



Wisconsin Elections Commission

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Wisconsin Elections Commission
Special Teleconference Meeting
212 E. Washington Avenue, Third Floor
Madison, Wisconsin
9:00 a.m. June 2, 2021

Open Session Minutes

Present: Commissioner Ann Jacobs, Commissioner Marge Bostelmann, Commissioner Julie Glancey, Commissioner Dean Knudson, Commissioner Robert Spindell Jr., and Commissioner Mark Thomsen, all by teleconference.

Staff present: Meagan Wolfe, Richard Rydecki, Sharrie Hauge, Robert Kehoe, Nathan Judnic, Jim Witecha, Reid Magney, and Jacob Walters, all by teleconference

A. Call to Order

Commission Chair Ann Jacobs called the meeting to order at 9:00 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 proper notice was given for the meeting.

C. Minutes of Previous Meetings

Administrator Wolfe began by asking Reid Magney, Public Information Officer, to list the dates of meetings for which the minutes are being approved. Those dates are:

- | | | |
|-------------------------------|-------------------------------|------------------------|
| 1. February 27, 2020 | 10. April 6, 2020 (3:30 p.m.) | 19. September 1, 2021 |
| 2. March 12, 2020 | 11. April 6, 2020 (7:30 p.m.) | 20. September 16, 2021 |
| 3. March 18, 2020 | 12. April 10, 2020 | 21. October 20, 2020 |
| 4. March 26, 2020 | 13. April 18, 2020 | 22. November 18, 2020 |
| 5. March 27, 2020 | 14. May 20, 2020 | 23. December 1, 2020 |
| 6. March 29, 2020 | 15. May 27, 2020 | 24. March 2, 2021 |
| 7. March 31, 2020 (9:00 a.m.) | 16. June 3, 2020 | 25. April 5, 2021 |
| 8. March 31, 2020 (9:45 p.m.) | 17. June 17, 2020 | 26. April 29, 2021 |
| 9. April 2, 2020 | 18. June 24, 2020 | 27. May 22, 2021 |

Discussion.

Wisconsin Elections Commissioners

Ann Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

MOTION: The Wisconsin Elections Commission approves the corrected open session meeting minutes for the above referenced meetings.

Moved by Commissioner Glancey. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Glancey:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Knudson:	Aye	Thomsen:	Aye

Motion carried 6-0.

D. Personal Appearances

Barbara Beckert with Disability Rights Wisconsin and the Disability Vote Coalition appeared and shared some of her concerns regarding approval of the Dominion Democracy Suite voting systems and the impacts it would have on voters with accessibility needs.

Eileen Newcomer with the League of Women Voters appeared and urged the Commission not to use ERIC data to deactivate voter records, and to work with the legislature to establish automatic voter registration. Additionally, she also shared concerns regarding approval of the Dominion Democracy Suite voting systems.

Ardis Cerny appeared and expressed her concerns about election administration and voter list maintenance.

E. Consideration of Electronic Registration Information Center (ERIC) Processes

Discussion.

Chairwoman Jacobs informed Commissioners that their attorneys from the Wisconsin Department of Justice requested to meet with the Commission in closed session to discuss this agenda item. However, because this meeting was not noticed to return to open session following closed session, meeting with them in closed session was not possible today. She said this agenda item will be postponed until a later date.

Discussion.

MOTION: The Wisconsin Elections Commission postpones discussion of agenda item E., Consideration of Electronic Registration Information Center (ERIC) Processes, until a later date in the immediate future.

Moved by Commissioner Thomsen, Seconded by Commissioner Glancey.

Discussion.

MOTION TO AMEND: As availabilities are precisely known at this time very moment in time, the Chair and the Administrator will coordinate with Commission members to schedule a special meeting within the next few weeks to discuss this topic.

Moved by Commissioner Spindell.

Discussion.

MOTION TO AMEND REPHRASED: As availabilities are not precisely known at this very moment in time, Commission members will coordinate before the end of this meeting to schedule a date and time for discussion of this topic.

Rephrased by Chairwoman Jacobs. Accepted by Commissioner Thomsen and Commissioner Glancey.

AMENDED MOTION: The Wisconsin Elections Commission postpones discussion of agenda item E., Consideration of Electronic Registration Information Center (ERIC) Processes, until a later date in the immediate future, which will be scheduled before the end of this current meeting.

Roll call vote on amended motion:

Bostelmann:	Aye	Glancey:	Aye
Jacobs:	Aye	Spindell:	Aye
Knudson:	Aye	Thomsen:	Aye

Motion carried 6-0.

F. Voter Felon Audit Report

Discussion.

Administrator Wolfe introduced Senior WisVote Specialist Jodi Kitts, who made a presentation based on a staff memorandum starting on page 22 of the June 2, 2021 meeting materials packet. She discussed the multiple steps the WEC takes in cooperation with the Wisconsin Department of Corrections staff to review the data for accuracy prior to making criminal referrals to district attorneys.

Discussion. No Commission action was required.

G. Consideration/Approval of Report of Suspected Election Fraud, Irregularities or Violations

Administrator Wolfe introduced Staff Attorney Nathan Judnic, who made a presentation based on a staff memorandum starting on page 33 of the meeting materials packet. The report is required by statute, separate from the referrals the Commission may make to district attorneys' offices in September after a review of the ERIC data. Staff recommends the Commission approve the report for submission to the Legislature.

MOTION: Direct Commission staff to submit the attached cover letter and report titled "Report of Suspected Election Fraud, Irregularities or Violations" to the Legislature per Wis. Stat. §§ 7.15(1)(g) and 13.172(2).

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

Discussion.

Roll call vote: Bostelmann:	Aye	Glancey:	Aye
Jacobs:	Aye	Spindell:	Aye
Knudson:	Aye	Thomsen:	Aye

Motion carried 6-0.

H. Consideration/Approval of Dominion Voting Systems Democracy Suite 5.5-C and 5.5-CS

Administrator Wolfe began by introducing Deputy Administrator Richard Rydecki, and Election Administration Specialists Robert Williams and Cody Davies, who will be presenting on this item. She also mentioned that Chad Trice from Command Central, and Dominion Vice President of Government Relations Kay Stimson are present to assist and answer questions as well. Security Officer Tony Bridges was present also.

Election Administration Specialist Williams presented the staff report, which starts on page 39 of the meeting materials packet. started things off with a summary of the systems being considered and went over some noteworthy upgrades. He indicated that both systems are tested at the federal level by an EAC-approved voting systems test lab and that the Democracy Suite 5.5-C is in fact EAC certified. He continued with specifics related to the equipment itself and its testing in addition to technical aspects of the software.

Election Administration Specialist Davies provided a synopsis of the field testing that took place from April 26 through April 29, 2021, and on May 14, 2021. He reviewed with the Commission various anomalies that presented themselves during testing and how they were reconciled, as well as the outcome of results-transmission testing via the external modem. He noted that due to incorrect SIM cards being installed during the first round of testing in Washington County, the systems did not transmit results effectively. Upon a second round of testing, the systems performed up to acceptable standards. He also touched on the public demonstration that was held on April 22, 2021 both in-person and virtually, as well as the Voting Equipment Review Panel meeting of municipal and county clerks that well held that same day also.

Discussion.

MOTION: The Wisconsin Elections Commission adopts the staff's recommendations for approval of the DVS voting system's Application for Approval of Democracy Suite 5.5-C and 5.5-CS, including the conditions described below:

1. WEC staff recommends approval of DVS voting system Democracy Suite 5.5-C and 5.5-CS and components set forth in Appendix A of this report, as described below in item 3. This voting system accurately completed the three mock elections and was able to accommodate the voting requirements of the Wisconsin election process. This recommendation is based on the EAC certification, VSTL report provided by Pro V&V and on this voting system successfully completing Wisconsin functional testing as dictated by the *Voting*

Systems Standards, Testing Protocols and Procedures Pertaining to the Use of Communication Devices in Wisconsin.

2. WEC staff recommends that as a continuing condition of the WEC's approval, DVS may not impose customer deadlines contrary to requirements provided in Wisconsin Statutes, as determined by the WEC. In order to enforce this provision, local jurisdictions purchasing DVS equipment shall also include such a provision in their respective purchase contract or amend their contract if such a provision does not currently exist.
3. WEC staff recommends that as a continuing condition of the WEC's approval, that voting systems purchased and installed as part of Democracy Suite 5.5-C and 5.5-CS be configured in the same manner in which they were tested, subject to verification by the Commission or its designee. Once installed, the configuration must remain the same and may not be altered by DVS nor by state, county, or municipal officials except as approved by the Commission.
4. WEC staff recommends that ballots marked with ICE tabulator BMD, ICE X BMD, and ICE X DRE equipment be included as part of the pre-election public test. ICE X BMD ballots will not scan on the tabulation equipment and would have to be hand counted. However, staff recommends the inclusion of these ballots to confirm the programming on the BMD equipment.
5. WEC staff recommends that ICE X BMD be certified for hand counting only.
6. WEC staff recommends clerks and election inspectors ensure that external modems are secured prior to, during, and after every election, with proper chain of custody documentation utilized.
7. WEC staff recommends that election inspectors continue to check both the write-in bin and main ballot bin for validly cast write-in votes after the close of polls in each election, and not rely upon the optional write-in report.
8. WEC staff recommends that any absentee ballot returned by the tabulation equipment with an overvote or crossover vote notification must be reviewed by election inspectors prior to being overridden or remade. If necessary, ballots must be remade pursuant to approved procedures listed in the Election Day and Election Administration manuals.
9. WEC staff recommends that any absentee ballot returned that has been marked with red ink be remade by election inspectors prior to any attempt at processing on the tabulation equipment.
10. WEC staff recommends that as a continuing condition of the WEC's approval, that this system must always be configured to include the following options:
 - a. Automatic rejection of crossover and overvoted ballots with or without the option to override.

- b. Automatic rejection of all improper ballots except blank ballots.
 - c. Digital ballot images to be captured for all ballots tabulated by the system.
 - d. The ambiguous mark threshold be set to 12% minimum and 30% maximum, the same level at which it was tested.
 - e. Automatically return marked ballots to the voter for physical review prior to casting when marked using the ICE tabulator BMD function.
 - f. ICE X DRE voting devices must always be programmed allow for physical review and voter confirmation of ballot prior to casting.
 - g. Provide visual warning message, utilizing Commission approved language, to voters when overvotes and crossover votes are detected.
 - h. Voter ballot activation cards used as part of the ICE X BMD or DRE be reprogrammed after each use and set to expire after one hour.
 - i. ICE X BMD and DRE be programmed to present only one contest per page.
11. As part of this WEC certification, only equipment included in this certificate can be used together to conduct an election in Wisconsin. Previous system versions that were approved for use by the WEC, former Elections Board, or the former G.A.B. are not compatible with Democracy Suite 5.5-C and 5.5-CS and are not to be used in conjunction with the equipment components of Democracy Suite 5.5-C and 5.5-CS as submitted for approval. If a jurisdiction upgrades to Democracy Suite 5.5-C and 5.5-CS, it needs to upgrade each and every component of the voting system to the requirements of what is approved herein.
12. WEC staff recommends that as a condition of approval, DVS shall abide by applicable Wisconsin public records laws. If, pursuant to a proper public records request, the customer receives a request for matters that might be proprietary or confidential, customer will notify DVS, providing the same with the opportunity to either provide customer with the record that is requested for release to the requestor, or shall advise customer that DVS objects to the release of the information, and provide the legal and factual basis of the objection. If for any reason, the customer concludes that customer is obligated to provide such records, DVS shall provide such records immediately upon customer's request. DVS shall negotiate and specify retention and public records production costs in writing with customers prior to charging said fees. In absence of meeting such conditions of approval, DVS shall not charge customer for work performed pursuant to a proper public records request, except for the "actual, necessary, and direct" charge of responding to the records request, as that is defined and interpreted in Wisconsin law, plus shipping, handling, and chain of custody.

13. The Wisconsin application for approval contains a condition that requires the vendor to reimburse the WEC for all costs associated with the testing campaign and certification process. DVS agreed to this requirement on the applications submitted to WEC on September 3, 2020 requesting the approval of Democracy Suite 5.5-C and 5.5-CS.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

Discussion.

MOTION TO AMEND: With regard to the Dominion Democracy Suite 5.5-C and 5.5-CS, the Wisconsin Election Commission does not approve the use of external modems to transmit unofficial election night results to county offices.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

Discussion.

Roll call vote on the motion to amend:

Bostelmann:	No	Glancey:	No
Jacobs:	No	Spindell:	Aye
Knudson:	Aye	Thomsen:	No

Motion failed 4-2.

Discussion.

Roll call vote on the original motion:

Bostelmann:	Aye	Glancey:	Aye
Jacobs:	Aye	Spindell:	No
Knudson:	No	Thomsen:	Aye

Motion carried 4-2.

Discussion.

MOTION: The Wisconsin Elections Commission directs staff to prepare revisions to and updates to Appendix F of the WEC staff memorandum, Voting System Standards, Testing Protocols, and Procedures Pertaining to the use of Communication Devices, as it relates to applicable federal standards.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Discussion.

Roll call vote: Bostelmann: Aye Glancey: Aye
Jacobs: Aye Spindell: Aye
Knudson: Aye Thomsen: Aye

Motion carried 6-0.

Discussion.

The Commission recessed at 12:16 p.m. and reconvened at 12:40 p.m.

I. Commission Staff Update

Administrator Wolfe said the purpose of the Commission Staff Update agenda item is to provide Commissioners and the public with updates on staff activities and day to day operations. In her presentation, she spoke about the growth of the electronic pollbook program, BadgerBooks; commented on the process of post-election reconciliation and its importance; discussed 2021 agency projects; and discussed WEC's election security measures and initiatives.

Discussion.

1. Consideration/Approval of Internal Control Plan

Administrator Wolfe presented the Internal Control Plan, which starts on page 182 of the meeting materials packet. This statutorily required report of internal agency operations is submitted to the legislature annually. She noted that the plan and the internal control procedures are largely unchanged from the previous year, though it has been updated to reflect changes in staff and other minor changes.

Discussion.

MOTION: Approve the WEC Internal Control Plan and authorize staff to submit the Plan to the Chief Clerks of the Senate and Assembly for distribution to the appropriate standing committees. Also, direct staff to submit the annual internal control plan without Commission review if no changes are made from year to year.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Discussion.

FRIENDLY AMENDMENT: Approve the WEC Internal Control Plan and authorize staff to submit the Plan to the Chief Clerks of the Senate and Assembly for distribution to the appropriate standing committees.

Proposed by Commissioner Spindell. Accepted by Commissioner Knudson.

Discussion.

Roll call vote: Bostelmann: Aye Glancey: Aye
 Jacobs: Aye Spindell: Aye
 Knudson: Aye Thomsen: Aye

Motion carried 6-0.

Administrator Wolfe discussed the 2021-2023 WEC Biennial Budget. She noted that the Joint Committee on Finance has approved the agency's request for authority to access the funds it receives from the sale of voter information.

Discussion.

Administrator Wolfe reviewed the preparations being made in advance of the redistricting of congressional and state legislative districts.

Discussion.

Administrator Wolfe commented on agency training initiatives as well as customer service and Help Desk improvements.

Discussion.

Finally, Administrator Wolfe pointed out the upgrades that have been made to the complaint submission process. These upgrades clarify which complaints are reviewed and acted upon by the Commission, and which complaints function more as comments or feedback.

Discussion.

Commissioners agreed to schedule a meeting for Thursday, June 10, 2021, at 9:00 a.m. to discuss the postponed agenda item, Consideration of Electronic Registration Information Center (ERIC) Processes

J. Closed Session

MOTION: Move to closed session pursuant to Wis. Stat. §§ 19.851 and 19.85(1)(g) to discuss violations of election law and confer with counsel concerning litigation.

Moved by Commissioner Glancey. Seconded by Commissioner Bostelmann.

The Commission moved to closed session at 2:35 p.m. and adjourned in closed session at 5:15 p.m.

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June 2, 2021 Wisconsin Election Commission meeting minutes prepared by:

March 12, 2020 Wisconsin Election Commission meeting minutes certified by:

Marge Bostelmann, Commission Secretary

June 10, 2021

DRAFT