign should strive to leverage the most effective means of encouraging OVR, as increased usage of OVR directly correlates to increased savings.

Benefits

According to the 2013 CBA, local jurisdictions would realize approximately 70 percent of the benefit from OVR. Clerks would likely experience savings from reductions in clerk and poll worker labor, and savings from processing electronic versus paper registration forms. Arizona, the first state to implement OVR, reported that it cost \$0.83 to process a paper registration and just \$0.03 for an online registration. This would also reduce the potential for data entry errors by clerks and their staff, as well as potentially reduce the need for municipalities to hire temporary staff to process voter registration applications.

Voters would likely realize nearly 30 percent of the benefit from implementing OVR. The vast majority of Wisconsinites already conduct extensive business online, and they have come to expect that opportunity. Getting voters to provide or update their information would likely result in improved data quality, and updating records in a timelier manner. Voters would also save time and money by not having to mail in a paper form, go to a clerk's office to register, wait in line to register at their polling place, or address errors in processing their paper voter registration application. The state would also benefit from improved data quality for both G.A.B. and DOT, though the value of such benefits may be difficult to quantify.

2. The Legislature should enact legislation that would allow the State of Wisconsin to participate in the Election Registration Information Center (ERIC).

Background

ERIC is a non-profit corporation governed by a board of directors made up of member states.³ The purpose of ERIC is to keep voter registration rolls updated ahead of election and to shift away from inefficient spikes in registration activity that could potentially result in data quality issues and increased costs to local jurisdictions. There are currently 12 members – 11 states and the District of Columbia.⁴ The first 15 states to join ERIC also become members of the Board of Directors. After more than 15 states join ERIC, the bylaws provide for a rotation of membership on the Board of Directors.

Data Exchange Process

Each member state submits a copy of its voter registration and motor vehicle licensee data, including names, addresses, dates of birth, and the last four digits of social security numbers. ERIC compares this data with information from other member states and other data sources including the Social Security Administration death index and the US Postal Service's National Change of Address (NCOA) registry.

³<http://www.ericstates.org/>

⁴Member states include Colorado, Connecticut, Delaware, Louisiana, Maryland, Minnesota, Nevada, Oregon, Utah, Virginia, and Washington.

In return, member states receive reports that indicate voters who have moved within the state, moved out of state, voters who have died, and potentially eligible voters who have not yet registered. Member states are required to reach out to potential voters at least once every two years prior to federal general elections. ERIC utilizes advanced security measures to protect personally identifiable information. Additional information about ERIC's technology and security is available on their website.⁵

Costs

Each member state must pay a one-time fee of \$25,000 to join ERIC. Each member state then pays annual dues. ERIC's board of directors approves the formula for calculating those due, which includes voting age population as a factor. The Executive Director of ERIC, John Lindback, provided an estimate of Wisconsin's annual dues based on Montana, West Virginia, and Illinois planning to join soon, and ERIC estimated annual budget next year of about \$560,000. He estimated Wisconsin's annual dues to be between \$40,000 and \$45,000. These dues are likely to remain the same or decrease slightly, as additional states join ERIC. In addition to annual membership dues, joining ERIC would require potential enhancements to state IT systems and biannual mailings to potentially unregistered eligible voters.

Benefits

Member states report savings derived from more efficient and effective data matching and cleaner voter rolls. This savings come from less mail returned as undeliverable, streamlined voter list maintenance, and data that are more accurate. As of March 26, 2015, ERIC has identified nearly 374,000 cross-state movers, nearly two million in-state movers, and approximately 90,000 deceased voters. The Pew Center for the States is also offering a grant to new states that join ERIC to defer some costs associated with initial outreach to unregistered voters. Online voter registration could also magnify the potential savings for the state and local jurisdictions. Wisconsin could realize significant savings by joining ERIC in lieu of independently paying for access to NCOA and other databases to conduct voter registration list maintenance.

MINOR POLICY INITIATIVES

Chapter 5

3. §§5.06(5) and (6). These provisions allow the G.A.B. to issue an order to ensure compliance with election laws. The Legislature could revise these provisions in order to authorize the G.A.B. to issue a temporary order while a complaint investigation is ongoing. Occasionally Board staff must direct a local election official to stay any action until the completion of a review investigation, such as when the question is whether to schedule a recall election or whether a candidate has qualified for ballot access. Current statutes allow the issuance of an order only after the filing of a complaint, upon a motion of the board, or completion of an investigation. The Legislature could also revise the provision related to delegation of authority in §5.05(1) (e) in order to accommodate the issuance of such orders.

⁵http://www.ericstates.org/images/documents/ERIC_Tech_and_Security_Brief_v2.1.pdf.

4. §5.06(10). The Legislature could considering clarifying this provision to affirm that the G.A.B. has the authority to issue orders regarding the conduct of election officials during the recount process without the filing of a formal complaint, except that the Board may not review the recount result or substantive decisions of the recount board other than to enforce standards. The authority to issue orders related to the conduct of recounts would permit Board staff to resolve procedural questions or conflicts in the midst of a recount more definitively, such as those related to candidate and observer rights, or the review and processing of election materials. These are procedures the Legislature directed the agency to develop as part of the recount process. Wis. Stat. §9.01(10)
5. *Chapter 5 Subchapter 2 – Ballot Form.* This subchapter of the statutes provides the requirements for ballot form and contains several provisions that have proven to be problematic, confusing, or outdated. Some examples include, but are not limited to, allowing the color-coding of ballots when multiple ballot styles are in use in a polling place, and clarifying requirements for the weight of paper used for ballots. The Legislature could consider revising this subchapter in order to improve comprehension, usability, and reflect best practices in use in other states.
6. *Chapter 5 Subchapter III - Voting Equipment Statutes.* This subchapter of the statutes refers to antiquated technologies such as voting equipment that utilizes levers or punch cards. The Legislature could revise this subchapter to reflect the rapidly changing technological landscape of voting equipment. There are also references to voting equipment in *Wis. Stat. §§5.37 and 5.40*. The Legislature should consider revising this subchapter to reflect the electronic voting equipment currently in use throughout the State of Wisconsin, as well as the potential use of new technologies in the future.
7. §5.72. This provision requires clerks to provide a ballot sample to G.A.B. staff three weeks before any election for review. This conflicts with the 48-day deadline for ballots to be available for state and federal elections. The legislature could address this by changing the deadline to “as soon as candidates are certified” instead. The Legislature could also consider making G.A.B. review of ballots voluntary, but still allow the G.A.B. to compel compliance with the ballot form statutes, if necessary.
8. §5.84(1). This provision specifies when municipalities can conduct public tests of voting equipment prior to each election. The Legislature could clarify this deadline stating the testing must occur within 15 calendar days of the election. The current requirement is within 10 days and the ambiguity of business versus calendar days is problematic. Several larger municipalities require multiple days to test their equipment and the 15 calendar days would grant them more flexibility. This provision also requires public notice of voting equipment testing via publication in a newspaper within the municipality or a newspaper of general circulation therein. Publishing in a general circulation newspaper, or even a municipal newspaper, may require significant costs to municipalities. The Legislature could revise this provision to require municipalities to provide the notice of the public test by the same means as other election notices under *Wis. Stat. §§ 10.04 & 10.05*.

Chapter 6

9. §6.02. This provision outlines the general qualifications to vote. The Legislature could clarify that for voter registration, a person turns 18 on the anniversary of their date of birth. This

addresses the common sense versus common law issue previously addressed by the Board, deciding that a person turns 18 on the anniversary of their date of birth.

10. §6.22(2)(c). This provision addresses the use of the Federal Postcard Application (FPCA) for military voters to request an absentee ballot. The Legislature could modify this provision to cover all military absentee ballot requests and the information required. This could help ensure that military voters receive their absentee ballot as soon as possible by ensuring the clerk receives all of the necessary information to issue them the proper ballot.
11. §6.24. This provision provides that permanent overseas voters obtain the signature of a US citizen witness when returning their absentee ballot. The Board previously recommended retaining the witness signature, but removing the requirement that the witness be a US citizen. According to a 2012 study by the PEW Center for the States, only four states required any sort of witness signature for military and overseas absentee ballots (Alabama, Alaska, Virginia, and Wisconsin). Approximately 10 states require a witness for regular absentee voters.
12. §6.25(1)(c). This provision allows a military elector to use a Federal Write-In Absentee Ballot (FWAB) as a request for an official absentee ballot, and counting the FWAB only if the voter does not return the official ballot in time. The Legislature could modify this provision to allow permanent overseas voters to use a FWAB as well for an official absentee ballot application in order to establish a more consistent policy for all UOCAVA voters.
13. §6.29(2)(b). This provision requires issuing a certificate of registration to a person registering during the late registration period. Voters are then required to bring that certificate to their polling place if they choose to vote there. The Legislature could consider exempting clerks from having to issue registration certificates if the voter chooses to vote absentee in the clerk's office or designated in-person absentee location on the same day as registering to vote.
14. §6.30(4). This provision requires that municipalities make available a voter registration form and that "the form shall be pre-postpaid for return when mailed at any point within the United States." However, in practice, most municipalities simply make available copies of the form that is on the G.A.B. website. The Legislature could eliminate the prepostpaid requirement, which would result in savings to municipalities that do make such forms available. This provision would also be unnecessary if the Legislature enacts online registration.
15. §6.32(4). This provision requires a municipal clerk to send an address verification mailing to a voter who registers by mail or via Special Registration Deputy. In practice, the G.A.B. sends these mailings on behalf of municipalities. This facilitates consistent compliance and leverages State purchasing power. During the 2013-2014 Legislative Session, the Wisconsin Legislature enacted 2013 Wisconsin Act 149, specifically authorizing the G.A.B. to send out the Election Day Registrant address verification mailings. The Legislature could revise this provision to authorize the G.A.B. to send out all other address verification mailings on behalf of municipalities.
16. §6.34(3). This provision outlines the types of acceptable documents for proof of residence (POR) for the purpose of voter registration. The Legislature could specifically authorize electronic proof of residence to be consistent with current practices and Board policy, as well as clarify the types of authorized POR to include other modern and common types of

documents such as a cellphone bill, or internet service bill, or document from a financial institution. Other areas of Wisconsin Statutes authorize providing documents electronically.

17. §6.40. This provision allows a voter to transfer their registration after a change of residence within the state. The Legislature could eliminate allowing voter initiated transfers and require the voter to re-register and provide POR for consistent practices.
18. §§6.86(1)(b). This provision addresses deadlines for requesting an absentee ballot by email or fax. The Legislature could consider revising these deadlines by changing the deadline for military and indefinitely confined voters, as well as calendar-year requests, to 5 pm on the Thursday prior to Election Day in order to make all request deadlines consistent.
19. §6.86(2)(b). This provision requires a clerk to send a 30-day notice to indefinitely confined voters that do not return their absentee ballot in order to stay on the “permanent absentee” voter list. However, there is not sufficient time between primaries and elections to do so. The Legislature could consider revising this section to only apply to elections and exclude primaries.
20. §6.87(3)(d). This provision allows military and permanent overseas voters to receive their absentee ballot electronically (email, fax, or through the My Vote Wisconsin Website – essentially a form of email). The Legislature could consider revising this provision to allow temporary overseas voters to receive their ballot electronically in order to increase the opportunity for those voters to receive and return their ballot in a timely manner.
21. §6.875. This provision covers absentee voting procedures involving Special Voting Deputies (SVDs). This section does not specify whether a municipal clerk must issue a 30-day notice to renew their absentee ballot request as an indefinitely confined voter if the voter declines to vote via SVD. The Legislature could clarify this section by stating that the voter may decline to receive their ballot on a form prescribed by the Board, as well as indicate if they wish to remain on the list of indefinitely confined voters (“permanent absentees”). This is current practice and is included in the Board’s SVD manual.

Chapter 7

22. §§7.08(4) and (5). These provisions require that the G.A.B. publish and distribute copies of Wisconsin election laws and district maps. This information is readily available on both the G.A.B. and Wisconsin Legislature websites. The Legislature could repeal these provisions to reflect modern practices.
23. §§7.30(2)(c) and 7.31(1). These provisions state that an election inspector may be required to pass an exam, but that a chief election inspector may not be required to pass an exam. These provisions present an inconsistency between the levels of responsibility and the requirement to hold the position. The Legislature could consider striking *these requirements shall not include taking an examination* from §7.31(1) for consistency. Several current training opportunities provided by G.A.B. staff include a “self-correcting” test that instead of being pass/fail, guides the participant to the correct answer as a means of educating the election officials.
24. §§7.50(2)(em), 8.21, and 11.05 (2g). These provisions relate to the registration requirements and counting of votes for write-in candidates. Currently, a candidate may be considered a

registered write-in candidate if the appropriate documents are filed prior to the close of the polling place on Election Day. The Clerk Concerns Task Force recommended establishing a deadline for registering as a write-in of 5:00 p.m. on the Friday before the election. The Wisconsin County Clerks Association's 2015 Legislative Objectives recommend establishing a deadline of no later than the Thursday prior to the election. Staff suggest supporting the establishment of a deadline, but leaving it to the Legislature to establish that deadline.

25. §7.515(6). This provision requires a municipal clerk to reconvene their municipal board of canvassers (MBOC), regardless of whether or not they receive any outstanding ballots between the close of the polling place and 4:00 p.m. on the Friday after the election. The Legislature could revise this provision by allowing a municipal clerk to certify having no returned absentees or provisional ballots on the Friday after the election, instead of reconvening the municipal board of canvassers. This would help municipalities save the cost of having to reconvene their MBOC. The Wisconsin County Clerks Association's 2015 Legislative Objective includes this recommendation. Both 2015 Assembly Bill 164 and 2015 Senate Bill 121 include this change.
26. §7.53(2)(a). This provision states that in municipalities with multiple polling places, the municipal board of canvassers (MBOC) consists of the municipal clerk and two other qualified electors of the municipality. If the clerk's office is vacant or the clerk cannot serve on the MBOC, the municipal executive can appoint a qualified elector to serve in the clerk's place. In practice, when the clerk is not a municipal resident, they are still likely to be present to assist the MBOC. Having the clerk present is also a best practice. The Legislature could address this by striking the word *other* from the phrase *shall be composed of the municipal clerk and 2 other qualified electors of the municipality appointed by the clerk*.
27. §7.60(5)(a). This provision requires county clerks to submit to the G.A.B. a certified copy of each county board of canvass statement. In current practice, county clerks use the G.A.B.'s Canvass Reporting System (CRS) to generate those statements using their secure login credentials, and then fax a signed copy of that report to the G.A.B. The Legislature could modernize this provision by adding the language *in the manner prescribed by the board after the county clerk shall deliver or transmit*, or consider replacing the word *certified* with *electronically signed*. In 2014, the Legislature made a similar change, allowing political committees to sign their campaign finance reports electronically when certifying that information to the G.A.B.

Chapter 8

28. §§8.10(5), 8.15(4)(b), and 8.20(6). These provisions outline the filing requirements for candidates, including their declaration of candidacy, nomination papers, and statement of economic interest (SEI). Under current statutes, candidates file their registration statement and nomination papers no later than a certain date. However, candidates are not required to file their SEI until the third day after the deadline for the other documents, by 4:30 p.m. The Legislature could consider changing the deadline to file an SEI to match filing of declaration of candidacy and nomination papers. This would provide a consistent deadline that could improve administrative efficiency and public awareness of candidates that will appear on the ballot. Staff recommends moving the deadline to file the SEI to match the 5:00 p.m. deadline on the day that the declaration of candidacy and nomination papers is due. The counterpoint to this policy change would make several arguments. The later deadline provides an "escape

valve” where candidates no longer wishing to appear on the ballot could simply not file their SEI. The later deadline also allows the candidate additional time to gather the required financial information, though they have already had considerable time to gather nomination signatures. Finally, if nomination paper review results in an insignificant number of signatures, the unsuccessful candidate’s SEI information would not be a matter of public record. However, staff believes that a consistent deadline would improve administration and better inform the public of candidates who achieve ballot status.

29. §§8.15(1) and 10.06(1)(h). These provisions establish the deadline for determining ballot arrangement for the Partisan Primary. The Legislature could revise these provisions in order to allow additional time for the review of nominations papers and challenges. Staff suggests changing the first day to circulate nomination papers from April 15 to April 10, which would keep the first day to circulate nomination papers still after the spring election, and moving the filing deadline from June 1 to the last Tuesday in May. The Board directed staff to develop this recommendation at its June 2014 meeting.

Chapter 9

30. §9.01(2). This provision establishes the candidate notification requirements prior to conducting a recount. Current statutes require personal delivery of the petition to the candidate or an approved agent, by either the clerk or the sheriff. Providing notice of the recount petition could potentially be delayed if the candidate and/or their agent is traveling outside of the municipality, county, our state after the election for either professional or personal reasons. The Legislature could revise this provision by allowing a three-step process. The first step a clerk would take is to attempt personal delivery of the petition to the candidate or approved agent. The second step would be to obtain documented confirmation of acknowledgement by the candidate or agent (e.g., through email or a documented phone call). The clerk could then issue a public notice and proceed with the recount process, if those two options are unsuccessful within a reasonable period.

Chapter 10

31. §10.04. This section relates to the publication of election notices and the fees charged for publication by newspapers. The Legislature could clarify this section by allowing publishing all types of elections notices as an insert, consistent with commercial rates for newspaper inserts.

Chapters Not Administered by the Government Accountability Board

32. §59.23(2)(s). This provision requires county clerks to provide a list of local officials to the Secretary of State. This information would help the G.A.B. maintain accurate information on current office holders and election administration. The Legislature could revise this provision by requiring county clerks to also provide this list to the G.A.B., or require the Secretary of State forward a compiled report to the G.A.B.
33. §66.0217(9). This provision requires a municipality that annexes territory to file a copy of the related ordinance with the Secretary of State. The Secretary of State is required to forward copies of that ordinance within 10 days of receipt to the Departments of Administration, Revenue, Public Instruction, Natural Resources, Transportation, Agriculture, and Trade and

Consumer Protection. The Legislature could add G.A.B. to the list of agencies that receive a copy of the ordinance, certificate, and plat from the Secretary of State in order to ensure accurate and current district boundaries recorded in the Statewide Voter Registration System (SVRS). The Board previously approved this recommendation.

TECHNICAL CHANGES

Chapter 5

34. §§5.15 and 66 subchapter II. These provisions provide limitations to the construction of wards. Current statutes restrict a town from drawing ward lines that do not cross the boundaries of a State Assembly district, and requires towns to create a separate ward when a county does not adjust boundaries for county supervisory districts. However, statutes do not place similar restrictions on cities or villages annexing territory. The Legislature could revise these provisions to enact the same requirements for cities and villages that currently exist for towns and require specifying the identification of the created ward (e.g., ward 7).
35. §5.94. This provision requires the publication of a sample ballot. *Wis. Stat. §10.02 (2) (c)* allows the ballot size to be reduced when publishing the notice. The Legislature could consider removing the requirement for an “actual-size” copy of the ballot for publication in *Wis. Stat. §5.94* to reduce the costs that jurisdictions must incur, to make these two provision consistent.

Chapter 6

36. §6.03(3). This provision addresses the right to vote by persons under guardianship or adjudicated incompetent. The Legislature could revise this provision for the purpose of clarity to reference *Wis. Stats. §§51.59 and 54.64*. This would make this provision consistent with other recent legislative changes regarding guardianship and individuals adjudicated incompetent.
37. §6.18. This provision provides a process for former Wisconsin residents to vote in a Presidential Election if they do not yet qualify to vote in their new state of residency. The Legislature could revise this provision by establishing a receipt deadline of 5:00 p.m. on the fifth day before the election deadline to request an absentee ballot, consistent with other non-UOCAVA absentee voters.
38. §6.22(6). This provision requires each municipal clerk to keep an updated list of eligible military electors that reside in the municipality in the format provided by the board, and to distribute a copy the list to each polling place. The intent of this provision was to ensure compliance with absentee ballot procedures for military voters and the exemption from the voter registration requirement. In practice, all of the required information exists within SVRS and the military voters automatically appear on the poll books. Clerks who rely on someone else for SVRS services communicate with their SVRS provider for updated copies of their military voter list prior to absentee voting. The Legislature could repeal this provision to reflect modern practices.

39. §6.25(4). The last clause of this provision states, “*and, if the elector is an overseas elector, the elector resides outside of the United States.*” The Legislature could eliminate the redundant second half of this clause. An overseas elector is also defined in §6.24(1).
40. §§6.275 and 6.33(5). These provisions provide deadlines for reporting certain statistics, and recording voter participation and registration following an election, respectively. In practice, and particularly in larger municipalities, clerks complete entering voter registrations and recording voter participation in SVRS in order to provide accurate statistics. The 30-day deadline to report statistics and the 45-day deadline (60 days with an approved waiver) to enter voter registrations and record voter participation after general elections is inconsistent with current practices by many clerks. Clerks have 30 days to enter voter registrations and record participation after spring primaries, spring elections, partisan primaries, and special elections. Virtually all clerks are able to comply with both deadlines for elections other than general elections; however, many clerks struggle to meet the 60-day deadline after general elections. The Legislature could address this issue by clarifying that the deadline for reporting statistics coincides with the deadline to enter voter registrations and record voter participation in SVRS, as defined in 6.33 (5).
41. §6.34. This section covers POR requirements for voter registration. Throughout this section, there are several references to POR as an *identifying document*. The Legislature could replace those references with *proof of residence* to clarify the section and avoid any confusion with proof of identification.
42. §§6.34(3)(a)1 and 2. These provisions refer to using either a Wisconsin driver license or state-issued identification card as POR. The Legislature could revise these sections to include a receipt for either Wisconsin Department of Motor Vehicles (DMV) product, consistent with DMV current practices of issuing a temporary receipt prior to the driver license or state-issued identification card.
43. §6.34(3)(a)7. This provision allows for using a university, college, or technical college identification card as POR for voter registration, with either a fee payment receipt or a list of students residing in school housing. The Legislature could clarify that the receipt or list of students must include the name and address of the individual.
44. §6.34(3)(a)10. This provision allows for using a paycheck as POR. The Legislature could revise this provision to also include a paystub or pay statement to be consistent with the federal Help America Vote Act.
45. §6.50(2r)(b). This provision lists the information G.A.B. must provide regarding the four-year voter list maintenance process. Specifically, this item is the number of postcards returned to the G.A.B. as undeliverable. While the G.A.B. would be sending out the postcards, the undeliverable mailings go to the municipal clerk. The Legislature could correct this issue by either striking the words *to the board*, or replacing that phrase with *to the (municipal) clerk*.
46. §6.96. This provision relates to the voting procedure for electors voting pursuant to a federal court order. The Legislature could revise this provision to require that the same notation shall appear resulting from an extension of voting hours by a circuit court as currently required after a federal court extension.

Chapter 7

47. §7.50(2)(em). 2013 Wisconsin Act 178 amended this provision to state that all votes for write-in candidates shall be tallied if a candidate on the ballot dies or withdraws before the election. However, Wisconsin Statutes do not provide a procedure for candidates to withdraw. The Legislature could correct this issue by striking “*or withdraws*” from this provision.

Chapter 9

48. §§9.01(1)(ar)3. and (b). These sections establish deadlines for convening the board of canvassers for conducting a recount. The Legislature could revise this section by setting the deadline to reconvene at two days after issuing a recount order to provide clarity, consistency, and sufficient time for clerks to prepare for conducting a recount.
49. §9.10(2)(e). This provision provides the reasons to not count recall petition signatures. In 2013 Wisconsin Act 160, the Legislature required that all petitions include the legibly printed name of the signor. While Act 160 required the printed name for nomination papers and petitions, it did not add the same requirement for recall petitions. The Legislature could correct this by adding to this provision a reason not to count a recall petition signature if the printed name is not legible. The sections that cover the requirements for petitions are also inconsistent. Sections related to nomination papers and petitions affirm the requirements of what individuals must provide, whereas the section on recall petitions identifies when not to count signatures. Alternatively, the Legislature could revise this provision to state the information a recall petition must contain in order to count a signature, similar to the other sections.
50. §§9.20(4), 8.37, and 67.05(6a). These sections address the deadlines to file petitions for a referendum, direct legislation, and a special referendum. The deadline for referenda is 70 days prior to any election, but the deadline for direct legislation is six weeks (42 days) prior to any election. The 42-day deadline for direct legislation conflicts with the 48-day deadline for county clerks to have ballots available to municipalities prior to any federal election, in order to comply with the Federal MOVE Act. The Legislature could address this inconsistency by making the deadlines consistently 70 days prior to an election. Alternatively, the Legislature could establish deadlines of 42 days (six weeks) for non-federal elections and 70 days for federal elections. The 2015 Wisconsin County Clerks Association’s 2015 Legislative Objectives include making the deadline a uniform 70 days. Both 2015 Assembly Bill 164 and 2015 Senate Bill 121 include this change.

Chapter 10

51. §10.02(3)(b). This provision includes requirements for the information that must be contained in the Type B election notice. This language still refers to antiquated voting equipment technology and depressing levers. The Legislature could revise this provision to reflect modern voting equipment technologies.

Chapter 66

52. §66.0213(4). This provision outlines the process of conducting the first election for village or city officers following passage of an incorporation referendum, including establishing the deadline for filing nomination papers as no later than 15 days before the time fixed for the

election. This deadline conflicts with the requirement that absentee ballots be available 21 days before each election that does not involve a federal office. The 15-day deadline would also make it impractical to complete ballot preparation in a timely manner if any challenges to nomination papers are filed and need to be resolved. The Legislature could establish the deadline for filing nomination papers in such election to be 28 days before a special primary would be held, if necessary, which would be consistent with the deadline for other special elections established by Wis. Stat. §8.50(3).

LEGISLATIVE POLICY DECISIONS

Chapter 5

53. §§5.51(4), 7.37(6), 7.38(3), 7.50(1)(d), 7.50(2)(b), 7.50(2)(f), 7.50(2)(j), 8.35(2)(d). These provisions relate to the use of stickers on ballots. Stickers may provide a clear understanding of voter intent related to write-in candidates. However, stickers may also potentially cause damage to electronic voting equipment. The 2015 Wisconsin County Clerks Association's 2015 Legislative Objectives include a recommendation to prohibit voters from applying stickers to the ballot. Any potential legislation should also address whether stickers affixed to the ballot by election officials are permissible in cases where a candidate on the ballot dies prior to the election. Both 2015 Assembly Bill 164 and 2015 Senate Bill 121 include this change.
54. §5.85(2). This provision outlines the requirements to remake an over-voted ballot. The 2015 Wisconsin County Clerks Association's 2015 Legislative Objectives include removing the requirement to remake over-voted ballots. Eliminating the requirement only applies to optical scan ballots, which represent approximately 82 percent of ballots cast in the 2014 General Election.

Chapter 6

55. §6.36(1)(b)1.a. This provision establishes information related to a voter record that must remain confidential. This list includes a voter's date of birth, operator license number, social security number, any accommodation required for the individual to voter. If the voter is a confidential voter, their address is also confidential. The voter registration application includes a place for a voter to list a phone number and email address. However, these are not required fields in order for a clerk to enter and approve a voter registration application. Military and permanently overseas voters are required to provide an email address in order to receive their absentee ballot by email. The Legislature could consider revising this provision in order to add phone number and email address to the list of confidential information that is not available for release through public record requests. As of March 27, 2015, there are 3,473,886 active registered voters in SVRS. Approximately 49.01 percent (1,702,667) voters have a phone number listed, 2.73 percent (94,911) have an email address listed, and 2.57 percent (89,258) have both. The Legislature may also wish to clarify that a state-issued identification card number is also confidential by replacing *operator license number* with *driver license or state-issued identification card number*.