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Wisconsin Elections Commission

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Meeting of the Commission  
Tuesday, June 20, 2017  
10:00 A.M.

Agenda  
Open Session

Wisconsin Elections Commission Offices  
212 E. Washington Avenue, Third Floor  
Madison, Wisconsin

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<b>A.</b>	<b>Call to Order</b>	
<b>B.</b>	<b>Administrator’s Report of Appropriate Meeting Notice</b>	
<b>C.</b>	<b>Personal Appearances (Time reserved for personal appearances may be limited at the discretion of the Chair)</b>	
<b>D.</b>	<b>Minutes of Previous Meeting – May 23, 2017</b>	<b>3</b>
<b>E.</b>	<b>Voter Registration Four-Year List Maintenance</b>	<b>9</b>
<b>F.</b>	<b>ES&amp;S Voting Equipment Testing and Approval</b>	<b>15</b>
<b>G.</b>	<b>Electronic Poll Books</b>	<b>Supplemental A</b>
<b>H.</b>	<b>Post-Election Voting Equipment Audit</b>	<b>67</b>
<b>I.</b>	<b>Administrative Rules</b>	<b>81</b>
<b>J.</b>	<b>Legislative Agenda</b>	<b>101</b>
<b>K.</b>	<b>Legislative Update</b>	<b>117</b>
<b>L.</b>	<b>Commission Staff Update</b>	<b>125</b>

**M. Per Diem Authorization**

**N. Closed Session**

**1. Litigation Update**

- 19.85 (1) (g)           The Commission may confer with legal counsel concerning litigation strategy.
- 19.851                 The Commission's deliberations concerning investigations of any violation of the election laws shall be in closed session.

# WISCONSIN ELECTIONS COMMISSION

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JULIE M. GLANCEY  
ANN S. JACOBS  
JODI JENSEN  
STEVE KING  
MARK L. THOMSEN, CHAIR

ADMINISTRATOR MICHAEL HAAS

**Wisconsin Elections Commission**  
Wisconsin Elections Commission Offices  
212 E. Washington Avenue, Third Floor  
Madison, Wisconsin  
10:00 a.m. Wednesday, May 23, 2017

## Open Session Minutes

Present: Commissioner Mark Thomsen, Commissioner Jodi Jensen and Commissioner Ann Jacobs (all in person); and Commissioner Beverly Gill, Commissioner Julie Glancey and Commissioner Steve King (all by telephone)

Staff present: Michael Haas, Meagan Wolfe, Nathan Judnic, Sharrie Hauge and Reid Magney

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

Commission Chair Mark Thomsen called the meeting to order at 10:00 a.m.

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

Administrator Michael Haas informed the Commissioners that proper notice was given for the meeting.

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

- 1. March 8, 2017 Teleconference Meeting**
- 2. March 14, 2017 Regular Meeting**

**MOTION:** Approve minutes of the March 8 and March 14, 2017 Wisconsin Elections Commission meetings as submitted. Moved by Commissioner Jensen, seconded by Commissioner Jacobs. Motion carried unanimously.

### **D. Personal Appearances**

There were no personal appearances.

## **E. Administrative Rules**

Legal Counsel Nathan Judnic made an oral presentation based on a memorandum starting on page 15 of the May 23 meeting materials. The memorandum provided an overview of the status of administrative rules that require the Commission's action. The rules are categorized in five groups.

### **1. Statements of Scope Submitted to the Governor's Office for Approval**

- EL Ch. 4 (election observers)
- EL Ch. 3.60 (absentee ballot subscription service)
- EL Ch. 13 (training for election inspectors and special voting deputies)
- EL Ch. 6.06 (curbside voting procedures)

Mr. Judnic reported that on May 5 the Governor approved the scope statements for these four proposed rules, which were published in the Administrative Register on May 22. Staff will ask the Commission for approval on June 20 to begin drafting the rules. Commissioners and staff briefly discussed the rules and their history. No Commission action is required at this time.

### **2. Notice of Proposed Rulemaking**

- EL Ch. 6 (sufficiency of the EthCF-1 form and submission of documents by email)
- EL Ch 21 (written advice – repeal)

Mr. Judnic directed Commissioners to the memorandum on page 51 of the meeting materials regarding notices of proposed rulemaking. Both proposed actions deal with rules that were transferred from the Government Accountability Board to the Commission. Commissioners and staff discussed the proposed rulemaking.

**MOTION:** Approve the “Proposed Rulemaking Order” and “Notice of Submittal of Proposed Rule to Legislative Council Rules Clearinghouse” included in the May 23, 2017 meeting materials for EL Ch. 6, and direct the Commission staff to submit the required notice and other required documents to the Legislative Reference Bureau, the Secretary of the Department of Administration and the Legislative Council Rules Clearinghouse to continue the promulgation of this rule. Moved by Commissioner King, seconded by Commissioner Glancey. Motion carried unanimously.

**MOTION:** Approve the “Proposed Rulemaking Order” and “Notice of Submittal of Proposed Rule to Legislative Council Rules Clearinghouse” included in the May 23, 2017 meeting materials for EL Ch. 21, and direct the Commission staff to submit the required notice and other required documents to the Legislative Reference Bureau, the Secretary of the Department of Administration and the Legislative Council Rules

Clearinghouse to continue the repeal of this rule. Moved by Commissioner Jacobs, seconded by Commissioner Gill. Motion carried unanimously.

### **3. Request for Permission to Draft Statements of Scope and Submission to Governor's Office**

- EL Ch. 5 and 7 (combine and revise electronic voting security and voting equipment approval chapters)
- EL Ch.12 (responsibilities of clerks to maintain records in WisVote)
- EL Ch. 20 (complaint procedure)

Mr. Judnic directed Commissioners to the memorandum on page 73 of the meeting materials regarding EL Chapters 5 and 7 on ballot and electronic voting equipment and approval for electronic voting equipment. He said staff's recommendation is to combine the two rules into a single chapter, which will help streamline approval. Commissioners and staff discussed the proposed rulemaking.

**MOTION:** Direct staff to draft a Statement of Scope for EL Chapter 7 on Ballot and Electronic Voting Equipment Security and the Approval of Electronic Voting Equipment and submit the Statement of Scope to the Governor's Office for approval. Moved by Commissioner Jensen, seconded by Commissioner Jacobs. Motion carried unanimously.

Mr. Judnic directed Commissioners to the memorandum on page 75 of the meeting materials regarding certification and training of municipal clerks. The proposed rule will outline the responsibilities of clerks in maintaining records in the statewide voter registration system. Commissioners and staff discussed the proposed rulemaking.

**MOTION:** Direct staff to draft a Statement of Scope to amend EL Ch. 12 to formalize procedures for local election officials to maintain voter records in WisVote, and submit the Statement of Scope to the Governor's Office for approval. Moved by Commissioner Gill, seconded by Commissioner Jacobs. Motion carried unanimously.

Mr. Judnic directed Commissioners to the memorandum on page 79 of the meeting materials regarding complaint procedures. Staff recommends amending the rule to make it clearer that the procedures apply only to complaints filed against local election officials. Commissioners and staff discussed the proposed rulemaking.

**MOTION:** Direct staff to draft a Statement of Scope to amend EL Ch. 20 to provide the procedures for complaints filed under Wis. Stat. § 5.06, and submit the Statement of Scope to the Governor's Office for approval. Moved by Commissioner King, seconded by Commissioner Jensen. Motion carried unanimously.

#### **4. Rules the Commission Staff Believe Should Be Placed on Hold Pending the *One Wisconsin Appeal***

- Ch. EL 3.10, 3.11, 3.12 and 3.20 (special registration deputies)

Mr. Judnic directed Commissioners to the memorandum on page 85 of the meeting materials regarding possible changes to Ch. EL 3 to remove references to special registration deputies, which were eliminated through the repeal of Wis. Stat. § 6.26, effective in January 2017 with the advent of online voter registration. The elimination of special registration deputies has been challenged in the *One Wisconsin* case now before the 7<sup>th</sup> Circuit Court of Appeals. Staff recommends delaying action to amend the administrative rules until the litigation is resolved.

**MOTION:** Direct staff to take no action on amending EL 3.10, 3.11, 3.12 or 3.20 until the *One Wisconsin* litigation has been resolved. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

#### **5. Legislation Sought in Lieu of Rulemaking**

Mr. Judnic directed Commissioners to the memorandum on page 87 of the meeting materials regarding possible administrative rule changes that could be accomplished through legislation. These subjects include election notices, electronic proof of residence, absentee voting procedure for overseas voting, requiring provision of certain information by Election Day registration applicants, and definition of “same grounds” related to absentee voting in retirement homes and adult care facilities. Staff has been in contact with staff from Representative Bernier’s office, and has been assured that legislation will be drafted and introduced to address the topic areas outlined in the memorandum. Commissioners and staff discussed the issues. No action was required.

#### **F. IT Contracted Services**

Assistant Administrator Meagan Wolfe made an oral presentation based on a memorandum starting on page 89 of the May 23 meeting materials. Staff requests Commission approval of contracts for the agency’s contracted IT developers. Commissioners and staff discussed the contracts and the many critical projects the IT developers work on.

**MOTION:** Approve the execution of one, three-year IT contract for the Systems Architect-1 position, not to exceed \$180,000 annually. Moved by Commissioner Glancey, seconded by Commissioner King. Motion carried unanimously.

**MOTION:** Authorize the continuation of IT contracts in FY 18 for the WEC's remaining two IT contract positions. Moved by Commissioner Jensen, seconded by Commissioner Jacobs. Motion carried unanimously.

## **G. Administrator's Report**

Administrator Haas reported that the Joint Committee on Finance has approved five of the six positions not included in the Governor's budget. Three new employees have joined the staff recently and will be introduced at the Commission's June meeting. He said staff has consulted with the Department of Administration and will begin recruitment for the five positions recommended for approval by Joint Finance.

Administrator Haas asked Commissioners whether they wished to authorize a per diem payment for this meeting.

**MOTION:** Authorize payment of one half day of per diem for the May 23, 2017 meeting. Moved by Commissioner Jacobs, seconded by Commissioner King. Motion carried unanimously.

Chair Thomsen congratulated Commissioner Gill and Commissioner Glancey on their confirmation by the Wisconsin State Senate. He also discussed agenda items for the Commission's June 20 meeting.

## **H. Closed Session**

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

**MOTION:** Move to closed session pursuant to § 19.85(1)(g) to confer with counsel concerning pending litigation. Moved by Commissioner Jacobs, seconded by Commissioner Jensen.

Roll call vote:	Gill:	Aye	Glancey:	Aye
	King:	Aye	Jacobs:	Aye
	Jensen:	Aye	Thomsen:	Aye

Motion carried unanimously. The Commission recessed at 11:17 a.m. and convened in closed session at 11:28 a.m.

## **F. Adjourn**

**MOTION:** To adjourn. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

The Commission adjourned at 12:33 p.m.

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The next regular meeting of the Wisconsin Elections Commission is scheduled for Tuesday, June 20, 2017, at the commission's offices in Madison, Wisconsin beginning at 10:00 a.m.

May 23, 2017 Wisconsin Elections Commission meeting minutes prepared by:

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Reid Magney, Public Information Officer

May 30, 2017

May 23, 2017 Wisconsin Elections Commission meeting minutes certified by:

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Beverly Gill, Commission Secretary

June 20, 2017

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ADMINISTRATOR MICHAEL HAAS

## MEMORANDUM

**DATE:** For the Meeting of June 20, 2017

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Administrator

Prepared and Presented by:  
Ann Oberle, WisVote UAT Lead

**SUBJECT:** 2017 Four-Year Voter Record Maintenance

### Background

Wis. Stat. §6.50(1) directs that, no later than June 15 following each general election, the Wisconsin Elections Commission shall examine voter registration records for each municipality and identify each elector who has not voted in the previous four years. The Commission is required to mail a “Notice of Suspension of Registration” to the elector. The mailing notifies voters that if they do not respond within 30 days, their registration will be inactivated. The purpose of the mailing is to make sure that every voter’s name and address is correct and current. Maintaining a current and accurate voter registration list promotes public confidence in election integrity in general, and also makes the conduct of elections more efficient, less expensive and less susceptible to errors.

Prior to 2006, municipalities with a population of less than 5,000 were not required to maintain registration lists, and list maintenance did not apply to them. Larger municipalities performed their own statutorily required list maintenance, using varied timetables and methods. With the implementation of the Statewide Voter Registration System (SVRS and now WisVote), list maintenance was required statewide. As of the 2008 General Election, the state (the Elections Board and later the Government Accountability Board) performed the list maintenance on behalf of municipal clerks to promote consistency in completion of the task. 2013 Wisconsin Act 149 formally transferred responsibility for performing what is commonly referred to as the “four-year maintenance” to the G.A.B., now the Wisconsin Elections Commission. Act 149 also required the Commission to compile and post statistics related to the four-year maintenance on the Commission website.

## **2017 Four-Year Voter Record Maintenance Process**

### A. Data Quality Assurance

In preparation for the four-year maintenance mailing, clerks and Commission staff painstakingly review voter data quality to ensure that all municipalities have recorded voter participation from recent elections, entered Election Day registrations and corrected voter address problems. Commission staff and municipal clerks repeatedly reviewed the list of voters to be sent notices in order to protect voters from receiving erroneous notices. Commission staff emailed and called municipalities to alert clerks of the need to complete recording voter participation and entering voter registrations before the deadline for the four-year maintenance mailing. Staff reviewed the voters' mailing and home addresses for errors and contacted local election officials to correct them.

The names and addresses were then sent to the Department of Administration (DOA) Bureau of Publishing and Distribution, which provided the printing and mailing services for this year's list maintenance. DOA Printing and Distribution performed additional postal validation and address standardization on the list and sent Commission staff any remaining incomplete addresses for correction. Overall, Commission staff, in coordination with local election officials, performed several weeks of data quality review and auditing after the Spring Election before the maintenance notices could be mailed.

### B. WisVote Updates

The 2017 four-year maintenance will be the first time that clerks will use the new WisVote election management system to track the notices mailed and update voter registration records. Commission IT staff developed and implemented a new module for letters in WisVote that streamlines postcard processing and voter record updates performed by clerks. New WisVote reporting features will make it easier for the Commission to compile and post statistics as required by statute.

### C. Training and Communication

Commission staff developed and executed a communication and training protocol that ensures transparency and uniformity in the voter maintenance process. On June 2, 2017, Commission staff posted training materials and a pre-recorded webinar for municipal clerks to review at their convenience (<http://elections.wi.gov/node/5112>). The June 2, 2017 communication also provided a timeline of important dates and required actions for the 2017 four-year voter record maintenance. All clerk communications are available for public review on the Commission website. On June 9, 2017, the Commission issued a press release to notify the public of the four-year maintenance process. In addition, the Commission sent a communication to the Governor and members of the Legislature notifying them of the upcoming list maintenance process to help them respond to any constituent inquiries, which has been a standard practice since 2008. The Commission's education and public awareness efforts help voters understand the maintenance process and how to keep their voter registration records correct and current.

#### D. Postcard Printing and Mailing

Of the 3,707,056 active registered voters in WisVote, 381,495 met the criteria to be sent a four-year maintenance notice. Voters identified to receive a postcard met the following criteria: (1) registered on or before December 31, 2012, (2) did not vote after December 31, 2012, (3) and were not a military elector.<sup>1</sup>

DOA Publishing and Distribution services were used to print and mail the postcards, which were scheduled to be mailed on June 15, 2017. The Commission used DOA Publishing and Printing for the Electronic Registration Information Center (ERIC) “eligible but unregistered” mailing in 2016, and regularly uses their services to mail voter verification postcards. On June 8, 2017, DOA informed Commission staff that approximately 100,000 postcards had been mailed inadvertently ahead of schedule, which prompted Commission staff to move up the timing of the press release and communications to the Legislature and Governor.

#### E. Process Completion and Statistics

A copy of the 2017 four-year maintenance postcard is attached. Voters have 30 days to respond to the “Notice of Suspension of Registration” and to request continuation of their registration at their current voting address. Voters can accomplish this in a number of ways. The voter can sign and return the “Application for Continuation of Registration” section of the “Notice of Suspension of Registration” postcard. The request for continuation of registration can be made in person or sent by mail. A voter who has changed name or address must re-register under his or her new name or address. Voters can register online up to 20 days before an election at the MyVote Wisconsin website if they have an up-to-date Wisconsin driver license or state-issued ID card. They may also register by mail up to 20 days before an election, after which they may register at the clerk’s office until the Friday before the election, or at the polling place on Election Day.

The postcard directs voters who believe they received it in error to contact their municipal clerk or the Commission, and provides voters with the Commission’s toll-free number.

The Postal Service will return undeliverable postcards to municipal clerks. Clerks record the returned undeliverable postcard in the voter’s WisVote record and change the status of the voter record from active to inactive. Voter records that are inactivated are never completely removed from the statewide list; they are instead marked as inactive and the voters will be prompted to register at a current address if they vote at a future election. The deadline for voters to respond with an “Application for Continuation of Registration” is July 15, 2017. Voters who have not requested continuation, or whose “Notice of Suspension of Registration” were not returned to the clerks as undeliverable by July 15, 2017, will have their voter status changed to inactive.

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<sup>1</sup> Military electors are exempt from registration. Wis. Stat. § 6.22(3) (2015-16).

No later than August 1, 2017, the Commission must post the following statistics on its website:

- (a) The total number of notices mailed.
- (b) The number of notices returned as undeliverable.<sup>2</sup>
- (c) The number of notices that were returned requesting continuation of registration.
- (d) The number of notices that were returned requesting cancellation of registration.
- (e) The number of notices returned with an indication that the named elector is deceased.
- (f) The number of notices that were not returned.
- (g) The number of electors who received notices whose status changed from eligible to ineligible.

### **Summary**

The 2017 four-year maintenance process has required a coordinated effort of WisVote staff, the agency's IT team, municipal clerks, communications staff, and the DOA Publishing and Distribution office. Commission staff applied lessons learned from previous four-year maintenance efforts as well as improved functionality in WisVote to assist clerks with the process of updating voter records and compiling accurate statistics resulting from the process, which will be published and updated on the Commission's website.

This report is for the Commission's information only, and no action is required.

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<sup>2</sup> Although Wis. Stat. § 6.50(2r) refers to notices returned to the Commission, the notices are in fact returned to the municipal clerk or the office of the board of elections commissioners. Wis. Stat. § 6.50(2g) permits the Commission to delegate the responsibility to change an electors registration status the municipal clerk or board of election commissioners, and one of the lessons learned from previous years has been that returning the notices to the clerks and having clerks process returned cards is more efficient and cost effective.





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ADMINISTRATOR MICHAEL HAAS

## MEMORANDUM

**DATE:** For the June 20, 2017, Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Administrator

Prepared and Presented by:  
Richard Rydecki  
Elections Specialist

**SUBJECT:** Election Systems and Software (ES&S)  
Petition for Approval of Electronic Voting Systems  
EVS 5.2.2.0 and EVS 5.3.2.0

### **I. Introduction**

Election Systems and Software (ES&S) is requesting the Wisconsin Elections Commission (WEC or Commission) approve the EVS 5.2.2.0 and EVS 5.3.2.0 voting systems for sale and use in the State of Wisconsin. These systems are an update of EVS 5.2.0.0 and EVS 5.3.0.0, systems that were approved for use in Wisconsin by the Government Accountability Board on September 4, 2014. No electronic voting equipment may be offered for sale or utilized in Wisconsin unless first approved by the WEC based upon the requirements of Wis. Stat. § 5.91 (Appendix A). The WEC has also adopted administrative rules detailing the approval process. Wis. Admin. Code Ch. EL 7 (Appendix B).

#### A. EVS 5.2.2.0

EVS 5.2.2.0 is a federally tested and certified paper based, digital scan voting system powered by the ElectionWare software platform. It consists of seven major components: an election management system (EMS) server; an EMS client (desktop and/or laptop computer) with election reporting manager (ERM) software; the ExpressVote, an Americans with Disabilities Act compliant vote capture device for a polling place; the AutoMARK, an Americans with Disabilities Act compliant ballot marking device for a polling place; the DS200, a polling place scanner and tabulator; the DS450, a mid-range scanner and tabulator for a central count location; and the DS850, a high-speed scanner and tabulator for a central count location.

Updates to the previously approved system include:

- Security functions have been upgraded on all of the voting equipment components, the ElectionWare and ERM to meet new federal standards.
- The DS450 has been added to this version of the system as an additional tabulation option for central count facilities.
- The touchscreen display on the ExpressVote can now be programmed to present candidate names in two columns, rather than just one. This feature will allow a greater percentage of all candidate names for a specific contest to appear on the initial screen and the voter will not have to navigate to a new screen to see additional candidates.

A full list of the updates to the system can be found in the U.S. Election Assistance Commission's Scope of Certification document found in Appendix C.

#### B. EVS 5.3.2.0

EVS 5.3.2.0 is a federally tested modification to the EVS 5.2.2.0 voting system. The modification provides support for modeming of unofficial election results from a DS200 to a Secure File Transfer Protocol (SFTP) server through public analog or wireless telecommunications networks after the polls close on Election Day. EVS 5.3.2.0 lacks federal certification, but the underlying voting system (EVS 5.2.2.0) is federally certified.

## II. Recommendation

WEC staff is recommending approval of both the EVS 5.2.2.0 and EVS 5.3.2.0 for sale and use in Wisconsin. Detailed recommendations are listed on pages 21 and 22, following the analysis of functional testing performed by WEC staff.

## III. Background

On March 3, 2017, WEC staff received an Application for Approval of EVS 5.2.2.0. 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 5.2.2.0. At the same time, ES&S requested WEC staff approve the EVS 5.3.2.0 voting system. ES&S submitted technical manuals, documentation, and instruction materials necessary for the operation of EVS 5.3.2.0.

#### A. EVS 5.2.2.0 (base voting system)

The Voting System Test Laboratory (VSTL) responsible for testing EVS 5.2.2.0, National Technical Systems (NTS), recommended on February 23, 2017 that the U.S. Election Assistance Commission (EAC) certify ES&S EVS 5.2.2.0. ES&S provided the NTS report to WEC staff along with the Application for Approval of EVS 5.2.2.0. Voting systems submitted to the EAC for testing after December 13, 2007, are tested using the 2005 Voluntary Voting System Guidelines (2005 VVSG). The EAC certified ES&S EVS 5.2.2.0 on February 27, 2017, and issued certification number **ESSEVS5220**.

WEC staff conducted the voting system testing campaign for EVS 5.2.2.0 May 8-10, 2017 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 advocates for voters with disabilities), and a public demonstration of the system.

i. Hardware Components

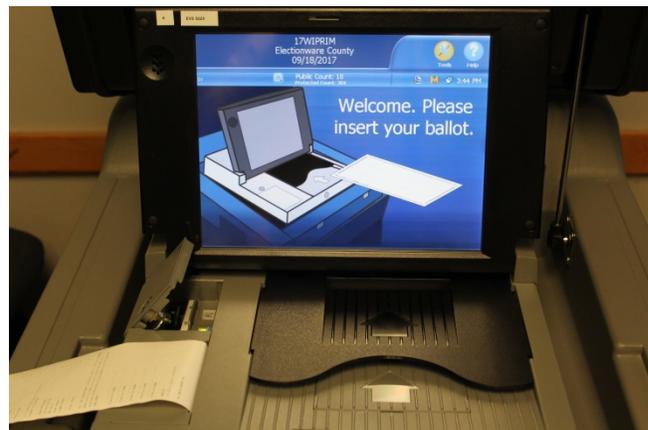
ES&S submitted the following equipment for testing as part of EVS 5.2.2.0:

<i>Equipment</i>	<i>Hardware Version(s)</i>	<i>Firmware Version</i>	<i>Type</i>
DS200	1.2.1 1.2.3 1.3	2.12.2.0	Polling Place Digital Scanner and Tabulator
DS450	1.0	3.0.0.0	Mid-range Central Count Digital Scanner and Tabulator
DS850	1.0	2.10.2.0	High-speed Central Count Digital Scanner and Tabulator
AutoMark Voter Assist Terminal (VAT)	1.0 1.1 1.3	1.8.6.1	Ballot Marking Device
ExpressVote	1.0	1.4.1.2	Universal Voting System

The following paragraphs describe the design of the EVS 5.2.2.0 hardware taken in part from ES&S technical documentation.

1. DS200

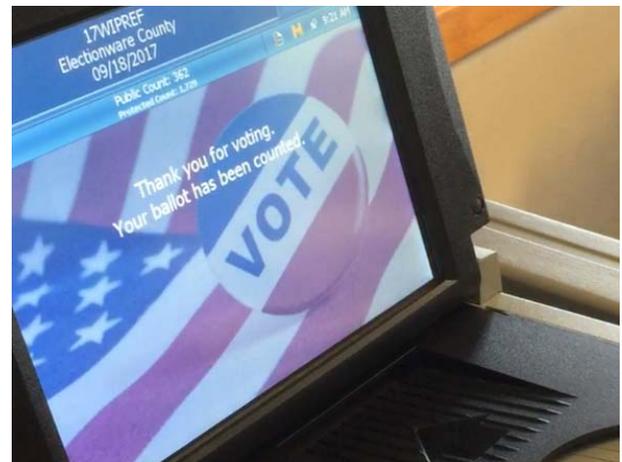
The DS200 is a digital scan paper ballot tabulator designed for use at the polling place. After the voter marks a paper ballot, their ballot is inserted into the unit for processing. The tabulator uses a high-resolution image-scanning device to simultaneously image the front and back of the ballot. The 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 other central 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.

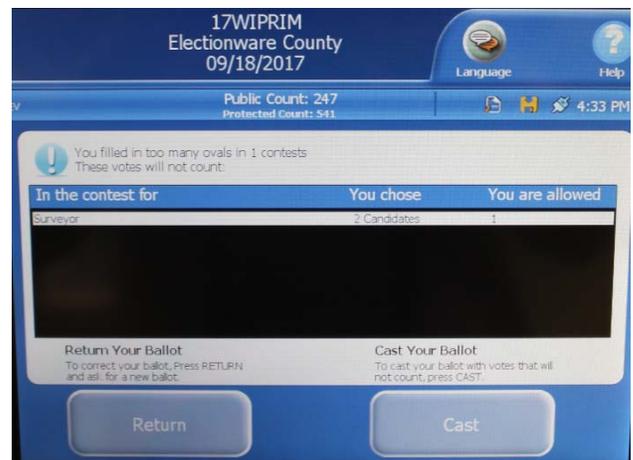
**Voter Information Screens:** The DS200 features a 12-inch touchscreen display to provide feedback to the voter regarding the disposition of any ballot inserted into the machine. The screens are designed to alert voters to any errors on their ballot. The DS200 will, depending on the situation, provide 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. The DS200 will automatically return ballots if a voter attempts to insert multiple ballots into the machine at the same time.

- **Ballot Counted:** If the ballot is scanned and accepted by the machine, a message appears that states the ballot has been counted.



- **Overvote Notification:** If the ballot contains an overvote, a message appears that identifies the contests with overvotes. The message also tells the voter that these votes will not count.

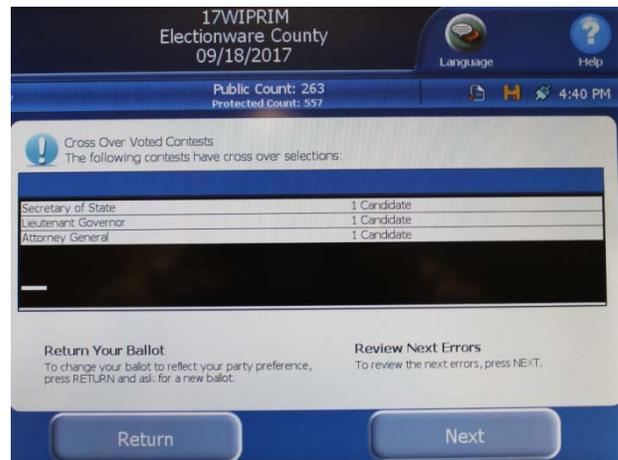
The voter has the option to return the ballot for review or cast the ballot. If there are multiple errors the voter is given an option to review the next error. Instructions above the "Return" button direct the voter to press "Return" if they wish to correct their ballot. The voter is also instructed to ask for a new ballot. Instructions above the "Cast" button direct the voter to press "Cast" if they wish to submit their ballot with votes that will not count. Instructions above the "Next" button direct the voter to press "Next" if they wish to review any additional errors on their ballot. Once all of the errors have been reviewed, the voter will have the option to cast the ballot.



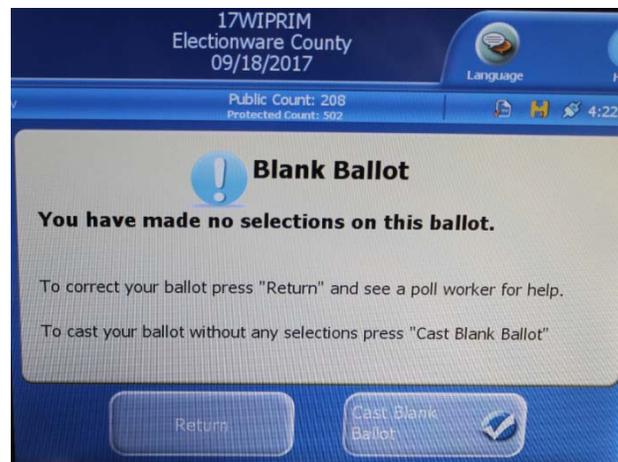
- **Crossover Vote Notification:** If a ballot is inserted with votes in more than one party’s primary, a message appears that identifies the contests with crossover votes.

The voter has the ability to return the ballot for review or cast the ballot. If there are multiple errors the voter is given an option to review the next error.

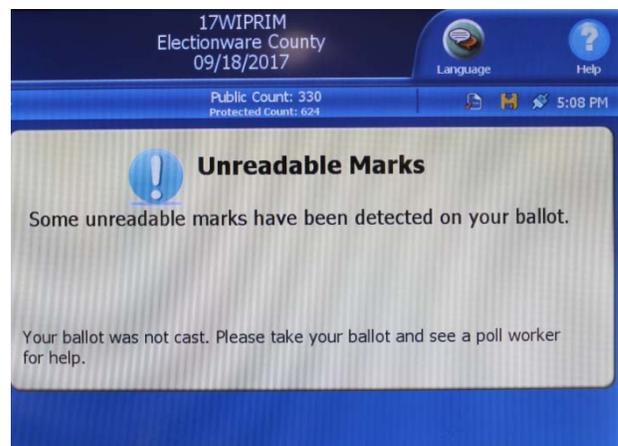
Instructions above the “Return” button direct the voter to press “Return” if they wish to correct their ballot to reflect their party preference. The voter is instructed to ask for a new ballot. Instructions above the “Next” button direct the voter to press the “Next” button if they wish to review any additional errors on their ballot. Once all of the errors have been reviewed, the voter will have the option to cast the crossover-voted ballot.



- **Blank Ballot Notification:** If the ballot contains no votes, a message appears that states 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.



- **Unreadable Marks:** If a ballot is inserted that includes marks that cannot be read by the machine, the DS200 will not accept that ballot and will return it to the voter without an option to cast the problematic ballot. The voter is instructed to see a poll worker for help.



The screen shots above illustrate the manufacturer’s default configuration. At the request of the municipality, the manufacturer may also set the configuration to automatically reject all ballots with overvotes or crossover votes without the option for override, which requires the

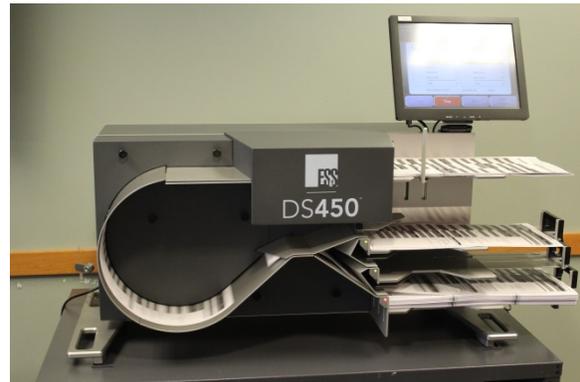
voter to correct the error by remaking his or her ballot. This ensures that voters do not mistakenly process a ballot on which a vote for one candidate or all candidates will not count. The automatic rejection configuration of the DS200, however, creates issues for processing absentee ballots because no voter is present to correct the error. These ballots would have to be remade without the improperly voted contests before they could be processed by the DS200.

**Reading Ballots:** The DS200 uses proprietary software called Intelligent Mark Recognition to identify properly marked votes on a 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. 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.

**Printing Reports:** The DS200 includes an internal thermal printer for the printing of the zero reports, log reports, and polling place totals upon the official closing of the polls.

## 2. 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 Reporting Manager (ERM).



### 3. 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 the appropriate tray 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 Reporting Manager (ERM).



### 4. AutoMARK

The AutoMARK is an electronic ballot marking device primarily designed for use by voters who have visual or physical limitations or disabilities.

Voters insert a blank paper ballot in the machine to begin the voting process. They then have the option to use the touchscreen or an integrated tactile keypad to navigate the ballot and make ballot selections. Instructions that guide the voter through the process appear on the screen or can be accessed via the audio ballot function. The voter has the option to adjust the text display contrast and text size to suit their preference. Each button on the tactile keypad has both Braille and printed text labels designed to indicate function and a related shape to help the voter determine its use. 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 voter and they can use the touchscreen, tactile keypad, or other assistive technology to make their selections.



The AutoMARK 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 marked on ballot and the machine returns the ballot to the voter.

After the voter completes the process, the AutoMARK clears its internal memory and the paper ballot is the only record of the voting selections made. Ballots marked using the AutoMARK 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. Ballots marked using the AutoMARK also may be tabulated using the DS450 and DS850.

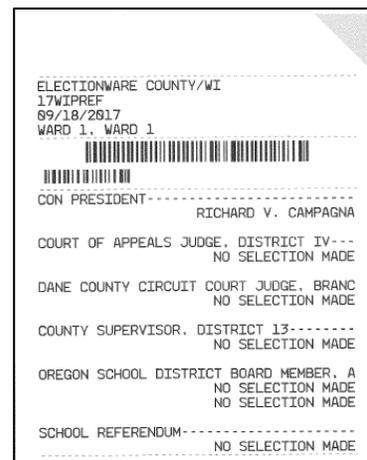
### 5. ExpressVote

The ExpressVote is an electronic vote capture device designed for use by all voters. 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 they have the option to use the touchscreen or the keypad to navigate the ballot and make selections. 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 voter and they 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 card 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 card and the machine returns the ballot card 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 card 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.

#### ii. Software

EVS 5.2.2.0 offers an update to the ElectionWare software suite previously approved for use in Wisconsin under EVS 5.2.0.0. 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, DS850, ExpressVote, AutoMARK, and ERM.

The software components used during this test campaign were as follows:

<i>Software</i>	<i>Version</i>
ElectionWare	4.7.1.1
Election Reporting Manager (ERM)	8.12.1.1
ES&S Event Logging Service (ELS)	1.5.5.0
ExpressVote Previewer	1.4.1.2
ExpressLink*	1.3.0.0
Removable Media Service (RMS)	1.4.5.0
VAT Previewer	1.8.6.1

WEC staff visually verified the software version numbers for each component of the EVS 5.2.2.0 by checking the component's configuration display.

In addition to the verification of software version numbers, WEC staff also had the opportunity to interact with several functionalities of the software components of EVS 5.2.2.0. The functionality of the three tabulators that capture digital ballot images increases the ability of groups requesting to conduct post-election audits of the vote. The images could be provided, or made publicly available via a county or municipal website, in lieu of copies of paper ballots.

These ballot images are able to be exported to the Election Management System and a report listing the disposition of each vote on a ballot can be viewed. This feature can be used to verify how a tabulator treated a vote or ballot if questions arise as to how the machine counted votes for a contest or on a specific ballot, or ballots. The ballot image files serve as a reliable backup in the event that original ballot images are lost or damaged.

\* Please note that the ExpressLink application software is used to pre-print activation cards for the ExpressVote with ballot style information such as a code for Ward 1 ballots and a different code for Ward 2 ballots. If blank activation 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 observed ES&S staff pre-print activation cards for this test campaign using this application and the ExpressLink printer. WEC staff used a small number of pre-preprinted activation cards as part of the ExpressVote ballot test deck.

This feature worked as designed. However, the ExpressLink application is not federally certified by the EAC. NTS determined it to be outside of the scope of certification, but NTS did review the source code for 2005 VVSG compliance. NTS tested the equipment and found that it functions as stated in the technical data package for this voting system. No other testing was performed on this equipment. ES&S states that these products do not require federal certification. These products are described as ancillary products available to a jurisdiction that

may purchase the system. These products are not required for the ExpressVote to function and if not approved, election inspectors will need to activate each ballot on the ExpressVote.

Due to the lack of EAC certification and fact that the WEC's current testing and certification protocol does not outline procedures for testing components outside of EAC certification, the ExpressLink application software is not included in staff's recommendation of approval of EVS 5.2.2.0 and EVS 5.3.2.0. Should the Commission direct staff to develop a protocol for testing voting system components outside of EAC certification, staff could consider the ExpressLink during testing campaigns for future versions of this system.

B. EVS 5.3.2.0 (base voting system with modeming functionality)

EVS 5.3.2.0 is a modification to EVS 5.2.2.0 that provides support for modeming of unofficial election results from a DS200 to a Secure File Transfer Protocol (SFTP) server through public analog or wireless telecommunications networks. All modifications of the system were tested to the 2005 VVSG by NTS.

At its May 21, 2013, meeting, pursuant to authority granted in Wis. Stat. § 5.91 and Wis. Admin. Code EL 7, the Government Accountability Board adopted testing procedures and standards pertaining to the modeming and communication functionality of voting systems that have not received EAC certification. These standards were based upon the analysis and findings outlined in a staff memorandum and detailed in the *Voting Systems Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices in Wisconsin*, which are attached as Appendix D. These rules apply to non- EAC certified voting systems, where the underlying voting system received EAC certification to either the 2002 Voting System Standards (VSS) or 2005 VVSG, but any additional modeming component does not meet the 2005 VVSG.

WEC staff conducted testing of EVS 5.3.2.0 in two counties: Outagamie and Dodge on May 11, 2017 and May 16, 2017, respectively. In consultation with each county clerk, WEC staff selected three municipalities in each county to serve as locations for testing.<sup>1</sup> The municipalities were selected in part because of the strength of the wireless networks in the community or lack thereof and the municipal clerk's interest in hosting the test team.

The modem in the DS200 communicates with the jurisdiction's wireless carrier or a dial-up connection through landline modem to transmit unofficial election night results to a secure server at a central office location, such as the county clerk's office. Wireless transmissions rely on public networks from one of the following three cellular service providers: AT&T, Sprint, or Verizon. The server hosts a secure file transfer commercial off the shelf software package. A firewall provides a buffer between the network segment, where the server is located, and other internal virtual networks or external networks. The data that is transmitted is encrypted and digitally signed. The modem function may only be used after an election inspector has closed the polls and entered a password to access the control panel. The network is configured to only allow valid connections to connect to the SFTP server. The firewall further restricts the flow and connectivity of traffic.

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<sup>1</sup> Outagamie County: City of Seymour, Town of Greenville, Town of Freedom  
Dodge County: Town of Ashippun, Town of Trenton, Village of Lomira

The EMS is required to be deployed on a “hardened system,” meaning that all software that is not essential to the proper functioning of the EMS should be removed from the computer where the EMS is installed. Access to the internet should also be restricted on computers that house the EMS. These procedures are designed to increase the security of the system through the elimination of applications that may provide “back door” access to the system. The EMS provides an audit log of all system actions and connection attempts that can be used to verify unauthorized access to the system while unofficial election results are being transmitted after the close of polls.

The decision on whether the DS200 will include an analog or wireless modem is made at the time of purchase. The EMS supports modeming from a combination of methods in a jurisdiction. For example, a jurisdiction could have two sites with analog modems and three sites with wireless modems. WEC staff successfully simulated such a setup as part of this test campaign in Outagamie and Dodge Counties. This voting system successfully handled simultaneous transmissions from both types of modems. Conversely, a jurisdiction could choose to purchase all analog modems or all wireless modems. Some of the factors that may impact this decision include the strength of wireless service in the jurisdiction and whether the jurisdiction has an existing contract with one of the three service providers listed on page 10. The EMS supports modeming through a combination of service providers, so all jurisdictions in a county do not need to transmit the results via the same service provider. During this test campaign, WEC staff successfully transmitted results in each county using AT&T in one municipality, Sprint in another municipality, and Verizon in a third municipality. During this test campaign, the strength of wireless service ranged from two bars (lowest indicator level is zero) to five bars (highest indicator level). Election results packets were sent successfully at all service levels.

EVS 5.3.2.0 also features a Regional Results program. This stand-alone application allows for the transmission of unofficial election results from a regional location to a central office utilizing a wireless network provided by AT&T, Sprint, or Verizon. WEC staff observed this process in Dodge County. The Regional Results application allows election media containing results from different polling places to be read and then securely transferred to a server at a central office location such as the county clerk’s office.

Neither the modem function of the DS200 nor the Regional Results program impacts the tabulation of official election results.

i. Hardware

ES&S submitted the following equipment for testing as part of EVS 5.3.2.0:

<i>Equipment</i>	<i>Hardware Version(s)</i>	<i>Firmware Version</i>	<i>Type</i>
DS200	1.2.1 1.2.3.0 1.3	2.12.3.0	Polling Place Digital Scanner and Tabulator
DS450	1.0	3.0.0.0	Mid-range Central Count Digital Scanner and Tabulator

DS850	1.0	2.10.2.0	Central Count Digital Scanner and Tabulator
AutoMark	1.0	1.8.6.1	Ballot Marking Device
Voter Assist	1.1		
Terminal (VAT)	1.3		
ExpressVote	1.0	1.4.1.2	Universal Vote Capture Device

iii. Software

The software components used during this test campaign were as follows:

<i>Software</i>	<i>Version</i>
ElectionWare	4.7.1.3
Election Reporting Manager (ERM)	8.12.1.2
ES&S Event Logging Service (ELS)	1.5.5.0
ExpressVote Previewer	1.4.1.2
ExpressLink	1.3.0.0
Removable Media Service (RMS)	1.4.5.0
VAT Previewer	1.8.6.1
Regional Results	1.1.0.0

**IV. Functional Testing**

A. EVS 5.2.2.0 (base voting system)

As required by Wis. Admin. Code EL s. 7.02(1), WEC staff conducted three mock elections with each component of EVS 5.2.2.0 to ensure the voting system conforms to all Wisconsin requirements: a Partisan Primary, a General Election with both a presidential and gubernatorial vote, and a Presidential Preference vote combined with a nonpartisan election.

WEC staff designed a test deck of more than 1,050 ballots using various configurations of votes over the three mock elections to verify the accuracy and functional capabilities of the EVS 5.2.2.0. A three-person team of WEC staff transferred the markings on the test deck spreadsheet for each mock election to blank ballots provided by ES&S. WEC staff fed these ballots through the DS200, DS450 and DS850. The functionality of the ExpressVote was tested by marking 72 ballot cards with the equipment across the three mock elections. A total of 60 ballots were marked on the AutoMARK, including 10 ballots for each mock election and 30 ballots in total for the test ballots used during the modem testing for EVS 5.3.2.0. The votes captured by the ExpressVote and ballots marked with the AutoMARK were verified by WEC staff before being scanned and counted by the DS200, DS450 and DS850. WEC staff determined the results produced by the three tabulators were accurate and matched the test deck script.

Votes were recorded on test deck 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 and the equipment was able to consistently identify those scenarios 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 same ballot style 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.” The ballots with special marks were processed by the tabulation equipment. WEC staff reviewed the results to determine which of the special marks were read by the machines. The below chart illustrates actual marks from test deck ballots that were successfully read and counted as “good marks” by the DS200, DS450 and DS850.

Examples of Marks Read by the EVS 5.2.2.0 Components during Testing				
<input type="radio"/> Bob Hublou	<input type="radio"/> Bob Hublou	<input type="radio"/> Bob Hublou	<input type="radio"/> Amy PrettyJohn	<input type="radio"/> Amy PrettyJohn
<input checked="" type="radio"/> Jack Sheppard	<input checked="" type="radio"/> Jack Sheppard	<input checked="" type="radio"/> Jack Sheppard	<input checked="" type="radio"/> Zack Shubkagel	<input checked="" type="radio"/> Zack Shubkagel
<input type="radio"/> Write-in	<input type="radio"/> Write-in	<input type="radio"/> Write-in	<input type="radio"/> Write-in	<input type="radio"/> Write-in

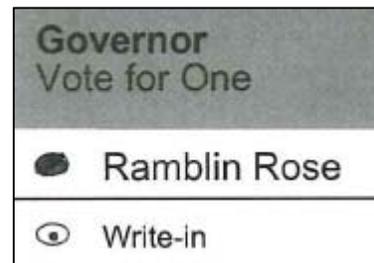
All three pieces of equipment were able to correctly read marks in pencil, black pen, blue pen, red pen, and green pen as well as those made by markers provided by ES&S. The test decks also included ballots folded to simulate absentee ballots and ballots with slight tears in them. Blanks ballots and voted photocopies of ballots were also included to determine how each of the three different tabulators would treat these ballots. Folded ballots were able to be processed without issue on the DS200, DS450 and DS850, while all three pieces of equipment also processed the slightly torn ballots without incident. The DS200 was able to identify the 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 not tested on the DS450 or DS850, as those tabulators are used at central count locations where voters are not present to correct ballot errors.

Write-in votes are marked by the tabulator with a small pink circle and depending on the ballot box used, may or may not be diverted into a separate write-in bin by the DS200. This voting system can be easily configured to capture images of ballots with write-ins and store them on the external USB flash drive, which would permit write-in votes to be easily verified within the ElectionWare EMS. However, this would not replace the need for inspectors to manually

inspect each ballot to detect write-in votes where the voter did not fill in the target area next to the write-in line, but still used the write-in line.

The majority of ballots in the test deck were processed without incident during the campaign, but several anomalies and inconsistencies were also identified. One inconsistency was that ballots marked in pencil with erasure marks were not read the same by each of the three machines. In multiple instances, a ballot with an erasure mark that was not counted by one piece of equipment was treated as a “good mark” by a different piece of equipment in the system. Other test ballots that contained lighter erasure marks were treated uniformly by all three tabulators.

In addition, ballots that were purposefully marked with slight resting marks were also not treated consistently across all three machines. In the example provided at right, the DS850 did not read the resting mark in the write-in oval as a vote and counted the ballot, but the DS450 and DS200 both read the mark as unclear and would not accept the ballot as marked. 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 both of these instances, voter behavior in marking the ballot (dark erasure smudge and resting mark within an oval) played a significant role in the disposition of those ballots by the voting equipment. Testing results and staff observation of the system indicate that EVS 5.2.2.0 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.

B. EVS 5.3.2.0 (base voting system with modeming functionality)

WEC staff conducted functional testing of EVS 5.3.2.0 in two counties (Outagamie and Dodge) based on the *Voting Systems Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices in Wisconsin*. A four-person team of WEC staff conducted this testing campaign. At least two representatives from ES&S were on hand in each county to provide technical support. ES&S also provided four (4) DS200s equipped with modems (three with wireless modems and one with an analog modem) and a portable EMS environment, which included a SFTP client, firewall, and ERM software. In each location, ES&S set up the portable environment in a county office to receive test election results from each municipal testing location. In each municipal location, WEC staff inserted a pre-marked package of 10 test ballots through the DS200 to create an election results packet to transmit to the county office. A WEC staff member was present at the county office to observe how the portable EMS environment handled the transmissions.

i. Outagamie County

On May 11, 2017, WEC staff conducted tests on the EVS 5.3.2.0 modem component in three municipalities: Town of Greenville, Town of Freedom and City of Seymour. ES&S conducted pre-testing of the EVS 5.3.2.0 modem component in Outagamie County prior to testing. A DS200 equipped with a wireless modem was tested in all three municipalities. Additionally, a DS200 equipped with an analog modem was tested in the Town of Greenville. A test script was used to ensure that each machine conforms to the communications device standards and was able to transmit accurate election results data from the DS200 to the Election Reporting Manager.

Municipality	Type of Modem	Signal Strength
City of Seymour	Wireless – Verizon	4 bars
Town of Freedom	Wireless – AT&T	3-5 bars
Town of Greenville	Wireless – Sprint	5 bars
Town of Greenville	Analog	Connected

WEC staff successfully transmitted election results from each of the three municipalities using wireless modems and, in the Town of Greenville, using an analog modem. The test script calls for the verification of several certification standards and then requires 10 results sets to be transmitted from the DS200. All four of the machines were able to successfully transmit multiple results with a 60% success rate during this portion of testing. The functional testing concludes with a stress test where WEC staff attempt to transmit results simultaneously from all of the machines for a set period of time and each machine was able to transmit at least one results set during the stress test. Staff experienced two different situations when transmission attempts failed. First, the DS200 displayed a “server error” message on several occasions that indicates a failure to establish the necessary connection between the modem and the ERM server. The second scenario occurred when staff received a message that the line was ‘busy’ and could not accept transmissions at that time. This scenario occurred during the stress test when multiple machines were attempting to transmit results during a controlled time period.

Location	Modem Type	Initial Transmission	Load Test Results
Town of Greenville	Analog	5 of 10	1 of 7
Town of Greenville	Wireless - Sprint	7 of 10	3 of 16
City of Seymour	Wireless - Verizon	6 of 10	4 of 23
Town of Freedom	Wireless – AT&T	6 of 10	3 of 18
<b>Totals</b>		<b>24 of 40</b>	<b>11 of 64</b>

ii. Dodge County

On May 16, 2017, WEC staff conducted tests on the EVS 5.3.2.0 modem component in three municipalities: Town of Ashippun, Town of Trenton and Village of Lomira. ES&S conducted pre-testing of the EVS 5.3.2.0 modem component in Dodge County prior to testing. A DS200 equipped with a wireless modem was tested in all three municipalities. Additionally, a DS200

equipped with an analog modem was tested in the Town of Ashippun. The same test script that was used in Outagamie County was again used during this portion of the test campaign.

<b>Municipality</b>	<b>Type of Modem</b>	<b>Signal Strength</b>
Town of Ashippun	Wireless - Sprint	2-3 bars
Town of Ashippun	Analog	Could not connect
Town of Trenton	Wireless – AT&T	4 bars
Village of Lomira	Wireless - Verizon	3 bars

WEC staff successfully transmitted election results from each of the three municipalities using wireless modems. The test script calls for the verification of several certification standards and then requires 10 results sets to be transmitted from the DS200. The three machines with wireless modems each were able to successfully transmit all 10 results sets during this portion of testing. The functional testing concludes with a stress test where WEC staff attempt to transmit results simultaneously from all of the machines for a set period of time and each machine was able to transmit at least 11 results set during the stress test with only one overall transmission failure.

WEC staff, along with assistance from the onsite ES&S representative, could not complete a successful transmission from the DS200 with the analog modem in the Town of Ashippun. Prior to testing, both WEC staff and ES&S representatives confirmed that an active analog line was present at the facility where testing was conducted. The municipal clerk confirmed that the line was available and is used on election night to transmit results from their existing voting equipment. Despite this, the analog modem in the DS200 was not able to connect and transmit results to the ERM from the Town of Ashippun municipal office. To ensure that the tabulator with the analog modem was functioning properly, WEC staff successfully transmitted results to the ERM using the same machine via the analog line in the Dodge County Clerk’s office before testing concluded.

<b>Location</b>	<b>Modem Type</b>	<b>Initial Transmission</b>	<b>Load Test Results</b>
Town of Ashippun	Analog	N/A	N/A
Town of Ashippun	Wireless - Sprint	10 of 10	14 of 14
Village of Lomira	Wireless - Verizon	10 of 10	11 of 11
Town of Trenton	Wireless – AT&T	10 of 10	11 of 12
<b>Totals</b>		<b>40 of 40</b>	<b>36 of 37</b>

Other testing notes:

- WEC staff experienced no issues with the wireless modem component. However, questions remain over the reliability of the wired modem component because of the uncertainty over the quality of analog phone lines. WEC staff would recommend any purchasing jurisdiction choosing the wired modem option test their analog line and the DS200 prior to each election. These tests should include line specification and quality tests along with operation verification testing of the DS200.
- The success rate of modem transmission attempts is largely dependent on the presence of reliable infrastructure. Staff is confident that the modeming functionality of EVS 5.3.2.0 performs as described by the vendor in the application materials. It is recommended that purchasing jurisdictions assess their current infrastructure to

determine compatibility with EVS 5.3.20 and identify any necessary upgrades that may impact their purchasing and implementation budget.

**V. Public Demonstration**

A public demonstration of the EVS 5.2.2.0 was held on May 9, 2017, from 4:30 p.m. to 6:00 p.m. in Madison at the WEC office. The public meeting is designed to allow members of the public the opportunity to use the voting system and provide comment. There were no attendees at the public demonstration.

**VI. Wisconsin Elections Commission Voting Equipment Review Panel Meeting**

In an effort to continue to receive valuable feedback from election officials and community advocates during the voting equipment approval process, the Wisconsin Elections Commission formed a Voting Equipment Review Panel that serves in a similar capacity as the former Wisconsin Election Administration Council which was eliminated as part of the 2016 legislation that created the Wisconsin Elections Commission. Wis. Admin. Code EL s. 7.02(2), permits the agency to use a panel of local election officials and electors to assist in the review of voting systems.

Eight of the 22 invited participants attended the Voting Equipment Review Panel Meeting which is composed of municipal and county clerks, advocates for voters with disabilities, and advocates for the interests of the voting public. The meeting took place at the WEC office in Madison on May 9, 2017, from 3:00 p.m. to 4:00 p.m. and a representative from ES&S provided a demonstration of the EVS 5.2.2.0 with attendees encouraged to test the equipment. In addition to the Review Panel participants, one member of the public, two members of the media and WEC staff attended the meeting. The modeming component of the EVS 5.3.2.0 was discussed but not demonstrated during the meeting. Comments and feedback from the Voting Equipment Review Panel meeting are included in Appendix E.

**VII. Statutory Compliance**

Wis. Stat. §5.91 provides the following requirements voting systems must meet to be approved for use in Wisconsin. Please see the below text of each requirement and staff’s analysis of the EVS 5.2.2.0 and EVS 5.3.2.0’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 systems meet 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 systems allow voter to split their ballot among as many parties

as they wish during any election that is not a partisan primary.

**§ 5.91 (4)**

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.

**Staff Analysis**

The ES&S voting systems allow write-in votes where permitted.

**§ 5.91 (5)**

The voting systems accommodate all referenda to be submitted to electors in the form provided by law.

**Staff Analysis**

The ES&S voting systems meet this requirement.

**§ 5.91 (6)**

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.

**Staff Analysis**

The ES&S voting systems 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 contest with crossover votes. Either one of these programming options allows these systems 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 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 systems 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 contest

with an overvote. Either one of these programming options allows these systems 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.

<b>§ 5.91 (8)</b>
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.
<b>Staff Analysis</b>
The ES&S voting systems meet this requirement.

<b>§ 5.91 (9)</b>
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.
<b>Staff Analysis</b>
The ES&S voting systems meet 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.
<b>Staff Analysis</b>
The ES&S voting systems meet 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.
<b>Staff Analysis</b>
The ES&S voting systems meet 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.
<b>Staff Analysis</b>
The ES&S voting systems 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.

<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.
<b>Staff Analysis</b>
The ES&S voting systems meet 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.
<b>Staff Analysis</b>
The ES&S voting systems do not use any such mechanism to record votes.

<b>§ 5.91 (15)</b>
The voting system permits an elector to privately verify the votes selected by the elector before casting his or her ballot.
<b>Staff Analysis</b>
The ES&S voting systems meet this requirement.

<b>§ 5.91 (16)</b>
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.
<b>Staff Analysis</b>
The ES&S voting systems meet this requirement.

<b>§ 5.91 (17)</b>
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.
<b>Staff Analysis</b>
The ES&S voting systems meet this requirement.

<b>§ 5.91 (18)</b>
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 systems presented for approval require paper ballots to be used to cast votes, this requirement does not apply.

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>
<p>The voting system shall:</p> <ul style="list-style-type: none"> <li>(i) 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;</li> <li>(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</li> <li>(iii) if the voter selects votes for more than one candidate for a single office –           <ul style="list-style-type: none"> <li>(I) notify the voter than the voter has selected more than one candidate for a single office on the ballot;</li> <li>(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and,</li> <li>(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted</li> </ul> </li> </ul>
<b>HAVA § 301(a)(1)(C)</b>
<p>The voting system shall ensure than any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.</p>
<b>HAVA § 301(a)(3)(A)</b>
<p>The voting system shall—</p> <ul style="list-style-type: none"> <li>(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</li> </ul>
<b>Staff Analysis</b>
<p>The ES&amp;S voting systems meet these requirements.</p>

**VIII. Recommendations**

Staff has reviewed the application materials, including the technical data package and testing lab report, and examined the results from the functional and modeming test campaigns to determine if these systems are compliant with both state and federal certification laws. The EVS 5.2.2.0 complies with all applicable state and federal requirements. As the EVS 5.2.2.0 is the base voting system for the EVS 5.3.2.0, the EVS 5.3.2.0 also meets this goal. The voting systems 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 enhance access to the electoral process for individuals with disabilities with the inclusion of the ExpressVote vote capture system and the AutoMARK ballot-marking device.

1. WEC staff recommends approval of ES&S voting system EVS 5.2.2.0 and components set forth in the tables on pages 3 and 8 above, except for the ExpressLink Application. This voting system accurately completed the three mock elections and was able to accommodate the voting requirements of the Wisconsin election process. Additionally, WEC staff recommends approval of ES&S voting system EVS 5.3.2.0 and components set forth in the tables on pages 11 and 12 above, except for the ExpressLink Application. This recommendation is based on the VSTL report provided by NTS and on this voting system successfully completing a functional test according to the *Voting Systems Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices in Wisconsin*.
2. WEC staff recommends that as a continuing condition of the WEC's approval, that 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.
3. WEC staff does not recommend ExpressLink application software as part of the WEC's approval. This product is not required for the ExpressVote to function, lacks EAC certification, and is not a component that has a framework for approval pursuant to the WEC's current protocols.
4. 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 to be captured for all ballots tabulated by the system.
5. As part of US EAC certificate: ESSEVS5220, only equipment included in this certificate is allowed to 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 5.2.2.0, it needs to upgrade each and every component of the voting system to the requirements of what is approved herein. Likewise, if a jurisdiction upgrades to EVS 5.3.2.0, it needs to upgrade each and every component of the voting system to the requirements of what is approved herein.
6. 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.

7. 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 March 3, 2017 requesting the approval of EVS 5.2.2.0 and 5.3.2.0.

## **IX. 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 5.2.2.0 in compliance with US EAC certificate ESSEVS5220 including the conditions described above and the ES&S voting system’s Application for Approval of EVS 5.3.2.0 including the conditions described above.

## **Appendices**

- Appendix A: Wisconsin Statutes § 5.91
- Appendix B: Wisconsin Administrative Code EL 7
- Appendix C: US-EAC Certificate of Conformance / Scope of Certification
- Appendix D: *Voting Systems Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices in Wisconsin*
- Appendix E: Wisconsin Voting Equipment Review Panel Feedback

**Appendix A: 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](#); s. 35.17 correction in (intro.).

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

## **Appendix B: 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 EIBd 7 was renumbered chapter GAB 7 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., [Register April 2008 No. 628](#). 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 (NASSED) 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.

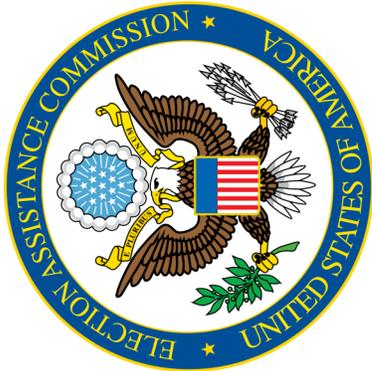
**(4)** The vendor shall ensure that election results can be exported on election night into a statewide database developed by the elections commission.

**(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 C: US-EAC Certificate of Conformance / Scope of Certification**

This document begins on the next page.



United States Election Assistance Commission



## Certificate of Conformance

**ES&S EVS 5.2.2.0**

The voting system identified on this certificate has been evaluated at an accredited voting system testing laboratory for conformance to the 2005 *Voluntary Voting System Guidelines (2005 VVSG)*. 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 *EAC Voting System Testing and Certification Program Manual* 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.

Product Name: ES&S Voting System (EVS) \_\_\_\_\_

Model or Version: 5.2.2.0 \_\_\_\_\_

Name of VSTL: NTS Huntsville \_\_\_\_\_

EAC Certification Number: ESSEVS5220 \_\_\_\_\_

Date Issued: February 27, 2017 \_\_\_\_\_

*Executive Director*  
U.S. Election Assistance Commission

**Scope of Certification Attached**

**Manufacturer:** Election Systems & Software  
**System Name:** EVS 5.2.2.0  
**Certificate:** ESSEVS5220

**Laboratory:** NTS Huntsville  
**Standard:** VVSG 1.0 (2005)  
**Date:** February 27, 2017



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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:

ES&S EVS 5.2.2.0 is comprised of the ExpressVote Universal Voting System (ExpressVote), DS200 Precinct Digital Scanner (DS200), DS450 mid-range Central Count Digital Scanner (DS450), DS850 high-speed Central Count Digital Scanner (DS850), AutoMARK Voter Assist Terminal (AutoMARK A100, A200 & A300), Electionware, Election Reporting Manager (ERM), ES&S Event Log Service, and Removable Media Service (RMS).

- The ExpressVote is a universal vote capture device designed for all voters, with independent voter-verifiable paper record that is digitally scanned for tabulation. This system combines paper-based voting with touch screen technology. The ExpressVote includes a mandatory vote summary screen that requires voters to confirm or revise selections prior to printing the summary of ballot selections using the internal thermal

printer. Once printed, ES&S ballot scanners process the vote summary card. The ExpressVote can serve all voters, including those with special needs, allowing voters to cast ballots autonomously. ES&S has fully integrated the ExpressVote with the existing suite of ES&S voting system products.

- DS200 digital scanner is a paper ballot tabulator designed for use as a polling place scanner. After the voter makes their selections on their paper ballot, their ballot is inserted into the unit for immediate tabulation. Both sides of the ballot are scanned at the same time using a high-resolution image-scanning device that produces ballot images.
- The DS450 mid-range scanner and tabulator that simultaneously scans the front and back of a paper ballot and/or vote summary card. TruGrip™ technology insures that multiple sets of rollers are controlling the ballot in the transport at all times. This provides for reliable handling of ballots; even folded ballots. It can also read ballots in any of four orientations. The DS450 uses our patented Positive Target Recognition and Compensation™ (PTRAC) and Intelligent Mark Recognition™ (IMR) technology to determine what constitutes as a mark for a candidate. It sorts tabulated ballots into discrete output bins without interrupting scanning. Optionally, this device may be configured to transmit tabulation results to the results server through a closed network connection rather than using physically transported USB flash drives.
- The DS850 is a high-speed, digital scan central ballot counter that uses cameras and imaging algorithms to capture voter selections on the front and back of a ballot, evaluate results and then sort ballots into discrete bins without interrupting scanning. A dedicated audit printer generates a continuous event log. Machine level reports are produced from a second, laser printer. The scanner saves voter selections and ballot images to an internal hard disk and exports results to a USB Memory stick for processing with Election Reporting Manager.
- AutoMARK Voter Assist Terminal enables voters who are visually or physically impaired and voters more comfortable reading or hearing instructions and choices in an alternative language to privately mark optical scan ballots. The AutoMARK supports navigation through touchscreen, physical keypad or ADA support peripheral such as a sip and puff device or two position switch.
- Electionware integrates the election administration functionality into a unified application. Its intended use is to define an election and create the resultant media files used by the ExpressVote, DS200 tabulator, AutoMARK® Voter Assist Terminal (VAT), the DS450 Central Ballot Scanner, the DS850 Central Ballot Scanner, and Election Reporting Manager (ERM). An integrated ballot viewer allows election officials to view the scanned ballot and captured ballot data side-by-side and produce ballot reports.
- Election Reporting Manager (ERM) generates paper and electronic reports for election workers, candidates, and the media. Jurisdictions can use a separate ERM installation to display updated election totals on a monitor as ballot data is tabulated, and send the results' reports directly to the media outlets.  
ERM supports accumulation and combination of ballot results data from all ES&S tabulators. Precinct and accumulated total reports provide a means to accommodate candidate and media requests for totals and are available upon demand. High-speed

printers are configured as part of the system accumulation/reporting stations PC and related software.

- ES&S Event Log Service is a Windows Service that runs in the background of any active ES&S Election Management software application to monitor the proper functioning of the Windows Event Viewer. The ES&S Event Log Service closes any active ES&S software application if the system detects the improper deactivation of the Windows Event Viewer.
- Removable Media Service (RMS) is an application that runs in the background of the EMS client workstation and supports the installation and removal of election and results media.

This modification includes the following updates to the EVS 5.2.0.0 system:

#### **ExpressVote**

- The random number generator, used for security functions to meet VVSG 1.0, Sections 2.1.4 and 7.5.1, has been updated to meet new NIST standards.
- Display candidates in either 1 or 2 columns in a particular contest screen based on a configuration flag from Electionware.
- Support the ability for a poll worker to scan a 128c barcode on the external barcode scanner instead of manually selecting the ballot style on the touch screen.
- Update copyright date (code and splash screen).
- Add a Power Supply to meet Level Efficiency 6

#### **DS200**

- The random number generator, used for security functions to meet VVSG 1.0, Sections 2.1.4 and 7.5.1, has been updated to meet new NIST standards.

#### **DS450**

- The DS450 is a new central count component that was added to the system.

#### **DS850**

- The random number generator, used for security functions to meet VVSG 1.0, Sections 2.1.4 and 7.5.1, has been updated to meet new NIST standards.

#### **AutoMARK**

- The random number generator, used for security functions to meet VVSG 1.0, Sections 2.1.4 and 7.5.1, has been updated to meet new NIST standards.

#### **Electionware**

- The random number generator, used for security functions to meet VVSG 1.0, Sections 2.1.4 and 7.5.1, has been updated to meet new NIST standards.
- Renamed “DS850” labels to “Central Count”.
- Corrected spelling of the word 'change' in the AutoMARK system prompt Excel file.
- Correction to enable the save button after making changes in the text box (...) in the Language Additional text area.
- Corrected message display from an internal processing error to the 'Import of ballot style alternate ID' error message when the continuous ballot style ID is longer than 8 characters.
- Correct the contest order display for the ExpressVote in an open primary election to sort by party.
- Added the election wide option to enable/disable multi column view on the ExpressVote.
- Added the ExpressVote Multi Column setting to the ExpressVote Settings Report.

- Corrected erroneous data fit error message that occurred when no nonpartisan contests existed in a closed primary.
- Update copyright to 2016.
- Update user guide help file.
- Corrected the situation where an error was displayed erroneously when triple clicking in the Bengali language text editor.
- Updated creation of passwords for the SFTP server so that they do not include leading zeros which the server cannot authenticate.
- Updated the users.xml to version 3.0 for compatibility with Cerberus version 8.0.0.9 and newer.
- Improved the refresh action in the navigator so that the data appears correctly.
- Corrected an Invalid party ID in Illinois Export party records.
- Can now export results from Produce when the last contest is a text only contest.

**ERM**

- The random number generator, used for security functions to meet VVSG 1.0, Sections 2.1.4 and 7.5.1, has been updated to meet new NIST standards.
- Renamed “DS850” labels to “Central Count”.

**Mark definition:**

ES&S’ documentation declares that the DS200, DS450 and DS850 will reject anything seen inside the oval area that is smaller than .005 square inches (i.e. a circle of diameter .025”, a rectangle of .02” by .025”) as a marked response on a pixel count basis and will be listed as an unmarked oval and not be evaluated further.

**Tested Marking Devices:**

Bic Grip Roller Pen

**Language capability:**

EVS 5.2.2.0 supports English, Spanish, Chinese (Cantonese), Korean, Japanese and Bengali.

**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	Operating System or COTS	Comments
ExpressVote	1.4.1.2	1.0		Universal Voting System
ExpressVote Rolling Kiosk		1.0		
DS200	2.12.2.0	1.2.1, 1.2.3, 1.3		Precinct Count Tabulator
DS200 Ballot Box		1.2, 1.3		Plastic ballot box
DS200 Ballot Box		1.0, 1.1, 1.2		Metal ballot box
DS450	3.0.0.0	1.0		Central Count Scanner, mid-range
DS850	2.10.2.0	1.0		Central Count Scanner, high-speed
AutoMARK A100	1.8.6.1	1.0		ADA Ballot Marking

System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
				Device
AutoMARK A200 (SBC 2.0 & 2.5)	1.8.6.1	1.1		ADA Ballot Marking Device
AutoMARK A300 (SBC 2.0 & 2.5)	1.8.6.1	1.3		ADA Ballot Marking Device
Electionware	4.7.1.1			
Election Reporting Manager (ERM)	8.12.1.1			
ES&S Event Log Service	1.5.5.0			
AutoMARK VAT Previewer	1.8.6.1			
ExpressVote Previewer	1.4.1.2			
Removable Media Service	1.4.5.0			
CreateNewUsers	3.0.3.0			Proprietary Hardening Script
NoNetwork	3.0.3.0			Proprietary Hardening Script
PreInstall	3.0.5.5			Proprietary Hardening Script
PostInstall	3.0.3.0			Proprietary Hardening Script
ServerShare	3.0.3.0			Proprietary Hardening Script
EMS Server		Dell PowerEdge T710		
EMS Client Workstation		Dell Optiplex 980 or 5040		
EMS Client Workstation		Dell Latitude E6410		
EMS Standalone Workstation		Dell Latitude E6410		
Delkin: USB Flash Drive				512MB, 1 GB, 2 GB, 4 GB, 8 GB
Delkin: Validation USB Flash Drive				16 GB
Delkin: Compact Flash				512 MB, 1 GB, 2 GB
SanDisk: Compact Flash				512 MB, 1 GB, 2 GB
Delkin: CF Card Reader		6381		
SanDisk: CF Card Reader		018-6305		
Headphones		Avid 86002		
Zebra QR code scanner		DS457-SR20009	COTS	Integrated with Rolling Kiosk

System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
Symbol QR Code scanner		DS9208	COTS	External
DS450 Report Printer		Dell S2810dn		Laser report printer
DS850 Report Printer		OKI B431dn & Oki B431d		Laser report printer
DS450 Audit Printer		Oki Microline 420		Dot Matrix Printer
DS850 Audit Printer		Oki Microline 420		Dot Matrix Printer
DS450 UPS		APC Back-UPS Pro 1500		
DS 450 Surge Protector		Tripp Lite Spike Cube		
DS850 UPS		APC Back-UPS RS 1500 or APC Back-UPS Pro 1500		
Adobe Acrobat Standard	11		COTS	
Cerberus FTP	8.0.6 (64-bit)		COTS	
Microsoft Server 2008	R2 w/ SP1		COTS	
Microsoft Windows 7 Professional	SP1 (64-bit)		COTS	
WSUS Microsoft Windows Offline Update Utility	10.7.4			
Micro Focus RM/COBOL Runtime	12.06		COTS	
Symantec Endpoint Protection	12.1.6		COTS	
Symantec Endpoint Protection Intelligent Updater	20160829-002-v5i64.exe			





## 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	9900	ERM
Max. count for any precinct element	500,000 (99,900 from any tabulator media)	ERM report (ERM results import)
Max. candidates allowed per election	Depends on election content (limited by 21,000 maximum counters) <sup>1</sup>	ERM
Max. contests allowed in an election	Depends on election content (limited by 21,000 maximum counters) <sup>2</sup>	ERM
Max. counters allowed per precinct	Limits candidates and contests assigned to a precinct to 1,000 <sup>3</sup>	ERM
Max. contests allowed per ballot style	200 or number of positions on ballot	N/A
Max. candidates (ballot choices) allowed per contest	175	ERM (database create)
Max. number of parties allowed	General election: 75 Primary election: 20 (including nonpartisan party)	ERM (database create)
Max. 'vote for' per contest	98	ERM (database create)
Ballot formats	All paper ballots used in an election must be the same size and contain the number of response rows.	Ballot scanning equipment
Max. Ballot Styles	9900	ERM
Max. District Types/Groups	20	ERM
Max. districts of a given type <sup>4</sup>	40	ERM

<sup>1</sup> Calculation of the number of counters must include a minimum of 4 counters for each contest, 3 overhead (overvote, undervote, precincts counted) and at least 1 candidate. Additional contest candidates each add a counter. If some precincts are defined as Absentee, a fourth overhead counter (absentee precincts counted) must be added to each contest. The number of statistical counters (Ballots Cast, Registered voters) must be added to the contest counters to determine the total counters.

<sup>2</sup> Example of maximum contest calculation if all contests had 2 candidates (5 counters each, 3 overhead counters + 2 candidates) and there were 10 statistical counters (i.e. Ballots Cast-Total, Republican, Democratic, Libertarian, Nonpartisan and Registered Voters-Total, Republican, Democratic, Libertarian, Nonpartisan.  $(21000-20)/5 = 4196$  or  $(\text{counter limit} - \text{statistics} \times 2)/\text{number of counters}/\text{contest} = \text{number of contests}$ .

<sup>3</sup> Contest counters are calculated as indicated in footnote 1, but two counters must be added for each statistical counter defined for the precinct. There are a minimum of 3 statistic counters assigned to each precinct (six added counters), "Ballots Cast," "Registered Voters" and "Ballots Cast Blank."

<sup>4</sup> Excludes the Precinct Group which contains all precincts.

System Characteristic	Boundary or Limitation		Limiting Component
Supported Languages	<ul style="list-style-type: none"> <li>English</li> <li>Spanish</li> <li>Chinese (Cantonese)</li> </ul>	<ul style="list-style-type: none"> <li>Korean</li> <li>Japanese</li> <li>Bengali</li> </ul>	System Configuration

## Component Limitations:

### 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 1-26,839), Type (available codes 1-30) or Split (available codes 1-40).
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 26,000.

### 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.

### 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. Using two columns or fewer results in the write-in area being too large to print on the report tape.

### AUTOMARK Voter Assist Terminal

1. ES&S AutoMARK 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 AutoMARK system as the maximum capacities of the ES&S AutoMARK are never approached during testing.

### Electionware

1. Electionware capacities exceed the boundaries and limitations documented for ES&S voting equipment and election reporting software. For this reason, ERM and ballot tabulator limitations define the boundaries and capabilities of Electionware system.
2. Limits were calculated using default text sizes 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 limits lower than those listed. Check printed media and displays before finalizing the election.

3. The Electionware Export Ballot Images function is limited to 250 districts per export.
4. Special characters are not supported and may not appear properly when viewed on equipment displays or reports.
5. Electionware cannot display more than 30,000 images when filtering ballot images for display. Employ one or more filters to ensure that the number of ballots viewed is less than 30,000.

### **Election Reporting Manager (ERM)**

1. Election Reporting Manager requires a minimum monitor screen resolution of 800x600.
2. ERM Database Create allows 1,600 Precincts per Ballot Style.
3. There is a limit of 3,510 precincts in the precincts counted/not counted display.
4. There is a limit of 3,000 precincts in the precincts counted/not counted scrolling display.
5. Contest/Precinct selection pop up display limited to 3,000 contests/precincts.
6. Non-English characters are not supported in ERM. This has to do with the creation of the XML results file out of ERM.
7. ERM's maximum page size for reports is 5,000 pages.

## Functionality

### **2005 VVSG Supported Functionality Declaration**

<b>Feature/Characteristic</b>	<b>Yes/No</b>	<b>Comment</b>
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	
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
Ballot Rotation:		
Rotation of Names within an Office; define all supported rotation methods for location on the ballot and vote tabulation/reporting	Yes	
Straight Party Voting:		
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	
Cross-Party Endorsement:		
Cross party endorsements, multiple parties endorse one candidate.	Yes	
Split Precincts:		
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.	No	
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.
Vote N of M:	Yes	
Vote for N of M: Counts each selected candidate, if the maximum is not exceeded.	No	
Vote for N of M: Invalidates all candidates in an overvote (paper)	No	
Recall Issues, with options:		
Recall Issues with Options: Simple Yes/No with separate race/election. (Vote Yes or No Question)	Yes	
Recall Issues with Options: Retain is the first option, Replacement candidate for the second or more options (Vote 1 of M)	Yes	
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	Overturned - US District Court 7/29/03: CA Election Code sect. 11383
Cumulative Voting		
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	
Ranked Order Voting		
Ranked Order Voting: Voters can write in a ranked vote.	No	
Ranked Order Voting: A ballot stops being counting when all ranked choices have been eliminated	No	

<b>Feature/Characteristic</b>	<b>Yes/No</b>	<b>Comment</b>
Ranked Order Voting: A ballot with a skipped rank counts the vote for the next rank.	No	
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.	No	
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	
Provisional/Challenged Ballots: Provisional ballots maintain the secrecy of the ballot.	Yes	
<b>Overvotes (must support for specific type of voting system)</b>		
Overvotes: P & M: Overvote invalidates the vote. Define how overvotes are counted.	Yes	
Overvotes: DRE: Prevented from or requires correction of overvoting.	No	
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.	No	
<b>Undervotes</b>		
Undervotes: System counts undervotes cast for accounting purposes	Yes	
<b>Blank Ballots</b>		
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	
<b>Networking</b>		
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	

Feature/Characteristic	Yes/No	Comment
FIPS 140-2 validated cryptographic module	No	
Used as (if applicable):		
Precinct counting device	Yes	DS200
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 911	7/29/15	DS850	Second source for LED on camera circuit board	Non-DeMinimis Optional
ECO 917	7/29/15	DS850	Second source LG display	Non – DeMinimis Optional
ECO 919	7/29/15	ExpressVote	Second source LG display	Non – DeMinimis Optional
ECO 921	10/27/15	DS200 Plastic Ballot Box	Adding Block of security foam underneath the slot of the emergency bin	DeMinimis Optional
ECO 1741	7/29/15	ExpressVote	Add additional labels, Velcro patch for keypad	DeMinimis Optional
ECO 1880	8/5/15	DS200	Additional second source and end of life replacement	Non-DeMinimis Optional
ECO 2018	10/9/15	ExpressVote	Remove English from text on ExpressVote instruction label	DeMinimis Optional
ECO 933	2/10/16	PreInstall Patch 1.0.0.5	Disabling the ability to disconnect and create a mapped drive	De Minimis Optional
ECO 927	2/12/16	AutoMARK	Add Backup Battery (End of Life)	De Minimis Optional
ECO 924	3/1/16	Kiosk Stand	Update Kiosk Stand to include shipping stops, dock, feet, and thumbscrews	De Minimis Optional
ECO 930	4/7/16	DS200 Carry Case	Kit for gas trust in DS200 Carry Case	De Minimis Optional
ECO 1816	4/7/16	Steel Ballot Box	Universal rails for the steel ballot box	De Minimis Optional

<b>Change ID</b>	<b>Date</b>	<b>Component</b>	<b>Description</b>	<b>Inclusion</b>
ECO 2106	4/12/16	DS200 Ballot Box	New Ballot Box Wheels	De Minimis Optional
ECO 2113	4/20/16	DS200	CIS Cable Connector	De Minimis Optional
ECO 946	8/23/16	Intel Gigabit CT Desktop Adapter	Prevent onboard NIC card for not acknowledging incoming packets	De Minimis Optional
ECO 947	8/23/16	Linksys USB Ethernet Adapter	Prevent onboard NIC card for not acknowledging incoming packets	De Minimis Optional
ECO 950	1/4/17	DS850	Add second screw set to reverse belt pulley	De Minimis Optional

## **Appendix D: Voting System Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices**

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

#### **Applicable VVSG Standard**

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

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

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

#### **Security**

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

#### **Accuracy**

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

### **Data Integrity**

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

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

### **Reliability**

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

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

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

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

### **Overview of Telecommunication Test**

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

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

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

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

**Test Plan:**

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

- i. Attempt to upload results from a tabulating device to a computer which is not part of the voting system
- ii. Attempt to upload results from a non-tabulating device to the central site connected to the modem bank
- iii. Attempt to load stress by simulating a denial of service (DOS) attack or attempt to upload more than one polling location results (e.g., ten or more polling locations)

### **Wireless Capability Test Plan**

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

**Test Plan:**

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

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

- System must be capable of transferring 100% of the contents of results test packs without error for each successful transmission.
- Furthermore, system must demonstrate secure rate of transmission consistent with security requirements.

- System must demonstrate the proper functionality to ensure ease of use for clerks on election night.
- System must be configured such that the modem component remains inoperable until after the official closing of the polls and printing of one (1) copy of the results tape.

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

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

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

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

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

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

**APPENDIX E: Wisconsin Voting Equipment Review Panel’s Feedback**

These comments were provided via a structured feedback form.

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

Very Poor	Poor	Fair	Good	Excellent
			4	4

- The instructions are clear for the voter. It was easy to operate
- Easy to use! Easy to make corrections.
- When I didn’t select a party and I got to the candidate’s name, it didn’t indicate party.
- I found the attached keypad confusing to use. Assumptions I made using it like a game controller didn’t have the functionality I was expecting. It was explained to me that the functionality was geared toward blind voters. That would push me to try and steer sighted users to not use the key pad.
- Look at screen – follow directions. Good directions. We have a DS200, it’s an excellent machine!

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

Very Poor	Poor	Fair	Good	Excellent
		1	5	2

- Slow and confusing, but it could be more intuitive to a voter.
- WEC should set a condition of purchase that computers using the election management software must not be connected to outside network and must not use other software.
- Large print and audio make the machines very accessible.
- ExpressVote preferred over AutoMark.
- I like all the options a voter would have. I think a lot of public education would be needed.
- Didn’t use. While I was watching it looked good.

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

Very Poor	Poor	Fair	Good	Excellent
			2	5

- I didn't like the way the DS200 was programmed for the ballot where a party wasn't selected. It would have been nice to see it programmed with the party after the candidates name.
- WEC and/or ES&S should do a study of overvotes and how best to help voters who overvoted from telling the system to accept over voted ballots.
- I am very pleased to see the attention to the needs of the hearing impaired, visually challenged, and braille users!
- Thank you for the demo.
- DS200 does not appear to have any noticeable differences from prior system. DS450 is a wonderful addition as mid-size counter for municipalities with central count absentee (and appropriate funding!)
- I think this is a strong system. It was relatively intuitive, except for the key pad component (which wasn't geared for me, but I wanted to use it because I'm from the video game playing group. They would get frustrated very quickly.) The touchscreen component was wonderfully intuitive!
- ExpressVote, faster than the old AutoMark.



# WISCONSIN ELECTIONS COMMISSION

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## MEMORANDUM

**DATE:** For the June 20, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Administrator

Richard Rydecki  
Elections Specialist

**SUBJECT:** 2016 Post-Election Audit of Electronic Voting Equipment Report

### Introduction

Wis. Stat. § 7.08(6) is the state embodiment of § 301(a)(5) of the Help America Vote Act of 2002 (HAVA). Wis. Stat. § 7.08(6), requires the Wisconsin Elections Commission (“WEC”) to audit each voting system that is used in this state following each General Election:

**(6) Enforcement of federal voting system standards.** Following each general election, audit the performance of each voting system used in this state to determine the error rate of the system in counting ballots that are validly cast by electors. If the error rate exceeds the rate permitted under standards of the federal election commission in effect on October 29, 2002, the commission shall take remedial action and order remedial action to be taken by affected counties and municipalities to ensure compliance with the standards.<sup>1</sup> Each county and municipality shall comply with any order received under this subsection.

This law was passed in 2005 and became effective January 1, 2006. Following the November 2006 general election, the first post-election audit was conducted in the State of Wisconsin. Wisconsin has required 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” since April 2004. Wis. Stat. § 5.91(18).

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<sup>1</sup> The current federal standard is 1 in 500,000 ballots. Accordingly, auditing teams must reconcile the Voter Verified Paper Record with ballots or records tabulated and recorded by equipment and eliminate any potential non-tabulation related sources of error including printer malfunctions, voter generated ballot marking errors, poll worker errors, or chief inspector errors.

The State of Wisconsin specifically distinguishes the post-election audit requirement as separate from the required pre-election tests of electronic voting systems. The pre-election test of electronic voting system, defined by Wis. Stat. §5.84, uses a pre-determined set of ballots to ensure that the voting system is properly programmed prior to Election Day. The post-election audit, on the other hand, is designed to assess how the electronic voting system performed on Election Day using a review of the actual votes cast by electors to verify the accuracy of programming and tabulation.

The Wisconsin Election Commission established detailed procedures for meeting the post-election audit requirement. Post-Election audits fulfill many goals including:

- Creating an appropriate level of public confidence in the results of an election;
- Deterring fraud against the voting system;
- Detecting and investigating large-scale, systemic errors;
- Ensuring that previous certified voting equipment systems are performing up to standards required by continued certification;
- Providing feedback that will allow jurisdictions to improve voting technology and election administration for future elections;
- Confirming, to a high level of confidence, that a complete manual recount would not change the outcome of a race.

The effectiveness of the audit is enhanced by several features, including:

- Use of a completely transparent and random selection process for choosing reporting units to be audited;
- Ensuring a minimum number of reporting units for each model of equipment is represented in the audited reporting units;
- Use of counting methods that account for overvotes, undervotes, blank ballots, and spoiled ballots;
- Auditing of all ballots tabulated on Election Day including absentee ballots.

Since 2006, the state agency that oversees elections has conducted audits on voting equipment within the state. In 2008, staff of the former Government Accountability Board (“G.A.B.” or “Board”) reconfigured the audit program to address the unsustainably high personnel and financial expenses. Board staff began asking municipal clerks to conduct audits at the municipal and county level, and mail audit materials to the Board offices for staff to complete, instead of staff completing the audits onsite. In 2010, the Board continued requiring municipalities to conduct audits at the municipal level with assistance from G.A.B. staff. In 2012, Board staff again reformed the audit program, including a decision to double the amount of reporting units selected for participation. This change meant auditing

over one hundred (100) reporting units. Municipalities continued to be required to perform voting equipment audits at the municipal level, with assistance from G.A.B. staff.

The same procedures and protocol were applied to the 2014 audit process. Municipalities were again required to perform audits at the municipal level and many municipalities worked with their respective county clerks to conduct the required voting equipment audits. G.A.B. staff provided assistance to municipalities concerning audit planning, auditing procedures, and suggested ideas and methods for resolving potential discrepancies. Staff also reviewed initial audit results to ensure audits were conducted in an appropriate manner. In limited circumstances, staff conducted an additional audit of the ballots to verify the Election Day results against the hand count audit results.

## **Overview of Audit Procedures**

### **Reporting Unit Selection Process**

The Wisconsin Elections Commission randomly selects a pre-determined number of reporting units across Wisconsin for audits, including a minimum of five (5) reporting units for each voting system used in Wisconsin. For the 2016 audit selection process, a selection limit of two reporting units per municipality was proposed by WEC staff and approved by the Commission during its October 14, 2016 meeting. The audits are conducted in accordance with the procedures set forth below. If fewer than five (5) reporting units for any voting system are selected through the random selection process, then additional reporting units are randomly selected for the voting system until five reporting units per voting system have been selected. Any reporting unit selected for audit that is subject to a recount is replaced by another reporting unit selected at random by the WEC. For good cause, the WEC may identify other reporting units to be audited.

In addition to audits conducted on the municipal level, the WEC may choose to audit a selected number of reporting units at the state level. The total number of reporting units selected during this process may not exceed one percent (1%) of the reporting units in the state. The reporting units included in the audit will be selected at random by the WEC. In the event that the WEC chooses to conduct audits, staff will identify different reporting units than those identified for audit on the municipal level.

The procedures outlined above were employed for the original selection of reporting units for the 2016 post-election voting equipment audit. The Commission later determined that reporting units selected for the audit whose ballots were hand-counted during the statewide recount for the Office of President would no longer be required to conduct the audit. Reporting units whose ballots were recounted using optical scan tabulators would still be subject to the post-election voting equipment audit. This decision significantly reduced the number of audits that were conducted following the 2016 Presidential Election.

### **Pre-Audit Preparations**

The audit must be open to the public, and the time and location of the audit must be posted at least 48 hours prior to the audit. Members of the public can observe the audit proceedings, but may not interfere with the orderly conducting of the audit. The audit must be conducted no later than two (2) weeks after the Wisconsin Elections Commission certifies the election results.

Upon notification by the Wisconsin Elections Commission that a reporting unit in their municipality was selected for audit, the municipal clerk shall make arrangements with the county clerk and the county board of canvassers to preserve and retain the election materials including voter lists, the Inspectors' Statement (EL-104), Tally Sheets (EL-105), reports printed or generated by the voting system, ballots and any other required materials that will be used during the audit. All materials subject to audit must be retained in a secure location by either the municipal or county clerk.

Upon agreement by a municipality and county, the county clerk or county board of canvassers may perform the audit of the selected reporting unit(s) in lieu of the municipality. In this instance, the county would be entitled to any reimbursement provided by the Wisconsin Elections Commission.

### General Audit Procedures

1. The municipality shall acknowledge receipt of its selection for the post-election voting system audit and confirm with the WEC the following information for each reporting unit selected:
  - a. Voting System Type
  - b. Voting Equipment Model
  - c. Accessible Voting Equipment Model
2. Four (4) contests shall be audited, including the top contest on the ballot, the presidential or gubernatorial contest. The other audited contests shall be selected randomly by WEC staff from the other state-level contests that appear on the ballot.
3. The clerk shall publicly post notice of the time and location for the voting system audit at least 48 hours prior to the scheduled audit. Clerks must notify the WEC of the time and location of the audit by sending an email to [wecaudits@wi.gov](mailto:wecaudits@wi.gov).
4. A minimum of two individuals shall participate in the audit. Votes shall be tallied by hand for the contests included in the audit. For some voting systems, this will require counting the votes listed on the voter-verified paper audit trail generated by the voting system on Election Day. At least two auditors shall each determine an independent total for each selected contest. These totals shall then be compared to each other. If the auditors' totals agree, the totals are then compared to the results generated by the voting system. Any discrepancies should be recorded and explained in the minutes of the audit.
5. If any offices contain an overvote, no vote is counted for that office, and it is considered an undervote.
6. Auditors should only count votes as the equipment would have counted them.

Example: A voter circled candidate name Jane Doe on an optical scan ballot where they should have filled in the oval next to the candidate name. No vote for this office should be counted as the voting equipment would not have counted a vote cast for a candidate in this manner.

7. In some cases, it may not be clear exactly how the ballot would have been counted by the voting equipment. Auditors should document in the minutes any ballots where it is unclear how the voting system would count the ballot. The auditors should include in the minutes how they counted the ballot as well as all reasonable alternatives on how the machine may have counted the ballot.

Example: Ballot 93, voter marked both Jane Doe and John Smith and attempted to erase the mark for John Smith. We counted it as a vote for Jane Doe, but the machine may have read this as an overvote in this contest. This may result in our tally having one more vote for Jane Doe and one less undervote in this contest.

8. The audit results should be compared to the results report from the voting equipment and an error rate should be determined. It may be possible that the auditors' totals do not match the voting equipment results report, but the auditors should be able to reasonably explain any difference in the totals by reference to specific ballots.

### Recommended Audit Procedures

#### *Overview*

1. Two people review each ballot.
2. Auditors should rotate the stacks between them – i.e Person A works on Stack 1-100 while Person B works on Stack 101-200, etc...then they switch. Person A and Person B will each individually go through all the ballots.
3. Keeping the stacks in order allows the auditors to narrow down and locate where there are discrepancies between the two independent counts instead of needing to recount all the ballots over and over again.

#### *Set-Up*

1. Count out ballots into sets of 100.
2. Label stacks (1-100, 101-200, 201-300, etc.)

#### *Each Auditor Individually*

1. Tally contests from ballots that have been separated into groups of 20 – the goal is to be able to narrow discrepancies between individual tallies down to the smaller groups of 20.
  - a. Record the number of votes for each candidate on the tally sheet under the appropriate column for the group of ballots you are working on.
  - b. List the total votes for each office by counting down the column for the stack of 20 you are working on. Be sure to include any scattering or undervotes in your total. The total for each group of ballots should always be equal to the total number of ballots in the group (i.e. a group of 20 ballots should have a total of 20 votes,

scattering and undervotes, and a group of 17 ballots would have 17 total votes, scattering and undervotes).

2. Keep separated in subgroups of 20 while tallying – it is helpful to keep the group of 100 in one stack but to alternate the directions of the subgroups of 20 ballots.
3. Add subtotals after each stack of 100 ballots is complete and note that number in the ‘ST’ column of the Tally section.
4. Complete the ‘Totals’ section of the tally sheet by listing the hand-count subtotals in the ‘Audit’ column, the totals from the voting equipment results tape in the ‘EVM’ column and noting any difference between those totals in the ‘Variance’ column.
5. Repeat 1-4 in sets of 100 until all ballots are counted.

#### *Auditors Jointly*

1. Compare individual tallies for each contest audited.
  - a. Circle any discrepancies between the two tallies.
  - b. If tallies do not match, recount the sub-group of 20 to determine which tally is correct. You should use a new tally sheet labeled “Recount [insert Stack Number/Subgroup]”.
2. After any discrepancies are reconciled, add the stack totals together to determine the total vote in each contest audited.
3. Compare to the electronic voting machine (EVM) total.
  - a. If the totals match, note that they match on the reporting form.
  - b. If the hand tally and voting equipment tally do not match for a contest, the auditors should review the minutes for ballots that were ambiguously marked that could explain the discrepancy. If the discrepancy can be reasonably explained by specific reference to these ballots, record that explanation on the reporting form.
  - c. If the minutes do not provide a reasonable explanation for the discrepancy, calculate the error rate and note the actual difference in votes and the error rate on the reporting form.

#### Post-Audit Procedures

Each municipality conducting an audit must submit the designated reporting forms and supporting documents from the audit, including tally sheets, to WEC staff to indicate the audit was completed and describe any discrepancies that were found. Clerks should email these findings to [wecaudits@wi.gov](mailto:wecaudits@wi.gov).

WEC staff may, at its sole discretion, request that the municipality submit all audit materials, including the source documents (ballots, poll lists, etc.) to the WEC for further review. In such a case, the WEC will reimburse the municipality for the associated postage/shipping costs.

In the event that a discrepancy between the machine tally and the paper record tally cannot be reasonably explained, WEC staff will request that the voting equipment manufacturer investigate and explain the reasons for any differences between the machine tally and the paper record tally. Should the vendor fail to provide a sufficient written explanation, including recommendations for preventing future occurrences, within 30 days of notification, WEC staff will suspend approval of the affected voting system in Wisconsin. This suspension will be implemented immediately, pending an appeal by the vendor to the Commission, which must be filed within 30 days.

Based upon the results of the audit, the Wisconsin Elections Commission may, at its sole discretion, choose to re-test the voting system per EL Chapter 7. Such test would be a condition of continuing approval of said voting system.

### Municipal Reimbursement

The Wisconsin Elections Commission will reimburse municipalities for actual costs incurred, up to \$300 per reporting unit, for conducting each audit. The Wisconsin Elections Commission will not reimburse personnel costs at a rate exceeding \$10 per hour. Each municipality seeking reimbursement shall submit an itemized request that includes the names of the auditors, the pay rate at which they were compensated, the total sum requested for reimbursement and information on where the WEC can transmit any approved reimbursement amount.

### Voting Equipment Descriptions

#### Accessible Equipment

##### 1. *Sequoia Edge*

The Board approved Sequoia's AVC-Edge with VeriVote Printer DRE system, version 5.024 on March 22, 2006. This system was approved under NASED # N-1-07-22-22-002. Most municipalities who use the AVC-Edge utilize them to meet accessibility requirements and use another system, usually traditional paper or optical scan, to fulfill the majority of voting needs.

##### 2. *ES&S iVotronic*

The Board approved ES&S's iVotronic DRE with Real Time Audit Log, version 9.1.4.0 on April 26, 2006. This system was approved under NASED # N-2-02-22-22-005. Most municipalities that use the iVotronic utilize it to meet accessibility requirements and use another system, usually traditional paper or optical scan, to fulfill the majority of their voting needs.

##### 3. *AccuVote TSX*

The Board first approved Diebold's AccuVote TSX DRE Touch Screen and AccuView Printer Module, version 4.6.3 on March 22, 2006. This system was approved under NASED # N-1-06-22-22-001. Most municipalities that use the AccuVote TSX utilize it to meet accessibility requirements and use another system, usually traditional paper or optical scan, to fulfill the majority of their voting needs.

#### 4. Populex

Populex Digital Paper Ballot Voting System, version was approved by the State Elections Board at the May 17, 2006 meeting.

#### Optical Scan Tabulators

##### 1. *Dominion ImageCast Evolution*

ImageCast Evolution version 410A was originally approved for use in Wisconsin by the Board on June 18, 2015.

##### 2. *ES&S M100*

System assigned NASED # N-2-02-22-22-005. This equipment was approved by the State Elections Board April 26, 2006.

##### 3. *ES&S DS200*

DS200 digital scanner, version 1.6.1.0, was originally approved by the Board on August 28, 2012.

##### 4. *Optech Insight*

Formerly a Sequoia Product that has been acquired by Dominion Voting, the Optech Insight optical scan ballot reader, version. APXK2.10/HPX K1.42 was assigned NASED system ID # N-1-07-22-22-002. The State Elections Board approved this equipment on March 22, 2006.

##### 5. *Optech Eagle*

The Optech IIP Eagle originally made by Business Records Corporation and later (as a result of merger and an antitrust decision, by both Sequoia Voting Systems and by Election Systems and Software). It is has been in use in Wisconsin for over 20 years in some jurisdictions.

##### 6. *Diebold/Premier-AccuVote-OS*

This was formerly a Diebold Elections System Product that has been acquired by Dominion Voting. The AccuVote-OS (model D) Optical Scan, version 1.96.6, was approved by the State along with a series of security recommendations, at the March 22, 2006 meeting. The system was assigned NASED system ID # N-1-06-22-22-001.

## **2016 Voting Equipment Audit Summary**

After the 2016 General Election WEC staff originally selected a total of one hundred and seven (107) reporting units across Wisconsin to conduct the 2016 post-election voting equipment audit. The original 107 reporting units represent ninety-three (93) municipalities throughout the state. The list included a minimum of five (5) reporting units for each piece of accessible voting equipment and tabulation equipment (Optical Scan) approved for use in Wisconsin. If fewer than five (5) reporting units for any voting system were selected through the random selection process, additional reporting units were selected until five (5) reporting units per voting system were identified. The only exception was the accessible voting equipment, Populex, which is used in only two (2) municipalities, encompassing three (3) wards. Notification of selection for audit was sent to both municipal and county clerks for impacted jurisdictions.

At the December 14, 2016 meeting of the Wisconsin Elections Commission, the Commission decided to limit the scope of audit participants in the wake of the statewide recount for the Office of President. The Commission determined that any reporting unit originally selected for the post-election voting equipment audit whose ballots were hand counted during the recount would no longer be required to be audited. Reporting units where ballots were machine counted during the recount would still be subject to audit. Optical scan voting equipment was used to recount ballots in 32 reporting units selected for audit and those ballots, in addition to ballots from nine reporting units where audits were completed before the statewide recount was ordered, constitute the sample included in this report. A full list of reporting units where audits were conducted can be found in Appendix A.

### **Accessible Voting Equipment Audit Results Summary**

<b>Accessible Voting Equipment</b>	<b>Number Originally Selected</b>	<b>Audits Conducted</b>
Sequoia Edge	29	9
AccuVote-TSX	5	0
iVotronic	5	0
Populex	2	0

All voting equipment audits of accessible voting equipment were completed by municipal or county clerks. The audit reports indicate the machine tallying function on all audited accessible devices tabulated correctly, with no identifiable bugs, errors, or failures occurring between the individual cast vote record and the total tabulated vote record. The only noted issue arose with auditors not being able to verify several ballots cast on the Sequoia Edge due to paper jams of the Voter Verified Paper Audit Trail (VVPAT) on Election Day. Until cleared, the paper jams may not allow for the recording of votes by the VVPAT.

There are four approved accessible voting systems that record and tabulate votes that are in use in Wisconsin, but only one system, the Sequoia Edge, was ultimately subject to audit. The audit requirements for reporting units using the three other systems were waived after those jurisdictions conducted a hand count during the statewide recount. Of the 44 reporting units whose accessible voting equipment was originally selected for audit, only 9 were required to complete audits of that equipment.

Tabulation Voting Equipment (Optical Scan) Results Summary

<b>Optical Scan Equipment</b>	<b>Number Originally Selected</b>	<b>Audits Conducted</b>
Sequoia Insight	7	3
ES&S M100	11	4
Optech Eagle	5	2
AccuVote-OS	5	0
ES&S DS200	45	27
Dominion ICE	12	2

All voting equipment audits of tabulation equipment were completed by municipal or county clerks. WEC staff had to perform one hand count for a municipality after both the municipality and county found discrepancies between the audit totals and Election Day results. The individual audits indicate the tabulation voting equipment performed up to certification standards and accurately recorded and tabulated votes. Minor discrepancies were reconciled between the audit hand counts totals and the election results produced by the voting equipment from Election Day.

The audit process was complicated for some municipalities which conducted their audits after the statewide recount for Office of the President. Several municipalities reported that original materials, including ballots, were misplaced upon completion of the recount and not available for verification during the audit process. In addition, several municipalities indicated that the original Election Day ballot pool was different after the recount due to decisions by the Board of Canvassers to remove ballots from the pool (i.e. draw down) or reconsider original decisions to reject ballots made by election officials at the polling place.

Several pieces of tabulation equipment approved for use in Wisconsin have specifications for which type of ballot marking devices are to be used in order for voting marks to be detectable by the equipment. Multiple instances were identified where voters used improper marking devices whose marks were not readable by specific voting equipment. The equipment would generally not count votes on these ballots as they were treated as blank ballots with undervoted contests.

The results of the audit identified one voting system in particular where this issue was especially problematic. The Optech Eagle is an optical scan tabulator that has been in use in Wisconsin for over twenty years. The system will only read carbon-based marks made by voters using marking devices such as vendor-supplied marking pens or no. 2 pencils. This limitation has the potential to disproportionately impact absentee ballots marked at home and returned by mail. Ballots voted at a polling place and at an in-person absentee voting site are more likely to be marked with an appropriate marking device. By-mail absentee voters do not have access to marking devices supplied by the vendor and are often reluctant to mark a ballot using a utensil, such as a no. 2 pencil, whose mark can be erased.

The Village of Hortonville in Outagamie County was unable to reconcile its audit results with the results produced by the Optech Eagle on Election Day. The initial audit was conducted by the municipality and the hand count found multiple discrepancies between votes for ballot candidates and the number of

undervotes identified by the voting equipment. For example, Election Day vote totals for Office of the President indicated 14 more undervotes than were tallied during the post-election audit process. The audit identified more votes for ballot candidates and write-in candidates than were counted by the equipment on Election Day.

After the conclusion of the audit conducted by election officials in the Village of Hortonville, WEC staff requested that an additional audit be conducted using these ballots and the Outagamie County Clerk, Lori O'Bright, agreed to conduct the audit on behalf of the municipality. The results of the second audit were similar to the audit conducted by the municipality in that fewer undervotes were identified during the audit than on Election Day and more votes for ballot and write-in candidates were tallied. All of the ballots from this reporting unit, along with other supporting documents and election materials, were sent to WEC staff so that a third verification could be completed. WEC staff was also not able to reconcile the audit results with the Election Day totals. Staff hand counted all ballots and attempted to identify a subset of ballots that may not have been tallied properly by the voting equipment due to the suspected use of improper marking devices. This exercise did not produce a result that allowed staff to understand how the Optech Eagle treated these ballots with confidence.

The analysis of the performance of the Optech Eagle identified a significant limitation of the equipment, but the Optech Eagle performed as expected during the 2016 Presidential Election. Election officials should have been instructed to review absentee ballots returned by mail for questionable marks before processing those ballots on Election Day. In response to this issue, and similar issues identified during the statewide recount for the Office of President, staff issued recommended guidance to all jurisdictions using Eagles that all absentee ballots returned by mail should be remade before processing or tallied by hand. This guidance was transmitted directly to local election officials and posted to the agency website here: [Guidance on Processing Absentee Ballots using the Optech Eagle](#). Staff intends to consult further with the limited number of municipalities still using the Optech Eagle regarding its performance and report back to the Commission at a future meeting.

Discrepancies identified during audits in other municipalities involved the manner in which the voter marked their ballot. In several instances, the equipment performed better than expected and was able to read ballots, despite voters marking ballots using x's or check marks rather than filling in ovals as instructed. These scenarios created difficulty in reconciling vote totals as local election officials who conducted the audits were left to speculate as to how the equipment treated an improperly marked ballot. Municipalities were able to narrow down vote totals and identify a reasonable range of ballots responsible for the vote discrepancies in each circumstance.

Many of the initial reported discrepancies occurred because voter intent was taken into account when hand counting ballots. The instructions provided to local election officials clearly state that the purpose of this process is to verify the performance of the voting equipment, not to determine the voter's intent as to ballots which the equipment cannot read. For example, if a voter circled the name of a candidate on their ballot, the voting equipment would not record a vote for that candidate. A visual inspection of the ballot could allow the election official to determine voter intent, but voting equipment cannot be expected to recognize improper marks, so no vote for that candidate should be tallied during the audit process. In addition, despite clear audit instructions, some clerks were unaware that the hand count audit totals must reconcile with the election night machine results, with no variance. These procedural errors lead to additional votes for candidates with a corresponding decrease in the number of undervotes for a contest, or swapping a vote for one candidate for another candidate in the same contest. In each circumstance additional verification was done to either locate a potential problem ballot or to clarify that

the vote total discrepancies were due to human error and were not caused by voting equipment malfunction.

### Audit Program Costs

For 2016, the Commission continues to reimburse municipalities \$300 per reporting unit for costs associated with conducting the audit. Appropriate documentation detailing actual costs incurred by the party conducting the audit is required for municipalities or counties to receive this reimbursement. For the 2016 voting equipment audit WEC staff has reimbursed \$6,457.53 to municipalities as of June 9, 2017. WEC also reimbursed the Outagamie County Clerk's office \$96.62 for costs related to shipping the Village of Hortonville ballots. In addition, those ballots had to be returned to the county for storage and records retention purposes at a cost of \$10.80 to the WEC. The total amount reimbursed to local election officials for the 2016 audit is \$6,564.95.

Several municipalities reported audit costs that exceeded the limit of \$300 per reporting unit. Seven municipalities requested additional reimbursement that totaled \$761.50. At its December 14, 2016 meeting, Commission members directed staff to track any reimbursement costs in excess of the limit and report any additional costs to the Commission at the conclusion of the audit process.

### Conclusion

Both the accessible voting equipment and tabulation equipment used and audited for the 2016 Presidential Election recorded and tabulated votes as expected and according to certification standards. The audit results indicated there were no identifiable bugs, errors, or failures of the tabulation voting equipment and discrepancies identified during the audit were the result of human error when conducting the audit. The issues with the Optech Eagle identified in the Village of Hortonville were due to the limitations of a legacy voting system and, despite these limitations, the equipment functioned as designed. The inappropriate use of marking devices that are not compatible with the system and election official error in not properly identifying and remaking potentially problematic ballots were the cause of the discrepancies identified during the audit.

In addition to the reporting units that were subject to audits, the statewide recount for the Office of the President provided an additional check on the voting equipment deployed during the 2016 Presidential Election. During the recount, fifty-one counties hand counted all ballots, with an additional twelve counties hand counting, at least, some portion of the ballots cast. This exercise also did not identify any issues with how voting equipment recorded and tabulated votes in Wisconsin during the 2016 Presidential Election.

**Recommended Motion:** Staff recommends that the Commission accept this report of the 2016 Voting Equipment Audit.

## Appendix A

Table of 2016 Municipalities Audited

County	Municipality	Optical Scan	Accessible System
BARRON	TOWN OF ARLAND	None	AVC Edge
BROWN	CITY OF GREEN BAY - Ward 44	ES&S DS200	ES&S Automark
BROWN	CITY OF GREEN BAY - Ward 31	ES&S DS200	ES&S Automark
BROWN	TOWN OF SCOTT	ES&S DS200	ES&S Automark
DOOR	VILLAGE OF EGG HARBOR	Dominion ImageCast Evolution	Dominion ImageCast Evolution
DUNN	TOWN OF TAINTER	Sequoia Insight	AVC Edge
EAU CLAIRE	CITY OF EAU CLAIRE	Optech- Eagle	AVC Edge
GREEN	TOWN OF JEFFERSON	Dominion ImageCast Evolution	Dominion ImageCast Evolution
MANITOWOC	TOWN OF MEEME	ES&S M100	ES&S Automark
MARATHON	TOWN OF WIEN	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF FRANKLIN - Ward 14	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF FRANKLIN - Ward 22	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF GLENDALE	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF GREENFIELD	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF MILWAUKEE - Ward 164	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF MILWAUKEE - Ward 68	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF WAUWATOSA - Ward 14	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF WAUWATOSA - Ward 22	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF WEST ALLIS - Ward 20	ES&S DS200	ES&S Automark
MILWAUKEE	CITY OF WEST ALLIS - Ward 1	ES&S DS200	ES&S Automark
MILWAUKEE	VILLAGE OF BROWN DEER	ES&S DS200	ES&S Automark
MILWAUKEE	VILLAGE OF WHITEFISH BAY	ES&S DS200	ES&S Automark
MILWAUKEE	VILLAGE OF WHITEFISH BAY	ES&S DS200	ES&S Automark
OUTAGAMIE	CITY OF APPLETON - Ward 4	ES&S M100	ES&S Automark
OUTAGAMIE	CITY OF APPLETON - Ward 37	ES&S M100	ES&S Automark
OUTAGAMIE	TOWN OF GRAND CHUTE	Sequoia Insight	AVC Edge
OUTAGAMIE	VILLAGE OF HORTONVILLE	Eagle	AVC Edge
PRICE	TOWN OF PRENTICE	None	AVC Edge
PRICE	VILLAGE OF KENNAN	None	AVC Edge
RACINE	VILLAGE OF MOUNT PLEASANT	ES&S M100	ES&S Automark
ROCK	CITY OF JANESVILLE	ES&S DS200	ES&S Automark
ROCK	TOWN OF BELOIT	ES&S DS200	ES&S Automark
RUSK	TOWN OF BIG BEND	None	AVC Edge
SHEBOYGAN	TOWN OF SHERMAN	Sequoia Insight	AVC Edge
ST. CROIX	TOWN OF STANTON	ES&S DS200	ES&S ExpressVote
WAUKESHA	CITY OF NEW BERLIN - Ward 20	ES&S DS200	ES&S ExpressVote
WAUKESHA	CITY OF NEW BERLIN - Ward 26	ES&S DS200	ES&S ExpressVote
WAUKESHA	CITY OF WAUKESHA - Ward 45	ES&S DS200	ES&S ExpressVote

WAUKESHA	TOWN OF OCONOMOWOC	ES&S DS200	ES&S ExpressVote
WAUKESHA	TOWN OF WAUKESHA	ES&S DS200	ES&S ExpressVote
WAUKESHA	VILLAGE OF CHENEQUA	ES&S DS200	ES&S ExpressVote
WAUKESHA	VILLAGE OF MENOMONEE FALLS	ES&S DS200	ES&S ExpressVote

# WISCONSIN ELECTIONS COMMISSION

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JODI JENSEN  
STEVE KING  
MARK L. THOMSEN, CHAIR

ADMINISTRATOR MICHAEL HAAS

## MEMORANDUM

**DATE:** For the June 20, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Interim Administrator

Prepared and Presented by:  
Nathan W. Judnic  
Legal Counsel

**SUBJECT:** Administrative Rules Update

This memorandum outlines the progress made on promulgation of the agency's administrative rules since the May 23, 2017 Commission meeting. A summary chart of the status of the rules outlined below follows this memorandum (Attachment 1).

### **1. Statements of Scope - Commission Discussion and Approval**

As discussed at the May 23, 2017 meeting, four (4) statements of scope were in the midst of the 10-day publishing period in the administrative code register and would be ready for the June 20, 2017 meeting. All four statements of scope were published in Wisconsin Administrative Register No. 734A4 on May 22, 2017 and have been assigned their unique statement of scope number.

The Statements of Scope as approved by the Governor's Office and published in the Wisconsin Administrative Register for at least 10 days follow this memorandum for the Commission's discussion and approval.

- 1) EL Ch. 4 (election observers), SS 040-17 (Attachment 2)
- 2) EL 3.60 (absentee ballot subscription service), SS 043-17 (Attachment 3)
- 3) EL Ch. 13 (training for election inspectors and special voting deputies), SS 042-17 (Attachment 4)
- 4) EL 6.06 (curbside voting procedures), SS 041-17 (Attachment 5)

**Recommended Motion:** The Commission approves the Statements of Scope for Chapter EL 4, relating to election observers, EL 3.60, relating to an absentee subscription service and fee schedule, Chapter EL 13, relating to training for election inspectors and special voting

**deputies, and EL 6.06, relating to curbside voting procedures. The Commission further directs staff to draft the preliminary rules and draft economic impact statements for the above referenced code chapters and sections.**

## **2. Proposed Rules Submitted to Legislative Council Clearinghouse**

As approved at the May 23, 2017 meeting, (2) two draft rules, along with fiscal impact statements and notices of submittal to the Legislative Council Clearinghouse were submitted to the Legislative Reference Bureau, Legislative Council, the State Budget Office, Governor's Office and the chief clerks of the State Senate and the State Assembly. EL Ch. 21 was submitted on May 25, 2017 and EL Ch. 6 was submitted on May 31, 2017. Upon receipt of the hard copy of the draft rule, the Legislative Council Clearinghouse assigns a clearinghouse rule number, and has 20 days to review the draft rule and provide the Commission recommended edits and revisions.

No recommended action at this time.

## **3. New Statements of Scope**

As approved at the May 23, 2017 meeting, (3) three new statements of scope are in the earliest stages of drafting (EL Ch. 7, EL Ch. 12, EL Ch. 20). Once the drafting of these statements is complete, they will be submitted to the Governor's Office to obtain approval to move forward in the promulgation process which will involve submission to the Legislative Reference Bureau to be published for 10 days before the Commission can review and approve the statements. Review and approval of these statements at the September Commission meeting is still on track.

No recommended action at this time.

## **4. Rules Placed on Hold**

As approved at the May 23, 2017 meeting, action to amend EL 3.10, 3.11, 3.12 and 3.20 is on hold pending the *One Wisconsin* appeal.

No recommended action at this time.

## **5. Legislation in Lieu of Rulemaking**

There is no significant update regarding the (5) five rule topics that the Commission staff believes are good candidates for legislation in lieu of rulemaking. Commission staff anticipates movement on these rule topics after the majority of the state budget work has been completed by the Legislature this summer. Commission staff is hopeful that significant progress will be made prior to the Commission's September meeting.

No recommended action at this time.

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MARK L. THOMSEN, CHAIR

## Attachment 1: Administrative Rules Status

Rule No.	Topic	Status
EL Ch. 6	Procedure	Legislative Council Clearinghouse review
EL Ch. 21	Practice of Procedure	Legislative Council Clearinghouse review
EL Ch. 4	Election Observers	Statement of Scope Approval by Commission
EL 3.60	Absentee Ballot Subscription Service	Statement of Scope Approval by Commission
EL Ch. 13	Training for Election Inspectors and Special Voting Deputies	Statement of Scope Approval by Commission
EL 6.06	Curbside Voting Procedures	Statement of Scope Approval by Commission
EL Ch. 7	Voting Equipment Security and Voting Equipment Approval	Statement of Scope being drafted
EL Ch. 12	Maintaining Records in Statewide Voter Registration System	Statement of Scope being drafted
EL Ch. 20	Complaint Procedure	Statement of Scope being drafted
EL 3.10, 3.11, 3.12, 3.20	Removal of Special Registration Deputy References	On hold pending <i>One Wisconsin</i> appeal
EL Ch. 8	Election Notices	Pursuing legislation in lieu of rulemaking.
EL 3.015	Electronic Proof of Residence	Pursuing legislation in lieu of rulemaking.
EL Ch. 17	Overseas Voting Procedure	Pursuing legislation in lieu of rulemaking.
EL 3.04(2)	Provisional Voting	Pursuing legislation in lieu of rulemaking.
EL 6.07	Definition of Same Grounds	Pursuing legislation in lieu of rulemaking.



**STATEMENT OF SCOPE  
PURSUANT TO WIS. STAT. § 227.135  
WISCONSIN ELECTIONS COMMISSION**

**Rule No.:** EL Ch. 4

**Relating to:** Conduct and Regulation of Election Observers to Monitor Compliance With Election Laws by Local Election Officials

**Rule Type:** Permanent

1. **Finding/nature of emergency (Emergency Rule only):** N/A
  
2. **Detailed description of the objective of the proposed rule:**

The Wisconsin Elections Commission (“Commission”) proposes to create Wis. Admin. Code EL Ch. 4 (“EL Ch. 4”), related to the conduct and regulation of Election Observers. The Commission seeks to promulgate rules that set forth standards of conduct applicable to persons who are present at a polling place, or elsewhere, for the purpose of observing all public aspects of an election, including voting, counting ballots, and canvassing ballots.

3. **Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Existing Policy:

The Commission currently advises election officials and observer groups and individuals on observer conduct using an expired version of emergency rules that were in place under the former Government Accountability Board. The Commission advises that the expired rules are the Commission’s interpretation of the public’s right to access under Wis. Stat. § 7.41.

Proposed Policy:

The Commission proposes to codify a permanent rule that is consistent with the advice currently provided to local election officials, observer groups and individuals. The rule will be modeled on the expired emergency rule that was in place under the former Government Accountability Board, taking into account any statutory changes not accounted for in the original emergency rule.

Alternatives:

If the Commission does not create EL Ch. 4, the current advice provided to local election officials, observer groups and individuals will remain, without the force and effect of an

underlying administrative rule (mainly for enforcement purposes). Additionally, Wis. Stat. § 7.41(5) directs the Commission to promulgate such rules, therefore failure to promulgate such rules would be in direct conflict of this statute.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Wis. Stat. § 7.41(5) states that the commission “shall promulgate rules that are consistent with the requirements of sub. (2) regarding the proper conduct of individuals exercising the right under sub. (1), including the interaction of those individuals with inspectors and other election officials.”

Wis. Stat. § 5.05(1) states that the Elections Commission “shall have the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing.” Pursuant to such responsibility, the Elections Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration.” Wis. Stat. § 5.05(1)(f).

**5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

80 - 100 hours.

**6. List with description of all entities that may be affected by the proposed rule:**

The proposed rules will affect municipal clerks, other local election officials, communications media persons present at polling places, accessibility advocates, local election inspectors, and all organizations and individuals that wish to observe elections in Wisconsin by maintaining a presence at polling places.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There are no existing federal laws that attempt to regulate the right of citizens to observe elections at polling places or attempt to regulate the conduct of persons who act as observers at polling places.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The anticipated economic impact from the implementation of the proposed rules is minimal to none. The proposed rules will not affect small businesses.

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Michael Haas  
Administrator  
Wisconsin Elections Commission

March 23, 2017  
Date Submitted



**STATEMENT OF SCOPE  
PURSUANT TO WIS. STAT. § 227.135  
WISCONSIN ELECTIONS COMMISSION**

**Rule No.:** EL § 3.60

**Relating to:** Absentee Ballot Information Subscription Service and Fee Schedule

**Rule Type:** Permanent

**1. Finding/nature of emergency (Emergency Rule only):**

N/A

**2. Detailed description of the objective of the proposed rule:**

2015 Wisconsin Act 261 (“Act 261”) specifically directs the [Government Accountability Board] Elections Commission to establish a subscription service whereby a person may electronically access the absentee ballot information provided under s. 6.33 (5) (a), Stats, including semiweekly updates of such information. Act 261 further requires the [Government Accountability Board] Elections Commission to establish by rule the fee schedule for obtaining access to the absentee ballot information subscription service. The proposed rule will establish the absentee ballot information subscription service and fee schedule as directed by Act 261. The proposed rule will outline the absentee ballot information subscription service parameters, including the process for obtaining semiweekly updates of information. The proposed rule will set the fee schedule for obtaining access to the absentee ballot information subscription service which includes semiweekly updates to the information.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

**Existing Policy:**

The Commission already has an online portal (BadgerVoters) that is used by the public to request and receive voter registration. Individuals are able to request quotes, make online payments and retrieve files automatically using this system. Current Wis. Admin. Code EL 3.50 sets the fees associated for voter registration data. The Commission currently uses this system to fulfill requests for absentee data which is populated by registered voters. Under the current rules, requestors of an electronic file (including absentee ballot information) are charged a \$25.00 base fee per file, plus \$5.00 for the first 1,000 records, or up to 1,000 records, plus \$5.00 for each additional 1,000 records. The maximum charge for an electronic file is \$12,500. The charge for a paper copy of a report is \$.25 per page, plus the

cost of postage and shipping. Additionally, if there are ‘custom report’ requests, as defined in the existing rule, additional charges could apply to cover staff time to facilitate the requested customization of the report. The current system also allows individuals to request semiweekly updates of absentee information, and they are charged accordingly for “new” absentee data that is obtained.

**Proposed Policy:**

The proposed rule will establish the absentee ballot information subscription service. The Commission’s existing BadgerVoters infrastructure will continue to be used to facilitate and respond to requests for absentee voter information. The system will continue to have the ability to provide standard absentee ballot information reports as well as custom reports depending on the requestor’s needs. The system will be designed to continue accommodating semiweekly updates to the requestor. The proposed rule would establish a fee structure similar to the current fee schedule for voter registration data requests, with a base fee for any report, and escalating incremental ‘per record’ fees for larger requests. The base fee would be a one-time charge for the report, with additional charges only required for any requested updates to the data contained on the original report. Custom reports would generate additional fees on a case by case basis depending on the complexity of the request, and the amount of staff intervention required to fulfill the request. A separate fee for printing a paper copy of a request and shipping the request would also likely be included in the proposed rule.

**Alternatives:**

The alternative to using the existing data request infrastructure (Badger Voters) already in place to meet the Legislature’s directive, would be to develop a stand-alone subscription service for absentee ballot information requests. Additional costs to develop a new system outside of the existing infrastructure would need to be addressed. Additionally, Wis. Stat. §§ 5.05(14)(b) and 6.36(6) directs the Commission to establish a subscription service and fee structure for obtaining absentee data, therefore failure to promulgate such rules would be in direct conflict of these statutes.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Wis. Stat. § 6.36(6) directs the Commission to “establish by rule the fee for obtaining a copy of the official registration list, or a portion of the list, including access to the subscription service established under s. 5.05 (14)(b).” Wis. Stat. § 5.05 (14)(b) directs the Commission to “establish a subscription service whereby a person may electronically access the absentee ballot information provided under s. 6.33(5)(a), including semiweekly updates of such information.”

Wis. Stat. § 5.05 (1) states that the Elections Commission “shall have the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing.” Pursuant to such responsibility, the Elections Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration.” Wis. Stat. § 5.05(1)(f).

**5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

50 hours.

**6. List with description of all entities that may be affected by the proposed rule:**

Candidates, political parties, other political groups and the general public will be able to obtain absentee ballot information from a centralized location for a set cost on a semiweekly basis if requested. Absentee voters that have received a ballot from their clerk but have not returned it may be contacted by groups tracking information that is obtained through the subscription service.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

The Elections Commission is unaware of any existing or proposed federal regulation directed at a subscription service or fee schedule for absentee ballot information.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The Elections Commission anticipates the rule having minimal or no economic impact, which includes no significant impact on small businesses.

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*Michael Haas*

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Michael Haas

Administrator  
Wisconsin Elections Commission

March 23, 2017  
Date Submitted

**STATEMENT OF SCOPE  
PURSUANT TO WIS. STAT. § 227.135  
WISCONSIN ELECTIONS COMMISSION**

**Rule No.:** EL Ch. 13

**Relating to:** Training for Election Inspectors and Special Voting Deputies

**Rule Type:** Permanent

1. **Finding/nature of emergency (Emergency Rule only):** N/A
2. **Detailed description of the objective of the proposed rule:**

Wis. Stat. § 7.315(1)(a) provides that the Wisconsin Elections Commission (“Commission”) shall promulgate administrative rules that prescribe the contents of training that municipal clerks must provide to election inspectors and special voting deputies. Wis. Stat. § 7.315(4) states that election registration officials shall receive the same training that election inspectors receive from their municipal clerk. The Commission currently publishes comprehensive manuals that municipal clerks use to train their election inspectors, election registration officials and special voting deputies. The Commission proposes to enact EL Ch. 13, which will a) codify information already provided to municipal clerks in the manuals, and b) afford the Legislature the opportunity to review the contents of the training that municipal clerks provide their election inspectors, election registration officials and special voting deputies.

3. **Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Existing policy:

The Commission prescribes the contents of training that municipal clerks must provide to election inspectors, election registration officials and special voting deputies by publishing comprehensive manuals on election administration, election day activities and absentee voting in residential care facilities and retirement homes. The current Elections Administration manual published by the Commission can be accessed here: <http://elections.wi.gov/clerks/education-training/election-administration-manual>. The current Election Day Manual published by the Commission can be accessed here: <http://elections.wi.gov/clerks/education-training/election-day-manual>. The current Absentee Voting in Residential Care Facilities and Retirement Homes manual published by the Commission can be accessed here: <http://elections.wi.gov/publications/manuals/nursing-home-absentee>

Proposed policy:

Similar to current Wis. Admn. Code Ch. EL 12 (training contents for municipal clerks), the Commission seeks to codify the basic contents of the manuals used by municipal clerks to train their election inspectors, election registration officials and special voting deputies.

Alternatives:

If the Commission does not promulgate rules as provided in Wis. Stat. § 7.315(1)(a), the Commission will not be compliant with that statute, but will continue publishing comprehensive manuals that are used by municipal clerks to train election inspectors, election registration officials and special voting deputies.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Wis. Stat. § 7.315(1)(a) provides that the “commission shall, by rule, prescribe the contents of the training that municipal clerks must provide to inspectors, other than chief inspectors, and to special voting deputies appointed under s. 6.875. Wis. Stat. §7.315(4) states that “election registration officials shall receive the training as provided under this section for inspectors, other than chief inspectors” therefore the content of the training materials as set forth in the rule will apply equally to election inspectors, election registration officials and special voting deputies.

Wis. Stat. § 5.05(1) states that the Commission “shall have the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing.” Pursuant to such responsibility, the Elections Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration.” Wis. Stat. § 5.05(1)(f).

**5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

50 hours.

**6. List with description of all entities that may be affected by the proposed rule:**

The rules will affect municipal clerks, election inspectors, election registration officials and special voting deputies, but only to the extent that the procedures already guiding training of these officials will now be codified in this rule in addition to being available in the comprehensive manuals drafted by the Commission.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

The Help America Vote Act (“HAVA”) provides that States shall use funds provided under HAVA to perform various federal election-related functions, including training election officials, poll workers, and election volunteers. 42 U.S.C. §§ 15301(b)(1)(D), 15421(b)(2). HAVA also provides that State plans for administering federal elections must include information about how the “State will provide for programs for voter education, election official education and training,

and poll worker training which will assist the State” in administering uniform and nondiscriminatory elections. 42 U.S.C. § 15404(a)(3). Finally, HAVA also provides funds to states to “support training in the use of voting systems and technologies[.]” 42 U.S.C. § 15461(c)(1)-(2).

The proposed rules are consistent with these federal provisions, and such rule would help the Commission further effectuate these federal requirements as well as the state statutory requirements under Wis. Stat. § 7.315.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The anticipated economic impact from the implementation of the proposed order is minimal to none. There will likely be little impact, economic or otherwise, on current processes already in place to train local election officials. There is no anticipated economic impact on small businesses.

**Contact person:** Nathan W. Judnic  
(608) 267-0953, [Nathan.judnic@wisconsin.gov](mailto:Nathan.judnic@wisconsin.gov)



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Michael Haas  
Administrator  
Wisconsin Elections Commission

April 3, 2017  
Date Submitted



**STATEMENT OF SCOPE  
PURSUANT TO WIS. STAT. § 227.135  
WISCONSIN ELECTIONS COMMISSION**

**Rule No.:** EL §6.06: Curbside Voting

**Relating to:** Procedures for Curbside Voting

**Rule Type:** Permanent

- 1. Finding/nature of emergency (Emergency Rule only):** N/A
- 2. Detailed description of the objective of the proposed rule:**

The Wisconsin Elections Commission (“Commission”) proposes to create Wis. Admin. Code EL § 6.06 to provide specific procedures for clerks and electors to engage in curbside voting. The former Government Accountability Board adopted policies and procedures consistent with Wis. Stat. § 6.82(1) for clerks to follow when providing curbside voting opportunities to persons with a disability that are unable to appear and vote inside a polling location. The Commission has continued advising the same procedures when asked by local election officials. The proposed rules codify the Commission’s current curbside voting policies and procedures. Codifying the current policy will enhance enforceability of the procedures and afford the Legislature the opportunity to review the Commission’s procedures.

- 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Existing policy: Any elector who, as a result of a disability, is unable to enter the polling place may elect to receive a ballot at the entrance of a polling place. Wis. Stat. § 6.82(1). The elector may receive assistance in marking the ballot, if required, from an election inspector or from any other person of the voter’s choice, with certain restrictions. Wis. Stat. § 6.82(2). Consistent with these statutes, the former Government Accountability Board adopted specific procedures for clerks to follow when administering the curbside voting statutes. The Commission continues to advise using the previous policies and procedures. The previous procedures had been distributed to local election officials and are posted on the Commission’s website.

Proposed policy: The Commission proposes to codify the existing policy into the Administrative Code.

Alternatives: If the Commission does not promulgate the rule, the current policy and procedures would remain in effect. The Legislature would not have the opportunity to review the Commission’s policy and the Commission’s authority to enforce the policy would be much more limited.

- 4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

The Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections . . . or ensuring their proper administration.” Wis. Stat. §5.05 (1)(f). The Commission has “the responsibility for the administration of chs. 5 to 12, other laws relating to elections and election campaigns, subch. III of ch. 13, and subch. III of ch. 19.” Wis. Stat. §5.05 (1). Under ch. 227, the Commission “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute[.]” Wis. Stat. § 227.11 (2)(a). Consistent with the above authority, the proposed rule interprets Wis. Stat. § 6.82(1) and codifies the Commission’s current curbside voting procedures.

**5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

80 - 100 hours.

**6. List with description of all entities that may be affected by the proposed rule:**

Municipal clerks who administer elections and register persons to vote will be affected by the proposed rule, as these persons must implement the proposed rules related to curbside voting. Municipal clerks will also be required to train election inspectors on the new rules, it is anticipated that the rule will be consistent with current policies and procedures, therefore the learning curve will be small. Election inspectors, including the chief inspector will need to be trained on the new rules so they are properly implemented and enforced. Persons with disabilities who wish to vote via the curbside voting procedure will be affected by the proposed rules. Individuals that choose to observe the public aspects of the voting process could be affected by the new rules as well.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

The curbside voting statute, Wis. Stat. §6.82(1), is consistent with the Americans with Disabilities Act (“ADA”), which generally requires that polling places be accessible to persons with disabilities. The ADA does not address curbside voting, but is consistent with its purpose which is ensuring access to individuals that have a disability. The Wisconsin statute provides another mechanism for clerks and voters to use to ensure that no person with a disability is prevented from voting due to an inaccessible polling place, but there does not appear to be any comparable federal regulation that specifically addresses curbside voting.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The anticipated economic impact from the implementation of the proposed order is minimal to none. The implementation of the proposed rule will not have a significant impact on small businesses.

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Michael Haas  
Administrator  
Wisconsin Elections Commission

March 23, 2017  
Date Submitted



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MARK L. THOMSEN, CHAIR

ADMINISTRATOR MICHAEL HAAS

## MEMORANDUM

**DATE:** For the Meeting of June 20, 2017

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Interim Administrator

Prepared and Presented By:  
Commission Staff

**SUBJECT:** Outstanding Legislative Recommendations for the 2017 - 2018  
Legislative Agenda

### Background

At its March 14, 2017 meeting, the Commission adopted several recommendations for the Legislature to consider during the 2017 – 18 session. This memorandum lists outstanding staff recommendations which the Commission has not yet addressed. To address the implementation of electronic poll books, items 46 and 47 have been added. The remaining items were included in the staff memorandum for the March 14, 2017 Commission meeting.

Also, please note that attached is a letter from the Federal Voting Assistance Program (FVAP) of the U.S. Department of Defense related to Wisconsin's definition of "overseas elector," and the rights and processes which apply to those electors. It is the opinion of Commission staff that this request is more appropriately considered as a policy decision of the Legislature. Currently absentee voters who live overseas and intend to return to the United States may vote for every office on the ballot but may not receive ballots through the MyVote Wisconsin website or by email or fax (except pursuant to the *One Wisconsin Now* court decision). Absentee voters who live overseas with no intent to return to the United States may download their ballot through MyVote Wisconsin or receive a ballot by email or fax, but they may vote only in contests for federal offices. The request outlined by FVAP would affect these policy choices previously made by the Legislature.

Commission staff maintains an ongoing list of recommended changes to current laws identified by legislators, municipal and county clerks, and the public. Staff also regularly reviews and analyzes current statutes, administrative code, and Board policies in order to identify potential changes that may improve efficiency, cost-effectiveness, public

comprehension, and general policy administration. The recommended changes below are those which staff believes would improve administrative processes, provide clarity or simplification to existing policies and procedures, or update policies to reflect modern practices.

Staff has organized the recommendations into three different categories:

1. *Major Policy Initiatives* are those that staff suggests that the Commission highly recommend because they would likely significantly improve election administration and have a substantially positive impact on those affected by the policy, or policies for which the Government Accountability Board previously demonstrated strong support.
2. *Minor Policy Initiatives* include the changes that would improve election administration and represent minimal policy decisions, such as improving efficiency or providing clarity.
3. *Technical Changes* are recommendations that address issues of inconsistency in the laws or drafting oversights.

#### **MAJOR POLICY INITIATIVES**

1. Chapter 5 Subchapter III – Voting Equipment Statutes. This subchapter of the statutes refers to antiquated technologies such as voting equipment that utilizes levers or punch cards. These types of voting systems have been entirely replaced by electronic voting systems. The Legislature could revise this subchapter to remove references to antiquated technology. There are also references to such antiquated voting equipment elsewhere throughout the election laws. The Legislature could consider a broader review and revision of state law to reflect the electronic voting equipment currently in use throughout the State of Wisconsin, as well as the potential use of new technologies in the future.
2. § 6.86(1)(b). This provision sets forth the deadlines for requesting an absentee ballot. Under existing law there are three different deadlines (Thursday, Friday, or Election Day) for requesting an absentee ballot that depend on both the type of absent elector and the method by which the application is received. This multitude of deadlines has proven confusing for voters and election officials alike. The Election Day deadline for receipt of an absentee request also creates an unrealistic expectation that a ballot requested at such a late date could be successfully voted as the deadline for receiving the voted ballot is also Election Day and electronic transmission of the voted ballot is not permitted by state law. The Legislature could consider revising these deadlines by changing the deadline to 5:00 p.m. on the Thursday prior to Election Day for all mailed, emailed, or faxed requests and 5:00 p.m. or close of business on Friday for all in-person requests regardless of the type of absent elector.

## MINOR POLICY INITIATIVES

### Chapter 5

3. §§ 5.06(5) and (6). These provisions allow the Commission to issue an order to ensure compliance with election laws. The Legislature could revise these provisions in order to authorize the Commission to issue a temporary order while a complaint investigation is ongoing. Occasionally Commission staff must direct a local election official to stay any action until the completion of a review investigation, such as when the question is whether to schedule a recall election or whether a candidate has qualified for ballot access. Current statutes allow the issuance of an order only after the filing of a complaint, upon a motion of the Commission, or after completion of an investigation.
4. § 5.06(10). This provision prohibits the Commission from reviewing matters arising in connection with recounts under § 9.01. This appears to be intended to avoid conflict with Wis. Stat. § 9.01(6) which directs appeals of recounts to circuit court. However, there are a variety of decisions made by election officials under § 9.01 that could benefit from commission review, e.g., estimates of recount filing fees. A better option may be to phrase this provision such that the Commission may not review the recount result or substantive decisions of the board of canvassers in a recount other than to enforce consistent application of those decisions when multiple boards of canvassers are involved. This authority would permit Commission staff to resolve procedural questions or conflicts more definitively and is supported by the charge of Wis. Stat. § 9.01(10) for the Commission to develop standard forms and procedures for use in recounts.
5. §§ 5.15 and 66 subchapter II. These provisions provide limitations to the construction of wards. Current statutes restrict a town from drawing ward lines that do not cross the boundaries of a state assembly district, and requires towns to create a separate ward when a county does not adjust boundaries for county supervisory districts. However, statutes do not place similar restrictions on cities or villages annexing territory. This could be a problem if a city or village was to annex territory in different districts. The Legislature could revise these provisions to enact the same requirements for cities and villages that currently exist for towns and require specifying the identification of the created ward (e.g., ward 7).
6. § 5.84(1). This provision specifies that municipalities must conduct public tests of voting equipment in the 10 days prior to each election. The current requirement is problematic as larger municipalities may require several days to test all the equipment to be used at an election. Extending the testing window to the 15 calendar days prior to the election would grant municipal clerks more flexibility in the event any problems are identified during the public test. This provision also requires public notice of voting equipment testing via publication in a newspaper within the municipality or a newspaper of general circulation therein. Publishing in a general circulation newspaper, or even a municipal newspaper, may require significant costs to municipalities. The Legislature could revise this provision to require municipalities to

provide the notice of the public test by the same means as other election notices under Wis. Stat. §§ 10.04 & 10.05, which would permit such notices to be posted in lieu of publication.

7. § 5.94. This provision requires the publication of a sample ballot. Wis. Stat. §10.02 (2)(c) allows the ballot size to be reduced when publishing the notice. The Legislature could consider removing the requirement for an “actual-size” copy of the ballot for publication in Wis. Stat. § 5.94 to reduce the costs that jurisdictions must incur and make these two provisions consistent.

## Chapter 6

8. § 6.18. This provision provides a process for former Wisconsin residents to vote in a Presidential Election if they do not yet qualify to vote in their new state of residency, but does not provide a specific deadline for such a request. The Legislature could revise this provision by establishing a receipt deadline of 5:00 p.m. on the fifth day before the election to request an absentee ballot, consistent with most other absentee voters.
9. §§ 6.22(1)(b), 6.34(1)(a). These provisions define the term “military elector”. However, § 6.22(1)(b) includes additional categories of individuals not included under 6.34(1)(a). These two different definitions of the same term have caused considerable confusion with clerks and military voters as to what they can or cannot do. The G.A.B. has previously recommended reconciling these two different definitions into a single broad definition of military elector. To avoid confusion and promote effective administration of the laws, the Legislature could harmonize these two definitions as the G.A.B. has previously recommended throughout Chapter 6.
10. § 6.22(6). This provision requires each municipal clerk to keep an updated list of eligible military electors that reside in the municipality in the format provided by the commission, and to distribute a copy the list to each polling place. The intent of this provision was to ensure compliance with absentee ballot procedures for military voters and the exemption from the voter registration requirement. In practice, all of the required information exists within WisVote and all known military voters automatically appear on the poll books. Clerks who rely on someone else for WisVote services communicate with their WisVote provider for lists prior to absentee voting. The Legislature could repeal this provision to reflect modern practices.
11. § 6.25(1)(c). This provision exempts military electors from the requirement to submit a separate absentee request before the Federal Write-In Absentee Ballot (FWAB) may be counted. Overseas electors are not similarly exempted from the requirement to submit a separate absentee request in addition to the FWAB before the ballot may be counted. The declaration/affirmation page of the FWAB contains all the necessary information to serve as an absentee request. Permanent overseas voters face many of the same difficulties voting as overseas military voters. The Legislature could modify this provision to allow permanent overseas voters to submit a FWAB without a separate

absentee ballot application no later than the applicable absentee request deadline in order to establish a more consistent process for all overseas voters.

12. § 6.29(2)(b). This provision requires municipal clerks to prepare a certificate of registration in duplicate and provide one copy of the certificate to any person registering during the late registration period while keeping the other in their office. Commonly late registrations in-person are immediately followed by a request to vote an in-person absentee ballot. In this scenario, the preparation and issuance of the certificate of registration has no purpose. The Legislature could consider exempting clerks from the requirement to issue registration certificates if the voter chooses to vote absentee in the clerk's office in the same transaction as registering to vote.
13. § 6.29(2)(c). This provision requires any voter who registered to vote during the late registration period and receives a certificate of registration to provide that certificate to the inspectors at the polling place or to enclose that certificate with their voted absentee ballot. However, state law does not specify a consequence if the elector fails to provide their certificate of registration. It appears that the certificate is intended as a failsafe to prove registration has occurred in the event that the voter's name does not appear on the poll book despite their earlier registration. As such the Legislature could consider removing the requirement for the voter to provide their certificate of registration, but preserve the issuance of such certificates to maintain the failsafe.
14. § 6.30(4). This provision requires that municipalities make available a voter registration form and that "the form shall be pre-postpaid for return when mailed at any point within the United States." However, in practice, most municipalities simply make copies of the form available and do not offer pre-paid postage because of the cost. Additionally, the Commission has implemented online registration as directed by the Legislature, which may significantly reduce the demand for registration by mail. Due to the cost to municipalities and the online alternative the Legislature could consider elimination of the prepostpaid requirement for voter registration forms.
15. § 6.32(4). This provision requires a municipal clerk to send an address verification mailing to a voter who registers by mail or online. In practice, the Commission sends these mailings on behalf of municipalities. This facilitates consistent compliance and leveraging State purchasing power. During the 2013-2014 Legislative Session, the Wisconsin Legislature enacted 2013 Wisconsin Act 149, specifically authorizing the G.A.B. to send out the Election Day Registrant address verification mailings. The Legislature could revise this provision to authorize the Commission to send out all other address verification mailings, including those related to the ERIC initiative, on behalf of municipalities.
16. § 6.34(3)(a)10. This provision allows for using a paycheck as proof of residence. As many voters do not receive a physical paycheck anymore, the G.A.B. previously interpreted this provision to include pay stubs, pay sheets, or other payroll documentation such as a direct deposit statement. The Legislature could revise this

provision to also include these more modern alternatives to the paycheck and reinforce the agency's prior interpretation.

17. § 6.55(2)(d). This provision provides for a voter who has changed their name, but not their address to make such a change in their registration by notifying the election inspectors at the polling place instead of completing a new voter registration form. The Government Accountability Board consistently required voters who wish to change their name to complete a new voter registration. When the Legislature repealed § 6.40, it removed a provision that permitted voters to make changes to their registration without submitting a new registration form. The Legislature could ensure that every change in a voter's registration is documented with a new voter registration form by modifying this provision to eliminate the ability of a voter to change their name without providing a new voter registration form.
18. § 6.82(1). This provision permits an elector who is unable to enter the polling place due to a disability to receive their ballot at the entrance to the polling place. While this provision does not directly speak to whether this elector must sign the poll book, G.A.B. staff interpreted this provision to allow such electors to receive a ballot without signing the poll list because to qualify for the procedure a voter must be prevented from entering the polling place due to a disability and § 6.79(2)(am) specifically authorizes the election inspectors to waive the signature requirement if the elector is unable to sign due to disability. To clarify the procedure, the Legislature could specifically direct that an elector voting under this provision is exempt from signing the poll book.
19. § 6.82(2). This provision permits an elector to receive assistance in marking the ballot. When voting with a physical ballot, the assistant is required to sign a certification on the back of the ballot that indicates the ballot was marked with their assistance. Where voting machines are used, this provision requires the assistant to certify on the registration list that the ballot was marked with his or her assistance. As voting machines are specifically designed to provide a voter with disabilities the opportunity to vote privately and independently, staff has previously directed that a voter who requires assistance with a voting machine be required to vote using a physical ballot. To clarify this procedure, the Legislature could specifically direct that an elector who requires assistance using a voting machine be required to vote on a physical ballot with the assistance of a person of the voter's choice other than their employer or agent of their labor union.
20. § 6.86(2)(b). This provision requires a clerk to send a 30-day notice to indefinitely confined voters that do not return their absentee ballot in order to stay on the "permanent absentee" voter list. However, there is not sufficient time between primaries and the subsequent general elections to do so and staff has previously advised clerks that such notice is only required after a general election. The Legislature could consider revising this section to recognize this practical impossibility and only apply this requirement to non-primary elections.

21. § 6.87(3)(d). This provision allows military and permanent overseas voters to receive their absentee ballot electronically. Voters who are temporarily overseas do not receive this transmission option and therefore must request their ballot significantly earlier to account for the additional time it will take for the blank ballot to reach them. The Legislature could consider revising this provision to allow temporary overseas voters to receive their ballot electronically in order to increase the opportunity for those voters to receive and return their ballot in a timely manner.
22. § 6.875. This provision covers absentee voting procedures involving special voting deputies (SVDs). This section does not specify whether a municipal clerk must issue a 30-day notice to renew their absentee ballot request as an indefinitely confined voter if the voter declines to vote via SVD. The Legislature could clarify this section by stating that the voter may decline to receive their ballot on a form prescribed by the Commission, as well as indicate if they wish to remain on the list of indefinitely confined voters (“permanent absentees”). This is current practice and is included in the Commission’s SVD manual.
23. §§ 6.875(4)(b), 7.30(4). Wis. Stat. § 6.875(4)(b) sets forth the process by which individuals are appointed as special voting deputies. The process is similar to the process for appointing election officials generally as set forth in Wis. Stat. § 7.30(4), but does not specifically state that the process of 7.30 applies to these appointments. Staff have interpreted § 7.30(4) to include special voting deputies, but the Legislature could modify § 6.875(4)(b) or 7.30(4) to make this more clear.
24. § 6.97. This provision provides the option for a voter to cast a provisional ballot whenever they are required to provide proof of residence and cannot provide such documentation. Agency staff has interpreted this provision to only apply to persons who registered to vote on or before April 4, 2014 to coincide with when the G.A.B. directed clerks to stop accepting voter registrations that were missing proof of residence. After the few remaining voters in the statewide voter registration system who are still missing proof of residence provide such documentation or are removed from the list, this provision will no longer be necessary and the Legislature may wish to remove this language to avoid the impression that a provisional ballot would be an option for new registrants who do not have a proof of residence.

#### Chapter 7

25. § 7.25. This section enumerates the duties of election officials in using “voting machines”. Voting machines are defined in 5.02(24r) as “a machine which serves in lieu of a voting booth and which mechanically or electronically records the votes cast by electors, who depress levers or buttons located next to the choices listed on a ballot to cast their votes.” Wisconsin no longer uses mechanical voting systems like lever voting machines and this section should be updated to reflect current practices and technology.

26. § 7.30(2). This provision sets forth the qualifications to be appointed as an election official. It specifically states that in 1<sup>st</sup> Class cities (Milwaukee) election inspectors may not hold any other public office except notary public. Board staff has discovered that other municipal officials may also be prohibited from serving as election inspectors due to specific provisions of municipal law or due to the incompatibility of office doctrine. The Legislature could consider modifying this provision to specifically list those public officials in other municipalities that also may not serve.
27. § 7.50(2). The Legislature recently removed language in this section related to the counting of write-in votes cast by affixing a sticker to the ballot (see 2015 Act 37). However, the Legislature did not affirmatively prohibit the use of such stickers by write-in candidates. As Wis. Stat. § 7.50(2) still requires election officials to count an elector's vote for the person which the voter intended, agency staff has advised election officials to continue counting votes for candidates whose voters use stickers to write-in that candidate's name. The Legislature may wish to revisit this section to more explicitly address this scenario.
28. § 7.50(2)(em). 2013 Wisconsin Act 178 amended this provision to state that all votes for write-in candidates shall be tallied if a candidate on the ballot dies or withdraws before the election. However, Wisconsin Statutes do not provide a procedure for candidates to withdraw. The Legislature could correct this issue by striking "*or withdraws*" from this provision or specifying what constitutes a candidate's withdrawal.
29. § 7.60(5)(a). This provision requires county clerks to deliver or transmit to the Commission a certified copy of each county board of canvass statement. In current practice, county clerks use the Commission's Canvass Reporting System (CRS) to generate those statements using their secure login credentials, and then mail a signed copy of that report to the Commission. The Legislature could modernize this provision by adding the language *in the manner prescribed by the commission after the county clerk shall deliver or transmit*, or consider replacing the word *certified* with *electronically signed*. In 2014, the Legislature made a similar change, allowing political committees to sign their campaign finance reports electronically when certifying that information to the G.A.B.

## Chapter 8

30. §§ 8.10(5), 8.15(4)(b), and 8.20(6). These provisions outline the filing requirements for candidates, including their declaration of candidacy, nomination papers, and statement of economic interest (SEI). Under current statutes, candidates are not required to file their SEI until 4:30 p.m. the third day after the deadline for the other documents. The Legislature could consider changing the deadline to file an SEI to match filing of declaration of candidacy and nomination papers. This would provide a consistent deadline that could improve administrative efficiency and public awareness of candidates that will appear on the ballot. Staff recommends moving the deadline to file the SEI to match the 5:00 p.m. deadline on the day that the declaration of candidacy

and nomination papers is due. The counterpoint to this policy change is that the later deadline provides an “escape valve” where candidates no longer wishing to appear on the ballot could simply not file their SEI. The later deadline also allows the candidate additional time to gather the required financial information, though they have already had considerable time to gather nomination signatures. However, staff believes that a consistent deadline would improve administration and better inform the public of candidates who achieve ballot status.

### Chapter 9

31. § 9.01(2). This provision establishes the candidate notification requirements prior to conducting a recount. Current statutes require personal delivery of the petition to the candidate or an approved agent, by either the clerk or the sheriff. Providing notice of the recount petition could potentially be delayed if the candidate and/or their agent is traveling outside of the municipality, county, or state after the election. The Legislature could revise this provision by allowing a three-step process. The first step a clerk would take is to attempt personal delivery of the petition to the candidate or approved agent. The second step would be to obtain documented confirmation of acknowledgement by the candidate or agent (e.g., through email or a documented phone call). The clerk could then issue a public notice and proceed with the recount process, if those two options are unsuccessful within a reasonable time period.
32. §§ 9.01(1)(ar)3. and (b). These sections establish deadlines for convening the board of canvassers for conducting a recount but provide conflicting deadlines. The Legislature could revise this section by setting the deadline to provide clarity, consistency, and sufficient time for clerks to prepare for conducting a recount.

### Chapter 10

33. § 10.02(3)(b). This provision includes requirements for the information that must be contained in the Type B election notice. This language still refers to antiquated voting equipment technology and depressing levers. The Legislature could revise this provision to reflect modern voting equipment technologies.
34. § 10.04. This section relates to the publication of election notices and the fees charged for publication by newspapers. The Legislature could clarify this section by allowing publishing all types of elections notices as an insert, consistent with commercial rates for newspaper inserts.

## **TECHNICAL CHANGES**

### Chapter 5

35. § 5.02(24r). This provision defines the term “voting machine” and includes mechanical voting equipment like lever voting machines. Mechanical voting systems have been

entirely replaced by more modern electronic voting systems and the Legislature could consider revising this definition to remove the references to the antiquated technology.

36. § 5.51(2). This provision provides the requirements for the weight of paper used for hand-counted ballots using an arcane formula that is regularly misapplied by election officials. The Legislature could consider revising this requirement to specify a clearly understandable paper weight for ballots or direct the commission to specify the required paper weight for ballots.
37. § 5.60(3). This provision provides for a separate ballot for city offices, but unlike subsections for other levels of government this subsection does not require write-in lines be provided. The Legislature could clarify that write-in lines must be provided for city ballots as well.
38. § 5.62(1)(a). This provision requires that independent candidates for state office appear on partisan primary ballots. This was previously necessary to determine the independent candidate's eligibility for public funding. As public funding for state candidates has been eliminated, this language should be removed.
39. § 5.72. This provision requires clerks to provide a ballot sample to Commission staff three weeks before any election for review. This conflicts with the 48-day deadline for ballots to be available for state and federal elections. The Legislature could address this by changing the deadline to "as soon as candidates are certified" instead. The Legislature could also consider making commission review of ballots voluntary, but still allow the commission to compel compliance with the prescribed ballot template, if necessary.

## Chapter 6

40. § 6.02. This provision outlines the general qualifications to vote. The Legislature could clarify that for voter registration, a person turns 18 on the anniversary of their date of birth. This addresses the common sense versus common law issue previously addressed by the G.A.B., deciding that a person turns 18 on the anniversary of their date of birth.
41. § 6.03(3). This provision addresses the right to vote by persons under guardianship or adjudicated incompetent. State law currently reserves rights to the individual unless specifically determined by a court to be incompetent to exercise those rights. However, this provision contains old language requiring individuals subject to guardianship to have an affirmative finding that they are competent to vote. The Legislature could revise this provision to reverse the standard to assume competency as required by state law and cross-reference as necessary with other state laws on guardianship. This change would make this provision consistent with other state laws regarding guardianship and legal competency.

42. § 6.25(4). The last clause of this provision states, “*and, if the elector is an overseas elector, the elector resides outside of the United States.*” The Legislature could eliminate the redundant second half of this clause as an overseas elector is already defined in § 6.24(1) as someone who does not qualify as a resident of this state.
43. § 6.34. This section covers proof of residence (POR) requirements for voter registration. Throughout this section, there are several references to POR as an *identifying document*. The Legislature could replace those references with *proof of residence* to clarify the section and avoid any confusion with the proof of identification requirement.
44. §§ 6.34(3)(a)1 and 2. These provisions refer to using either a Wisconsin driver license or state-issued identification card as proof of residence. The Legislature could revise these sections to include a receipt for either Wisconsin Department of Motor Vehicles (DMV) product, consistent with DMV current practices of issuing a temporary receipt prior to the driver license or state-issued identification card.
45. § 6.34(3)(a)7. This provision allows for using a university, college, or technical college identification card as proof of residence for voter registration, with either a fee payment receipt or a list of students residing in school housing. The Legislature could clarify that the receipt or list of students must include the name and address of the registrant.
46. § 6.45(1). This provision requires the municipal clerk to make copies of the poll list for use in the election. It should be updated to clarify that paper copies of a poll list need not be produced when an electronic poll list is used.
47. § 6.46(2). This provision requires a municipal clerk to remove the poll lists from the office for the purpose of copying if a copying machine is not accessible in response to public records requests or in order to supply candidates with the poll list. The provision should be updated to replace “if a copying machine is not accessible” with “if producing copies of the lists at the clerk’s office is not possible.”

#### Chapter 7

48. § 7.08(10). This provision requires that the Commission provide to each municipal clerk, on a continuous basis, the names and addresses of organizations certified to provide services to victims of domestic abuse or sexual assault. As the addresses of these organizations may be sensitive information in that they provide temporary shelter to victims, this information cannot be placed on the Commission’s website. Additionally, sending this information unsolicited to over 1,800 municipal clerks could also compromise the security of victims. To better promote the security of victims of domestic abuse or sexual assault, the Legislature could consider modifying this provision to only provide this information to municipal clerks as needed to confirm the eligibility of confidential voters.

49. § 7.15(1)(j). This provision requires municipal clerks to send absentee ballots to electors who have filed a proper request. The provision appears to be redundant with subparagraph (cm) and could be removed or consolidated with (cm).
50. § 7.52(1)(b). This section provides a procedure by which a municipality may canvass absentee ballots on Election Day in a location other than the polling place and authorizes the municipality to appoint additional election inspectors to administer this absentee ballot canvass. However, when 2013 Act 147 expanded the residency of election officials to the county in which they serve, it did not similarly modify the residency requirement for election inspectors appointed to assist with this absentee ballot canvassing process. For consistency of administration, the Legislature could consider modifying § 7.52 to also permit the appointment of individuals who reside within the county of a municipality using this procedure.
51. § 7.53(2)(a). This provision states that in municipalities with multiple polling places, the municipal board of canvassers (MBOC) consists of the municipal clerk and two other qualified electors of the municipality. The word “other” implies that the municipal clerk is a qualified elector, which is not always true as many municipalities appoint their municipal clerk without regards to residency. Agency staff has interpreted 7.53(2)(a) to require that a municipal clerk must be a qualified elector of the municipality to serve on the MBOC, although the clerk should always be present to advise the members of the MBOC and handle the administrative processes associated with the canvass. To affirm the agency’s interpretation the Legislature could consider revising this language to clarify that the municipal clerk may only serve as a member of the MBOC if they are a qualified elector and specifying who fills this position on the MBOC if the clerk is not a qualified elector.

#### Chapter 9

52. § 9.10(2)(e). This provision provides the reasons to not count recall petition signatures. In 2013 Wisconsin Act 160, the Legislature required that all petitions include the legibly printed name of the signer. While 2013 Act 160 required the printed name for nomination papers and petitions, it did not add the same requirement for recall petitions. The Legislature could correct this by adding to this section a reason not to count a recall petition signature if the printed name is not legible. The sections that cover the requirements for petitions are also inconsistent. Sections related to nomination papers and petitions affirm the requirements of what individuals must provide, whereas the section on recall petitions identifies when not to count signatures. Alternatively, the Legislature could revise this provision to state the information a recall petition must contain in order to count a signature, similar to the other sections.

#### Chapter 10

53. § 10.06(2). This section enumerates the various election notices that county clerks are required to publish. While subparagraphs (f) and (L) require the publication of a Type A Notice of Referendum Election before the spring and general elections, there are no

similar provisions for such a notice for referenda held in conjunction with the spring or partisan primaries. There is also no requirement in this section for the Type C Notice of Referendum before these elections, although it is addressed in the general description of the Type C notice at 10.01(2)(c). For consistency, the Legislature could revise 10.06(2) to include similar referendum notice requirements for state or county referenda held in conjunction with these elections as with any other election.

54. § 10.06(3). This section enumerates the various election notices that municipal clerks are required to publish. While subparagraph (as) requires the publication of a Type A Notice of Referendum Election before the spring primary if there is direct legislation to be voted on, there is no requirement for such a notice for other referenda held in conjunction with the spring primary. There is also no requirement for the Type C Notice of Referendum for non-direct legislation referenda voted on at the spring primary or for any referenda to be voted on at the partisan primary, except as part of the general definition of the notice in 10.01(2)(c). Finally, there is no Type D Notice of Polling Hours and Locations requirement in this section for either the spring or partisan primary although it is required as part of the general definition of the Type D notice at 10.01(2)(d). For consistency, the Legislature could revise this section to include similar notice requirements for all elections.

#### Chapters Not Administered by the Wisconsin Elections Commission

55. Chapter 66 – Subchapter II. This subchapter generally describes the processes by which a municipality may incorporate or adjust municipal boundaries. Staff has been involved in several incorporations and boundary agreements where the provisions of this subchapter appear inconsistent with the rules applied to other petitions and referenda in Chapters 5-12. The Legislature could consider revisiting this subchapter to harmonize its provisions with the rules governing other forms of petitions and referenda.





DEFENSE HUMAN RESOURCES ACTIVITY  
FEDERAL VOTING ASSISTANCE PROGRAM  
4800 MARK CENTER DRIVE, SUITE 03J25-02  
ALEXANDRIA, VA 22350-4000

March 13, 2017

Michael Haas  
Administrator  
Wisconsin Elections Commission  
212 East Washington Ave., 3<sup>rd</sup> Floor  
Madison, WI 53707-7984

Dear Mr. Haas:

I am writing today with concerns regarding Wisconsin's handling of requests for absentee ballots from overseas American citizens who intend to return to the United States. As you are aware, the Federal Voting Assistance Program (FVAP) is the Department of Defense program charged with administering the federal responsibilities of the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*, 52 U.S.C. §§ 20301, *et seq.* Our mission is to help ensure Service members, their eligible family members and overseas citizens are aware of their right to vote and have the tools and resources to successfully do so.

Wisconsin's definitions of military and overseas electors exclude certain classes of voters who are entitled to protections under UOCAVA. Under Wisconsin Statute § 6.24(1) an "overseas elector" is partly defined as a U.S. citizen "who does not qualify as a resident of this state under [Wisc. Stat. § 6.10]." The residency standard under Wisconsin Statute § 6.10(1) states that a person who "intends to return" to the State of Wisconsin qualifies as a resident of the State. While this standard may be appropriate to evaluate Wisconsin state residency by these voters, the definitions set forth by *UOCAVA* should be used in determining the scope of protections afforded these Wisconsin voters seeking to vote in Federal elections. *UOCAVA*, under the definition of "overseas voter", makes no distinction between a U.S. citizen residing outside the U.S. who has an intent to return and a U.S. citizen residing outside of the U.S. whose return is uncertain. Specifically, *UOCAVA* defines "overseas voter" to include "a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or a person who resides outside the United State and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States." 52 U.S.C. § 20310(5)(B)-(C).

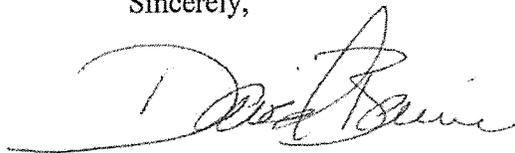
Our understanding is that currently, voters using the Federal Post Card Application (FPCA) who select "I am a U.S. citizen residing outside the United States, and I intend to return" are not considered *UOCAVA* voters under Wisconsin's state election laws and procedures. This excludes such voters from certain *UOCAVA* protections, including the ability to submit a Federal Write-In Absentee Ballot (FWAB) and the option to have their ballot electronically transmitted to them, and also subjects them to additional identification requirements. It is FVAP's position that all voters who fall under the *UOCAVA* definition of "overseas voter," regardless of whether they intend to return to the U.S., should be provided all of the protections to register and vote absentee under *UOCAVA*. This includes, among other protections, the voter's ability to utilize

the FWAB in general elections for federal office as provided under 52 USC § 20302(a)(3) in accordance with 52 USC § 20303, the ability to request and receive their ballots electronically, and the ability to simultaneously register and request an absentee ballot for all federal elections without having to meet additional identification requirements

FVAP stands willing and ready to work with Wisconsin to resolve these concerns so that all *UOCAVA* citizens can register and vote in federal elections as envisioned in *UOCAVA*. Please contact Nate Bacchus, FVAP State Affairs Specialist, at [nate.a.bacchus@fvap.gov](mailto:nate.a.bacchus@fvap.gov) with any questions, concerns or comments you may have.

Thanks for all you, your staff and colleagues in the Wisconsin Elections Commission do to support and assist our military and overseas voters.

Sincerely,

A handwritten signature in black ink, appearing to read "David Beirne", written over a horizontal line.

David Beirne  
Director

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ADMINISTRATOR MICHAEL HAAS

## MEMORANDUM

**DATE:** For the June 20, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Interim Administrator

Prepared and Presented by:  
Robert Williams, Elections Specialist

**SUBJECT:** Legislative Status Update

## SIGNIFICANT FEDERAL LEGISLATION

H.R. 634 has been introduced in Congress, which would eliminate the U.S. Election Assistance Commission (EAC) and reassign some of its functions to other agencies. The EAC is a bipartisan independent agency created as part of the 2002 Help America Vote Act. The agency's mission is to help states improve their voting systems, distribute money to buy new equipment, establish guidelines for voting systems, test and certify voting equipment, and provide assistance and resources to state and local election officials.

The Committee on House Administration has approved the bill on February 7, 2017, which has not yet been scheduled for consideration by the U.S. House of Representatives.

## NEW STATE LEGISLATION

1. *Assembly Bill 129: Removing the requirement that a classified service employee take a leave of absence to run for office.*

Sponsors: Minority. This bill removes the requirement that a person employed in the classified service who runs for a partisan political office take a leave of absence during the campaign period for that office. The bill maintains the requirement under current law that the person separate from the classified service if elected.

AB 129 referred to Assembly Committee on Campaigns and Elections on March 7, 2017.

2. *Assembly Bill 148 and Senate Bill 100: Expiration of statements of scope for administrative rules.*

Sponsors: Majority. This bill provides for the expiration of a statement of scope 30 months after the date on which the statement is published in the Wisconsin Administrative Register.

AB 148 and SB 100 referred to Joint Committee for Review of Administrative Rules on May 9, 2017 with a public hearing held on May 16, 2017.

3. *Assembly Bill 153 and Senate Bill 102: Aggrieved parties petitioning for a recount and making an appropriation.*

Sponsors: Majority. This bill provides that any candidate voted for at any election who is an aggrieved party or any elector who voted on any referendum question at any election may petition for a recount. The bill also provides that the actual cost of performing a recount includes the actual cost incurred by the Elections Commission to provide services for performing the recount and allows the Commission to recover that cost.

AB 153 public hearing held on April 18, 2017. AB 153 passed the Assembly Committee on Campaigns and Elections on May 19, 2017. SB 102 public hearing held on April 5, 2017. SB 102 passed the Senate Committee on Elections and Utilities on April 20, 2017.

4. *Assembly Bill 223: Prohibiting offers of employment in exchange for not seeking an elective state or local office and providing a criminal penalty.*

Sponsors: Minority. This bill prohibits a state or local public official or candidate to offer employment to another individual in order to induce the individual not to seek election to the same office held by the official or sought by the candidate.

AB 223 referred to Assembly Committee on Campaigns and Elections on April 10, 2017.

5. *Assembly Bill 257 and Senate Bill 166: Requiring candidates for president or vice president to file tax returns with the Elections Commission.*

Sponsors: Minority. This bill requires each candidate for president or vice president to submit with his or her declaration of candidacy copies of the candidate's federal tax returns for the three most recent years for which the candidate filed such returns.

AB 257 referred to Assembly Committee on Campaigns and Elections on April 20, 2017. SB 166 referred to Senate Committee on Elections and Utilities on April 13, 2017.

6. *Assembly Bill 268 and Senate Bill 195: School board referendums to exceed revenue limit applicable to a school district.*

Sponsors: Majority. This bill limits to five consecutive school years the number of years for which a school board may seek approval from voters in the school district to increase the revenue limit applicable to the district.

AB 268 referred to Assembly Committee on Education on April 24, 2017. SB 195 referred to Senate Committee on Government Operations, Technology, and Consumer Protection on April 20, 2017.

*7. Assembly Bill 269 and Senate Bill 194: Scheduling of school district referendums to exceed revenue limits.*

Sponsors: Majority. With exceptions, this bill permits a school board to schedule a referendum for the purpose of increasing the school district's revenue limit only concurrent with a spring election or with the general election and only if the election falls no sooner than 70 days after the date on which the board adopts and files a resolution to that effect. With exceptions, this bill also permits a school board to submit to the electors of a school district a resolution seeking approval to borrow money through a bond issue only concurrent with a spring election or with the general election and only if the election falls no sooner than 70 days after the board adopts the resolution to issue a bond.

AB 269 referred to the Assembly Committee on Education on April 24, 2017. SB 194 referred to Senate Committee on Elections and Utilities on April 20, 2017.

*8. Assembly Bill 317: Review by state agencies of administrative rules and enactments; an expedited process for repealing rules an agency no longer has the authority to promulgate; retrospective economic impact analyses for rules; and reporting by the Legislative Reference Bureau on rules in need of revision.*

Sponsors: Majority. This bill provides for an alternate, expedited procedure an agency can use to repeal a rule that the agency determines it no longer has the authority to promulgate because of the repeal or amendment of the law that previously authorized its promulgation (unauthorized rule).

AB 317 referred to Assembly Committee on State Affairs on May 12, 2017 with a public hearing held on May 17, 2017.

*9. Assembly Bill 322 and Senate Bill 229: Authorization for electors to vote in the primary of more than one political party.*

Sponsors: Minority. This bill permits a voter in a partisan primary to “split tickets,” designating the candidate of his or her choice for each office, including the offices of Governor and Lieutenant Governor, regardless of party affiliation. The bill also allows a voter to vote for independent candidates for one or more state offices in a partisan primary, in addition to party candidates for one or more state or county offices. Under the bill, a voter

may still vote for only one candidate for each office. The voting procedure at the general and other partisan elections is unaffected by the bill.

AB 322 referred to Assembly Committee on Campaigns and Elections on May 16, 2017. SB 229 referred to Senate Committee on Elections and Utilities on May 4, 2017.

**10. *Assembly Bill 330 and Senate Bill 278: Rule making authority of certain agencies.***

Sponsors: Majority. This bill prohibits a commission or board, including a credentialing board, that has not taken any action with respect to the promulgation of a rule in ten years or more from taking any such action in the future unless a subsequent law specifically authorizes it to do so.

AB 330 referred to Assembly Committee on State Affairs on May 16, 2017. SB 278 referred to Senate Committee on Government Operations, Technology, and Consumer Protection on June 2, 2017.

**11. *Assembly Bill 332 and Senate Bill 260: Signature requirement for nomination of candidates to school board in school districts that contain territory lying within a second class city.***

Sponsors: Majority. This bill permits the annual meeting of a common or union high school district or the school board of a school district to adopt a resolution to reduce the number of signatures required on nomination papers submitted by candidates for school district officer. This bill permits the number of signatures that must be obtained to be reduced by resolution to not less than 20 and not more than 100 if the school district territory lying within the second class city or cities is less than or equal to 10 percent of the school district's territory.

AB 332 referred to Assembly Committee on Campaigns and Elections on May 19, 2017. SB 260 referred to Senate Committee on Elections and Utilities on May 17, 2017.

**12. *Assembly Bill 361: Requiring a local referendum to impose a wheel tax.***

Sponsors: Majority. This bill provides that a county or municipal vehicle registration fee, commonly known as a wheel tax, may be imposed only if approved by a majority of electors voting in a referendum at a regularly scheduled election.

AB 361 referred to Assembly Committee on Ways and Means on June 1, 2017.

**13. *Assembly Bill 375: Review and modification of voter registration lists.***

This bill eliminates the Elections Commission's responsibility to change the registration status of electors who have not voted within the previous four years from eligible to ineligible under certain circumstances.

Sponsors: Minority. AB 375 referred to Assembly Committee on Campaigns and Elections on June 6, 2017.

**14. Assembly Joint Resolution 35 and Senate Joint Resolution 24:** *Wisconsin legislative resolution to restore free and fair elections in the United States and to apply to Congress for a limited national convention for the exclusive purpose of proposing an amendment to the U.S. Constitution that would restore balance and integrity to our elections.*

Sponsors: Minority. A petition to the U.S. Congress to call a Constitutional Convention to restore balance and integrity to elections by proposing an amendment to the U.S. Constitution that would permanently protect elections in the United States of America by addressing issues raised by the decision of the U.S. Supreme Court in *Citizens United v. Federal Election Commission*, 130 S. Ct. 876 (2010), and in related cases and events.

AJR 35 referred to Assembly Committee on Constitution and Ethics on April 24, 2017. SJR 24 referred to Senate Committee on Elections and Utilities on March 29, 2017.

**15. Assembly Joint Resolution 53 and Senate Joint Resolution 54:** *An advisory referendum on an amendment to the U.S. Constitution.*

Sponsors: Minority. This resolution places a question on the November 2018 ballot to ask the people if Congress should propose an amendment to overturn *Citizens United v. F.E.C.*

AJR 53 referred to Assembly Committee on Constitution and Ethics on May 22, 2017. SJR 54 referred to Senate Committee on Financial Services, Constitution, and Federalism on June 2, 2017.

#### PREVIOUS LEGISLATION – CHANGE IN STATUS

**16. Assembly Bill 42 and Senate Bill 15:** *Various changes regarding administrative rules and rule-making procedures and making an appropriation.*

Sponsors: Majority. This bill 1) requires scope statements for proposed administrative rules to be reviewed by the Department of Administration for a determination of an agency's authority to promulgate a rule; 2) requires agencies to hold preliminary public hearings and comment periods on scope statements for rules if directed to do so by the Joint Committee for Review of Administrative Rules (JCRAR); 3) requires the passage of a bill in order for an agency to promulgate a rule that would result in implementation and compliance costs of \$10 million over any two-year period, subject to certain exceptions; and 4) allows either a cochairperson of JCRAR or JCRAR as a whole, at certain steps in the rule-making process, to request the preparation of an independent economic impact analysis for a proposed rule.

AB 42 recommended to be passed as amended by Assembly Committee on State Affairs on May 9, 2017. SB 15 referred to Senate Committee on Rules on May 3, 2017.

**17. Assembly Bill 44 and Senate Bill 13:** *Legislative and congressional redistricting.*

Sponsors: Minority. This bill creates a new procedure for the preparation of legislative and congressional redistricting plans. The bill directs the Legislative Reference Bureau (LRB) to

draw redistricting plans based upon standards specified in the bill and establishes a Redistricting Advisory Commission to perform certain tasks in the redistricting process. The bill also makes various other changes to the laws governing redistricting.

AB 44 fiscal estimate received by the Assembly on April 3, 2017. SB 13 fiscal estimate received by the Senate on March 1, 2017.

**18. *Assembly Bill 64 and Senate Bill 30: State finances and appropriations constituting the executive budget act of the 2017 legislature.***

Sponsors: Majority. This bill is the "executive budget bill" under section 16.47 (1) of the statutes. It contains the governor's recommendations for appropriations for the 2017-2019 fiscal biennium.

AB 64 and SB 30 public hearings were held April 3 through April 21, 2017 by the State Joint Committee on Finance. Both bills remain in Committee which has held executive sessions regarding agency budgets.

**19. *Assembly Bill 85 and Senate Bill 66: Allowing a local public official to serve as an election inspector.***

Sponsors: Minority. This bill provides that an individual holding a local public office may be appointed to serve as an election official without having to vacate the local public office. Current law prohibits an individual from serving as an election official at an election for which the individual is a candidate. The bill does not change that prohibition.

AB 85 public hearing held on April 18, 2017. Assembly Committee on Campaigns and Elections recommended passage of AB 85 on May 19, 2017. SB 66 referred to Senate Committee on Elections and Utilities on February 21, 2017.

**20. *Assembly Joint Resolution 2 and Senate Joint Resolution 3: Deleting from the state constitution the Office of State Treasurer.***

Sponsors: Majority. This constitutional amendment, to be given second consideration by the 2017 legislature for submittal to the voters in April 2018, was first considered by the 2015 legislature in 2015 Assembly Joint Resolution 5, which became 2015 Enrolled Joint Resolution 7. If enrolled on second consideration, the proposed constitutional amendment would be scheduled for a statewide referendum at the 2018 Spring Election.

AJR 2 was tabled on March 9, 2017. SJR 3 was passed by the Senate on March 7, 2017 and by the Assembly on March 9, 2017, and enrolled. As a result, the proposed constitutional amendment will appear on the ballot as a statewide referendum at the 2018 Spring Election.

**21. *Executive Appointment Gill: Appointment of Beverly Gill, of Burlington, as a Legislative Joint Appointment to the Elections Commission, to serve a term ending May 1, 2019.***

Public hearing held on April 5, 2017. Senate Committee on Elections and Utilities recommended confirmation on April 6, 2017 and the Senate confirmed Commissioner Gill's appointment on May 2, 2017.

- 22. *Executive Appointment Glancey: Appointment of Julie Glancey, of Sheboygan Falls, as a Legislative Joint Appointment to the Elections Commission, to serve a term ending May 1, 2020.***

Public hearing held on April 5, 2017. Senate Committee on Elections and Utilities recommended confirmation on April 6, 2017 and the Senate confirmed Commissioner Gill's appointment on May 2, 2017.

#### PREVIOUS LEGISLATION – NO CHANGE IN STATUS

- 23. *Assembly Bill 33: Requiring a municipal judge to be a licensed Wisconsin attorney.***

Sponsors: Minority. Beginning on January 1, 2018, this bill requires a person seeking to be elected or appointed as a municipal judge to be an attorney licensed to practice in this state and a member in good standing of the State Bar of Wisconsin.

AB 33 referred to Assembly Committee on Judiciary on January 20, 2017.

- 24. *Assembly Joint Resolution 7 and Senate Joint Resolution 10: An advisory referendum on legalization of medical marijuana.***

Sponsors: Minority. This joint resolution calls for an advisory referendum on the question of whether Wisconsin should allow for the uses of and safe access to marijuana for medical purposes by individuals with debilitating medical conditions with a written recommendation from a licensed Wisconsin physician. The referendum is to be held at the next general election occurring not sooner than 45 days after adoption of the resolution.

AJR 7 referred to Assembly Committee on Health on February 20, 2017. SJR 10 referred to Committee on Senate Organization on February 15, 2017.

- 25. *Assembly Joint Resolution 11: To section 12 of article VIII of the constitution relating to funding in bills placing requirements on local governmental units (first consideration).***

Sponsors: Majority. This constitutional amendment, proposed to the 2017 legislature on first consideration, prohibits the legislature from passing any bill that places a requirement on a local governmental unit unless the bill contains an appropriation that reimburses the local governmental unit for the full cost of complying with the requirement. The amendment does not prohibit the governor from vetoing an appropriation contained in a bill that creates such a requirement. A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

Referred to Assembly Committee on Constitution and Ethics on February 27, 2017.



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## MEMORANDUM

**DATE:** For the June 20, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Interim Administrator

Prepared by Elections Commission Staff

**SUBJECT:** Commission Staff Update

Since the last Elections Commission Update (March 14, 2017), staff of the Commission have focused on the following tasks:

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

The 2017 Spring Election was held on April 4, 2017. Superintendent of Public Instruction was the only statewide contested office on the ballot, and a total of 708,711 ballots were cast for that office. A contest for Justice of the Supreme Court was the also on the ballot but that contest was uncontested. The ballot contained contests for other nonpartisan offices including Court of Appeals and Circuit Court, as well as municipal, school district, and special district offices.

Commission staff offered extended hours leading up to the Spring Election and from 6:00 a.m. to 11:00 p.m. on Election Day, which was mostly uneventful. Staff fielded pretty routine calls for a nonpartisan election -- registration and photo ID requirements, how to count write-in votes, polling place activity and distractions, and what to do in the case of a tie vote. Call volume was low and generally related to isolated problems or issues, including the following:

1. A morning power outage in Glendale affected a library and a school being used as polling locations. Fortunately the municipal clerk had a contingency plan in place and moved the library polling place to City Hall. The school continued to operate as a polling location by using a back-up generator and the power was restored by 9:30 a.m.
2. In a town in Eau Claire County, the name of a candidate for Town Constable was misspelled on the ballot, which the candidate discovered when he voted. Staff worked with the Town Clerk and County Clerk to develop instructions for election inspectors to correct the spelling on the

ballot and providing an explanation to voters without mentioning the candidate's name or directing additional attention to the candidate.

3. Staff learned about occasional instances of election inspectors making errors in processing voters. For instance, inspectors in the Town of Whitestown in Vernon County were incorrectly asking voters to state what school district they lived in before providing a ballot. And a voter in the City of Racine complained that his military ID card was not accepted as photo ID. In such cases staff immediately contacted the municipal clerk and instructed that they need to correct the inspectors' practices.
4. A school district in Green Bay had information posted in the voting area regarding a school district referendum on the ballot. While the display was meant to be informational and did not advocate for or against the referendum, staff advised that it should be removed because it could be construed as either electioneering or providing unauthorized election-related information at the polls.
5. The City of Madison obtained a court order to extend voting until 9:30 p.m. at one location because of extended police activity outside the polls earlier in the day.

Following the election, staff assisted local election officials with issues related to recount contests and completing the canvass process. Election Administration staff has also been working on other agency projects, including the post-election voting equipment audit, voting equipment testing campaign, and electronic poll book research.

## **2. Badger Voters**

The Wisconsin Elections Commission, as directed by Wis. Stat § 6.36, maintains an electronic official voter registration list and provides access to that list for a fee set by administrative rule to cover the cost of maintaining and reproducing the list. The fees generated by this list help offset the costs of maintaining our statewide voter registration list, and allow the agency to extend the funds provided by the Help America Vote Act and reduce expenditure of General Purpose Revenue funds.

Prior to 2014, the process of taking in requests for copies of the list or portions thereof (commonly called voter data requests) was an intensive manual process that consumed a considerable amount of staff time. In the spring of 2014, the former Government Accountability Board launched the Badger Voters website (<http://badgervoters.gab.wi.gov>). This website provides a semi-automated process through which members of the public could request voter data, receive a quote based on the fee structure set out by administrative rule, pay that quote and then receive a file containing the requested data. The initial launch was a success and staff received significant positive feedback from individuals and organizations requesting voter data, as well as from local clerks who had the option of directing individuals requesting data to the site and thereby reducing their own workload. The system also generated significant cost savings in staff time. When the legislature passed 2015 Wisconsin Act 261 which, in part, required the new WEC to provide a subscription service whereby a person may request regularly updated absentee ballot information this automated service allowed staff to comply with this requirement almost immediately.

However, after three years fulfilling thousands of voter data requests and assessing user feedback, staff has identified several significant limitations in the Badger Voters system.

- The current implementation of the system requires IT developer intervention for routine maintenance, such as adding voter participation for new elections.
- The system is deployed in a flat manner that does not provide developers or staff a safe place to test changes and updates without impacting user experience.
- The user interface does not reflect current best practice, resulting in an increased number of service calls by users who are unable to navigate the site and obtain the data they need.
- The system is heavily dependent on external services provided by the Department of Enterprise Technology, which further complicates the user experience and prevents WEC staff from providing full customer service and technical support.

Staff has developed a plan for updating Badger Voters to address these deficiencies. The new system will use a tiered deployment structure that will enable adequate change control and testing capabilities. This will both prevent service disruptions in the future, and ensure that staff is able to quickly and efficiently respond to any service disruptions that do occur. The updated service will interface more closely with the WisVote system, eliminating the need for developer intervention for routine updates. Finally, account maintenance and payment processing will be brought in-house, allowing for a more modern and streamlined user experience while also providing staff the means to provide full-featured support to customers of the service.

Planning and development for this update were completed in May, and the implementation is anticipated to be complete by the end of June. Bringing account services in-house will require a complete break with the previous Badger Voters system, so it is anticipated that there will be an overlap period between the launch of the new Badger Voters system and the termination of the old system to allow users to make the adjustment. Provisions will also be made to ensure that existing users continue to have access to files they have previously purchased.

The following statistics summarize voter data requests as of June 12, 2017.

<b>Fiscal Year</b>	<b>Total Number of Requests</b>	<b>Requested Files Purchased</b>	<b>Percentage of Requests Purchased</b>	<b>Total Revenue</b>
<b>FY2017 to date</b>	635	364	57%	\$221,787.35
<b>FY2016</b>	789	435	55%	\$235,820.00
<b>FY2015</b>	679	418	61.56%	\$242,801.25
<b>FY2014</b>	371	249	67.12%	\$125,921.25
<b>FY2013</b>	356	259	72.75%	\$254,840.00
<b>FY2012</b>	428	354	78.04%	\$127,835.00

### 3. Addressing and Geocoding

At the end of May, Election Commission staff purchased new software from ESRI, a leading company in the geospatial industry. The primary reason for this purchase was to find an acceptable

replacement for the current Bing address geocoding software, which staff believes will increase accuracy and provide a significant cost savings moving forward. This new geocoding service is provided through a product called ArcGIS Online and staff is looking forward to the expected performance gains as well as increased ability for customization.

ESRI also offers an alternative to the current mapping software in WisVote, which is a Google-based display map. The ESRI web map should be more easily customizable and should allow for more robust display options. It also will be more easily integrated with the existing ESRI Desktop GIS product, and should streamline the process of uploading new Ward and School District information into WisVote. Ultimately, the goal is to keep these Ward and School District combinations up to date in WisVote so that clerks will have the best possible visual representations of voting areas before election time.

Ideally, these changes will increase efficiency and allow for a more seamless workflow process as we work with one company instead of three for our addressing needs. Other state agencies that staff works with frequently, such as the Legislative Technology Services Bureau, already use ESRI products, so this change will also assist in future data sharing efforts and integration.

#### **4. WEDCS**

Board staff continues to monitor municipal and county clerk compliance with several reporting requirements following the 2017 Spring Primary and Spring Election. Pursuant to Statutes, the 2017 Spring Primary EL-190NF Election Administration and Voting Statistics Report was due to be entered into the Wisconsin Elections Data Collection System (WEDCS) by March 23, 2017. The EL-190NF Election Administration and Voting Statistics Report for the 2017 Spring Primary was posted to the Elections Commission website on Friday, May 26, 2017. As of May 24, 2017, five municipalities do not have a report entered into WEDCS for the Spring Primary. The EL-190NF Election Administration and Voting Statistics Report for the 2017 Spring Election was due to be entered into the Wisconsin Elections Data Collections System by May 4, 2017 for the Spring Election. As of June 8, 2017, 13 municipalities do not have completed EL-190NF reports entered into WEDCS. Staff continues to follow up with clerks to obtain the outstanding reports.

The EL-191 Spring Election Cost Report was due to be entered into the WEDCS by June 5, 2017. As of June 8, 2017, 150 municipalities do not have reports entered into WEDCS. A deadline reminder notice was sent to 443 municipal and county offices on June 1, 2017 and staff continues to follow up with clerks to obtain the outstanding reports.

The Election Day Registration (EDR) Postcard Statistics initial report for the 2017 Spring Primary was posted to the Elections Commission website on May 26, 2017, prior to the statutory deadline of May 29, 2017. At that time, 283 municipalities did not have completed reports in WEDCS and therefore were not reflected in the Elections Commission's initial report. As of June 7, 2017, 266 municipalities have not yet submitted a complete EDR Postcard Statistics Report. By statute this report is to be updated monthly until there is a full accounting of all EDR postcards for the Spring Primary. Staff continues to follow up with clerks to obtain the outstanding reports.

The deadline for completing the 2017 Spring Election EDR Postcard Statistics Report is July 3, 2017. A deadline reminder notice will be sent to municipal and county clerks in late June and the initial report will be posted to the Elections Commission website no later than July 10, 2017. As of June 7, 2017, 628 municipalities have not yet submitted a complete EDR Postcard Statistics Report for the 2017 Spring Election.

## **5. The Access Elections Accessibility Compliance Program**

### **A. Polling Place Accessibility Audit Program**

Staff continues to process polling place accessibility audit reports from the 2016 Presidential Election. Over 130 sites were visited on Election Day and detailed reports are being prepared from the data that was collected by auditors. Due to competing staff priorities, no audits were conducted during the April 4, 2017 Spring Election.

### **B. Ongoing Accessibility Compliance Efforts**

Staff continues to coordinate with municipal clerks to ensure that accessibility problems uncovered during previous audits are resolved as quickly and cost-effectively as possible. Deadlines for submitting plans of action are set at 60 days from receipt of the report, and staff works with local election officials to ensure that problems are addressed in a timely manner. Staff also works with local election officials to ensure that all new polling locations are ADA-compliant before the change is finalized. Polling place accessibility surveys are required to be submitted for review as part of the process to change polling places. This work continues to take place on an ongoing basis.

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

Following this memorandum as Attachment 1 is a summary of information regarding core and special election administration training recently conducted by WEC staff. Following the 2017 Primary and Spring Elections, the training team and elections specialists are continuing to focus on providing information to local election officials related to the photo identification requirement, legislative changes, One Wisconsin Now court decision and developing a new election administration and WisVote webinar training series for the 2017-2018 cycle. New staff attended a one-day WisVote training session on core database management functions. Election administration staff conducted several training modules covering other WEC website applications, local election official training requirements and curriculum, voting equipment, forms, manuals and other information.

## **7. WisVote**

WisVote staff has been assisting clerks in closing out the 2017 Spring Primary and the 2017 Spring Election. WisVote staff has been focusing on voter participation data and voter address information to ensure the accuracy of the 2017 Four Year Maintenance Mailing. Data quality checks were in place to flag voter participation and address issues so that WEC staff could follow-up with municipal clerks in order to address specific issues. WEC staff contacted hundreds of municipal and county clerks to assist them in accurately recording voter participation and in correcting incomplete voter and clerk addresses.

WisVote staff also remains on track to complete scheduled 2017 WisVote projects to prepare agency systems for the 2018 election cycle. Staff continues to meet, plan, and test development on WisVote, MyVote, WEDCS, Canvass Reporting, and other high priority IT projects. Staff also assisted clerks with the management and setup of local special elections in the WisVote system.

In addition to enhancements to WisVote related systems, WisVote staff continues to make improvements to the functionality of the WisVote system. Some of the more notable improvements include:

- Improvements to the system to allow WEC staff to approve clerk training records.
- The addition of an automated feature that alerts a voter's previous state if the voter has registered in Wisconsin. Similarly, enhanced automation was added to the WisVote feature that alerts Wisconsin clerks when we receive notice that a former Wisconsin voter has registered in another state.
- Enhancements to the reports and views available in WisVote that allow clerks to monitor data quality and accuracy of post-election tasks.
- Development of a letters and mailings entity in WisVote that allows clerks to generate consistent mails and to track voter responses to ongoing list maintenance mailings.
- Ongoing system and server patches as well as routine system bug fixes.

## **8. Elections HelpDesk /Customer Service Center**

The Elections HelpDesk staff is supporting over 1,996 active WisVote users, the public, and election officials. The HelpDesk is maintaining the accessibility tablets utilized in polling place surveys along with various training and testing computer systems. Staff is monitoring state enterprise network and data center changes and status, assisting with processing data requests, and processing voter verification postcards. Help Desk staff has been serving on and assisting various project teams such as the Hackett Benchmark Survey and the STAR projects conducted by DOA, also the MyVote 2.0, ongoing WisVote development, ERIC and online registration teams. Staff continues to maintain and update Elections, WisVote clerk contact and Listserve email lists. Staff is processing lists of voters that registered in other states and notifying clerks of the registration cancelation. Staff is coordinating and assisting with upgrade projects initiated by the Department of Administration (DOA) Data Center, and administering Elections & Ethics Commissions Exchange email system.

Help Desk staff are onboarding new clerk users with credentials for the WisVote system and the WisVote Learning Center as they request access, and also assisting clerks with configuring and installing WisVote and WEDC (GAB-190) on municipal computers. The Help Desk continued to field a wide variety of calls and emails from voters and the public, candidates, political committees, and public officials.

	<u>Elections Help Desk Call Volume</u> (608-261-2028)	<u>Front Desk Call Volume</u> (608-266-8005)
March, 2017	1,296	500
April, 2017	902	357
May, 2017	438	117
<b>Total Calls for Reporting Period</b>	<b>2,636</b>	<b>974</b>

**9. Complaint Processing and Tracking**

Elections Division staff has continued to process and resolve complaints related to the actions of local election officials. A status report regarding pending and resolved complaints will be included in the Board Members’ meeting folders.

**10. Communications Report**

Between March 1 and May 31, 2017, the Public Information Officer (PIO) has engaged in the following communications activities in furtherance of the Commission’s mission:

Voter ID Public Information Campaign: For the Spring Election cycle, the PIO prepared and distributed news releases reminding voters of the photo ID requirement and the availability of IDPP.

Media: The PIO logged 138 media and general public phone calls and 150 media email contacts. There was a media interest in voter ID, the Commission’s budget request before the Joint Finance Committee and cyber security. The PIO prepared five news releases regarding preparations for the election, projected election turnout and changes in Commission membership.

Cyber Security: On June 5, The Intercept (theintercept.com) published a leaked, classified report from the National Security Agency regarding Russian attempts before the November 2016 election to hack state and local voter registration systems in Florida and other states via “spear-phishing” email attacks designed to steal login credentials. Staff determined Wisconsin was not a target of the attacks but decided the incident warranted reminders to local election officials about the potential for cyberattacks and the need for heightened awareness. Staff consulted with the Department of Administration’s Division of Enterprise Technology and developed a communication to county and municipal clerks. On June 12, staff participated in a conference call for secretaries of state and state election directors with the Department of Homeland Security. DHS officials provided no new information, but pledged to communicate with states regarding such threats in a more timely manner.

Online: The PIO managed regular updates to the agency website and worked with the agency’s webhosting company on security updates and plans to upgrade the agency website.

Public Records: Working with legal counsel, the PIO has responded to and closed all the Commission’s outstanding public records requests.

Wisconsin Ethic Commission: During the transition from the Government Accountability Board to the separate commissions, the PIO provided services to the Ethics Commission and its staff by developing the initial ethics agency website, taking minutes at commission meetings and responding to news media questions about campaign finance, ethics and lobbying. With the hiring of new ethics staff, Administrator Bell informed the WEC on April 12 that the Ethics Commission no longer needs the Elections Commission's assistance in those areas. Time the PIO had been spending on ethics matters has been redirected to handling the Elections Commission's records management program.

## **11. Financial Services Activity**

- We are continuing work with the STAR HCM; STAR Finance and STAR Project Costing teams to streamline our processes in the STAR PeopleSoft ERP system.
- Staff has begun procedures to close out Fiscal 2017; as well as set up Fiscal 2018. We are working on Budget Journal entries for STAR Finance, as well as with DOA on new codes for the General Services Bill in order to better monitor and allocate expenditures amongst projects and grants.
- Staff in conjunction with STAR Project Costing team is working on a STAR enhancement allowing for a system process to allocate leave time to appropriate projects and grants to increase operational efficiency and reduce current manual processing and reconciliations of time reporting.
- Financial Staff is engaged in on-going meetings with the State Controller's Office to reconcile remaining financial issues between GAB, the Elections Commission and the Ethics Commission.
- Staff has processed payroll reconciliations for the first 3 quarters of FY2017 to properly allocate salaries and fringe benefits between federal and state programs. We have had meetings with SCO and the STAR Project Costing team to analyze solutions within the new system and have implemented several strategies.
- Subsequent to our payroll reconciliation, we are working on our FY2017 FVAP draw; and conducting analysis of expected FVAP balances in FY2018.
- In conjunction with the DOA Contract Manager and Tapfin managing staff, we have issued FY2018 "placeholder" Purchase Orders for our three Tapfin contractors, based on FY2017 expected hours worked, to provide a seamless transition of services to FY2018.
- Our Accountant has trained the Ethics Commission's new Office Management Specialist in Financial Matters; we have now reduced our involvement with Ethics finances.

## **12. Procurements**

The following Purchase Orders have been processed since the March 2017 commission meeting:

- \$69,313.05 in Purchase Orders were written for computer equipment; including laptops and monitors, based on the DOA computer equipment replacement schedule.
- \$99,966.58 in a Purchase Order was written for additional licenses to access WisVote.
- \$3,591.13 in a Purchase Order was written for office equipment and furniture.
- \$38,900.00 in a Purchase Order was written for GIS software for voting systems.
- \$4,998.00 in Purchase Orders were written for phones/headsets for the upcoming state-wide switch to the VOIP phone system.
  - In conjunction with DOAs Division of Enterprise Technology, Financial and IT staff performed a cost comparison analysis on current landline phones versus a Voice Over Internet Protocol (VOIP) System.
  - Estimated yearly cost savings of VOIP are \$14,000, exclusive of new equipment charges above.

All referenced purchases were made utilizing mandatory state contracts and in accordance with state procurement policies.

## **13. Staffing**

Agency management continues to work to fulfill staff vacancies. WisVote Specialist Mai Chaou Thao left the WEC on April 20, 2017 to accept a position with the Department of Public Instruction. In April and May, three new staff members joined the WEC – Elections Administration Specialist Robert Williams, GIS Specialist Gregory Grube and WisVote Specialist Sarah Linski. Existing staff organized and conducted initial training for the new staff, all of whom are making significant contributions to the agency’s initiatives. With the action of the Joint Committee on Finance to restore five positions which are currently federally funded, agency management has initiated the recruitment process to fill additional vacancies, including Election Specialists, Trainers, and a Legal Associate.

## **14. Meetings and Presentations**

Commissioner Jensen and Administrator Haas presented remarks regarding the agency’s 2017-19 budget request to the Joint Committee on Finance on March 28, 2017. On May 16, 2017, the Committee voted on the Elections Commission’s budget request and approved most of what the Commission had requested, including the continuation of 21 of 22 federally funded staff positions, and the continuation of those positions with state GPR funds after the expiration of the federal HAVA funds.

On March 30, 2017, Administrator Haas attended a press conference held by the Attorney General and a bipartisan group of legislators regarding the launch of the “Safe at Home” program. The initiative permits victims of domestic and sexual assault and harassment, as well as their family members, to sign up for an alternative mailing address to shield their residence location. Agency staff had worked with DOJ because of the interaction of the program with the confidential elector procedures.

On April 18, 2017, Administrator Haas presented testimony to the Assembly Committee on Campaigns and Elections at its public hearing regarding a bill which would permit local elected officials to work as election inspectors.

On April 20, 2017, Administrator Haas participated in a teleconference of the Executive Board of the National Association of State Election Directors (NASED) to review feedback from NASED's Winter Meeting in February and to plan the organization's Summer Meeting which will take place in late August in Anaheim.

The week of April 24, 2017, Administrator Haas attended two meetings in San Antonio, Texas. The first meeting involved a Working Group of the Council of State Governments related to possible revisions to the election data survey which states are required to submit to the U.S. Elections Assistance Commission following each General Election. The second meeting was of the EAC's Standards Board, which is a body created by the Help America Vote Act and which is an advisory body to the EAC.

Election Specialist Richard Rydecki attended the Global Election Technology Summit in San Francisco on May 17 - 18, 2017.

Administrator Haas participated in a teleconference meeting of the ERIC Board of Directors regarding adoption of the organization's 2018 budget. Agency staff also participated in several teleconferences related to proposed ERIC initiatives.

## **15. Delegated Authority**

Administrator Haas took the following actions pursuant to the Commission's delegation of authority:

- A. Approved the replacement of office computers and laptops at a cost of approximately \$70,000. Agency computer hardware is replaced on a regular basis in consultation with the Department of Administration.
- B. Approved the purchase of software licenses necessary to accurately locate voter locations in the WisVote system with GIS technology at a cost of approximately \$39,000.
- C. Approved the purchase of additional WisVote licenses for municipal and county clerk offices to accommodate additional WisVote users throughout the state at a cost of slightly less than \$100,000. Later in the year, the agency will reevaluate the number of local licenses needed for the WisVote system to prepare for and conduct the 2018 election cycle, and determine whether additional licenses need to be purchased.
- D. Approved minor revisions to the agency's Memorandum of Understanding with the Ethics Commission to reflect current procedures involving both agencies.

**ATTACHMENT #1**

Wisconsin Elections Commission's Training Initiatives  
3/15/2017 – 6/20/2017

<b>Training Type</b>	<b>Description</b>	<b>Class Duration</b>	<b>Target Audience</b>	<b>Number of Classes</b>	<b>Number of Students</b>
WisVote Training	Online training in core WisVote functions – how to navigate the system, how to add voters, how to set up elections and print poll books.	Varies	New users of the WisVote application software.	Online	29
Municipal Clerk	2005 Wisconsin Act 451 requires that all municipal clerks attend a state-sponsored training program at least once every 2 years.	3 hours	All Municipal clerks are required to take the training; other staff may attend.	1	27
Chief Inspector	Required training for new Chief Inspectors before they can serve as an election official for a municipality during an election.	3 hours	Election workers for a municipality.	5	170
Election Administration and WisVote Training Webinar Series	Series of programs designed to keep local government officials up to date on the administration of elections in Wisconsin.	60 + minute webinar conferences hosted and conducted by Commission staff.	County and municipal clerks, chief inspectors, poll workers, special registration deputies and school district clerks.	3/14/17: The WisVote-MyVote Connection; 4/25/17: Postcards!; 5/16/17: WisVote Coming Attractions	50 – 400 per webinar; posted to website for clerks to use on-demand.

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Other	<ul style="list-style-type: none"><li>Board staff developing election administration and WisVote webinar series for the 2017-18 election cycle.</li></ul>				