

# WISCONSIN ELECTIONS COMMISSION

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COMMISSIONERS

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

ADMINISTRATOR MICHAEL HAAS

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**Wisconsin Elections Commission**  
Wisconsin Elections Commission Offices  
212 E. Washington Avenue, Third Floor  
Madison, Wisconsin  
10:00 a.m. Tuesday, June 20, 2017

## Open Session Minutes

Present: Commissioner Mark Thomsen, Commissioner Jodi Jensen, Commissioner Ann Jacobs, Commissioner Beverly Gill and Commissioner Julie Glancey

Not Present: Commissioner Steve King

Staff present: Michael Haas, Meagan Wolfe, Nathan Judnic, Sharrie Hauge, Reid Magney, Ann Oberle, Sarah Whitt, Richard Rydecki, Sara Linski

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

Commission Chair Mark Thomsen called the meeting to order at 10:01 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. Personal Appearances**

**Justin Schmit of Green Bay** appeared on behalf of Brown County Clerk Sandy Juno to speak in support of having Wisconsin Elections Commission staff develop an e-poll book system for the state.

**Dane County Clerk Scott McDonell** appeared to speak in support of WEC staff developing an e-poll book system for the state. He said Dane County is happy with a vendor-provided voting system, but he believes that the county would be happier with an e-poll book system developed by the state at a lower cost.

**Paul Malischke of Madison** appeared on his own behalf to urge the Commissioners to address issues raised by the Federal Voting Assistance Program regarding expanding the state's definition of military and overseas voters to include overseas voters with the intent to return to

the United States. He also urged the Commission to publish e-poll book standards and let the public comment on them.

## **D. Minutes of Previous Meetings**

### **May 23, 2017**

Chair Thomsen asked that sections of the minutes dealing with administrative rules contain information about the dates when certain actions will be completed so Commissioners can track the staff's progress. Staff will correct the draft minutes and submit them for approval at the next Commission meeting.

## **E. Voter Registration and Four-Year List Maintenance**

WisVote Testing Lead Ann Oberle made an oral presentation based on a memorandum starting on page 9 of the June 20 meeting materials regarding approximately 380,000 postcards mailed recently to registered voters who had not participated in an election in four years.

Commissioners and staff discussed various aspects of the four-year maintenance process. The report was for information only, and no action was taken.

## **F. ES&S Voting Equipment Testing and Approval**

Steve Pearson, vice president of Elections Systems & Software (ES&S), appeared and made a brief presentation regarding the company's petition for approval of its EVS 5.2.2.0 and EVS 5.3.2.0 systems. This is an upgrade to a previous version of this system approved by the Wisconsin Government Accountability Board in 2014, and includes a new mid-range, high-speed ballot scanner for municipalities that may want to have central counting of absentee ballots. The EVS 5.3.2.0 includes a modem component for transmitting unofficial Election Night results.

Commissioners and Mr. Pearson discussed federal certification and testing, voting equipment security, and other equipment features and issues. Mr. Pearson also discussed the ExpressLink application, which prints a ballot style activation card that ensures voters who use the ExpressVote universal ballot marking device get the correct ballot.

Election Specialist Richard Rydecki made an oral presentation based on a memorandum starting on page 15 of the June 20 meeting materials regarding testing of the ES&S products and staff's recommendations for approval.

Commissioners, staff and ES&S representatives discussed the issue of crossover votes and the screens presented to voters if they insert an improperly marked ballot into the tabulator. They also discussed the ExpressLink application, which Mr. Rydecki

explained was not before the Commission for approval because it is not certified by the U.S. Election Assistance Commission.

At 11:45 a.m., Chair Thomsen called a recess so Commissioners could see a demonstration of the equipment in another room followed by a break for lunch. The Commission reconvened at 1:01 p.m.

Following the demonstration, Mr. Rydecki continued his presentation regarding testing and approval of the ES&S equipment. Commissioners and staff continued their discussion of approval with Mr. Pearson, who addressed questions about warning messages displayed on the DS200 optical scan tabulator. He said the messages are customizable, and ES&S would work with Commission staff to develop appropriate language. Commissioners Glancey and Jacobs also discussed screens for party preference selection at partisan primary elections. Mr. Pearson said the vendor would work with WEC staff to make the proposed changes, but the kinds of language changes discussed may require changes to the firmware.

Chair Thomsen asked Commissioners what they wanted to do about the ExpressLink application regarding customizations of screens to provide warnings to voters about cross-party voting in partisan primaries. Commissioners directed staff to develop a protocol for testing the ExpressLink component and test the ExpressLink to the standards included in the protocol. Staff will also work with ES&S concerning revising voting equipment screens to address Commissioners' concerns and provide the Commission with updates on those revisions.

**MOTION:** Adopt the staff's recommendations with the modifications and conditions described and set forth at today's meeting 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 in the staff memorandum as modified at today's meeting and the ES&S voting system's Application for Approval of EVS 5.3.2.0 including the conditions described above and as modified today. Moved by Commissioner Jensen, second by Commissioner Glancey. Motion carried unanimously.

## **G. Electronic Poll Books**

Mr. Rydecki, WisVote Functional Lead Sarah Whitt and WisVote Specialist Sara Linski made an oral presentation based on a memorandum in the supplemental meeting materials for the June 20 meeting materials regarding electronic poll books. Staff recommends the Commission authorize development of a system using in-house resources, without charge to municipalities that would choose to use it.

Commissioners and staff discussed staff research into other states that had developed their own systems, timelines for development and how the system would work. They also discussed cost savings to municipalities if the state develops a system versus buying from vendors.

**MOTION:** Direct staff to proceed with efforts to build and implement an electronic poll book solution that is compatible with WisVote and made available to municipalities at no cost. The system will be pilot tested in February and April 2018 and available to all municipalities in August 2018. In the event that municipalities request the ability to purchase vendor systems, staff shall request further guidance from the Commission. Moved by Commissioner Jacobs, seconded by Commissioner Glancey. Motion carried unanimously.

## **H. Post-Election Voting Equipment Audit**

Mr. Rydecki made an oral presentation based on a memorandum starting on page 67 of the June 20 meeting materials regarding post-election voting equipment audits in municipalities that did not hand-count ballots during the recount of the presidential election in December 2016. The audits found voting equipment met accuracy standards, with one exception, an Optech Eagle, which could not be reconciled after three separate audits due to the use of nonstandard marking devices. He said staff has issued supplemental procedures for jurisdictions using this equipment recommending that all absentee by mail ballots be remade by election inspectors using an approved marking device.

Commissioners and staff discussed issues related to Optech Eagle usage, which is dwindling due to purchases of newer systems. Mr. Rydecki said the vendor that supports this equipment will discontinue support after 2018, at which time the WEC may wish to decertify it. Staff will provide commissioners with a timeline for decertification at the September 2017 meeting.

**MOTION:** Accept the staff report of the 2016 Voting Equipment Audit. Moved by Commissioner Glancey, seconded by Commissioner Gill. Motion carried unanimously.

## **I. Administrative Rules**

Staff Counsel Nathan Judnic made an oral presentation based on a memorandum starting on page 81 of the June 20 meeting materials regarding administrative rule promulgation. Staff recommends the Commission approve four scope statements that have already been approved by the Governor and published in the Wisconsin Administrative Register for 10 days.

**MOTION:** Approve 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. Moved by Commissioner Jacobs, seconded by Commissioner Jensen. Motion carried unanimously.

## **J. Legislative Agenda**

Mr. Judnic made an oral presentation based on a memorandum starting on page 101 of the June 20 meeting materials regarding the Commission's legislative agenda.

Chair Thomsen suggested the Commission address the staff recommendations in September and concentrate on the issue regarding the definition of overseas voters raised by Mr. Malischke during the public appearances section of the meeting. Commissioners and staff discussed ways to resolve conflict between state and federal law in defining overseas voters. By consensus, commissioners directed staff to solicit opinions of the Wisconsin Department of Justice and the Wisconsin Legislative Council for presentation at the Commission's meeting in September.

## **K. Legislative Update**

Elections Specialist Robert Williams made an oral presentation based on a memorandum starting on page 117 of the June 20 meeting materials regarding election-related action in the Legislature. The Commission took no action.

## **L. Commission Staff Update**

Administrator Haas made an oral presentation based on a memorandum starting on page 125 of the June 20 meeting materials regarding staff activities since the last Commission meeting. He highlighted personnel changes including the departure of WisVote Trainer Juanita Borton.

## **M. Per Diem Authorization**

**MOTION:** Authorize payment of one and a half days of per diem for the June 20, 2017 Wisconsin Elections Commission meeting. Moved by Commissioner Jacobs, seconded by Commissioner Jensen.

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

Motion carried unanimously.

## **N. 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:	Absent	Jacobs:	Aye
Jensen:	Aye	Thomsen:	Aye

Motion carried unanimously. The Commission convened in closed session at 3:23 p.m.

**O. Adjourn**

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

The Commission adjourned at 4:00 p.m.

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The next regular meeting of the Wisconsin Elections Commission is scheduled for Tuesday, September 26, 2017, at the commission's offices in Madison, Wisconsin beginning at 10:00 a.m.

June 20, 2017 Wisconsin Elections Commission meeting minutes prepared by:

  
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Reid Magney, Public Information Officer

August 14, 2017

June 20, 2017 Wisconsin Elections Commission meeting minutes certified by:

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Beverly Gill, Commission Secretary

September 26, 2017