



Wisconsin Elections Commission

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Wisconsin Elections Commission
Special Teleconference Meeting
201 W. Washington Avenue, Second Floor
Madison, Wisconsin
8:00 a.m. May 14, 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: Ahna Barreau, Joel DeSpain, Sharrie Hauge, Brandon Hunzicker, Anna Langdon, Angela Sharpe, Riley Vetterkind, Jacob Walters, Riley Willman, Jim Witecha, and Meagan Wolfe, all by teleconference.

A. Call to Order

Commission Chair Millis called the meeting to order at 8:07 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. April 11, 2024

MOTION: Approve the April 11, 2024 open session minutes.

Moved by Commissioner Riepl. Seconded by Commissioner Jacobs.

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

Motion carried 6-0.

D. Discussion and Potential Action Related to the Wis. Stat. § 5.62(2)(a) Petition from the "No Labels Wisconsin" party for Ballot Status

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

Elections Supervisor Riley Willman reviewed actions taken by the WEC and the No Labels Wisconsin party concerning their petition for ballot access and noted that their petition was ultimately withdrawn.

MOTION: The Commission considers the ballot status petition for No Labels Wisconsin withdrawn. No Labels Wisconsin will, therefore, not be considered for ballot status and shall not appear on ballots for partisan elections in 2024 and 2025.

Moved by Commissioner Thomsen. Seconded by Commissioner Spindell.

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

Motion carried 6-0.

E. Consideration and Approval of Ballot Proofs for the August and November, 2024, Elections

Riley Willman presented the agenda item and noted that the Commission's recommended motion pertained to the ballot templates circulated after No Labels Wisconsin withdrew their ballot status petition, which do not reference No Labels Wisconsin.

Discussion.

MOTION: The Commission approves the ballot design presented by staff and directs staff to utilize the ballot design for the 2024 Partisan Primary and General Election.

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.

The Commission revisited this item at 3:03 p.m. after they returned from closed session to address the impact of the special election in Congressional District 8 on ballot templates within that district.

Discussion.

MOTION: The Commission approves the ballot design presented by staff and directs staff to utilize the ballot design for the 2024 Partisan Primary and General Election. This motion applies statewide except the 8th Congressional District.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

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

Millis: Aye Thomsen: Aye

Motion carried 6-0.

F. Discussion and Potential Action Related to HAVA Grant Fund Spending Plan

Administrator Wolfe presented the memo for the agenda item, reviewing the staff's process to evaluate potential uses for the funds, the proposals for the funds, and next steps in the process to receive the funds. The motion refers to the information presented in the staff memo.

Discussion.

MOTION:

1. The Commission directs WEC staff to submit a Wis. Stat. § 16.54 request to the Department of Administration requesting the acceptance of HAVA election security grant funds.
2. The Commission directs WEC staff to develop and implement the three proposed programs, as outlined above, to make use of the 2024 HAVA election security grant funds.
3. The Commission directs WEC staff to submit the 2024 HAVA Security Grant spending plan to the EAC outlining the concepts outlined above.
4. The Commission directs staff to reopen the Elections Security .gov Email Domain subgrant program, previously authorized on January 11, 2022, and to continue administration of the subgrant until December 1, 2025. This iteration of the subgrant will be funded with \$100,000 from 2024 HAVA grant funds plus the approximately \$98,000 of unallocated funds remaining from previous iterations of the subgrant program. Staff may modify grant terms to clarify that all costs associated with the transition to a .gov domain are eligible for reimbursement, to include the cost of maintaining the jurisdiction's previous domain during transition. Staff are authorized to delay reopening of the subgrant window through the November 2024 General Election, but subgrant eligibility will remain retroactive to the original authorization date of January 11, 2022.

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

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

Motion carried 5-1.

G. Discussion and Potential Action: UOCAVA Policy and Questions

Administrator Wolfe and Staff Attorney Angela Sharpe presented the agenda item.

Discussion.

MOTION: The Commission directs WEC staff to bring changes to WEC manuals and any draft guidance, consistent with the recommendation in section C.(1) of this memo, for the Commission’s consideration and approval, at the June 27, 2024 meeting.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

H. Review and Possible Action on Agency Administrative Rules

a. Emergency Polling Place Plan (Chapter EL 15)

Chair Millis noted that the Commission would not address this rule at the meeting.

b. Certification and Training of Municipal Clerks (Chapter EL 12)

Staff Attorney Brandon Hunzicker updated the Commission on the status of the rule withing the rulemaking process and reviewed the Commission’s materials regarding the item.

Chair Millis noted the date of the public hearing coincided with the timeline for challenges to nomination papers filed in districts where the incumbent did not file either nomination papers or a declaration of noncandidacy. Administrator Wolfe and Attorney Hunzicker confirmed that staff could handle both commitments at the same time.

Commissioner Spindell confirmed that the motion pertained to the rule text on page 37 of the Commission’s materials.

Commissioner Spindell questioned whether the underlined text in EL 12.01(5) should be clarified to say that the statewide voter registration system is part of a larger system called WisVote. Commissioner Jacobs noted that this part of the rule was included to implement a recommendation by the Legislative Audit Bureau that the statewide voter registration system be referred to as “WisVote” in EL 12.

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 Thomsen. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

c. Challenge Procedures for Nomination Papers and Declarations of Candidacy (Chapter EL 2)

Attorney Sharpe presented the agenda item.

Nomination Paper Challenge Rule Revisions

EL 2.05(1)(e)

A consensus was reached to remove “other reliable evidence” from the last line and insert the word “or” between “affidavit” and “declaration.”

EL 2.05(1)(g)

A consensus was reached to include cross references to §§ 6.02 and 6.03.

EL 2.05(1)(q)

Attorney Sharpe noted there were three proposals for the definition of “substantial compliance” on page 48 of the Commission’s materials.

Commissioner Jacobs voiced support for the first proposal because it was taken from other parts of administrative code.

Chair Millis agreed with her reasoning but suggested adopting the first two sentences of the second proposal. Commissioner Jacobs expressed concern that the second proposal does not address an intention to comply with the statutes.

Chair Millis suggested, “‘substantial compliance’ means actual compliance in respect to every reasonable objective of the statute. Substantial compliance with a statute is not shown unless it demonstrates intent to comply with the statute and the purpose of the statute is shown to have been served.

Commissioner Jacobs and Commissioner Spindell expressed support for that definition.

Discussion.

Commissioner Thomsen expressed support for the definition with the understanding that under the definition, a candidate’s intent would be considered when determining substantial compliance.

EL 2.05(4)(c)(1)

Discussion.

Commissioner Jacobs suggested, “Defects in the header of a nomination paper may not be changed or amended by affidavit after the paper has been circulated.” Chair Millis agreed with this.

EL2.07(01)(b)

Commissioner Jacobs agreed with the proposed definition of “Business Day” but suggested including a definition of “Calendar Day” as well.

Discussion.

Chair Millis suggested defining a calendar day as “every calendar day,” and noting that it is up to the Administrator or Commission to decide whether a deadline can fall on a weekend or holiday.

Discussion.

Chair Millis suggested defining calendar days to include weekends and holidays. Commissioner Jacobs agreed.

Commissioner Jacobs suggested incorporating the definition into EL 2.05 rather than both EL 2.05 and EL 2.07 because the definitions in EL 2.07 already incorporate those in EL 2.05.

EL 2.07(1)(e)

Discussion.

Commissioner Thomsen suggested leaving the language as is.

Chair Millis suggested changing “arguments/facts” to “arguments or facts.” Commissioner Jacobs agreed.

EL 2.07(1)

Discussion.

None of the Commissioners objected to Chair Millis’s proposal on page 49 of the Commission’s materials.

Commissioner Jacobs suggested starting the subsections for EL 2.07 at (1) instead of (01).

New Challenge Filing and Response Deadlines

Commissioner Thomsen, Commissioner Spindell, and Commissioner Riepl expressed disagreement with the proposed deadlines.

There was no consensus on the proposal. Attorney Sharpe noted she would delete any provisions impacted by this proposal.

EL 2.07(2)(i)

Commissioner Jacobs agreed with Chair Millis's proposal on page 50 of the Commission's materials.

The other Commissioners did not object to the proposal.

Commissioner Spindell suggested including language requiring filing officers to provide instructions to candidates on how to check their email and voicemail for notification that a challenge has been filed against them. There was no consensus on this proposal.

Commissioner Jacobs suggested allowing challengers to be notified of their right to submit a rebuttal, that it is encouraged to be in writing, and that it must be submitted electronically at least 24 hours before the ballot access meeting. She clarified that staff do not have to analyze the rebuttals. Attorney Sharpe indicated she could amend EL 2.07(2)(c)2 to include notice to the candidate that they have the right to submit a rebuttal.

Discussion.

MOTION: The Wisconsin Elections Commission directs staff to implement edits to the proposed rulemaking draft for SS 091-23 and SS 092-23 for emergency and permanent rulemaking relating to the nomination paper challenge procedure rule consistent with the discussion during the meeting, and to bring back a revised version of the rulemaking draft for Commission review and approval at an upcoming meeting.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

Declaration of Candidacy Challenge Procedure Rule

Discussion.

Commissioner Jacobs pointed out a typo on page 75: "original nomination papers" in EL 2.06(2)(b) should be "original declaration of candidacy."

Discussion.

Chair Millis suggested the first line of EL 2.06(2)(b) read, "Except as provided herein, all declarations of candidacy shall be in the physical possession of the filing officer by the statutory deadline."

Commissioner Jacobs suggested EL 2.06(2)(c) read, "An amended declaration of candidacy filed pursuant to s. 8.21(6) is timely filed provided the original declaration of candidacy was filed by the statutory deadline."

Chair Millis noted that EL 2.06(2)(b) on page 76 of the Commission's materials should be EL 2.06(2)(c).

Discussion.

Commissioner Jacobs suggested that EL 2.06(3)(d) be clarified to indicate that any insufficient information that is not provided on the declaration of candidacy means the declaration of candidacy is incomplete or insufficient.

Commissioner Thomsen suggested that EL 2.06(3)(d) read, “A declaration of candidacy is complete if it meets all the requirements of s. 8.21.”

Chair Millis suggested adding language indicating that the information must be there and if it isn’t, then the filing officer shouldn’t accept it.

Discussion.

MOTION: The Wisconsin Elections Commission directs staff to implement edits to the proposed rulemaking draft for SS 089-23 and SS 090-23 for emergency and permanent rulemaking relating to the declaration of candidacy challenge procedure rule consistent with the discussion during the meeting, and to bring back a revised version of the rulemaking draft for Commission review and approval at an upcoming meeting.

Moved by Commissioner Thomsen. Seconded by Commissioner Riepl.

Discussion.

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

Motion carried 5-1.

Commissioner Thomsen made a point of personal preference.

d. Uniform Instructions (Chapter EL 6)

Attorney Sharpe provided an update on the status of the rule regarding the uniform instructions.

I. Discussion, Review, and Possible Action Related to the Uniform Instructions for Wisconsin Absentee Voters

Elections Supervisor Riley Willman presented the agenda item.

MOTION: The Wisconsin Elections Commission approves and prescribes the Spanish language versions of the Uniform Instructions for Wisconsin Absentee Voters (EL-128, EL-128cc, EL-128u, and EL128up), as shown in Appendices A-D for all voter classifications and absentee voting process types. Staff are directed to update all Commission resources with this guidance and to notify clerks of this change.

Moved by Commissioner Thomsen. Seconded by Commissioner Riepl.

Discussion.

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

Motion carried 6-0.

J. Discussion and Potential Action Related to the Creation and Implementation of Section 7, (1) and (2), of Article III of the Wisconsin Constitution

This agenda item was taken out of order. Discussion began at 4:11 p.m.

Chief Legal Counsel Jim Witecha presented the agenda item. He noted that there was no recommended motion from staff.

Discussion.

MOTION: Direct staff to draft a scope statement pertaining to Section 7, (2), with minimum staff hours and the understanding that guidance on the topic will be released first.

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

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

Motion carried 6-0.

Commissioner Jacobs directed Administrator Wolfe to put together a calendar containing all ballot access deadlines, including those for the special elections for Senate District 4 and Congressional District 8.

The Commission scheduled a special meeting for Thursday, May 16 at 10:00 a.m.

K. Discussion, Planning and Scheduling for the June 10, 2024, Ballot Access Meeting

Attorney Hunzicker presented the agenda item and explained the need for discussion and action on the topic.

Discussion.

MOTION:

1. The official hours of the Wisconsin Elections shall include June 8 and June 9, to be staffed at the discretion of the administrator.
2. Any response to a challenge shall be due no later than 4:30 p.m. on June 9.
3. The meeting of the Commission on June 10 shall begin at 10:00 a.m.

Moved by Commissioner Jacobs. Seconded by Commissioner Spindell.

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

Motion carried 6-0.

MOTION: As to any incumbent not filing nomination papers who also fails to file a declaration of noncandidacy, the deadline to file a challenge will be 4:30 p.m. on June 9 and the deadline to file a response will be 4:30 p.m. on June 12.

Discussion.

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

Motion carried 6-0.

L. Closed Session

a. Approval of Previous Meeting Minutes

i. February 8, 2024

ii. March 20, 2024

iii. April 11, 2024

b. Litigation Update and Consideration of Potential Litigation

c. Wis. Stat. § 5.05 Complaints

This agenda item was taken out of order and occurred within discussion of Item H. Discussion began at 10:50 a.m.

MOTION: Adjourn into closed session pursuant to § 19.85(1)(g) and § 19.851.

Moved by Commissioner Thomsen. Seconded by Commissioner Spindell.

Chair Millis noted the Commission would likely return to open session around 2:30 p.m.

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 10:51 a.m. and returned at 3:03 p.m.

M. Adjourn

MOTION: To adjourn.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

The Commission adjourned at 4:36 p.m.

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May 14, 2024, Wisconsin Election Commission meeting minutes prepared by:

Anna Langdon, Help Desk Staff

June 10, 2024

May 14, 2024, Wisconsin Election Commission meeting minutes certified by:

Carrie Riepl, Commission Secretary

June 10, 2024