



Wisconsin Elections Commission

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Testimony of Meagan Wolfe Administrator Wisconsin Elections Commission

**Assembly Committee on Campaigns and Elections
March 31, 2021**

**417 North, State Capitol
Public Hearing**

Chairperson Brandtjen and Committee Members:

Thank you for the opportunity to testify before the Assembly Committee on Campaigns and Elections today. We are less than a week before a statewide election, our fifth statewide election, under pandemic conditions in the span of a year, so I appreciate your consideration in placing me at the start of the agenda. I will always find time to speak with the Elections Committees and hope that there will be more opportunities to discuss both the mechanics of the 2020 elections and election administration in general as the Legislature considers changes for the future. Conversations about elections can sometimes be difficult and complex, but it is my job, and privilege, to provide you with the facts about how elections work and to be as helpful as I can in providing you the data you need to make decisions.

In responding to today's invitation, I provided a brief letter to Chairperson Brandtjen outlining what I am authorized to provide to the Committee today. I will not repeat the letter verbatim, but I want to provide the same clarity to the full committee. As the non-partisan administrator of the Elections Commission, I can provide you with factual information about the administration of elections, especially as it pertains to Green Bay as is noticed for today's meeting. I cannot offer my opinion or speculation on actions of individual municipalities. I am glad to discuss any of the emails between WEC staff and the City of Green Bay and other entities identified in Chair Brandtjen's public records request.

I will not be able to comment on any emails between municipalities and other entities in which WEC was not involved, especially if there are questions about whether communications or procedures were proper. The same applies to decisions made by municipalities within their municipal governance structure. It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully. Such determinations would need to be considered by the six-member Wisconsin Elections Commission in the form of a sworn complaint under Wis. Stat. § 5.05 or a Wis. Stat. § 5.06. Other complaints related to this matter may come before the Commission in the future. For that reason, I must avoid

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Administrator
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discussions that are outside my delegated or statutory authority or that could prejudice related matters.

As the non-partisan administrator of the WEC, my authority is limited to providing comment on factual information on administration of elections from the state's vantage point and related to responsibilities outlined under Wis. Stat. §5.05 and §7.08. I am also limited to discussions of election related statutes. The Wisconsin Elections Commission is charged with administering chapters 5-10 and 12 of Wisconsin State Statutes. WEC does not have jurisdiction over other statutory provisions that may be related to municipal funding or grants, hiring practices or questions related to compatibility of office.

Members of this Committee have asked the WEC for copies of emails and other communications between our staff and the City of Green Bay, Brown County, and third-party groups during a period of August 1, 2020 through November 20, 2020. We have been glad to respond quickly to these requests. What these emails illustrate is that the WEC staff was working to help ensure that local election officials had the information and resources they needed to administer a successful election in November.

My testimony today will focus on two areas that are likely to generate questions from the Committee and public. The first relates to WEC's understanding of municipalities accepting private grant funds. The second relates to WEC's understanding of municipalities using temporary staff or consultants in elections.

Private Grant Funds

In relation to private grant funds, I would like to point out that this question was posed to the Commission and resolved in 2020 and was also litigated and ultimately dismissed. A complaint was filed before the Commission last year questioning whether some jurisdictions could accept and use private grant funds. The Commission dismissed the complaint because it did not raise an issue covered by election statutes. In dismissing this complaint, the Commission determined there is nothing in Wisconsin State Statutes chapters § 5-10 and 12 which prohibits, prescribes, or even discusses grant funding.

After that complaint was dismissed, the complainant also initiated litigation against the WEC regarding private grants funds. The Wisconsin Voters Alliance filed a petition for original action in the Wisconsin Supreme Court. The Wisconsin Supreme Court denied the petition in early December 2020. Additionally, while WEC was not a party to this lawsuit, the Wisconsin Voters Alliance and other members of the public filed a lawsuit in federal court prior to the November election against the five largest jurisdictions in the state about receiving private grant funding. The Court in the Eastern District of Wisconsin denied a motion for an injunction on use of the funds. The 7th Circuit Court of Appeals similarly denied a motion for an injunction pending appeal. The United States Supreme Court denied an application for injunctive relief in late October 2020.

WEC was not involved in municipalities applying for or receiving private grant funds. WEC did not inform clerks about the private grants and did not promote them. Acceptance of grant funds by a municipality is a municipal decision that is subject to a municipality's approval structure, be it by the clerk's supervisor, mayor, City Council, or Town or Village Board. Whether statutes should regulate private election grants in the future is up to the Legislature to decide.

WEC did administer four federal election sub-grants to municipalities and counties over the last two years. This included more than \$4 million in federal CARES grant funds which were available to each municipality and county, using a per-capita formula approved by the Commission. The municipalities were able to use these funds in accordance with the terms of the federal grant to address COVID-19 related election needs such as purchasing sanitation supplies or undertaking voter education efforts. The funds could also be used to off-set costs due to the higher volume of by-mail absentee voting including postage costs, envelope purchases, mail processing services, ballot processing equipment, or the hiring additional staff.

Consultants

Secondly, nothing in state law prohibits the use of consultants by a municipal or county clerk. Local officials are always looking for ways to improve efficiency and service to their communities, so it is not uncommon for them to look for best practices and expertise in Wisconsin and around the United States. Many clerks turned to WEC for advice, and our staff answered questions from Green Bay and many of Wisconsin's other 1,849 municipalities throughout 2020. From August through Election Day, WEC's staff of 31 FTE and a handful of temporary staff responded to more than 100,000 phone and email contacts.

After the onset of the COVID-19 pandemic, Wisconsin's municipal clerks were forced to make major adjustments to their processes, scaling up to meet demand for absentee by mail that went from a historical average of 6% of voter participation to more than 60% in April 2020. Their systems, supplies, equipment, and workforce all had to be scaled to run a completely new type of election in a matter of months. Some local election officials and their governing bodies chose to seek assistance from third-party groups, including former or retired clerks and other experts in efficiency and automation.

In one email chain, the City of Milwaukee shared its positive experiences working with Hillary Hall, a former local election official associated with the Vote at Home Institute, to help them identify areas to consider when processing an unprecedented number of absentee ballots. Other states have had experience adapting their equipment and procedures for a higher volume of absentee by mail, changes that in those states happened over years and in our state needed to happen in weeks and months. WEC's knowledge of Vote at Home was only that there were former election officials who may be available to discuss these changes with other local election officials. At no point was any endorsement made of their services. The email was only sent to four municipal clerks. Clerks do have the authority to administer the election in their jurisdiction and to decide whom they would like to hire or consult with as the chief election official of their municipality.

Ultimately, the email chain ends with the City of Green Bay clerk's reply that she was already aware of the resource and has already begun working with them. Hiring and consulting for elections departments, just like a finance department or a parks department, is subject to home rule, and the municipal governance structure of each city, town, and village. Like a streets department may bring in seasonal help, or a consulting engineer for a major project, clerks are also able to determine, within their municipal authorization hierarchy, if they need additional assistance or expertise to address a new challenge.

On two occasions, Brown County Clerk Juno contacted WEC staff with her concerns about the grant and the role of consultants in Green Bay. In response to Clerk Juno's concerns, our staff counsel promptly provided information and asked for any additional evidence to support her concerns. I also personally called the Green Bay Deputy Clerk prior to the election and on

Election Day to confirm that the clerk's office was making the election decisions, and at no time was any concern brought to my attention. On Election Day, I again called the Green Bay Deputy Clerk in response to Clerk Juno's concerns about a consultant at central count. At that time, we discussed the appropriate roles for election officials and observers at the polls and central count and I was informed that the municipal consultant in question had been asked to leave central count. At no time during my conversations with the county or the municipality was I presented with information that a consultant had overstepped the clerk's authority or that they were handling or correcting ballots or ballot certificates.

That concludes my prepared remarks, thank you again for inviting me here today. I look forward to future conversations with the committee and with committee members and I would be very pleased to take any questions that you have for me at this time.

Sincerely,

A handwritten signature in black ink that reads "Meagan Wolfe". The signature is written in a cursive style with a large, stylized 'M' and 'W'.

Meagan Wolfe
Administrator
Wisconsin Elections Commission