



Wisconsin Elections Commission

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Frequently Asked Questions Regarding the Use of Electronic Voting Equipment in Wisconsin Elections

June 14, 2024

The Wisconsin Elections Commission (“Commission”) receives many questions about the use of electronic voting equipment in Wisconsin, its safety and security, and whether it is mandatory for use across the state. The following FAQ is designed to provide answers to these questions.

If you have additional questions, please email elections@wi.gov.

Terms used in this FAQ.

Electronic Voting Equipment or Electronic Voting System. Refers to a system in which votes are recorded on ballots (either by hand or by machine) and the votes are tabulated by automatic tabulating equipment.¹

Voting Machine. Refers to a machine which mechanically or electronically records the votes cast by electors, who depress levers or buttons located next to the choices listed on the ballot to cast their vote.² In Wisconsin, these devices produce a paper ballot and are separate from the tabulator.

Direct Recording Electronic (DRE) Voting System. Refers to a machine that records votes by means of a ballot display accompanied by buttons, a touchscreen, or other device activated by the voter. This definition is effectively identical to the statutory term “Voting Machine.” In Wisconsin, these devices produce a paper ballot and are separate from the tabulator. Devices that mark, but do not tabulate a ballot are sometimes called a **Ballot Marking Device (BMD)**.

Accessible Voting Equipment. Refers to equipment, typically a BMD, with special features that permit a disabled voter to complete their ballot without assistance.³ Common accessibility features include large font options, high-contrast options, audio ballot outputs, and the ability to interface with accessories such as extra-large buttons or a sip-and-puff device.

Electronic Tabulator or Automatic Tabulating Equipment. Refers to equipment that rapidly scans ballots, counts votes, and tabulates the results.⁴

¹ See Wis. Stat. § 5.02(4m)

² See Wis. Stat. § 5.02(24r)

³ See The Help America Vote Act of 2002 (“HAVA”), 52 U.S.C. §§ 20901-21145 and 42 U.S.C. §§ 12131-12134

⁴ See Wis. Stat. § 5.02(1c)

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1. Can a municipality choose to hand mark and hand count ballots instead of using voting machines or electronic voting systems?

Yes, under certain conditions. Municipalities with fewer than 7,500 residents may elect to use paper ballots and voting booths instead of voting machines or electronic voting systems.⁵ However, municipalities must still comply with laws requiring each polling place to make accessible voting equipment available to voters. So, a municipality cannot entirely abandon all electronic equipment. See below for more information on accessible voting requirements.

2. Is “accessible” voting equipment required in my polling place?

Yes, with certain conditions. Federal law sets forth many standards that Wisconsin election officials must follow during federal elections.⁶ Each voting system used in an election for federal office (or purchased for that purpose with HAVA funds) must:

- 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 for other voters;
- Satisfy the requirement of the law through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place;
- Permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted.

Additionally, Title II of the Americans with Disabilities Act requires state and local governments to ensure that individuals with disabilities have an equal opportunity to benefit from all state and local programs, services, and activities, including state and local elections. This means that accessible voting equipment is required for all elections administered by a municipality, not just federal elections.⁷

3. Can a municipality provide a person with a disability an assistant in lieu of offering accessible voting equipment?

No. Under Wisconsin law, “the voting system used at each polling place will permit all individuals with disabilities to vote without the need for assistance and with the same degree of privacy that is accorded to nondisabled electors voting at the same polling place.”⁸ While it is true that voters with disabilities have the right to receive assistance from non-prohibited individuals, a municipality may not simply offer up an assistant in place of offering accessible voting equipment because a voter with a disability always has the right to determine what level of assistance they require (if any). If a voter with a disability does not wish to use another individual to assist them, they have a clear right under Wisconsin law to access equipment that will allow them to vote with the same degree of privacy as any other individual at the polling place.

⁵ See Wis. Stat. § 5.40.

⁶ The Help America Vote Act of 2002 (“HAVA”), 52 U.S.C. §§ 20901-21145

⁷ See 42 U.S.C. §§ 12131-12134

⁸ Wis. Stat. § 5.25(4)(a).

4. Can a municipality meet the state and federal accessibility requirements simply by owning accessible voting equipment?

No. Accessible voting equipment must be tested, set-up, operational, and available for use to any voter while polls are open. It must be configured for use so that a voter can complete and verify their selections in a private and independent manner before the ballot is cast and counted. Accessible voting equipment must be available during the entirety of the polling hours and can never be set up late or shut down early.

5. Do the accessible voting requirements mean that all voters must use voting machines or electronic voting systems?

No. The accessible voting requirements only mean that a polling place must have accessible voting equipment available to voters. The voters do not have to use the equipment if other options, such as hand marking ballots, are made available.

6. Can a municipality use an electronic tabulator and also verify the results with a hand count?

Yes. A municipality can use an electronic tabulator and also verify the results with a hand count; however, the hand count must be done as a part of the public canvassing of votes.⁹ The law does not permit canvassers to pause the canvass and reconvene the next day, which means that if a municipality chooses to perform a hand count as part of the public canvas, they must commit to completing it no matter how long it takes.

7. Is the accuracy and performance of voting machines and electronic voting systems tested publicly before an election?

Yes, all municipalities are required to conduct a public test of their voting equipment no more than 10 days before each election. Pre-election testing is intended to confirm the accuracy of voting equipment programming. This event is considered a public meeting and must be noticed at least 48 hours prior. The public is invited to attend and observe the testing process.

Programming is verified by feeding a set of pre-marked ballots into each machine and reviewing the results tape that is generated. Vote totals for each candidate in a contest should match the totals on the pre-marked ballots. Any difference between the results tape and the pre-marked ballot totals would constitute an error. An errorless count is required at the conclusion of the process. Any anomalies identified in testing must be remedied before the equipment can be used in an election.¹⁰

Following the public test, the voting equipment and memory devices are required to be secured. The memory device must remain in the equipment with a tamper-evident seal used to secure memory device compartments. A chain-of-custody log is required to be maintained that documents any access to each memory device or tabulator. Verification of the serial numbers must take place before the polls open in the morning and after the close of polls. The Commission also recommends that election officials verify this information throughout election day. All access to the memory device must be documented in the Inspectors' Statement.

⁹ See Wis. Stat. § 7.51.

¹⁰ See Wis. Stat. § 5.84(1).

8. Is the accuracy and performance of voting machines and electronic voting systems tested after an election to confirm continued compliance?

Yes. Wisconsin statutes require a post-election audit of voting systems used in the state after each general election. The audit is designed to assess the accuracy and performance of each voting system approved for use in the state. The audit is a public meeting and proper notice must be provided at least 48 hours in advance. A representative sample of reporting units that use each type of voting equipment are included in the selection process.¹¹ The parameters of each audit are established by the Commission, and the Commission members voted to expand their own requirements at the last general election by requiring the audit of equipment in 10% of the statewide reporting units.

During this process, elections workers conduct an independent hand count of paper ballots and tally the results of the contests. The final hand-count tally total is compared to the election night voting system results. Audit materials are submitted to the Commission for review. Any discrepancies are investigated by Commission staff. Commission staff may request that a vendor investigate and provide explanations for any unexplained discrepancies. The Commission may, at its sole discretion, choose to re-test any voting system should unexplainable issues arise in the audit.

Both pre-election testing and post-election audits have repeatedly confirmed the accuracy of electronic voting equipment used in Wisconsin.

¹¹ See Wis. Stat. § 7.08(6), which is the state embodiment of § 301(a)(5) of HAVA.