

# NOTICE OF OPEN AND CLOSED MEETING

## Wisconsin Elections Commission

Regular Meeting  
Thursday, September 9, 2021  
9:00 A.M.

*This meeting is being held via video teleconference only. Members of the public and media may attend online or by telephone. Please visit <https://elections.wi.gov/node/7369> for login/call-in information. All public participants' phones/microphones will be muted during the meeting. Members of the public wishing to speak before the Commissioner should email [electioncomments@wi.gov](mailto:electioncomments@wi.gov) with "Message to Commissioners" in the subject line by the day before the meeting.*

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### AGENDA

<b>A.</b>	<b>Call to Order</b>	
<b>B.</b>	<b>Administrator's Report of Appropriate Meeting Notice</b>	
<b>C.</b>	<b>Minutes of Previous Meetings</b>	<b>1</b>
<b>D.</b>	<b>Personal Appearances (Time reserved for personal appearances may be limited by the Chair)</b>	
<b>E.</b>	<b>Consideration/Approval of ES&amp;S Electronic Voting Systems EVS 6.0.4.3</b>	<b>11</b>
<b>F.</b>	<b>Updated Telecommunication Testing Protocols</b>	<b>63</b>
<b>G.</b>	<b>Potential Decertification of Voting Systems</b>	<b>76</b>
<b>H.</b>	<b>Redistricting Preparations</b>	<b>80</b>
<b>I.</b>	<b>Potential Special Voting Deputy Statutory Changes</b>	<b>85</b>
<b>J.</b>	<b>Four-Year Voter Record Maintenance Process Report</b>	<b>94</b>
<b>K.</b>	<b>Electronic Registration Information Center (ERIC) Processes</b>	<b>96</b>
<b>L.</b>	<b>CRM License Renewal Approval</b>	<b>101</b>
<b>M.</b>	<b>WEC Website Redesign Project</b>	<b>103</b>

# NOTICE OF OPEN AND CLOSED MEETING

- N. Annual Review of Delegation of Authority to Administrator 109**
- O. Consideration/Action on Whether a Special Session will be Called for Review of the *David Bolter v. Milwaukee Elections Commission et al.* Complaint. 110**

**P. Closed Session**

- 1. Election Complaints – Wis. Stat. § 5.05**
- 2. Litigation Update**

*§19.851 – The Commission’s deliberations concerning an investigation of any violation of the law under the jurisdiction of the Commission shall be in closed session.*

*§19.85(1)(g) – The Commission may confer in closed session with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.*

**Q. Adjourn**



# Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
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## Wisconsin Elections Commission

Teleconference Meeting

212 E. Washington Avenue, Third Floor

Madison, Wisconsin

9:00 a.m. June 10, 2021

### Open Session Minutes

**Present:** Commissioner Ann Jacobs, Commissioner Marge Bostelmann, Commissioner Julie Glancey, Commissioner Dean Knudson, Commissioner Robert Spindell Jr., and Commissioner Mark Thomsen, all by teleconference.

**Staff present:** Meagan Wolfe, Richard Rydecki, Sharrie Hauge, Robert Kehoe, Nathan Judnic, Jim Witecha, Reid Magney, and Jacob Walters, all by teleconference

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

Commission Chair Ann Jacobs called the meeting to order at 9:04 a.m. and called the roll. All Commissioners were present.

#### **B. Administrator's Report of Appropriate Meeting Notice**

Administrator Meagan Wolfe informed the Commission that proper notice was given for the meeting.

Regarding the order of the agenda, Chair Jacobs announced that following approval of minutes, the Commission would move to closed session, followed by consideration of the ERIC Movers processes and then the Accessibility Report.

#### **C. Minutes of Previous Meetings**

Discussion.

**MOTION:** Approve the open session minutes of the June 2, 2021, Wisconsin Elections Commission meeting as submitted. Moved by Commissioner Glancey, seconded by Commissioner Thomsen.

Roll call vote:	Bostelmann:	Aye	Glancey:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Knudson:	Aye	Thomsen:	Aye

Motion carried 6-0.

*Wisconsin Elections Commissioners*

Ann Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator  
Meagan Wolfe

## E. Closed Session

(This item was taken out of order)

**Litigation Update** -- *State of WI ex rel. Timothy Zignego, et al. v. Wisconsin Elections Commission, et al., (2021 WI 32).*

Commissioner Knudson expressed concern about discussing the Zignego case in closed session.

**MOTION:** To discuss the Litigation Update in open session. Moved by Commissioner Knudson, seconded by Commissioner Bostelmann.

Discussion.

Roll call vote:

Bostelmann:	Aye	Glancey:	No
Jacobs:	No	Spindell:	Aye
Knudson:	Aye	Thomsen:	No

Motion failed 3-3.

**MOTION:** To go into closed session under Wis. Stat. § 19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. Moved by Commissioner Thomsen, seconded by Commissioner Glancey.

Discussion. All commissioners noted that they were relying on the good faith advice of counsel from the Wisconsin Department of Justice to receive the litigation update in closed session.

Roll call vote:

Bostelmann:	Aye	Glancey:	Aye
Jacobs:	Aye	Spindell:	No
Knudson:	No	Thomsen:	Aye

Motion passed 4-2.

The Commission recessed at 9:26 a.m. and convened in closed session at 9:32 a.m.

The Commission recessed in closed session at 12:20 p.m. and reconvened in open session at 12:40 p.m.

Deputy Administrator Richard Rydecki joined the meeting.

## F. Consideration of Electronic Registration Information Center Processes

Administrator Wolfe introduced Staff Counsel Nathan Judnic and Technology Director Robert Kehoe, who made presentations based on the ERIC 2021 Movers List Process memorandum, which was contained in the meeting materials packet. The presentations dealt with options for what to do about registered voters who were sent the 2019 ERIC Movers mailing who have not since voted or confirmed their current registration address, so they currently have a status of “Active-Movers” in the statewide voter registration database. Staff presented several options but made no specific recommendations.

Discussion.

**MOTION:** The Commission directs staff to complete execution of the current Commission plan related to voters on the 2019 ERIC Movers list, as adopted June 11, 2019, with deactivation of any remaining records in Active-Mover status to be performed simultaneously with the 2021 four-year maintenance voter deactivation, except voters who moved within the same municipality should not be deactivated but should remain on Active-Mover status with the watermark on the pollbook. The Commission will issue a clerk communication explaining the Supreme Court’s decision and advising clerks of their discretionary authority to deactivate records or restore records to Active-Registered status. A draft clerk communication similar to that displayed in Appendix A will be created to convey this information.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

Discussion.

**MOTION TO AMEND:** To add the sentence to the previous motion: “The Commission takes this action in reliance on Wis. Stat. § 5.05(15).”

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

Roll call vote on the amendment:

Bostelmann:	Aye	Glancey:	No
Jacobs:	No	Spindell:	No
Knudson:	Aye	Thomsen:	No

Friendly amendment failed 4-2.

Roll call vote on the motion:

Bostelmann:	Aye	Glancey:	No
Jacobs:	No	Spindell:	No
Knudson:	Aye	Thomsen:	No

Motion failed 4-2.

**MOTION:** To adjourn. Moved by Commissioner Knudson.

Motion failed for lack of a second.

Mr. Kehoe made a presentation based on the ERIC 2021 Movers List Process memorandum regarding options for the 2021 ERIC Movers mailings. Commissioners previously directed staff to prepare plans for quarterly ERIC Movers mailings, and the presentation explained several options the Commission could choose from but did not make a specific recommendation.

Discussion.

**MOTION:** For the 2021 ERIC mover's mailings, the Wisconsin Elections Commission approves option #3 as outlined on page 7 of the WEC staff memo. The postcard shall include language informing voters that if they have not responded by July 1, 2022, they may be deactivated. The Commission also approves the continuation of the watermark program and directs staff to solicit the opinions of the chairs of the Joint Committee for Review of Administrative Rules on whether promulgation of an administrative rule is necessary to this end.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Discussion.

Chair Jacobs called a recess at 2:24 p.m.

The Commission reconvened at 3:06 p.m.

Discussion.

**MOTION TO AMEND:** Instead of saying a voter's registration may be taken off by the local clerk, say that it must be taken off by the local clerk.

Moved by Commissioner Spindell. Seconded by Commissioner Knudson.

Discussion.

Commissioner Spindell withdrew his motion to amend.

**MOTION TO AMEND:** The second sentence of the motion is to read, "The postcard shall include language informing voters that if they have not responded by July 1, 2022 their registration will be deactivated by the WEC."

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Discussion.

Roll call vote on the motion to amend:

Bostelmann:	Aye	Glancey:	No
Jacobs:	No	Spindell:	Aye
Knudson:	Aye	Thomsen:	No

Motion to amend failed 3-3.

Discussion.

**AMENDMENT OF MOTION:** For the 2021 ERIC mover's mailings, the Wisconsin Elections Commission approves option #3 as outlined on page 7 of the WEC staff memo. The postcard shall include language informing voters that if they have not responded by July 1, 2022 they may be deactivated. The Commission also approves the continuation of the watermark program and directs staff to solicit the opinions of the chairs of the Joint Committee for Review of Administrative Rules on whether promulgation of an administrative rule is necessary to this end. Further, this process is only approved for the ERIC mailings of June 30, 2021; September 30, 2021; and December 31, 2021.

Amendment offered by Commissioner Knudson. Accepted by Commissioner Spindell.

**MOTION:** To divide the question.

Moved by Commissioner Glancey. Seconded by Commissioner Jacobs.

Roll call vote on the motion to divide the question:

Bostelmann:	No	Glancey:	No
Jacobs:	No	Spindell:	No
Knudson:	No	Thomsen:	No

Motion failed 6-0.

Roll call vote on the motion, as amended by Commissioner Knudson:

Bostelmann:	Aye	Glancey:	No
Jacobs:	No	Spindell:	Aye
Knudson:	Aye	Thomsen:	No

Motion failed 3-3.

**MOTION:** The Wisconsin Elections Commission approves option #1 as presented on page 7 of the WEC staff memo.

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Discussion.

**MOTION TO AMEND:** The Commission authorizes the continuation of the watermark program and approves the postcard design presented on page 13 of the WEC staff ERIC memo. This postcard will also include a tear-off return postcard for voters to update their registration.

Moved by Commissioner Jacobs. Seconded by Commissioner Glancey.

Roll call vote on the motion to amend:

Bostelmann:	Aye	Glancey:	Aye
Jacobs:	Aye	Spindell:	No
Knudson:	No	Thomsen:	Aye

Motion carried 4-2.

**FRIENDLY AMENDMENT:** Removal of the phrase, "...and goes no further" from the first sentence of option #1 on page 9 of the Commission meeting materials packet.

Proposed by Commissioner Jacobs. Accepted by Commissioner Thomsen.

Commissioner Jacobs suggested that this mailing would apply only to the 2021 ERIC mailing dates of June 30, September 30, and December 31. This suggestion was accepted by Commissioner Thomsen.

**MOTION REPHRASED:** The Commission directs staff to perform a mailing that meets the requirements of the ERIC agreement. That is, the Commission directs staff to provide a postcard notification to voters with a tear-off return postcard for voters to confirm their registration with their clerk. The Commission also authorizes the use of the watermark program. The Commission approves the draft clerk communication attached as appendix B and the draft postcard design attached as appendix C. This process is only approved for the 2021 ERIC mailings of June 30, 2021; September 30, 2021; and December 31, 2021.

Rephrased by Commissioner Jacobs. Approved by Commissioner Thomsen.

Roll call vote on the rephrased motion:

Bostelmann:	No	Glancey:	Aye
Jacobs:	Aye	Spindell:	No
Knudson:	No	Thomsen:	Aye

Motion failed 3-3.

Discussion.

**MOTION:** The Commission approves option #3 as presented on page 7 of the WEC staff memo, however the Commission substitutes clerk communication appendix D for clerk communication appendix F. The Commission also approves the use of the watermark program in addition to providing voters with the option of confirming their registration on the MyVote Wisconsin website.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

Discussion.

Motion withdrawn by Commissioner Knudson. Commissioner Bostelmann concurred.

Discussion.

**MOTION:** For the 2021 ERIC mover’s mailings, the Wisconsin Elections Commission adopts the following criteria:

1. The watermark indicating a potential ERIC-mover voter shall remain on the poll list for those voters.
2. Draft postcard option 2 (Figure A), adding the tear off card from page 18 of the staff memorandum (Figure B), and adding the language “Vote in the next election where you can confirm with poll workers that you have not had a change of address” from page 13 of the staff memo to draft postcard option 2.

Figure A:

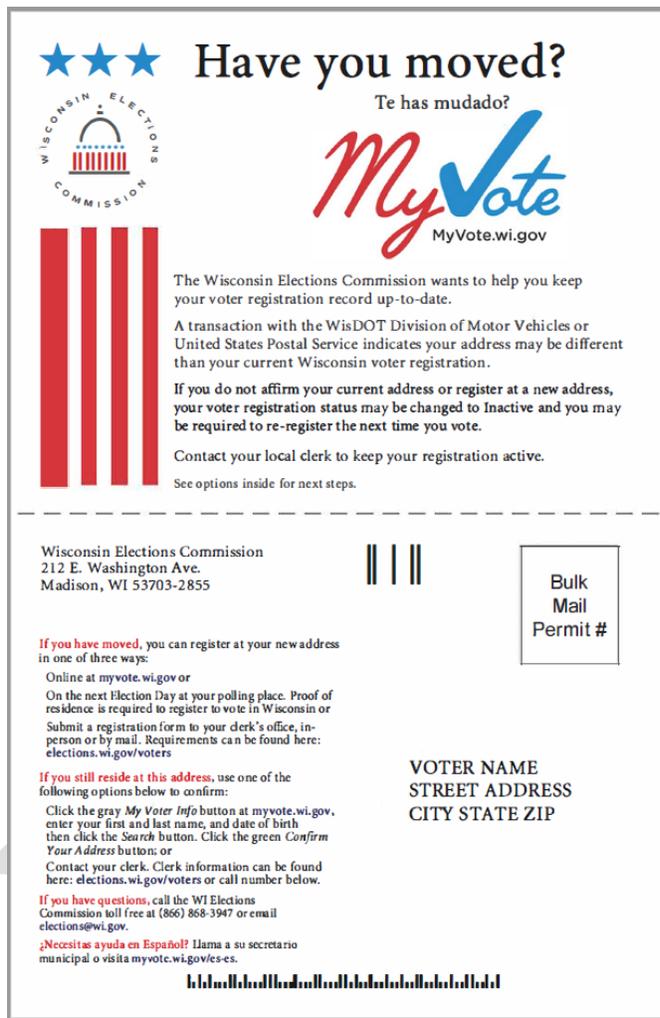
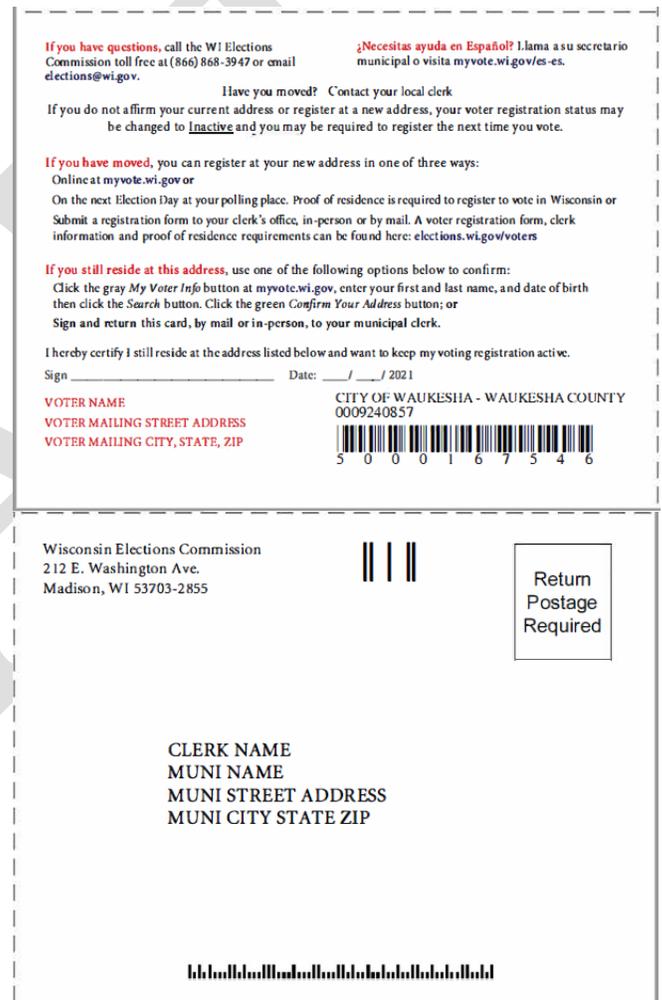


Figure B:



3. This motion applies to the 2021 mailing seen in table 4 on page 8 of the ERIC memo.
4. For clerk guidance, the Commission adopts the language in Appendix D, adding the language on the 30-day notice requirement found in Appendix F, excluding the sentence that begins “If the postcard...”:

This week, the WEC mailed approximately XXX,XXX postcards to Wisconsin residents who were identified as potentially moving. As part of Wisconsin’s membership in ERIC, the WEC is required to contact voters who ERIC has flagged as having potentially moved. ERIC obtains data

from a variety of sources, such as Wisconsin motor vehicle records, voter registration and motor vehicle records from participating states, and the National Change of Address (NCOA) database from the U.S. Postal Service.

A similar mailing was previously done in the summer of 2019. Beginning in 2021, WEC staff are implementing the Movers process on a quarterly basis. There are three mailings planned in 2021. This first mailing will be the largest as the last Movers mailing was in 2019. The next mailings are planned for September 30, 2021 and December 31, 2021 respectively.

The postcard notifies voters that a transaction with WisDOT Division of Motor Vehicles or NCOA indicates their address may be different than their voter registration address. Voters who received the postcard and have moved, may choose to register online, by mail, at their clerk's office, or at their polling place on the next Election Day.

The voter records identified for this mailing will remain active but will have an updated status reason of "Movers" and will appear as "Active/Movers" in WisVote. Clerks have discretion to assess each case individually and may elect to deactivate records or restore the record to "Active/Registered" status. *Clerks must still send a 30-day notice letter to voters before deactivating records.* Once the 30-day notice comes back as undeliverable then it would be handled normally, and clerks can inactivate the voter record.

Decisions to modify these voter records are to be made by clerks at the municipal level. You may want to contact your municipal attorney for assistance in interpreting applicable statutes.

The postcard includes a toll-free number which routes them to the WEC Help Desk. Some voters may contact their municipal or county clerk in response to this postcard. This mailing is not being tracked in WisVote and will not result in any voter records being deactivated by WEC.

If you have any questions regarding the 2021 ERIC Movers mailings, please contact the Elections Help Desk at [elections@wi.gov](mailto:elections@wi.gov) or 608-261-2028.

5. Staff is directed to add language instructions for clerks about what they should do if the voter moves within the municipality.

Moved by Commissioner Thomsen. Seconded by Commissioner Knudson.

Roll call vote:	Bostelmann:	Aye	Glancey:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Knudson:	Aye	Thomsen:	Aye

Motion carried 6-0.

## D. Consideration of Accessibility Report

(This item was taken out of order.)

Administrator Wolfe summarized the Wisconsin Elections Commission's 2020-2021 Impediments Faced by Elderly Voters and Voters with Disabilities report. She noted that due to the coronavirus pandemic, staff were not able to meet the goal of 500 polling place accessibility reviews during the 2020 election cycle, however 46 site reviews were able to be completed. Administrator Wolfe went over the results of these site reviews and other aspects of the report.

**MOTION:** The Commission directs staff to finalize and submit the 2020-2021 Impediments Faced by Elderly Voters and Voters with Disabilities report, barring any changes. Should any changes be made to the report, they will need Commission review and approval.

Moved by Commissioner Spindell.

Motion fails for lack of a second.

**MOTION:** The Commission authorizes staff to finalize and submit the 2020-2021 Impediments to Voting Report pending any changes requested by the Commission. Staff shall also consider and incorporate any feedback from the Accessibility Advisory Committee into the final report before submission.

Moved by Commissioner Glancey. Seconded by Commissioner Thomsen.

Discussion.

**FRIENDLY AMENDMENT:** Should any changes be made to the report after having received Commission approval, it shall be indicated that these changes were made post-Commission approval.

Proposed by Commissioner Knudson. Accepted by Commissioners Glancey and Thomsen.

Roll call vote: Bostelmann:	Aye	Glancey:	Aye
Jacobs:	Aye	Spindell:	No
Knudson:	Aye	Thomsen:	Aye

Motion carried 5-1.

## G. Adjourn

**MOTION:** To adjourn.

Moved by Commissioner Glancey. Seconded by Commissioner Bostelmann.

Roll call vote: Bostelmann:	Aye	Glancey:	Aye
Jacobs:	Aye	Spindell:	Aye
Knudson:	Aye	Thomsen:	Aye

The motion carried 6-0.

The meeting adjourned at 5:09 p.m.

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June 10, 2021 Wisconsin Election Commission meeting minutes prepared by:

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Jacob Walters, Operations Program Associate

June 11, 2021

June 10, 2021 Wisconsin Election Commission meeting minutes certified by:

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Marge Bostelmann, Commission Secretary

September 9, 2021



# Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
(608) 266-8005 | elections@wi.gov | elections.wi.gov

**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

Prepared and Presented by:

Robert Williams                      Cody Davies  
Elections Specialist                      Elections Specialist

**SUBJECT:** Election Systems and Software (ES&S)  
Petition for Approval of Electronic Voting Systems  
EVS 6.0.4.3

## **Introduction**

Election Systems and Software (ES&S) is requesting the Wisconsin Elections Commission (“WEC” or “Commission”) approve the EVS 6.0.4.3 voting system for sale and use in the State of Wisconsin. The Government Accountability Board originally approved the EVS system, with EVS 5.2.0.0 and EVS 5.3.0.0, on September 4, 2014. No electronic voting equipment may be offered for sale or utilized in Wisconsin unless first approved by WEC based upon the requirements of Wis. Stat. § 5.91 (Appendix D). The WEC has also adopted administrative rules detailing the approval process in Wis. Admin. Code Ch. EL 7 (Appendix E).

## **Recommendation**

WEC staff is recommending approval of EVS 6.0.4.3 for sale and use in Wisconsin, including the ExpressVote Tabulator (EVT). In EVS 6.0.4.0, certified by the Commission in 2019, the EVT component did not meet the standards set forth Wis. Stat. § 5.91(15) that require voting machines to provide voters the opportunity to physically review a ballot prior to casting in the tabulation equipment, thereby making every ballot verifiable by the elector before the elector leaves the voting area. On the EVS 6.0.4.0 system, voters were merely presented with the option to return their ballot when voting on an ExpressVote Tabulator.

As part of the current system version, EVS 6.0.4.3, voters are required to eject the ExpressVote Tabulator ballot card from the machine for review before it can be cast and tabulated on the equipment. With the introduction of forced ballot return, the ExpressVote Tabulator is, in Commission staff’s opinion, no longer deficient in relation to Wis. Stat. § 5.91(15). Detailed recommendations are listed on pages 13 and 14 of this document following a system overview and analysis of functional testing performed by WEC staff.

*Wisconsin Elections Commissioners*

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

*Administrator*  
Meagan Wolfe

## **Background**

On April 27, 2021, WEC staff received an application for approval of EVS 6.0.4.3. ES&S submitted complete specifications for hardware, firmware, and software related to the voting system. In addition, ES&S submitted technical manuals, documentation, and instruction materials necessary for the operation of EVS 6.0.4.3. All specified documentation is required to be submitted as part of an application for voting equipment approval pursuant to Wis. Admin. Code Ch. EL 7.

Upon receipt of the application, WEC staff conducted a detailed analysis of the supporting documentation to ensure that all requirements for submission had been met. Staff then collaborated with ES&S testing and certification representatives in order to schedule the required Wisconsin state level testing of the system. Testing of EVS 6.0.4.3 occurred in the WEC office during the week of August 9-13, 2021.

The Voting System Test Laboratory (VSTL) responsible for testing EVS 6.0.4.3, Pro V&V, recommended on February 24, 2020 that the U.S. Election Assistance Commission (EAC) certify ES&S EVS 6.0.4.3. ES&S provided the Pro V&V report to WEC staff along with the Application for Approval of EVS 6.0.4.3. Voting systems submitted to the EAC for testing after December 13, 2007 that are considered an upgrade to a previously certified system are tested using the 2005 Voluntary Voting System Guidelines (2005 VVSG). As EVS 6.0.4.3 is an upgrade of EVS 6.0.4.0, it was also certified to the 2005 VVSG 1.0 standards. The EAC certified ES&S EVS 6.0.4.3 on March 11, 2020 and issued certification number **ESSEVS6043**.

WEC staff conducted the voting system testing campaign for EVS 6.0.4.3 on August 9-13, 2021 in the WEC office. The campaign consisted of functional testing using three different mock election configurations, a meeting of the Wisconsin Voting Equipment Review Panel (a body that consists of local election officials and voting and disability advocates), and a public demonstration of the system.

## **EVS 6.0.4.3 System Overview**

EVS 6.0.4.3 is a federally tested and certified paper-based, digital scan voting system powered by the ElectionWare software platform. It consists of eight major components: an election management system (EMS) server; an EMS client (desktop and/or laptop computer); the ExpressVote, an Americans with Disabilities Act (“ADA”) compliant vote capture device for a polling place; the ExpressVote Tabulator, which combines the vote capture component of the base ExpressVote with an incorporated tabulator; ExpressLink, a ballot activation code application and barcode printer combination for ExpressVote ballots; the DS200, a polling place scanner and tabulator; the DS450, a mid-range scanner and tabulator for a central count locations; and the DS850, a high-speed scanner and tabulator for central count locations.

Updates introduced in this system include:

- Modification to Electionware requiring ExpressVote Tabulator to force the return of printed ballot cards.
- Required return of ExpressVote Tabulator ballot cards for physical review prior to casting votes.
- Updates to the EVT system administrator menu to manage card eject options.
- Additional ballot storage options with the inclusion of a ballot trolley and collapsible ballot tote bag.

A full list of the system components can be found in the U.S. Election Assistance Commission’s Scope of Certification document found in Appendix H.

### **Election Management System**

Electionware, the software platform which functions as the election management system for EVS 6.0.4.3, is housed on a secure laptop or desktop computer in the office of the County Clerk. EVS 6.0.4.3 offers an update to the ElectionWare software suite previously approved for use in Wisconsin under EVS 6.0.4.0. ElectionWare integrates election administration functions into a unified application and is used to create the programming definitions for an election and to create the files used by the DS200, DS450, DS850, ExpressVote, and EVT.

Election Management Systems, regardless of the equipment vendor, are an integral part of the election process where electronic equipment is utilized. Elections are programmed, memory devices coded, and ballots created, all through the election management system. As such, there are security requirements for this EMS workstation to which counties and vendors must adhere. The EMS computer is required to be deployed on a “hardened, air-gapped system,” meaning that all software that is not essential to the proper functioning of the EMS is removed from the computer where the EMS is installed. This procedure is designed to increase the security of the system through the elimination of applications that may provide “back door” access to the system. Access to the internet is also restricted and the EMS provides an audit log of all system actions and connection attempts that can be used to prevent unauthorized access to the system. EVS 6.0.4.3 also offers support for the Windows 7 Enterprise operating system to be used for the EMS. This support also allows the option to employ dual-factor authentication and supports the use of BitLocker, which is Microsoft’s proprietary hard drive encryption utility.

### **DS200**

The DS200 is a digital scan paper ballot tabulator designed for use at the polling place. After the voter marks a paper ballot, the ballot is inserted into the unit for processing. The tabulator uses a high-resolution image-scanning device to simultaneously image the front and back of the ballot. The resulting ballot images are then processed by proprietary mark recognition software, which identifies and evaluates marks made by the voter. The system then tabulates any votes cast on each ballot before depositing the ballot into an integrated secured storage bin. The ballot images and election results are stored on a removable USB flash drive. This USB flash drive may be taken to the municipal clerk’s office or county clerk’s office where the ballot images and election results may be uploaded into an election results management program or transferred to another memory device or machine to facilitate storage. The DS200 does not store any images or data in its internal memory.



**Voter Information Screens:** The DS200 features a 12-inch touchscreen display to provide feedback to the voter regarding the disposition of any ballot inserted into the machine. The screens are designed to alert voters of any ballot errors. The DS200 will, depending on the situation, provide details about the error, identify the specific contests where the errors occurred, allow the ballot to be returned to the voter, and provide the option for the voter to cast the ballot with errors on it. In two scenarios, the machine will not let the voter cast a ballot and will only return the ballot to the voter. A ballot that has unreadable marks on it will not be accepted by the machine and the DS200 will automatically return ballots if a voter attempts to insert multiple ballots into the machine at the same

time. Information below gives examples of the notifications provided to voters in specific situations, with approved Commission language, where applicable. Images of a selection of these screens can be found in Appendix C.

- **Overvote Notification:** If the ballot contains an overvote, a message appears that identifies the contest or contests with overvotes. The message also tells the voter that these votes will not count. The language displayed in this notification reflects language requirements as approved by the Commission, which states:
  - “You have filled in too many ovals in 2 contests. These votes will not count.”
  - “To correct your ballot press RETURN and ask for a new ballot.”
  - “To cast your ballot with votes that will not count, press CAST.”

The voter has the option to return the ballot for review or cast the ballot. If there are multiple errors the voter is able to review them all. Instructions above the “Return” button direct the voter to press “Return” if they wish to correct their ballot. The voter is also instructed to ask for a new ballot. Instructions direct the voter to press “Cast” if they wish to submit their ballot with votes that will not count.

- **Crossover Vote Notification:** If a ballot is inserted with votes in more than one party’s primary and no selection has been made in the party preference section of the ballot, a message appears that informs the voter that their ballot contains crossover votes. As in the notification for an overvote, the language displayed in this notification reflects language requirements as approved by the Commission, which states:
  - “Cross Over Votes Detected. You selected candidates from different parties. If you cast the ballot as marked, no votes in any partisan contest will count.”
  - “To change your ballot and make selections in only one party, press RETURN and ask for a new ballot.”
  - “To cast your ballot with cross over votes, press CAST. Your votes in partisan contests will not be counted.”

The voter has the ability to return the ballot for review or cast the ballot with crossover votes. Instructions direct the voter to press “Return” if they wish to correct their ballot to reflect their party preference or vote a new ballot. The voter is instructed to ask for a new ballot. The voter does have the option to cast the crossover-voted ballot. The crossover vote warning screen is programmed to notify the voter that no votes in any partisan contest will be counted should the crossover-voted ballot be cast.

- **Blank Ballot Notification:** If the ballot contains no votes, a message appears stating that the ballot is blank. The voter is instructed to press “Return” to correct their ballot and see a poll worker for help. The voter is instructed to press “Cast Blank Ballot” to submit their ballot without any selections.
- **Error Scanning Ballot:** If a ballot is inserted incorrectly, the DS200 will return the ballot to the voter and advise that the voter reinsert the ballot into the tabulator. The DS200 does not allow the voter to cast the ballot without resolving the issue and, if the issue persists, the voter is instructed to contact a poll worker for assistance.

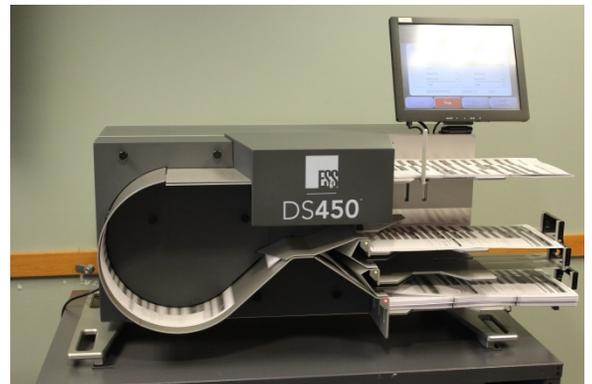
- **Ballot Jam:** This message will be displayed if a ballot becomes jammed during the scanning process. The voter is informed that the tabulator has jammed and that they should contact a poll worker. Voters are also informed of the disposition of their ballot. If the jam occurred prior to tabulation, the screen tells the voter their ballot was not counted.

This system may also be programmed, at the request of the municipality, to automatically reject all ballots with overvotes or crossover votes without the option for override, which requires the voter to correct the error by remaking their ballot. This ensures that voters do not mistakenly process a ballot on which a vote for one candidate or all candidates will not count. The automatic rejection configuration of the DS200, however, creates issues for processing absentee ballots because no voter is present to correct the error. In such municipalities, absentee ballots must be remade by election inspectors without the improperly voted contests following the appropriate procedures as explained in state law and the election day manual.

Ballots with write-in votes tabulated by the DS200 are marked by the tabulator with a small pink circle on one end of the ballot. Depending on the ballot box used, these ballots may or may not be diverted into a separate write-in bin. The DS200 is also capable of producing a results report showing all candidates with write-in votes. This report captures an image of what is written on the write-in vote line if the oval was darkened. Presently, the write-in report is not approved for use. Election inspectors, instead, review ballots by hand, searching for write-in votes after the polls close on election day. This certification application is not seeking approval for the utilization of the write-in report.

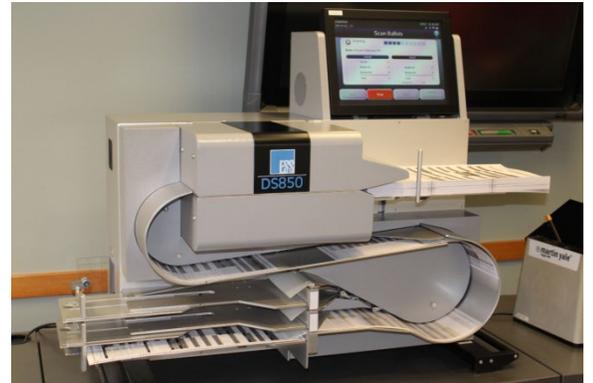
### **DS450**

The DS450 is a mid-range digital scan ballot tabulator designed for use by election officials at a central count facility. This machine can accommodate a variety of different length ballots and can process between 60 and 90 ballots per minute, depending on the size of the ballot. The DS450 uses technology similar to the DS200 to image both sides of the ballot and identify properly marked votes. Three sorting trays are available that can be configured to set apart specific types of ballots for further review. For example, an election official can use the touchscreen interface to program the machine to sort all ballots containing write-in votes or all overvoted ballots into separate trays for hand tabulation or review. While processing ballots, the DS450 prints a continuous audit log to a dedicated audit log printer. Reports are printed from a second printer. The DS450 saves voter selections and ballot images to an internal hard disk and exports results to a USB flash drive for processing with the Election Management System.



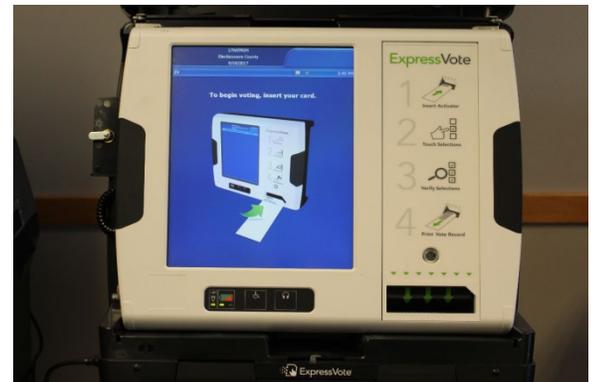
## DS850

The DS850 is a high-speed, digital scan ballot tabulator designed for use by election officials at a central count facility. The DS850 can scan and count up to 300 ballots per minute. It uses digital cameras and imaging systems to read the front and back of each ballot, evaluate the result, and sort each ballot into trays based on the result to maintain continuous scanning and tabulating. Multiple criteria can be used to segregate ballots for review, including overvotes, crossover votes and blank ballots. Depending on the situation, ballots segregated in this fashion may not be counted and may need to be remade by the election inspectors. Election officials use a 14-inch touchscreen display to program these features of the DS850. While processing ballots, the DS850 prints a continuous audit log to a dedicated audit log printer. Reports are printed from a second connected printer. The DS850 saves voter selections and ballot images to an internal hard disk and exports results to a USB flash drive for processing with the Election Management System.

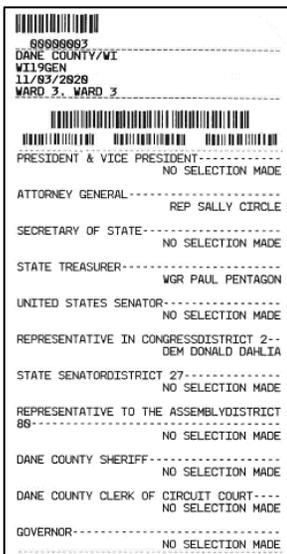


## ExpressVote

The ExpressVote is an electronic vote capture device designed for use by all voters, including those with disabilities. It features a touchscreen display and integrated thermal printer. Voters insert a blank ballot card in the machine to begin the voting process. Ballot instructions, contests and candidates are displayed on the screen and there is the option to use the touchscreen or the keypad to navigate the ballot and make selections. Sip and puff devices, as well as paddle selectors are also supported. The voter may adjust the text contrast and size of the display, if needed.



Each button on the tactile keypad has both Braille and printed text labels designed to indicate function and use to the voter. In addition, voters may also use headphones to access the audio ballot function that provides a recording of the ballot instructions and lists candidates and options for each contest. The volume and tempo of the audio can be adjusted by the voters, who can use the touchscreen, tactile keypad, or other assistive technology to make their selections.



The ExpressVote provides a ballot summary screen for the voter to review their selections before the ballot is marked by the built-in printer. Overvotes and crossover votes cannot occur on this equipment and a voter is warned about undervotes on the ballot summary screen. Once the voter confirms their selections, those selections are printed on ballot and the machine returns the ballot to the voter. The ExpressVote ballot cards do not employ the oval format but utilize an unambiguous ballot format where the names of candidates and referendum choices are printed directly on the ballot card along with the names of the contest. The phrase "No Selection" appears under any contest in which the elector did not vote.

After the voter completes the process, the ExpressVote clears its internal memory and the paper ballot is the only record of the voting selections made. Ballot cards marked using the ExpressVote can be

After the voter completes the process, the ExpressVote clears its internal memory and the paper ballot is the only record of the voting selections made. Ballot cards marked using the ExpressVote can be

processed by the DS200 or deposited into a secured ballot box to be hand tabulated by election inspectors after the polls have closed. Ballot cards marked using the ExpressVote may also be tabulated using the DS450 and DS850.

For Partisan Primary elections, the ExpressVote displays language similar to the verbiage on the DS200. This language further clarifies the unique instructions for voting in such an election and reflects previous Commission requirements. Examples of ExpressVote Screen Images can be found in Appendix B.

### **ExpressVote Tabulator (EVT)**

In addition to the base functions of the ExpressVote, EVS 6.0.4.3 also includes a variant of the ExpressVote which incorporates the printing of the voter's ballot selections and tabulation into the same unit. The process for marking a ballot is largely the same as on the standard ExpressVote ballot marking system. The difference between the ExpressVote marking device and EVT, from the voters' perspective comes at the end of the voting session. ExpressVote Tabulators are not capable of processing standard optical scan ballots. The EVT is able to accept only ExpressVote ballot cards. Since the machine can only accommodate one voter at a time, there is no pause to the processing of ballots while a voter casts their ballot. After receiving their ballot card from the election inspectors, voters must wait until the person ahead of them has finished voting.

The voter begins by inserting a blank voting card, making their selections using the touchscreen interface, and then reviews their selections on a ballot summary screen at which point they may make any changes. When using an EVT with the EVS 6.0.4.3 system, after the voter has made their selections, they are required to return the ballot card for physical review prior to it being processed by the tabulation component of the EVT. When the card is returned to the voter, a notification screen appears on the EVT, informing the voter that they must take additional steps to complete the voting process. The screen is bright yellow in color and text on the screen informs the voter “! YOU ARE NOT FINISHED VOTING. Review your printed card and then reinsert the card the card to count and cast your votes.” Examples of EVT informational screens can be found in Appendix B.

Following physical review of the ballot card, the voter reinserts their card into the EVT. Voters are then presented with the option to cast their votes or return to the review screen. When the voter selects the option to return to the review screen, they will have the option to visually review their ballot choices on the screen or have their choices read back to them using the audio ballot feature. The voter cannot make any changes to their choices and would have to spoil their voted ballot and request a new one from the election inspectors at this point in the process. When the voter elects to cast their votes, the ballot card is processed by the tabulation component and subsequently deposited into the affixed ballot bin. Results and ballot images from all ballot cards scanned and process by the EVT are saved to an external memory device which is housed in a secure compartment on the unit. The ExpressVote Tabulator can operate in the same polling place as a separate tabulator, e.g., a DS200. However, results from the two devices would remain separate. There are no modem components contained within the EVT. It is thereby unable to transmit results when polls close.

A previous iteration of the ExpressVote Tabulator was introduced with system version EVS 6.0.4.0 in 2019. ExpressVote Tabulators as a part of EVS 6.0.4.0, it was found during WEC testing, could not be programmed to automatically require the return of the ballot card to voters for a physical review. Instead, at the end of the voting process, voters were given the option to return their ballot card for review, or to automatically cast the card without first reviewing. Viewing the lack of required physical review of the ballot card as an unacceptable encumbrance which did not meet the requirements for approval laid out in Wis. Stat. § 5.91(15), WEC staff recommended against the certification ExpressVote Tabulator component of the EVS 6.0.4.0 application. The Commission ultimately accepted the staff recommendation, approving EVS 6.0.4.0 with the notable exception of

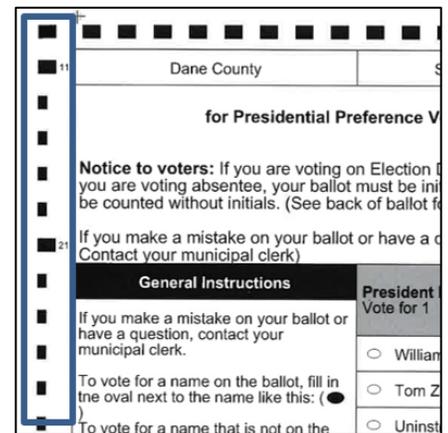
the ExpressVote Tabulator. Issues detailed above which led to the Commission voting against certification of the ExpressVote Tabulators on EVS 6.0.4.0 have been corrected in EVS 6.0.4.3. The current system incorporates Commission suggestions and conform to the spirit of the law by requiring voters to return ballot cards for review prior to casting any votes.

### ExpressLink

ExpressLink is an application software used to pre-print ballot cards for the ExpressVote so that ballot style information is automatically loaded when the ballot card is put into the ExpressVote. Ballot style information, in the form of a barcode for Ward 1 ballots and a different code for Ward 2 ballots, are printed at the top of the blank ExpressVote ballot card using an ExpressLink associated printer. If blank ballot cards are used in these situations, a poll worker or voter will be prompted to select the correct ballot style upon inserting the activation card. WEC staff pre-printed activation cards for this test campaign using this application and the ExpressLink printer. WEC staff incorporated these preprinted activation cards into the in-office equipment testing by including 100 ballot cards in 10 reporting units as part of the ExpressVote ballot test deck. A more detailed explanation of the ExpressLink testing Appendix F of this report.

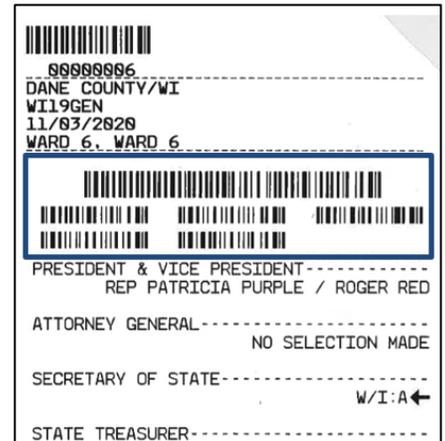
As in previous testing campaigns, this feature worked as designed. However, neither the ExpressLink application nor ExpressLink printer are federally certified by the EAC. Pro V&V, the Voting System Test Laboratory where EVS 6.0.4.3 federal testing was completed, determined ExpressLink to be outside of the scope of certification. Pro V&V tested the equipment and found that it functions as stated in the technical data package for this voting system. No other federal testing was performed on this equipment. These products are described in the VSTL report as ancillary products available to a jurisdiction who may purchase the system. Neither the ExpressLink application, nor the ballot activation printer are required for the ExpressVote to function. In the absence of an ExpressLink printer, election inspectors must activate each ballot on the ExpressVote if more than one ballot style is available on the machine.

**Reading Ballots, Timing Marks vs. Barcodes:** The DS200 uses proprietary software called Intelligent Mark Recognition to identify properly marked votes on a hand-marked ballot. Ballots used in conjunction with this system are designed with an oval next to the candidate name or ballot choice that a voter would fill in to indicate their choice. The machine uses coordinates determined by the timing marks laid out and printed on the border of the optical scan ballot to determine which contest and candidate each filled-in oval corresponds with. It does not read the actual candidate name printed next to the oval to determine voter intent as the voting equipment programming is responsible for determining the correlation between the filled-in oval and the candidate name.



A digital image of both sides of the ballot is captured by the machine when the ballot is inserted and the DS200 scans the ballot images to determine and record the voter's choices. ES&S recommends that voters use a specific marking device (BIC Grip Roller Ball pen) to mark ballots processed on the DS200. Per the supporting documentation provided by ES&S as part of its application, an improper mark is defined as being "smaller than .005 square inches as a marked response on a pixel count basis." Marks that do not have a greater pixel count than this standard will be read by the equipment as an unmarked oval.

Ballots marked using the ExpressVote are tabulated by the DS200 based on the barcodes that print on the top sections of the ballot card after the voter has made their selections. The barcode at the top of the ballot represents the ballot style for that ballot and indicates to the tabulator which contests and candidates are contained on that style. Each barcode listed in the highlighted section in the image provided to the right represents the same coordinates used by the DS200 to identify contest and candidate information found on the hand-marked optical scan ballot. The DS200 reads those barcodes and uses that information to determine voter intent.



### **Ongoing Windows 7 Support**

EVS 6.0.4.3 includes the option of two versions of the Windows 7 operating system for purchasing entities to choose, Windows 7 Professional or Windows 7 Enterprise. If jurisdictions select Windows 7 Enterprise, the system includes multifactor authentication for the EMS workstation, as well as BitLocker hard drive encryption. Only the client workstation laptop or desktop that houses the Election Management System utilizes the Windows 7 operating system and none of the optical scan tabulators or accessible voting devices included in this system run on a Windows operating system.

Microsoft will be offering Extended Security Updates (ESUs) to Windows 7 customers through January, 2023. These extended security updates will address any critical vulnerabilities and provide security updates accordingly. Any critical security updates would be applied after undergoing further testing and submission to a federal test lab and Commission approval through the ECO process. Counties operating a system version that uses Windows 7 would need to enter into a support contract with Microsoft in order to receive extended updates. From conversations with ES&S, purchasing jurisdictions would be responsible for any fees associated with the ESU contract. Pricing details for these support contracts have not yet been publicly shared by Microsoft, but the vendor's current understanding is that 12-month contracts will be offered incrementally through January, 2023 with price increases upon each annual renewal.

### **Functional Testing**

As required by Wis. Admin. Code EL § 7.02(1), WEC staff conducted three mock elections with each component of EVS 6.0.4.3 to ensure the voting system conforms to all Wisconsin requirements. These mock elections included: A Partisan Primary with a special nonpartisan school board election, a General Election with both a Presidential and special Gubernatorial contest, and a Presidential Preference vote combined with a partisan Representative to the Assembly special election.

WEC staff designed a test deck of nearly 2,000 ballots using various configurations of votes over the three mock elections to verify the accuracy and functional capabilities of EVS 6.0.4.3. Using blank test ballots supplied by ES&S, WEC staff marked votes for contests and candidates as designated by a pre-determined results set. For each mock election, 300 paper ballots were hand marked to be fed through the DS200, DS450 and DS850. The functionality of the ExpressVote was tested by marking 400 ballots with the equipment across the three mock elections. This total includes 100 ballots for each mock election type, plus 100 ExpressVote ballots that were marked as part of ExpressLink testing. Staff also marked a further 600 ballots with a separate anticipated results set on the ExpressVote Tabulator to ensure that this component functioned correctly in a situation similar to how it would be used on Election Day.

All paper ballots marked, as well as the votes captured by the ExpressVote, were verified by WEC staff before being scanned and counted by the DS200, DS450, and DS850 and ExpressVote tabulator. WEC staff ensured that the results produced by all pieces of equipment were accurate and reconciled with the anticipated results set prior to transitioning to test the next mock election type. A small number of results anomalies, explained below, were investigated and resolved in real time.

Votes were recorded on test ballots in a variety of configurations in all contests to ensure that the programming of the tabulation equipment was compatible with Wisconsin election law, and that the equipment processed ballot markings in accordance with statutory requirements. Ballots were purposefully marked with overvoted contests which the equipment was able to consistently identify and inform the voter about the specific contest, or contests, that were problematic. Ballots for both the Partisan Primary and Presidential Preference mock elections were also marked with votes that crossed party lines and, in each instance, the machines were able to identify those crossover votes and display the warning screen to the voter. Two different ballot styles were used for each mock election and one ballot style in each election had a special election contest included on the ballot. This inclusion was used to determine if the equipment could be programmed to accommodate multiple election definitions on the and produce accurate results. In all instances, the equipment was found to have accurately tabulated votes and correctly reflected Wisconsin election law in the programming.

The test decks used for this campaign were also designed to determine what constitutes a readable mark by each piece of tabulation equipment included in this system. A subset of ballots in the test deck were marked using “special marks.” WEC staff reviewed the results to confirm that all special marks were read correctly by the tabulation equipment. The chart below illustrates actual marks from test ballots that were successfully read and counted as good marks by the DS200, DS450 and DS850.

Examples of Marks Read by the EVS 6.0.4.3 Components during Testing			
<input checked="" type="radio"/> Turanga Leela	<input checked="" type="radio"/> William Adama	<input type="radio"/> James T. Kirk	<input type="radio"/> Roger Waters
<input type="radio"/> Phillip J. Fry	<input type="radio"/> Tom Zerek	<input checked="" type="radio"/> Harry Mudd	<input checked="" type="radio"/> David Gilmour
<input type="radio"/> Uninstructed	<input type="radio"/> Uninstructed	<input type="radio"/> Uninstructed	<input type="radio"/>

All three pieces of equipment were able to correctly read marks in pencil, black pen, blue pen, and red pen, as well as using ballot markers provided by ES&S. Two test ballots marked with green ink presented issues in processing. The test decks also included ballots folded to simulate absentee ballots and ballots with slight tears in them. Folded ballots were able to be processed on the DS200, DS450 and DS850. It is possible, however, for ballots with folds directly through the oval to create what is best described as a false positive. While all three pieces of equipment processed slightly torn ballots without incident, anything other than a slight tear was only able to be processed by the DS200. Ballots with large tears resulted in jams in both the DS450 and the DS850.

Blank ballots were also incorporated to determine how each of the three different tabulators would treat these ballots. The DS200 was able to identify blank ballots and provide a warning message to the voter that indicated the ballot was blank and provide options to return the ballot or cast it as is. This functionality was also tested on the DS450 or DS850, with the blank ballots diverted to a separate tray for election inspector review.

Staff also conducted testing on the ExpressLink application and ballot style printer. The ExpressLink printer places a barcode on an ExpressVote ballot that, when inserted, automatically loads a voter’s correct ballot style. To ensure that the ExpressLink printer functions appropriately, staff placed ballot style activation codes on 100

ExpressVote ballot cards, representing 10 ballot styles. These 100 ballot cards were then placed in the ExpressVote and marked according to a pre-set test script. Each of the 100 ExpressVote ballot cards that had been pre-printed with the ExpressLink ballot style activation codes loaded the corresponding ballot style correctly. ExpressLink ballots were tabulated on the DS200, DS450, and DS850, with all results matching the test script. Further detail on the testing protocol employed to test the ExpressLink functionality can be found in Appendix F.

The final piece of equipment tested as part of EVS 6.0.4.3 was the ExpressVote tabulator (EVT). As discussed above, the EVT functions quite similarly to the standard ExpressVote ballot marking device. Voters insert a blank ballot card and make their selections on a touch screen display. Following their selections, as well as an on-screen ballot review section, ballot cards must be returned to the voter for physical review. Ballot cards are then reinserted, the votes are cast, and the ballot card is tracked through the tabulation unit into the attached ballot bin. The tabulation component required separate testing to be conducted on the EVT. During testing, staff subjected the EVT to the same test requirements as the three other tabulation devices released as part of EVS 6.0.4.3, utilizing the same three election types with separate expected results set. To replicate an Election Day scenario, staff marked an additional 200 ballots per election type directly on the EVT, with the ballot cards cast into the attached ballot bin for tabulation. The results were then reconciled against the pre-determined results set for each election type. In each mock election, the EVT accurately tabulated all votes cast.

### **Testing Anomalies**

The majority of ballots in the test deck were processed without incident during the test campaign, but there were minimal anomalies identified. Minor issues present during testing most often include mismarked ballots. This most frequently manifests as a vote for an incorrect candidate or an accidental vote transposition such as a vote for a U.S. Senate write-in listed in the marking script being mistakenly marked for a State Senate write-in. These are basic deviations from the test script that, when discovered and corrected, have no impact on the test election results. During testing for EVS 6.0.4.3, two other anomalies were identified which are detailed below.

During testing, there were two instances in which ballots marked with green ink which were appropriately tabulated by the DS850 and DS450 were returned as having unreadable marks by the DS200. One ballot from the Partisan Primary and the other from the General Election. Both ballots were eventually processed by the DS200 when the feeding orientation was changed. The Partisan Primary ballot marked with green ink did not have an impact on the actual results versus the expected results. However, upon review of the results totals for the General Election, the anticipated results on the DS200 for the office of Governor were off by one vote for a single candidate. Results for the same contest and candidate from the DS450 and DS850 matched the expected results. An investigation of ballot images and cast vote records from the DS200 showed that one General Election ballot marked with green ink was the cause of the discrepancy. Despite the accurate processing of all other votes marked in green ink on the ballot, a single vote in the special contest for Governor was not read by the DS200 scanners.

In addition, ballots that were purposefully marked with slight resting marks were not treated consistently across all three machines. On ballots where there was heavy, or especially dark resting marks, in two instances, the DS850 and DS200 both read marginal hesitation mark as unclear and would not accept the ballot as marked, instead returning the ballot as having unreadable marks. However, the DS450 did not read the resting mark in the oval and counted the ballot correctly. Additional test ballots that were marked with lighter resting marks within an oval, or with resting marks touching the edge or outside of the oval were all treated the same by the three machines and these marks did not negatively impact the counting of votes on those ballots.

Anomalies such as these are common during a testing campaign and are identified by the purposeful inclusion of ambiguous marks on test deck ballots in an effort to establish what constitutes a readable mark in the machine programming. In both instances, voter behavior in marking the ballot (using non-standard ballot marking pen and resting mark within an oval) played a significant role in the disposition of those ballots by the voting equipment. No anomalies that presented during testing affected the outcome beyond the one vote discrepancy caused by the use of green ink. All elections reconciled, as required. Testing results and staff observation of the system indicate that EVS 6.0.4.3 consistently identifies and tabulates correctly marked votes in a uniform fashion. The system is also flexible enough to correctly interpret special marks made within an oval while not considering resting or stray marks made outside of an oval.

### **Wisconsin Elections Commission Voting Equipment Review Panel Meeting**

In an effort to continue to solicit valuable feedback from local election officials and community advocates during the voting equipment approval process, the Wisconsin Elections Commission formed a Voting Equipment Review Panel. The Voting Equipment Review Panel is composed of municipal and county clerks, representatives of the disability community, and advocates for the interests of the voting public. Wis. Admin. Code EL §7.02(2), permits the agency to use a panel of local election officials and electors to assist in the review of voting systems. Like the public demonstration, this meeting has historically been held only in person. The Voting Equipment Review Panel meeting for the current test campaign was, instead, held in a hybrid manner with both in person attendees, as well as those viewing virtually via Zoom. The meeting was also broadcast for viewing by public attendees. However, direct participation was reserved for Review Panel members.

Four invited participants attended the Voting Equipment Review Panel Meeting in person, while a further five attended virtually. The meeting took place at the WEC office in Madison on August 12, 2021 from 2:00 p.m. to 3:30 p.m. ES&S representatives provided a demonstration of EVS 6.0.4.3 with attendees encouraged to test the equipment. Comments and feedback from the Voting Equipment Review Panel meeting are included in Appendix G.

### **Public Demonstration**

A public demonstration of EVS 6.0.4.3 was held on August 12, 2021 from 4:30 p.m. to 5:30 p.m. at the WEC office in Madison and virtually via Zoom. With limited exception, public demonstrations have, historically, been held exclusively in person. The public meeting is designed to allow members of the public the opportunity to use the voting system and to provide comment. As there was a single attendee in person for the public demonstration, representatives from ES&S offered a presentation of the components of EVS 6.0.4.3 to the two virtual attendees and the in-person attendee simultaneously.

## **Recommendations**

Staff has reviewed the application materials, including the technical data package and testing lab report, and examined the results from the functional test campaign to determine if these systems are compliant with both state and federal certification laws. EVS 6.0.4.3 complies with all applicable state and federal requirements. The voting system components met all standards over three mock elections and staff determined they can successfully run a transparent, fair, and secure election in compliance with Wisconsin Statutes. The systems also allow access to the electoral process for individuals with disabilities with the inclusion of the ExpressVote vote capture system.

1. WEC staff recommends approval of ES&S voting system EVS 6.0.4.3 and components of this system, including the ExpressVote Tabulator set forth in Appendix A and H. This voting system accurately completed the three mock elections as required by Wis. Stat. § 5.91 and Wis. Admin. Code § EL 7.02(1) and was able to accommodate the voting requirements of the Wisconsin election process.
2. WEC staff recommends approval of the ExpressLink application software and ballot style printer as part of the WEC's approval. While this product lacks EAC certification, the component performed successfully when evaluated under a Commission approved test protocol.
3. WEC staff recommends that as a continuing condition of the WEC's approval, ES&S may not impose customer deadlines contrary to requirements provided in Wisconsin Statutes, as determined by the WEC. 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.
4. WEC staff recommends that as a continuing condition of the WEC's approval, that voting systems purchased and installed as part of EVS 6.0.4.3 be configured in the same manner in which they were tested, subject to verification by the Commission or its designee. Once installed, the configuration must remain the same and may not be altered by ES&S nor by state, county, or municipal officials except as approved by the Commission.
5. WEC staff recommends that election inspectors continue to check both the write-in bin, where applicable, and main ballot bin for validly cast write-in votes after the close of polls in each election, and not rely upon the optional write-in report.
6. WEC staff recommends that any absentee ballot returned by the tabulation equipment with an overvote or crossover vote notification must be reviewed by election inspectors prior to being overridden or remade. If necessary, ballots must be remade pursuant to approved procedures listed in the Election Day and Election Administration manuals.
7. WEC staff recommends that any absentee ballot returned which has been marked with green ink be remade by election inspectors pursuant to the procedure outlined in Wis. Stat. § 5.85(3) prior to any attempt at processing on the tabulation equipment.
8. WEC staff recommends that ballots marked with the ExpressVote in ballot marking mode be included as part of the pre-election public test.

9. WEC staff recommends that the ExpressVote Tabulator be required to be publicly tested prior to each use in an election as voting equipment that records and tabulates votes.
10. WEC staff recommends that as a continuing condition of the WEC's approval, that this system must always be configured to include the following options:
  - a. Automatic rejection of crossover and overvoted ballots with or without the option to override.
  - b. Automatic rejection of all improper ballots except blank ballots.
  - c. Digital ballot images shall be captured for all ballots tabulated by the system.
  - d. Require the return of ExpressVote Tabulator ballot cards for physical review prior to casting.
  - e. Provide visual warning messages, utilizing Commission approved language, to voters when overvotes and crossover votes are detected.
11. As part of US EAC certificate: ESSEVS6043, only equipment included in this certificate can be used together to conduct an election in Wisconsin. Previous versions that were approved for use by the former Elections Board and the G.A.B. are not compatible with the new ES&S voting system and are not to be used together with the equipment seeking approval by the WEC, as this would void the US EAC certificate. If a jurisdiction upgrades to EVS 6.0.4.3, it needs to upgrade each and every component of the voting system to the requirements of what is approved herein.
12. WEC staff recommends that as a condition of approval, ES&S shall abide by applicable Wisconsin public records laws. If, pursuant to a proper public records request, the customer receives a request for matters that might be proprietary or confidential, customer will notify ES&S, providing the same with the opportunity to either provide customer with the record that is requested for release to the requestor, or shall advise customer that ES&S objects to the release of the information, and provide the legal and factual basis of the objection. If for any reason, the customer concludes that customer is obligated to provide such records, ES&S shall provide such records immediately upon customer's request. ES&S shall negotiate and specify retention and public records production costs in writing with customers prior to charging said fees. In absence of meeting such conditions of approval, ES&S shall not charge customer for work performed pursuant to a proper public records request, except for the "actual, necessary, and direct" charge of responding to the records request, as that is defined and interpreted in Wisconsin law, plus shipping, handling, and chain of custody.
13. The Wisconsin application for approval contains a condition that requires the vendor to reimburse the WEC for all costs associated with the testing campaign and certification process. ES&S agreed to this requirement on the applications submitted to WEC on April 27, 2021 requesting the approval of EVS 6.0.4.3.

### **Proposed Motion**

**MOTION:** The Wisconsin Elections Commission adopts the staff's recommendations for approval of the ES&S voting system's Application for Approval of EVS 6.0.4.3 in compliance with US EAC certificate ESSEVS6043 including the conditions described above.

## **Appendices**

- Appendix A: Hardware and Software Component Versions
- Appendix B: ExpressVote Tabulator Voter Information Screens
- Appendix C: DS200 Voter Information Screens
- Appendix D: Wisconsin Statutes § 5.91
- Appendix E: Wisconsin Administrative Code Ch. EL 7
- Appendix F: ExpressLink Testing Protocol
- Appendix G: Wisconsin Voting Equipment Review Panel Feedback
- Appendix H: US-EAC Certificate of Conformance / Scope of Certification
- Appendix I: Wisconsin Statutory Compliance

**Appendix A; Hardware and Software Component Versions**

Hardware Components:

<i>Equipment</i>	<i>Hardware Version(s)</i>	<i>Firmware Version</i>	<i>Type</i>
DS200	1.2 1.3 1.3.11	2.17.4.0	Polling Place Digital Scanner and Tabulator
DS450	1.0	3.1.1.0	Mid-range Digital Scanner and Tabulator
DS850	1.0	3.1.1.0	High-speed Digital Scanner and Tabulator
ExpressVote HW 1.0	1.0	1.5.2.0	Universal Voting System
ExpressVote HW 2.1	2.1.0.0 2.1.2.0	2.4.5.2	Hybrid Universal Voting System and precinct count tabulator

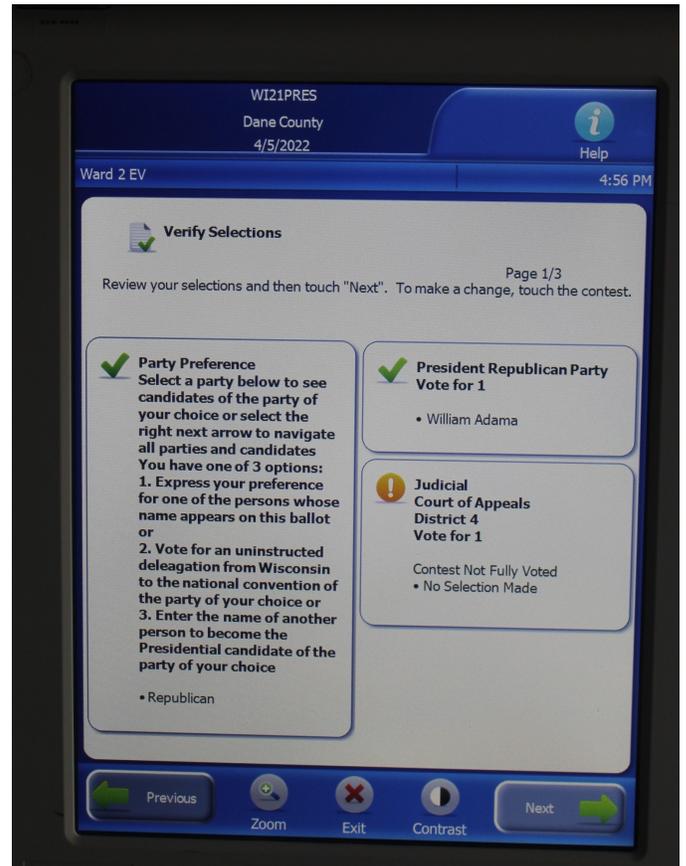
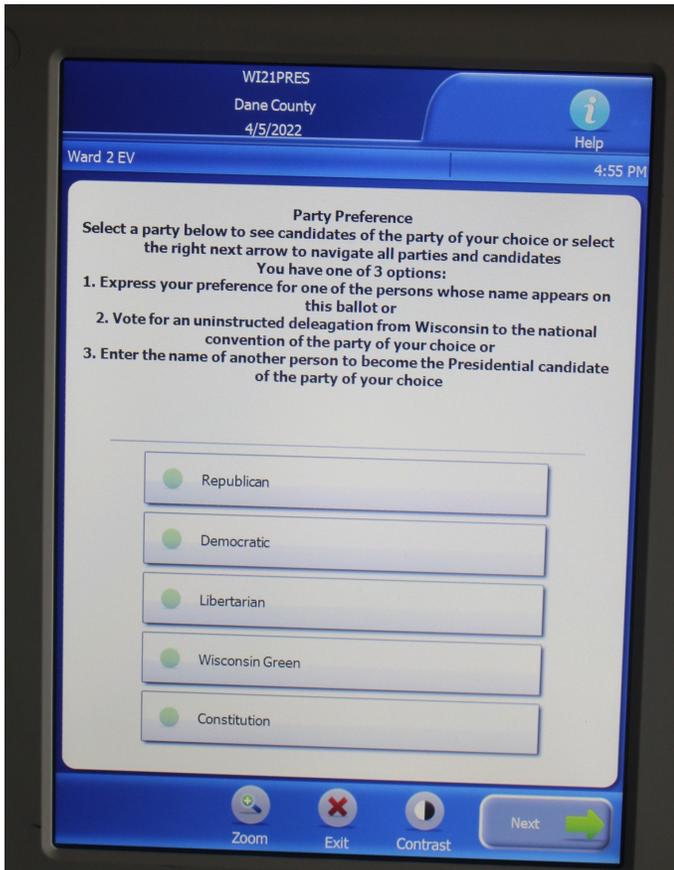
Software Components:

<i>Software</i>	<i>Version</i>
ElectionWare	5.0.4.1
ES&S Event Logging Service (ELS)	1.6.0.0
ExpressVote Previewer (HW 1.0)	1.5.2.0
ExpressVote Previewer (HW 2.1)	2.4.5.2
ExpressLink	1.5.0.0
Removable Media Service (RMS)	1.5.1.0

**Appendix B: ExpressVote Tabulator Voter Information Screens**

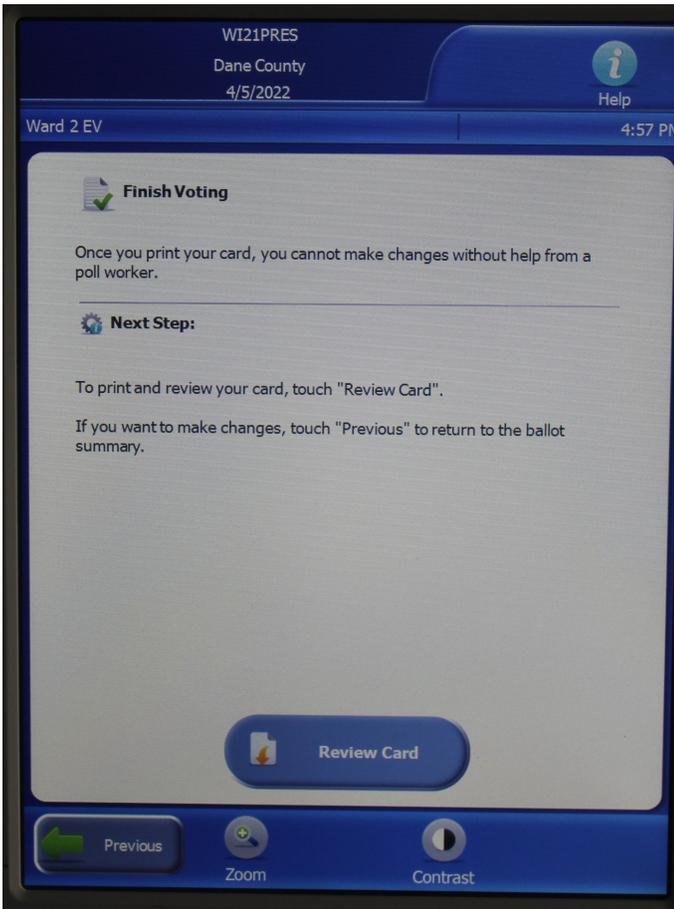
EVT Party Preference Selection

EVT Ballot Review Screen

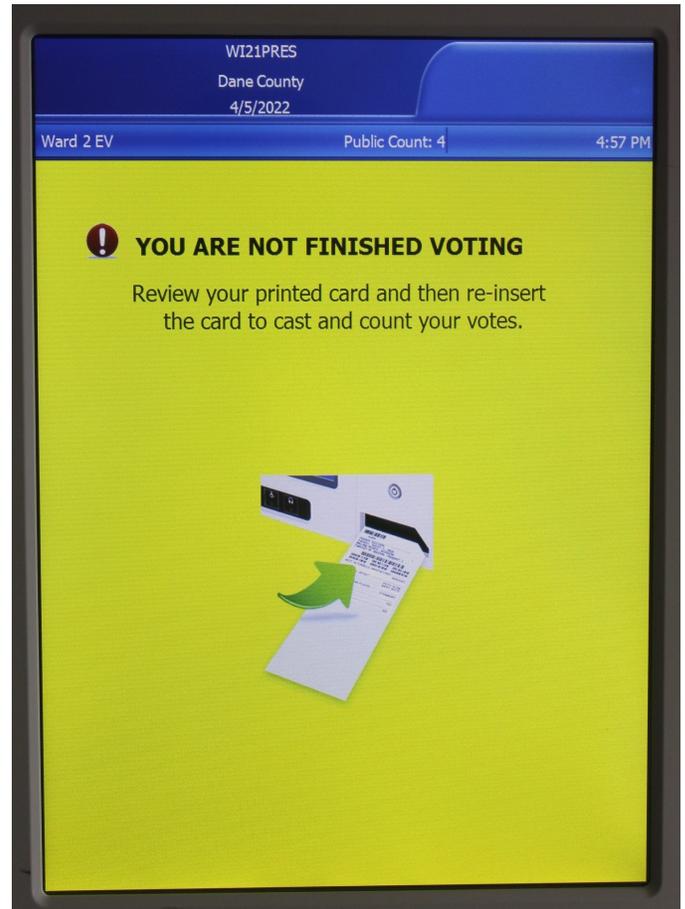


**Appendix B (continued)**

EVT Ballot Return Screen

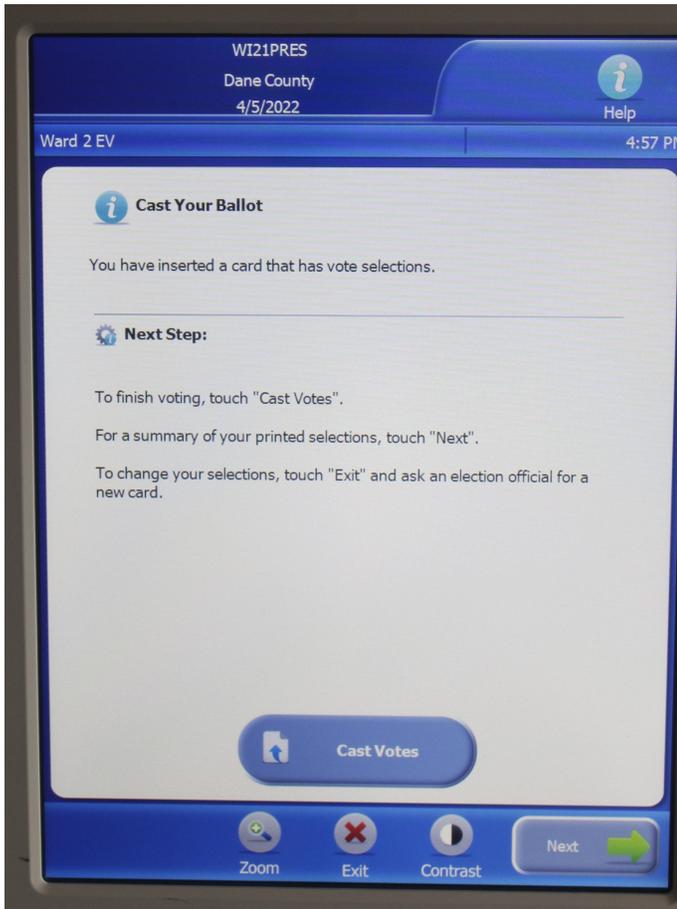


EVT Ballot Re-Insert Notification

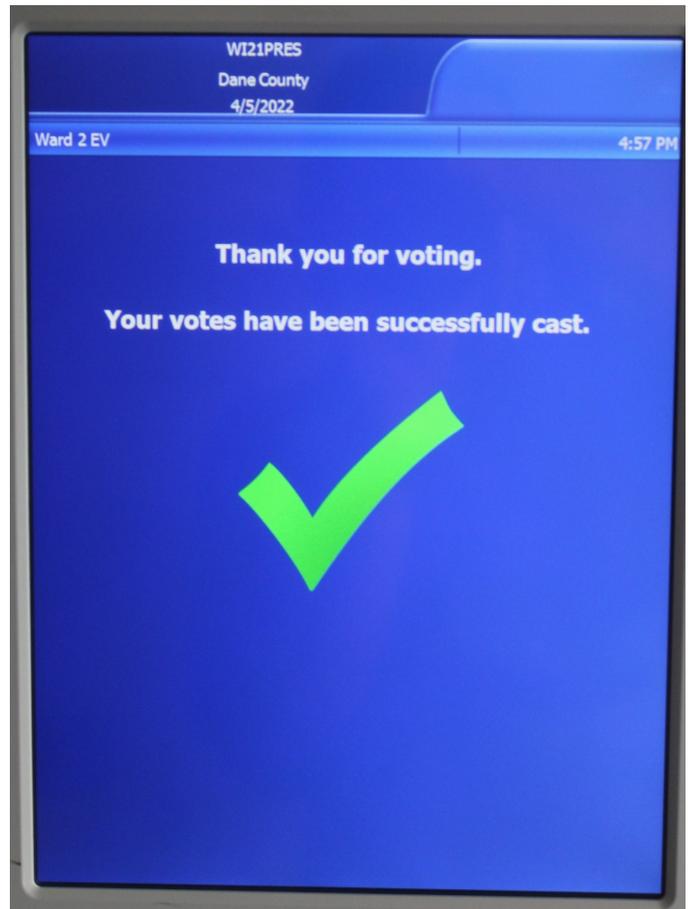


**Appendix B (continued)**

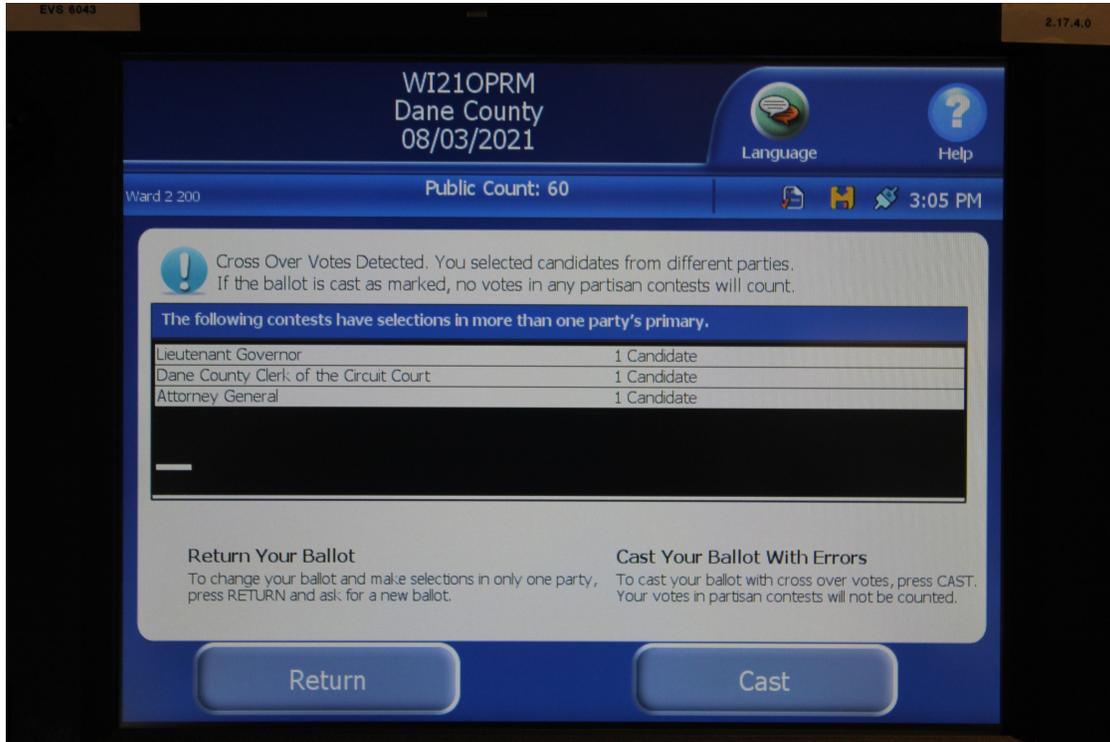
EVT Cast Ballot Notification



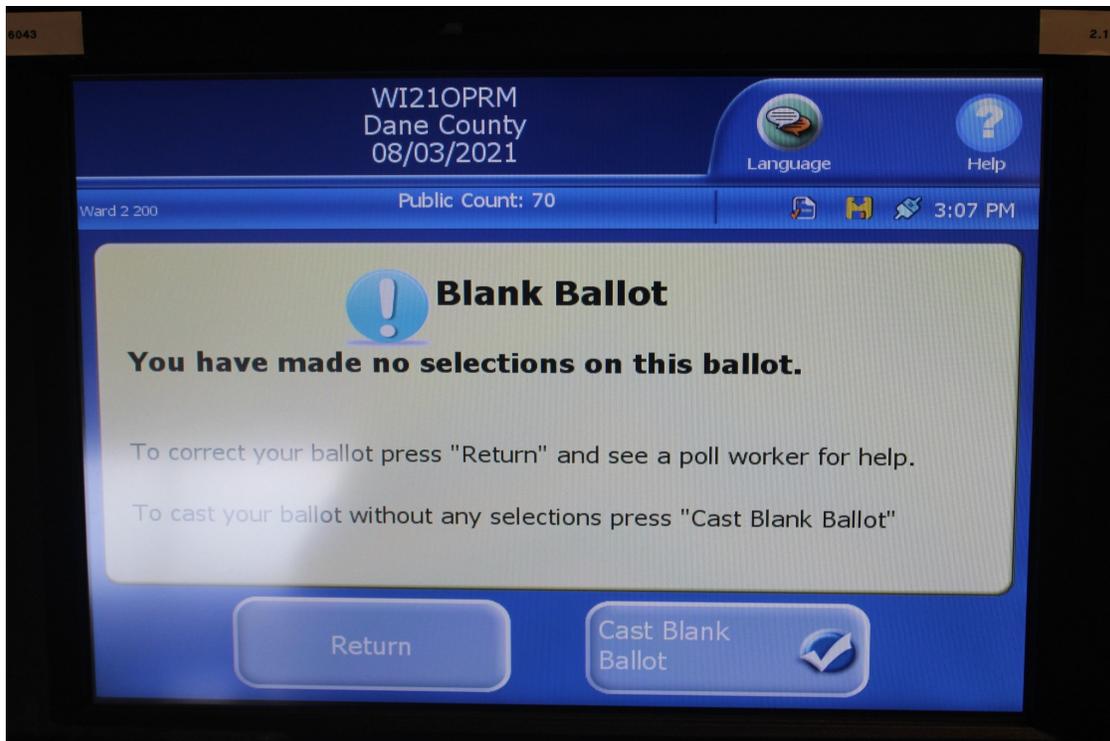
EVT Votes Counted Confirmation



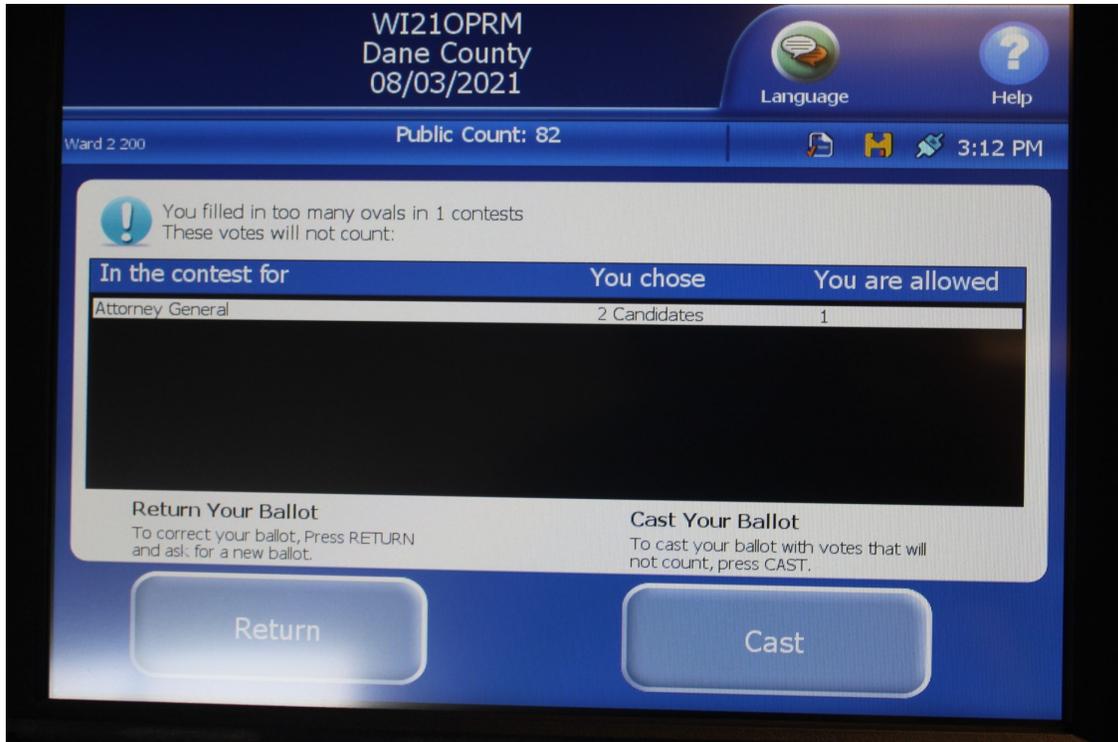
**Appendix C: DS200 Voter Information Screens**  
**Crossover Vote Warning**



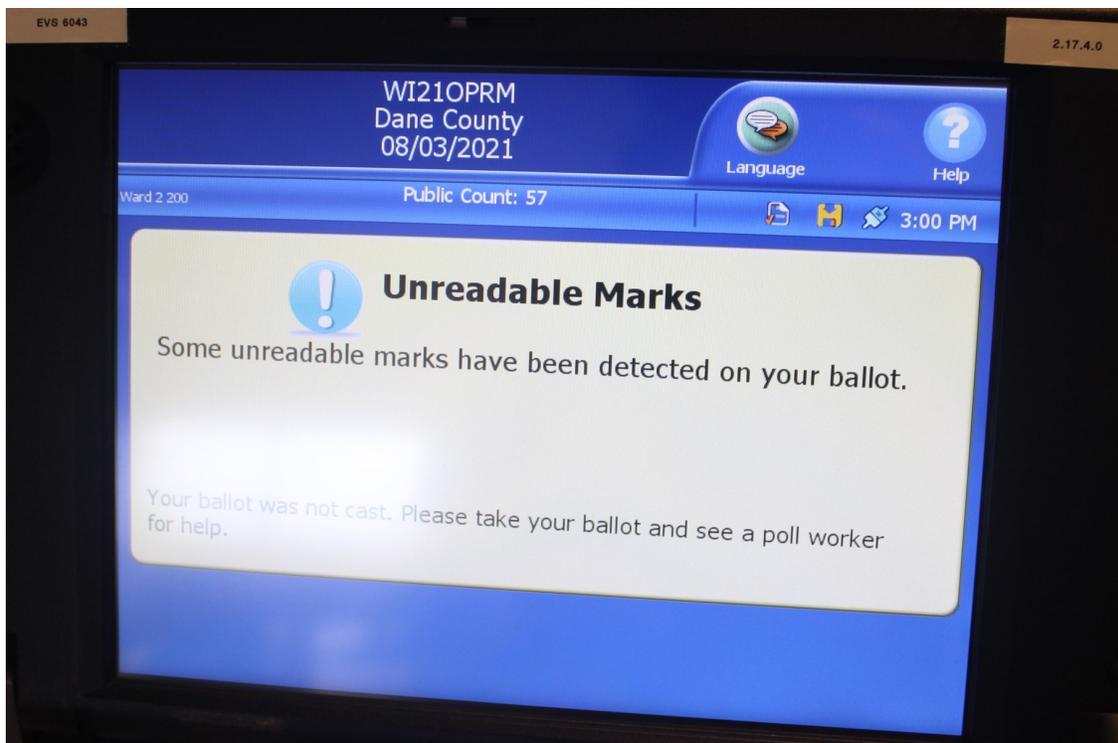
**Blank Ballot Warning**



**Appendix C (continued)**  
**Overvote Warning**



**Unreadable Marks Warning**



**Appendix D: Wis. Stat. § 5.91**

**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 certified by the commission. The commission may revoke its certification of any ballot, device, equipment, or materials at any time for cause. The commission may certify any such voting device, automatic tabulating equipment, or related equipment or materials regardless of whether any such item is approved by the federal election assistance commission, but the commission may not certify any ballot, device, equipment, or material to be used in an electronic voting system 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.
- (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; 2015 a. 118 s. 266 (10); 2015 a. 261; 2017 a. 365 s. 111.

**Cross-reference:** See also ch. [EL 7](#), Wis. adm. code.

## **Appendix E: Wis. Admin. Code Ch. EL 7**

### **Chapter EL 7**

#### **APPROVAL OF ELECTRONIC VOTING EQUIPMENT**

**EL 7.01** Application for approval of electronic voting system.

**EL 7.02** Agency testing of electronic voting system.

**EL 7.03** Continuing approval of electronic voting system.

**Note:** Chapter ElBd 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](#). Chapter GAB 7 was renumbered Chapter EL 7 under s. 13.92 (4) (b) 1., Stats., [Register June 2016 No. 726](#).

#### **EL 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 elections commission, 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 elections commission 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 elections commission 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 commission shall determine if the application is complete and, if it is, shall so notify the vendor in writing. If it is not complete, the elections commission 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 elections commission.

**History:** Cr. [Register, June, 2000, No. 534](#), eff. 7-1-00; **correction in (1) (a), (f), (2), (3) made under s. 13.92 (4) (b) 6., Stats., Register June 2016 No. 726.**

**EL 7.02 Agency testing of electronic voting system.**

(1) The elections commission shall conduct a test of a voting system, submitted for approval under s. [EL 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 nonpartisan election combined with a presidential preference vote.

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

(3) The elections commission 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; **correction in (1) to (3) made under s. 13.92 (4) (b) 6., Stats., and correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.**

**EL 7.03 Continuing approval of electronic voting system.**

(1) The elections commission 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 elections commission's approval for the use of the voting system, the vendor shall inform the elections commission 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 elections commission, 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 elections commission.

(5) For good cause shown, the elections commission may exempt any electronic voting system from strict compliance with this chapter.

**History:** Cr. [Register, June, 2000, No. 534](#), eff. 7-1-00; **correction in (1), (4), (5) made under s. 13.92 (4) (b) 6., Stats. and corrections in (5) made under s. 13.92 (4) (b) 7., Stats., and s. 35.17, Stats., Register June 2016 No. 726.**

## **Appendix F: ExpressLink Testing Protocol**

### **Background**

As part of an application submitted on March 17, 2017, Elections Systems and Software (ES&S) requested the Wisconsin Elections Commission (WEC) to certify the ExpressLink component as part of the EVS 5.2.2.0 and EVS 5.3.2.0 systems. ExpressLink was outside of the scope of certification that was granted by the Elections Assistance Commission (EAC) for those systems. The WEC staff review of the application materials for EVS 5.2.2.0 and EVS 5.3.2.0 determined that this component was part of the voting system and should be subject to testing and certification, contrary to the EAC review. This component was not included in the voting equipment system that was certified for use in Wisconsin by the WEC on June 20, 2017. Staff was instructed, however, to create a protocol to test and certify the ExpressLink component outside of the EAC process. Wis. Stat. § 5.91 provides that the WEC may certify any such voting device, automatic tabulating equipment, or related equipment or materials regardless of whether any such system is approved by the EAC and this protocol outlines the procedures for reviewing the ExpressLink consistent with this statutory authority.

### **Component Information**

The ExpressLink is designed for use by election officials in conjunction with the ExpressVote Universal Voting System that was approved as part of the EVS 5.2.20 and EVS 5.3.2.0 systems. This voting system component consists of both the ExpressLink software application and one piece of hardware, the ExpressVote Activation Card Printer. ExpressLink is a Windows application housed on a laptop computer that uses contest and candidate information imported from Election Ware election management system to determine the appropriate ballot style for a voter. The system then prints the activation barcode using the ExpressVote Activation Card Printer. The ExpressVote Activation Card Printer is a small, thermal, on demand printer used to print the ballot activation barcode on the ExpressVote ballot card. A voter would then use the ballot card that contains the barcode printed via the ExpressLink to activate the correct ballot style on the ExpressVote Universal Voting System.

### **Review and Testing Process**

- WEC staff shall complete a review of supporting documentation provided by the vendor that details the functionality of the ExpressLink before functional testing is conducted. The manufacturer shall provide both a full and a redacted set of the following documentation as part of the process to review the component, if applicable:
  - Complete specifications for all hardware, firmware and software;
  - All technical manuals and documentation related to the component;
  - Complete instruction materials necessary for the operation of the equipment and a description of training available to users and purchasers;
  - Reports from voting system test laboratories accredited by the US Election Assistance Commission (EAC) demonstrating that the system component functions as described by the vendor in the application materials.

- A list of all the states and municipalities in which the system has been approved for use and how long the ExpressLink component has been in use in those jurisdictions.
- If any portion of the materials provided to the Wisconsin Elections Commission is copyrighted, trademarked, or otherwise trade secret, the application shall include written assertion of any protected interests and redacted versions of the application and all materials consistent with any properly asserted protected interests. Simply identifying the individual item as “proprietary” is not sufficient. Any assertion of proprietary rights must include detailed specifics of each item protected, the factual and legal basis for protection, whether there is anything public within the protected item, and if there is, how to extract it along with a statement whether there are costs to do so.
- If applicable, provide the WEC with a list of software components, pursuant to Wis. Stat. § 5.905, that “record and tally the votes cast with this system.” For purposes of this condition, “software components” include vote-counting source code, table structures, modules, program narratives and other human-readable computer instructions used to count votes with this system.
- The vendor shall submit the component to the WEC for functional testing. The hardware and software submitted for certification testing shall be equivalent, in form and function, to the actual production versions of the component.
  - An operational status check shall be conducted on the ExpressLink to determine if it functions as described by the vendor using the following procedures:
    - Arrange the system for normal operation and power on the system.
    - Perform any servicing, and make any adjustments necessary, to achieve operational status.
    - Operate the equipment in all modes, demonstrating all functions and features that would be used during election operations.
    - Commission staff shall verify that all system functions have been correctly executed.
  - Compatibility of the voting system software components or subsystems with one another, and with other components of the voting system environment, shall be determined through functional tests integrating the voting system software with the remainder of the system and to determine if the software meets the vendor’s design specifications.
    - The election definition file that is created in ElectionWare for use with the ExpressLink shall be verified to determine if the data contained in that file is accurate.
    - The ExpressLink will be tested in a mock election to determine if it can print barcodes on ExpressVote ballot cards that access the correct ballot styles.

- The ExpressLink will be tested to determine if it can accommodate multiple ballot styles for an election on a single ExpressVote machine.

Conditions for Approval (vendor)

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

1. Reimburse the WEC for all costs associated with the testing campaign for the ExpressLink, where applicable, pursuant to state processes.
2. Agree to any additional conditions for approval and use that may be identified after the review and testing process is complete.

**Appendix G: Wisconsin Voting Equipment Review Panel Feedback**

Comments were provided via structured feedback form provided to Review Panel attendees.

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

Very Poor	Poor	Fair	Good	Excellent
			3	3

- It’s very different from the equipment we use, but I found it very easy to use and go through the process of casting a ballot/card. It was very different to have a card vs. a ballot. I think it would take some people by surprise because they are so used to a pre-printed ballot
- Would like larger font on tapes
- I like that the system now requires you to review your ballot. It would be challenging if a municipality only had one ExpressVote Tabulator as the only tabulator, as absentee ballots would not be able to be counted by the system.
- I am impressed w/ functionality. I don’t know how much I like the cards. That is a personal preference
- The ExpressVote ballot marking device/tabulator is very clear for voters using the device to know where they are at in the process in terms of whether or not their vote has been tabulated.

**2. How would you rate the accessible features?**

Very Poor	Poor	Fair	Good	Excellent
			1	4

- I didn’t use the audio feature.
- When using the tactile keypad or screen w/headphones for a write-in, the letter “O” is not clear. Also when reviewing your selections after the ballot has been printed, the system doesn’t allow you to verify your write-in option/selection. Otherwise, the other accessible features seem generally acceptable.
- I think that the accessible features are good. I like that you are at any time in the voting process able to start using the key pad.
- The ExpressVote accessibility features are very user-friendly.

**Appendix G (continued)**

**3. Rate your overall impression of the system.**

Very Poor	Poor	Fair	Good	Excellent
			4	2

- I'm not sure if I would want to have multiple pieces of equipment if I was a large municipality. I do like the high-speed counting pieces of equipment.
- Great for small municipalities. Ballots must match size (length) of ballots used in DS200
- The only concern would be if this is the only tabulator in the polling location. It would take a long time for all voters to vote.
- Appears to have ease for election officials and voters to use (and clear explanations to prevent misuse). If no anomalies or deficiencies in testing, I would support recommendation to approve certification.

**Appendix H: EAC Certificate of Conformance and Scope of Certification**

	<p>United States Election Assistance Commission</p>	
<p>Certificate of Conformance</p>		
<p><b>ES&amp;S EVS 6.0.4.3</b></p>		
<p>The voting system identified on this certificate has been evaluated at an accredited voting system testing laboratory for conformance to the <i>Voluntary Voting System Guidelines Version 1.0 (VVSG 1.0)</i>. Components evaluated for this certification are detailed in the attached Scope of Certification document. This certificate applies only to the specific version and release of the product in its evaluated configuration. The evaluation has been verified by the EAC in accordance with the provisions of the <i>EAC Voting System Testing and Certification Program Manual</i> and the conclusions of the testing laboratory in the test report are consistent with the evidence adduced. This certificate is not an endorsement of the product by any agency of the U.S. Government and no warranty of the product is either expressed or implied.</p>		
<p>Product Name: <u>EVS</u></p>		
<p>Model or Version: <u>6.0.4.3</u></p>		
<p>Name of VSTL: <u>Pro V&amp;V</u></p>	<p><i>Mona Harrington</i> Executive Director</p>	
<p>EAC Certification Number: <u>ESSEVS6043</u></p>		
<p>Date Issued: <u>March 11, 2020</u></p>	<p>Scope of Certification Attached</p>	

Manufacturer: *Election Systems & Software*  
System Name: *EVS 6.0.4.3*  
Certificate: *ESSEVS6043*

Laboratory: *Pro V&V*  
Standard: *VVSG 1.0 (2005)*  
Date: *March 11, 2020*



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## Scope of Certification

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This document describes the scope of the validation and certification of the system defined above. Any use, configuration changes, revision changes, additions or subtractions from the described system are not included in this evaluation.

### Significance of EAC Certification

An EAC certification is an official recognition that a voting system (in a specific configuration or configurations) has been tested to and has met an identified set of Federal voting system standards. An EAC certification is not:

- An endorsement of a Manufacturer, voting system, or any of the system's components.
- A Federal warranty of the voting system or any of its components.
- A determination that a voting system, when fielded, will be operated in a manner that meets all HAVA requirements.
- A substitute for State or local certification and testing.
- A determination that the system is ready for use in an election.
- A determination that any particular component of a certified system is itself certified for use outside the certified configuration.

### Representation of EAC Certification

Manufacturers may not represent or imply that a voting system is certified unless it has received a Certificate of Conformance for that system. Statements regarding EAC certification in brochures, on Web sites, on displays, and in advertising/sales literature must be made solely in reference to specific systems. Any action by a Manufacturer to suggest EAC endorsement of its product or organization is strictly prohibited and may result in a Manufacturer's suspension or other action pursuant to Federal civil and criminal law.

### System Overview

The ES&S EVS 6.0.4.3 voting system is a modification of the ES&S EVS 6.0.4.0 voting system, initially certified on November 22, 2019, which contains changes in hardware, software / firmware, as well as operating system updates. The ES&S EVS 6.0.4.3 voting system is composed of software applications, central count location devices and polling place devices with accompanying firmware, and COTS hardware and software.

#### Electionware®

Electionware election management software is an end-to-end election management software application that provides election definition creation, ballot formation, equipment

configuration, result consolidation, adjudication and report creation. Electionware is composed of five software groups: Define, Design, Deliver, Results and Manage.

#### **ExpressVote® XL**

ExpressVote XL is a hybrid paper-based polling place voting device that provides a full-face touch screen vote capture that incorporates the printing of the voter's selections as a cast vote record, and tabulation scanning into a single unit.

#### **ExpressTouch®**

ExpressTouch Electronic Universal Voting System (ExpressTouch) is a DRE voting system which supports electronic vote capture for all individuals at the polling place.

#### **ExpressVote® Hardware 1.0**

ExpressVote Universal Voting System Hardware 1.0 (ExpressVote HW1.0) is a hybrid paper-based polling place voting device that provides touch screen vote capture that incorporates the printing of the voter's selections as a cast vote record, to be scanned for tabulation in any one of the ES&S precinct or central scanners.

#### **ExpressVote® Hardware 2.1**

ExpressVote Universal Voting System Hardware 2.1 (ExpressVote HW2.1) is a hybrid paper-based polling place voting device that provides touch screen vote capture that incorporates the printing of the voter's selections as a cast vote record, and tabulation scanning into a single unit. ExpressVote HW2.1 is capable of operating in either marker or tabulator mode, depending on the configurable mode that is selected in Electionware.

There are two separate versions of the ExpressVote hardware version 2.1: 2.1.0.0 and version 2.1.2.0 (6.4 & 6.8). Please note that all future references to ExpressVote HW 2.1 as used throughout the document refers to both hardware versions.

#### **DS200®**

DS200 is a polling place paper-based voting system, specifically a digital scanner and tabulator that simultaneously scans the front and back of a paper ballot and/or vote summary card in any of four orientations for conversion of voter selection marks to electronic Cast Vote Records (CVR).

#### **DS450®**

DS450 is a central scanner and tabulator that simultaneously scans the front and back of a paper ballot and/or vote summary card in any of four orientations for conversion of voter selection marks to electronic Cast Vote Records (CVR).

#### **DS850®**

DS850 is a central scanner and tabulator that simultaneously scans the front and back of a paper ballot and/or vote summary card in any of four orientations for conversion of voter selection marks to electronic Cast Vote Records (CVR).

#### Event Log Service (ELS)

ELS monitors and logs users' interactions with the Election Management System. Events that happen when a connection to the database is not available are logged to the Windows Operating System log through the ELS.

#### Removable Media Service (RMS)

RMS is a utility that runs in the background of the Windows operating system. RMS reads specific information from any attached USB devices so that ES&S applications such as Electionware can use that information for media validation purposes.

### Configurations

Within the scope of the ES&S EVS 6.0.4.3 voting system, three unique configurations are supported, in order to accommodate limitations of components.

#### Configuration A

ES&S EVS 6.0.4.3: Test Configuration A is comprised of the entire suite of voting system products.

- Electionware
- ExpressVote Marker (HW 1.0)
- ExpressVote Marker/Tabulator (HW 2.1)
- ExpressVote XL
- ExpressTouch
- DS200
- DS450
- DS850

#### Configuration B

- Electionware
- ExpressVote Marker (HW 1.0)
- ExpressVote Marker/Tabulator (HW 2.1)
- DS200
- DS450
- DS850

#### Configuration C

- Electionware
- ExpressVote XL

### Mark Definition

ES&S' declared level mark recognition for the DS200, DS450 and DS850 is a mark across the oval that is 0.02" long x 0.03" wide at any direction.

### Tested Marking Devices

Bic Grip Roller Pen

### Language Capability

EVS 6.0.4.3 supports English, Spanish, Chinese (Cantonese), Korean, Japanese, Hindi, Bengali, Vietnamese, Tagalog, Creole, Russian, and French. In addition, Configuration C supports Punjabi and Gujarati.

### Proprietary Components Included

This section provides information describing the components and revision level of the primary components included in this Certification.

System Component	Software or Firmware Version	Hardware Version	Model	Comments
Electionware	5.0.4.1			
ES&S Event Log Service	1.6.0.0			
Removable Media Service	1.5.1.0			
ExpressVote HW 1.0	1.5.2.0	1.0		Paper-based vote capture and selection device
ExpressVote Previewer (1.0)	1.5.2.0			
ExpressVote HW 2.1	2.4.5.2	2.1.0.0 2.1.2.0		Added by de minimis change 11/22/2019
ExpressVote Previewer (2.1)	2.4.5.2			
DS200	2.17.4.0	1.2, 1.3		Precinct Count Tabulator
DS450	3.1.1.0	1.0		Central Count Scanner and Tabulator
DS850	3.1.1.0	1.0		Central Count Scanner and Tabulator
ExpressVote XL	1.0.3.0	1.0		Hybrid full-faced paper-based vote capture and selection device and precinct count tabulator
ExpressTouch	1.0.3.0	1.0		DRE
Delkin USB Flash Drive		USB Flash Drive	Bitlocker 32.2MB	BitLocker USB Flash Drive
ExpressVote Rolling Kiosk		1.0	98-00049	Portable Voting Booth
Voting Booth		N/A	98-00051	Stationary Voting Booth
Quad Express Cart		N/A	41404	Portable Voting Booth
MXB ExpressVote Voting Booth		N/A	95000	Sitting and Standing Voting Booth

System Component	Software or Firmware Version	Hardware Version	Model	Comments
Voting Booth Workstation		N/A	87035	Stationary Voting Booth
ExpressVote Single Table		N/A	87033	Voting Table for One Unit
ExpressVote Double Table		N/A	87032	Voting Table for Two Units
ADA Table		N/A	87031	Voting Table for One Unit
DS200 Ballot Box		1.0, 1.1	98-00009	Collapsible Ballot Box
DS200 Ballot Box		1.2, 1.3, 1.4, 1.5	57521	Plastic ballot box
DS200 Tote Bin		1.0	00074	Tote Bin Ballot Box
DS200 Ballot Trolley			212516	Rolling bag for transporting scanned ballots
DS200 Ballot Tote Bag			60	Bag for transporting scanned ballots
DS450 Cart		N/A	3002	
DS850 Cart		N/A	6823	
Universal Voting Console		2.0	98-00077	Detachable ADA support peripheral
Tabletop Easel		N/A	14040	
ExpressTouch Voting Booth		N/A	98-00081	Stationary Voting Booth
SecureSetup	2.1.0.3			Proprietary Hardening Script

### COTS Software

Manufacturer	Application	Version
Microsoft Corporation	Server 2008	R2 w/ SP1 (64-bit)
Microsoft Corporation	Windows 7 Professional	SP1 (64-bit)
Microsoft Corporation	Windows 7 Enterprise	SP1 (64-bit)
Microsoft Corporation	WSUS Microsoft Windows Offline Update Utility	11.8.4
Microsoft Corporation	January 2020 Security Rollup -Windows 7 Professional -Windows 7 Enterprise -Windows Server 2008	windows6.1-kb4534314-x64_634139bc9fc7d079c56fb845601a80ce3ef102d8.msu windows6.1-kb4536952-x64_87f81056110003107fa0e0ec35a3b600ef300a14.msu
Symantec	Endpoint Protection	14.2.0_MP1 (64-bit)
Symantec	Symantec Endpoint Protection Intelligent Updater (File-Based Protection)	20191126-002-core15sdsV5i64.exe
Symantec	Symantec Endpoint Protection Intelligent Updater (Network-Based Protection)	20191125-061-IPS_IU_SEP_14RU1.exe
Symantec	Symantec Endpoint Protection Intelligent Updater (Behavior-Based Protection)	20191118-001-SONAR_IU_SEP.exe
Gigabyte	WindowsImageTool	B17.1116.01
Cerberus	CerberusFTP Server – Enterprise	11.0.0 (64-bit)
Adobe	Acrobat	XI

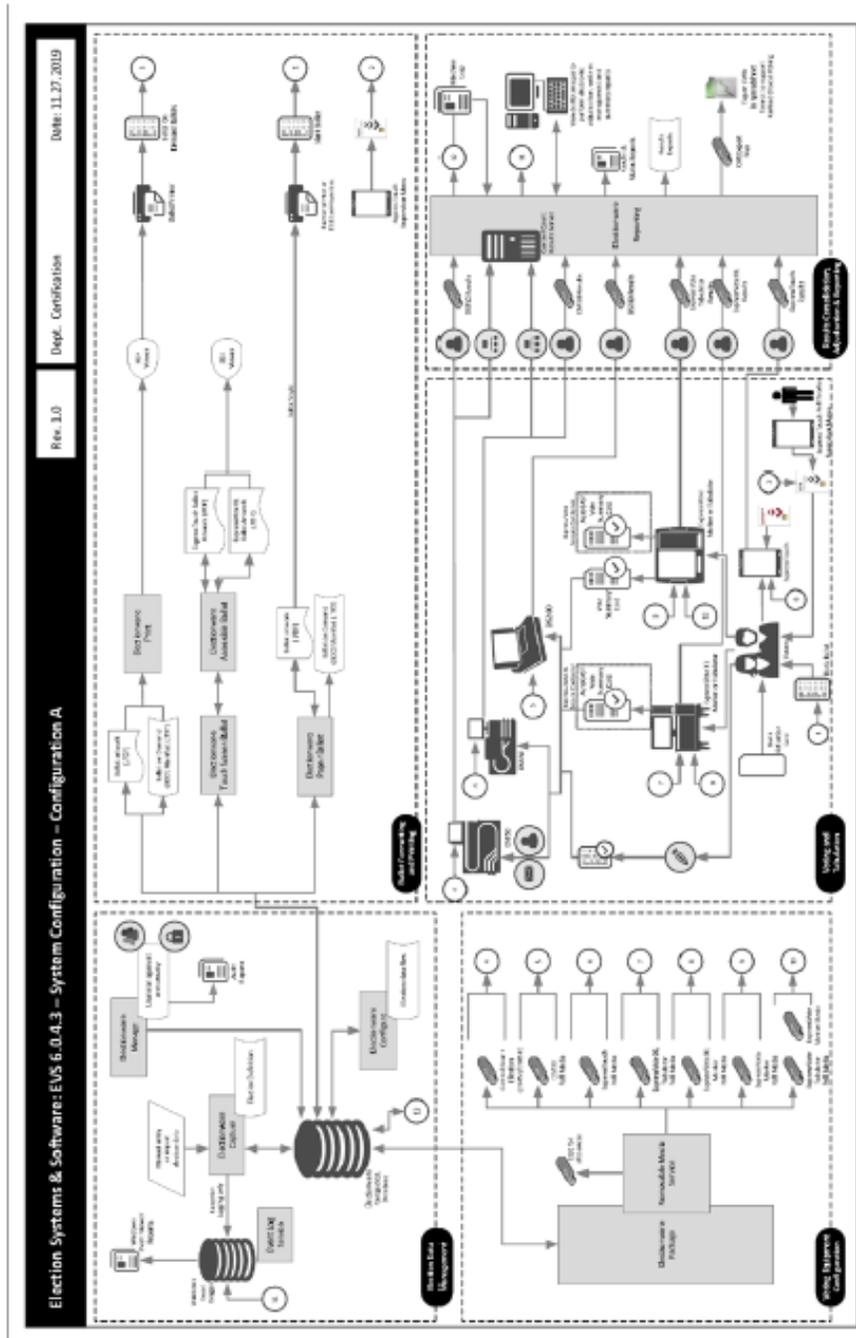
Manufacturer	Application	Version
Microsoft Corporation	Visual C++ Redistributable	en_visual_cpp_2015_redistributable_x86_8487157.exe (32-bit)
RSA Security	RSA BSAFE Crypto-C ME for Windows 32-bit	4.1
OpenSSL	OpenSSL	2.0.12
OpenSSL	OpenSSL	2.0.16
OpenSSL	OpenSSL	1.02d
OpenSSL	OpenSSL	1.02h
OpenSSL	OpenSSL	1.02k

### COTS Hardware

Manufacturer	Hardware	Model/Version
Dell	EMS Server	PowerEdge T430, T630
Dell	EMS Client or Standalone Workstation	Latitude 5580, E6430 OptiPlex 5040, 5050, 7020
Dell	Trusted Platform Module (TPM) Chip version 1.2	R9X21
Innodisk	USB EDC H2SE (1GB) for ExpressVote 1.0	DEEUH1-01GI72AC1SB
Innodisk	USB EDC H2SE (16GB) for ExpressVote 2.1	DEEUH1-16GI72AC1SB
Delkin	USB Flash Drive (512MB, 1GB, 2GB, 4GB, 8GB)	N/A
Delkin	USB Embedded 2.0 Module Flash Drive	MY16TNK7A-RA042-D/ 16 GB
Delkin	Compact Flash Memory Card (1GB)	CE0GTFHHK-FD038-D
Delkin	Compact Flash Memory Card Reader/Writer	6381
Delkin	CFAST Card (2GB, 4GB)	N/A
Delkin	CFAST Card Reader/Writer	DDREDER48
Lexar	CFAST Card Reader/Writer	LRWCRI1BNA
CardLogix	Smart Card	CLXSU128kC7/ AED C7
SCM Microsystems	Smart Card Writer	SCR3310
Avid	Headphones	86002
Zebra Technologies	QR code scanner (Integrated)	DS457-SR20009, DS457-SR20004ZZWW
Symbol	QR Code scanner (External)	DS9208
Dell	DS450 Report Printer	S2810dn
OKI	DS450 and DS850 Report Printer	B431DN, B431D, B432DN
OKI	DS450 and DS850 Audit Printer	Microline 420
APC	DS450 UPS	Back-UPS Pro 1500, Smart-UPS 1500
APC	DS850 UPS	Back-UPS RS 1500, Pro 1500
Tripp Lite	DS450 Surge Protector	Spike Cube
Seiko Instruments	Thermal Printer	LTPD-347B
NCR/Nashua	Paper Roll	2320
Fujitsu	Thermal Printer	FTP-62GDSL001, FTP-63GMCL153

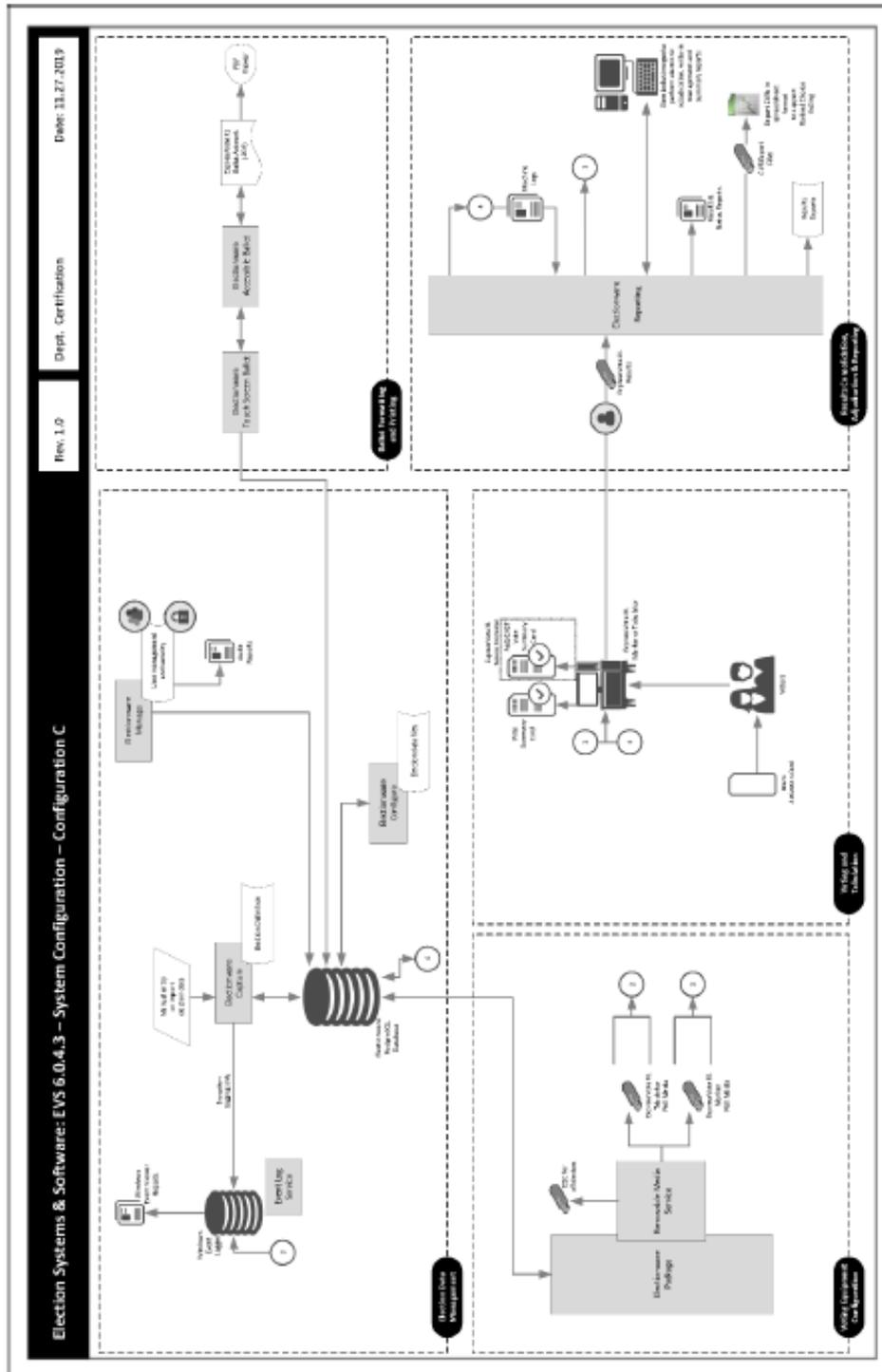
## Configuration Diagrams

### Configuration A





**Configuration C**



### System Limitations

This table depicts the limits the system has been tested and certified to meet.

System Characteristic	Boundary or Limitation	Limiting Component
Max. precincts allowed in an election	9,900	Electionware
Max. ballot styles in an election	15,000	Electionware
Max. candidates allowed per election	10,000	Electionware
Max. contests allowed in an election	10,000	Electionware
Max. number of parties allowed	General election: 75 Primary election: 30	Electionware
Max. District Types/Groups	25	Electionware
Max. districts of a given type	250	
Max. Contests allowed per ballot style	500	
Max. Reporting Groups in an election	14	Electionware
Max. candidates allowed per contest	230	Electionware
Max. "Vote For" per contest	230	Electionware
Max. ballots per batch	1,500	DS45/DS850

### Component Limitations:

#### Electionware

1. Electionware software field limits were calculated based on an average character width for ballot and report elements. Some uses and conditions, such as magnified ballot views or combining elements on printed media or ballot displays, may result in field limits (and associated warnings) lower than those listed. Check printed media and displays before finalizing the election.
2. The Electionware Export Ballot Images function is limited to 250 districts per export.
3. Electionware supports the language special characters listed in the System Overview, Attachment 1. Language special characters other than those listed may not appear properly when viewed on equipment displays or reports.
4. The Straight Party feature must not be used in conjunction with the Single or Multiple Target Cross Endorsement features.

5. The 'MasterFile.txt' and the 'Votes File.txt' do not support results for elections that contain multiple sheets or multiple ExpressVote cards per voter. These files can be produced using the Electionware > Reporting > Tools > Export Results menu option. This menu option is available when the Rules Profile is set to "Illinois".

#### **Paper Ballot Limitations**

1. The paper ballot code channel, which is the series of black boxes that appear between the timing track and ballot contents, limits the number of available ballot variations depending on how a jurisdiction uses this code to differentiate ballots. The code can be used to differentiate ballots using three different fields defined as: Sequence (available codes 1-16,300), Type (available codes 1-30) or Split (available codes 1-18).
2. If Sequence is used as a ballot style ID, it must be unique election-wide and the Split code will always be 1. In this case the practical style limit would be 16,300.
3. The ExpressVote activation card has a limited ballot ID based on the three different fields defined as: Sequence (available codes 1-16,300), Type (available codes 1-30) or Split (available codes 1-18).
4. Grid Portrait and Grid Landscape ballot types are New York specific and not for general use.

#### **ExpressVote**

1. ExpressVote capacities exceed all documented limitations for the ES&S election management, vote tabulation and reporting system. For this reason, Election Management System and ballot tabulator limitations define the boundaries and capabilities of the ExpressVote system as the maximum capacities of the ES&S ExpressVote are never approached during testing.

#### **ExpressVote XL**

1. ExpressVote XL capacities exceed all documented limitations for the ES&S election management, vote tabulation and reporting system. For this reason, Election Management System and ballot tabulator limitations define the boundaries and capabilities of the ExpressVote XL system as the maximum capacities of the ES&S ExpressVote XL are never approached during testing.
2. ExpressVote XL does not offer open primary support based on the ES&S definition of Open Primary, which is the ability to select a party and vote based on that party.
3. ExpressVote XL does not support Massachusetts Group Vote.
4. ExpressVote XL does not support Universal Primary Contest.
5. ExpressVote XL does not support Multiple Target Cross Endorsement.
6. ExpressVote XL does not support Reviewer or Judges Initials boxes.
7. ExpressVote XL does not support multi-card ballots.
8. In a General election, one ExpressVote XL screen can hold 32 party columns if set up as columns or 16 party rows if set up as rows.
9. ExpressVote XL does not support Team Write-In.

#### **ExpressTouch**

1. ExpressTouch capacities exceed all documented limitations for the ES&S election management, vote tabulation and reporting system. For this reason, Election Management System limitations define the boundaries and capabilities of the ExpressTouch system as the maximum capacities of the ES&S ExpressTouch are never approached during testing.

2. ExpressTouch does not offer open primary support, which is the ability to select a party and vote based on that party.
3. ExpressTouch does not support Massachusetts Group Vote.
4. ExpressTouch does not support Universal Primary Contest.
5. ExpressTouch does not support Multiple Target Cross Endorsement.
6. ExpressTouch does not support Team Write-In.

**DS200**

1. The ES&S DS200 configured for an early vote station does not support precinct level results reporting. An election summary report of tabulated vote totals is supported.
2. The DS200 storage limitation for write-in ballot images is 3,600 images. Each ballot image includes a single ballot face, or one side of one page.
3. Write-in image review requires a minimum 1GB of onboard RAM.
4. To successfully use the Write-In Report, ballots must span at least three vertical columns. If the column is greater than 1/3 of the ballot width (two columns or less), the write-in image will be too wide to print on the tabulator report tape.

**Functionality**

**VVSG 1.0 Supported Functionality Declaration**

Feature/Characteristic	Yes/No	Comment
Voter Verified Paper Audit Trails		
VVPAT	No	
Accessibility		
Forward Approach	Yes	
Parallel (Side) Approach	Yes	
Closed Primary		
Primary: Closed	Yes	
Open Primary		
Primary: Open Standard (provide definition of how supported)	Yes	Configuration B only
Primary: Open Blanket (provide definition of how supported)	No	
Partisan & Non-Partisan:		
Partisan & Non-Partisan: Vote for 1 of N race	Yes	
Partisan & Non-Partisan: Multi-member ("vote for N of M") board races	Yes	
Partisan & Non-Partisan: "vote for 1" race with a single candidate and write-in voting	Yes	
Partisan & Non-Partisan "vote for 1" race with no declared candidates and write-in voting	Yes	
Write-In Voting:		
Write-in Voting: System default is a voting position identified for write-ins.	Yes	
Write-in Voting: Without selecting a write in position.	Yes	
Write-in: With No Declared Candidates	Yes	
Write-in: Identification of write-ins for resolution at central count	Yes	
Primary Presidential Delegation Nominations & Slates:		
Primary Presidential Delegation Nominations: Displayed delegate slates for each presidential party	No	
Slate & Group Voting: one selection votes the slate.	No	

Feature/Characteristic	Yes/No	Comment
<b>Ballot Rotation:</b>		
Rotation of Names within an Office; define all supported rotation methods for location on the ballot and votetabulation/reporting	Yes	
<b>Straight Party Voting:</b>		
Straight Party: A single selection for partisan races in a general election	Yes	
Straight Party: Vote for each candidate individually	Yes	
Straight Party: Modify straight party selections with crossover votes	Yes	
Straight Party: A race without a candidate for one party	Yes	
Straight Party: N of M race (where "N">1)	Yes	
Straight Party: Excludes a partisan contest from the straight party selection	Yes	
<b>Cross-Party Endorsement:</b>		
Cross party endorsements, multiple parties endorse one candidate.	Yes	
<b>Split Precincts:</b>		
Split Precincts: Multiple ballot styles	Yes	
Split Precincts: P & M system support splits with correct contests and ballot identification of each split	Yes	
Split Precincts: DRE matches voter to all applicable races.	Yes	
Split Precincts: Reporting of voter counts (# of voters) to the precinct split level; Reporting of vote totals is to the precinct level	Yes	It is possible to list the number of voters.
<b>Vote N of M:</b>		
Vote for N of M: Counts each selected candidate, if the maximum is not exceeded.	Yes	
Vote for N of M: Invalidates all candidates in an overvote (paper)	Yes	
<b>Recall Issues, with options:</b>		
Recall Issues with Options: Simple Yes/No with separate race/election. (Vote Yes or No Question)	No	
Recall Issues with Options: Retain is the first option, Replacement candidate for the second or more options (Vote 1 of M)	No	
Recall Issues with Options: Two contests with access to a second contest conditional upon a specific vote in contest one. (Must vote Yes to vote in 2 <sup>nd</sup> contest.)	No	
Recall Issues with Options: Two contests with access to a second contest conditional upon any vote in contest one. (Must vote Yes to vote in 2 <sup>nd</sup> contest.)	No	
<b>Cumulative Voting</b>		
Cumulative Voting: Voters are permitted to cast, as many votes as there are seats to be filled for one or more candidates. Voters are not limited to giving only one vote to a candidate. Instead, they can put multiple votes on one or more candidate.	No	

Feature/Characteristic	Yes/No	Comment
<b>Ranked Order Voting</b>		
Ranked Order Voting: Voters can write in a ranked vote.	Yes	Ballots can be formatted for Ranked Order Voting and the system supports export of CVR data for processing of Ranked Order Voting Rounds
Ranked Order Voting: A ballot stops being counting when all ranked choices have been eliminated	Yes	Ballots can be formatted for Ranked Order Voting and the system supports export of CVR data for processing of Ranked Order Voting Rounds
Ranked Order Voting: A ballot with a skipped rank counts the vote for the next rank.	Yes	Ballots can be formatted for Ranked Order Voting and the system supports export of CVR data for processing of Ranked Order Voting Rounds
Ranked Order Voting: Voters rank candidates in a contest in order of choice. A candidate receiving a majority of the first choice votes wins. If no candidate receives a majority of first choice votes, the last place candidate is deleted, each ballot cast for the deleted candidate counts for the second choice candidate listed on the ballot. The process of eliminating the last place candidate and recounting the ballots continues until one candidate receives a majority of the vote	No	
Ranked Order Voting: A ballot with two choices ranked the same, stops being counted at the point of two similarly ranked choices.	Yes	Ballots can be formatted for Ranked Order Voting and the system supports export of CVR data for processing of Ranked Order Voting Rounds
Ranked Order Voting: The total number of votes for two or more candidates with the least votes is less than the votes of the candidate with the next highest number of votes, the candidates with the least votes are eliminated simultaneously and their votes transferred to the next-ranked continuing candidate.	No	
<b>Provisional or Challenged Ballots</b>		
Provisional/Challenged Ballots: A voted provisional ballots is identified but not included in the tabulation but can be added in the central count.	Yes	
Provisional/Challenged Ballots: A voted provisional ballots is included in the tabulation, but is identified and can be subtracted in the central count	Yes	

Feature/Characteristic	Yes/No	Comment
Provisional/Challenged Ballots: Provisional ballots maintain the secrecy of the ballot.	Yes	
Overvotes (must support for specific type of voting system)		
Overvotes: P & M: Overvote invalidates the vote. Define how overvotes are counted.	Yes	
Overvotes: DRE: Prevented from or requires correction of overvoting.	Yes	
Overvotes: If a system does not prevent overvotes, it must count them. Define how overvotes are counted.	Yes	
Overvotes: DRE systems that provide a method to data enter absentee votes must account for overvotes.	Yes	
Undervotes		
Undervotes: System counts undervotes cast for accounting purposes	Yes	
Blank Ballots		
Totally Blank Ballots: Any blank ballot alert is tested.	Yes	
Totally Blank Ballots: If blank ballots are not immediately processed, there must be a provision to recognize and accept them	Yes	
Totally Blank Ballots: If operators can access a blank ballot, there must be a provision for resolution.	Yes	
Networking		
Wide Area Network – Use of Modems	No	
Wide Area Network – Use of Wireless	No	
Local Area Network – Use of TCP/IP	No	
Local Area Network – Use of Infrared	No	
Local Area Network – Use of Wireless	No	
FIPS 140-2 validated cryptographic module	Yes	
Used as (if applicable):		
Precinct counting device	Yes	DS200, ExpressTouch, ExpressVote HW2.1, ExpressVote XL
Central counting device	Yes	DS450 and/or DS850

### Baseline Certification Engineering Change Order's (ECO)

This table depicts the ECO's certified with the voting system:

Change ID	Date	Component	Description	Inclusion
ECO 1023	6/18/19	ExpressVote XL	Update Embedded Controller	DeMinimis
ECO 1029	9/24/19	ExpressVote	Upgrade to 8GB Inno on EV 1.0	DeMinimis Optional
ECO 1034	10/28/19	ExpressVote Voting Booth	Enhanced Voting Booth	DeMinimis Optional
ECO 1035	02/14/20	DS200	Update FPGA Code	DeMinimis Optional
ECO 1041	10/28/19	ExpressVote XL	Add Brace to Wheel Struts	DeMinimis Optional
ECO 1042	9/13/19	DS200	DS200 Hdw. Rev 1.3.11 with Legacy Releases	DeMinimis Optional
ECO 1043	10/30/19	ExpressVote	Add 16G Inno to EV 1.0	DeMinimis Optional
ECO 1044	9/13/19	DS200 Ballot Tote	Add Ballot Tote Bag	DeMinimis Optional
ECO 1045	12/11/19	ExpressVote	Add Spanish No Selection to Card	DeMinimis Optional
ECO 1047	2/28/20	ExpressVote XL	ExpressVote XL Aesthetic Enhancements	DeMinimis Optional
ECO 1054	02/14/20	ExpressVote/ExpressVote XL	Update Ballot Bin	DeMinimis Optional
ECO 1055	12/19/19	DS200 Ballot Bin Tote	Add Ballot Tote Bag	DeMinimis Optional
ECO 2610	5/3/19	ExpressVote	Lengthen Detachable Key Pad Cord	DeMinimis Optional

**Appendix I: Wisconsin Statutory Compliance**

Wis. Stat. §5.91 provides the following requirements voting systems must meet to be approved for use in Wisconsin. Please see the text below of each requirement and staff’s analysis of the EVS 6.0.4.3 and EVS ’s compliance with the standards.

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

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

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

<b>§ 5.91 (5)</b>
The voting system accommodate all referenda to be submitted to electors in the form provided by law.
<b>Staff Analysis</b>
The ES&S voting system meets this requirement. Referenda included as part of testing were accurately tabulated by all EVS 6.0.4.3 components.

<b>§ 5.91 (6)</b>
The voting system permits an elector in a primary election to vote for the candidates of the recognized political party of his or her choice, and the system rejects any ballot on which votes are cast in the primary of more than one recognized political party, except where a party designation is made or where an elector casts write-in votes for candidates of more than one party on a ballot that is distributed to the elector.
<b>Staff Analysis</b>

The ES&S voting system can be configured to always reject crossover votes without providing an opportunity for the voter to override. The system can also be programmed to provide a warning screen to the voter that identifies any crossover voted contest. Either one of these programming options allows this system to meet this requirement. The warning screen provides options allowing the voter to choose to have their ballot returned to them or they can cast the ballot without correcting the crossover vote. The use of the override function was previously prohibited by statute, but Wis. Stats. §5.85(2)(b) expressly allows for the optional use of the override function in event of an overvote and the WEC has applied the same standard to the use of the override function in the event of crossover vote.

**§ 5.91 (7)**

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

**Staff Analysis**

The ES&S voting system can be configured to always reject overvotes without providing an opportunity for the voter to override. The system can also be programmed to provide a warning screen to the voter that identifies any overvoted contest. Either one of these programming options allows this system to meet this requirement. The warning screen provides options where the voter can choose to have their ballot returned to them or they can cast the ballot without correcting the overvote. The use of the override function was previously prohibited by statute, but Wis. Stats. §5.85(2)(b) expressly allows for the optional use of the override function in event of an overvote.

**§ 5.91 (8)**

The voting system permits an elector at a General Election by one action to vote for the candidates of a party for President and Vice President or for Governor and Lieutenant Governor.

**Staff Analysis**

The ES&S voting system meets this requirement. Traditional paper ballots utilized by the DS200, as well as the ExpressVote candidate screens, present the two candidates in these contests as a single choice.

**§ 5.91 (9)**

The voting system prevents an elector from voting for the same person more than once, except for excess write-in votes upon a ballot that is distributed to the elector.

Staff Analysis
The ES&S voting system meets this requirement.

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

Staff Analysis
The ES&S voting system meets this requirement.

<b>§ 5.91 (11)</b>
The voting system records and counts accurately every vote and maintains a cumulative tally of the total votes cast that is retrievable in the event of a power outage, evacuation or malfunction so that the records of votes cast prior to the time that the problem occurs is preserved.

Staff Analysis
The ES&S voting system meets this requirement.

<b>§ 5.91 (12)</b>
The voting system minimizes the possibility of disenfranchisement of electors as the result of failure to understand the method of operation or utilization or malfunction of the ballot, voting system, or other related equipment or materials.

Staff Analysis
The ES&S voting system can be programmed to provide warning screens to the voter that identify any problem with their ballot. The warning screens provide an explanation of the problem and allow the voter to have their ballot returned to them for review and to correct the error. The systems can be configured to always reject overvotes and crossover votes without providing an opportunity for the voter to override.

<b>§ 5.91 (13)</b>
The automatic tabulating equipment authorized for use in connection with the system includes a mechanism which makes the operator aware of whether the equipment is malfunctioning in such a way that an inaccurate tabulation of the votes could be obtained.

Staff Analysis
The ES&S voting system meets this requirement.

<b>§ 5.91 (14)</b>
The voting system does not use any mechanism by which a ballot is punched or punctured to record the votes cast by an elector.

Staff Analysis
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The ES&S voting system do not use any such mechanism to record votes.

**§ 5.91 (15)**

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

**Staff Analysis**

The ES&S voting system meets this requirement through the use of hand-marked paper ballots and accessible voting equipment that provides both an electronic ballot review screen and a marked paper ballot that can be reviewed before tabulation. With the addition of the physical review requirement (forced ballot return) in the ExpressVote Tabulator, staff now deems this component to meet statutory requirements.

**§ 5.91 (16)**

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

**Staff Analysis**

The ES&S voting system meets this requirement. Traditional paper ballots can be changed and/or spoiled at any point up to being placed in the tabulator. ExpressVote ballots are printed for the voter to review prior to casting in a tabulator and can be spoiled at will by the voter.

**§ 5.91 (17)**

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

**Staff Analysis**

The ES&S voting system can be programmed to provide warning screens to the voter that identifies any problem with their ballot. The warning screens provide an explanation of the problem and allow the voter to have their ballot returned to them to review and correct the error. The systems can be configured to always reject overvotes and crossover votes without providing an opportunity for the voter to override.

**§ 5.91 (18)**

If the voting system consists of an electronic voting machine, the voting system generates a complete, permanent paper record showing all votes cast by the elector, that is verifiable by the elector, by either visual or nonvisual means as appropriate,

before the elector leaves the voting area, and that enables a manual count or recount of each vote cast by the elector.
<b>Staff Analysis</b>
Since the ES&S voting system presented for approval require paper ballots to be used to cast votes, this requirement is satisfied.

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

<b>HAVA § 301(a)(1)(A)</b>
The voting system shall: permit the voter to verify (in a private an independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and  (iii) if the voter selects votes for more than one candidate for a single office – notify the voter than the voter has selected more than one candidate for a single office on the ballot; notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and, provide the voter with the opportunity to correct the ballot before the ballot is cast and counted
<b>HAVA § 301(a)(1)(C)</b>
The voting system shall ensure than any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.
<b>HAVA § 301(a)(3)(A)</b>
The voting system shall— (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters
<b>Staff Analysis</b>
The ES&S voting system components meet these requirements through the inclusion of options for ADA-compliant voting machines municipalities can choose to employ.



# Wisconsin Elections Commission

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

Prepared and Presented by:

Robert Williams  
Elections Specialist

Cody Davies  
Elections Specialist

**SUBJECT:** Updated Telecommunication Testing Protocols

## Background

At its June 2, 2021 meeting, the Wisconsin Elections Commission (WEC) tasked agency staff with the creation and implementation of updated telecommunication protocols for use in the testing and certification of voting systems capable of transmitting unofficial election results. The process of updating these protocols included in-depth review of all extant iterations, both in use and forthcoming, of the federal Voluntary Voting System Guidelines (VVSG) and consultation with the certification entities responsible for testing and certifying similar voting systems in other states, e.g., Rhode Island and Michigan.

The current testing protocols, attached as Appendix A, were originally approved by the Government Accountability Board at its May 21, 2013 meeting. Upon implementation, these protocols and standards were subsequently used for all certification testing for systems that employ modems to transmit unofficial results and presently remain in use. Although such voting systems that contain a modeming component do not meet the 2005 VVSG and are not certified by the U.S. Elections Assistance Commission (EAC), the protocols are Wisconsin-specific and apply to voting systems in which the underlying voting system did receive EAC certification, e.g., ES&S EVS 6040 and 6050.

Under the current protocol, staff conduct functional modem testing in three municipalities in each of three counties in the course of a certification campaign for any voting system. Per these standards, compliance with the current VVSG may otherwise 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). Accordingly, staff testing includes an in-depth review of the report furnished by the VSTL, which will test modeming components regardless of their applicability to the VVSG iteration currently in use.

*Wisconsin Elections Commissioners*

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

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Administrator  
Meagan Wolfe

## **Federal Testing Standard**

The Help America Vote Act of 2002 (HAVA) prescribed the EAC with carrying out the testing, certification, decertification, and recertification of voting system hardware and software as well the adoption of VVSG. The original iteration of these guidelines, VVSG 1.0, was adopted by the EAC on December 13, 2005, with the next iteration, VVSG 1.1, being approved in March of 2015.

The following year, planning began on the development of and implementation plan for the most recent version of these guidelines, VVSG 2.0. VVSG 2.0 was developed in anticipation of the next generation of voting systems and, following a lengthy review process, these guidelines were formally adopted by the EAC on February 10, 2021.

While VVSG 2.0 constitutes an overhaul of the present guidelines, full implementation of these new testing standards is not projected to occur until roughly 2024. As such, all voting systems currently in use are certified to the standards stipulated in VVSG 1.0 and, as there is no federal obligation for vendors to meet the standards of VVSG 1.1, vendors continue to test and certify voting systems to the VVSG 1.0 standards. Vendors are able to use the VVSG 1.0 certification standards as these updated systems are considered by the EAC to be updates to previously certified systems and not entirely new systems that would have to meet VVSG 1.1 standards.

The next step in the implementation timeline for VVSG 2.0, which is ongoing, is the development of the National Voluntary Laboratory Accreditation Program (NVLAP) by the National Institute of Standards and Technology (NIST). This program is the mechanism by which VSTLs will receive accreditation to test to the standards stipulated in the VVSG 2.0. It is unclear when voting equipment vendors will have system versions that meet VVSG 2.0 standards ready for testing and certification in Wisconsin. A review of VVSG 2.0 standards indicate voting system versions that contain telecommunications components similar to those found in currently approved systems in Wisconsin from Dominion Voting Systems and Elections Systems and Software will not meet the federal certification standards. It is expected that any certification programs for those system versions in Wisconsin must include a telecommunications testing protocol that was not reliant on federal certification.

## **Summary of Proposed Changes to WEC Testing Protocols**

At the directive of the Commission, staff has drafted updated telecommunication testing protocols for the testing and certification of non-EAC certified voting systems that contain a modeming component. These draft protocols are attached as Appendix B.

- The requirement that the modem component of the voting system meet the requirements contained in the most recent version or versions of the VVSG remains in place. However, an additional requirement has been added for systems that have not received EAC certification in that applications for such systems must include a detailed explanation from the vendor outlining any deficiencies that would limit the system from meeting EAC certification requirements. This explanation is to be furnished in both technical and simplified language.
- Staff has also suggested additional requirements for the results transmission component of certification testing for both wired (analog) and wireless modems.
- Additional security procedures were also integrated into this draft for the Commission's consideration. Most pertinently, a requirement was added stipulating that both the vendor and the county must ensure that there is no voting system internet connectivity at the county office or location that houses the main Election Management System (EMS) aside from that which is required to conduct pre-election testing and to receive transmission of unofficial results on election night.

- The current test protocols outline conditions for approval of voting systems. The updated version further expands these conditions and adds additional conditions for continued approval of certified systems, including granting WEC staff the right to schedule site visits to ensure that systems were installed and continue to be used in the same configuration in which they were certified. Staff also reserves the right to request election night transmission logs from a random selection of counties at its discretion.

**Appendix A:** Current Telecommunication Protocols, i.e., *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 DVS 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, DVS shall:

1. Reimburse actual costs incurred by the WEC. 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.





# Wisconsin Elections Commission

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

Prepared and Presented by:

Robert Williams  
Elections Specialist

Cody Davies  
Elections Specialist

**SUBJECT:** Appendix B: Updated Telecommunications Test Protocol Proposal

## **PART I: PROPOSED TESTING AND DOCUMENTATION REVIEW 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).

In the event that a system version containing telecommunications components does not receive EAC certification, or is not submitted for EAC certification by the vendor, a detailed explanation shall be provided to WEC staff at the time of application listing any deficiencies that would limit the system in question from meeting the certification requirements as stated in the currently accepted VVSG testing standards in both technical and simplified language. In the event that any of the documentation submitted to WEC is proprietary in nature, or contains protected trade secrets, the vendor shall provide an additional redacted copy of all materials. The afore-mentioned documentation shall be accompanied by the report from an EAC accredited VSTL listing the types of testing conducted on the system in question, the VVSG testing standard utilized, and the results of all said tests. WEC reserves the right to contact the VSTL directly to further inquire about testing of the system and ask for any clarification that may be deemed necessary as part of the documentation review prior to conducting Wisconsin state certification testing. While Wis. Stat. § 5.91 specifies that EAC certification is not

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required for Wisconsin state certification to be issued to a voting system, WEC staff must be provided with the most detailed information possible during the application process, including but not limited to EAC and/or VSTL report(s), technical system schematics, telecommunications specifications (including network diagrams), system security protocol, and any other documentation as required by Wis. Admin. Code EL 7.01.

### **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 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:

1. the interruption of electrical power;
- ~~1.2.~~ generated or induced electromagnetic radiation
- ~~2.3.~~ ambient temperature and humidity
- ~~3.4.~~ the failure of any data input or storage device
- ~~4.5.~~ 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

1. The number of failures in transmission
2. ~~and the a~~Accuracy of vote counting

The failure or connectivity rate will be determined by observing the number of relevant failures that occur during equipment operation. During testing, WEC staff shall maintain logs of all connection attempts. Attempts that are both successful and unsuccessful shall be noted in the logs with this information used to compile the connectivity rate. Similar logs shall be kept for calculating the rate of successful data transmissions. The accuracy is to be measured by verifying the completeness of the totals received. All test results received in the county office, whether transmitted via wired or wireless connection, shall be compared to the pre-determined results set by WEC staff to ensure that transmitted results match anticipated results.

## **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.

Prior to conducting any system test, WEC staff shall thoroughly review all submitted documentation including but not limited to EAC and/or VSTL report(s), technical system schematics, telecommunications specifications (including network diagrams), system security protocols, and any other documents submitted as required pursuant to Wis. Admin. Code EL 7.01.

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/Analog Connection 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. Power up tabulators and generate zero tape
2. Insert test ballots into tabulator. Once completed, close polls and generate results tape
- ~~1.3.~~ Attempt to transmit results prior to the closing of the polls and printing of results tape
- ~~2.4.~~ Set up a telephone line simulator that contains as many as eight phone lines
- ~~3.5.~~ 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~~)
6. Document results on appropriate telecommunications testing data sheet
7. Following the conclusion of testing, staff must confirm the accuracy of the transmitted data by ensuring that the transmitted results match the expected results
- 4.8. Following the conclusion of testing, WEC staff shall obtain all transmission logs, ballot images, cast vote records, and results tapes for all testing locations

### **Wireless Capability Test Plan**

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

#### **Test Plan:**

1. Power up tabulators and generate zero tape
2. Insert test ballots into tabulator. Once completed, close polls and generate results tape
- ~~1.3.~~ Attempt to transmit results prior to the closing of the polls and printing of results tape.
- ~~2.4.~~ 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
- ~~3.5.~~ 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
  - f. If possible, attempt to intercept transmission signals
6. Document testing results on appropriate telecommunications testing data sheet
7. Following the conclusion of testing, staff must confirm the accuracy of the transmitted data by ensuring that the transmitted results match the expected results
- 4.8. Following the conclusion of testing, WEC staff shall obtain all transmission logs, ballot images, and cast vote records for all testing locations

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

1. System must be capable of transferring 100% of the contents of results test packs without error for each successful transmission.

2. Furthermore, system must demonstrate secure rate of transmission consistent with security requirements.
3. System must demonstrate the proper functionality to ensure ease of use for clerks on election night.
4. System must provide notification of transmission failure to election inspectors
- ~~3-5.~~ System must be free of any and all remote access software
6. 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.
- ~~4-7.~~ System modems located in polling place tabulating equipment shall not be capable of receiving wireless transmissions, only of sending results packets to the central site as described above.

### 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.
- ~~2-3.~~ Both vendor and county must ensure that there is no voting system internet connectivity at the central site aside from that which is required to conduct pre-election testing and election night results transmission. At all other times, the voting system server must remain disconnected from the internet or any devices connected directly or indirectly to the internet in a non-connected state.
- ~~3-4.~~ Any municipality using modeming technology must have one set of results printed before it attempts to modem any data.
- ~~4-5.~~ Any municipality purchasing and using modem technology to transfer results from the polling location to the central site must be encouraged to conduct an audit of the voting equipment after the conclusion of the canvass process.
- ~~5-6.~~ Default passwords provided by ES&S the vendor to county/municipality must be changed upon receipt of equipment.
7. Counties must change their passwords after every election.
- ~~6.~~ Counties must take precautions to prevent unauthorized physical access to servers.

### PART IV: CONDITIONS FOR APPROVAL

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

1. Reimburse actual costs incurred by ~~the G.A.B. WEC 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.
3. Vendor must notify WEC promptly should any security vulnerability be discovered.
4. Both vendor and county must ensure that there is no voting system internet connectivity at the central county site aside from that which is required to conduct pre-election testing and election night results transmission. At all other times, the voting system server must remain in a non-connected, air gapped state.

#### **Part V: Conditions for continued approval**

1. WEC reserves the right to schedule site visits to ensure that system was installed per certification standards to include review of:
  - a. Internal and external modems
  - b. Chain of custody documentation
  - c. Hash validation checks
  - d. Hardware and software configuration
2. WEC ~~Reserves~~ reserves the right to request election night transmission logs from a random selection of counties



# Wisconsin Elections Commission

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

**SUBJECT:** Potential Decertification of Voting Systems

WEC staff has conducted a review of actively certified voting system versions and identified two systems for potential decertification by the Commission.

## I. Vote-PAD Overview

The Vote-PAD accessible voting system has reached the end of its useful life and no longer has a parent company or vendor to support it. The Vote-PAD was originally approved for use in Wisconsin by the former State Elections Board in January 2006, but only in municipalities who use hand-count paper ballots. During the approval process, concerns were raised by members of the disability advocacy community and by Board staff regarding the effectiveness of the Vote-PAD in providing a private and independent voting experience as required by the Help America Vote Act. Despite those concerns at the time, the State Elections Board certified the system for use in Wisconsin. The Vote-PAD is still used as an ADA-compliant voting system in nine municipalities only in Adams County. As the below voting equipment usage map indicates, Adams County is the only county in the United States where this system continues to be in use.



Source: Verified Voting

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The Vote-PAD is a non-electronic tactile ballot marking system. The ballot is placed into a sleeve that aligns the ovals or arrows to be marked and that sleeve must be customized prior to each election for each ballot style used at a polling place. The system can provide Braille or audio instructions that need to be created or recorded for each election and for each ballot style, and the voter uses the tactile buttons on the sleeve and the Braille or audio instructions to navigate and mark their ballot. The Vote-PAD can be used with a paper ballot or optical scan ballot, but this system was never tested in conjunction with optical scan ballots and was only approved for use in municipalities who hand count their ballots.

The system is currently used in only one Wisconsin county and is not used anywhere else in the U.S., according to publicly available voting system usage data. The Vote-PAD company is no longer in business and existing users are, therefore, unable to contact the manufacturer for assistance with supplies or the software used to create the resources used to operate the system.

### **Original Concerns From 2006**

Feedback regarding the Vote-PAD that was provided by Board staff and the former Wisconsin Election Assistance Council (comprised of county and municipal clerks) during the original certification discussion in 2006, and has been provided below for reference. This feedback outlines concerns that existed in 2006 and are still present today as the system has not undergone any notable updates since certification. It has been provided as part of this memorandum as background information for Commissioners as this system has not come before the Commission in recent years.

#### **Staff Feedback**

- ✓ The round holes used by the Vote-PAD may not sufficiently connect arrows for use with certain optical scan equipment.
- ✓ The Vote-PAD uses a Braille write-in ballot component which is separate from the actual ballot. No similar ballot or system component has previously been approved for use in Wisconsin.
- ✓ Like a punch-card system, the Vote-PAD utilizes a ballot sleeve, in which the ballot must be inserted and correctly aligned in order for the ballot to be correctly marked. It would be difficult for a visually impaired voter to notice or independently verify that a ballot is incorrectly aligned and therefore he or she is not marking the ballot correctly, or for the intended candidates.
- ✓ The ballot is held in place by a piece of removable tape, which is usually affixed to the back (blank side) of the ballot. Some voters may need assistance removing the tape, and for double-sided ballots, the election inspector may see how the elector cast his votes.

#### **Election Administration Council Feedback**

- ✓ The Vote-PAD does appear to provide accessibility for some voters with certain types of disabilities, though individuals with dexterity problems may not be able to utilize this device.
- ✓ The Vote-PAD could be a low-cost solution for providing access to individuals, especially for small municipalities which use paper ballots.

- ✓ Some EAC members expressed concern about municipal clerks' ability to correctly assemble and prepare the Vote-PAD.
- ✓ It is difficult to scan through the audio component to find a specific portion of the ballot. A voter cannot skip to specific sections of the ballot, and individuals with motor control or dexterity impairments may be unable to use the tape or CD player which controls the audio.
- ✓ A few EAC members expressed concern that the font size cannot be adjusted on the Vote-PAD.

## **Conclusion**

The Vote-PAD system has gone end-of-life and no longer has a parent company to support its continued use in Wisconsin. Staff has confirmed with the Adams County Clerk that all jurisdictions currently using the Vote-PAD as their accessible voting device have made plans to secure replacement equipment by the beginning of the 2022 election cycle. Staff is recommending decertification of this system on December 31, 2021.

## **II. Elections System and Software Unity 3.0.1.0 Overview**

Staff has also identified one system version from ES&S that is still supported by the vendor and is used by two Wisconsin counties, but contains election management software, specifically the Windows XP operating system, that is no longer supported by the manufacturer. The system in question is Unity 3.0.1.0 which was originally approved for use in Wisconsin by the former State Elections Board on January 18, 2006 and contains the following components:

- Unity Election Management Suite, version 3.0.1.0
- AutoMARK ballot marker (BMD), version 1.2
- iVotronic DRE with Real Time Audit Log, version 9.1.4.0
- Model 100/150/550/650 optical scan equipment, version 2.1.2.0

Of the components listed above, only the Unity Election Management Suite utilizes a Windows XP operating system. However, manufacturer support for the operating system has ended. Microsoft no longer offers security updates for Windows XP. Under normal circumstances, recommended security updates would be identified and published by Microsoft which would then be implemented in the voting equipment as part of the ECO process following federal testing and Wisconsin state approval.

The Election Management Suite is used by the county clerk, their authorized staff, or the vendor in order to program election definitions to be exported to the BMD, DRE and tabulation equipment. Election Management software is also used for the import of election results which must be manually entered in the two counties where Unity 3.0.1.0 is currently in use. AutoMark ballot markers, iVotronic DRE, as well as all tabulation equipment certified for use with Unity 3.0.1.0 rely on proprietary software that is not Windows based.

Unity 3.0.1.0 is currently in use in Ashland and Bayfield counties. In Ashland County, only one municipality uses the M100 optical scan tabulator and 16 municipalities use the AutoMARK ballot-marking device as their accessible component. In Bayfield County, 15 municipalities use the M100 and all municipalities in the county utilize the AutoMARK as well. Both the M100 and AutoMARK are part of system versions that were more recently approved for use in Wisconsin. Decertification of this system version would still allow these municipalities to keep their existing equipment and work with their vendor to install software upgrades, or they

could purchase more modern components from more modern system versions, such as the DS200 and ExpressVote.

### **Conclusion**

This system version has been in continued use in Wisconsin since approval was granted in 2006. It relies upon software components that have gone end-of-life and are no longer supported by the manufacturer. Staff recommend a decertification timeline that would not allow this system to be used after December 31, 2022. This would allow the two counties impacted by this decision time to budget for and acquire updated equipment.

### **III. Recommended Motions**

**Motion 1:** The Wisconsin Elections Commission adopts staff recommendation to decertify the Vote-PAD accessible voting system effective 12/31/2021.

**Motion 2:** The Wisconsin Elections Commission adopts staff recommendation to decertify ES&S Unity 3.0.1.0 electronic voting system version effective 12/31/2022.



# Wisconsin Elections Commission

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

Prepared by:

Gregory Grube  
GIS WisVote Specialist

Riley Willman  
Elections Specialist

**SUBJECT:** Redistricting Preparation

## **Background**

Article I, Section 4 (as amended by Section 2 of the 14<sup>th</sup> Amendment), Article I, Section 2 of the United States Constitution, and Article IV of the Wisconsin Constitution govern the redistricting process for congressional and state legislative district boundaries and apportionment. This process occurs every ten years, following completion of the decennial federal census. Section 3 of Article IV grants the legislature the responsibility and power to redraw congressional and state legislative district boundaries. Any plan passed by the legislature must also be approved by the governor. If the district boundaries passed by both chambers of the legislature are vetoed by the governor, the legislature does have the ability to override this veto with a two-thirds majority vote in each chamber. Wis. Const. art. V, § 10. If there is not enough support to override the veto, the redistricted boundaries can be determined by the Wisconsin Supreme Court with assistance from the nonpartisan Legislative Reference Bureau. Since 1960, the court has established the redistricting plans for four out of the last six redistricting cycles. Wisconsin's redistricting plans have also been litigated in federal courts.

The Wisconsin Elections Commission tracks district boundaries but has no legal authority to create or alter district boundaries. This process is determined and approved by the various elected bodies with the legal ability to establish district boundaries. Once the congressional, legislative, and local boundaries are determined by the appropriate authority, the Wisconsin Elections Commission will begin the complex process of recording the new boundaries in the statewide voter registration system to ensure that each voter is correctly located in their new district.

## **Timeline**

The timeline to have new district boundaries in place is organized into local, legislative, and congressional levels, all with varying degrees of specificity on their respective deadlines. Creation of new congressional and

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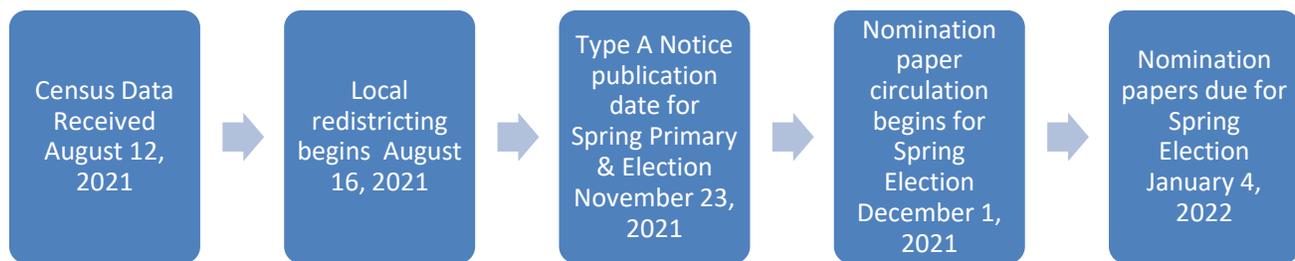
legislative district boundaries does not have a statutorily defined deadline. That said, congressional and legislative boundaries need to be determined by the start of the nomination petition circulation period, which is statutorily required to begin on April 15, 2022. (see Wisconsin Statutes Chapter 8). Adoption of boundaries by the nomination paper circulation deadline will ensure the new boundaries are in place for this election and that candidates circulating nomination papers are gathering signatures in the correct district.

Locally, Wis. Stat. § 59.10(3)(b)1 requires that counties issue their tentative new district boundaries within 60 days after receiving the official census data, “but no later than July 1 following the year of each decennial census”. Municipalities are also required to complete their district boundaries within 60 days of receiving updated county district boundaries under Wis. Stat. § 5.15(1)(b). Officially receiving the data allows counties and municipalities to adjust their ward boundaries and eventually establish their supervisory and municipal districts.

In previous redistricting cycles, the U.S. Census Bureau scheduled delivery of the initial data to the State of Wisconsin no later than March 31 of the year after the census. As a result of the COVID-19 global pandemic, the publication of census data has been severely delayed. The U.S. Census Bureau released the official population numbers for all states on August 12, 2021, at which point the Legislature began processing it and releasing it to local governments. As of August 24, 2021, sixty-three of Wisconsin’s seventy-two counties have started redistricting work with the Legislative Technical Services Bureau (LTSB).

The delay in official census data has already impacted the timeline to begin local redistricting processes, and some process and timeline details may need clarification either by the legislature and/or judiciary.<sup>1</sup> A proposed bill to delay local redistricting (2021 Assembly Bill 369) was vetoed by the governor in July, so there has been no formal delay or change in the process for local governments to complete their redistricting plans (see also companion bill 2021 Senate Bill 385). Nomination papers can begin to circulate by December 1<sup>st</sup>, 2021 for the spring 2022 elections, so any changes to local aldermanic or county supervisor lines would have to be completed by then to take effect for spring. The team continues to prepare for all possible scenarios and will be ready to implement new maps when they are completed.

Currently known local redistricting information and key dates for the 2022 Spring Elections:



### **Current Preparations**

While many aspects of redistricting are dependent on the legislature and local government timelines, Elections Commission staff are preparing for when the new district information becomes available. An essential part of the preparation process is to make sure that the address records in the statewide voter registration database are current and reflect the correct locations for voters. During the last redistricting period in 2010 and 2011, the

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<sup>1</sup> Three lawsuits have already been filed related to the redistricting process: *Hunter, et al. v. Bostelmann, et al.* (Western District of Wisconsin); *Black Leaders Organizing Communities, et al. v. Spindell, et al.* (Western District of Wisconsin); *Johnson, et al. v. Wisconsin Elections Commission, et al.* (Wisconsin Supreme Court).

voter database was updated to allow for mapping to be used in the system to help locate voters and to ensure that they are receiving the correct ballot based on their actual location. Clerks were asked to review those address locations at the time, but new address records are continuously generated.

Last summer, Commission staff created an automated method to review addresses last checked by clerks and staff between 2011 and 2015 (approximately 1.7 million addresses). Through this process, staff were able to identify addresses with data quality questions and flag them for future review by staff or clerks. Any address change that would have resulted in a different ballot style for the voter was reviewed manually by Commission staff to ensure that those changes were not flagged in error. In situations where a voter may be registered in the wrong municipality, staff reached out to clerks to verify that information and have them contact the voters if necessary.

This initial group of addresses were updated in WisVote on August 1<sup>st</sup> of this year. Staff held an informational webinar on August 3<sup>rd</sup> with clerks to talk about the readdressing process and to take any questions they had. Staff is currently working on reviewing addresses that were added to our system more recently and will provide the same type of feedback to assist clerks. This group (approximately 900,000 addresses) includes addresses last checked by clerks and staff between 2016 and 2020. The current staff plan is to have this group of addresses reviewed and sent to clerks so they can begin their full review process by the end of Summer, 2021.

Another project recently completed was a comparison between Commission and postal service address data to ensure that the addresses in WisVote have valid ZIP codes. Much like the location comparisons discussed in the previous section, this process helped to identify and flag records that were not being properly identified in USPS's database. Clerks can now see addresses that do not match with USPS postal delivery point information, and they can either fix those addresses or contact USPS to ensure that their database is allowing voter mail to get to the correct locations as efficiently as possible.

### **Upcoming Preparations**

In addition to the current preparations, Commission staff identified future projects necessary to ensure implementation of redistricting data. Many of these tasks are labor intensive but the upcoming 2022 election cycle may also create significant time pressures. As a result, Commission staff believe that additional personnel may be required to complete these tasks in a timely manner.

Outstanding redistricting team tasks:

- Continue to support clerks in additional WEC address standardization review and updating
- Internal support of WEC address clean-up & refinement
- Ward map & parcel boundary review prior to implementation
- Continued review of address exceptions and warnings
- Outreach to Counties/Municipalities with outstanding addressing and ward issues
- School district map alignment review
- Production of district lists for nomination paper review and creation of new ballot style/reporting units in WisVote.

One project will be to continue working with clerks to correct the addresses that they were provided. Nearly all municipalities in the state have at least some addresses to review and staff will be continuing to work with clerks and help them to make corrections as needed.

Another planned project is to refine WEC's district mapping change process, allowing the agency to implement new redistricting data efficiently and accurately. Currently, any ward data changes must be manually reviewed by several Commission staff. Between redistricting periods, these changes typically result from the annexation of lands between Wisconsin municipalities. However, because the upcoming redistricting will generate new ward maps throughout the state, staff need an automated tool to make these changes in a more efficient way. As it is currently unknown what the timelines for receiving that data will be, Commission staff will prepare for an earlier release so that map updates are implemented as quickly as possible.

As part of the district mapping process refinement, staff also must ensure school district data is correct. School district maps do not change through the redistricting process, but it is essential that these stay current and accurate because they are combined with ward data to determine ballot styles. With the help of county land records offices and the Department of Public Instruction, staff are refining the school district boundary maps to ensure they align with tax records. By making these refinements, the boundaries will more accurately integrate with new ward data and cut down on additional processing once those new wards are received. Ward data will also need to be analyzed by staff once received to ensure that all lines match well to parcel and school district data so that no gaps or overlaps exist.

Finally, staff will need to produce new district lists for the nomination process. When nomination papers are being reviewed, staff use a list of district information to ensure that the address locations of the voters who sign those forms are correct. The statewide voter database can produce these lists, but staff will need to create updated lists once the new wards are provided. In addition, reporting units and ballot styles will need to be set up within WisVote.

### **Request for Project Positions**

Commission staff request Commission authorization to create up to four, twelve-month, project positions under Wis. Stat. § 16.54 in order to complete the tasks described above. Future tasks necessary to implement redistricting are labor intensive, and the 2022 election cycle may create considerable time pressure. The addition of these temporary project positions will help ensure that agency processes do not create delays that impact local races.

The creation of project positions will assist with continuity throughout the redistricting process. While temporary staff could also be hired for the work, temp agency personnel tend to be more transient and possess widely varying skills. Temporary staff turnover also creates a training burden that slows work.

If approved, new project staff will primarily support redistricting tasks until implementation is complete. Over time these staff may also be employed to assist the Badger Book program, which is also personnel intensive and anticipates rapid expansion in calendar year 2022. This will ensure that project staff may remain fully tasked with these critical programmatic responsibilities.

### **Conclusion & Recommended Motion**

Commission staff are preparing to receive and incorporate redistricting data quickly and with little advance notice. While the timing of the process remains uncertain, and litigation is an ever-present possibility, the Wisconsin Elections Commission will be prepared to incorporate the new data as soon as it is released. As the situation continues to develop throughout 2021, Commission staff will regularly assess the impact of events and report accordingly to the Commission.

**MOTION:** The Commission grants authority to request up to four §16.54 project positions with a duration of twelve months at a cost not to exceed \$200,000. WEC staff will create position descriptions and determine appropriate classifications based on immediate redistricting needs.





# Wisconsin Elections Commission

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

**SUBJECT:** Potential Special Voting Deputy Statutory Changes

## Introduction

During the March 2, 2021, meeting of the Wisconsin Elections Commission, the Commissioners directed staff to research potential legislative changes for situations when Special Voting Deputies (SVDs) do not have access to a nursing home or qualified care facility to administer absentee voting as prescribed in current statute. The motion passed by the Commission was as follows:

**Motion:** Staff are directed to research, in consultation with other subject matter experts, statutory changes needed in order to implement an alternative to SVD voting, as part of the Commission’s 2021 legislative agenda.

This memorandum provides an overview of the current statutes and identifies potential options for statutory changes for consideration of inclusion to the Commission’s legislative agenda.

## Current Process

Current state law requires the SVDs to “...arrange one or more convenient times with the administrator of each qualified retirement home and residential care facility in the municipality that the deputies are scheduled to visit.” Wis. Stat. § 6.875(6)(a). Many SVDs will arrange and notice two or more visits proactively so there is no delay in assisting voters that were unable to attend a prior visit. Visits cannot begin any earlier than the 4<sup>th</sup> Monday prior to election day and the final day for SVD visits is the Monday prior to election day. If a voter or entire facility worth of voters is unavailable for SVD visits, state law states that the clerk may mail a ballot to all voters with active absentee requests on file who could not vote with SVDs. This process is based on Wis. Stat. § 6.875(6)(e) which states “If a qualified elector is not able to cast his or her ballot on 2 separate visits by the deputies to the home or facility, the deputies shall so inform the municipal clerk or executive director of the board of election commissioners, who may then send the ballot to the elector no later than 5 p.m. on the Friday preceding the election.”

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## **Preliminary Considerations**

WEC staff has identified several components of the Special Voting Deputy process that could be considered when Commissioners determine which changes to current statute they would like to add to their legislative agenda. Several of these are already accounted for in the current statutes that prescribe the SVD process, but some of them may be new considerations due to the type and nature of the changes suggested by the Commission.

1. **Family members.** Wis. Stat. § 6.875(6)(c) provides two different opportunities for relatives of facility residents served by SVDs to be involved in the process. First, Wis. Stat. § 6.875(6)(c)1 states that a relative, defined as a spouse or relative within the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree of kinship, may be present during voting and assist the voter with marking their ballot. In addition, Wis. Stat. § 6.875(6)(c)2 allows for a relative of a care facility relative to request the time and date of SVD visits from the care facility administrator and be present when voting is taking place. Any legislative changes proposed by the Commission may need to account for access to the process by relatives of care facility residents. Options for observation by relatives could include options for virtual observation, such as through a video conference application. In addition, statutory changes could identify whether the facility, municipal clerk, resident or relative is responsible for providing the technology necessary to facilitate virtual observations of the SVD voting process.
2. **Election Observers.** State law also allows observers from the two recognized political parties whose candidate for governor or president received the most votes in the last general election to be present when SVD voting is taking place. Any legislative changes proposed by the Commission may need to provide for observation opportunities for representatives of the political parties as provided in Wis. Stat. § 6.875(7).
3. **Notice requirements.** State law requires the municipal clerk to post a notice containing the date and time of SVD visits at least five days prior to each visit. The Commission may wish to consider recommending a shortened notice period or other changes during pandemic conditions to increase the speed for mailing absentees and not orphaning voters.
4. **Overreliance on technology.** Access to technology is not uniform across jurisdictions, so statutory changes that prescribe mandatory procedures that are reliant on technology may be difficult to implement in a uniform manner across the state. In instances where required technology is not available, an alternative option may need to be identified and codified in statute.
5. **Uniformity.** Uniformity in procedures used to administer voting in care facilities and nursing homes should be considered when the Commission determines which options they would like to add to their legislative agenda. Procedures which are universal in nature were recommended throughout 2020 by advocates and nursing home and care facility administrators so that training, guidance and communication can be streamlined and efficient.
6. **Defining access restrictions.** Current statute does not effectively define or account for situations where SVDs cannot access a qualified facility to administer absentee voting. Legislative recommendations adopted by the Commission could seek to define these situations to provide clarity for when alternative provisions are necessary or allowable.

## **Potential Additions to the WEC Legislative Agenda**

1. **Proceed to sending ballots if voter and/or facility are unavailable.** This option would be similar to the current process outlined in the WEC *Absentee Voting in Residential Care Facilities and Retirement Homes* manual (<https://elections.wi.gov/publications/manuals/nursing-home-absentee>), but language could be added to statute acknowledging these circumstances and giving clerks and SVDs directives on how to proceed. Wis. Stat. § 6.875(6)(e) could be amended to add language such as: “If a municipal clerk, board of election commissioners or special voting deputies are informed by personnel at the qualified retirement home or care facility that scheduling special voting deputy visits is not possible, the municipal clerk or board of election commissioners shall proceed to send the ballot to all eligible electors with active requests on file as soon as practicable, but not later than 5 p.m. on the Friday preceding the election.”

**Feedback:** Municipal and county clerks who provided feedback were generally supportive of this option, but felt that some clarifications would be helpful to make administering this requirement easier. All were in agreement that a definition for when a facility is unavailable would help to deter facilities from closing to SVD voting due to staffing shortages or reported lack of interest in voting from residents. Language such as “not possible due to serious health or property emergency” was suggested for the purpose of clarifying applicable situations.

In addition, the clerks expressed interest in an option for municipal clerks to hand deliver unvoted ballots in a sealed container directly to the facility if it were to be closed to SVDs and to pick up voted ballots directly from the facility. This process should include chain of custody documentation when ballots were delivered and picked up, and would allow for a more efficient voting process for residents rather than relying on mail delivery in both directions.

Clerks also expressed interest in extending the timeline for nursing home and care facility voting to further out from election day to allow voters in facilities unable to be served by SVDs more time to receive, vote, and return their ballot.

Advocates for the aging and disability communities were in agreement with these suggestions as they would provide more opportunity for voters to participate in an election. They expressed specific interest in the timeline change as they noted there are always some residents unavailable during SVD visits even if the facility is open to visitors. The updated timeline would also allow for more voter registration opportunities for residents served by SVDs as there would be a longer time for SVD visits during open registration when SVDs are allowed to register voters if they are also appointed as Election Registration Officials. Currently, voter registration may only take place during the first two days of SVD visits as registration closes 20 days prior to each election. They also expressed a strong interest in instituting training requirements for care facility staff who may need to assist residents with voting if they cannot vote with the SVDs.

2. **Conduct two tele-visits and then proceed to mailing ballots.** This option represents the process outlined in the Commission’s administrative rule that was sent for promulgation as an emergency rule prior to the 2021 Spring Election but was not approved before April 6. Statute would be amended to satisfy the two-visit requirement by using a tele-visit option to meet with the facility administrator or authorized representative to confirm the facility is not open to nonessential visitors. Once the tele-visits are completed, the clerk would proceed to sending the ballot to all impacted voters who reside in that facility under the current statutory provision for sending ballots after two visits have been made.

**Feedback:** Both county and municipal clerks expressed concern over the viability of this option after administering a similar program for the April 2021 Spring Election. They reported difficulty in scheduling the tele-visits with the facility and some facilities never showed up on the call at the noticed time of the open meeting. This option is reliant on technology, so clerks were concerned about technology-related issues causing visits to be rescheduled and further delaying the transmittal of ballots. One clerk described their experience as such:

Tele-visits seemed like a good idea on paper, but they were terrible to implement. I arranged in advance the date and TIME of the tele-visit call between the SVDs and the facilities. On numerous occasions, I called to connect to the person “administrator or social worker” the appointment was scheduled with and was told the person was unavailable. Numerous times I was put through to their voice mail. I’d call back to the main line and the person would have no idea where the person was or when they’d be back, even though I had pre-arranged for the tele-visit in advance. We’d end up speaking to the person who answered the main line and they would tell us the facility was closed. Often, they were uncomfortable to address whether or not they would allow the SVDs to conduct voting.

They also expressed concern over how many attempts at rescheduling, and re-noticing, these visits should be required, especially if the tele-visit could not take place due to facility staff failure to show up. Clerks also expressed interest in an alternate option if tele-visits were unable to be scheduled or if the tele-visit did not take place as scheduled due to technology or participation issues from facility administrators.

The advocates consulted as part of this review also stated concerns over the differing level of technology available at smaller facilities and delays caused by the potential rescheduling of tele-visits for logistical reasons.

3. **Allow for virtual SVD visits.** Statute could be amended to accommodate a process for SVDs to conduct voting in qualified care facilities and nursing homes where access is restricted due to public health concerns or some other lawful reason for closure. SVDs could oversee voting using a video conference option and residents could receive assistance from care facility staff designated for this purpose. Statute would have to be amended to allow for facility staff to assist voters and SVDs in these circumstances, as they are currently prohibited from assisting residents who vote using an SVD. Statutory provisions to ensure process integrity could be included in the proposed changes, including required deputizing and training for care facility staff and procedures for SVDs to verify residents are the individuals voting their ballot or in instances where they require assistance, that the ballot is being marked by the assistor in accordance with the voter’s directives.

**Feedback:** Clerks were split on this option as some thought it would provide added transparency to the process while others were concerned that the process would rely heavily on technology that would have to be provided by the facility. Clerks were all in agreement that staffing on the part of the facility would be a challenge, including any necessary IT support, and reported high staff turnover rates in these facilities would necessitate ongoing training for those assisting with voting. Clerks felt it would be important to define who exactly was responsible for providing necessary technology and what the process was in the event that technology issues did not allow for virtual visits to take place.

Once again, advocates provided feedback based on their experiences working with nursing homes and care facilities of various sizes and that technology would be unavailable at many smaller facilities. This would require an alternate process for mailing or delivering ballots to these facilities in the event the technology was not available or functioning at the time of the scheduled visit.

- 4. Certify care facility staff as alternate SVDs.** Currently, care facility staff are restricted from serving as SVDs or assisting voters whose ballots are being administered by SVDs, and that restriction continues for the two years immediately following such employment. Statute would have to be changed to create a certification option for facility staff and to prescribe training and eligibility requirements. This option is similar to legislation that was introduced during the 2021-2022 Wisconsin legislative session and was vetoed by Governor Evers after the provisions regarding care facility staff serving as alternate SVDs were removed from the version that was passed. The text and legislative analysis of that bill, Senate Bill 205, can be found here: <https://docs.legis.wisconsin.gov/2021/proposals/reg/sen/bill/sb205>.

**Feedback:** Clerks and advocates expressed similar concerns about this option regarding both the staffing levels of these facilities and the training that would be necessary and required for facility staff serving as alternate SVDs. Staff turnover rates are significant at facilities served by SVDs, which may cause a constant need to provide training to staff serving as alternate SVDs prior to each election. Currently, staff are prohibited from serving as SVDs or assisting residents during the SVD process, so this change would represent a significant culture shift in the way statute currently refers to facility staff's involvement in the voting process. Clerks and advocates were in agreement that staff would have to receive significant training, with one clerk stating: "The number one challenge with training facility staff is that the turn-over in that job is incredibly high ... Staff turns over so often that training would need to be perpetual." Other clerks also expressed concern over the loss of control over this process, as they are currently responsible for appointing and training SVDs and summarized their concerns thusly: "If we end up with people who don't care about the process and all the steps that must be followed our credibility goes out the window."

- 5. Define SVDs as essential staff or visitors.** Many care facilities limit access to only essential visitors in the event of a public health emergency. This practice was especially prevalent during the 2020 election cycle due to COVID-19 transmission concerns. Statute could be amended to define SVDs as essential visitors, which would guarantee their entry to facilities to administer absentee voting. Provisions could be included to require SVDs to comply with all reasonable public health procedures mandated by the facility upon entry.

**Feedback:** Clerks were generally supportive of this option and felt that voting could take place safely if SVDs were allowed access to the facility as essential visitors. One clerk stated their support for this option as such:

This is without a doubt the best method to protect the elderly and provide voting during emergency operations in my opinion. There is no reason the facility and the Clerk couldn't work together to provide a safe environment for voting using the party affiliated personnel who have training and many years of experience with voting and election laws. Whether the emergency is a pandemic, natural disaster, power outage, etc., I am confident the communication between the Clerk and facility to work out the voting could be accomplished safely. We just need to be defined as ESSENTIAL VISITORS so that we can do the important work we do while protecting our voters and their votes with high integrity.

The only concerns raised in response to this option were regarding potential immunization/vaccination requirements facilities may have in place for visitors and staff and concerns over how the required partisan observers could be included in this process.

- 6. Provide express consent for WEC rulemaking authority.** State law could be amended to provide authority for WEC to promulgate administrative rules that prescribe procedures for these situations. This

statutory change would give the Commission the opportunity to codify administrative procedures that could resemble the tele-visit-based administrative rule the Commission pursued earlier this year or the Commission could decide on a different set of procedures as part of the rulemaking process. Rulemaking authority that was expressly provided for in the specific section of statute that provides for the SVD process would increase the likelihood of success for a proposed administrative rule and provide the Commission with flexibility in deciding the specifics of a rule, subject to legislative review. Any administrative rule could not contain elements that conflict with existing statutory provisions and can only serve as a supplement to existing procedures.

**Feedback:** Clerk feedback regarding this option was mixed, as some felt rulemaking would provide less local control over the process while others felt an administrative rule could provide valuable flexibility in outlining procedures for these situations.

# Clerk Feedback on Potential SVD Legislative Changes

## Response 1:

1. I believe the perimeters of 6.875(6)(e) should be amended but felt the "...SVD visits is not possible" is entirely too broad. I've had experience with a facility who has tried to cancel voting because they had a staffing shortage or just felt it was not important. One time facility told me they had asked all the residents and no one wanted to vote. We arrived anyway and residents thanked us for coming. (Attached is the letter we subsequently sent to the facility). Perhaps it should indicated ... not possible due to serious health or property emergency,....
2. Televisits seemed like a good idea on paper but they were terrible to implement. I arranged in advance the date and TIME of the televiset call between the SVD's and the facilities. On numerous occasions, I called to connect to the person "administrator or social worker" the appointment was scheduled with and was told the person was unavailable. Numerous times I was put through to their voice mail. I'd call back to the main line and the person would have no idea where the person was or when they'd be back, even though I had pre-arranged for the televisit in advance. We'd end up speaking to the person who answered the main line and they would tell us the facility was closed. Often they were uncomfortable to address whether or not they would allow the SVD's to conduct voting. After numerous attempts at several facilities, we just took what we had to confirm what we all knew was happening. The facilities were closed due to the pandemic and no one was being allowed in. The facilities really thought we were being overly government red tape. Seriously? Who didn't know that everything was closed due to the pandemic? A simple call or a visit to the facility to check the sign on the front door would suffice, not to mention the doors were LOCKED. A Clerk Certification would have been a lot more efficient and respectful of my time and everyone else's too. I have 8 facilities. That is 16 televisit calls which is bad enough if everything went as planned. It didn't because the facilities just thought we were being stupid for confirming this by televisit when it was so obvious.
3. Virtual SVD visits also sounds like a nightmare to me. My mom would have just given up. She did not do well with technology as she aged. She couldn't hear and she couldn't see and just like a lot of older people, had absolutely no interest in virtual anything. I think transacting this for the SVD's would cause difficulty hearing and seeing as well. We would still need to get in to provide the ballots, supplies and technology.
  - a. The number one challenge with training facility staff is that the turn-over in that job is incredibly high. These folks are over-worked, underpaid and the job is just gross (my sister-in-law works at Linden Grove so I hear a lot). Staff turns over so often that training would need to be perpetual. Another challenge would be getting the training accomplished. Will you wait until a pandemic or some other emergency to train? I assume you are waiting until some sort of closure emergency so it is last minute training under already difficult conditions on both ends. I called a local nursing home during a pandemic televisit and was told by the woman that answered the phone, she was the only one on site and she didn't have time to talk to me.
4. Certifying staff as SVD's in advance is pointless due to the high rate of turnover and other issues noted in #3. Frankly, I believe utilizing party affiliated workers (one from each) is already the best method. I spoke to my sister in law about getting this training and helping her patients vote. The response was not positive.

5. YES! This is without a doubt the best method to protect the elderly and provide voting during emergency operations in my opinion. There is no reason, the facility and the Clerk couldn't work together to provide a safe environment for voting using the party affiliated personnel who have training and many years of experience with voting and election laws. Whether the emergency is a pandemic, natural disaster, power outage, etc., I am confident the communication between the Clerk and facility to work out the voting could be accomplished safely. We just need to be defined as ESSENTIAL VISITORS so that we can do the important work we do while protecting our voters and their votes with high integrity. Party affiliated SVD's working in tandem is the way to go! If you need a statute that mandates the Clerk and facility do everything in their power to make it happen, with the protections to protect the voter and their vote, then that is what should happen. Don't let them lock us out, make them work it out. After all, IPAV voting continued during the pandemic. SVD voting could have been accomplished safely with a little pre-planning. Like any emergency, we should have plans in place to address our operations with SVD voting.
6. No comment.

### Responses 2 and 3:

- 1) Change: Page 2 Item 2 – Last sentence refers to “town” televisits. Town should be removed.
- 2) Will the Care Facilities have the technology to provide televisits or virtual ?
  - What if it doesn't work that day? Do we plan for “rain dates” so to speak each time?
- 3) Will the Care Facilities have enough staff to accommodate televisits or virtual (IT staff in addition to regular staff)?
- 4) Will the Care Facilities agree to be trained as SVD's?
  - What if they don't want to be? We train election officials we trust and have worked with who want to serve in this capacity. I can't put my finger on it, but this just doesn't feel right. I don't like that we have no control over who is allowed to perform this duty for us.
  - It's no joke. If we end up with people who don't care about the process and all the steps that must be followed our credibility goes out the window.
- 5) Item 1 (mailing ballots in) and Item 5 (SVD's being considered essential workers) are the most reasonable suggestions.
  - I agree 100% with this statement.
- 6) On the fence about giving WEC express consent because Clerk's should do what is best for their own Care Facilities and SVD's in their community.
  - I too feel leery about this one.
- 7) Non-support of a law which forces virtual accommodations of any kind onto Care Facilities, SVD's, family members or observers.
  - I agree with not supporting this idea.
- 8) If virtual or televisits are to be set up, who is responsible for setting them up? Clerk staff? IT? Staff at the Care Facility? Who has the time?
  - Same exact questions. Who has to purchase the equipment? Who services/maintains it? Who runs it?

### Response 4:

1. **Proceed to mailing if voter and /or facility are unavailable**

- With more people not trusting the mail and the increased timeframe for delivery being announced by the postal service, a few alternate options should be considered.
  - Allow clerks to hand delivery absentee ballots to nursing homes in a sealed container with chain of custody.
  - Allow clerks to collect absentee ballots in the same manner as above.
  - Amend the deadline to hold in-person absentee voting in the nursing home to the 2<sup>nd</sup> Monday before the election. This will allow for time to mail/ deliver and return absentees by Election Day, if needed.
- 2. Conduct two televisits and then proceed to mailing ballots**
  - Concerns if there is difficulty scheduling the televisits with the administrator.
  - If unable to schedule televisits, an alternate option should be in place.
- 3. Allow for virtual SVD visits**
  - This would allow for more transparency and observers could still be a part of the process.
  - Training for staff would be needed.
  - Keep virtual visits optional to handle technology issues.
- 4. Certify care facility staff as alternate SVDs**
  - Traditional SVDs would be preferred.
  - If facility staff are used as alternates, training should be required.
- 5. Define SVDs as essential staff or visitors**
  - Concern that if SVDs are considered essential, that they would need to have the same vaccinations as required by those working in the facility.
  - Would observers also need to meet those requirements?
- 6. Provide express consent for WEC rulemaking authority**
  - This would allow for rules to be adjusted in the case of unforeseen events. It is likely the legislature will want to have final input on rulemaking authority.

#### Additional Considerations

- 1. Family Members**
  - A virtual option would be fair, since they already have the option to be involved now.
- 2. Election Observers**
  - Allowing observers a virtual option would keep the process more transparent.
- 3. Notice Requirements**
  - It is logical to include the virtual meeting information in the public notice.
- 4. Overreliance on technology**
  - An alternative should be part of the process. Contingencies are needed for public health crisis, security issues or natural disasters, which can occur at any time.
- 5. Uniformity**
  - Consistency is important, but options should be available to allow for the differences in municipalities across the state.
- 6. Defining access restrictions**
  - Clarity is welcome as long as options are available to adjust for unforeseen circumstances.





# Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
(608) 266-8005 | elections@wi.gov | elections.wi.gov

**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

Prepared by Elections Commission Staff

**SUBJECT:** 2021 Four Year Voter Record Maintenance Process

On June 15, 2021, the Commission mailed notices to 186,982 registered voters who had not voted in any election after December 31, 2016. Wis. Stat. §6.50(1). The voters had one month to contact their municipal clerks to request continuation of their registration. Voters who either did not respond to the postcard or whose postcard was returned to the municipal clerk as undeliverable had their status changed to inactive in WisVote. Wis. Stat. §6.50(2). Following the completion of the process the Commission published the 2021 voter record maintenance statistics on the agency website, as required by Wis. Stat. §6.50(2r).

Table 1 (2021 Voter Maintenance Statistics Statewide)

<b>Voter Maintenance Summary Statistics</b>	<b>Total</b>
Total number of notices mailed	186,982
Returned requesting continuation of registration	12,121
Returned as undeliverable	62,853
Voter requested cancellation of registration	38
Deceased	736
Deactivated by clerks (not deceased or voter request)	121
Duplicate voter records identified and merged (typically indicates voter moved)	385
Number of voters who did not respond to the notice	112,008
Total number of voters whose status changed from eligible to ineligible	174,307

A breakdown of the summary statistics by county and municipality are available on the agency website at: <https://elections.wi.gov/publications/reports/2021-four-year-maintenance>

Since 2009 the state has performed seven statewide list maintenance processes. Table 2 is a comparison of the summary statistics for each of the seven years and a comparison of the response rate of voters who returned a request to remain registered.

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*Administrator*  
Meagan Wolfe

Table 2 (Comparison of Summary Statistics by year)

Year	2021	2019	2017	2015	2013	2011	2009
<b>Total Notices Mailed</b>	186,982	113,314	381,495	97,981	299,748	240,505	313,205
<b>Requested Continuation</b>	12,121	15,974	28,169	9,610	16,652	14,636	14,856
<b>Returned Undeliverable</b>	62,853	30,342	153,416	25,179	105,667	52,418	181,936
<b>Requested Deactivation</b>	38	23	250	26	7	N/A	N/A
<b>Deceased</b>	736	600	799	342	278	N/A	N/A
<b>Deactivated for Other Reason</b>	121	187	7,692	N/A	N/A	N/A	N/A
<b>Duplicates Merged</b>	385	271	532	N/A	560	N/A	N/A
<b>No Response</b>	112,008	66,998	189,702	63,186	177,420	173,451	116,413
<b>Total Deactivated</b>	174,307	95,939	351,733	83,070	N/A	N/A	N/A



# Wisconsin Elections Commission

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

Prepared by Elections Commission Staff

**SUBJECT:** Electronic Registration Information Center (ERIC) Processes

This memo provides a comprehensive update of current and future ERIC processes including the 2019 Movers List, the 2021 Movers Review process, and 2020 General Election voter participation reports.

## 2019 Movers List

Wisconsin is required by statute to be a member of the Electronic Registration Information Center (ERIC) and to abide by the membership agreement.<sup>1</sup> ERIC is an inter-state consortium formed to improve the accuracy of voter registration data and to assist voters to become registered at their current addresses. Through ERIC, the WEC receives data reports regarding citizens who may be eligible to vote but are not registered, as well as data reports that indicate a currently registered voter's record may be inaccurate or out of date. In both instances of data being received, the ERIC membership agreement requires the state to initiate contact with at least 95% of the individuals who appear on those lists. See ERIC Membership Agreement (November 2018), pgs. 16-17.

One of the data reports the WEC receives from ERIC is the Movers Report. The ERIC Movers Report provides data from a variety of sources including the Wisconsin Department of Motor Vehicles and the United States Postal Service (National Change of Address Data) to identify where a difference in their address in one source exists when comparing it to the address in their voter registration record. Per the ERIC agreement, the WEC is required to contact these voters to let them know about the difference and to provide information on how to re-register to vote if they need to. Neither state law nor the ERIC agreement requires WEC to take any further action on these records. In 2019, 232,579 voters were identified by ERIC as potentially having moved and were sent a mailer.

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<sup>1</sup> The chief election officer shall enter into a membership agreement with Electronic Registration Information Center, Inc., for the purpose of maintaining the official registration list under this section. Wis. Stat. § 6.36(1)(ae)1. If the chief election officer enters into an agreement under subd. 1., the chief election officer shall comply with the terms of the agreement, including the transmission of information and data related to the registration of electors in this state to the Electronic Registration Information Center, Inc., for processing and sharing with other member states and governmental units. Wis. Stat. § 6.36(1)(ae)2. See also 2015 Wisconsin Act 261.

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At the June 10, 2021, meeting, the Wisconsin Elections Commission considered how to proceed with the 2019 ERIC Movers list in light of the Wisconsin Supreme Court’s decision in the Zignego case and the passing of the April 2021 Spring Election. While the Supreme Court ruled that the WEC does not have a plain duty to remove Active-Movers, the decision did not definitively answer the question of whether the WEC has the authority to deactivate Active-Movers.

After extensive discussion about that issue at the open meeting, the Commission did not reach agreement on whether to adopt a new plan or to modify its 2019 plan. The 2019 directive called for staff to deactivate any remaining Active-Mover voter records following the April 2021 Spring Election. Wisconsin Statute § 5.05(1e) requires that, “Any action by the commission, except an action relating to procedure of the commission, requires the affirmative vote of at least two-thirds of the members. Because there were not four votes to make a change, the directive to deactivate the remaining Active-Movers remained in place.

The 2019 directive to deactivate remaining Active-Movers was implemented on July 31, 2021. As a result, 31,854 voter records on the 2019 Active-Movers list had their status changed to inactive. These voters did not update their registration, affirm their address, or vote in any election since 2019.

Table 1: Current Status of 2019 Movers

<b>2019 Movers Voter Record Status as of August 3, 2021</b>	<b>Voter Count</b>	<b>Percentage of Mailing</b>
Active - Registered	72,148	31.0%
Inactivated 7/31/21	31,854	13.7%
Inactivated Four-Year Voter Record Maintenance	37,587	16.2%
Inactive - Merged	80,423	34.6%
Inactive - Other	10,567	4.5%
<b>Total Records</b>	<b>232,579</b>	<b>100%</b>

Data in Table 1 should not be interpreted as “mailing results.” This is not reporting undeliverable mailers, continuation requests, etc. Since 2019 some of the voters have switched between active and inactive status more than once. While the chart depicts where voters ended up, it does not necessarily mean that the ERIC Movers process had anything to do with their voter status today.

**2021 Movers Review Process**

For 2021, the Commission directed WEC staff to implement the Movers process on a quarterly basis. There are three mailings planned in 2021. This first mailing will be the largest, as the last Movers mailing was in 2019. The next mailings are planned for September 30, 2021 (Quarter 3) and December 31, 2021 (Quarter 4) respectively. The Quarter 3 file was provided to staff by ERIC on August 11, 2021. Review of the file has just begun at the time this memo was written, so no concrete numbers can be included here.

The week of July 5, 2021, the WEC mailed 97,704 postcards to Wisconsin residents who were identified as Movers. As part of Wisconsin’s membership in ERIC, the WEC is required to contact voters who ERIC has flagged as having potentially moved. ERIC obtains data from a variety of sources, such as Wisconsin motor vehicle records, voter registration and motor vehicle records from participating states, and the National Change of Address (NCOA) database from the U.S. Postal Service.

The postcard notifies voters that a transaction with WisDOT Division of Motor Vehicles or NCOA indicates their address may be different than their voter registration address. Voters who received the postcard and have moved, may choose to register online, by mail, at their clerk’s office, or at their polling place on the next Election Day.

The voter records identified for this mailing remain active but have an updated status reason of “Movers” and will appear as “Active/Movers” in WisVote. Clerks have discretion to assess each case individually and may elect to deactivate records or restore the record to an “Active/Registered” status. If the postcard is returned to the clerk’s office as undeliverable, clerks must still send a 30-day notice letter to the voter before deactivating the record. Once the 30-day notice comes back as undeliverable it would be handled normally and clerks can inactivate the voter record. If clerks choose not to take action to deactivate a record, those records identified as “Active/Movers” in WisVote will also have the “Have you Moved?” watermark on poll books.

Table 2: Current Status of Voters Sent a Movers Mailing in July 2021

<b>Movers Status as of August 24, 2021</b>	<b>Voter Count</b>	<b>Percentage of Mailing</b>
Active - Movers Designations	87,656	89.7%
Active – Updated Registrations (includes Inactive-Merged)	2,106	2.2%
Inactive Records	3,251	3.3%
Inactive – Undeliverable Movers Mailing	4,691	4.8%
<b>Total Records</b>	<b>97,704</b>	<b>100%</b>

In addition to the voter records identified in Table 2, 34,098 voters were identified that had initiated a voter registration transaction in another state. Those voter registration records were inactivated on June 24, 2021, per prior Commission approved criteria.

All invoices from the June Movers mailing have not yet been received, though total expenses appear to be slightly below budget. The Commission approved a double tear-away postcard printed with color. The estimate for a black and white postcard was \$0.356/piece. Current incurred costs place the per piece mailer cost at \$0.34/postcard, which included two weeks of additional call center staff coverage.

Table 3: Movers Mailing Costs

<b>ERIC Movers Costs</b>		
<b>Project (Fiscal Year)</b>	<b>Mail pieces</b>	<b>Expense</b>
<b>2017 Mailing (FY18)</b>	341,855	\$141,258
<b>2019 Mailing (FY20)</b>	232,579	\$142,956
<b>2021 June Mailing Estimate</b>	97,704	\$33,208
<b>FY22 Mailing Estimate<sup>1</sup></b>	33,300 x 4	\$45,300 - \$47,400

<sup>1</sup>Assumes 4 quarterly mailings of approximately 33,300 pieces in FY22. Per piece price increases slightly for smaller quantities.

**2020 General Election Voter Participation Process**

After every General Election, and when all ERIC member states have their elections reconciled and participation entered, ERIC provides data on potential in state and cross-state duplicate participation (an individual who may have voted in more than one state).

*In-State Research and Referrals*

The in-State files provided 225 potential matches and was received on July 27, 2021. Staff contacted clerks by July 30, 2021, to research the participation records and identify any possible data entry errors. Of the 225 potential matches:

- 161 were resolved as non-matches
- 6 were a confirmed match and referred to the DA by the clerk
- 58 are pending clerk response

*Cross-State Research and Referrals*

The cross-state file provided 155 potential matches with 18 other states and was received on August 6, 2021. Clerk outreach was completed on August 10, 2021. Of the 155 potential matches:

- 9 were resolved as non-matches
- 146 are pending clerk response

This outreach is the first stage of cross-state research and referral processes. Other ERIC states participating in this process are doing their own triage and outreach as well with the initial file; state staff will complete the triage by early September and return their results to ERIC. States will then receive a second cross-state file in late September. Data comparisons directly with the other participating states will then occur. Those findings could then be referred to district attorneys' offices as appropriate.

For the cross-state referral process, staff gathers documentation from clerks and other states and referrals are made based on the matching criteria approved by the Commission in December of 2019:

1. The voter's first name, last name and middle name or initial (if available) must match between Wisconsin and the other state. (The use of common nicknames like "Bill" instead of "William" will also be considered a match).
2. The voter's date of birth must match between Wisconsin and the other state.
3. If criteria #1 and #2 are met, then one of the following pieces of information (a. through e.) must also match between Wisconsin and the other state:
  - a. Last four digits of the voter's social security number
  - b. Voter's driver license number
  - c. Voter's state ID number
  - d. Voter's previous address information
  - e. Highly comparable signature on voter records

### **Conclusion**

Commission Staff will continue to monitor the 2021 ERIC Movers group and provide updates as the process continues. WEC staff will also bring in-state and cross-state duplicate voters to the Commission, using the adopted criteria, as soon as investigations are completed as required under Wisconsin State Statute. No Commission decisions are requested at this time.





# Wisconsin Elections Commission

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

Prepared and Presented by:

Sara Linski                      Tony Bridges  
IT Project Manager      Security Lead

**SUBJECT:** CRM License Renewal

## **Background**

Since January 2016, Wisconsin election officials have used WisVote, the custom voter registration system developed by Wisconsin Elections Commission (WEC) staff for clerks to manage elections data. The WisVote interface is founded on Microsoft's Dynamics Customer Relationship Management (CRM) application. Using the Dynamics CRM application to access elections data, WisVote tracks each voter's registration and election participation history, manages absentee ballot requests and ballot statuses, provides printable absentee ballot labels and poll books, hosts the election reconciliation process, and performs dozens of other functions essential to the administration of elections.

WisVote receives input from over 2,500 trained users across the state who enter, merge, and review data such as voter registrations, absentee ballot requests, and registration list alerts. MyVote, Wisconsin's online voter portal, also relies on WisVote to process new registrations and absentee requests received from voters. Each time a voter attempts to register or request an absentee ballot, MyVote uses the same workflows a standard user does to create the appropriate records if all conditions (e.g. eligibility questions, DMV check passes, photo ID uploaded, etc.) are met during the request process.

## **Current Requirements: Subscription Renewal**

As the foundation of WisVote, Dynamics CRM provides the interface for the database where all information is stored by Wisconsin's election officials. The State of Wisconsin assigns each of these users are assigned a license that grants them access to read and write new information into WisVote. Currently there are 2,558 enabled users in WisVote with an additional 462 spare licenses available for WEC, county, or municipal temporary staff hired during busy elections. Licenses are purchased once but require ongoing software assurance to remain in use.

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Dynamics CRM software assurance is renewed on a three-year schedule, with the last renewal occurring in September 2018. Renewing all licenses for another three years will cost \$417,316.20, or approximately \$139,000 per year.

### **Future Requirements: Infrastructure Growth**

Dynamics CRM is one of two major services supporting WisVote. It provides the user interface, or “front-end,” for the voter registration application. The “back-end” of WisVote is the database, powered by Microsoft’s SQL Server. One database stores all information recorded through WisVote and MyVote, and a separate database maintains a read-only copy of publicly available data used to serve our data request site, Badger Voters.

As the State of Wisconsin grows, election information systems will require more bandwidth and computing power. The elections database is currently stored and run on-premises in the State of Wisconsin Department of Enterprise Technology’s primary data center . System backups are likewise maintained on DET systems. WEC staff are currently exploring options that increase system redundancy while offering opportunities for future growth.

### **Conclusion & Recommended Motion**

To renew Dynamics CRM the Commission staff have obtained quotes through the appropriate procurement channels and the lowest bid is presented herein. We request your approval to purchase licensing renewal and software assurance for Dynamics CRM 364 for 3,020 users at a total cost of \$417,316.20. The next renewal will be in 2024.

**Motion:** The Wisconsin Elections Commission approves the purchase of licensing renewal and software assurance for Microsoft Dynamics CRM 364 for 3,020 users at a total cost of \$417,316.20.



# Wisconsin Elections Commission

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

Prepared Elections Commission Staff

**SUBJECT:** WEC Website Redesign and Rebuild

## Summary

Demand for trusted information about elections has increased in recent years. Clerks, voters, commissioners, elected officials and candidates alike must be able to easily search and navigate official Wisconsin elections websites to find resources to answer their questions and to share with their audiences. Information must also be relevant, current, and presented in a timely manner dependent on the election cycle and current circumstances.

With that in mind, Wisconsin Elections Commission staff has been reviewing the status of three agency websites (elections.wi.gov, bringit.wi.gov, and electiontraining.wi.gov). The WEC's small staff has done much of the design and maintenance work on these websites in-house over the last decade at considerable savings to the agency budget. However, we have determined the agency staff does not have the resources to ensure these websites will meet current and future usability, maintenance, and accessibility standards. As a result, the agency needs to engage enterprise-grade hosting, support and design services. While the security of these websites is not currently an issue, outsourcing these website services would also free the agency's IT and security staff to concentrate on ensuring the stability of the WEC's core systems that serve clerks and the public.

This memorandum will provide background on the history of Wisconsin elections websites and recommendations for necessary upgrades over the next year as we prepare for elections in 2022 and beyond.

## Background

The WEC maintains several websites used by the public and local election officials.

- MyVote.wi.gov, BadgerVoters.wi.gov and the statewide voter registration database are hosted on Microsoft Windows-based servers. WEC staff and the Division of Enterprise Technology (DET) have the technical expertise to provide all the secure hosting and support for these websites and applications. They are not the subject of this memorandum.

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- Elections.wi.gov, bringit.wi.gov, and electiontraining.wi.gov are hosted on Linux-based servers, also within DET's secure data center. While agency IT staff is able to provide basic technical support for the Linux-based web hosting, it is not their area of expertise. Additionally, they do not have expertise in the content management systems used to run the Linux-based websites.

The three Linux-based websites have separate histories:

- The current agency website (elections.wi.gov) was originally designed and built approximately 11 years ago by the staff of the former Government Accountability Board using the free, open-source Drupal content management system. At the time, it was a significant upgrade as Wisconsin's elections website had been ranked as one of the 10 worst in the nation and was later ranked among the 10 best. It has been maintained primarily by the Public Information Officer with assistance from other WEC staff. While the website's content has been continually updated over the years, it has grown to more than 7,300 pages and needs significant work to meet current usability, design and accessibility standards.
- BringIt.wi.gov is the agency's voter photo ID microsite, which was originally built in 2011 for the public education campaign by agency staff, the KW2 advertising agency, and a local Drupal development company. Shortly after its launch in 2012 it was mothballed for several years while the photo ID law was under appeal. In 2016 it was upgraded to be more compatible with mobile devices in connection with the relaunch of the photo ID public education campaign. It, too, needs an upgrade, or could be combined with the voter ID information on elections.wi.gov.
- The clerk training website (ElectionTraining.wi.gov) was originally built and hosted in the mid-2000s by UW-Extension using the Moodle learning management system (LMS) platform. Moodle is used by many schools and universities (including UW) for online learning. It is a free, open-source program. The G.A.B. took over hosting in the early 2010s, and staff revamped the website in 2015 to host training manuals for the new statewide voter database system, which launched in early 2016. Now known as The Learning Center (TLC), the website is a critical part of WEC's election security training efforts for clerks. It is primarily maintained by WEC's multimedia training officer.

Between 2010 and 2018 these Linux-based websites were hosted at a private data center in Eau Claire, and a Wisconsin-based webhosting company provided technical support and security updates, all at an average cost of less than \$5,000 a year. In late 2018, the webhosting company owner retired and WEC management decided to host them at the DOA Division of Enterprise Technology (DET) secure data center. WEC's security officer and IT staff took over server administration duties.

In 2016 when the G.A.B. was split into two separate commissions, the Elections staff created the new agency's website by removing the pages on ethics, campaign finance and lobbying. They added new sections for voters and about the Commission.

## **WEC Agency Website Status**

### Current State

The current WEC website (elections.wi.gov) uses the Drupal content management system (CMS), which runs on the Linux operating system. Drupal was originally selected as the website CMS in 2010 because of its flexibility, security, and ease of use. It is also free, open source software, and is widely used by governments and businesses. However, DET did not support Drupal hosting at the time, so a Wisconsin-based vendor was chosen for hosting and technical support.

While moving the Linux-based sites to the DET data center in 2018 significantly improved their security posture, maintenance tasks such as version upgrades and security patches have created a burden on WEC's IT and security staff who must implement, test, and deploy these changes in addition to regular job duties. WEC's core IT applications run in a Windows environment, and that is where our staff's expertise lies.

The agency website's main audiences are municipal and county clerks seeking guidance, training, clerk communications, and official form materials. It also serves voters, candidates, the media, and researchers seeking statistics and historical data, upcoming election dates, press releases, and answers to their specific questions. Most content on the site is formatted to simply provide information, where other WEC-maintained sites focus on workflow-based transactions such as submitting a data request on Badger Voters or requesting an absentee ballot through MyVote. The WEC website does allow for clerks to sign up for training or to submit a concern. The site is searchable; however, the search feature has been reported as inconsistent and unhelpful. Additionally, more and more information has been added to the website over time without a method to monitor and remove information that is irrelevant or outdated.

### Future State

The WEC staff's current preparations to redesign the WEC website began in April 2021. This effort started by identifying our core website audiences and establishing a mission statement to describe what the WEC website should become.

#### Mission Statement:

WEC's website will provide voters, clerks, election inspectors, candidates, and the general public with information they need to know about elections that is current, trusted, accurate, and relevant in a format that is accessible, usable, and compliant with state statutes.

These principles will guide staff as we rebuild the website. To start the rebuilding process, WEC staff created sub-groups around specific audiences and elements. Subgroups initially included clerks, voters, data, the website platform, and usability. Pages pertaining to clerks, voters, and data were evaluated for ease of navigation, relevance, and what category best describes their content. This information will be used to establish broader topic areas that may span audiences. The usability group has coordinated surveys with clerks to report how they use the WEC website, what areas they like, and which areas need improvement.

Because the WEC's core IT applications are Windows-based, a website platform group evaluated other content management systems that run natively in Windows, including DotNetNuke and SharePoint, but ultimately determined a Drupal content management system is still the best option on the market. Windows-based CMS

options do not offer the functionality necessary for a website that has the size and complexity of the current WEC agency website, and especially not for WEC training needs.

In the course of starting this project, WEC staff determined specific content management system maintenance and design services will be necessary to create a successful website. WEC staff have identified specific areas for improvement within our capacity. However, we do not currently have the resources or skills to independently design and develop a new website that accomplishes all of the goals listed above. To accomplish this task, WEC staff have identified Acquia, a Drupal platform and services company, as a potential partner for this project. Acquia has an existing state contract for web hosting and design services, and its current customers include the Department of Natural Resources, the Department of Health Services, and the Superintendent of Public Instruction. Using an existing state contract would free WEC from having to conduct a lengthy bidding process, as the state has already negotiated standard fees for services.

Additionally, Northern Commerce has been identified as an Acquia subcontractor to assist in designing the look and feel of the new website and to eventually provide the development services to complete the new website build.

Moving this site to Acquia hosting would also have security benefits. Drupal and its underlying technologies, like all other website hosting platforms, routinely release patches to update newly discovered security vulnerabilities. Drupal is based on the Linux operating system, which is different than the Windows technology used in the agency's other applications. As a result, there are limited internal resources available for evaluating, testing and applying these patches. Additionally, staff are not intimately familiar with the configuration options for Drupal and Linux. This may potentially lead to delays in patching or misconfigurations that could result in exploitable vulnerabilities. An attack against the agency website could have significant ramifications for public trust in the agency, or even alter information presented to the public to misinform voters or candidates. By hosting with a specialized provider like Acquia that has available resources, and significant domain experience, the agency can ensure that patches are timely applied and configurations are secure.

In the past, the agency has had issues with external hosting providers meeting security requirements of the agency. However, Acquia is a leading provider in this space and is used by several other state and federal agencies. Additionally, Acquia has provided agency staff with an industry standard report called a System and Organization Controls (SOC) 2 Type 2, which attests to the provider's internal security practices as actually implemented, as determined by an independent auditor. Agency security staff members have reviewed the report and found it to meet or exceed the requirements of an elections-based agency.

### **BringIt.wi.gov Current Status**

#### Current State

The Bring It to the Ballot voter photo ID micro-site runs on the Drupal LMS on the same Linux servers as elections.wi.gov. The site uses a different design theme and is based on the Bring It to the Ballot public education campaign. Because of the complexity of the voter photo ID law and the many different types of acceptable photo IDs, the micro-site was designed as a place where media public service announcements, pamphlets and other resources would direct voters if they sought complete information on voter photo ID processes and procedures. This includes PSA video and audio files, FAQs, printable brochures and palm cards, as well as posters. The main agency website also contains basic information about voter photo ID. The Bring It micro-site contains a lot of animated graphics, which occasionally break and need to be fixed. Without a current public service announcement campaign to drive web traffic to the site, its usage is relatively low.

### Future State

The website team recommends integrating the complete voter photo ID information, including the multimedia assets, to a section with its own branded landing page within the elections.wi.gov website. This would be accomplished as part of the redesign process described above, and would ensure cohesive, focused information for Wisconsin voters to ensure they understand how to comply with the voter photo ID law. The website address bringit.wi.gov would be maintained, but it would redirect visitors to the landing page within elections.wi.gov.

### **Learning Center Current Status**

#### Current State

The Learning Center (also known as TLC) runs on the Moodle LMS. The system is designed for use by local election officials, including county and municipal clerks, as well as chief inspectors. In addition to hosting user manuals for the statewide voter registration database system, WEC's multimedia training officer and other training staff have created an impressive catalog of interactive materials about cybersecurity, election security and other relevant topics. Users are able to satisfy annual training requirements by completing the TLC courses and can earn badges as they progress. Because of the need to protect security information about Wisconsin's elections systems, TLC is only open to approved users, who must each have an account and a password.

WEC IT staff maintain the Moodle application on Linux servers housed within DET's secure data center, and they face similar issues as with Drupal support. WEC has at times contracted for technical assistance with Moodle but is currently without a vendor for those services. Recent efforts to find a vendor proved difficult, leading staff to explore other LMS options for the agency's training content.

#### Future State

In researching content management and learning management systems, WEC staff has learned there is a custom version of Drupal available as a learning management system, known as Opigno, which is growing in use by governments and businesses for online training. Opigno supports the current format of TLC interactive training courses, so they would not have to be recreated in a different system. Staff believes Drupal-Opigno is a strong candidate to replace Moodle as the platform for TLC, especially because it could also be hosted by Acquia, which would eliminate the need for separate technical support and hosting. However, more research is necessary, and the change would occur after the agency's main website has been migrated to Acquia and redesigned.

### **Timeline and Costs**

To provide the most benefit to our website users as quickly as possible, WEC staff will approach this project in two phases, with a potential third phase beyond the 2022 election cycle.

#### Phase 1 – Completed by end of December 2021

In phase 1, WEC staff will work with Acquia to migrate the existing WEC website to Acquia's servers and its Site Studio platform. The website will then be upgraded from Drupal version 8 to version 9, and thereafter be cloud-hosted, supported, patched, and monitored by Acquia. Use of Acquia's Site Studio platform and support services would cost \$89,000 on an annual basis. This work is planned to be completed by December 2021.

In this same timeframe, WEC will be working closely with Northern Commerce through the Discovery phase of the project. WEC staff will share prior research and cataloging work and participate in usability testing of the new website. Northern's services to redesign the WEC website are currently quoted at a one-time cost of \$50,000. Additionally, WEC staff will continue to evaluate opportunities for improvement on the current WEC website that can be managed by existing staff, specifically focusing on the location of clerk and election inspector training materials.

### Phase 2 – End June 2022

Beginning in January 2022, the Northern Commerce design team will work to create the new WEC website to match WEC's mission statement. This work will include incorporating voter photo ID information from the Bring It microsite into the agency's main website. The site will have enhanced features for content auditing, scheduling content review and unpublishing, a formalized approval process, and standardized "look and feel" that is unique to the Wisconsin Elections Commission. Development is currently estimated as a one-time cost between \$100k-200k. WEC staff will prepare county and municipal clerks for the transition to the new site, set to occur in June 2022. This migration, and future phases, will have no impact on access or use of the site during the 2022 election cycle.

### Phase 3 – 2023

Once the 2022 election cycle is over, WEC staff will focus on a new hosting platform for The Learning Center, possibly with Acquia as the host. With Acquia, WEC is entitled to host two separate websites, so TLC would be covered under existing hosting costs. Consulting help to migrate TLC from Moodle to Drupal-Opigno would be an additional cost. If costs exceed the Administrator's delegated spending authority, staff will come back to the Commission for authorization.

### Conclusion

Since 2010, Wisconsin's election agency websites have historically been built and managed by agency staff using free or low-cost software and have been hosted at a relatively low cost to taxpayers. While they have served voters, clerks and the public well for many years, they are long overdue for improvements.

The initial cost for upgraded hosting services with Acquia are under \$100,000 and covered by an existing state contract. Staff is currently working with Acquia and Northern to determine what additional costs will be necessary to complete the redesign of elections.wi.gov and will return to the Commission at a later meeting for authorization.

No action is requested at this time.



# Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
(608) 266-8005 | elections@wi.gov | elections.wi.gov

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

**SUBJECT:** Delegation of Authority to Administrator

In February of 2020, the Elections Commission last approved changes to the “Delegation of Authority to the WEC Administrator.” The Delegation of Authority, as modified by the Commission in 2020, is attached to this memo.

Pursuant to Wis. Stat. § 5.05(3g), the Administrator of the Commission serves as the State’s chief election officer, and pursuant to Wis. Stat. § 5.05(3d), the Administrator shall perform such duties as the Commission assigns to her in the administration of the election laws.

Upon the creation of the Wisconsin Elections Commission in 2016, the Commission agreed that they would review the delegation annually. Annual review has been the Commission’s practice, but is not required by statute. The Commission can make changes to the delegation by two-thirds majority vote (at least 4 votes; see Wis. Stat. § 5.05(1e)). Absent a majority vote to modify the delegation, the previously adopted delegation (attached 2020 version) carries through until such time as it is modified by a majority of the Commission.

*Wisconsin Elections Commissioners*

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

---

*Administrator*  
Meagan Wolfe





# Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
(608) 266-8005 | elections@wi.gov | elections.wi.gov

Pursuant to the Commission Administrator's role as agency head and the State's chief election official, the Wisconsin Elections Commission on February 27, 2020 delegated the authority described below to its Administrator:

1. The following authority is delegated to the Administrator subject to the requirement that before it is exercised, the Administrator consult with the Commission Chair to determine whether a special meeting is conducted before action is taken:
  - a. To issue compliance review orders under the provisions of Wis. Stat. § 5.06. Prior to compliance review orders being issued, the following actions shall be taken:
    - i. Commission staff shall provide to Commissioners the parties' filings as they are received and post the filings on the Commission's website.
    - ii. If time permits, as determined by the Administrator in consultation with the Chair, staff shall provide draft decisions to all Commissioners prior to their issuance. The Administrator and Chair shall determine whether it is feasible to permit Commissioners to submit comments regarding the draft decision given statutory and administrative deadlines, and the amount of time allowed to submit comments.
    - iii. If time permits, Commissioners who wish to comment on the draft decision may contact the Administrator but shall not discuss the case with other Commissioners, except as allowed by the open meeting law. The Administrator shall determine whether any comments or input provided by Commissioners will be incorporated into the final decision.
    - iv. If two or more Commissioners ask the Administrator to request a special meeting regarding a Section 5.06 draft decision, the Administrator will discuss with the Commission Chair such requests and the Chair will determine whether to hold a special meeting prior to release of the decision.
  - b. To certify and sign election related documents including candidate certifications, certificates of election, and certifications of election results on behalf of the Commission;
  - c. To accept, review, and exercise discretion to approve applications for voting system modifications characterized as engineering change orders (ECOs) for systems previously approved for use in Wisconsin;
  - d. To implement the Commission's determinations regarding sufficiency of nomination papers or qualifications of candidates;
  - e. To communicate with litigation counsel representing the Commission in order to advise the Commission regarding necessary decisions related to Commission litigation. This delegation is intended to require Commission input regarding significant litigation

*Wisconsin Elections Commissioners*

Dean Knudson, chair | Marge Bostelmann | Julie M. Glancey | Ann S. Jacobs | Robert Spindell | Mark L. Thomsen

*Administrator*  
Meagan Wolfe

decisions such as the filing of an appeal, but is not intended to require consultation with the Chair or the Commission prior to communicating with litigation counsel regarding routine matters such as feedback pertaining to legal briefs and other legal filings, discovery procedures and Commission staff's participation in court proceedings;

- f. To execute and sign contracts on behalf of the Commission, except related to special investigators as provided in Wis. Stat. § 5.05(2m), subject to the further provisions of this paragraph. The Administrator is required to request approval from the Commission for contracts involving a sum exceeding \$100,000, or for purchases from a statewide contract over \$100,000. The Administrator is required to request approval from the Commission prior to posting a Request for Proposal or Request for Bid. In addition, the Administrator may enter into a sole source contract only after obtaining approval from Commission Chair and providing five days' prior notice to the Commission regardless of the dollar amount.

**2. The following authority is delegated to the Administrator without the requirement for prior consultation with the Commission Chair before action is taken:**

- a. To exempt municipalities from polling place accessibility requirements pursuant to the provisions of Wis. Stat. § 5.25(4)(a);
- b. To exempt municipalities from the requirements for the use of voting machines or electronic voting systems pursuant to the provisions of Wis. Stat. § 5.40(5m);
- c. To execute and sign contracts on behalf of the Commission, except related to special investigators as provided in Wis. Stat. § 5.05(2m), for contracts involving a sum not exceeding \$100,000, or for purchases from a statewide contract involving sums not exceeding \$100,000.

**STATE OF WISCONSIN  
ELECTIONS COMMISSION**

COMPLAINT FORM

**Please provide the following information about yourself:**

Name David J. Bolter, COL US Army (ret)  
Address 2761 South 43rd Street, Milwaukee WI 53219  
Telephone Number (414) 902-3433  
E-mail david.bolter@va.gov

**State of Wisconsin  
Before the Elections Commission**

The Complaint of David J. Bolter

\_\_\_\_\_, Complainant(s) against  
Claire Woodall-Vogg, Executive Director, and Brenda Wood, Respondent, whose  
address is Milwaukee Election Commission, City Hall, 200 E. Wells Street, Rm 501, Milwaukee WI 53202.

This complaint is under Ch.6 (e.g., 6.87), 5, and others (Insert the applicable sections of law in chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing)

I, David J. Bolter, allege that:

The US Constitution (Article. II and Amendment. XII, Wisconsin Constitution, and relevant sections of Wisconsin Statutes (e.g., 6.87, 5.05, and 5.06) govern elections in Wisconsin. Despite our and other ballot-counters objections, Ms. Woodall-Vogg and Ms. Wood allowed without authority: tens of thousands of ballots to be tampered with by red-ink cross-outs by election staff of the certificate's "10 days before the election" and writing in by staff of "28 days" (in violation of S.S>6.87(2)); staff to look up, assume without verification, and tamper with by writing in unconfirmed addresses of the alleged ballot witness (in violation of S.S> 6.87(6d) and 6.87(9)) on numerous ballots; and no physical or reasonably readable access to 80% of all ballots by designated observers, in violation of free & fair elections. In addition, numerous ballot envelopes failed to have witness signatures, further covered in my affidavit dated 11NOV2020.

*Attached are two (2) supporting declarations  
and my previous affidavit.*

(Set forth in detail the facts that establish probable cause to believe that a violation has occurred. Be as specific as possible as it relates to dates, times, and individuals involved. Also provide the names of individuals who may have information related to the complaint. Use as many separate pages as needed and attach copies of any supporting documentation.)

Date: 11/30/2020

[Signature]  
Complainant's Signature

I, David J. Bolter, COL US Army (ret), being first duly sworn, on oath, state that I personally read the above complaint, and that the above allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

[Signature]  
Complainant's Signature

STATE OF WISCONSIN

County of Milwaukee,  
(county of notarization)

Sworn to before me this 30th day of  
November 2020.

[Signature]  
(Signature of person authorized to administer oaths)

My commission expires 11-15-22 or is permanent.

Notary Public or Milw. County  
(official title if not notary)



**Please send this completed form to:**

Mail: Wisconsin Elections Commission  
P.O. Box 7984  
Madison, WI 53707-7984

Fax: (608) 267-0500

Email: [elections@wi.gov](mailto:elections@wi.gov)

## DECLARATION

1. My name is David J. Bolter. I am over the age of 18. All the facts stated herein are true and based on my personal knowledge.
2. I am a resident of Milwaukee County and live at 2761 South 43<sup>rd</sup> Street, Milwaukee WI
3. I was employed by the Milwaukee County Election Commission at Central Count, 501 West Michigan Avenue.
4. I served as a paid ballot counter/inspector in the November 3<sup>rd</sup>, 2020 election. I worked three (3) shifts, from 0530hrs Tuesday to 0145hrs Wednesday, November 4<sup>th</sup>, 2020
5. While at the Central Count location, 501 West Michigan Avenue, I observed the following irregularities:
  - a. Hundreds of ballot envelopes had the 10-to-28 day (or 28-to-10 day) statute issue, where one date was written in red over the other., in conflict with Statute 6.87(2). I had initially informed Ms. Claire Woodall-Vogg, as a 'challenge'. It was dismissed as not-important by Ms. Woodall-Vogg, which later I complained further as an 'objection' with Ms. Woodall-Vogg. Again the objection was noted but ultimately ignored.
  - b. Dozens of ballot envelopes had no witness signature properly in the allocated envelope location; instead a few had a signature under 'Assistant'; in response to this, Ms. Woodall-Vogg announced on the loudspeaker that it was allowed as long as there was a 2<sup>nd</sup> signature found on the envelope, many were written in red ink.
  - c. Several envelopes had no witness (or assistant) signature and was given to who I believe was an Election Commission employee, but not returned.
  - d. Election Day Observers were kept behind small orange cones, typically 15-20 feet away from ballot inspection tables (grouped in 'Pod' locations). Few if any observers came near tables due to stated 'COVID concerns'.
  - e. I had personally seen several dozens of ballots with only 'Presidential Candidate' selection marked (no other votes indicated). A few of the ballots also had all of the 'Presidential

Candidate' selections marked, except for Donald J. Trump. When I brought this to the attention of the Election employees running the 'tabulator' they informed me that the intent of the voter would be sorted out by the tabulator. The virtue of several presidential candidates (except Donald Trump) seem more of a prankish attempt by the voter, but was nevertheless brought to attention.

f. At around 1230am on 4NOV2020, it was announced that a huge truckload of ballots were going to be delivered shortly. Workers were urged to stay on for them to be counted. I cannot attest to whether that was part of standard delivery procedures from external polling locations, but it seemed odd.

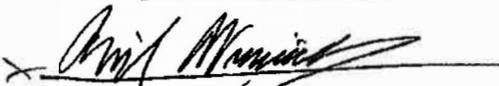
6. I declare under penalty of perjury pursuant to that the forgoing is true and correct. (28 U.S.C. § 1746)

Executed on 11NOV2020.

  
David J. Bolter, COL USAR (ret)

11NOV2020

State of Wisconsin  
County of Milwaukee  
Subscribed and sworn before  
me this 11 day of November  
2020 by David J. Bolter.

  
Notary

my commission expires!

05-28-2022





## DECLARATION

1. My name is Bartholomew R. Williams. I am over the age of 18. All the facts stated herein are true and based on my personal knowledge.

2. I am a resident of Wisconsin and live at 2420 Skyline Drive, West Bend, WI 53090.

3. I was appointed as a watcher for Central Count in Milwaukee, 501 W. Michigan St., Milwaukee, WI 53203, as an independent election/poll observer.

4. I arrived at the above address at 6:00 a.m. on Tuesday, November 3, 2020 but was not allowed to go to the Central Count area/floor until 7:00 a.m. Then, I had to wait in line, present photo identification, sign in, and await instructions from the ballot processing/counting leadership/staff. As a result, I was not able to actually start observing ballot processing/counting until at least 7:30 a.m., and therefore, I was excluded from the first full 30 minutes of observing the ballot processing/counting.

5. I did not enter or attempt to enter restricted places at Central Count. I did not interfere in any way with the process of ballot processing/counting, nor mark or alter any official election record.

6. As mentioned in paragraph number 4 above, Claire Woodall-Vogg, Brenda Wood, and several supervisors (none had a visible name badge nor told me their name) refused to allow me access to Central Count in Milwaukee, Wisconsin, from the time that the ballot processors/counters met prior to the opening of Central Count at 7:00 a.m. until approximately 7:30 a.m.; refused to allow me to remain in an unobtrusive area of the ballot-processing/counting location from which I reasonably could see and hear what was occurring for the vast majority (at least two-thirds) of the tables being used for ballot processing/counting; stopped allowing me to keep a list of voters – beyond the five I logged – with ballot defects that I genuinely believe were tampered with (in

violation of the State of Wisconsin Constitution and/or applicable *Wisconsin Statutes*) by the ballot processing/counting leadership and/or staff; refused to allow me to challenge several of the qualifications of a legal, valid, and complete ballot (including proper, accurate, and complete voter certification and required witness information) for any ballot; and refused to require the ballot processors/counters to announce the names of electors in a way that allowed me to hear each name and ballot number. In addition, it is my genuine belief Ms. Woodall-Vogg, Ms. Wood, and other members of their supervisory staff violated numerous other applicable laws, regulations, and/or other rules – as well as reasonable intent – associated with the ability and rights of election observers/watchers to have meaningful physical and visually-close [i.e., close enough for an average person to see the ballot details such as whether or not the voter signed the ballot, whether or not all required voter certification and witness information (including signature and address) was present, whether or not any pre-printed ballot information (e.g., the number of days (for example, 10 vs. 28 days) the voter certified he/she was a resident of the district he/she voted in), etc.] access to all the ballots. Also, I believe Ms. Woodall-Vogg, Ms. Wood, and other supervisors deliberately, seriously, and repeatedly violated my rights and/or access as an election observer/watcher in the numerous other ways (for example, since the ballot processing/counting is a highly manual process subject to significant variation (i.e., substantial differences in the process) – and other election observers/watchers and I were not allowed to access/inspect the vast majority of the ballots – we therefore were truly not allowed to observe most of the process) included in the three-page document entitled, “Continuation Pages of Bartholomew R. Williams’ Declaration as an Election Observer/Watcher at Central Count in Milwaukee, WI on November 3, 2020,” and a sketch of some table configurations at Central Count referred to therein, both of which together are an integral part of this Declaration (Affidavit) and are incorporated herein by reference.

7. As a result of Claire Woodall-Vogg's, Brenda Wood's, and other supervisors' acts, I was unable to fulfill my responsibilities or exercise my rights to meaningful observation as an election/ballot-processing/counting observer/watcher.

8. I declare under penalty of perjury pursuant to that the forgoing is true and correct. (28 U.S.C. § 1746).

Executed on November 16, 2020.

  
Signature of Declarant (Bartholomew R. Williams)

**Continuation Pages of Bartholomew R. Williams' Declaration as an Election  
Observer/Watcher at Central Count in Milwaukee, WI on November 3, 2020**

1. My partial sketch of the table configuration at Central Count (see the top sketch of **observation #1** of the attachment to this Continuation Pages document, is an integral part of it, and is hereby incorporated by reference) shows how Claire Woodall-Vogg (Executive Director of the Central Count operation), Brenda Wood, and maybe others made it difficult for election observers to truly observe all ballots being processed at all times. First, they only allowed one chair for every four tables, and if more than one person was at that chair (standing or sitting), Claire, Brenda, or one of the supervisors under them made us go to the edge of the bank of tables (i.e., even further away). One would have to have eyes in the back of her/his head to continuously monitor all four tables at ones. Second, we were restricted from observing entire rows of tables two and three deep [please note that the third row of tables is not included in my attached sketches due to limited space in the small notebook I had with me, but they existed and were actively used throughout my shift for ballot processing/counting at Central Count in Milwaukee on 11/3/2020] from where we were allowed to observe, which was at least 6' from the inner (closest) edge of the nearest (first row) of tables. We were repeatedly not allowed to access observing the second and third rows deep of tables away from our observation line. Those tables were at least 22-24' and 32'-34' (and possibly even further) from where we were allowed to observe from, respectively. We (and anyone with average eyesight) could not possibly see any of the ballot or ballot envelope details from those distances. In the top diagram (observ. #1), from that chair, I could only see ballot and envelope details at the four nearest tables to/around me. Looking to the upper right, I could not see (it was too far away) ballot and envelope details at Pod 9's Table 9 (in the second row of tables deep, away from us), the next (third row) of tables after that (not pictured in my diagram because I could not even see the Pod and Table # details from that distance, let alone any ballot and ballot envelope details). I listed the wards those tables were working on at the time of my observations, but as you know, the wards change as the tables finish working those ballots. Overall, since ballot processing is a highly manual process, there is real variation in how each of the pairs of ballot processes were doing their jobs. My best estimate of the total percentage of all ballots that we were not allowed to observe either because we physically could not access them (i.e., second and third rows of tables deep away from us) and/or could not see them because they were too far away (due to being at the second and third row of tables deep away from us, and when we not the one person allowed to access the one chair in the middle of the four tables in the first row of tables) is between 67% and 75%, at least.

2. Since only ONE person - i.e., a GOP, Democratic, OR independent observer - was allowed by Claire W. and Brenda Wood to be at each chair surrounded by four tables, that meant effectively no GOP observer could watch those four tables (and again, one cannot watch four tables at a time since we do not have eyes in the back of our heads) while a Democratic observer was in/at that chair. This actually happened to me, and other election observers, several times (e.g., I had to leave for a few minutes to go the bathroom, and this Democratic observer (a lady) would grab the chair and stay there for a long time). Jean Weymier (of West Bend, WI) witnessed this, too. So effectively, we were barred observation access to those four tables for as long as a non-Republican observer was at that chair. Now multiply this by all the tables thusly restricted (i.e., dozens and dozens of tables), and it is a major (and I believe unreasonable) restriction on access to observing.

3. We were only allowed 15 total Republican observers in the Central Count area per shift. I can tell you this was way too low of a number to allow anything approaching full observation access to all

the tables. At best, I would say we could maybe only cover (observe) 20-25% of all the tables, with 15 observers - again, at best. So, I believe this small total number of observers of each party was also a huge and illegal access restriction. Yes, it was equal (i.e., 15 for the Dems) for all affiliated observers, but truly they should have allowed many more observers of each affiliation in at the same time. I guarantee you that with more like 45-60 observers of each affiliation allowed in at one time, social distancing still could have been maintained, so I hereby dispute as false any excuse by election officials to the contrary.

4. In the bottom diagram (observation #2), the chair was the chair nearest the end of the tables area. From that chair, I could observe Pod 8, Table 8 - with a man closest to me and a woman on the other side of the table. However, at the next table in (second row), a man and woman were working seated next to each other at the far side of the table (I assume they live together and were exempt from social distancing). However, at that distance, neither I nor anyone else (e.g., Jean W.) could see any ballot or envelope details. Plus, they held the document up at an angle towards them (makes sense, for them) to be easier to read, but this then only allowed me to see the back of each document - completely useless for observation purposes. Again, I wrote the ward numbers they were working on at time of my observation.

5. Brenda Wood (second in charge, I believe) and a supervisor both acknowledged to me verbally that "many" of the ballots had the election staff-performed red ink cross-outs of the 10 days and red-ink write-ins of the 28 days residency requirement on the ballot envelope/certification. The best estimate by my fellow election observers of the total percentage of all ballots that had this defect is at least 20% of all ballots processed at Central Count in Milwaukee. Claire W. made a loudspeaker announcement to all early in the day that this issue is not a basis to challenge the ballot. She also made a separate similar announcement that if a witness' address was missing from the ballot envelope/certification, a ballot processor could go to the computer set up for the staff, look it up, and write it in, and they did not need to find and write in a ZIP code for the witness. Claire at no point stated that the ballot processor had to verify the witness' address with the witness or voter. She also did not address the possibility of common names (e.g., John Smith) and that there can be multiple addresses for that common-name person (i.e., which address is the correct one?). Here is a very partial list (due to the many physical and visually-observable access restrictions detailed above) of wards with this 10 vs. 28 days issue, and it is the absolute minimum in each ward (there are very likely many more; again, I believe this is at least a 20%-of-all-ballots issue):

<u>Ward no.</u>	<u>No. of ballots</u>
187	23
186	38
189	20
190	18
211	4 [I had just started observing this table near the very end of my shift.]
219	1 [I had just started observing this table near the very end of my shift.]

6. I picked up a form to start tracking the voter name and ballot ID number of each ballot envelope on which I saw the situation listed above in item #5. Occasionally, I had to ask an election worker (they were talking through masks) to repeat a name or part of a name. After I documented five such instances, one of the workers got up and brought Brenda Wood over, who told me I could no longer do this because it was slowing them down. She insisted, so I could no longer document any more such instances. My best estimate of how many ballot envelopes fell in to this situation is about 20%,

and I observed for over 6 hours. Overall, Claire, Benda, and the rest of the election staff seemed hostile to our questions and observing in every interaction we had with them.

7. The election officials had told us not to expect that many "skinny" or express ballots, but there many. I would estimate they comprised 25-35% of the ballots I saw. I asked and was told by a supervisor (wearing orange vests) that express ballots came from one of two places - the Ziedler building and one other place (she did not say). She said they were for people who had a hard time writing. They could use a special keyboard/machine at one of those two buildings to generate an express ballot. This seems suspicious to me - unlikely there were that many people who have a hard time writing. Plus, two supervisors acknowledged there were a lot more express ballots than they expected.

Sincerely/signed,



Bartholomew R. Williams  
2420 Skyline Drive  
West Bend, WI 53090

(262) 353-3154



**JURAT WITH AFFIANT STATEMENT**

State of Wisconsin }  
County of Washington } ss.

- See Attached Document (Notary to cross out lines 1-7 below)
- See Statement Below (Lines 1-7 to be completed only by document signer[s], not Notary)

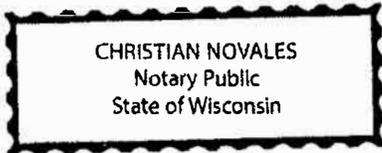
1 \_\_\_\_\_  
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4 \_\_\_\_\_  
5 \_\_\_\_\_  
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7 \_\_\_\_\_

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

Subscribed and sworn to (or affirmed) before me  
this 16th day of November, 2020, by  
Date Month Year

Bartholomew Williams  
Name of Signer No. 1



Place Notary Seal/Stamp Above

\_\_\_\_\_  
Name of Signer No. 2 (if any)  
Signature of Notary Public

**My Commission Expires**  
**March 29, 2022**

Any Other Required Information  
(Residence, Expiration Date, etc.)

**OPTIONAL**

This section is required for notarizations performed in Arizona but is optional in other states. Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Declaration of Bartholomew R. Williams, Continuation Pages, Sketches

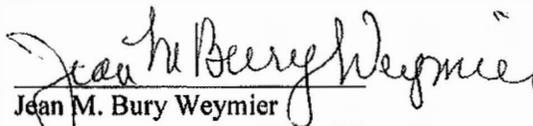
Document Date: November 16, 2020 Number of Pages: 7

Signer(s) Other Than Named Above: none

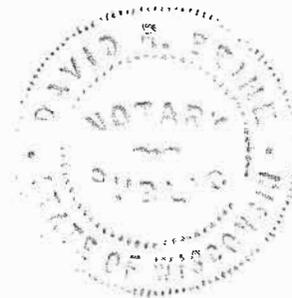
DECLARATION

1. My name is Jean M. Bury Weymier. I am over the age of 18. All the facts stated herein are true and based on my personal knowledge.
2. I am a resident of 1372 Bobolink Lane, West Bend, WI 53095 and live at [address].
3. I was appointed as a watcher for Precinct **Central Count**, located at **501 W Michigan Street, Milwaukee, WI 53203** and was named as 'Independent'.
4. I arrived at the above address at **6:00 a.m.** and checked in at 7:00 a.m.
5. I did not enter or attempt to enter restricted places within **Central Count**. I did not interfere in any way with the process of voting, nor mark or alter any official election record.
6. **Claire Woodall-Vogg, Brenda Wood and other supervisors who were not identified refused to allow me physical and visual-inspection access to the vast majority of ballots; did not allow an adequate number of observers to cover all of the ballot processing tables; stated that certain ballot defects were acceptable; and did not allow writing down of our specific objections or even ask name, address and ballot number of the particular ballot. See the two-page document entitled, "Jean M. Bury Weymier – key points of affidavit regarding being an election observer at Central Count in Milwaukee, WI on election day (11/3/2020)," which is an integral part of this Declaration and is incorporated herein by reference.**
7. As a result, of Claire Woodall-Vogg's and Brenda Wood's and other supervisors' acts, I was unable to fulfill my responsibilities and/or exercise my rights to meaningful observation as a poll Watcher.
8. I declare under penalty of perjury pursuant to that the forgoing is true and correct. (28 U.S.C. § 1746).

Executed on November 16, 2020

  
Jean M. Bury Weymier

  
DAVID R. BEINE  
NOTARY PUBLIC  
PERMANENT COMMISSION  
NOVEMBER 16, 2020



**\*\*Jean M. Bury Weymier – key points of affidavit regarding being an election observer at Central Count in Milwaukee, WI on election day (11/3/2020)**

1. Claire Woodall-Vogg (Executive Director of the Central Count operation), Brenda Wood, and maybe others made it difficult for election observers to truly observe all ballots being processed at all times. First, they only allowed one chair for every four tables, and if more than one person was at that chair (standing or sitting), Claire, Brenda, or one of the supervisors under them made us go to the edge of the bank of tables (i.e., even further away). Second, we were restricted from observing entire rows of tables two and three deep from where we were allowed to observe, which was at least 6' from the inner (closest) edge of the nearest (first row) of tables. We were repeatedly not allowed to access observing the second and third rows deep of tables away from our observation line. Those tables were at least 22-24' and 32'-34' (and possibly even further) from where we were allowed to observe from, respectively. We (and anyone with average eyesight) could not possibly see any of the ballot or ballot envelope details from those distances
2. Since only **one** person - i.e., a GOP, Democratic, OR independent observer - was allowed by Claire W. and Brenda Wood to be at each chair surrounded by four tables, that meant effectively no GOP observer could watch those four tables while a Democratic observer was in/at that chair. Bart Williams (of West Bend, WI) witnessed this, too as we worked in close proximity of each other. We were barred observation access to those four tables for as long as an observer of a different party was at that chair. Multiply this by all the tables thusly restricted (i.e., dozens and dozens of tables), and it is a major, and unreasonable, restriction on access to observing. I feel that there should have been one Democrat and one Republican at each table (or pair of tables) observing.
3. We were only allowed 15 total Republican observers, 15 Independent and 15 Democrat in the Central Count area per shift. This was way too low of a number to allow anything approaching full observation access to all the tables. We could maybe observe 20-25% of all the tables, with 15 observers - at best. I believe this small total number of observers of each party was also a huge and illegal access restriction. Yes, it was equal (i.e., 15 for the Dems) for all affiliated observers, but truly they should have allowed many more observers of each affiliation in at the same time. With more like 45-60 observers of each affiliation allowed in at one time, social distancing still could have been maintained, so I hereby take issue with any election officials claiming otherwise.
4. There were a few **announcements made to the whole room**. 1) If there were any **addresses missing**, they were to **take the ballot to the computer in the back of the room and look up the address and fill it in**. We were told to disregard any red marks on the envelope such as the spot where they say how long they have lived at an address. Everything we were trained to be watching for they told us to ignore – that it didn't make a difference. These other Democrat observers kept bullying us and 'telling' on us whenever we wanted to hear a name or address again so that we could challenge what we were seeing on the envelope. (see below)
5. Brenda Wood and a supervisor both acknowledged to both me, and Bart, verbally that "many" of the ballots had the election staff-performed red ink cross-outs of the 10 days and red-ink write-ins of the 28 days residency requirement on the ballot envelope/certification. The best estimate by my fellow election observers of the total percentage of all ballots that had this defect is at least 20% of all ballots processed at Central Count in Milwaukee. Even with that, the poll workers covered the envelopes with their hands so it was very difficult to see anything. Claire W. **made a loudspeaker announcement to all** early in the day that this issue (the red marks) is not a basis to challenge the ballot. She also made a separate similar announcement that if a witness' address was missing from the ballot envelope/certification, a ballot processor could go to the

computer set up for the staff, look it up, and write it in, and they did not need to find and write in a ZIP code for the witness. Claire at no point stated that the ballot processor had to verify the witness' address with the witness or voter. She also did not address the possibility of common names (e.g., John Doe) and that there can be multiple addresses for that common-name person (i.e., which address is the correct one?). Here is a very partial list (due to the many physical and visually-observable access restrictions detailed above) of wards with this 10 vs. 28 days issue, and it is the absolute minimum in each ward (there are very likely many more; again, I believe this is at least a 20%-of-all-ballots issue):

6. Occasionally, I had to ask an election worker (they were talking through masks) to repeat a name or part of a name. After hearing me ask the poll worker, one of the democrat observers got up and brought Brenda Wood over, who told me I could no longer do this because it was slowing them down. She insisted, so I could no longer document any more such instances. My best estimate of how many ballot envelopes fell in to this situation is about 20%, and I observed for at least 6 hours. Overall, Claire, Benda, and the rest of the election staff, including the Democrat poll observers, seemed hostile to our questions and observing in every interaction we had with them. Since Bart and I worked closely together in this same room, we were addressed at the same time by both Brenda and Claire. We were definitely in a hostile environment and we were discouraged in any way to be able to complete the job we were there to do. We were purposely delayed until 7:00 a.m. after arriving at 6:00 a.m. to go up to the room where the poll watching would take place. By the time they started the process we were then delayed another half hour so they could explain their rules. We ended up missing the first half hour of poll watching. (END)

**Jean M. Bury Weymier**  
**1372 Bobolink Lane**  
**West Bend, WI 53095**



Election Commission

**Commissioners**  
Stephanie Findley  
Carmen Cabrera  
Jess Ripp

**Executive Director**  
Claire Woodall-Vogg

December 7, 2020

Mr. James Witecha, Staff Attorney  
Wisconsin Elections Commission

Sent via Email to [james.witecha@wisconsin.gov](mailto:james.witecha@wisconsin.gov)

RE: Complaint Filed by David J. Bolter

This letter is in response to the November 30, 2020 (received by the City of Milwaukee Election Commission on December 3, 2020), complaint filed by David J. Bolter alleging that the City of Milwaukee Election Commission knowingly violated elections law by allowing ballots to be tampered with when deadlines were manually changed, witness information was added/modified, and observers were not given reasonable access to ballots at Central Count.

A. Mr. Bolter asserts that I declined his “challenge” of envelopes where my staff, prior to mailing the envelope and ballot to the voter, had crossed out “10” days and written “28” days to reflect current law. First, these ballots were marked out according to Wisconsin Election Commission guidance issued on July 29<sup>th</sup> which reads:

*Absentee Ballot Certificate Envelope: State law requires the certification language on the absentee ballot return envelope to include the residency requirement in the voter affirmation section. Wis. Stat. § 6.87(2). Existing stock of return envelopes that list the 10-day residency reference may still be used, but the clerk should manually change the reference to the 28-day residency requirement, and initial this change, before issuing the return envelope to an absentee voter.*

Additionally, the process for challenging a ballot focuses on the voter’s qualifications, not on the formatting of the ballot or of the accompanying envelope. Any challenger must show cause to believe that the voter is not a “qualified elector.” See Wis. Stat. §§ 6.02, 6.03. As a result, I correctly issued guidance to the room that challenges based solely on the marking out of “10” and writing of “28” days on the envelope would not be heard based solely on these grounds.

B. Per a phone call with Wisconsin Election Commission (WEC) Administrator Meagan Wolfe on Election Day, WEC staff instructed that envelopes that had an assistant signature and address but not a witness signature on the correct line should be counted. I instructed the room accordingly. Mr. Bolter asserts that many of these envelopes had an assistant signature in red ink. The majority, if not all, of envelopes were signed in black ink in the incorrect spot by an in-person absentee voting worker. The Milwaukee County recount did not reveal any ballots with assistant signatures in a different color ink to my knowledge.

- C. The City of Milwaukee Election Commission staff operate under a vision statement that “every eligible City of Milwaukee voter who wishes to participate in our democracy is able to successfully vote.” Because of this commitment, we continued to contact voters whose ballots were to be rejected on Election Day if we had phone numbers on file for those voters, giving them or their witness an opportunity to come in by 8:00pm and have their envelope corrected and counted. As a result, several envelopes lacking a witness signature were likely removed from Mr. Bolter’s table so that phone calls could be placed.
- D. The November 3, 2020 General Election took place in the midst of global pandemic. In Wisconsin, we have experienced a surge that has garnered national attention. As a result, Central Count was set-up with worker and observer safety in mind when figuring out how to accommodate over 500 people safely. We limited observers to 60 at a time on Election Day to ensure that we did not overcrowd the room and create an unsafe environment. Each political party was allotted 15 spaces, unaffiliated or independent observers were allotted 15 spaces, and media were allotted the remaining 15 spaces.

We placed workers into 12 pods in order to limit their movement through the room and limit their interaction. These pods were set up around tabulating machines to ensure that wards were processed on the correct machine; machines had to be laid out in the room according to electricity availability. Observers were asked to remain behind orange cones, which were spaced throughout the room. Observers had access to every single area of the room. In the interior areas of pods that did not allow for freedom of movement due to the number of workers and tables in the area, we accommodated observers by placing them at stationary chairs within 6-8 feet of tables. As with any polling place, there is not an obligation to allow an observer freedom of movement, although we did allow free movement in approximately 80% of the room.

Per the Wisconsin Observer “Rules At A Glance”:

*Observers may ask the chief inspector or designee to view other documents, such as the poll list, that are available when doing so will not delay or disrupt the process, but this may not be possible when polls are busy, and they may not view confidential information. The chief inspector or designee has sole discretion to determine whether such documents may be viewed or photographed*

The statute related to observers reads, 7.41(2): “The chief inspector may restrict the location of any individual exercising the right under sub. (1) to certain areas within a polling place. The chief inspector shall clearly designate such an area as an observation area. Designated observation areas shall be so positioned to permit any authorized individual to readily observe all public aspects of the voting process.”

These measures of observer access were both met, despite pandemic conditions. To assert that observers had access to only 20% of the tables has been disproven by the plethora of media images and video footage from Central Count:

Photo credit to Jeremy Jannene:

[https://www.amazon.com/photos/shared/GbUBPKYIRBa3w\\_78orE09w.3Aez7S0FQ1VNX0ioKDKPqV/gallery/7I\\_IzTkkT-u9s3ObtGTXaw](https://www.amazon.com/photos/shared/GbUBPKYIRBa3w_78orE09w.3Aez7S0FQ1VNX0ioKDKPqV/gallery/7I_IzTkkT-u9s3ObtGTXaw)

Photo credit to Lee Matz:

<https://www.facebook.com/media/set/?set=a.1564711320396895&type=3>

Video Credit to Milwaukee Journal Sentinel:

<https://www.jsonline.com/videos/communities/lake-country/news/2020/11/03/inside-central-count-milwaukee/6147356002/>

In this particular photo by Jeremy Jannene of Urban Milwaukee, Mr. Bolter is in the black square on the right-hand side of the frame. His table was able to be accessed within 6 feet to his left (to the right on the photo), exactly in the same way that the observers in the left of this photo are shown observing from the aisle.



- E. Mr. Bolter states that he saw several dozen ballots with only the Presidential contest completed, as well as some that were overvoted. He is correct that the Election Commission teaches and continued to instruct on Election Day that staff at tables should not be looking at how voters completed the ballots. At Central Count, staff are announcing voters' names and recording voter numbers on ballots. In order to preserve a voters' right to a secret ballot, we instruct that the table pairs should not be looking at how the person voted. Instead, the tabulator machine will kick out anything problematic such as an overvote. Tabulators only

see a voter number, not a voter name, so the vote remains anonymous. Tabulators work in pairs to review the ballots to see if intent is clear; they then give any ballots that need to be reconstructed according to voter intent to a pair of reconstructionist.

- F. Mr. Bolter's assertion that around 12:30am on November 4<sup>th</sup> it was announced that "a huge truckload of ballots were going to be delivered" is outlandish and not factual. Central Count was livestreamed and media were present at all times for additional transparency. No announcement was made regarding truckloads of ballots. Our last delivery of ballots was made by 13 separate teams of ballot runners shortly before 8:00pm. These teams completed chain of custody logs for each transport between a drop box and Central Count, documenting box seal numbers and the seal numbers put on the bags to transport the ballots.

Sincerely,

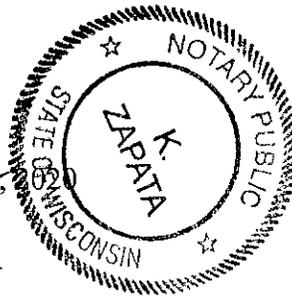


Claire Woodall-Vogg  
Executive Director

STATE OF WISCONSIN  
County of Milwaukee

Sworn to before me this 7 day of December, 2020

  
Notary Signature



My commission expires 6-9-2024, or is permanent





# Wisconsin Elections Commission

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**DATE:** August 26, 2021

**TO:** Wisconsin Elections Commission Members

**FROM:** Jim Witecha, Staff Attorney

**SUBJECT:** Procedural considerations for a Commission hearing on the David Bolter v. Milwaukee Elections Commission, et al. complaint (EL 20-26).

Staff counsel have been called upon to provide clarity in advance of the Commission's consideration of the *Bolter* complaint at its September 9, 2021, meeting. More specifically, it is also necessary to provide legal guidance on how all future requests for a special complaint hearing should proceed. In short, at least two Commissioners must request a hearing, the Chair will determine whether a special meeting will be held prior to the release of the decision, the Commission will first hold a meeting with an action item to vote on whether a hearing will be conducted, and the hearing will be scheduled in accordance with Wis. Stat. Chapter 227 if the motion is passed.

Wisconsin Statute § 5.06(1) provides:

Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act with respect to any matter concerning nominations, qualifications of candidates, voting qualifications, including residence, ward division and numbering, recall, ballot preparation, election administration or conduct of elections is contrary to law, or the official has abused the discretion vested in him or her by law with respect to any such matter, the elector may file a written sworn complaint with the commission **requesting that the official be required to conform his or her conduct to the law, be restrained from taking any action inconsistent with the law or be required to correct any action or decision inconsistent with the law or any abuse of the discretion vested in him or her by law.** The complaint shall set forth such facts as are within the knowledge of the complainant to show probable cause to believe that a violation of law or abuse of discretion has occurred or will occur. The complaint may be accompanied by relevant supporting documents. **The commission may conduct a hearing on the matter in the manner prescribed for treatment of contested cases under ch. 227 if it believes such action to be appropriate. (emphasis added).**

In preparation for the next meeting of the Commission, it is important to focus on two components of this statutory provision. First, the remedial options available to the Commission are relatively straightforward, and alternatives outside of those provided in statute should not be explored during the upcoming hearing, if one is approved. Second, the potential hearing on the *Bolter* complaint should be conducted in the manner prescribed by Wis. Stat. Chapter 227. This portion of the statutes, or more precisely Wis. Stat. § 227.44, details the procedures for hearing contested cases in a hearing format.

Wisconsin Elections Commissioners

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator  
Meagan Wolfe

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Chapter 227 is not structured in a manner conducive to the quick resolution of election-related complaints, due to the nature of a commission such as ours only holding meetings several times a year, many of which have an agenda already full of other critical issues. The hearing process for contested cases is quite detailed, and involves a minimum of a ten-day notice to the parties, the use of hearing officers, the keeping of a detailed record, possible witness testimony, etc. Certainly, Wis. Stat. § 5.06 does not dictate that all elections complaints must go through such a rigorous process, but rather it says the “Commission may conduct a hearing on the matter.” For complaints with ballot access considerations, and the like, it would be quite difficult, if not impossible, to complete a hearing process before the issue is moot. Also, the statute seems to imply that the Commission may render a decision on a complaint, but that a hearing may be called if it is appropriate to do so.

This is why the Commission chose to deal with these concerns proactively in its February 27, 2020, delegation of authority to the Commission Administrator. Specifically, the delegation authorizes the Administrator “To issue compliance review orders under the provisions of Wis. Stat. § 5.06.” There are several caveats placed on that authority, including:

If two or more Commissioners ask the Administrator to request a special meeting regarding a Section 5.06 draft decision, the Administrator will discuss with the Commission Chair such requests and the Chair will determine whether to hold a special meeting prior to the release of the decision.

This first gives the Commission Chair the authority to determine whether to hold a special meeting prior to release of the decision. If the meeting request is granted, it is then added to a special meeting agenda, or in this case the agenda for a scheduled meeting of the Commission. Once the provisions of the delegated authority have been met, the matter then falls back under the requirements of Chapter 227.

Specifically, the Commission may conduct a hearing if it (*i.e.* the requisite portion of the collective body) believes such action to be appropriate. Any action by the commission, except an action relating to procedure of the commission, requires the affirmative vote of at least two-thirds of the members. Wis. Stat. § 5.05(1e). Therefore, calling a special hearing requires at least four affirmative votes.

The process dictates that the Commission must first consider whether to hold a Wis. Stat. § 5.06 complaint hearing by properly noticing and including the consideration of the potential hearing on a public meeting agenda. The Commission must then pass the action item by a vote in compliance with Wis. Stat. § 5.05(1e). If the item is passed, the hearing will be scheduled accordingly.

For the purposes of the September 9, 2021, Commission meeting, consideration of the *Bolter* complaint must be strictly limited to the discussion contemplated by the agenda, in this case whether to conduct a hearing at a later date under the processes enumerated in Chapter 227. The complaint should not be “pre-litigated” through meaningful dialogue about the validity or facts of the matter. Rather, the Commission should review the decision letter proposed under the delegated authority, the complaint materials, and any other portions of the record before coming to the Commission meeting to take a vote solely on whether to call a hearing.

Wisconsin Administrative Code EL 20.06 also supports the rationale above:

- (1) Before issuing a final decision or order on the merits of a complaint filed with the commission under this chapter, the commission or its administrator shall conduct an evidentiary hearing, under ch. 227, Stats., if either of the following occurs:
  - (a) In the commission's judgement, a hearing is necessary in the interest of justice and a material question of fact exists.
  - (b) A hearing is expressly required by statute.

(2) Before issuing a final decision or order on the merits of a complaint filed with the commission under this chapter, the commission or its administrator may conduct an evidentiary hearing, under ch. 227, Stats., when:

- (a) The commission concludes that facts exist which have not been presented and which may tend to resolve the dispute.
- (b) The commission, in its discretion, determines that an evidentiary hearing is appropriate.

This portion of administrative code contemplates that a hearing shall be conducted if the Commission feels it is necessary (*e.g.* through a vote of the collective body). However, these sections also specifically mention the existence of a material question of fact or the non-presentation of facts which may tend to resolve the dispute.

No components of a Chapter 227 hearing should be conducted prior to the Commission's formal determination that a hearing is "appropriate" by taking a vote to confirm as much. The hearing, and anything akin to it, must be properly noticed and scheduled, to include all procedural requirements. Again, it is worth stressing that this means the September 9, 2021, meeting discussion will be quite restricted and must focus only on whether a hearing will be held. Commissioners may provide brief comment on why they believe a hearing is necessary (*e.g.* materials questions of fact remain, facts necessary for resolution are not present, etc.), but not indicate the position of the Commissioner on the facts themselves (*e.g.* Facts A, B, and C clearly meet the burden of proof in my opinion because of the following evidence in the record).

In short, a vote on whether to conduct a complaint hearing must not devolve into a fact-finding determination or lengthy discussion, a policy or political debate, or a comprehensive discussion of material not noticed or agenzized for the meeting at hand.

Not only does this overall approach comply with statutory, procedural edicts, but it also conforms to the past precedent of the Commission.

Please direct any advance questions you may have on this matter to Staff Attorneys Witecha and/or Judnic, independent of the collective body of the Commission, and they will be addressed prior to the meeting.