

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Elections Commission

Special Meeting

April 20, 2022

1:30 P.M.

Due to the COVID-19 pandemic, this meeting is being held via video teleconference only. Members of the public and media may attend online or by telephone. Please visit <https://elections.wi.gov/node/8201> to view materials for the meeting. All public participants' phones/microphones will be muted during the meeting. Members of the public wishing to communicate to the Commissioners should email electioncomments@wi.gov with "Message to Commissioners" in the subject line.

You are invited to a Zoom webinar.

When: Apr 20, 2022 01:30 PM Central Time (US and Canada)

Topic: Meeting of the Wisconsin Elections Commission (OPEN SESSION)

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/86991380045?pwd=TnNabldEZTl6RGgldG8lM0xGRVppUT09>

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NOTICE OF OPEN AND CLOSED MEETING

AGENDA

- A. Call to Order**
- B. Administrator's Report of Appropriate Meeting Notice**
- C. Approval of Minutes of Previous Meetings** **1**
- D. Consideration and possible acceptance of additional 2022 Elections Security Funds under Wis. Stat. § 16.54** **12**
- E. Consideration and possible approval of ballot access petition by the Libertarian Party for the 2022 election cycle** **17**
- F. Consideration and possible approval of scope statements SS 008-22 and SS 010-22, and consideration of scheduling a preliminary hearing for Scope Statements SS 029-22 and SS 030-22** **20**
- G. Closed Session**
 - 1. Approval of Minutes of Previous Meetings**
 - 2. Litigation update**
 - 3. Election complaints**

§19.85(1)(g) – The Commission may confer in closed session with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

§19.851 – The Commission's deliberations concerning an investigation of any violation of the law under the jurisdiction of the Commission shall be in closed session.
- H. Adjourn**



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

Wisconsin Elections Commission
Special Teleconference Meeting
212 E. Washington Avenue, Third Floor
Madison, Wisconsin
7:30 am February 28, 2022

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, Brandon Hunzicker, Riley Vetterkind, John Smalley, Anna Langdon, and Jacob Walters, all by teleconference

A. Call to Order

Commission Chair Jacobs called the meeting to order at 7:30 am 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. Closed Session 1. Election Complaints - Wis. Stat. § 5.05 §19.851 – The Commission's deliberations concerning an investigation of any violation of the law under the jurisdiction of the Commission shall be in closed session.

MOTION: Go into closed session.

Moved by Commissioner Knudson. Seconded by Commissioner Thomsen.

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

Motion carried 6-0.

The Commission went into closed session at 7:31 am.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

D. Adjourn

The Commission adjourned closed session at 12:53 pm.

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February 28, 2022 Wisconsin Election Commission meeting minutes prepared by:

Anna Langdon, Help Desk Staff

March 1, 2022

February 28, 2022 Wisconsin Election Commission meeting minutes certified by:

Marge Bostelmann, Commission Secretary

April 20, 2022



Wisconsin Elections Commission

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Wisconsin Elections Commission Teleconference Meeting 212 E. Washington Avenue, Third Floor Madison, Wisconsin 9:00 am March 9, 2022

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, Robert Kehoe, Jim Witecha, Brandon Hunzicker, Riley Vetterkind, John Smalley, Anna Langdon, Jacob Walters, Tony Bridges, Robert Williams, and Cody Davies, all by teleconference

A. Call to Order

Commission Chair Jacobs called the meeting to order at 9:01 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

1. January 11, 2022
2. January 28, 2022
3. January 31, 2022
4. February 16, 2022

MOTION: Approve the minutes for the January 11, 2022, January 28, 2022, January 31, 2022, and February 16, 2022 meetings.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

D. Public Comments

Barbara Beckert with Disability Rights Wisconsin appeared on behalf of the WI Disability Vote Coalition and voiced concerns about the rights of voters who live in long term care facilities. She noted the right to vote may only be taken away by a court, usually in a guardianship proceeding, and only if the court decides the individual is incapable of understanding the objective of the elective process. She commented on the Waukesha County Circuit Court's January 19, 2022 order by providing example scenarios in which disabled voters would be disadvantaged by the inability to have someone else return their absentee ballot on their behalf.

Sandra Duckett was scheduled to speak but was not present.

Thomas Oldenburg appeared and asked about the trusted build and the information that was supposedly removed from the county servers. He wondered whether we are still within the law concerning retention of voting records by allowing that to transpire.

Chair Jacobs allowed Eileen Newcomer to speak in Sandra Duckett's absence.

Eileen Newcomer appeared on behalf of the League of Women Voters of Wisconsin and applauded staff for their efforts to provide public outreach through the upcoming statewide elections education campaign and the successful relaunch of the Accessibility Site Review Program. Ms. Newcomer also noted her organization appreciates the Commission's continued commitment to the recommendations put forth by the Legislative Audit Bureau. She reiterated her organization's support for the Commission's existing guidance relating to the correction of absentee ballots and expressed favor for the scope statement that would codify that existing guidance into a formal rule. She recommended the scope statement on election inspector and special voting deputies training be modified to track whether training requirements are being met. She also commented on the scope statement regarding electronic voting equipment and ballot security by recommending the directive passed by the Commission at their June 2019 meeting be codified by requiring accessible voting equipment be tested as part of pre-election testing procedures.

E. Data Log Project

Elections Specialist Robert Williams appeared and presented information on the retention of electronic voting equipment data. He reviewed the steps taken by staff to meet the Commission's September 2021 request to investigate the data created by voting systems, how it is currently retained, and if the logs created by background computers would be required to be retained under Wis. Stat. §7.23(1)(f) and (g). He then outlined the origins of the current data retention policy and summarized the current retention policy related to EVS data files.

Elections Security Lead Tony Bridges appeared and discussed the types of data being produced from voting equipment. He noted the accessibility concerns of varying levels of data, noting that some levels require higher levels of access and specialized knowledge to obtain.

Elections Specialist Cody Davies appeared and described the outreach staff conducted with county clerks and the three voting equipment vendors active in Wisconsin. He stated that compliance with current data retention policy does not vary among the counties. He then discussed the different levels of support the counties receive from voting equipment vendors versus utilizing their own in-house IT

support. He then presented four possible next steps Commissioners could take on the issue, as listed in the memo provided to Commissioners and the public prior to the meeting.

Discussion.

MOTION: Direct staff to develop a scope statement for an administrative rule concerning electronic voting systems data retention policy.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Discussion.

Roll call vote:	Bostelmann:	Aye	Glancey:	No
	Jacobs:	No	Spindell:	Aye
	Knudson:	Aye	Thomsen:	No

Motion failed 3-3.

MOTION: Direct staff to study the issue and come back to the Commission with options and a framework for the Commission to consider promulgating a rule on electronic voting systems data retention.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

FRIENDLY AMENDMENT: Replace “the issue” with “retention of electronic voting systems data.”

Proposed by Chair Jacobs. Accepted by Commissioner Knudson and Commissioner Bostelmann.

FRIENDLY AMENDMENT: Staff will utilize current data retention policy as basis for creating a more formal retention requirement that has the force of law.

Proposed by Commissioner Thomsen. Accepted by Commissioner Knudson and Commissioner Bostelmann.

Commissioner Knudson clarified that utilizing current data retention policy as the basis for a more formal retention requirement was implied in his motion.

AMENDED MOTION: Direct staff to study retention of electronic voting systems data and come back to the Commission with options and a framework for the Commission to consider promulgating a rule on electronic voting systems data retention. Staff will utilize current data retention policy as basis for creating a more formal retention requirement that has the force of law.

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

Motion carried 6-0.

The Commission took a break at 10:33.

Robert Williams and Tony Bridges left the meeting.

The Commission reconvened at 10:43.

F. Consideration of Administrative Rule Scope Statements and Possible Action on the Notice of Preliminary Public Hearing and Comment Period on Scope Statements SS 008-22 and SS 010-22

Staff Attorney Jim Witecha appeared and reviewed background information on the process for promulgating an administrative rule. He then previewed the next steps necessary in the promulgation of the administrative rules concerning clerk training and emergency relocation of polling places which are conducting a public hearing and processing public comments.

Administrator Meagan Wolfe appeared and clarified that the Commission would need to schedule a date for the public hearing.

Discussion.

MOTION: Staff is delegated authority to conduct the preliminary public hearing on scope statements SS 008-22 and SS 010-22. The public hearing shall be noticed to notify the public that three or more members of the Commission may be in attendance.

Moved by Commissioner Bostelmann. Seconded by Commissioner Glancey.

Discussion.

FRIENDLY AMENDMENT: The hearing shall be held on March 23, 2022 at 1:30 pm via Zoom.

Proposed by Chair Jacobs. Accepted by Commissioner Bostelmann and Commissioner Glancey.

AMENDED MOTION: Staff is delegated authority to conduct the preliminary public hearing on scope statements SS 008-22 and SS 010-22. The public hearing shall be noticed to notify the public that three or more members of the Commission may be in attendance. The hearing shall be held on March 23, 2022 at 1:30 pm via Zoom.

Roll call vote: Bostelmann:	Aye	Glancey:	Aye
Jacobs:	Aye	Spindell:	No
Knudson:	Aye	Thomsen:	Aye

Motion carried 5-1.

Attorney Witecha presented various scope statements for the promulgation of permanent administrative rules pertaining to the correction of absentee ballot envelopes, absentee drop boxes, training for election inspectors and special voting deputies, and approval and security of electronic voting equipment and ballot security, as well as the promulgation of an emergency rule pertaining to the correction of absentee ballot envelopes.

Discussion.

Attorney Witecha explained to the Commission what action needed to be taken for each scope statement.

MOTION: As to SS 009-22, approve the final scope statement and instruct staff to begin drafting the rule language and complete the rule promulgation process.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

Discussion.

Roll call vote:	Bostelmann:	Aye	Glancey:	Aye
	Jacobs:	Aye	Spindell:	No
	Knudson:	No	Thomsen:	Aye

Motion carried 4-2.

Discussion.

MOTION: Approve pages 52-54 of the Commission materials as a permanent scope statement and submit that scope statement to the Governor and the Department of Administration.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

Discussion.

Roll call vote:	Bostelmann:	No	Glancey:	Aye
	Jacobs:	Aye	Spindell:	No
	Knudson:	No	Thomsen:	Aye

Motion failed 3-3.

MOTION: Approve pages 55-57 of the Commission materials as a permanent scope statement and submit that scope statement to the Governor and the Department of Administration.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Glancey:	No
	Jacobs:	No	Spindell:	Aye
	Knudson:	Aye	Thomsen:	No

Motion failed 3-3.

Commissioner Knudson sought clarification from Attorney Witecha on the legality of failing to act on a permanent scope statement regarding the correction of absentee ballot envelopes. Attorney Witecha responded by saying the Commission's current guidance would remain in place after the emergency rule expired and was not sure what a response from the Joint Committee for the Review of Administrative Rules would look like at that point.

The Commission took a break at 11:58.

The Commission reconvened at 12:30.

Staff Attorney Brandon Hunzicker presented the scope statement suggested by the Legislative Audit Bureau relating to training election inspectors and special voting deputies. He noted this rule would codify the training currently provided to election inspectors and special voting deputies to allow clarity and consistency.

MOTION: Approve the draft scope statement on pages 58-60 of the Commission materials relating to training election inspectors and special voting deputies as a permanent scope statement.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

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

Motion carried 6-0.

MOTION: Submit the scope statement on pages 58-60 of the Commission materials to the Governor and the Department of Administration.

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

Motion carried 6-0.

Attorney Hunzicker presented the scope statement suggested by the Legislative Audit Bureau regarding electronic voting equipment and ballot security. He noted this administrative rule would bring elections up to date with current needs and practices.

MOTION: Adopt pages 61-64 of the Commission materials as a permanent scope statement and submit that scope statement to the Governor and the Department of Administration.

Moved by Commissioner Knudson. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

Attorney Witecha presented the scope statement on drop box policy and codifying the non-directive guidance removed in compliance with the Waukesha County Circuit Court's January 19, 2022 order.

Discussion.

MOTION: Postpone action on the scope statement on pages 65-67 of the Commission materials until the Commission receives the decision of the Wisconsin Supreme Court.

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.

G. Staff Update

Administrator Wolfe updated the Commission on the .gov subgrant program, redistricting news, updates to WisVote, the elections.wi.gov redesign project, the agency's move to a new building, and the internal controls plan.

Discussion.

H. Discussion and Possible Action Related to Progress Implementing Legislative Audit Bureau Recommendations

Administrator Wolfe presented the draft of the report back to the Joint Legislative Audit Committee for the Commission's consideration.

Discussion.

MOTION: Amend background and current practice on pages 36 and 37 of the Commission materials and add to implementation status that the commission expects to consider options prior to the November 2022 election.

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.

MOTION: Commissioner Knudson and Chair Jacobs, in coordination with staff, will finalize language found in Recommendation 13 of the LAB follow-up report concerning ERIC.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

Discussion.

Roll call vote:	Bostelmann:	Aye	Glancey:	Aye
	Jacobs:	Aye	Spindell:	No
	Knudson:	Abstain	Thomsen:	Aye

Motion carried 4-1-1.

Commissioner Glancey asked that the changes made by Commissioner Knudson, Chair Jacobs, and staff be provided to the other Commissioners.

MOTION: To approve the LAB follow-up report as updated subject to the previous motions.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

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

Motion carried 6-0.

I. Discussion of Quarterly ERIC Movers Mailing

Technology Director Robert Kehoe appeared and reviewed data pertaining to the quarterly ERIC Movers mailings and the 2020 General Election voter participation reports.

Discussion.

J. Consideration and Approval of Ballot Proof for 2022 Fall Elections

This agenda item was presented and discussed after Item K due to technical difficulties.

Elections Specialist Cody Davies presented for review and approval a representative sample of 2022 Partisan Primary ballot templates. He also shared the results of his outreach to equipment vendors to avoid false overvotes as the result of crease lines on unscored absentee ballots.

Discussion.

MOTION: The Commission approves the ballot templates presented by staff and directs staff to finalize the templates and make them available for County Clerks to use for the 2022 Partisan Primary Election.

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.

K. Adjourn

MOTION: To adjourn.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

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

Motion carried 6-0.

The Commission moved to closed session at 2:19 pm.

The Commission adjourned in closed session at 4:47 pm.

####

March 9, 2022 Wisconsin Election Commission meeting minutes prepared by:

Anna Langdon, Help Desk Staff

March 11, 2022

March 9, 2022 Wisconsin Election Commission meeting minutes certified by:

Marge Bostelmann, Commission Secretary

April 20, 2022



Wisconsin Elections Commission

201 West Washington Avenue | Second Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: For the April 20, 2022, Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe, Administrator

SUBJECT: Request for Approval to Accept the 2022 Election Security Funds

On March 14, 2022, the Consolidated Appropriations Act of 2022 (Public Law 117-103) authorized an additional 75 million dollars for the U.S. Elections Assistance Commission (EAC) Help America Vote Act (HAVA) Elections Security Program. The HAVA Election Security grant funds provide states with additional resources to secure and improve election systems. The funds to state elections agencies are to be used to “improve the administration of elections for Federal office, including to enhance election technology and make election security improvements” to systems, equipment and processes used in federal elections. On April 1, the EAC sent a letter to WEC announcing Wisconsin’s portion of the grant award of \$1,190,603 with a 20% state match of \$238,646 for a total of \$1,429,249. They also sent a Notice of Grant Award along with an Award Packet and instructions. The EAC asked state agencies to submit their letter requesting the funds along with the required certifications by April 22, 2022.

Prior to submitting the letter requesting the funds, WEC is required to submit a §16.54 request to the Department of Administration (DOA) asking for permission to accept the funds. Once the Commission has approved the agency to submit the §16.54 request to DOA then it will submit the request. After the request has been approved by DOA, then the agency can submit the request for funds to the EAC. The agency is also required to submit a program narrative and combined budget describing how we plan to use the funds to the EAC no later than May 2, 2022, but agency staff requested an extension until June 27, 2022, so that staff could draft a plan for the Commission’s review and approval at its June 22, 2022, meeting.

Background and the Grant Acceptance Process

The first step to implementing the new HAVA grant for the Commission’s consideration is to request that DOA, through the authority of the Governor, accept the funds using the §16.54 process. The §16.54 process involves the completion of a form that is then submitted to the DOA budget office and is intended to result in acceptance of the funds. WEC staff has completed a draft of this form which is attached for the Commission’s reference, review, and approval.

In consultation with the DOA budget office, WEC staff will only complete sections of the initial §16.54 request form that are necessary at this time. Some sections of the form, such as the exact budget plan for the full grant award, have been intentionally left blank. This is because WEC staff is still determining recommendations for how the money should be spent. Once the WEC has made

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

determinations on other major components of the grant spending plan, an amended §16.54 document can be filed with DOA. The form also indicates how the WEC plans to make the \$238,646 match which is required to be identified by March 16, 2024, to the EAC. We have projected that we can fully fulfill the match requirement by utilizing our existing budgeted General-Purpose Revenue (GPR) state funds by September 30, 2022, therefore, an additional request for matching funds is not necessary.

In the motion below, WEC staff is asking the Commission to review the attached §16.54 form and approve immediate execution and submission of the form to DOA.

Recommended Motions

MOTION #1: Approve the execution and submission of the §16.54 request to accept HAVA election security grant funds to DOA for approval.

ADDENDUM TO STAR PROPOSAL DATA
16.54 Grant Review

2020 HAVA Election Security Grant
<<PEOPLESFT PROPOSAL ID>>
90.404

1. Project Description/Scope of Work:

As authorized under Section 101 of the Help America Vote Act of 2002 (P.L. 107-252) (HAVA) and provided for in the Consolidated Appropriations Act of 2022 (Public Law 117-103), the purpose of this award is to “improve the administration of elections for Federal office, including to enhance election technology and make election security improvements” to the systems, equipment and processes used in federal elections.

The long-term outcomes of the program are to ensure Wisconsin’s elections are safe and secure.

2. Funding and Position Data

a. Federal Funds Applied For

Numeric Appropriation	Source	Revenue Type	Amount	New Positions*		Existing Positions	
				FTE	Type	FTE	Type
18200	SEG F	Fed	\$1,190,603		Select		Select
	Select	Select	\$		Select		Select
	Select	Select	\$		Select		Select
	Select	Select	\$		Select		Select
	Select	Select	\$		Select		Select

b. State
Match

		Yes <input type="checkbox"/>	No <input type="checkbox"/>		In Kind?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
10100	GPR	State	\$238,646		Select		Select
	Select	Select	\$		Select		Select
	Select	Select	\$		Select		Select

*New positions listed in the 16.54 Grant Review Process require approval via a separate 16.54 Position Review process conducted by the State Budget Office.

3. Indirect Cost Reimbursement

Yes ☐ No ☒ Rate % X Base \$ = Amount \$

4. ADDITIONAL INFORMATION

a. Future State Commitment beyond the Original Grant:

The state is responsible for maintaining program requirements under HAVA 101 after the federal funds are exhausted.

b. Other Oversight Required (i.e. legislative audit, etc.): None

ADDENDUM TO STAR PROPOSAL DATA
16.54 Grant Review

5. Budget Information (5Ak must equal 5Bk):

a. Total Estimated Project Cost: \$ 1,190,603

Grant narrative and the budget plan are due to the U.S. Elections Assistance Commission on May 2, 2022; however, WEC staff has requested and received an extension from the EAC until June 27, 2022, to allow staff time to complete a draft plan for the Commission's review and approval at its June 22, 2022, meeting. We will update the SBO with this information.

Estimated Line-Item Budget:

	FTE/YEAR	Hourly Salary	Total Cost
a. Personnel			\$0
b. Fringe Benefits			\$0
c. Travel			\$0
d. Equipment			\$0
e. Supplies			\$0
f. Contractual			\$0
g. Construction			\$0
h. Other			\$1,190,603
i. Total Direct Charges			\$0
j. Indirect Charges (99.99%)			\$0
k. Total Project Budget*			\$1,190,603

b. Match Requirements: 20 %

At the Wisconsin Elections Commission meeting on April 20, 2022, the Commission authorized agency staff to apply for the federal grant funds and accept the 20% match requirement. This grant's purpose is to "enhance elections technology and make election security improvements," so cash state funds are ideal to satisfy this purpose. Our agency's GPR budget as it exists will be realigned toward election security activities to sufficiently meet the required match. We have until March 16, 2024, to identify the source of our required state match. We have projected that we can fully fulfill the match requirement by utilizing our existing budgeted state funds by 09/30/2022.


a. Federal Funds	\$1,190,603
b. State Funds	\$238,646
k. Total Project Budget*	\$1,429,249

c. Allotment and Position Information:

1) New Positions: Expanded information.

2) Existing Positions: Expanded information.

ADDENDUM TO STAR PROPOSAL DATA
16.54 Grant Review

6. Authorized Agency Representative Name and Title: Meagan Wolfe, Administrator	
7. Signature: 	8. Date: 04/21/2022



Wisconsin Elections Commission

201 West Washington Avenue | Second Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: For the April 20, 2022, Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe, Administrator

SUBJECT: Libertarian Party Ballot Status Update

Background

Wisconsin Statute §5.62 governs how a political party can achieve ballot status in Wisconsin. To continue to receive a party's own section on the partisan primary ballot, a candidate representing said political party must receive at least 1% of the vote cast for any statewide contest in a gubernatorial election. The statute also provides that a political party can gain or retain its ballot status if a candidate representing their party receives at least 1% of the total votes cast for president.

After the 2018 gubernatorial and 2020 presidential election, the Democratic Party of Wisconsin, the Republican Party of Wisconsin, and the Constitution Party of Wisconsin all achieved ballot status due to their candidates receiving either 1% of the vote for a statewide office, or 1% of the vote for president. The Libertarian Party of Wisconsin did not gather at least 1% of the vote in a statewide office in the 2018 gubernatorial election, and therefore did not maintain their ballot status ahead of the 2020 election cycle. However, the ticket containing independent candidates Jo Jorgensen and Jeremy Spike Cohen, nominees for president from the national Libertarian Party, did gather 1.17% of the votes cast in the 2020 General Election.

Ballot Status Memo

In December 2020, WEC staff published the Party Ballot Status memo for the 2021-2022 election cycle and distributed the memo to all county clerks and the Milwaukee County Election Commission. This memo stated that the Democratic, Republican, and Constitution parties all maintained or retained their ballot access due to their results from the 2018 and 2020 elections. The memo also stated that the Libertarian Party had gained ballot access due to its national nominees for president gaining over 1% of the vote in 2020. However, these candidates were still considered independent candidates in Wisconsin as the Libertarian Party did not have ballot status for the 2020 election.

Wisconsin Statute §5.62(1)(b)1 allows candidates who were listed as "independent" who received at least 1% of the votes cast for the office of President to have a separate ballot at the August partisan primary, provided the chairperson and secretary of the party petitions the Wisconsin Elections Commission for ballot status no later than April 1, 2022. The ticket containing Jo Jorgensen and Jeremy Spike Cohen gathered over 1% of the votes cast in the November 3, 2020, General Election and therefore the Libertarian Party is eligible to petition the WEC for ballot status.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

WEC staff reached out to the Libertarian Party in March 2021 to inform the chair and secretary of the party of the petition requirement and to remind the party leaders of the April 1, 2022, deadline.

Statute does not describe the precise language or required information on this petition other than the fact that it must be signed by both the party chair and party secretary. On March 22, 2022, the Chair and the Secretary of the Libertarian Party of Wisconsin filed a petition with the WEC requesting that the Libertarian Party gain ballot status ahead of the 2022 Partisan Primary and General Election (Attachment A).

WEC staff believe that the petition filed by the Libertarian Party of Wisconsin is compliant with the requirements described in Wis. Stat. §5.62(1)(b)1 and therefore is entitled to have their own ballot for the August 9, 2022, Partisan Primary election.

Recommended Motions

Staff recommends the Commission grant approval of ballot status for the Libertarian Party for the 2022 Partisan Primary and General Election.

From: Jacob VandenPlas, Chair
Michael Chianese, Secretary
Libertarian Party of Wisconsin
P.O. Box 20815
Greenfield, WI 53220-0815



Date: March 20th, 2022

To: Wisconsin Elections Commission
212 E Washington Ave
3rd floor
Madison, WI 53703

To Whom It May Concern,

The Libertarian Party of Wisconsin is formally petitioning for ballot status that is described in Wisconsin Statute §5.62(1)(b)1. The presidential ticket containing Jo Jorgensen and Jeremy "Spike" Cohen received 1.17% of the votes cast in the November 3rd, 2020 General Election, which exceeds the requirement in the statute. The party name should be listed as "Libertarian".

Thank you for considering this petition,



Jacob VandenPlas
Chair, Libertarian Party of Wisconsin



Michael Chianese
Secretary, Libertarian Party of Wisconsin



Wisconsin Elections Commission

201 West Washington Avenue | Second Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: For the April 20, 2022 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe, Administrator

Prepared and Presented by:
Brandon Hunzicker, Staff Attorney

SUBJECT: Administrative Rule Approval

Introduction

This memo discusses two sets of two scope statements for administrative rules. The Commission has seen all four scope statements and directed staff to send them to the Governor for approval. All four have received approval by the Governor and have been published in the Administrative Register. Two have received a preliminary hearing and the other two require the Commission to schedule a preliminary hearing.

Before staff can begin drafting any rule language, the Commission must formally approve the scope statements. The approval presents an opportunity for the Commission to provide guidance and suggestions for the language of the rules, and also to establish how the Commission would like to review the rule language before staff post the proposed language on the Wis. Admin. Rules website for public comments.

Discussion

Wis. Stat. § 227.135(2) explains, as relevant here, that:

The agency shall also present the statement to the individual or body with policy-making powers over the subject matter of the proposed rule for approval. The individual or body with policy-making powers may not approve the statement until at least 10 days after publication of the statement under sub. (3) and, if a preliminary public hearing and comment period are held by the agency under s. 227.136, until the individual or body has received and reviewed any public comments and feedback received from the agency under s. 227.136 (5). No state employee or official may perform any activity in connection with the drafting of a proposed rule, except for an activity necessary to prepare the statement of the scope of the proposed rule until the governor and the individual or body with policy-making powers over the subject matter of the proposed rule approve the statement.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

After receiving the Governor's approval for the scope statements titled Certification and Training of Municipal Clerks (SS 008-22), and Polling Place Emergency Planning (SS 010-22), the Commission received a directive under Wis. Stat. § 227.136(1) from the Joint Committee for the Review of Administrative Rules (JCRAR) to hold a preliminary public hearing and comment period. Agency staff held the hearing on March 23 and received one written comment and no live comments. To continue the promulgation process and begin the rule drafting stage, the Commission needs to review the comment and formally approve the scope statements.

Staff have received approval from the Governor for scope statements titled Approval and Security of Electronic Voting Equipment and Ballot Security (SS 029-22), and Training for Election Inspectors and Special Voting Deputies (SS 030-22). These scope statements were published in the Administrative Register on Monday, April 4. On April 11, the JCRAR directed the Commission to hold a preliminary hearing for these rules. Before the Commission can formally approve these scope statements, it must schedule a preliminary hearing.

Recommended Motions:

1. Pursuant to Wis. Stat. s. 227.135(2), the Wisconsin Elections Commission today, April 20, 2022, approves scope statements titled Certification and Training of Municipal Clerks (SS 008-22), and Polling Place Emergency Planning (SS 010-22). In drafting the language of the rules, staff are directed to follow the guidance of the Commission as found in the minutes of this April 20 open session meeting. Staff are further directed, upon completing the draft language of each rule, to send a copy of the draft language to each Commissioner for comments and feedback. After incorporating any comments and feedback, staff are directed to bring the draft rule language to the Commission during an open session meeting for discussion and approval before taking any further official steps within the promulgation process. If all Commissioners agree that further discussion is unnecessary after staff have incorporated comments and feedback, staff will continue the promulgation process using the draft language.
2. Staff is delegated authority to conduct the preliminary public hearing on scope statements titled Approval and Security of Electronic Voting Equipment and Ballot Security (SS 029-22) and Training for Election Inspectors and Special Voting Deputies (SS 030-22). The public hearing shall be noticed to notify the public that three or more members of the Commission may be in attendance. The hearing shall be held via Zoom on _____.

**STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.135
WISCONSIN ELECTIONS COMMISSION**

Rule No.: Wis. Adm. Code EL Chapter 12

Relating to: Certification and Training of Municipal Clerks

Rule Type: Permanent / Amendment

FINDING OF EMERGENCY:

N/A

RULE ANALYSIS:

a) A description of the objective of the proposed rule.

The Wisconsin Elections Commission (“Commission”) unanimously approved directives to Commission staff to create a scope statement for the purpose of amending Chapter EL 12 to comport with the applicable statute on clerk training cycles, while also adding a provision regarding the notification of top elected officials in each municipality where local officials have not met those training obligations in the current cycle. The Commission also directed staff to add a line to Chapter EL 12 indicating that the statewide voter registration system is named “WisVote,” and that the name of the system may change in the future. As such, the Commission now proposes a permanent change in the form of an amendment to Chapter EL 12 of the Wisconsin Administrative Code (“Certification and Training of Municipal Clerks”). Specifically, Wis. Adm. Code § EL 12.03 would be amended to comply with Wis. Stat. § 7.15(1m), the definition of “Election cycle” in Wis. Adm. Code § EL 12.01(2) needs to be similarly amended, and the definition of “Statewide Voter Registration System” in Wis. Adm. Code § EL 12.01(5) would be further clarified. Finally, Wis. Adm. Code § EL 12.02(2) will be expanded to include greater detail on how local officials will be notified when training requirements are not being met by municipal clerks.

b) Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives.

The rule amendments proposed here would bring the current provisions of Chapter EL 12 of the Wisconsin Administrative Code into full compliance with Wis. Stat. § 7.15(1m). That statute provides:

Each municipal clerk shall, at least once every 2 years during the period beginning on January 1 of each even-numbered year and ending on December 31 of the following year, attend a training program sponsored by the commission under ss. 7.31 and 7.315.

Chapter EL 12 currently defines “election cycle” as follows:

“Election cycle” begins on January 1 of an odd-numbered year and continues through December 31 of the following even-numbered year.

This administrative code training cycle applies to both municipal clerk and election inspector cycles, and thus is now non-compliant with the provisions of Wis. Stat. § 7.15(1m). The actual training cycles for clerks and elections inspectors were modified to comply with Chapter 7 when the statute was originally updated. This was done by implementing one, three-year training cycle that ultimately shifted all subsequent two-year cycles to a start date in even-numbered years, in accordance with Wis. Stat. § 7.15(1m). That change rendered training processes statutorily compliant, but the provisions of administrative code have not been updated to reflect actual practices yet.

As such, the proposed rule amendment will redefine Wis. Adm. Code § EL 12.01(2) to reflect a training cycle from January 1 of even-numbered years through December 31 of odd-numbered years. This definitional change/amendment will also bring Wis. Adm. Code § EL 12.03 into full compliance with Wis. Stat. § 7.15(1m).

Chapter EL 12 of the Wisconsin Administrative Code currently also defines “Statewide Voter Registration System” as follows:

“Statewide Voter Registration System” is the election administration software application provided by the commission to enable local election officials to register voters, track absentee voting, and administer elections.

At the December 1, 2021, meeting of the Wisconsin Elections Commission, Commissioners rendered a decision that this definition did not inherently mean that Chapter EL 12 was out of date simply because the Statewide Voter Registration System is no longer called “SVRS” and was subsequently renamed “WisVote.” Rather, it was determined that a reference to the “Statewide Voter Registration System” in administrative code properly refers to any iteration, branding, or naming of the actual statewide voter registration system, both now and in the future. However, for clarity purposes, the Commission also unanimously passed a motion to seek an amendment to Chapter EL 12 of the Wisconsin Administrative Code noting that the statewide voter registration system is named “WisVote,” and that the name of the system may change in the future. This amendment will be proposed as an addition to the definitional language found in Wis. Adm. Code § EL 12.01(5).

At its December meeting, the Commission also directed staff to pursue an amendment to Wis. Adm. Code § EL 12.02(7). This addition would expand the section to further clarify the processes by which a municipality’s governing body is contacted by Commission staff to notify the body that local officials have not met the required training standards for the applicable election cycle. The modification to code will require staff to solicit the official municipal mailing addresses to which notices will be sent. The update will also require staff to send notice of training deficiencies to the top elected official in a particular municipality by first class mail within thirty days of the election cycle’s end.

c) Detailed explanation of statutory authority for the rule (including the statutory citation and language).

- Wis. Stat. § 5.05(1): General authority. The elections commission shall have the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing. Pursuant to such responsibility, the commission may:
 - (f) Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than laws regulating campaign financing, or ensuring their proper administration.

- Wis. Stat. § 7.08(3): Election manual. Prepare and publish separate from the election laws an election manual written so as to be easily understood by the general public explaining the duties of the election officials, together with notes and references to the statutes as the commission considers advisable...

- Wis. Stats. § 227.11(2)(a): Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

d) An estimate of the amount of time agency employees will spend developing the proposed rule and of other resources needed to develop the rule.

WEC staff estimates that it will take approximately 40 staff hours to draft a scope statement and carry out the subsequent steps to promulgate an administrative rule.

e) A description of all of the entities that may be affected by the proposed rule.

These changes will affect clerks, election officials, and members of municipal governing bodies, only to the extent training is conducted and requirements are enforced. The effect of the proposed rule amendments, and subsequent processes, will have little to no impact on small businesses. In fact, the administrative rule amendments pertaining to training cycles will simply bring the code into compliance with the training cycles that have already been implemented, thus having no impact upon clerks and elections inspectors, as well as local businesses or secondary parties. There are no increased commitments in time or training. The proposed rule amendment pertaining to the definition of the Statewide Voter Registration System will also serve to make existing code clearer, thus reducing the risk that any party trying to interpret the provision will find it difficult and/or contact Commission staff seeking clarification. The remaining changes will be implemented to ensure clerks are up to date in their training responsibilities.

f) A summary and preliminary comparison of any existing or proposed federal regulation that addresses or is intended to address the activities to be regulated by the proposed rule.

The Help America Vote Act of 2002 allocated federal funds to states where that state's chief executive and chief election official provided verification that the funds would be used to modernize election operations in predefined ways, and those requirements included the training of election officials, poll workers, and election volunteers (*see* § 101(b)(1)(D)).

Agency Contact Person:

Jim Witecha, Staff Attorney
(608)266-0136, james.witecha@wisconsin.gov



Megan Wolfe
Administrator, Wisconsin Elections Commission
January 21, 2022
Date Submitted

STATEMENT OF SCOPE

Wisconsin Elections Commission

Rule No.: EL 15

Relating to: Polling Place Emergency Planning

Rule Type: Permanent

1. Detailed description of the objective of the proposed rule:

The objective of this proposed rule is to require municipalities to create a plan to employ if a public health crisis, natural disaster, or other catastrophic event impacts polling places. An unforeseen crisis can alter the suitability or availability of polling places after the statutory deadline has passed for a governing body or board of election commissioners to establish polling places. This rule seeks to allow municipal clerks who must run an election after a crisis has impacted polling places within 30 days of that election to remain statutorily compliant even if circumstances demand last-minute changes.

2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The existing policy is detailed in Wis. Stat. § 5.25(1)–(3). The statute requires each election to be held at polling places established by, as relevant, the board of election commissioners or a municipality’s governing body at least 30 days before the election. The new policy proposed is for municipalities to also approve backup polling places, alternate uses of primary polling places, and an emergency plan that a municipal clerk may employ as needed while also remaining compliant with all other laws affecting polling places, such as the notice requirements of Wis. Stat. § 10.01(2)(d) and the accessibility requirements of Wis. Stat. § 5.25(4) and 52 U.S. § 20102. Municipalities would retain the discretion to choose how many and what kind of backup polling places to approve as well as to define the scope and requirements of the emergency plan, including specifying how municipal clerks determine when to employ aspects of the plan. Additionally, the rule will require efforts to publicize the existence of the emergency plan, and for clerks to notify impacted voters if such a plan is used. Alternatives that share the goal of polling place emergency planning would differ primarily in what responsibilities are placed on either the municipal clerk or the entity choosing the polling places. The overall policy alternatives are to either require municipalities develop a plan for emergency situations that impact polling places, or to not require municipalities to have a plan in place.

3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Subject to the other requirements of Chapter 227 of the Wisconsin Statutes, under Wis. Stat. 227.11(2)(a): “Each agency may promulgate rules interpreting the provisions of any statute enforced

or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute” Wis. Stat. § 5.05(1) states: “The elections commission shall have the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing.” Specifically, Wis. Stat. § 5.05(1)(f) provides that the Commission may: “Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than laws regulating campaign financing, or ensuring their proper administration.” This proposed rule interprets and helps to more effectively implement Wis. Stat. § 5.25. Additionally, under Wis. Stat. 7.08(3) the Elections Commission shall: “Prepare and publish separate from the election laws an election manual written so as to be easily understood by the general public explaining the duties of the election officials”

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

It will take WEC staff approximately 40 hours to develop this rule and will not require any additional resources.

5. List with description of all entities that may be affected by the proposed rule:

This rule would affect each municipal government in Wisconsin. Specifically, it would direct municipal governing bodies or boards of election commissioners to work with municipal clerks to develop emergency plans for polling places. Additionally, voters would be affected if a plan is employed, though this impact should be less severe than the impact on voters if a municipality lacked an emergency plan.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Elections Commission is not aware of any federal laws or regulations that address emergency plans and backup locations for polling places. However, the Election Assistance Commission does have guidance pertaining to this issue. U.S. Election Assistance Commission, *6 Tips for Contingency and Disaster Planning* 1–5 (2014). The guidance covers identifying disasters, creating contingency scenarios, ensuring contingency plans are comprehensive, planning for communication failures, planning for relocating polling places, planning for staffing shortages, planning for ballot and supply shortages, and planning for technology failures.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The overall economic impact of implementing this proposed rule would be minimal to nonexistent. Any economic impact of this rule would be all or nearly all confined to government officials putting in the time and using the resources needed to develop their emergency plans. Once an initial plan is

established, updates should require very little additional time or resources. This rule is not likely to affect small businesses.

Agency Contact Person:

Brandon Hunzicker, Staff Attorney

(608) 267-0714, brandon.hunzicker@wisconsin.gov



Megan Wolfe

Administrator, Wisconsin Elections Commission

January 21, 2022

Date Submitted



612 W. Main Street, #200 Phone: (608) 256-0827
Madison, WI 53703 www.lwwwi.org



March 23, 2022

To: Wisconsin Elections Commission

Re: Public Comments from the League of Women Voters of Wisconsin on SS 010-22 and SS 008-22

The League appreciates the WEC's responsiveness to addressing the recommendations made in the Legislative Audit Bureau's recent election administration report and the opportunity to give public comment on scope statements: SS 010-22 and SS 008-22.

SS 010-22 Polling Place Emergency Planning

As the WEC continues to draft the administrative rule pertaining to polling place emergency planning, we ask you to remember the lived experiences of voters during the 2020 elections. Some of whom had to wait in lines up to 5 hours in inclement weather without access to food or a bathroom as a direct result of the extreme closure and consolidation of polling sites during the public health emergency. Prior preparation and creation of an emergency plan can help prevent voters from having to experience these horrible conditions in the future. These plans must include - back up locations, mechanisms for notifying voters of the changes, and requirements to retain polling locations in areas reasonably close to voters' regular polling places. In addition municipalities cannot be allowed to consolidate so many polling places that voters have difficulty accessing those locations, and/or that unreasonably long lines ensue.

We are concerned that the statement of scope as written does not alleviate the potential of mass polling place consolidation due to an emergency, as was the lived experience of voters in 2020. The drafted statement of scope says:

"Municipalities would retain the discretion to choose how many and what kind of backup polling places to approve as well as to define the scope and requirements of the emergency plan, including specifying how municipal clerks determine when to employ aspects of the plan. Additionally, the rule will require efforts to publicize the existence of the emergency plan, and for clerks to notify impacted voters if such a plan is used."

More guard rails are needed to adequately prepare for future emergencies. This includes set standards to ensure mass polling place consolidation is avoided in the future, a mechanism to ensure each municipality has created an emergency plan, and a mechanism for the WEC to evaluate plans to ensure they are sufficient.

SS 008-22 Certification and Training of Municipal Clerks

The League of Women Voters supports the drafted scope statement related to the certification and training of municipal clerks. Training is an important component of the electoral process and as the local authority on elections, it is of paramount importance that local municipal clerks meet at the very least the minimum required training before conducting their first election.

In addition, as election security remains a top concern for election officials and voters alike, ongoing, up to date and accessible training for all involved in the election process is vital for the implementation of enhanced security measures. The WEC has many training modules for municipal and county clerks to give them the confidence and tools to address election security threats they may encounter in their roles. This ongoing training for clerks is just as important to ensure the security of our elections.

Finally, we support the WEC's plan to contact the top elected official in a municipality as an additional mechanism to ensure clerks complete their training.

Thank you for your consideration.

**STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.135
WISCONSIN ELECTIONS COMMISSION**

Rule No.: EL Ch. 7 - Approval and Security of Electronic Voting Equipment and Ballot Security

Relating to: Approval and Security of Electronic Voting Equipment and Ballot Security

Rule Type: Permanent

1. **Finding/nature of emergency (Emergency Rule only):** N/A
2. **Detailed description of the objective of the proposed rule:**

The Wisconsin Elections Commission (“Commission”) proposes to repeal, recreate and rename current Wis. Adm. Code EL Ch. 7 – Approval of Electronic Voting Equipment (“EL Ch. 7”), related to the approval of electronic voting equipment. The original rules governing this topic have not been substantively updated since 2000. The Commission seeks to update the rules which govern the approval of electronic voting equipment to bring them in line with current technology, modes and practices. The new rule will also address ballot and electronic voting system security which was the topic of an emergency rule that has since expired (former Wis. Admin. Code GAB Ch. 5 – Ballot and Electronic Voting System Security). A previous Government Accountability Board statement of scope to repeal and recreate Wis. Adm. Code GAB Ch. 7 was approved in 2015 (SS 046-15). With the Wisconsin Elections Commission beginning operations on June 30, 2016, the Commission now resubmits this statement of scope to repeal and recreate current EL Ch. 7 and incorporate former GAB Ch. 5 to govern these important topics.

3. **Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Existing Policy:

Current EL Ch. 7 was originally published in 2000 (under different chapters based on the agency that oversaw elections at that time) and has not been amended except for renumbering and a correction in 2008. (Register April 2008 No. 628). EL Ch. 7 currently establishes a number of criteria which must be met for an electronic voting system to be approved for use in Wisconsin. It does not include guidelines to address technological and policy issues that have arisen in recent years, such as approval of engineering change orders, commercial off the shelf systems, approval of new components for equipment that was previously federally certified and approved for use in Wisconsin and other equipment that has not been federally certified.

Proposed Policy:

The Commission seeks to update the rules which govern the approval of electronic voting equipment to bring them in line with current technology, modes and practices. The recreated rules would include guidelines to address technological and policy issues that have arisen in recent years, such as approval of engineering change orders, commercial off the shelf systems, approval of new components for equipment that was previously federally certified and approved for use in Wisconsin and other equipment that has not been federally certified. The rules would also ensure the security, review and verification of software components used with each electronic voting system approved by the Commission. The verification procedures will ensure that the software components correspond to the instructions used by the system to count votes. Additionally, provisions governing security of electronic voting equipment and ballots would be incorporated into the new rule, which were previously in place under a separate emergency rule which has since expired. Combining these rules would put this information into one set of rules dealing with the same subject matter.

Alternatives:

If the Commission does not repeal and recreate current EL Ch. 7, current out of date provisions governing the approval of electronic voting equipment would remain in the rule. The Commission could again promulgate a separate chapter of rules dealing with electronic voting equipment and ballot security instead of combining it with the procedures used to test and approve electronic voting equipment used in this State. In addition, policies and procedures enacted by the elections agency related to these topics would not have the force of law afforded by an administrative rule and the legislative oversight of the rules process.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Wis. Stat. § 5.05(1) states that the Elections Commission “shall have the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing.” Pursuant to such responsibility, the Elections Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration.” Wis. Stat. § 5.05(1)(f).

Wis. Stat. § 5.93, expressly authorizes the board to “promulgate reasonable rules for the administration of this [Electronic Voting Systems] subchapter.”

Wis. Stat. § 5.905(3) states that the Elections Commission “shall promulgate rules to ensure that the security, review and verification of software components used with each electronic voting system approved by the commission.”

Wis. Stat. § 5.87(2) states that the Elections Commission “shall, by rule, prescribe uniform standards for determining the validity of votes cast or attempted to be cast with each electronic voting system approved for use in this state under s. 5.91. The rules shall apply only to situations that may arise in which the validity of a vote or attempted vote cast by an elector utilizing a particular system cannot be determined under s. 7.50.”

Wis. Stat. § 7.08(1)(d) states that the Elections Commission shall “[p]romulgate rules for the administration of the statutory requirements for voting machines and electronic voting systems and any other voting apparatus which may be introduced in this state for use at elections.”

5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

300 - 350 hours.

6. List with description of all entities that may be affected by the proposed rule:

This rule will affect manufacturers and vendors of electronic voting equipment, vendors that provide programming of electronic voting equipment, local election officials including county and municipal clerks, election inspectors and voters.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

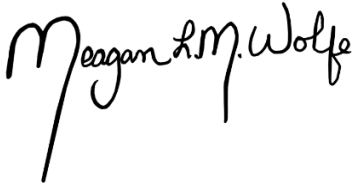
The U.S. Election Assistance Commission (“EAC”) operates a voting system testing and certification program which certifies, decertifies and recertifies voting system hardware and software and accredits testing laboratories to conduct the testing. Voting systems are tested at the federal level to determine if they meet the guidelines and specifications set forth in the Voluntary Voting System Guidelines (VVSG). Documentation, including proof that a system has obtained EAC certification is submitted to the Wisconsin Elections Commission as part of the application process to obtain State certification.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The anticipated economic impact from the implementation of the new rules is minimal to none. Voting equipment vendors are already required to pay the actual cost of the testing campaign that the State conducts prior to certification. Nothing in the new rule is

anticipated to significantly impact that requirement. Rather the rule will primarily formalize existing procedures and requirements of the State voting equipment approval process. The proposed rules will not affect small businesses.

Contact person: Brandon Hunzicker
(608) 267-0952 brandon.hunzicker@wisconsin.gov



Meagan Wolfe
Administrator
Wisconsin Elections Commission

March 10, 2022
Date Submitted

STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.135
WISCONSIN ELECTIONS COMMISSION

Rule No.: EL Ch. 13

Relating to: Training for Election Inspectors and Special Voting Deputies

Rule Type: Permanent

- 1. Finding/nature of emergency (Emergency Rule only):** N/A
- 2. Detailed description of the objective of the proposed rule:**

Wis. Stat. § 7.315(1)(a) provides that the Wisconsin Elections Commission (“Commission”) shall promulgate administrative rules that prescribe the contents of training that municipal clerks must provide to election inspectors and special voting deputies. Wis. Stat. § 7.315(4) states that election registration officials shall receive the same training that election inspectors receive from their municipal clerk. The Commission currently publishes comprehensive manuals that municipal clerks use to train their election inspectors, election registration officials and special voting deputies. The Commission proposes to enact EL Ch. 13, which will a) codify information already provided to municipal clerks in the manuals, and b) afford the Legislature the opportunity to review the contents of the training that municipal clerks provide their election inspectors, election registration officials and special voting deputies.

- 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Existing policy:

The Commission prescribes the contents of training that municipal clerks must provide to election inspectors, election registration officials and special voting deputies by publishing comprehensive manuals on election administration, election day activities and absentee voting in residential care facilities and retirement homes. The current Elections Administration manual published by the Commission can be accessed here: <http://elections.wi.gov/clerks/education-training/election-administration-manual>. The current Election Day Manual published by the Commission can be accessed here: <http://elections.wi.gov/clerks/education-training/election-day-manual>. The current Absentee Voting in Residential Care Facilities and Retirement Homes manual published by the Commission can be accessed here: <http://elections.wi.gov/publications/manuals/nursing-home-absentee>

Proposed policy:

Similar to current Wis. Admn. Code Ch. EL 12 (training contents for municipal clerks), the Commission seeks to codify the basic contents of the manuals used by municipal clerks to train their election inspectors, election registration officials and special voting deputies.

Alternatives:

If the Commission does not promulgate rules as provided in Wis. Stat. § 7.315(1)(a), the Commission will not be compliant with that statute, but will continue publishing comprehensive manuals that are used by municipal clerks to train election inspectors, election registration officials and special voting deputies.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Wis. Stat. § 7.315(1)(a) provides that the “commission shall, by rule, prescribe the contents of the training that municipal clerks must provide to inspectors, other than chief inspectors, and to special voting deputies appointed under s. 6.875.” Wis. Stat. § 7.315(4) states that “election registration officials shall receive the training as provided under this section for inspectors, other than chief inspectors” therefore the content of the training materials as set forth in the rule will apply equally to election inspectors, election registration officials and special voting deputies.

Wis. Stat. § 5.05(1) states that the Commission “shall have the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing.” Pursuant to such responsibility, the Elections Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration.” Wis. Stat. § 5.05(1)(f).

5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

40 hours.

6. List with description of all entities that may be affected by the proposed rule:

The rules will affect municipal clerks, election inspectors, election registration officials and special voting deputies, but only to the extent that the procedures already guiding training of these officials will now be codified in this rule in addition to being available in the comprehensive manuals drafted and published by the Commission.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Help America Vote Act (“HAVA”) provides that States shall use funds provided under HAVA to perform various federal election-related functions, including training election officials, poll workers, and election volunteers. 42 U.S.C. §§ 15301(b)(1)(D), 15421(b)(2). HAVA also provides that State plans for administering federal elections must include information about how the “State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State” in administering uniform and nondiscriminatory

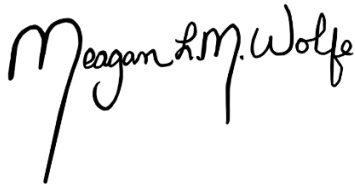
elections. 42 U.S.C. § 15404(a)(3). Finally, HAVA also provides funds to states to “support training in the use of voting systems and technologies[.]” 42 U.S.C. § 15461(c)(1)-(2).

The proposed rules are consistent with these federal provisions, and such rule would help the Commission further effectuate these federal requirements as well as the state statutory requirements under Wis. Stat. § 7.315.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The anticipated economic impact from the implementation of the proposed order is minimal to none. There will likely be little impact, economic or otherwise, on current processes already in place to train local election officials. There is no anticipated economic impact on small businesses.

Contact person: Brandon Hunzicker
(608) 267-0952 brandon.hunzicker@wisconsin.gov



Meagan Wolfe
Administrator
Wisconsin Elections Commission

March 10, 2022
Date Submitted

From: [Wolfe, Meagan - ELECTIONS](#)
To: [EL DL Administration](#)
Subject: FW: JCRAR Directive to Hold Preliminary Hearings on Scope Statements SS 029-22 & SS 030-22
Date: Monday, April 11, 2022 11:02:19 AM

From: Sen.Nass - LEGIS <Sen.Nass@legis.wisconsin.gov>
Sent: Monday, April 11, 2022 11:00 AM
To: Jacobs, Ann - ELECTIONS <Ann.Jacobs@wisconsin.gov>; Wolfe, Meagan - ELECTIONS <Meagan.Wolfe@wisconsin.gov>; ELECTIONS HelpDesk <elections@wisconsin.gov>
Cc: Sen.Nass - LEGIS <Sen.Nass@legis.wisconsin.gov>; Rep.Neylon - LEGIS <Rep.Neylon@legis.wisconsin.gov>; Bostelmann, Marge R - ELECTIONS <marge.bostelmann@wisconsin.gov>; Glancey, Julie - ELECTIONS <Julie.Glancey@wisconsin.gov>; Knudson, Dean - ELECTIONS <Dean.Knudson@wisconsin.gov>; Spindell, Robert - ELECTIONS <robert.spindell@wisconsin.gov>; Thomsen, Mark L - ELECTIONS <Mark.Thomsen@wisconsin.gov>; Rydecki, Richard H - ELECTIONS <Richard.Rydecki@wisconsin.gov>; Grosz, Scott A - LEGIS <scott.grosz@legis.wisconsin.gov>; Kauffman, Jill - LEGIS <jill.kauffman@legis.wisconsin.gov>; Duchek, Mike - LEGIS <michael.duchek@legis.wisconsin.gov>
Subject: JCRAR Directive to Hold Preliminary Hearings on Scope Statements SS 029-22 & SS 030-22

April 11, 2022

Ann Jacobs, Chairperson
Meagan Wolfe, Administrator
Wisconsin Elections Commission
P.O. Box 7984
Madison, WI 53707-7984

RE: SS 029-22 – Approval & Security of Electronic Voting Equipment & Ballot Security
SS 030-22 – Training for Election Inspectors & Special Voting Deputies

Dear Chairperson Jacobs and Administrator Wolfe:

As co-chairperson of the Joint Committee for Review of Administrative Rules (JCRAR) and pursuant to s. 227.136 (1), Stats., I write to direct the Wisconsin Elections Commission (WEC) to hold preliminary public hearings and comment periods on Scope Statements SS 029-22 and SS 030-22, which were published in the Wisconsin Administrative Register on April 4, 2022.

Additionally, pursuant to s. 227.135 (2), Stats., please note that a scope statement may not be approved by the Wisconsin Election Commission or individuals within the commission until after the preliminary public hearing and comment period are held by the agency, and accordingly, no activity may be conducted in connection with the drafting of a proposed rule until after such hearing and approval have occurred.

Please confirm receipt of this letter directing preliminary hearings and comment periods on the above scope statements.

Sincerely,

Steve Nass

Senator Steve Nass
Co-Chair, JCRAR

– Sent via e-mail –