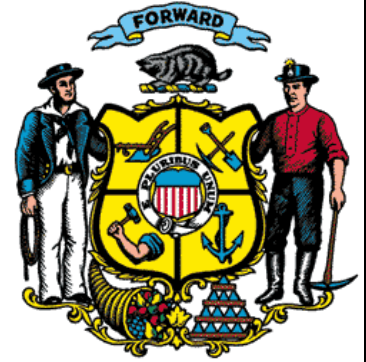




# State of Wisconsin Government Accountability Board



## Impediments Faced by Elderly Voters and Voters with Disabilities

June 2013



### Wisconsin Government Accountability Board

212 E. Washington Ave, 3<sup>rd</sup> Floor  
P.O. Box 7984  
Madison, WI 53707-7984

Phone: 608-266-8005  
Toll Free: 866-VoteWis  
E-mail: [gab@wi.gov](mailto:gab@wi.gov)  
Website: [gab.wi.gov](http://gab.wi.gov)

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## **Executive Summary**

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Wisconsin's state and local election officials are entrusted with the important responsibility of ensuring elections are conducted in a fair and impartial manner that engenders confidence in the integrity of the process. A key element in developing and maintaining that public trust is to make the election process accessible to all participants. This requires working with the entities that provide polling places to eliminate physical barriers to voting. It also means acquiring voting equipment that enables all citizens to cast an independent and secret ballot in a dignified manner, and providing information that enables all citizens to fully participate in the election process.

The purpose of this report by the Government Accountability Board ("Board" or "G.A.B.") is to describe impediments to voting encountered by elderly voters and voters with disabilities who seek to participate in elections conducted in the State of Wisconsin. This biennial report to the Legislature is required by §5.25(4)(d), Wisconsin Statutes. The concept for this report originated as one of several recommendations made by the Legislative Council's Special Committee to Review the Election Process. The Special Committee was established in 1998. This recommendation, along with several other election initiatives recommended by the Special Committee and the former State Elections Board, was enacted into law by 1999 Wisconsin Act 182.

The Government Accountability Board is required to consult with appropriate advocacy groups representing the elderly and disabled populations in the preparation of this report. Board staff met regularly with the Accessibility Advisory Committee in 2011 to identify issues of concern with the disability community and to assist in evaluating polling place accessibility. The Committee did not meet in 2012 due to staff turnover and other Board priorities, but has recently been reconvened with membership expanded to representatives from 10 advocacy groups.

During this reporting period, 2011-2013, Board staff focused on conducting on-site compliance reviews of polling places and updating municipal clerk training resources to incorporate accessibility-related materials. The number of on-site reviews was increased in response to a 2007 report from the Legislative Audit Bureau that recommended the Government Accountability Board "take steps to verify the accuracy of completed surveys" conducted and submitted to the Board by municipal clerks. Over the course of 16 elections, 1,614 on-site reviews were conducted by Board staff or representatives of the agency. Board staff reported results from these on-site reviews to each municipality and provided guidance and resources to facilitate compliance with the Americans with Disabilities Act (ADA) and the Help America Vote Act of 2002 (HAVA).

To accurately assess polling place accessibility in Wisconsin, Board staff implemented a program of on-site visits that utilized the Polling Place Accessibility Survey (Rev. 2009) as the foundation for an aggressive schedule of site audits. This survey was updated in coordination with representatives of disability advocacy groups and was previously distributed to all municipal clerks in February 2009 for use in mandatory self-reporting of accessibility compliance for each polling place in every Wisconsin municipality. The survey documents the degree of access to a polling place, including conditions related to the site's parking area, the actual voting area, and the exit. In response to inconsistencies in self-reported conditions and accessibility concerns identified by the Legislative Audit Bureau in 2007, Board staff

implemented a program to independently assess polling place accessibility, The Board's initiative is consistent with its responsibility, pursuant to §5.25(4)(a), Wis. Stats., to "ensure that 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."

At the time of preparation of this report, polling place accessibility audits have been conducted in 921 of Wisconsin's 1,852 municipalities, in 66 of the 72 counties in the state. The results of those audits have identified 3,786 findings that are considered high severity, meaning that these problems represent a barrier that, in and of itself, would be likely to prevent a voter with a disability from entering a polling place and casting a ballot privately and independently. In addition to those high severity findings, auditors have also reported 2,855 medium severity issues and 3,847 low severity issues, or conditions that add extra burdens to voting that are not faced by voters without disabilities.

In an effort to facilitate compliance with polling place accessibility standards, Board staff has implemented a grant program that provides accessibility-related materials and tools to municipalities. These supplies were purchased with federal funds provided through HAVA and are sent to requesting municipalities at no cost. To date, the G.A.B. has sent out 2,442 polling place accessibility supplies to 442 municipalities.

The Government Accountability Board will continue to work with the State's policymakers and local election officials to assure Wisconsin's voters that all polling places will be physically accessible. These improvements, promoted by changes in law, federal funding, and increased education, will move the State of Wisconsin toward eliminating all impediments faced by elderly and disabled voters.

**Kevin J. Kennedy**  
Director and General Counsel  
Wisconsin Government Accountability Board

## Legal Environment

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In 1965, Congress passed the Voting Rights Act (VRA), a sweeping civil rights law that attempted to address the challenges facing many voters, including those with disabilities. The VRA authorized voting assistance for voters with disabilities who would otherwise have difficulty casting a ballot, provided the assistor is not the voter's employer or agent of the voter's employment union. 42 U.S.C. § 1973aa-6. This requirement was subsequently codified in Wis. Stat. § 6.82.

In 1975, the Legislature amended the election code to permit voters with physical disabilities to cast a ballot at the door of the polling place if the polling place was not accessible to persons in wheelchairs. 1975 Wisconsin Act 275, § 3. That same legislation recognized physical disability as a basis for registering to vote by mail and voting absentee. 1975 Wisconsin Act 275, § 2. It also permitted voters with disabilities to request that an absentee ballot application be sent to them automatically for each election. *Id.*

In 1985, the Legislature required all polling places to be accessible to persons in wheelchairs. 1985 Wisconsin Act 304, § 17g. This legislation also authorized municipal clerks to appoint Special Voting Deputies to administer absentee voting in nursing homes. 1985 Wisconsin Act 304, § 74m.

In 1989, the Legislature broadened the language of Wis. Stat. § 5.25 and required that all polling places be accessible to "elderly and handicapped individuals" by January 1, 1992. 1989 Wisconsin Act 192, §§ 4, 86. The State Elections Board was given the authority to exempt a polling place from this requirement in accordance with guidelines developed by administrative rule. 1989 Wisconsin Act 192, § 5. This legislation also permitted municipal clerks to reassign an elector to another polling place within the municipality in order to permit an "elderly or handicapped" individual to utilize an accessible polling place. 1989 Wisconsin Act 192, § 7.

In 1990, Congress passed the Americans with Disabilities Act (ADA), a wide-ranging civil rights law that in part requires public entities to make reasonable modifications on policies, practices or procedures to avoid discrimination against people with disabilities. 42 U.S.C. §§ 12101-12213. The ADA also requires that people with disabilities not be excluded from participating in any public program, service or activity. 42 U.S.C. §§ 12101-12213.

In 1991 the Legislature directed that any municipal clerk who planned to use an inaccessible polling place file a written report with the State Elections Board describing the municipality's plans to make the polling place accessible. 1991 Wisconsin Act 39, § 9118(1g).

Under the conditions provided by the administrative rules and legislation passed in the 1980s and 1990s, the former State Elections Board determined that by 1998 the degree of polling place accessibility in Wisconsin had significantly improved.<sup>1</sup> However, the Help America Vote Act of 2002 (HAVA) instituted more rigid requirements for polling place accessibility, leading to recognition that many polling places still present challenges to voters with disabilities who wish to vote independently and privately.

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<sup>1</sup> Wisconsin State Elections Board, *Polling Place Accessibility in the 1998 Election*.

HAVA also provided funds to modernize voting systems across the country in reaction to the electoral problems of the 2000 General Election. HAVA required that the voting system used at each polling place permit all individuals to vote privately and independently. 42 U.S.C. 15481. For many voters with disabilities, this new generation of voting equipment enabled them to vote without assistance from another person.

In 2003, the Legislature incorporated the HAVA requirements into state law and further broadened access to voting. 2003 Wisconsin Act 265. This legislation permitted an individual with a disability to notify a municipal clerk that he or she intends to vote at a polling place and to request a specific accommodation that will facilitate his or her voting. 2003 Wisconsin Act 265, § 14. It also required the municipal clerk to make reasonable efforts to comply with such requests for voting accommodations made by individuals with disabilities whenever feasible. 2003 Wisconsin Act 265, § 124.

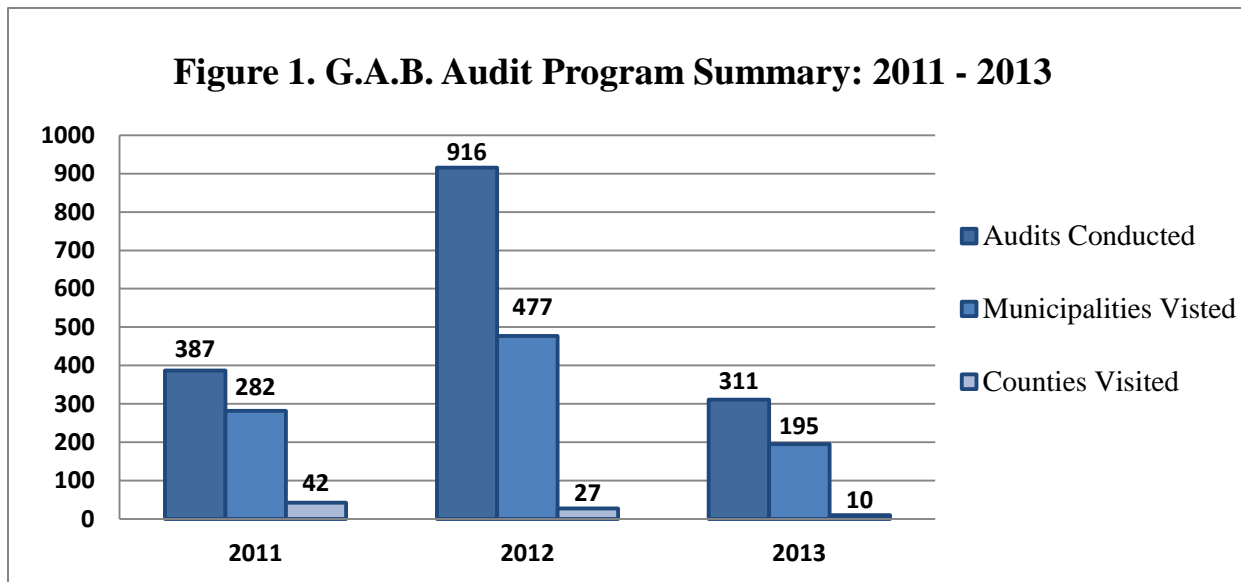
In 2011, the Legislature required all electors to provide proof of identification before receiving a ballot.<sup>2</sup> 2011 Wisconsin Act 23, § 45. Absentee voters who live in a qualified care facility served by special voting deputies or voters who certify they are indefinitely confined for reason of age, illness, disability or infirmity may have the witness to their absentee voting verify the voter's name and address. 2011 Wisconsin Act 23, §§ 68, 71. Additionally, this legislation required that all electors enter their signature on the poll list before receiving a ballot. 2011 Wisconsin Act 23, § 45. However, it provides that electors who cannot meet this requirement due to disability may be exempted. 2011 Wisconsin Act 23, § 46. Finally, this legislation also expanded the types of care facilities that could be served by special voting deputies. 2011 Wisconsin Act 23, § 75.

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<sup>2</sup>This provision is currently enjoined by court order and is not in effect.

## Polling Place Accessibility Audit Program

The G.A.B. conducts on-site audits during each election to assess the physical accessibility of polling places in Wisconsin. During the 2011-2013 reporting period, 1,614 polling place audits were conducted over the course of 16 elections. The audit program has visited 921 municipalities located in 66 Wisconsin counties during this time. The program began in 2011 with Board staff conducting 387 polling place audits during seven elections and was expanded in 2012. This expansion allowed for 916 audits to be completed during the 2012 election cycle and two 2013 elections yielded results from another 311 audits. A summary table of the audit program for the reporting period can be found in Appendix A.



Prior to the implementation of the current program, municipal clerks were required to self-report polling place accessibility by completing a 44-question survey for each polling place in their municipality. In conjunction with a reimbursement program for the accessible voting equipment mandated under HAVA, the Board required municipalities to submit their polling place accessibility survey(s) before their reimbursement would be issued. The self-reported data was not verified by Board staff until after the Legislative Audit Bureau (LAB) conducted on-site accessibility assessments of 36 polling places and analyzed 100 self-reporting surveys from various polling places across the state during the November 2006 General Election.

The LAB released a comprehensive report in 2007 and their assessments revealed numerous accessibility compliance violations and inconsistencies in self-reporting. As part of a report, the LAB recommended that the newly-created Government Accountability Board modify the accessibility program to address the three following concerns:

1. Revise the Accessibility Survey to remove the “n/a” column and design each question so a “yes” indicates compliance, and a “no” indicates non-compliance.
2. Require all municipalities to submit new surveys for all polling places.
3. Conduct on-site compliance reviews at every election.

The Legislature charged the G.A.B. with implementing the changes recommended by the LAB report. Board staff, in coordination with representatives from disability advocacy groups, completely revised the 2005 Polling Place Accessibility Survey. The revised survey was completed in 2009 and is organized into five distinct polling place zones that allow a user to answer questions that pertain to a specific location and disregard questions that are not applicable.<sup>3</sup> The format was expanded to include 131 questions whose foundation are the requirements outlined in the Americans with Disabilities Act (ADA), the Americans with Disabilities Act Accessibility Guidelines (ADAAG), the ADA Checklist for Polling Places and the ADA Guide for Small Towns. In addition, Board staff worked with a committee of disability advocates to assign a high, medium or low severity ranking to each question. These determinations allow Board staff to have a nuanced understanding of the accessibility of each polling place with the severity rankings defined as:

1. **High Severity:** A high severity finding indicates a barrier that, in and of itself, would be likely to prevent a voter with a disability from entering a polling place and casting a ballot privately and independently.
2. **Medium Severity:** A medium severity finding indicates a barrier that makes it significantly more difficult for a voter with a disability to enter a polling place and cast a ballot privately and independently. Medium severity barriers, especially in combination, can prevent a voter with a disability from exercising his or her right to vote and add significant burdens to the exercise of that right that are not faced by voters without disabilities.
3. **Low Severity:** A low severity finding indicates a barrier that makes it more difficult for an elector with a disability to enter a polling place and cast a ballot privately and independently. Low severity barriers are unlikely to prevent an elector with a disability from exercising his or her right to vote but do add extra burdens to the exercise of that right that are not faced by voters without disabilities.

To assist users with reporting accurate survey information, an appendix document was created to accompany the survey and provide additional explanations, such as diagrams.<sup>4</sup> In order to more effectively determine compliance the survey was written so that any negative answer to a question is an indication that the feature in question did not meet accessibility standards and positive answers represent compliant features. The new survey was pre-tested in the field by Board staff conducting on-site compliance reviews during elections in 2008 and 2009. It was then distributed to all 1,850 municipalities in March of 2009 with clerks required to conduct polling place audits using the new survey tool and report those findings to the G.A.B.

A database was created to house the survey information in a central location that allows for efficient data review and analysis. Using this information, Board staff was able to identify polling places with a significant number of self-reported high severity accessibility concerns and work with municipal clerks to create solutions to these issues. Self-reported data was also used

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<sup>3</sup> Full text of the Polling Place Accessibility Survey (Rev. 2009) can be found on the G.A.B. website at: <http://gab.wi.gov/publications/checklists/2009-polling-place-accessibility-survey>

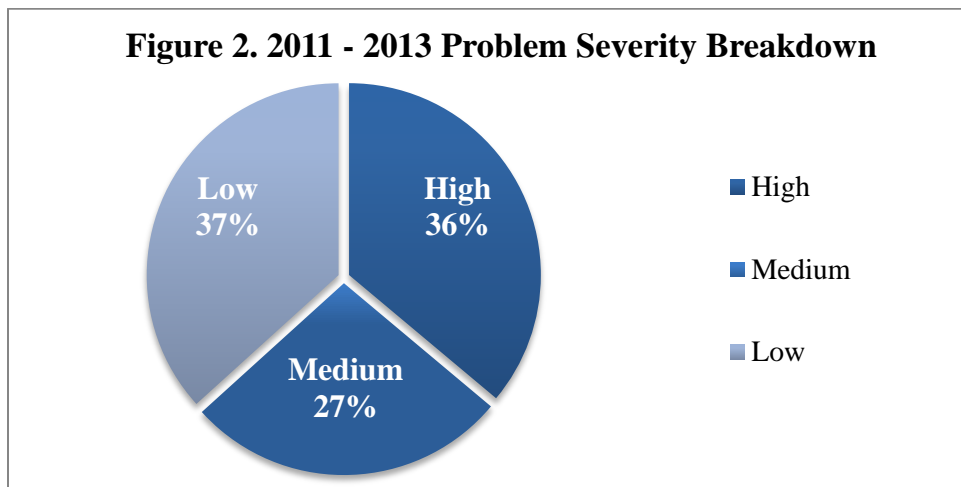
<sup>4</sup> The reference document, Appendix B, can be found on the G.A.B. website at: <http://gab.wi.gov/clerks/guidance/accessibility/new-polling-place>



to identify locations to target for on-site visits so that survey information could be verified and Board staff could track the progress of accessibility improvements.

### 2011-2013 Polling Place Accessibility Audit Program Summary

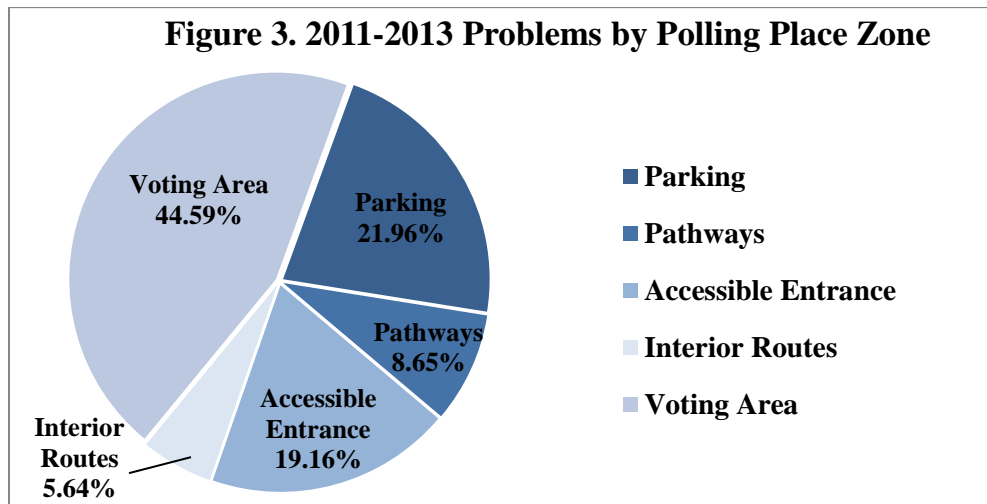
The Board's accessibility audit program has identified 10,488 problems at 1,614 polling places over the last three years. Of those problems, 3,786 are considered to be high severity impediments to voting, meaning that the presence of one or more of these problems represents a barrier that, in and of itself, would be likely to prevent an elderly voter or a voter with a disability from entering a polling place and casting a ballot privately and independently. An additional 2,855 medium severity problems were found that would significantly impact the ability of those same voters to participate in the electoral process at their polling place. The remaining 3,847 problems are classified as low severity issues that would not prevent an elderly voter or a voter with a disability from casting a ballot, but would make that process more difficult. Accessibility problems were evenly divided between high and low severity issues, with 10 percent fewer medium severity infractions identified by auditors (Figure 2). A three-year summary of the audit program can be found in Appendix A.



The majority of accessibility problems were confined to the voting area (Figure 3). Polling place audits during this three-year period identified 4,677 voting area problems, which is 45 percent of all audit findings from this period. Of those infractions, 1,771 qualify as high-severity problems, including 353 polling places with required notices and instructions that were not posted in 18-point font and 237 locations with no booth or table where a voter in a wheelchair could cast a paper ballot. In addition to the problems found in the voting area, 1,705 high-severity problems with accessible entrances were reported by auditors. Fifty-six percent of audited locations did not have an accessible entrance that would be easily identifiable by voters with disabilities and 385 separate locations had doors that exceeded the pounds-of-force threshold required by ADA. The remaining 310 high severity issues were located along the interior route a voter would have to travel to gain access to the voting area, and the majority of these problems had to do with obstacles or protrusions that create hazards along this path.

<b>Table 1. Total 2011-2013 Problems by Polling Place Zone</b>						
	<b>Parking</b>	<b>Pathways</b>	<b>Accessible Entrance</b>	<b>Interior Routes</b>	<b>Voting Area</b>	<b>Total</b>
High	0 <sup>5</sup>	0 <sup>6</sup>	1705	310	1771	3,786
Medium	1,524	726	223	274	108	2,855
Low	779	181	82	7	2798	3,847
<b>Total</b>	<b>2,303</b>	<b>907</b>	<b>2,010</b>	<b>591</b>	<b>4,677</b>	<b>10,488</b>

During this period, polling place audits identified an average of 6.5 accessibility problems at each visited location. Each of the five polling place zones is represented in the 10 most common findings (Appendix B). Audits of the pathway from the parking area to the accessible entrance found 110 locations with a slope greater than the 5 percent standard set by ADA and 241 with a surface that had cracks or breaks greater than ½ inch in height. Eighty-four locations had interior routes that were not properly lit on Election Day or had obstacles that could pose a hazard for voters with visual impairments. An additional 46 polling places had corridors with unsecured rugs or mats that could serve as a tripping hazard for voters who use a walker or cane. Entrance ramps also proved to be problematic with 34 that exceeded the maximum slope and 29 ramps that did not have proper railings or edge protection installed.



Significant aspects of the audit data remained constant over the three-year reporting period. The yearly percentages between high, medium and low severity issues are all within two percentage points of the three-year averages. Analysis of problem severity data sorted by polling place zone indicates that these rates remained stable over the course of the reporting period as well. For example, between 52.4 and 55.4 percent of all medium-severity problems were identified in the parking areas. Over those three years, these medium-severity parking area problems represented

<sup>5</sup> No questions in the parking area zone of the Polling Place Accessibility Survey (Rev. 2009) are characterized as high severity issues.

<sup>6</sup> No questions in the pathway zone of the Polling Place Accessibility Survey (Rev. 2009) are characterized as high severity issues.

between 65.2 and 67.7 percent of all of the parking area problems by the audit program. The stability of this data allows for trends to be identified and consistent problems to be addressed through increased training efforts. It also indicates a lack of awareness of certain aspects of polling place accessibility that public education and outreach to local election officials and governing bodies can improve.

### 2011 Audit Results

In 2011, Board staff increased the outreach of the polling place accessibility audit program. Workload concerns and staffing shortages of the Elections Division necessitated the utilization use of temporary staff to supplement regular Board staff in conducting audits. These additional resources allowed for the expansion of the audit program during an election year that saw the addition of six unscheduled special elections due to the recall efforts against six state senators. A training protocol was created for temporary staff auditors and routes were generated in the affected districts that targeted polling places with self-reported high-severity infractions. For those six elections, plus a special election in State Assembly District 95, 387 total audits were conducted by Board staff, with 10 audits identifying no accessibility concerns (2.6 percent). In all, 282 municipalities were visited in 42 counties statewide in 2011.



Audit findings were then reported to each municipality for each polling place that was visited. These reports detailed the problems identified on Election Day and provided municipal clerks with suggested resolutions to these issues. Clerks were required to file a Plan of Action that addressed all of the concerns outlined in the audit report with the Board and they were provided with the opportunity to order specific accessibility-related supplies to assist their efforts in remedying problems. Those supplies were purchased by the G.A.B. using funds through the HAVA and were sent to requesting municipalities at no cost. These supplies include signature guides, page magnifiers and various signs for parking areas, pathways and accessible entrances.

The accessibility audit program identified 2,537 accessibility problems in 2011, including 900 high-severity issues. High-severity issues included 240 polling place locations where the number of accessible parking spaces did not meet minimum ADA requirements. These findings indicate that facilities or locations with off-street parking did not meet federal standards concerning the number of van-accessible and/or regular accessible parking spaces. For polling places that only had on-street parking available, a negative response to this question would mean that the location had no accessible parking spaces identified and available for voters. In addition to the lack of accessible parking spaces, 150 locations had problems with the signage used to

identify accessible parking spaces<sup>7</sup> and 11 percent of polling places had parking that was not located nearest to the accessible entrance. Long distances of travel to the accessible entrance serve as a deterrent for voters with disabilities or elderly voters who have ambulatory issues.

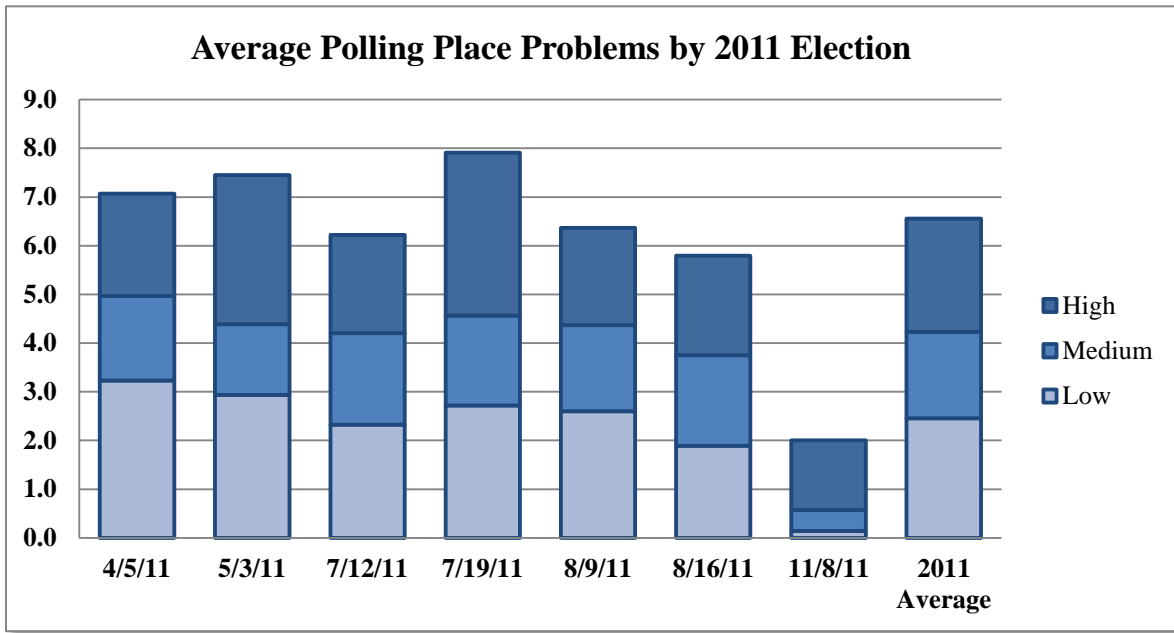
Accessible entrances also proved to be problematic with audits identifying heavy doors, thresholds that did not meet ADA standards and entrances that were not properly marked with the universal symbol of accessibility. The ADA specifies that an entrance without an electronic accessible feature, such as a wireless doorbell or an automatic opener, should be able to be opened using eight pounds of force or less with a closed fist. Twenty-four percent of surveyed polling places did not meet this standard (93 polling places). In addition, 60 polling places had thresholds with a height difference greater than 1/2 inch that would be difficult for voters in wheelchairs or voters who use walkers or canes to manage. Reflecting the most common problem identified with polling place entrances, 52 percent of accessible entrances were not clearly marked with the universal symbol of accessibility (203 polling places). This requirement allows voters to efficiently identify the accessible entrance and not enter the facility at a point that would not allow them to reach the voting area.

A significant number of problems were also found in the voting areas of audited polling places. Required polling place notices and forms were not provided in the 18-point font size required by the ADA at 41 percent of locations (159 polling places). Forty-one polling places were found without a voting booth or table where a voter with a disability could cast a paper ballot privately and independently. HAVA-required accessible voting machines were not set up and powered on at 23 polling places at the time of these audits. At polling places that did have machines available, 44 had machines that were set up on tables or stands that did not meet ADA standards and could restrict access to the machine for a voter in a wheelchair.<sup>8</sup> Thirty-seven polling places positioned their accessible voting machine in a manner that would not ensure voter privacy.

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<sup>7</sup> Of the 150 problems identified, 70 locations had off-street parking signs that were not posted high enough (between 60 and 80 inches) to be visible when a vehicle was parked in the space and 80 locations did not have accessible parking spaces designated by clearly visible signs bearing the universal symbol of accessibility.

<sup>8</sup> This number was determined by identifying how many unique polling places had a negative response to one of six questions about voting equipment set up during the audit. These questions relate to the height, width, toe/knee clearance and available floor space in front of the table or stand on which the machine rests.



*\*Only 7 polling place audits were conducted during a November 2011 Special Election*

2012 Audit Results

Polling place accessibility audits were conducted during six statewide elections and one special election in 2012.

In addition to the four scheduled statewide elections, the two statewide recall elections provided significant opportunity to evaluate polling places. During these elections, 916 polling places were surveyed in 477 municipalities covering 27 counties in the state. Due to increased workload concerns and staffing shortages, Election Day audits were conducted entirely by temporary employees recruited through state-approved employment agencies. Each potential employee was interviewed and attended a 2.5-day training program before being sent out in the field. The increased staffing levels combined with more efficient route generation and data gathering tools contributed to the rise in average polling places visited for each election. For 2012, the program averaged 131 audits conducted per election, including 213 polling places visited for the November Presidential and General Election. In comparison, during the development phase of the program in 2011, an average of 55 audits were conducted during each election.



In response to the decision to use only temporary staff to conduct polling place reviews, the auditor training program was intensified. A significant portion of the training focused on review

and discussion of the Polling Place Accessibility Survey (Rev. 2009) and the accessibility standards that form the foundation of the survey. A mock polling place exercise was added that allowed auditors to gain experience using the necessary tools and familiarized them with conducting on-site reviews. With the assistance of the City of Madison clerk's office, a polling location was set up exactly as it would be on Election Day and auditors moved through the polling place and filled out the survey accordingly. Board staff was available to answer questions, address problem areas and clarify the standards for review.

In 2012, the survey was transferred to an electronic format and tablet computers were purchased for use by auditors. The electronic version of the survey allowed auditors to initially answer basic summary questions that customize the survey for that specific location. Auditors were able to move through the survey more efficiently with only relevant questions appearing on the tablet. Board staff was able to incorporate reference materials directly into the electronic survey so that auditors did not have to spend time searching for clarification about specific accessibility standards. Data collected via the electronic survey could be uploaded directly to the survey database eliminating costly and time-consuming data entry. The upload feature also allowed for higher quality data due to the elimination of data entry errors.

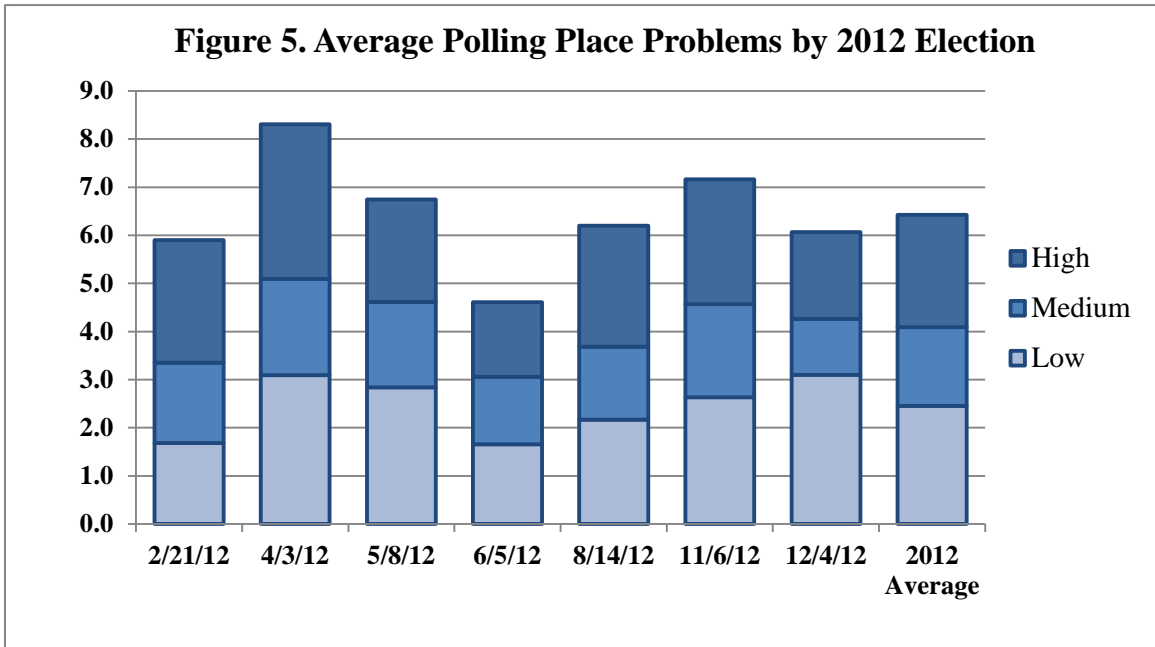
Auditors identified 5,886 accessibility problems during on-site reviews during the 2012 election cycle. Of the 916 polling places visited, 900 sites had at least one reported problem and 2,131 high-severity issues were identified. Auditors noted no accessibility concerns at 16 polling places (1.7 percent). Parking continued to be a significant barrier to voting with 540, or 59 percent, of locations without the minimum number of ADA-required accessible parking spaces. Similar to audit findings from 2011, 10 percent of polling places with off-street parking had accessible parking places that were not located closest to the accessible entrance. A total of 141 locations with on-street parking were surveyed that did not have any accessible parking spaces present. In addition to these parking issues, the accessible pathways at 129 polling places had significant cracks or breaks that were identified as hazards for voters moving from the parking area to the accessible entrance.

Heavy doors without electronic accessible features continued to be cited by auditors as a significant problem with accessible entrances. Twenty-five percent of surveyed polling places had doors that could not be opened with eight pounds of force or less using a closed fist, while 58 percent of accessible entrances were not clearly marked with the universal symbol of accessibility. Hardware that was not usable with one hand without tight grasping, pinching or twisting of the wrist, such as a doorknob, was present at 81 polling places, creating problems for voters with disabilities entering these buildings.

Once inside the building, voters at 144 locations needed to navigate interior corridors that were not marked by large print signs directing people to the voting area. For 2012, 207 audits were conducted in the City of Milwaukee where large municipal buildings with elevators or wheelchair lifts are more common. Auditors found several problems with lifts and elevators in the City of Milwaukee that voters in wheelchairs would need to use to gain access to voting areas. Those problems ranged from lifts that could not be operated without assistance to elevators with call buttons that would be difficult for a person in a wheelchair to reach.

Audit findings of the voting area identified various problems that would impact the ability of an elderly voter or a voter with a disability to cast a ballot both privately and independently. For

audits conducted in 2012, only 15 percent of locations did not have required notices and instructions posted in 18 point font, compared to 41 percent in 2011. The policy of the City of Milwaukee Election Commission to provide comprehensive election materials in the proper font to all of their polling places could be responsible for the decrease in prevalence of this problem. An ADA-compliant booth or table where a voter in a wheelchair could cast a paper ballot was not available at 138 surveyed polling places and 52 locations did not have an accessible voting machine that was set up and powered on. Polling place set up continued to be an issue with 143 accessible voting machines arranged in a manner that did not ensure voter privacy and 17 percent of machines were set up on tables or stands that did not meet ADA requirements for accessibility.



2013 Audit Results<sup>9</sup>

The polling place accessibility audit program continues to evolve in 2013. Audits were conducted during both the statewide Spring Primary and Spring Election. Ten counties were visited during these elections, with 311 total polling place surveys completed in 235 municipalities. Board staff again recruited, hired and trained temporary auditors to staff the program and continued steps aimed at improving auditor efficiency in the field allowed for an average of 155 completed surveys per election. These efforts



<sup>9</sup> As of the preparation of this report, this data has been collected and analyzed, but not reported to municipalities. The reporting process allows for municipalities to question audit findings and provide clarification of potential auditor errors. Thus, the final data for the 2013 election cycle may differ slightly from the statistics that are presented in this report.

identified 2,065 total accessibility problems, with 37 percent of these problems classified as high severity barriers to participation. A total of 15 polling places (4.8 percent) were found to have no accessibility concerns based on the audit results.

Board staff also worked to increase efficiency in the post-election audit reporting process. An automated report generation tool was developed that utilized survey results from the database to populate the polling place audit reports. The reports were then reviewed for accuracy and transmitted to municipalities for their review and response. The standard report format identified each survey problem and provided the municipality with suggested resolutions. This new format allowed the survey report to also serve as a template for a Plan of Action so that a separate document did not need to be created to address the audit findings. Responding clerks or municipal officials could use the check box option to identify a suggested solution or use the extra space provided to detail a specific plan to remedy a problem.

After the adoption of this method of transmitting survey results, Board staff noted an increased response rate to polling place accessibility reports and less correspondence from clerks requesting clarification of accessibility standards and acceptable solutions to identified problems. These IT solutions and improved efficiencies in the process ultimately benefit Wisconsin voters by reducing the audit program's administrative burdens, for both the Board and local election officials.

The percentage of polling places with off-street parking areas that did not have the minimum number of accessible spaces available remained consistent with previous years in 2013. Audits identified 186 such locations, with 48 total locations surveyed that had parking areas which were not on the level, firm, stable and slip resistant ground required by ADA. The increase in prevalence of this finding could be a result of visiting polling places in more rural areas in less populous counties such as Adams, Clark and Juneau. Problems with accessible parking signage continued to be identified by auditors, who found 68 locations without proper signage present and 55 locations with signage that did not meet the height requirements proscribed by ADA. In addition, inclement weather during the Spring Primary created an additional accessibility concern with 23 percent of accessible pathways not cleared of snow and ice at the time of the audit.

Similar problems as in years past were also identified with accessible entrances. Only 42 percent of visited locations had accessible entrances marked with the universal symbol of accessibility. Sixty-one polling places without electronic accessible features also had doors that required 8 pounds or more of force to open with a closed fist, while 18 additional locations had electronic accessible features that were not functional when tested by an auditor. The thresholds of accessible entrances at 34 locations exceeded the ½-inch standard set by ADA and represent a barrier for elderly voters or voters who use a wheelchair.

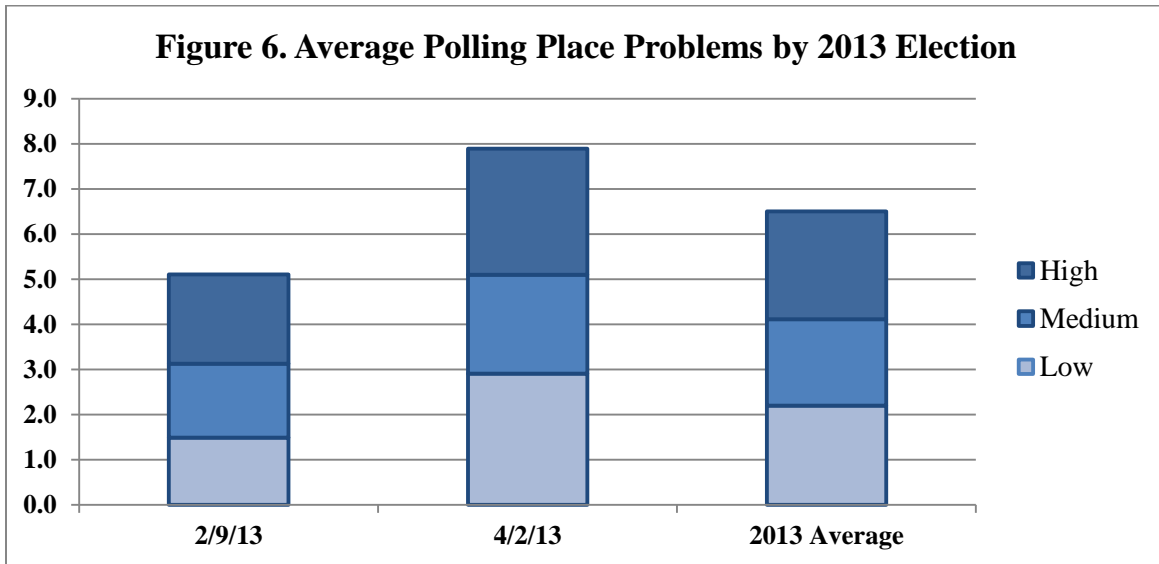
Trends also emerged when data concerning the accessibility of voting areas was analyzed. Accessible voting booths or tables were not present at 19 percent of polling places, meaning that a voter in a wheelchair at one of those locations would have difficulty casting a paper ballot. At almost 10 percent of audited locations, the accessible voting equipment was not set up and powered on at the time of the visit.<sup>10</sup> An additional 40 polling places had voting equipment set

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<sup>10</sup> For the Spring Primary, 10 polling places did not have accessible voting machines set up and powered on, while an addition 19 polling places did not have machines available for the Spring Election.



up in a manner that compromised voter privacy and 70 total polling places set up their machines on tables or stands that did not meet the requirements of ADA. Roughly 20 percent of audited locations did not have required notices and instructions posted in the proper font size.



Comparison of Wisconsin and National Survey Data

The unique nature of the G.A.B.’s polling place accessibility audit program makes it difficult to compare audit results from Wisconsin with data from other states. Other states that conduct accessibility audits do so in response to voter complaints or conduct audits on days other than Election Day. In these cases, either the data gathered is skewed by only visiting locations with documented problems or the audit findings do not account for voting area set up issues that can be problematic. These methods do not represent the comprehensive approach that the State of Wisconsin has adopted to ensure that all polling places are accessible for all voters.

There is a lack of state-specific data available for use as a tool for comparison to the results collected in Wisconsin, but some national audit data does exist. The U.S. Government Accountability Office (GAO) released a report in 2013 that detailed the results of polling place audits conducted during the 2008 Presidential and General Election. The report provided a national snapshot of polling place accessibility and compared the 2008 findings to similar survey results gathered before the passage and implementation of HAVA in the early to mid-2000s. On Election Day in 2008, the GAO visited 730 polling places in 79 counties in the contiguous United States (The GAO indicated Alaska and Hawaii were omitted from this survey for cost reasons). Data was collected concerning parking areas, pathways, accessible entrances, interior corridors, accessible voting systems and curbside voting availability.<sup>11</sup>

These features are similar to the five polling place zones that comprise the Polling Place Accessibility Survey (Rev. 2009) used to conduct audits in Wisconsin. Information concerning the rigidity of the GAO survey and specific survey questions and standards are not readily available, which hinders efforts to compare data. For example, the GAO report states that visited

<sup>11</sup> U.S. Government Accountability Office, *Voters With Disabilities: Additional Monitoring of Polling Places Could Further Improve Accessibility*, September 2009. <http://www.gao.gov/products/GAO-09-941>.

polling places without designated accessible parking “decreased from 32 percent in 2000 to only 3 percent in 2008,” but the report does not specify if the survey measured the presence of ADA-required van-accessible spaces as the survey used in Wisconsin does. Using a strict standard of compliance with ADA and other federal regulations, the G.A.B. audit program determined that almost 60 percent of visited polling places did not meet minimum requirements. Without access to more specific information about the GAO audit standards a valid comparison is not possible.

The GAO results and the G.A.B. audit program statistics concerning the accessibility of voting areas have enough parallel data points for some valid comparisons. The GAO voting area audits considered four main accessible voting machine-related factors:

- the voting equipment was set up and powered on,
- earphones were available to ensure access to the audio ballot functions,
- the machine was set up to accommodate voters who use wheelchairs, and
- accessible voting equipment was set up in a way that ensured voter privacy.

In the GAO’s 2008 data, only 5 percent of audited polling places had an accessible voting system that was not set up and powered on, while 6 percent of sites did not have earphones available. The audits identified that a significant number of polling places did not have accessible voting equipment arranged to ensure wheelchair access (29 percent) or that accessible voting machines were not set up in consideration of privacy concerns (23 percent). Overall, the GAO survey found that 46 percent of polling places visited during the 2008 Presidential and General Election had accessible voting systems whose setup posed a challenge to a voter with a disability.<sup>12</sup>

Results of voting area audits conducted in Wisconsin indicate that polling places in the state are meeting the requirements of voting equipment set-up at a rate better than the national average. Accessible voting equipment was not set up and powered on at 6 percent of surveyed locations in Wisconsin, on par with the 5 percent national average. Wisconsin polling places were found to have accessible voting equipment that was not arranged to ensure voter privacy at 14 percent of all polling places, a rate that represents a significant improvement over the national findings (23 percent). From 2011 to 2013, the G.A.B. conducted surveys found that 37 percent of visited sites had accessible voting systems whose setup posed a challenge to a voter with a disability, a rate almost 10 percent better than the one reported by the GAO.

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<sup>12</sup> Government Accountability Office, *Voters with Disabilities: Challenges to Voting Accessibility*, Statement before the National Council on Disability, April, 23, 2013. <http://www.gao.gov/products/GAO-13-538SP>.

## **G.A.B. Accessibility Program Overview**

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The Government Accountability Board has created a multi-faceted program to improve polling place accessibility in Wisconsin. The audit program constitutes the bulk of these efforts, but local election official training is also an essential aspect of the G.A.B. program. In addition, Board staff has recruited representatives from disability advocacy groups to serve on an Accessibility Advisory Committee. This Committee advises the agency on barriers to voting that their specific constituencies continue to experience. The Accessibility Advisory Committee also assists the G.A.B. in the development and dissemination of public information aimed at informing elderly voters and voters with disabilities about their voting rights and providing information about available voting options.

### **Impact of the Polling Place Accessibility Audit Program**

The data gathered by the audit program has provided a baseline for polling place accessibility in Wisconsin. This information has been used to identify common problems with polling place set-up and accessible voting machines, and general problems with municipal and private facilities where polling places are located. Review of this data allowed Board staff to adjust the existing training protocol where appropriate and develop appropriate additional training resources. As detailed earlier in this report, specific problems identified during polling place audits are also reported to municipalities to improve compliance. In addition to providing this guidance, the G.A.B. has purchased accessibility-related supplies to assist local election and municipal officials with completing the necessary polling place changes.

To date, the G.A.B. has sent out more than 2,400 supplies to 442 requesting municipalities. This total includes 1,409 supplies sent to 198 municipalities in 2012 and 989 items provided to 229 municipalities in 2013. These supplies were purchased in 2009 using HAVA funds at a cost of approximately \$95,000 to the agency. Supply storage and shipping costs have added approximately \$11,000 to the budget for the program. An additional \$12,297 has been reimbursed directly to municipalities to offset costs to municipalities for purchasing costly accessibility supplies such as accessible voting booths and threshold ramps. Supply orders are expected to correspond with findings from either a self-reported or G.A.B.-conducted audit, but municipalities can request supplies that improve accessibility if they designate a need for the supplies in question with their request.

Municipalities across the state have undertaken projects aimed at improving polling place accessibility in direct response to the result of a polling place audit. A review of Plans of Action reveals that municipalities have worked to replace dirt and gravel accessible parking areas with asphalt or concrete, re-grade accessible pathways that were found to be too steep by ADA standards, rebuild non-compliant ramps and install electronic accessible features on entrances with heavy doors. In addition to accessibility problems with costly solutions, the audit program has provided the opportunity for Board staff to clarify easily-achievable accessibility standards that ensure voting machines are positioned to ensure voter privacy and to remind local election officials that ADA-compliant booths or tables must be available for voters who may want to cast a paper ballot but would have difficulty doing so at the standard booth. The program has also

drawn attention to accessibility concerns such as keeping interior corridors and voting areas free from obstacles or protrusions on Election Day and clearing leaves, snow and/or ice from accessible pathways that have low or no-cost remedies.

Board staff has also heard from local election officials who use audit results to assist them with developing new or modifying existing polling place assignment plans. Local election officials must designate voting locations before each election and the results of accessibility audits have led to the determination that polling places should be reassigned to more accessible locations, rather than undertaking expensive construction projects to achieve compliance. In 2013, one municipality has reported that accessibility issues uncovered during a G.A.B.-conducted audit during a recent election contributed to the decision to build a new municipal facility to replace the current non-compliant building.

### Election Worker Training

Wisconsin law requires one certified chief inspector to be present in every polling place on Election Day while the polls are open and mandates that all municipal clerks attend a state-sponsored training program at least once every two years. The Government Accountability Board, under Wis. Stat. §§ 7.31 and 7.315, has developed curriculum for the training and certification of chief inspectors and municipal clerks.

During the 2011-2013 reporting period the Board conducted 139 Chief Inspector training sessions around the State of Wisconsin using a combination of in-person classes and internet-based training sessions to certify 3,480 election workers. Board staff and certified clerk-trainers have also conducted 41 municipal clerk training sessions during this timeframe with 566 municipal clerks participating in the program. A series of 29 WisLine and Webinar programs were developed to provide local election officials with current election administration information and guidance. Municipal clerks, chief inspectors and regular election inspectors were the primary audience for these presentations, which lasted between 45 and 120 minutes and averaged 175 participants per session. In addition, election administration staff attended and participated in conferences for the Wisconsin County Clerks Association, Wisconsin Municipal Clerks Association, and Wisconsin Towns Association, as well as quarterly district meetings for the Wisconsin Municipal Clerks Association.

A significant portion of this training protocol focused on working with and assisting voters with disabilities. The municipal clerk training program contains a chapter on polling place accessibility and accessibility concerns were addressed throughout the recent WisLine and Webinar series. In addition to explaining the rights of voters and the responsibilities of election inspectors and municipal clerks, Board staff created and updated training materials for use with election workers. These materials provide an overview of Americans with Disabilities Act requirements and define how those standards relate to polling place organization and configuration. Comprehensive election administration related information has been added to the agency website, including a list of the most common accessibility audit findings, information on providing assistance to voters with disabilities and an outline of the curbside voting process (<http://gab.wi.gov/node/2858>).

## Public Information

As part of its HAVA § 261 responsibilities, the Board provided assistance to the Wisconsin Disability Vote Coalition (WWDVC) for the development of a basic guidebook for voters and groups interested in voter education and get-out-the-vote efforts. The WWDVC is a non-partisan voter advocacy group comprised of representatives from Disability Rights Wisconsin and the Board for People with Developmental Disabilities whose goal is “to increase voting turnout and participation in the electoral process among members of Wisconsin’s disability community.” To assist its public outreach efforts leading up to the 2012 Presidential and General Election, the G.A.B. reimbursed the WWDVC for \$10,000 to cover the design and printing costs for the 20-page voter information guide titled: *Voting in Wisconsin: A Guide for Citizens with Disabilities*. Board staff reviewed the accuracy and clarity of the content of *Voting in Wisconsin*, a guide that provides an overview of all aspects of the electoral process, including information about voter registration and voting by absentee ballot. Spanish and Hmong versions of the guide were also created to assist voters whose native language is other than English. In addition, the guide was posted to the G.A.B. website where it serves as a resource for voters with disabilities.

The G.A.B. is required to consult with appropriate advocacy groups representing the elderly and disabled populations in the preparation of this report. The Board has been able to hire staff with HAVA § 261 funds to develop close communication and business relationships with representatives of advocacy groups on issues beyond this report. Board staff has worked with advocacy groups to form an Accessibility Advisory Committee that partners with the agency to identify and remedy barriers that elderly and disabled citizens face when voting. The participation of advocacy groups on this committee provides the Board with insight and guidance from experts in the disability community and perspective from citizens who are directly impacted by polling place accessibility and accessible voting issues.

In 2011, Board staff met regularly with the Accessibility Advisory Committee to identify issues of concern with the disability community and assist with evaluating polling place accessibility. During these meetings the group provided Board staff with feedback about the development of the agency’s polling place audit program, assisted with assigning severity rankings that correspond with barriers and problems identified through the use of the Polling Place Accessibility Survey (Rev. 2009), and identified additional needs for Wisconsin voters with disabilities. The Accessibility Advisory Committee also worked with Board staff to develop and distribute information concerning the requirements of Wisconsin Act 23, which mandated that voters provide a valid form of acceptable photo identification and sign the poll list before receiving a ballot.

The Accessibility Advisory Committee has recently been reconvened with membership expanded to include representatives from 10 organizations. A full list of members can be found in Appendix C. The G.A.B. hosted the initial meeting of this expanded group in June of 2013 and was briefed by the Committee on the voting-related needs and concerns of the organizations that they represent. Board staff detailed the agency’s accessibility program and solicited feedback from the Committee on ways to improve the effectiveness of its programs. A preliminary meeting schedule was discussed with regular meetings that would coincide with the Spring and Fall election cycles.

To assist with public education and election inspector training, the G.A.B. has produced its own

training video, *Access to Voting – Access to Democracy* with help from HAVA Section 261 funds. The video references specific state statutes and provides real-life scenarios of the accommodations and assistance voters with disabilities may request at the polling place. The video was completed in 2004 and has been posted on the agency's website: <http://gab.wi.gov/>. In 2005 the video was be distributed to county clerks, municipal clerks, and disability advocacy groups to aid in their training for both election inspectors and members of the disability community. Board staff plan on revisiting this video to determine if revisions are necessary to account for statutory changes in Wisconsin voting laws.

## **Impediments Identified by Advocacy Groups and National Surveys**

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According to the 2009-2011 American Community Survey component of the United States census there are 558,486 people with disabilities in Wisconsin who are of voting age. This description includes a wide range of disabilities such as physical, cognitive, sensory, mental, and medical disabilities. They are residents of all communities in Wisconsin and encompass all ages from young to elderly.

Over the years, individuals with disabilities have faced both discrimination and physical barriers to the electoral process. Examples of these challenges include being wrongfully turned away from the polls because an individual with a disability does not “appear” to be eligible to vote, not being able to enter the polling site because it is not accessible, and not being able to vote privately and independently. While the participation rate gap between voters with disabilities and voters without disabilities continues to narrow, barriers to voting still exist that challenge the opportunities for elderly voters and voters with disabilities to cast a ballot.

### **Voter Turnout and Ballot Preferences**

A Rutgers University report released after the 2008 Presidential and General Election found that national turnout for voters with disabilities was seven points lower than the rate for persons without disabilities<sup>13</sup> and a similar report released after the 2010 midterm elections indicated a three percent turnout gap.<sup>14</sup> In Wisconsin, the Rutgers University report identified a participation gap of 8.9 percent in 2008 and, in 2010 the report found that Wisconsin voters with disabilities cast ballots at a slightly higher rate (1.7 percent) than voters without disabilities.<sup>15</sup> The shrinking participation gap represents an improvement over years prior to the Help America Vote Act of 2002 (HAVA), where voter participation for people with disabilities was found to be closer to 20 percent lower than for voters without disabilities.

Despite these improvements in turnout rates, registered voters with disabilities are significantly more likely to identify a disability or illness as a reason for not casting a ballot. Considering the 2008 and 2010 national data, registered voters with disabilities indicated illness or disability, of either themselves or a family member, as the reason for not voting 4.5 to 5.5 times more than registered voters without disabilities.<sup>16</sup> For the 2012 Presidential and General Election, 14 percent of all non-voters cited illness or disability as the reason for not voting, including 42 percent of non-voters aged 65 or older.<sup>17</sup> Among respondents to the same survey who indicated

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13 Schur, Lisa and Douglas Kruse, Fact sheet: Disability and Voter Turnout in the 2008 Elections, Rutgers School of Management and Labor Relations, July 2009. <http://smlr.rutgers.edu/2008-fact-sheet>.

14 Schur, Lisa and Douglas Kruse, Fact sheet: Disability and Voter Turnout in the 2010 Elections, Rutgers School of Management and Labor Relations, June 2011. <http://smlr.rutgers.edu/fact-sheet-on-disability-and-voter-turnout-in-2010>.

15 The turnout rate for the 2008 Presidential and General Election was outside the margin of error for the survey, but the 2010 turnout figures were identified by the authors as within the margin of error. For 2008, 2,887 voters were surveyed with 306 respondents self-identified as having a disability. In 2010, 230 of the 2,258 total survey participants self-identified as having a disability.

16 Schur and Kruse, 2008 and 2010 Fact sheets.

17 Pew Charitable Trusts, Reasons for Not Voting by Selected Characteristics, November 2012, 2013. <http://www.pewstates.org/research/analysis/nonvoting-and-the-2012-general-election-85899482836>

that they did not vote and self-identified as having a disability, 43 percent said that illness or disability was the reason they did not vote.<sup>18</sup>

The U.S. Census Bureau survey results that detail participation rates also suggest that despite the challenges facing voters with disabilities when participating in the electoral process, surveyed members of the disability community were more engaged with the political process than voters without disabilities. When asked why registered voters did not cast a ballot in the 2008 and 2010 elections, significantly more voters without disabilities indicated that they were “too busy” or had a “conflicting work or school schedule.” On average between the two elections, only 6 percent of voters with disabilities responded that they were too busy to vote, while 26 percent of voters without disabilities indicated busy schedules as the reason for not voting. A smaller gap exists between the two groups of registered voters when asked if they were “not interested” or “felt their vote would not make a difference,” with 11 percent of voters with disabilities indicating this as their reason for not voting compared to 17 percent of voters without disabilities indicating the same reason.<sup>19</sup>

Voters who self-identified as having at least one disability were also more likely to vote prior to Election Day. A 2008 national survey conducted by the National Federation of the Blind (NFB) to determine the experience of blind and low vision voters during the 2008 Presidential and General Election found that 62 percent of respondents indicated they voted at the polls on Election Day, with the remaining 38 percent voting early or by absentee ballot.<sup>20</sup> Similar numbers were reported for the 2010 midterm elections with 36 percent of voters with disabilities casting a ballot early or by mail, and 26 percent of those surveyed voting via mailed absentee ballot.<sup>21</sup> Preliminary statistics from the 2012 Presidential and General Election indicate that a similar percentage of voters with disabilities (25 percent) utilized the absentee ballot option to participate in this election.<sup>22</sup> These statistics indicate that, depending on the election, voters with disabilities vote via absentee ballot at an 11 to 19 percent higher rate than voters without disabilities.

This statistical evidence is supported by anecdotes captured by a Wisconsin Disability Vote Coalition (WDVC) survey administered to “Wisconsin’s Disability community in order to better understand that community’s knowledge about, experience with, and use of accessible voting machines” leading up to the 2012 Presidential and General Election. Information was gathered using both an automated telephone survey that garnered 1,237 responses and an online survey component that solicited data from an additional 50 respondents. In the anecdotal section many voters indicated a lack of knowledge about the availability of accessible voting machines and expressed a preference for voting via absentee ballot for a variety of reasons. Voters with visual impairments expressed that voting via absentee ballot was easier for them while voters with mobility issues preferred the convenience of automatically receiving an absentee ballot for each election rather than travelling to their polling place. Multiple survey respondents who are

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18 U.S. Census Bureau, 2012 Voting and Registration Supplement to the Current Population Survey, 2013.

19 Schur and Kruse, 2008 and 2010 Fact sheets.

20 National Federation of the Blind, *Voting and the Blind: The Experience of Blind Voters During the November 2008 National Elections*.

[https://nfb.org/images/nfb/documents/word/election\\_officials\\_voting\\_survey\\_summary.doc](https://nfb.org/images/nfb/documents/word/election_officials_voting_survey_summary.doc)

21 Schur and Kruse 2010 Fact Sheet

22 Schur and Kruse 2013 EAC Roundtable Presentation: *Transforming Election Administration, Voting System Accessibility and the Certification Process*,” May 9, 2013.

<http://www.eac.gov/assets/1/Documents/EAC%20May%209%202013%20roundtable.add-1.pdf>



service providers for persons with disabilities indicated that absentee ballots are preferred with voters able to take their time in marking their ballot in a calm environment.<sup>23</sup>

One reason for the high number of voters with disabilities who utilize the absentee process is that a lack of available or affordable transportation to voting locations remains a significant barrier to participation. Nationally, approximately 7 percent of registered voters with disabilities indicated transportation issues as the reason for not casting a ballot in recent elections.<sup>24</sup> These national statistics are supported by concerns raised by advocates for the Wisconsin disability community who participate in the Board's Accessibility Advisory Committee. During several meetings in 2011, the committee discussed the significance of this barrier and proposed several possible solutions to remedy this problem, including the development of a transportation grant program. Under this proposal the Board would use HAVA funds to support a program that provided resources to advocacy groups to ensure that voters with disabilities could travel to the polls on Election Day, to their municipal clerk's office during the in-person absentee voting period, or to their local Department of Motor Vehicle office to obtain the documentation necessary to comply with Wisconsin's voter photo ID law.<sup>25</sup>

### Barriers at the Polling Place

Access to the polling place during recent elections was not a guarantee that an elderly voter or a voter with a disability would be able to cast a private and independent ballot. HAVA requires that an accessible voting system is available at each polling place. The Board used funds provided through HAVA to reimburse municipalities for the cost of purchasing accessible voting equipment and, by 2006, a machine was available for every polling place in the state.<sup>26</sup> Despite this requirement both national surveys designed to determine the voting experience of people with disabilities and the Board's polling place accessibility audit program indicate that a machine is not always available to voters. The 2008 national NFB survey found that during the 2008 Presidential and General Election only 87 percent of survey respondents found the accessible voting machine was "up and running upon their arrival" at the polling place.<sup>27</sup> While the U.S. GAO survey of polling places for the same election indicated that an accessible voting system was present at all but one location<sup>28</sup>, data from Board-conducted audits for the 2011-2013 reporting period indicates that an accessible voting system was not set up, powered on or working at the time of the audit at 6 percent of visited polling places.

The accessible voting machine requirement was instituted so that all voters would enjoy the same opportunity to cast a ballot privately and independently. Despite the intentions of HAVA, some accessible voting systems, including the Direct-Recording Electronic machines used in many

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23 2012 Disability Vote Coalition Survey Results, Memorandum from Mellissa Mulliken to Interested Parties, January 2013 p. 1-10.

24 Schur and Kruse, 2008 and 2010 Fact sheets.

25 G.A.B. Meeting notes of Accessibility Advisory Committee, April 26, 2011. G.A.B. and Disability Vote Coalition Meeting Notes, August 18, 2011.

The voter photo ID requirement established by 2011 Wisconsin Act 23 is currently enjoined by judicial decision and is not in effect.

26 Memo from Elections Board Staff to Members of the State Elections Board, For the November 29, 2006 Elections Board Meeting.

27 2008 NFB Survey

28 Government Accountability Office, *Voters with Disabilities: Challenges to Voting Accessibility, Statement before the National Council on Disability*, April, 23, 2013. <http://www.gao.gov/products/GAO-13-538SP>

Wisconsin polling places, require assistance from a poll worker to operate. The 2008 NFB survey found that 62 percent of voters used the accessible voting machine with 19 percent of these voters reporting that poll workers had difficulties setting up the machine and activating the audio ballot functions.<sup>29</sup> In Wisconsin, many respondents to the WDCV survey identified a lack of confidence that the machine would be set up properly or described prior negative experiences voting on the machines.<sup>30</sup> These results indicate that voters would benefit from increased poll worker training on the setup and functionality of accessible voting systems. They also highlight the need for the incorporation of accessible voting systems that do not require poll workers to initiate the voting process and whose functionality is more intuitive for users.

Additional survey data also indicates that voters identified problems concerning the reliability and functionality of accessible voting systems, both in Wisconsin and nationwide. The results of the WDCV survey do not correspond perfectly with the findings of the 2008 NFB survey but similar conclusions can be drawn from the data. While 15 percent fewer telephone respondents in the WDCV survey answered “Yes” when asked if they, or someone they know, has ever used the accessible voting machine compared to the 2008 NFB results, the on-line WDCV survey respondents answered “Yes” to that same question in an almost identical rate to the 2008 NFB results (63 percent in the WDCV survey to 62 percent in the 2008 NFB survey).<sup>31</sup>

In addition, there are correlations between the WDCV and NFB results pertaining to voter reported problems using the machine. In both surveys, voters who used the accessible voting system were asked if they experienced problems with the machine. For the WDCV survey, 12 percent of respondents to the telephone survey and 26 percent of the online respondents indicated that they had problems voting on the machine<sup>32</sup>, with 13 percent of the NFB respondents identifying voting equipment problems.<sup>33</sup> NFB survey respondents reported difficulties with adjusting or activating the audio functions of the machines and WDCV users indicated that machines were not set up, ready to use and functioning properly.

The presence of functioning accessible voting equipment and poll workers trained to know how to operate that equipment are essential aspects of eliminating barriers to voting for elderly voters and voters with disabilities, but their mere presence does not ensure the ability to vote a private and independent ballot. As noted above, the GAO survey of polling places in 2008 concluded that 46 percent of polling places visited during the 2008 Presidential and General Election had accessible voting systems present but were set up in a way that posed challenges to voters with a disability. The voting area of each polling place must be set up to ensure that voters have proper access to the accessible voting machine and the ability to cast a private ballot. Accessible voting machines should be set up on tables or stands that meet ADA standards and positioned so that voters who use wheelchairs can access the machine and operate any necessary controls or functions. These machines should also be positioned so that a voter using the machine can make their ballot choices without other voters, poll workers or election observers seeing how they marked their ballot.

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29 NFB 2008 Survey

30 2012 Disability Vote Coalition Survey Results, Memorandum from Mellissa Mulliken to Interested Parties, January 2013 p. 1-10.

31 WDCV 2012 Survey

32 WDCV 2012 Survey

33 NFB 2008 Survey

## Research Summary and Conclusion

Despite the goals of legislation such as the ADA and HAVA and the efforts of state and local election officials to increase polling place accessibility, barriers to participation still exist in Wisconsin for elderly voters and voters with disabilities. The shrinking participation gap between disabled and non-disabled populations is evidence that voters with disabilities are engaged in the electoral process despite being four times more likely to report problems voting on Election Day than voters without disabilities. In addition, 75 percent of voters with disabilities surveyed after the 2012 Presidential and General Election characterized their voting experience as “very easy.” This number may seem representative of a process that is effective in meeting the needs of the disability community, but 12 percent more voters without disabilities reported the same “very easy” voting experience.<sup>34</sup> Increased awareness and understanding of the preferences of elderly voters and voters with disabilities would allow election officials to simplify the voter experience and create a process that all voters found accessible.

Rutgers University national election survey data from 2012 indicated that 30 percent of voters with disabilities required assistance in casting their ballot. This number was down from 50 percent in 2008, but the 30 percent rate was almost three times the rate for voters without disabilities.<sup>35</sup> The continued prevalence of the need for voter assistance highlights the need for continued and increased poll worker training that identifies and stresses best practices for interacting with and assisting elderly voters and voters with disabilities. This training should also focus on the set up and operation of accessible voting machines. Accessible voting systems have been mandatory in polling places for years, but both national survey data and Wisconsin-specific surveys indicate that poll workers often have difficulties with setting up the machines and explaining their functionality to users.<sup>36</sup> Persistent and improved training for election inspectors will assist in ensuring that the individual interaction between the voter and poll worker reduces barriers to voting, rather than creating additional obstacles.

Voters with visual impairments were surveyed in 2008 and asked about their voting experience and 94 percent responded that they were treated with respect at their polling place. This high level of voter satisfaction indicates that polling places have become more welcoming for all voters, but only 85 percent of the same respondents indicated that they were afforded the same privacy as voters without disabilities.<sup>37</sup> That percentage has remained static in results from informal surveys conducted after both the 2010 General Election and the 2012 Presidential and General Election.<sup>38</sup> An improvement in accessible voting technology could provide a remedy for the lack of ballot privacy experienced by many voters. The development of intuitive voting systems developed on modern software platforms are an opportunity for state and local election officials to alleviate privacy concerns raised by voters using the current accessible voting systems.

Elderly voters and people with disabilities face a variety of barriers to voting whether it is a polling site that is not accessible, a lack of transportation to the polls, a voting process that does not meet their needs or a poll worker who is not trained to provide proper assistance. It is the responsibility of state and municipal election officials to make the voting process accessible and

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34 Schur and Kruse 2013 EAC Roundtable Presentation (need full cite)

35 Schur and Kruse 2013 EAC Roundtable Presentation

36 Blake, Louann, Testimony before the National Council on Disability, April, 23, 2013.

37 2008 NFB Survey

38 Blake, Louann, Testimony before the National Council on Disability, April, 23, 2013.

welcoming to people with disabilities. An opportunity exists for a partnership between the disability community and municipalities to address these issues with creative solutions such as recruiting people with disabilities to be poll workers. It is important that municipalities involve people with disabilities in their processes to make voting accessible, as creating that partnership will assist in eliminating more persistent barriers to voting in Wisconsin.

## **Impediments to Voting Report Conclusion**

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Polling place accessibility in Wisconsin remains a moving target. Municipal clerks can, as part of their pre-election preparation, designate new locations as polling places that may increase, decrease or create lateral accessibility concerns. The Government Accountability Board is committed to visiting every polling place in the state to assess compliance with laws designed to ensure that all voters can enter their voting location on Election Day and cast a private and independent ballot. The agency's polling place accessibility audit program has been successful in identifying common accessibility problems and spotting trends in knowledge gaps that increased training efforts have sought to remedy.

The results of the 1,614 audits that have been conducted during this reporting period indicate that a polling place in Wisconsin averages 6.5 accessibility problems. This rate places Wisconsin polling places below the standard set by national survey programs, but the comprehensive nature of the survey tool and the Board's policy of requiring strict minimum compliance with ADA standards impacts the Wisconsin data. Many of the problems identified during audits are classified as low-severity problems, meaning these deficiencies would make it more difficult for an elderly voter or a voter with a disability to cast a ballot but would not prevent them from doing so.

Current Wisconsin law requires up to 10 different notices, instructions and reference materials, including ward maps, to be posted in each polling place. Depending on the election, the number of required notices varies, with additional notices required for the Partisan Primary and for any election with a referendum on the ballot. In addition, two copies of the sample ballot are required to be prominently posted on Election Day in the voting area. The absence of these materials is considered a low-severity finding by the standards of the Polling Place Accessibility Survey (Rev. 2009), and missing required notices, instructions, ward maps and sample ballots accounted for 2,798 (27 percent) of all accessibility problems identified during this reporting period. If all of these required materials were present at the time of these audits, the average number of accessibility-related problems identified at each polling place decreases to 4.8. Board staff does not discount the importance of the missing notices, but consider them to be easily remedied problems with solutions that would come at little to no cost to municipalities not in compliance.

An additional 353 polling places (22 percent) did not have the required postings printed in the 18-point font required by ADA. This requirement is a high-severity problem that could serve to create a significant barrier for participation for voters at these locations. The remedy for this problem is to reformat the noncompliant notices or download and print properly formatted notices from the G.A.B. website. This simple solution would result in the elimination of 9 percent of the total high severity problems found during this reporting period and lower the average number of findings per polling place to 4.5.

Accessible entrances that were not clearly marked with the universal symbol of accessibility account for 24 percent of all high-severity problems identified during this reporting period. At these 910 polling places, this issue could be resolved by adding a decal or sign to the door that indicates it as the accessible entrance. Compliant decals are currently available through the Board's polling place accessibility supply program and are provided to municipalities upon request at no cost.

Missing election materials, materials not posted in the required font and unmarked accessible entrances represent a significant portion of the total problems found during audits. These issues are easily correctable and do not require significant resources to achieve compliance. If these basic issues were corrected, the average surveyed polling place in Wisconsin would then have an average of four (3.98) accessibility problems and 40 percent of the total problems would be eliminated. This analysis is not to suggest that the significance of any identified problems should be minimized, but an in-depth review of the data reveals that the level of polling place accessibility in Wisconsin is not as dire as a facial review of the statistics might suggest, and that meaningful progress can be made with little expense.

Board staff has already adjusted the focus of the accessibility training protocol for local election officials to address commonly identified problems. Polling place audit data will continue to be used to identify areas for improvement and polling place set-up and recommended practices will be refined. Board staff will also continue to develop the audit program to incorporate a method for verifying that Plans of Action submitted to the agency are being carried out. Currently, the program is focused on conducting initial audits at every polling place in the state, but polling place visits designed to assess accessibility improvements will allow Board staff to ensure that polling places are becoming more accessible. This additional process will also provide a method for measuring the effectiveness of the audit program and potentially identify additional aspects that need adjustment. National survey data and available research will be used to provide an additional standard for comparison and to incorporate best practices from other states. The program must continue to evolve in this manner if barriers to voting for elderly voters and voters with disabilities are to be eliminated.

## Appendix A

Table 2. 2011-2013 Polling Place Audit Program Summary

<b>Election Date</b>	<b>Audits</b>	<b>Municipalities</b>	<b>Counties</b>	<b>Overall Problems</b>	<b>Average Problems</b>
4/5/2011	30	29	10	212	7.1
5/3/2011	31	28	5	231	7.5
7/12/2011	87	65	22	541	6.2
7/19/2011	67	38	9	530	7.9
8/9/2011	93	74	21	592	6.4
8/16/2011	72	58	12	417	5.8
11/8/2011	7	1	1	14	2.0
2/21/2012	107	39	4	631	5.9
4/3/2012	95	80	6	789	8.3
5/8/2012	192	176	11	1,295	6.7
6/5/2012	168	97	8	774	4.6
8/14/2012	111	12	1	689	6.2
11/6/2012	213	31	4	1,526	7.2
12/4/2012	30	22	1	182	6.1
2/19/2013	137	70	4	698	5.1
4/2/2013	174	165	6	1,367	7.9
<b>Totals</b>	<b>1,614</b>	<b>921</b>	<b>66</b>	<b>10,488</b>	<b>6.5</b>

## Appendix B

Table 3. Top 10 Overall 2011-2013 Audit Findings

Ranking	Problem	Zone	Total
1	Required polling place notices and instructions were either not posted or were not posted in the required 18 point font	Voting Area	2,823
2	The number of accessible parking spaces does not meet minimum ADA requirements.	Parking	966
3	The accessible entrance was not clearly marked at the door.	Entrance	910
4	The accessible entrance door required more than 8 pounds of force to open with a closed fist.	Entrance	385
5	The off-street parking area did not have accessible spaces designated by clearly visible signs bearing the proper symbol of accessibility.	Parking	351
6	There were not two samples of each ballot type posted.	Voting Area	328
7	The accessible pathway (including any grating surface) had breaks or edges where the difference in height was over 1/2".	Pathways	241
8	The voting area had no booth or table where a voter using a wheelchair may cast a paper ballot privately and independently.	Voting Area	237
9	The accessible voting equipment was positioned in a way that, if a person was seated or standing at the machine, others might see how the voter was marking his/her ballot.	Voting Area	220
10	The interior routes were not clearly marked by large print signs.	Interior Routes	208



## Appendix C

### 2013 Government Accountability Board Accessibility Advisory Committee

	Advisory Group Members	Organization
1	<b>Alicia Boehme</b>	Disability Rights Wisconsin
2	<b>John Shaw</b>	Wisconsin Board for People with Developmental Disabilities
3	<b>Maureen Ryan</b>	Wisconsin Coalition of Independent Living Centers
4	<b>Nino Amato</b>	Coalition of Wisconsin Aging Groups
5	<b>Jason Glozier</b>	City of Madison, Civil Rights Division
6	<b>Tammy Liddicoat</b>	ADA Partnerships
7	<b>Annabelle Potvin</b>	National Alliance for the Mentally Ill
8	<b>Jason Endres</b>	People First Wisconsin
9	<b>Neil Ford</b>	Wisconsin Council of the Blind and Visually Impaired
10	<b>Daniel Olson</b>	League of Wisconsin Municipalities

	G.A.B Staff	Title
	<b>Kevin Kennedy</b>	Director and General Counsel
	<b>Michael Haas</b>	Elections Division Administrator
	<b>Ross Hein</b>	Elections Supervisor
	<b>Richard Rydecki</b>	Elections Specialist – Accessibility Coordinator
	<b>Steve Pickett</b>	Elections Specialist – Local Election Administration
	<b>David Buerger</b>	Elections Specialist
	<b>Ann Oberle</b>	SVRS UAT – Lead
	<b>Christopher Doffing</b>	Multi-Media Training Officer
	<b>Sherri Ann Charleston</b>	Elections Specialist – Voting Equipment