



Wisconsin Elections Commission

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Wisconsin Elections Commission

Teleconference Meeting

212 E. Washington Avenue, Third Floor

Madison, Wisconsin

9:00 am March 9, 2022

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, Robert Kehoe, Jim Witecha, Brandon Hunzicker, Riley Vetterkind, John Smalley, Anna Langdon, Jacob Walters, Tony Bridges, Robert Williams, and Cody Davies, all by teleconference

A. Call to Order

Commission Chair Jacobs called the meeting to order at 9:01 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.

C. Minutes of Previous Meetings

1. January 11, 2022
2. January 28, 2022
3. January 31, 2022
4. February 16, 2022

MOTION: Approve the minutes for the January 11, 2022, January 28, 2022, January 31, 2022, and February 16, 2022 meetings.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

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

D. Public Comments

Barbara Beckert with Disability Rights Wisconsin appeared on behalf of the WI Disability Vote Coalition and voiced concerns about the rights of voters who live in long term care facilities. She noted the right to vote may only be taken away by a court, usually in a guardianship proceeding, and only if the court decides the individual is incapable of understanding the objective of the elective process. She commented on the Waukesha County Circuit Court's January 19, 2022 order by providing example scenarios in which disabled voters would be disadvantaged by the inability to have someone else return their absentee ballot on their behalf.

Sandra Duckett was scheduled to speak but was not present.

Thomas Oldenburg appeared and asked about the trusted build and the information that was supposedly removed from the county servers. He wondered whether we are still within the law concerning retention of voting records by allowing that to transpire.

Chair Jacobs allowed Eileen Newcomer to speak in Sandra Duckett's absence.

Eileen Newcomer appeared on behalf of the League of Women Voters of Wisconsin and applauded staff for their efforts to provide public outreach through the upcoming statewide elections education campaign and the successful relaunch of the Accessibility Site Review Program. Ms. Newcomer also noted her organization appreciates the Commission's continued commitment to the recommendations put forth by the Legislative Audit Bureau. She reiterated her organization's support for the Commission's existing guidance relating to the correction of absentee ballots and expressed favor for the scope statement that would codify that existing guidance into a formal rule. She recommended the scope statement on election inspector and special voting deputies training be modified to track whether training requirements are being met. She also commented on the scope statement regarding electronic voting equipment and ballot security by recommending the directive passed by the Commission at their June 2019 meeting be codified by requiring accessible voting equipment be tested as part of pre-election testing procedures.

E. Data Log Project

Elections Specialist Robert Williams appeared and presented information on the retention of electronic voting equipment data. He reviewed the steps taken by staff to meet the Commission's September 2021 request to investigate the data created by voting systems, how it is currently retained, and if the logs created by background computers would be required to be retained under Wis. Stat. §7.23(1)(f) and (g). He then outlined the origins of the current data retention policy and summarized the current retention policy related to EVS data files.

Elections Security Lead Tony Bridges appeared and discussed the types of data being produced from voting equipment. He noted the accessibility concerns of varying levels of data, noting that some levels require higher levels of access and specialized knowledge to obtain.

Elections Specialist Cody Davies appeared and described the outreach staff conducted with county clerks and the three voting equipment vendors active in Wisconsin. He stated that compliance with current data retention policy does not vary among the counties. He then discussed the different levels of support the counties receive from voting equipment vendors versus utilizing their own in-house IT

support. He then presented four possible next steps Commissioners could take on the issue, as listed in the memo provided to Commissioners and the public prior to the meeting.

Discussion.

MOTION: Direct staff to develop a scope statement for an administrative rule concerning electronic voting systems data retention policy.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Discussion.

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

Motion failed 3-3.

MOTION: Direct staff to study the issue and come back to the Commission with options and a framework for the Commission to consider promulgating a rule on electronic voting systems data retention.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

FRIENDLY AMENDMENT: Replace “the issue” with “retention of electronic voting systems data.”

Proposed by Chair Jacobs. Accepted by Commissioner Knudson and Commissioner Bostelmann.

FRIENDLY AMENDMENT: Staff will utilize current data retention policy as basis for creating a more formal retention requirement that has the force of law.

Proposed by Commissioner Thomsen. Accepted by Commissioner Knudson and Commissioner Bostelmann.

Commissioner Knudson clarified that utilizing current data retention policy as the basis for a more formal retention requirement was implied in his motion.

AMENDED MOTION: Direct staff to study retention of electronic voting systems data and come back to the Commission with options and a framework for the Commission to consider promulgating a rule on electronic voting systems data retention. Staff will utilize current data retention policy as basis for creating a more formal retention requirement that has the force of law.

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

Motion carried 6-0.

The Commission took a break at 10:33.

Robert Williams and Tony Bridges left the meeting.

The Commission reconvened at 10:43.

F. Consideration of Administrative Rule Scope Statements and Possible Action on the Notice of Preliminary Public Hearing and Comment Period on Scope Statements SS 008-22 and SS 010-22

Staff Attorney Jim Witecha appeared and reviewed background information on the process for promulgating an administrative rule. He then previewed the next steps necessary in the promulgation of the administrative rules concerning clerk training and emergency relocation of polling places which are conducting a public hearing and processing public comments.

Administrator Meagan Wolfe appeared and clarified that the Commission would need to schedule a date for the public hearing.

Discussion.

MOTION: Staff is delegated authority to conduct the preliminary public hearing on scope statements SS 008-22 and SS 010-22. The public hearing shall be noticed to notify the public that three or more members of the Commission may be in attendance.

Moved by Commissioner Bostelmann. Seconded by Commissioner Glancey.

Discussion.

FRIENDLY AMENDMENT: The hearing shall be held on March 23, 2022 at 1:30 pm via Zoom.

Proposed by Chair Jacobs. Accepted by Commissioner Bostelmann and Commissioner Glancey.

AMENDED MOTION: Staff is delegated authority to conduct the preliminary public hearing on scope statements SS 008-22 and SS 010-22. The public hearing shall be noticed to notify the public that three or more members of the Commission may be in attendance. The hearing shall be held on March 23, 2022 at 1:30 pm via Zoom.

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

Motion carried 5-1.

Attorney Witecha presented various scope statements for the promulgation of permanent administrative rules pertaining to the correction of absentee ballot envelopes, absentee drop boxes, training for election inspectors and special voting deputies, and approval and security of electronic voting equipment and ballot security, as well as the promulgation of an emergency rule pertaining to the correction of absentee ballot envelopes.

Discussion.

Attorney Witecha explained to the Commission what action needed to be taken for each scope statement.

MOTION: As to SS 009-22, approve the final scope statement and instruct staff to begin drafting the rule language and complete the rule promulgation process.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

Discussion.

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

Motion carried 4-2.

Discussion.

MOTION: Approve pages 52-54 of the Commission materials as a permanent scope statement and submit that scope statement to the Governor and the Department of Administration.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

Discussion.

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

Motion failed 3-3.

MOTION: Approve pages 55-57 of the Commission materials as a permanent scope statement and submit that scope statement to the Governor and the Department of Administration.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

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

Motion failed 3-3.

Commissioner Knudson sought clarification from Attorney Witecha on the legality of failing to act on a permanent scope statement regarding the correction of absentee ballot envelopes. Attorney Witecha responded by saying the Commission's current guidance would remain in place after the emergency rule expired and was not sure what a response from the Joint Committee for the Review of Administrative Rules would look like at that point.

The Commission took a break at 11:58.

The Commission reconvened at 12:30.

Staff Attorney Brandon Hunzicker presented the scope statement suggested by the Legislative Audit Bureau relating to training election inspectors and special voting deputies. He noted this rule would codify the training currently provided to election inspectors and special voting deputies to allow clarity and consistency.

MOTION: Approve the draft scope statement on pages 58-60 of the Commission materials relating to training election inspectors and special voting deputies as a permanent scope statement.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

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

Motion carried 6-0.

MOTION: Submit the scope statement on pages 58-60 of the Commission materials to the Governor and the Department of Administration.

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

Motion carried 6-0.

Attorney Hunzicker presented the scope statement suggested by the Legislative Audit Bureau regarding electronic voting equipment and ballot security. He noted this administrative rule would bring elections up to date with current needs and practices.

MOTION: Adopt pages 61-64 of the Commission materials as a permanent scope statement and submit that scope statement to the Governor and the Department of Administration.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

Attorney Witecha presented the scope statement on drop box policy and codifying the non-directive guidance removed in compliance with the Waukesha County Circuit Court's January 19, 2022 order.

Discussion.

MOTION: Postpone action on the scope statement on pages 65-67 of the Commission materials until the Commission receives the decision of the Wisconsin Supreme Court.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

Discussion.

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

Motion carried 6-0.

G. Staff Update

Administrator Wolfe updated the Commission on the .gov subgrant program, redistricting news, updates to WisVote, the elections.wi.gov redesign project, the agency's move to a new building, and the internal controls plan.

Discussion.

H. Discussion and Possible Action Related to Progress Implementing Legislative Audit Bureau Recommendations

Administrator Wolfe presented the draft of the report back to the Joint Legislative Audit Committee for the Commission's consideration.

Discussion.

MOTION: Amend background and current practice on pages 36 and 37 of the Commission materials and add to implementation status that the commission expects to consider options prior to the November 2022 election.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Discussion.

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

Motion carried 6-0.

Discussion.

MOTION: Commissioner Knudson and Chair Jacobs, in coordination with staff, will finalize language found in Recommendation 13 of the LAB follow-up report concerning ERIC.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

Discussion.

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

Motion carried 4-1-1.

Commissioner Glancey asked that the changes made by Commissioner Knudson, Chair Jacobs, and staff be provided to the other Commissioners.

MOTION: To approve the LAB follow-up report as updated subject to the previous motions.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

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

Motion carried 6-0.

I. Discussion of Quarterly ERIC Movers Mailing

Technology Director Robert Kehoe appeared and reviewed data pertaining to the quarterly ERIC Movers mailings and the 2020 General Election voter participation reports.

Discussion.

J. Consideration and Approval of Ballot Proof for 2022 Fall Elections

This agenda item was presented and discussed after Item K due to technical difficulties.

Elections Specialist Cody Davies presented for review and approval a representative sample of 2022 Partisan Primary ballot templates. He also shared the results of his outreach to equipment vendors to avoid false overvotes as the result of crease lines on unscored absentee ballots.

Discussion.

MOTION: The Commission approves the ballot templates presented by staff and directs staff to finalize the templates and make them available for County Clerks to use for the 2022 Partisan Primary Election.

Moved by Commissioner Glancey. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

K. Adjourn

MOTION: To adjourn.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

The Commission moved to closed session at 2:19 pm.

The Commission adjourned in closed session at 4:47 pm.

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March 9, 2022 Wisconsin Election Commission meeting minutes prepared by:

Anna Langdon, Help Desk Staff

March 11, 2022

March 9, 2022 Wisconsin Election Commission meeting minutes certified by:

Marge Bostelmann, Commission Secretary

June 22, 2022