



Wisconsin Elections Commission

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Wisconsin Elections Commission
Special Teleconference Meeting
201 W. Washington Avenue, Second Floor
Madison, Wisconsin
9:00 a.m. March 20, 2024

Open Session Minutes

Present: Commissioner Marge Bostelmann, Commissioner Ann Jacobs, Commissioner Don M. Millis, Commissioner Carrie Riepl, Commissioner Robert Spindell Jr., and Commissioner Mark Thomsen, all by teleconference.

Staff present: Joel DeSpain, Sharrie Hauge, Brandon Hunzicker, Robert Kehoe, Anna Langdon, Riley Vetterkind, Riley Willman, Jim Witecha, and Meagan Wolfe, all by teleconference.

A. Call to Order

Commission Chair Millis called the meeting to order at 9:01 a.m. and called the roll. All Commissioners were present.

B. Administrator's Report of Appropriate Meeting Notice

Administrator Meagan Wolfe informed the Commission that the meeting was noticed in accordance with Wisconsin's open meetings laws.

C. Approval of Previous Meeting Minutes

a. February 8, 2024

b. March 12, 2024

MOTION: Approve the minutes from February 8, 2024, and March 12, 2024.

Moved by Commissioner Bostelmann. Seconded by Commissioner Riepl.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

D. Discussion and Possible Action Pertaining to Uniform Instructions for Absentee Voters (Particularly UOCAVA Voters who Receive a Ballot by Mail).

Wisconsin Elections Commissioners

Don M. Millis, chair | Marge Bostelmann | Ann S. Jacobs | Carrie Riepl | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Election Supervisor Riley Willman reviewed the item before the Commission.

MOTION: The Wisconsin Elections Commission approves and prescribes the Uniform Instructions for Military and Overseas Absentee Voters (Mail) (EL-128UP), as shown in Appendix A for UOCAVA voters who request to receive their ballot by mail for all future elections. Staff are directed to update all Commission resources with this guidance and to notify clerks of this change.

Moved by Commissioner Jacobs. Seconded by Commissioner Thomsen.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

E. Review and Possible Action on Proposed Agency Administrative Rule: Uniform Instructions Rule (Wis. Admin. Code Chapter EL 6).

Chief Legal Counsel Jim Witecha reviewed the item before the Commission.

Discussion.

MOTION: The Wisconsin Elections Commission approves the proposed rulemaking drafts for SS 093-23 and SS 094-23 for emergency and permanent rulemaking relating to the mandatory use of uniform instructions for absentee voting. The Commission directs staff to submit the final draft emergency rule, SS 094-23, to the Governor, who must provide written notice of approval. Wis. Stat. § 227.24(1)(e)1g. Following gubernatorial approval, the Commission further directs staff to prepare a plain language analysis of the rule to be printed with the rule when published in the official state newspaper and with the Legislative Reference Bureau. Wis. Stat. § 227.24(1)(c), (d), (e) 1m., and (2). Finally, the Commission directs staff to proceed with the necessary permanent rulemaking steps for SS 093-23.

Moved by Commissioner Jacobs. Seconded by Commissioner Riepl.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

F. Review and Possible Action on Proposed Agency Administrative Rule and Public Notices: Election Observer Rule and Associated Economic Impact Analysis (Wis. Admin. Code Chapter EL 4)

Staff Attorney Brandon Hunzicker reviewed the item before the Commission. He noted that, after soliciting comment on the Economic Impact Analysis (EIA) for the election observer rule, he received one comment from City of Racine Clerk, Tara McMenam. He introduced Clerk McMenam to present her comments to the Commission.

Discussion.

Attorney Hunzicker and Chair Millis clarified that Clerk McMenamain was invited to present to satisfy Wis. Stat. § 227.137(3), which states that, “The agency or person shall prepare the economic impact analysis in coordination with local governmental units that may be affected by the proposed rule.”

Discussion.

Clerk McMenamain appeared and presented her disagreement with the Commission’s fiscal estimate for the observer rule as it pertained to EL 4.03(8): The designated election official shall permit an observer access to any available chair within the observable location and with the same access to restrooms available to election officials at the observable location.

Discussion.

MOTION: Staff shall update the draft rule order and finalize the EIA as directed by the Commission during this meeting. Staff shall finalize the draft notice for the hearing and comment period and the draft notice of submission to the rules clearinghouse as directed by the Commission during this meeting, and take all necessary steps to publish those notices in the administrative register and as needed to provide the public with notice of the hearing as directed during this meeting. Staff shall send the notice of hearing to the secretary of administration. Staff shall submit the EIA to the Department of Administration, the governor, and to the chief clerks of each house of the legislature. Staff shall submit the Draft Rule Order and EIA and Fiscal Estimate to the Legislative Council’s Rules Clearinghouse.

Moved by Commissioner Spindell. Seconded by Commissioner Thomsen.

The Commissioner clarified that the motion was moved with the understanding that Attorney Hunzicker would update section 13 of the EIA to note that the Commission considered the comments Clerk McMenamain submitted disagreeing with the fiscal estimate of the Commission, but the Commission’s opinion did not change.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

Discussion.

G. Discussion, Review, and Possible Action Pertaining to the Recount Procedures Manual for County/Municipal Clerks.

Chief Legal Counsel Jim Witecha reviewed the item before the Commission.

Discussion.

The Commission took a break at 10:41 a.m. and returned at 10:50 a.m.

Discussion.

MOTION: On page 82 of the recount manual, replace the stricken paragraphs at the top of the page with, “Review of absentee ballot applications is not the purview of the Board of Canvassers conducting a recount pursuant to Chapter 9. Any absentee ballot application forms are subject to open records requests.”

Moved by Commissioner Jacobs. Seconded by Commissioner Riepl.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	No
	Millis:	Aye	Thomsen:	Aye

Motion carried 5-1.

Discussion.

MOTION: Adopt the changes to the recount manual on which there was consensus, subject to a review by the Chair and Commissioner Jacobs. Direct staff to make the required changes to the EL- 186 and EL-186R forms: Sample Recount Petition and Sample Recount Petition for Referendum: list the correct physical address and zip codes for the physical address and PO Box; update the revision date. The Commission prescribes the EL-186 and EL-186R forms as revised.

Changes to the recount manual:¹

- Create a definition section and put it before the “Procedures for Requesting a Recount” section.
 - Aggrieved candidate (Page 69)
 - Leading candidate (Page 69)
 - Territory (Page 69)
 - Filing officer (Page 73)
 - Determine (Page 73)
 - Original election materials (Page 78)
 - Probable absentee ballots (Page 84)
- Page 69: Under “How is a Recount Requested?” replace “A recount is requested by filing a valid, sworn petition with the filing officer or, in the case of a referendum, with the clerk of the jurisdiction in which the referendum is called,” with, “A recount of an election is requested by filing a valid sworn petition with the filing officer. A recount of a referendum is requested by the filing of a valid sworn petition with the clerk of the jurisdiction.”
- Page 69: Under “What is a Recount Petition?” re-word the section to clarify that a recount may be requested for a recount or a referendum.
- Page 69: Define “aggrieved candidate” and “leading candidate.” Specify requirements for various races.
- Page 69: Define “territory.”
- Page 70: Include the footnote in the regular text as its own section.

¹ Page numbers correspond to the Commission’s materials for this meeting.

- Page 71: Break “When is a Filing Fee Required?” into sub-parts: For recount of an election; For recount of a referendum. Update the table of contents to reflect the sub-parts.
- Page 73: Define “filing officer.”
- Page 73: Under “When Must the Petition be Filed?” break out the deadlines, clarify the language (“The filing deadline is...”).
- Page 73: Move “Campaign Finance Note” under, “When Must the Petition be Filed?”
- Page 74: Reword the highlighted language: “While not required, if the following morning is a Saturday, Sunday, or holiday, the Wisconsin Elections Commission recommends that the board of canvassers may begin the recount on the Saturday, Sunday, or holiday.”
- Page 74: Under “What Happens When the Petition is Properly Filed?” clarify whether a petition can be sent and delivered electronically. Make the same clarification in “When Does the Recount Begin?” If so, include language requiring confirmation of receipt.
- Page 76: Clarify that the designated primary representative to the board of canvassers can change or defer to others, as long as one person at a time is speaking for the campaign.
- Page 76: In the first sentence of the third paragraph, change “canvass board members” to “members of the board of canvassers.” In the second to last sentence of the third paragraph, change “board” to “board of canvassers.”
- Page 77: Include the footnote in the regular text.
- Page 78: Include direction to notice the recount process in the manual before the requirement to include whether proper notice was given in the minutes.
- Page 78: Define “original election materials.”
- Page 79: Include the footnote in the regular text.
- Page 80: Strike “also” in the first full sentence.
- Page 80: Break the language specifying what needs to be in the minutes into its own section: “The Keeping of Minutes.” Consolidate the first full sentence and the last sentence of the first paragraph of “How Does the Board Conduct the Recount?” into this section.
- Page 80: Reword the second full sentence: “A court reporter may be helpful and assist in recording the actions of the recount.”
- Page 80: Under “How Does the Board Conduct the Recount?” label the listed items as numbered steps. Indent the check boxes to indicate sub-steps.
- Page 80: Remove sub-step in Step 2 (already contemplated in Step 1).

- Page 82: Change “Review Rejected Absentee Ballots” to “Remove Rejected Absentee Certificate Envelopes” and change “Examine Absentee Ballot Envelopes” to “Examine Absentee Ballot Certificate Envelopes.”
- Page 82: Remove references to the colors of carrier envelopes, provided those envelopes are not required to be the colors specified.
- Page 84: Define “probable absentee ballot.”
- Page 84: Clarify the headings to differentiate separating probable absentee ballots from reconciling the number of absentee ballots with the number of certificate envelopes and the number of written applications.
- Page 86: Delete “Review Provisional Ballots.”
- Page 86: Under “Count the Votes,” list instructions for hand count and optical scan count separately.
- Change references to “optical scan” to “electronic voting systems.”
- Page 86: Put the first paragraph of “Count the Votes” at the bottom of the section.
- Page 87: Change “Hand Count” to “Tabulating Votes by Hand Count” and indent the sub-steps. Change “Optical Scan” to “Tabulation by Electronic Voting System.”
- Page 89: Revise the highlighted language to conform to statute more closely.
- Page 89: Add to the “Count the Votes” section: when recounting votes by hand or by electronic voting system is permitted. List “Tabulation by Electronic Voting System” instructions before “Tabulating Votes by Hand Count.”
- Page 92: In the paragraph above “How Does a Candidate or Petitioner Challenge the Recount Results?” clarify “final.”
- Page 95: Update the physical address for the Wisconsin Elections Commission and list the correct zip code for both the physical address and the PO box.
- Pages 104-105: Make both Recount Checklists consistent with the steps laid out in the manual and the table of contents.

Moved by Commissioner Thomsen. Seconded by Commissioner Riepl.

FRIENDLY AMENDMENT: Direct staff to create a separate email address to receive electronic copies of recount documents.

Proposed by Commissioner Jacobs. Agreed to by Commissioner Thomsen and Commissioner Riepl.

The Commission voted on the motion as amended:

Roll call vote: Bostelmann: Aye Riepl: Aye

Jacobs: Aye Spindell: Aye
Millis: Aye Thomsen: Aye

Motion carried 6-0.

H. Closed Session

MOTION: Adjourn into closed session.

Moved by Commissioner Bostelmann, Seconded by Commissioner Jacobs.

Roll call vote: Bostelmann: Aye Riepl: Aye
Jacobs: Aye Spindell: Aye
Millis: Aye Thomsen: Aye

Motion carried 6-0.

The Commission left open session at 12:04 p.m.

I. Adjourn

The Commission adjourned in closed session at 1:46 p.m.

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March 20, 2024, Wisconsin Election Commission meeting minutes prepared by:



Anna Langdon, Help Desk Staff

April 11, 2024

March 20, 2024, Wisconsin Election Commission meeting minutes certified by:



Carrie Riepl, Commission Secretary

April 11, 2024