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Wisconsin Elections Commission

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Meeting of the Commission  
Tuesday, March 14, 2017  
10:00 A.M.

Agenda  
Open Session

Wisconsin Elections Commission Offices  
212 E. Washington Avenue, Third Floor  
Madison, Wisconsin

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- A. Call to Order**
- B. Administrator’s Report of Appropriate Meeting Notice**
- C. Personal Appearances (Time reserved for personal appearances may be limited at the discretion of the Chair)**
- D. Minutes of Previous Meeting – January 10, 2017** **3**
- E. Election Night Results Reporting** **7**
- F. Electronic Poll Books** **13**
- G. Voter Registration List Maintenance** **17**
  - 1. Four Year Maintenance Mailing**
  - 2. ERIC Processes**
- H. Online Voter Registration Initiative** **25**
- I. Chapter 12 Complaints Policy** **33**
- J. Administrative Rules** **39**
- K. Legislative Agenda**

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<b>T.</b>	<b>Per Diem Authorization</b>	
<b>U.</b>	<b>Closed Session</b>	
	<b>1. Litigation Update</b>	
	<b>2. Election Complaints</b>	

19.85 (1) (g)           The Commission may confer with legal counsel concerning litigation strategy.

19.851                   The Commission's deliberations concerning investigations of any violation of the election laws shall be in closed session.

# WISCONSIN ELECTIONS COMMISSION

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JULIE M. GLANCEY  
ANN S. JACOBS  
STEVE KING  
DON MILLIS  
MARK L. THOMSEN, CHAIR

ADMINISTRATOR MICHAEL HAAS

**Wisconsin Elections Commission**  
Wisconsin Elections Commission Offices  
Room 225NW, State Capitol  
Madison, Wisconsin  
10:00 a.m. Tuesday, January 10, 2017

## Open Session Minutes

Present: Commissioner Mark Thomsen, Commissioner Ann Jacobs, Commissioner Beverly Gill, Commissioner Julie Glancey, Commissioner Steve King (all by telephone) and Commissioner Don Millis (in person)

Staff present: Michael Haas, Ross Hein, Nathan Judnic, Sharrie Hauge and Reid Magney

### **A. Call to Order**

Commission Chair Mark Thomsen called the meeting to order at 10:02 a.m.

### **B. Administrator's Report of Appropriate Meeting Notice**

Administrator Michael Haas informed the Commissioners that proper notice was given for the meeting.

### **C. Minutes of Previous Meetings**

**October 21, 2016**

**December 14, 2016**

**MOTION:** Approve open session minutes of the October 21, 2016 meeting of the Wisconsin Election Commission as submitted. Moved by Commissioner Jacobs, seconded by Commissioner Glancey. Motion carried unanimously.

**MOTION:** Approve open session minutes of the December 14, 2016 meeting of the Wisconsin Election Commission as submitted. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

### **D. Ballot Access Challenges and Issues**

Administrator Haas reported that the Commission received no ballot access challenges.

## **E. Ballot Access Report and Certification of Candidates**

Elections Supervisor Ross Hein made an oral presentation based on a written report starting on page 15 of the meeting materials regarding ballot access for the 2017 Spring Election. Of the 71 candidates who registered, Commission staff recommends 69 for approval. One candidate did not file a Statement of Economic Interests and the other candidate failed to list the election date on his nomination papers. The second candidate, Dennis Krueger, sought ballot access for Waupaca County Circuit Court Judge, Branch 1.

Dennis Krueger joined the meeting by telephone.

Staff Counsel Nathan Judnic made an oral presentation based on a written memorandum provided to commissioners responding to Mr. Krueger's appeal of staff's recommendation against granting ballot access. Mr. Judnic reviewed the staff's reasons for recommending against granting ballot access to Mr. Krueger for failing to list the election date in the header of his nomination papers. By the time Mr. Krueger filed his papers on January 3, it was too late to correct the error.

Mr. Krueger discussed the reasons for his appeal. He argued that staff had not fairly determined that his nomination papers are insufficient. He said his situation is exactly the same as a candidate named Edward Baumann, who omitted the date of a special election for Assembly in 2013, but was granted ballot access.

Mr. Judnic reviewed the facts of Baumann's situation and said it is an outlier, noting that in five cases since then the former Government Accountability Board denied ballot access to candidates who omitted the election date.

Commissioners questioned Mr. Krueger at length and discussed his request for ballot access.

**MOTION:** Deny ballot status for the seven candidates listed as "denied" on the Candidates Tracking by Office report contained in the January 2017 Commission meeting materials. Moved by Commissioner Jacobs, seconded by Commissioner Millis. Motion carried unanimously.

**MOTION:** Chair Thomsen said that he would entertain a motion that the Baumann decision issued by the Government Accountability Board, to the extent that it stands for the proposition that's inconsistent with the decision made today, is formally overruled and given no precedential value. Moved by Commissioner Millis, seconded by Commissioner Jacobs. Motion carried unanimously.

Mr. Krueger left the meeting.

**MOTION:** Certify ballot status for the 69 candidates listed as "approved" or "pending" on the attached Candidate Tracking by Office report. Moved by Commissioner King, seconded by Commissioner Jacobs. Motion carried unanimously.

Commissioner Jacobs raised the issue of absentee ballot witness statements. Commissioners and staff discussed whether to ask clerks to make changes to the certificates to clarify what address information witnesses are required to provide. Commissioners agreed that there is not enough time to make changes for the Spring 2017 election cycle, but that staff will make recommendations on changes for 2018 elections.

**F. Administrator’s Report**

Administrator Haas reported that the Commission staff has received reports from counties on their recount costs, which total \$2,005,602. Staff will work to reimburse counties for their expenses and refund the Jill Stein campaign the balance of the money it posted for estimated recount costs. He also reported on his plans to attend the National Association of State Election Directors Winter Meeting from February 15 to 18.

**G. Closed Session**

Adjourn to closed session as required by statutes to confer with counsel concerning pending litigation

**MOTION:** Move to closed session pursuant to §§ 19.85(1)(g) to confer with counsel concerning pending litigation. Moved by Commissioner Jacobs, seconded by Commissioner King.

Roll call vote:	Gill:	Aye	Glancey:	Aye
	King:	Aye	Jacobs:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried unanimously. The Commission recessed at 11:41 a.m. and convened in closed session at 11:46 a.m.

**H. Adjourn**

The Commission adjourned in closed session at 12:10 p.m.

#####

The next regular meeting of the Wisconsin Elections Commission is scheduled for Tuesday, March 14, 2017, at the Commission’s offices in Madison, Wisconsin beginning at 10:00 a.m.

January 10, 2017 Wisconsin Elections Commission meeting minutes prepared by:

Reid Magney, Public Information Officer

February 6, 2017

January 10, 2017 Wisconsin Elections Commission meeting minutes certified by:

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Beverly Gill, Commission Secretary

March 14, 2017

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ADMINISTRATOR MICHAEL HAAS

MARK L. THOMSEN, CHAIR

## MEMORANDUM

**DATE:** For the March 14, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Interim Administrator

Prepared by:

Nathan W. Judnic  
Legal Counsel

Joseph Bukowski  
Legal Intern

**SUBJECT:** Election Night Results Reporting

The purpose of this memorandum is to provide an update to the Wisconsin Elections Commission (“WEC” or “Commission”) on the current state of advice that the Commission’s staff has provided on the requirements that unofficial Election Night returns be transmitted from municipal clerks to county clerks, and that county clerks must post all returns within two hours of receipt. These requirements were implemented by 2015 Wisconsin Act 261. The central issue is whether the directive to post “all” returns applies to the results of local contests. On June 30, 2016, the Commission deferred this matter to a future meeting since local contests generally did not appear on the fall 2016 ballot. It is important for the Commission to consider this issue before the April 4, 2017, spring election because this election will include many local contests.

The Government Accountability Board (“G.A.B.”) was first briefed on this statutory change at its April 26, 2016 meeting. The G.A.B. delayed action on this issue to allow staff to gather additional feedback from clerks on current practice and the severity of impact a change in practice could have on their offices.

### **Background and Prior Staff Recommendation**

Following is an excerpt from the June 9, 2016 G.A.B. staff memorandum outlining the factors and clerk feedback that was received which should be considered:

Finally, as Board staff advised at the April Board meeting, Act 261 does not specify whether or not the results posted by county clerks on Election Night must include local contests. For the 2016 Spring Election, G.A.B. staff advised that that decision was left to the judgment of municipal and county clerks, but the results must include at least state judicial contests and the Presidential Preference Primary. The relevant text of the Statutes now reads:

7.51(4)(c) On election night the municipalities shall report the returns, by ward or reporting unit, to the county clerk no later than 2 hours after the votes are tabulated.

7.60(1) KEEP OFFICE OPEN. On election night the county clerk shall keep the clerk's office open to receive reports from the ward inspectors and shall post all returns. On election night the clerk shall post all returns, by ward or reporting unit, on an Internet site maintained by the county no later than 2 hours after receiving the returns.

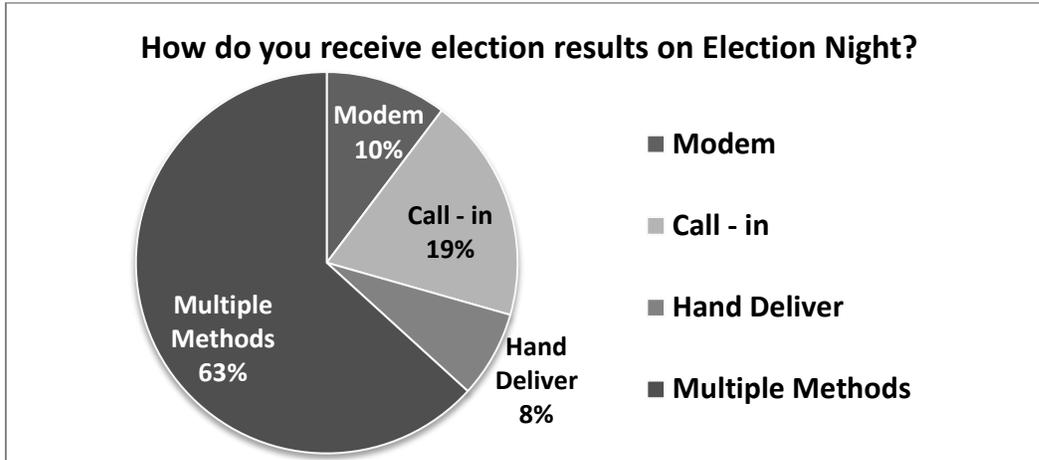
These provisions refer to "the returns" and posting "all returns," which were phrases that existed prior to the enactment of Act 261. The time limits imposed by Act 261 have focused more attention on the results which must be posted by the two-hour deadline. Given this language, Board staff originally recommended that the Board conclude that the Legislature had not provided any exception to the returns which municipal clerks must report to county clerks, and which county clerks must post on the Internet on Election Night.

At its April meeting, the Board received comments from municipal and county clerks indicating that, depending upon the type of voting equipment being used, it may be a significant change in practice to post results of local elections such as municipal and school district contests. The Board directed staff to seek additional input from local election officials in order to develop a more informed policy as to the unofficial results which are required to be posted by county clerks on Election Night.

Board staff conducted a survey of county clerks regarding the requirement that they post all unofficial returns on a county website within two hours of receiving the returns on Election Night.

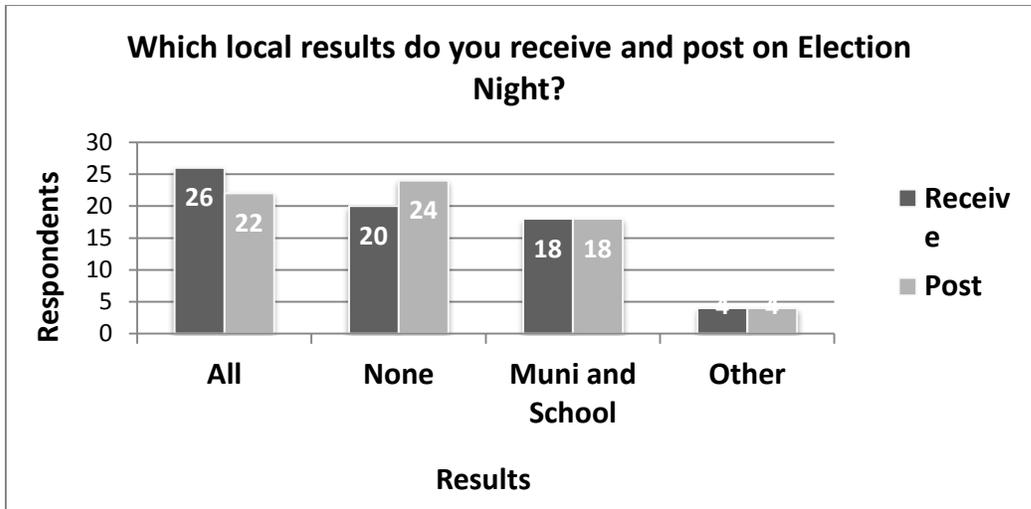
The G.A.B. received 68 total responses from county clerks in response to the survey (Burnett, Crawford, Jefferson and Ozaukee Counties did not respond). Wisconsin counties reported receiving results through a variety of methods from their municipalities on Election Night. Some counties have a uniform process for all municipalities, while other counties use a hybrid approach to receiving results. Thirteen counties, or 19 percent of all respondents, reported using call-in sheets as the only method results are reported to their office. The call-in process requires that results are telephoned into the county office and dictated to county staff over the phone. The next most common method for counties who use a uniform process involved results that are modemed

directly into the county election management system. Seven counties reported that they only receive modemed results on Election Night.

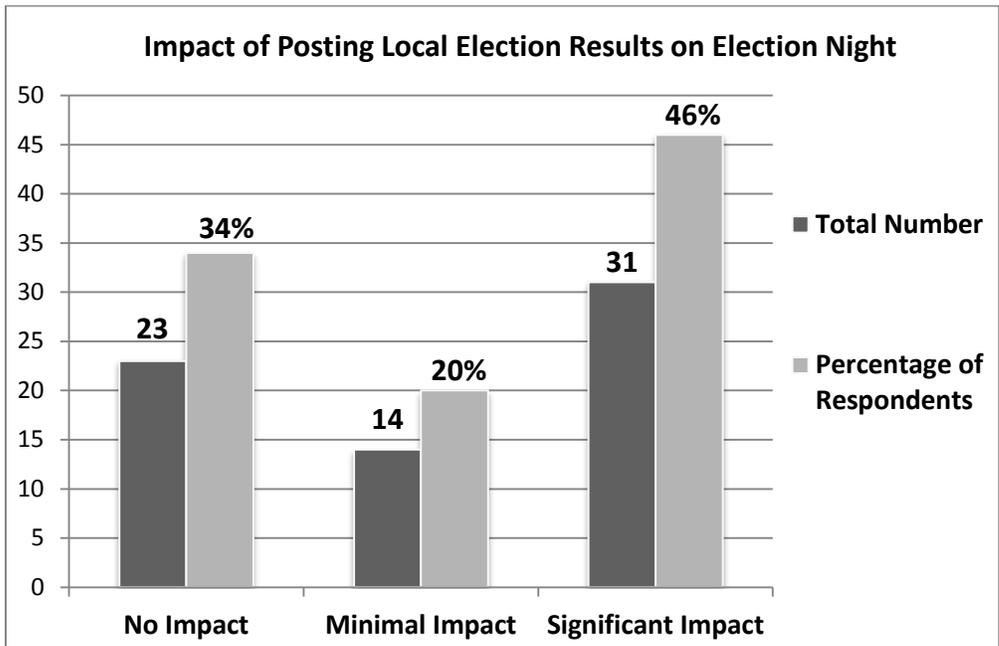


The vast majority of counties reported using multiple methods to receive election results from their municipalities. Forty-three respondents reported receiving results via multiple methods, with twenty-five counties using at least three methods. The lack of uniformity and the variety of combinations that counties use to receive and compile results on Election Night is representative of the decentralized system of election administration in Wisconsin. This variety also makes creating universal procedures challenging as technology, infrastructure and resource differences all impact the ability for county clerks to receive, compile and post comprehensive unofficial returns on Election Night.

A requirement to post all local election results by counties on Election Night would be complicated by the fact that nineteen counties reported that they do not currently receive local results on Election Night. Twenty-six counties receive all local election results, while an additional eighteen counties reported that they receive municipal and school district results, but not results for special district contests, such as sanitary and lake management districts. There are also several counties that receive all local election results but do not post them on Election Night.



When asked to describe the impact on Election Night procedures if local results were to be required to be posted, forty-five respondents stated this requirement would have some impact on them. Thirty-one counties indicated that posting these returns would significantly impact their Election Night procedures, while twenty-three counties identified no impact. The number of counties who reported no impact strongly correlates with the number of counties (22) who already post local results on Election Night.



Many of the counties who indicated that this requirement would have a significant impact on their Election Night procedures submitted narrative comments that provide additional insight on this issue. One county indicated that due to three voting equipment systems in use in their county, ten school districts that cross county lines and twenty-five county supervisory districts, it is already difficult to post timely and accurate results on Election Night. Requiring the posting of school district results and local results would be even

more burdensome. Other clerks indicated that posting results for contests below the county level would not be feasible given the volume of other work required on Election Night, limited staffing in county offices and the two-hour results posting timeline. Many clerks expressed that their staff is already overburdened on Election Night and highlighted concerns about problems caused by posting inaccurate results and results, such as school districts that cross county lines, which are potentially misleading to the media and general public.

As noted above, the requirement to post “all returns” predated Act 261. Due to practical obstacles, the reporting and posting of all returns has not been administered in a consistent manner at the local level. The new deadlines for reporting and posting unofficial returns on Election Night has highlighted the issue of whether returns for all local elections must be included in the information transmitted by municipalities and posted by counties, regardless of their past practice and any additional burdens it would create. Counties do not canvass results of municipal and school district elections and in many cases, requiring counties to receive and post those results would have a significant impact on their Election Night procedures.

While the phrase “all returns” can certainly be read to include returns for all local elections, Act 261 focused on the timing involved in reporting and posting results, and did not address whether the variety of existing practices across counties must change. Municipal and county clerks and their staffs are focused on numerous duties on Election Night and as an administrative priority, accuracy is more important than speed in posting unofficial results. Adding a requirement for counties to post local election results where the technology is not in place to easily do so on Election Night would risk creating errors elsewhere in their procedures.

In the opinion of Board staff, in light of the variety of tabulation equipment and process in use, and absent a more specific legislative directive to significantly alter past practices, the Board’s administrative guidance should seek to achieve a practical and workable result for local election officials providing unofficial results on Election Night. Staff recommends that Wis. Stat. §§7.51 and 7.60 be administered to require that municipalities must report, and county clerks must post, at least the results for all federal, state and county-level contests within their jurisdictions. In addition, if the tabulating equipment generates a report including local contests which may be easily transmitted to the county, the unofficial results of those contests must also be reported and posted. This would include results for school districts or other districts which cross county boundaries. Total results for those contests would need to be accumulated from all of the counties involved, as are the results of state or federal contests which involve multiple counties.

**Recommended Motion:** The Board advises that Wis. Stats. §§ 7.51(4)(c) and 7.60(1) require municipal clerks to report, and county clerks to post, at least the unofficial returns for federal, state, and county-level contests within their jurisdiction on Election Night. In addition, if the tabulating equipment generates a report including local contests which may be easily

transmitted to the county, the unofficial results of those contests must also be reported and posted.

### **Current Status**

As the Spring 2017 Elections approached, the Commission staff sought guidance from the authors of the “posting of returns” provisions contained in Act 261. The Commission staff wanted to make sure the authors were aware of some of the concerns that the clerks raised related to the receipt and posting of local contest returns, and the impact such a requirement could have on Election Night. Commission staff received confirmation from the legislative staff that the term “all returns” was intended to refer to all offices. Commission staff believes additional instructions and assistance to county and municipal clerks will be necessary to ensure that returns are provided and posted in a timely and accurate manner. Communication between county clerks and municipal clerks will be needed to coordinate the transfer of returns that have not been transmitted previously.

### **Staff Recommendation:**

Consistent with the original staff recommendation provided to the G.A.B. after the passage of Act 261 and after confirmation of the legislation’s intent by the original authors, the Commission directs municipal clerks to provide all election returns to the county clerk, including results of local contests. The county clerk is then to post to the county’s website all such election returns within two hours of receipt.

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MARK L. THOMSEN, CHAIR

## MEMORANDUM

**DATE:** For the Meeting of March 14, 2017

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Commission Interim Administrator

Prepared and Presented by:  
Richard Rydecki  
Elections Specialist

**SUBJECT:** Electronic Poll Book Status Report

The purpose of this memorandum is to provide the members of the Wisconsin Elections Commission with an update on the status of electronic poll book certification and implementation in Wisconsin. Staff has also outlined previous actions of the Government Accountability Board (G.A.B. or Board) regarding this issue and provided a recommended path forward for the introduction of electronic poll books to the Wisconsin election administration process.

### Background

Electronic poll books are a tool for local election officials to streamline polling place procedures on Election Day and facilitate efficient processing of election information post-election. As a replacement for the traditional paper-based poll list, electronic poll books house the voter list, allow election inspectors to efficiently check in voters, record voter participation and verify that voters are in the correct polling place. These systems can also be used to record challenged and provisional ballot information and collect registration information from Election Day registrants. They can also be configured to facilitate the collection of signatures to meet the signature requirement on both the poll list and the voter registration form.

The data contained on the electronic poll book is populated from records maintained in the statewide voter registration system, or WisVote. The data upload from WisVote will contain all registered voters assigned to that reporting unit and information that will notify election inspectors if a voter has previously requested an absentee ballot for that election. The units can also be loaded with the ineligible voter list of felons so eligibility can be verified before a voter is

issued a ballot. The compatibility of electronic poll books with WisVote also allows for a post-election file transfer into WisVote containing voter participation, Election Day registrations and other election information. The current paper-based system requires the manual data entry of the same information, meaning that electronic poll books could represent significant savings of time and resources for local election officials after each election.

### **Status in Wisconsin**

There are currently no electronic poll books approved for use in Wisconsin. In 2014, Board staff compiled a comprehensive report on electronic poll books and presented that information during the March 19, 2014 Board Meeting. This report contained an overview of electronic poll books, information from other states on their experiences implementing and using electronic poll books, a summary of survey results from Wisconsin election officials regarding their interest in these devices, and a discussion of proposed certification standards for electronic poll book system requirements and required functionalities. During this meeting, proposed motions to direct staff to continue the research and development of system standards for electronic poll books did not pass.

At the September 1, 2015 Board Meeting, staff presented the results of a second survey of Wisconsin local election officials regarding their interest in electronic poll books. The results consisted of 806 responses, with at least one respondent from each Wisconsin county and participation from 25 county clerks. The results indicated that 67% of respondents were supportive of the staff efforts to develop standards and procedures for the use of electronic poll books, while 18% were not. Additionally, 58% of respondents indicated that they would like to have the option to use electronic poll books in their municipality, while 77% of surveyed local election officials were interested in learning more about electronic poll books.

Board members responded to this presentation by directing staff to develop procedures and standards for the testing, certification and approval of electronic poll books and identify any potential legislative changes necessary for the implementation of these systems. Staff then presented proposed standards that defined minimum system requirements, identified required functionalities and outlined a testing protocol that included three levels of review and testing to the Board at its October 20, 2015 meeting. These requirements have many parallels with the standards for the approval of electronic voting systems in Wisconsin and include references to device, data and network security; while required compatibility with WisVote is defined in the "Data Transfer" section. In addition, required functionalities regarding ease of use, processing Election Day registrants, efficient voter check-in and the ability to interface with other election-related lists, such as the absentee ballot log and ineligible voter list, are also defined in these standards. As a condition of approval, the Board was also authorized to require an electronic poll book system to be successfully used in an actual election prior to certification. Staff would supervise any such field test and provide a report to the Commission on the performance of the system in that election.

The Board approved these standards at the October 20, 2015 meeting and also directed staff to "conduct a cost-benefit analysis to evaluate the options of permitting municipalities to purchase electronic poll books provided by vendors or developing a state-level electronic poll book system

in-house directly incorporated into the statewide voter registration system.” Staff was also directed by the Board to not accept applications from vendors for certification until the cost-benefit analysis had been completed and presented to the Board. To date, this cost-benefit analysis has not been completed due to other competing priorities.

### **Statutory Authority**

2015 Wisconsin Act 261 codified the statutory authority for the Wisconsin Elections Commission to “facilitate the creation and maintenance of electronic poll lists for the purposes of [\[recording electors\]](#) including entering into contracts with vendors and establishing programs for developing and testing.” Wis. Stat. §5.05(18). In addition, Wis. Stat. §6.79(1m) was amended to specify that only one electronic poll book would be required to be maintained at each ward on Election Day, rather than the two copies required for paper-based poll lists.

### **Next Steps**

Staff will continue to research electronic poll book certification standards and testing procedures as part of preparation for the June 20, 2017 Commission Meeting. Staff would like to reevaluate both the recommended standards and required functionalities that were approved by the G.A.B. in 2015 to ensure that they are still relevant and reflect the advances that have been made in regard to electronic poll book technology since their adoption. The Commission would then have the opportunity to reaffirm those standards and provide relevant feedback. Staff has already participated in a conference call with the Minnesota Secretary of State’s office regarding their electronic poll book certification process and will be reaching out to other states to discuss their experience with this technology as well as reviewing the litany of available published electronic poll book resources. Staff would also like to provide the Commission with an overview of the process for developing an electronic poll book solution in-house that would include a timeline for development and projected cost information. That information could then be used by local election officials interested in implementing electronic poll books before they decide between a vendor-based system and a state-supported application.



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MARK L. THOMSEN, CHAIR

## MEMORANDUM

**DATE:** For the Meeting of March 14, 2017

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Commission Interim Administrator

Prepared and Presented by:

Sarah Whitt	Ann Oberle	Mai Choua Thao
WisVote Functional Lead	WisVote Testing Lead	WisVote Specialist

**SUBJECT:** Voter Registration List Maintenance

The purpose of this memorandum is to provide the members of the Wisconsin Elections Commission with an update on staff's preparations and plans for voter registration list maintenance that will be performed in the summer of 2017. The 2017 voter registration list maintenance process will consist of two tasks:

1. The biannual Four-Year Voter Record Maintenance performed the summer after every General Election to identify voters who have not voted in the last four years.
2. The new ERIC List Maintenance reports.

### Four-Year Voter Record Maintenance

Per Wisconsin state statutes, no later than June 15 following each general election, the Commission must examine registration records for each municipality and identify each elector who has not voted within the previous 4 years (if qualified to do so) and mail a notice (Wis. Stat. § 6.50(1)). The notice informs the voter that their voter registration will be suspended according to state law for failure to vote within the previous 4-year period, but allows the voter to continue their registration by signing a statement (attached to the notice) and mailing it back to the office of their municipal clerk. If the notice is returned to the municipal clerk as undeliverable, or the voter does not respond within 30 days, the voter's registration is inactivated due to their failure to respond to the mailing. Those individuals must re-register prior to voting again.

2017 will be the first year this maintenance will be completed in the new WisVote system. The maintenance was previously performed in the Statewide Voter Registration System (SVRS) following the 2008, 2010, 2012 and 2014 General Elections.

Commission staff is beginning the planning process for this mailing and revisiting procedures used in the past to ensure that the process is accurate, efficient, and cost-effective.

#### Design for the Mailer

Given the recent experience with the ERIC postcards mailed in 2016, staff is looking at ways to make the layout and graphics of the mailing more simple and appealing to increase the likelihood of voters reading and paying attention to the mailing rather than treating it as “junk mail.” Staff will also review the postcard language in case any statutory changes made since the last mailing could impact the language or design of the mailer.

#### Printing and Mailing Services

In the past, the Department of Administration (DOA) Publishing and Distribution center was not able to handle the Four Year Maintenance Mailer due to some of the specific requirements of the mailer. This required Commission staff to bid out the mailing to vendors on the State Contract, which extended the project timeline. Staff also experienced difficulties with some of the contract vendors, including during the 2014 maintenance process when the vendor failed to meet the statutory deadline for sending the mailing.

Preliminary indications from DOA Publishing and Distribution indicate that they may now have the equipment required to handle the Four Year Maintenance mailer. Based on staff’s very positive experience working with that office on the ERIC mailing in 2016, staff plans to work with DOA on the Four Year Maintenance mailer if possible. Similar to the ERIC mailing, the bulk of the costs associated with the mailing are for postage, which cannot be reduced through bidding. Bidding requires additional staff time and resources to manage the bidding process, and requires an additional 30-60 days of lead time. Also, using the DOA Publishing and Distribution center would be consistent with the Governor’s FY17-19 Budget proposal.

Staff also investigated the Badger State Industries (BSI) print shop, which is also a state print shop and does not require bidding, but they do not handle mailing services and therefore would not be able to handle the Four Year Maintenance mailer.

#### Criteria Used to Identify the Voters

Now that the WisVote system has been deployed, changes need to be made in the selection criteria used to identify the voters who need to receive the mailing. Per statute the voters who receive the mailing must have not voted within the previous 4 years and must have been qualified to do so for the entire period. This means that if a voter was inactive for a period of time (such as if they were serving a felony sentence or moved out of state) and then re-registered, they should not get the postcard. We also must exclude military voters as they are not required to register and SHOULD NOT be deactivated as a result of this process.

Staff has prepared preliminary criteria to identify the voters to receive the mailing, as follows:

1. The voter must currently have a status of “active”, meaning they are registered at the time the mailer goes out.
2. The voter type must not be Military
3. The voter’s registration date must be on or before December 31, 2012
4. The voter must not have election participation history for any election where the election date was on or after January 1, 2013

### Cost Estimates

Commission IT staff ran a preliminary count of the voters who could potentially receive the mailing. Clerks continue to mark voter participation in WisVote for both the 2016 General Election and the 2017 Spring Primary, so we anticipate the number will continue to decrease as this data entry work is completed by clerks.

The preliminary count as of March 6, 2017 is **387,301**. Based on past experience with the mailing, costs for printing and mailing run between \$0.28 and \$0.33 per card, with an average of cost of **\$0.30 per card**. The costs for the Four Year Maintenance mailer are generally much higher than the cost for the ERIC postcards that were sent in 2016 due to two factors: the design of the mailer is more complicated because it requires a tear-off section that the voter can fill out and return; and the Four Year Maintenance mailer has traditionally been sent out via first class mail rather than the lower cost Election Mail rate that was used for ERIC. Staff is investigating if it would be possible and/or advisable to use the new Election Mail rate for this mailer now that this rate is available for the agency.

Using the average cost of \$0.30 per card and the preliminary voter count of 387,301, the cost of the mailing would be **\$116,190.30**. However, as stated above, staff anticipates this cost will go down as more voter participation is marked in WisVote. Costs would also decrease if it was determined that the Election Mail rate was appropriate to use for this mailing.

### Recommended Motion

Staff recommends that the Commission approve the preliminary plan as described above for performing the statutory Four Year Voter Record Maintenance process in 2017.

**Recommended Motion:** The Elections Commission approves the preliminary Four Year Voter Record Maintenance plan, as described in the Voter Registration List Maintenance staff memo prepared for the March 14, 2017 meeting of the Elections Commission, and directs staff to proceed accordingly to have the mailing completed within the statutory timeframes.

## **ERIC List Maintenance**

As reported in the ERIC staff memo prepared for the Commission's December 14, 2016 meeting, staff will proceed with the new ERIC list maintenance processes in 2017 in conjunction with the Four Year Voter Record Maintenance.

ERIC provides several reports to assist member-states with list maintenance:

- Voters who may be deceased
- Voters who may have more than one duplicate voter record in WisVote
- Voters who may have moved within Wisconsin
- Voters who may have moved out of Wisconsin
- Voters who submitted an address change to the US Post Office

These reports will be grouped together and handled based on the type of information that is provided in the report. Staff recommends the following approach for handling the list maintenance reports.

### **Death and Duplicate Matches**

ERIC provides lists of potential death and duplicate matches to member states.

- Death Matches are created by comparing Wisconsin's active voter file to the Social Security Death Master list. Currently WisVote matches with Wisconsin vital records data to create death matches, but this dataset only includes records of voters who died in Wisconsin. Using the ERIC lists allows Wisconsin to match with nationwide death data.
- Duplicate matches are created by comparing Wisconsin voter records to each other. The matching software used by ERIC is more sophisticated than the matching that is currently done in most state voter registration systems (including WisVote) and is able to identify potential duplicates that are not detected in the normal duplicate matching processes that most states perform.

WisVote already includes the Registration List Alerts feature that presents potential voter matches to clerks and allows them to take action. Staff proposes importing the ERIC death and duplicate matches into WisVote and using this existing functionality to provide these matches to clerks. Once the ERIC matches are loaded into WisVote, clerks would process them along with their WisVote matches and take the appropriate action. In WisVote, if a death match is accepted by the clerk, the voter record is deactivated as deceased. If a duplicate match is accepted, the two voter records are merged into a single voter record.

The necessary technology components needed to import and integrate the ERIC matches into WisVote will be developed after the 2017 Spring Election. Once this infrastructure is in place, staff can begin pulling death and duplicate matches from ERIC on a more regular schedule, such as monthly or before each statewide election to ensure that poll lists are accurate and current.

### Voters Who May have Moved

The remaining ERIC list maintenance reports deal with voters who may have moved based on more recent data obtained from another source.

- Potential In-State Movers are identified by comparing Wisconsin's voter file to the Wisconsin Driver License file provided by the Wisconsin Division of Motor Vehicles (DMV). ERIC compares voter records with DMV records to identify matches where it appears that the driver and the voter are the same person. ERIC then checks to see which record is more recent. If the voter has updated their address on their driver license but has not yet updated their voter registration record, they will be flagged as a potential in-state mover.
- Potential Out of State Movers are identified by comparing Wisconsin's voter file to the voter files and driver license files from other states. ERIC compares these records and looks for cases where the same person may have voter registration records in more than one state, or have a registration in one state and a driver license in another. ERIC then looks for the most recent transaction. If a Wisconsin voter has registered to vote or applied for a driver license in another state more recently than the last time they registered or voted in Wisconsin, they will be flagged as a potential out of state mover.
- NCOA Updates are provided by ERIC as it has been certified by the US Postal Service (USPS) to process updates via the National Change of Address (NCOA) service. When people register an address change through USPS, either on its website or by filling out a change of address form at their local post office, these changes are entered into the NCOA service. ERIC runs NCOA processing on all of the state voter files and returns lists of voters who updated their address with USPS. NCOA updates can include voters who moved within the state as well as voters who moved out of Wisconsin.

State statutes do not currently include provisions specifically for handling address changes from ERIC. However Wis. Stats. § 6.50(3) permits changes in a voter's record based on reliable information that a voter no longer resides at their current registration address. While Section 6.50(3) specifically relates to the municipal clerk receiving the information and taking action, Commission staff currently plans to handle the process resulting from the ERIC matching. This not only ensures full compliance as required by the ERIC Membership Agreement, but the State can also handle the process more efficiently and at a lower cost than municipal clerks.

### In-State Movers

For voters who moved within Wisconsin (from the In-State movers list as well as in-state NCOA updates), Commission staff plan to send the voters a notice that there is reliable information that they no longer live at the address where they are registered, and provide them with three options:

1. The voter can register at their new address on MyVote.wi.gov.
2. The voter can continue their registration at their current address by signing and returning a continuation form.

3. If the voter does nothing, their voter record will be deactivated after 30 days.

The mailer will be designed to encourage the voter to register on MyVote Wisconsin, similar to the postcards mailed in 2016 to the potentially eligible but unregistered voters. It will also highlight the new fully Online Voter Registration process that became available in early 2017.

It will also include the statutory language specified in 6.50(3) letting the voter know that they can continue their registration at their current address if they sign and return the continuation form included in the mailer within 30 days.

This approach is designed to strike a balance where the voter is encouraged to reregister if they have moved, or they can remain registered at their current address if they have not moved or have an intent to return to that residence as allowed by Wis. Stat. § 6.10. It also allows the voter's registration to be deactivated if the voter chooses not to reregister or continue, or if the mailer is returned as undeliverable.

#### Out of State Movers

For voters who have moved out of Wisconsin (from the Out of State movers list as well as out of state NCOA updates) Commission staff plans to send a more traditional 30 Day Notice mailer as specified in Wis. Stat. § 6.50(3). The mailer will notify the voter that there is reliable information that they no longer reside in Wisconsin. The voter will be given the option to continue their registration at their current address if they have not moved. If they do not respond to the mailer within 30 days, their voter registration will be deactivated.

This approach allows out of date voter records to be removed, but also allows the voter to continue their registration if the matching information is incorrect.

#### Voters Identified in the Four Year Maintenance as well as ERIC

The Four Year Voter Record Maintenance and the ERIC List Maintenance processes are both designed to identify voters who have outdated voter records. Therefore, Commission staff anticipates that many of the same voters will be identified in both processes.

If a voter appears on the Four Year Voter Record Maintenance list as well as on one of the ERIC list maintenance reports, Commission Staff will include them in the Four Year Voter Record Maintenance process and WILL NOT send them an additional ERIC List Maintenance mailer. The ERIC Membership Agreement simply requires that contact be initiated with the voter, it does not specify the type of contact.

#### ERIC List Maintenance Timeframe

The ERIC Membership Agreement does not designate a specific timeframe under which the ERIC List Maintenance tasks need to be accomplished, other than that it must be done at least once a year. Commission Staff plans to do the ERIC List Maintenance as close to the Four Year Voter Record Maintenance as possible in order to share resources across both projects and

minimize the overall time commitment for both Commission Staff and local election officials. The ERIC List Maintenance matches cannot not be processed until after the final Four Year Voter Record Maintenance list is generated, so that any Four Year Maintenance voters can be removed from the ERIC list. The Four Year Voter Record Maintenance mailing must be sent out by the statutory deadline of June 15, 2016, and therefore staff plans to send the ERIC List Maintenance mailings by the end of June.

#### Printing and Mailing Services

Similar to the ERIC Eligible but Unregistered mailing and the Four Year Voter Record Maintenance, Commission staff plan to use DOA Publishing and Distribution to handle the printing and mailing of the ERIC List Maintenance notices.

#### Cost Estimates

The statutory process outlined in Wis. Stat. § 6.50(3) requires that the notice sent to the voter be mailed via 1<sup>st</sup> Class Mail. Because the design of the postcard will be similar to the Four Year Voter Record Mailing card, staff is using the average \$0.30 per card for printing and postage for the ERIC List Maintenance mailer.

Similar to the Eligible but Unregistered list, the initial List Maintenance lists will be considerably larger than subsequent mailings, so the cost of the initial mailing is anticipated to be higher with subsequent mailings decreasing in price. ERIC provided Commission Staff with estimates of the number of list maintenance mailings Wisconsin could anticipate sending based on the experiences of other member states, with a low, average and high number provided. For budgeting purposes, Commission staff opted to estimate using the midpoint between the average and the maximum number of list maintenance mailings from the ERIC estimates. Using that methodology, staff budgeted for 389,341 mailings to be sent as part of the ERIC List Maintenance Process.

Using the average cost of \$0.30 per card and the estimated count of 389,341, the cost of the mailing would be **\$116,802.15**.

Staff does not yet have a cost estimate for the IT work needed to allow importing the ERIC death and duplicate matches into WisVote but staff anticipates this can be done with existing staff within the required timeframe, so additional resources will not be required.

#### Recommended Motion

Staff recommends that the Commission approve the preliminary plan as described above for performing the ERIC List Maintenance process in 2017.

**Recommended Motion:** The Elections Commission approves the preliminary ERIC List Maintenance plan, as described in the Voter Registration List Maintenance staff memo prepared for the March 14, 2017 meeting of the Elections Commission, and directs staff to proceed accordingly.



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ADMINISTRATOR MICHAEL HAAS

MARK L. THOMSEN, CHAIR

## MEMORANDUM

**DATE:** For the meeting of March 14, 2017

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Commission Interim Administrator

Meagan McCord Wolfe  
Voter Outreach Specialist

**SUBJECT:** Implementation of Online Voter Registration

### **A. Online Voter Registration Overview**

On January 9, 2017 the Wisconsin Elections Commission (WEC) launched an Online Voter Registration system (OVR) through the existing [www.myvote.wi.gov](http://www.myvote.wi.gov) website. The OVR system was developed and implemented in accordance with 2015 Wisconsin Act 261 (Act 261) which amended subsections of Wisconsin Statute, Chapter 6.

Act 261 also includes nonstatutory provisions, including a requirement that the Commission certify that the implementation of the OVR system is complete and that the performance of the system is satisfactory. This memorandum summarizes the functionality of the OVR system, outlines the statutory requirements of OVR, and demonstrates how each requirement has been implemented. The memo includes a recommended motion for the Commission's consideration.

### **B. Functionality of the OVR System**

The WEC's OVR system is available to eligible Wisconsin voters who have a current and valid Wisconsin Driver License or State ID card. Voters start the registration process by visiting [www.myvote.wi.gov](http://www.myvote.wi.gov) and then clicking "Register to Vote" or "Update My Name or Address" from the site's homepage. The voter is then prompted to enter their name and date of birth. The voter's information is first compared to WisVote, the statewide voter registration system, to see if the voter has an existing record. If the voter does not have a record, or if the voter's record is outdated, they can start the OVR process.

Next, the voter certifies their eligibility to vote by verifying their age, U.S. citizenship, residency, non-felon status, and that they are otherwise qualified to vote. The voter will also be asked to

enter their name, date of birth, Wisconsin Driver License or State ID card number, and address. Once the voter has completed all required fields, the MyVote OVR system sends the voter's information to the Wisconsin Department of Motor Vehicles' (WI DOT) database for comparison. If the data entered into the OVR system matches the data in the WI DOT database, the voter's registration is complete. When a voter successfully registers using OVR they are exempt from the requirements to print and sign the form and from submitting a proof of residence document to their municipal clerk. At the end of the OVR process, the voter receives confirmation of their complete registration and a notification of the voter's registration is sent to the municipal clerk.

If the information a voter enters into the OVR system does not match the WI DOT database, or if the voter does not have a current or valid Wisconsin Driver License or State ID card, the voter cannot use the OVR process. Voters who are unable to use the OVR system will have the option to complete their registration form using the MyVote manual registration process. The manual process allows voters to complete a registration form on the MyVote website and then print, sign, and deliver the form to their municipal clerk or their polling place along with a proof of residence document.

WEC staff has created training materials for both clerks and voters regarding the MyVote OVR process and the MyVote manual registration process. Detailed information on both processes can be found in the clerk communication posted on January 9, 2017 at <http://elections.wi.gov/node/4879>.

### **C. OVR Implementation and Wisconsin State Statute**

Wisconsin Statute, Chapter 6 (as amended by Act 261) outlines the process for OVR. The following is a list of statutory requirements for the OVR system and how each requirement has been successfully implemented by the WEC:

#### §6.28(1) (a) Where and When to Register

Wis. Stat. § 6.28(1) (a) outlines where and when voters can register using the OVR system. The MyVote OVR system is only available during the "open" voter registration period, which ends on the 3<sup>rd</sup> Wednesday preceding the election. In accordance with statutory requirements, at 11:59 p.m. on the 20<sup>th</sup> day before any election the OVR function becomes unavailable. OVR will resume availability at 12:00 a.m. on the day following each election.

During the time that OVR is unavailable, the MyVote system allows voters to complete a voter registration form using the manual registration process outlined above. Allowing voters to utilize the manual registration process during "closed registration" offers a number of benefits to both clerks and voters. When a voter uses MyVote to complete a manual registration, the information is keyed in by the voter and submitted directly to the WisVote statewide voter registration system. When the clerk receives the manual registration form, they approve the registration in WisVote without the need to key in the applicant's registration information. Many municipalities also use MyVote in the clerk's office during in-person registration and at the polls on Election Day using the manual registration process. At the November 8, 2016 General Election nearly 30,000 voter registration applications were entered into WisVote through the MyVote website.

#### §6.30(5) Registration by Electronic Application

This subsection outlines who can use the OVR system and what data users need to provide when using OVR. In accordance with the statute, the OVR system is only available to eligible voters who hold a current and valid Wisconsin Driver License or State ID card. The WEC's OVR system requires voters to submit their WI Driver License or ID number, date of birth, name and address. The OVR system then compares the voter's information with the information in the WI DOT database. If a match is made, the voter's registration record is added to WisVote and the voter will appear on the poll book for the next election. The voter must also affirm the validity of their information using the confirmation language provided in the statute. The voter's signature is not included as part of the MyVote OVR process, but is instead available to WEC from WI DOT's database as needed. The Commission approved this approach at its December 2016 meeting.

Once a voter successfully completes the OVR process, their voter registration record is then securely stored in the WisVote system. Upon the successful completion of an OVR application, the voter's municipal clerk is sent a notification email that contains the voter's pertinent registration information. The OVR process is available to new Wisconsin voters as well as current Wisconsin voters whose name and/or address have changed.

#### §6.33 Registration Forms; Manner of Completing

This section of the statute further defines how the voter must complete an OVR application. In accordance with the law, the OVR application contains the same information as the nonelectronic form including the statutorily prescribed authorization and eligibility certification.

#### Act 261 Sections 109 and 111 - Nonstatutory Provisions

Act 261 also includes a number of nonstatutory provisions, including a requirement that the WEC implement OVR prior to the 2017 Spring Primary. The Act further states that the WEC, "Shall notify the legislative reference bureau of the date on which the implementation is complete and the performance satisfactory." On January 12, 2017 WEC staff provided the Legislative Reference Bureau with the required notice that the WEC's OVR system successfully went "live" on January 9, 2017, so that it could be used by electors during the open registration period preceding the Spring Primary on February 21, 2017.

Act 261 also states that upon the successful launch of an OVR system, the position of Special Registration Deputy (SRD) is eliminated. With the launch of the WEC's OVR system on January 9, 2017 the position of SRD was effectively eliminated. A communication that details this change was distributed to municipal clerks on January 9, 2017. The communication includes a template letter that clerks can mail to former SRDs to alert them of the change. The WEC's communication regarding the elimination of the position of SRD can be found here: <http://elections.wi.gov/node/4837>.

Pursuant to Act 261, WEC staff has also provided five quarterly reports to the Wisconsin Legislature regarding the development of the OVR system. The most recent quarterly report is attached and was submitted on January 20, 2017 to inform the Legislature of the implementation of the OVR system. If the Commission determines that the OVR system is working satisfactorily, the final quarterly report will be submitted no later than April 20, 2017.

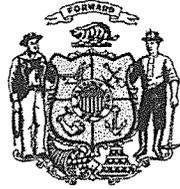
Finally, Act 261 requires that the Commission determine that the implementation of the OVR system was completed and that the performance of the system is satisfactory. Since the launch of the OVR

system on January 9, 2017 more than 400 users successfully registered online for the February 21, 2017 election without any major system incidents. Based upon this summary of the WEC's implementation of the OVR system, staff requests that the Commission make the required determination by adopting the recommended motion below.

**Recommended Motion:** Pursuant to 2015 Wisconsin Act 261, the Elections Commission determines that the implementation of the Online Voter Registration system is complete and that the performance of the system is satisfactory.

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ADMINISTRATOR MICHAEL HAAS

## MEMORANDUM

DATE: January 20, 2017

TO: Senate Committee on Elections and Utilities  
Assembly Committee on Campaigns and Elections

FROM: Michael Haas, Interim Administrator  
Wisconsin Elections Commission

SUBJECT: Electronic Voter Registration and ERIC

This memorandum constitutes the fourth quarterly report required under 2015 Wisconsin Act 261 to advise the appropriate standing committees of the Legislature regarding the Wisconsin Elections Commission's (WEC) progress in developing an electronic voter registration system, also referred to as Online Voter Registration or OVR. This correspondence also includes a brief status report regarding the WEC's implementation of an agreement with the Electronic Registration Information Center (ERIC), which is another initiative contained in Act 261, although the Act did not include a specific reporting requirement regarding ERIC.

### Online Voter Registration (OVR)

As previously reported, DOT and WEC slightly changed the matching criteria for OVR to remove the last four digits of the Social Security Number (SSN) in the list of fields to be matched, because the Statutes did not include using the last four SSN digits in the matching criteria. The Commission approved this change at its December 14, 2016 meeting. After this change was approved, both agencies proceeded to finalize the Memorandum of Understanding (MOU) between the agencies for this process. The MOU was signed by both parties as of January 5, 2017.

WEC's work on the OVR system was completed in early January and the new system went live on Monday, January 9, 2017. On Thursday, January 12, WEC staff certified to the Legislative Reference Bureau that the system was complete and its performance was satisfactory. To date, approximately 100 voters have registered to vote using the new system.

WEC staff plans to certify to the Elections Commission that the system is complete and performing at a satisfactory level at its March 14, 2017 meeting.

### Electronic Registration Information Center (ERIC)

To briefly recap, 2015 Wisconsin Act 261 required that the Government Accountability Board (G.A.B.) enter into an agreement with ERIC, a consortium of states which share data from their respective voter registration and motor vehicle agencies. On May 17, 2016, to comply with this legislative directive, the G.A.B. entered into an agreement to join ERIC. ERIC uses modern “big data” matching and analytics to identify individuals who may be eligible electors but are not registered to vote, voters who have moved since the date of their last registration, and voters who may no longer be eligible and should be removed from voter rolls. The goal of ERIC is to encourage these electors to register or update their information ahead of an election to better manage the volume of registration activity leading up to and on Election Day.

The ERIC Membership Agreement requires that participating states reach out to voters who may be eligible but are unregistered once every two years, prior to the fall General Election, no later than October 1<sup>st</sup>. ERIC requires that states take action on the list maintenance reports at least once a year, which WEC staff will begin in 2017, to be completed by September 2017.

As reported in the October 20, 2016 Quarterly Report to the Legislature, WEC staff contracted with a call center, Beyond Vision, to handle incoming phone calls from voters who received ERIC postcards encouraging them to register. While the postcard directed voters to the MyVote website, it also included a phone number to allow voters to connect with a live person who could assist them.

From the period of Wednesday September 28, 2016 (when the last of the ERIC postcards were mailed) through Election Day, Tuesday November 8, 2016, Beyond Vision handled 2,388 calls, with a total cost of \$7,931.36.

During the first week after postcards were mailed, the call center took several hundred calls per day. By October 6, the daily call volume dropped below 100 calls per day and by October 21, calls dropped to around 20 calls per day. Calls rose back to 50 calls the day before the Election and 39 calls on Election Day, however most of those calls were from voters attempting to find their polling place.

Overall, approximately 0.2% of voters who received the ERIC mailing called the phone number provided on the postcard. WEC staff did receive anecdotal reports from clerks that some voters contacted their local municipal clerk rather than calling the phone number on the card. Specifically the City of Milwaukee reported a high volume of calls, particularly from voters who had been registered for many years and were missing critical identifying information in their voter registration file, causing them to receive the card despite being registered. WEC staff does not have any actual counts of ERIC phone calls received by local clerks.

The ability of Beyond Vision to handle most of the phone calls allowed WEC to focus on work related to the General Election, which became more critical following the federal court decisions making a number of changes to the election rules and requiring additional public information efforts related to the Photo ID Law.

WEC staff reviewed daily voter registration statistics starting a week before postcards were mailed up through the day before the Election, to determine whether the ERIC postcard mailing impacted voter registration activity. Overall, there did not appear to be a direct correlation between the mailing of the ERIC postcards and the number of voters registering during that period; however the number of voter registrations steadily increased as Election Day approached. Spikes in voter registration activity appeared to occur due to deadlines, such the close of open registration and the end of in-person absentee voting. Registration activity consistently dropped on weekends.

As previously reported, the Pew Charitable Trusts awarded the Wisconsin Elections Commission a grant of \$150,000 to help offset costs of the initial mailing to eligible but unregistered electors. As required by the grant, on November 15, 2016, WEC staff provided documentation to Pew to confirm that the mailings occurred, the total number of postcards sent, and the cost of the mailing.

As required by the ERIC Membership Agreement, WEC staff also certified to ERIC on November 28, 2016 that the mailings occurred, and that at least 95% of the voters on the Eligible but Unregistered lists provided by ERIC were contacted.

As also required by the ERIC Membership Agreement, on November 11, 2016, WEC staff provided ERIC with baseline performance metrics regarding voter activities such as voter registrations and provisional ballots. WEC staff must provide updated metrics every 120 days. These metrics will be used by ERIC to help assess the effectiveness of the ERIC programs

As previously reported, Wisconsin Statutes currently prohibit the Wisconsin Department of Transportation (DOT) from sharing information regarding State ID Card holders with ERIC, however the ERIC membership agreement requires this information to be shared. On September 28, 2016, WEC staff filed an appeal with ERIC requesting an extension to Wisconsin's deadline for submitting data to ERIC under Section 2 of the ERIC Membership Agreement until October 17, 2017, to allow time to pursue the needed statutory changes. The appeal was approved but the deadline was extended only to July 1, 2017. DOT, along with WEC staff, is currently pursuing legislative changes to allow State ID Card holder data to be shared as part of the ERIC initiative.

WEC staff is planning for the next phase of ERIC participation – receiving list maintenance reports. ERIC provides member states with several reports to help identify voter registration records that may be outdated to help keep the voter rolls up to date:

- Voters who may be deceased
- Voters who have duplicate voter records
- Voters who may have moved within Wisconsin
- Voters who may have moved out of Wisconsin
- Voters who submitted an address change to the US Post Office

Per the ERIC Membership Agreement, member states must request reports from ERIC at least once each calendar year. This requirement was met in 2016 by staff requesting the

Eligible but Unregistered list. In 2017 that requirement will be met by requesting the list maintenance reports.

In contrast to the Eligible but Unregistered list which was used to encourage voters to register and get added to the voter registration list, the list maintenance reports identify voters whose registration may no longer be valid and may need to be removed from the voter registration list. As previously reported, it is not recommended that states remove voters immediately prior to an election, so staff will not be able to take action on any ERIC list maintenance lists until after the 2017 Spring Primary in February and the 2017 Spring Election in April.

State Statutes also require that WEC staff perform the Four-Year Voter Record Maintenance after the April election, in which electors who have not voted in the past four years are sent a postcard asking whether they wish to continue their registration or be removed from the list of active voters. Staff anticipates some overlap between the ERIC list maintenance reports and the Four-Year Voter Record Maintenance. There may also be economies of scale that can be realized by completing the list maintenance outreach in conjunction with the Four-Year Voter Record Maintenance for items such as printing costs or use of temporary staff. Performing these tasks together can also decrease voter confusion by sending out all of the mailings at the same time.

We hope this information is helpful in advising the Legislature regarding the status of implementing online voter registration and the ERIC initiative. If any Committee members have questions regarding this matter, please feel free to contact me at 608-266-0136 or [Michael.Haas@wi.gov](mailto:Michael.Haas@wi.gov) .

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MARK L. THOMSEN, CHAIR

## MEMORANDUM

**DATE:** For the March 14, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Interim Administrator

Prepared by:

Nathan W. Judnic  
Legal Counsel

Joseph Bukowski  
Legal Intern

**SUBJECT:** Election complaints filed with the Commission under Wis. Stat. Ch. 5 involving violation of Wis. Stat. Ch. 12.

### **Introduction**

The Wisconsin Elections Commission (“WEC” or “Commission”) receives complaints of alleged violations of election laws under two sections of Wisconsin Statutes – §§ 5.05 and 5.06. At the Commission’s October 14, 2016 meeting, the staff presented a memorandum on § 5.06 complaints filed against election officials, which allege the official failed to follow the law in taking action or inaction, or abused their discretion in making a decision based on the applicable election laws. The Commission approved a process for resolving these complaints by issuing findings or decision letters, and delegating certain authority to the Administrator to issue these decisions after consultation with the Commission chair. This memorandum addresses complaints filed under the other section, § 5.05 which allege violations of Wis. Stat. Ch. 12, which define criminal violations and establish criminal penalties for election-related activity that may be prosecuted only by district attorneys and not the WEC.

This memorandum discusses the Commission’s general authority to administer the election laws of this State, the enforcement authority that accompanies this general authority, the previous practices of the Government Accountability Board (“G.A.B.”) which operated under similar statutory

provisions, and finally staff recommendations on the process and policy for handling complaints and inquiries of Wis. Stat. Ch. 12 violations going forward.

## **Legal Framework and Background**

### General Authority

The Commission's general authority is set forth in Wis. Stat. § 5.05(1), and 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." The Commission is responsible for overseeing a wide range of election administration tasks at the State level. Chapters 5 to 10 cover topics ranging from ballot preparation, voter qualifications, the statewide voter registration system/list, local election officials duties and powers, recounts, recalls, to proper legal notices for elections and the retention of election related materials. Chapter 12 stands alone, and is titled, "Prohibited Elections Practices." This chapter lays out criminal violations related to elections, including electioneering, election threats, election bribery and a large category of violations that constitute election fraud. Chapter 12 also provides the penalty schedule for violations of the prohibited practices which includes felonies, fines, imprisonment and disqualification from holding the position of election official for a set period of time. Finally, it provides that "[p]rosecutions under this chapter [Chapter 12] shall be conducted in accordance with s. 11.1401(2)." Wis. Stat. § 12.60(4).

Wis. Stat. § 11.1401(2) is a new statutory section created during the rewrite of the campaign finance laws contained in Chapter 11. This rewrite was accomplished through 2015 Wisconsin Act 117, and has added language to the process involved for referring a criminal matter alleged under Chapter 12 to a District Attorney, from what the G.A.B. operated under previously. Wis. Stat. § 11.1401(2) states, "Except as otherwise provided...and *only after the commission has determined probable cause*, all prosecutions under this section shall be conducted by the district attorney for the county where the defendant resides, or if the defendant is a nonresident, by the district attorney for the county where the violation is alleged to have occurred." (Emphasis added). Previously, the statute which directed how prosecutions were to be handled for Chapter 12 violations did not include language requiring the elections agency to 'determine probable cause' prior to referring alleged violations to a District Attorney. The predecessor statutory section, Wis. Stat. § 11.61(2), stated that with a few noted exceptions, "all prosecutions under this section shall be conducted by the district attorney." This additional step (which is described in more detail below) needs to be accounted for in any Ch. 12 complaint procedures adopted by the Commission.

### Enforcement

To "administer" Chapters 5 to 10 and 12, the Commission is afforded the power and authority to enforce the laws that it oversees. Wis. Stat. § 5.05(2m)(a) states:

The commission shall investigate violations of laws administered by the commission and may prosecute alleged civil violations of those laws, directly or through its agents under this subsection, pursuant to all statutes granting or assigning that authority or responsibility to the commission. Prosecution of alleged criminal violations investigated by the commission may

be brought only as provided in par. (c) 11., 14., 15., and 16. and s. 978.05 (1). For purposes of this subsection, the commission may only initiate an investigation of an alleged violation of chs. 5 to 10 and 12, other than an offense described under par. (c) 12., based on a sworn complaint filed with the commission, as provided under par. (c). Neither the commission nor any member or employee of the commission, including the commission administrator, may file a sworn complaint for purposes of this subsection.

Essentially, the Commission has the authority to investigate both civil and criminal violations of laws contained in Chs. 5 to 10 and Ch. 12, prosecute civil violations, and refer criminal violations for prosecution to the appropriate District Attorney.

With a few noted additions<sup>1</sup>, the WEC's predecessor, the G.A.B., operated under the same enforcement statutes, in that the G.A.B. possessed the authority to investigate criminal violations under its authority to enforce, but it did not have the authority to follow through and prosecute criminal matters that were investigated. The only option upon completing a criminal investigation would be to make a finding of probable cause<sup>2</sup> and refer to the appropriate District Attorney for prosecution. *See* Wis. Stat. §§ 5.05(2m)(c)11., 14., 15., and 16.

Soon after the creation of the G.A.B., District Attorneys raised questions about the division of authority between a District Attorney's Office and the G.A.B. to enforce the election laws of this state, and in 2008, the Wisconsin Attorney General issued an opinion, [OAG-10-08](#). The Attorney General concluded that the G.A.B. and District Attorneys possess "joint and co-equal authority" to investigate possible criminal violations and to prosecute civil forfeiture actions. Additionally, the authority to prosecute criminal proceedings lies with the District Attorney, and the G.A.B. had no statutory authority to prosecute criminal proceedings.

What this meant in practice is that the G.A.B. and District Attorneys were free to initiate investigations of violations brought to them, and they did not have to 'check-in' with each other or confer prior to taking any appropriate enforcement action. "There is no statutory requirement that the district attorney first determine whether the Board will investigate a matter that might lead to the commencement of a civil forfeiture action or that might lead to commencement of a criminal action, nor is there any statutory requirement that the district attorney await the outcome of an investigation by the Board that might lead to the commencement of a civil forfeiture action or that might lead to commencement of a criminal action." OAG-10-08, p. 10.

When 2015 Act 118 passed, the legislation which ended the G.A.B. and created the WEC, Wis. Stat. § 978.05(1) governing criminal actions brought by district attorneys did not change, other than substituting the Commission for the G.A.B. The Legislature chose not to disturb the statute or legislate against the opinion that District Attorneys and the Commission possess "joint and co-equal" authority to investigate possible violations of election laws. The continued validity of this

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<sup>1</sup> The requirement that a sworn complaint be received prior to the Commission initiating an investigation is a new addition to the enforcement statute. Additionally, the requirement to provide notice of the complaint and the opportunity for the person accused of a violation to respond within 15 days is also a new to this statutory section.

<sup>2</sup> In the criminal context, probable cause is generally defined as a reasonable ground to suspect that a person has committed a particular crime. Under the Fourth Amendment, probable cause amounts to more than a bare suspicion but less than legal evidence, and must be shown before an arrest or search warrant may be issued. *Black's Law Dictionary* 503 (5<sup>th</sup> ed. 1996 Pocket Edition). Probable cause is a higher standard of objective certainty than reasonable suspicion.

interpretation is important to one of the staff's recommendations included below related to inquiries of potential criminal violations received by the Commission.

Notably, the Attorney General also opined on the enforcement language contained in Wis. Stat. § 5.05(2m)(a) which uses both “shall” and “may” when describing the enforcement responsibilities of the Board (at that time).<sup>3</sup> “Despite the fact that both ‘shall’ and ‘may’ are used in Wis. Stat. § 5.05(2m)(a), the Board clearly is not required to investigate all alleged violations of election laws...” *Id.* The Attorney General described the statutory scenarios in which the Board would not investigate allegations even if a complaint was received. The Board ‘may’ conduct an investigation if: there is reasonable suspicion<sup>4</sup> that a violation has occurred, the Board passes a resolution authorizing an investigation, and the resolution specifically sets forth the matter that is authorized to be investigated. If any of these prerequisites are not met, an investigation cannot be authorized. Therefore while the statute uses the “shall” language, no automatic duty to investigate every matter brought before the body truly exists.

Additionally, the relevant enforcement statute the Commission operates under now includes additional prerequisites that did not exist at the time of this opinion. Prior to an investigation being authorized, the Commission must be in possession of a sworn complaint alleging the violation, and the individual who is accused of the violation must be afforded an opportunity to provide a response in writing to the Commission prior to any action being taken on the complaint. Wis. Stat. §§ 5.05(2m)(a) and 5.05(2m)(c)2.a. Finally, the complaint cannot be submitted by an “unidentified complainant.” Wis. Stat. § 5.05(2m)(c)2.a.

The addition of these statutory requirements supports the opinion that while the Commission “shall investigate violations of laws administered by the commission” it is not automatically required to do so unless the prerequisite actions have been taken. Some prosecutorial discretion is afforded the Commission, especially in instances in which the complaint does not make allegations that are within the Commission’s jurisdiction or the allegations do not provide enough information to find reasonable suspicion that a violation has occurred. If the Commission finds that a complaint fails to establish a reasonable suspicion that a violation has occurred, the complaint shall be dismissed. Wis. Stat. § 5.05(2m)(c)4.

#### Ch. 12 Complaints and Referral Policy – G.A.B.

Based in part on OAG-10-08, and in part on Wis. Stat. § 12.60(4), the G.A.B. established a policy of referring all Ch. 12 complaints (criminal violations of the election law) to the appropriate District Attorney. The potential for duplicative investigations or the G.A.B. inadvertently affecting the ability of a District Attorney to properly investigate or prosecute a complaint, was also a major consideration in adopting the G.A.B. policy to refer all criminal complaints received. In some instances, the G.A.B. instructed complainants to ‘refile’ their complaint with the

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<sup>3</sup> “[t]he board *shall* investigate violations of laws administered by the board and *may* prosecute alleged civil violations of those laws...pursuant to all statutes granting or assigning that authority or responsibility to the board.” “Prosecution of alleged criminal violations investigated by the board *may* be brought only as provided in par. (c) 11., 14, 15., and 16. and s. 978.05 (1).” (Emphasis added).

<sup>4</sup> In the criminal context, reasonable suspicion is generally defined as having a particularized and objective basis, supported by specific and articulable facts. *Black’s Law Dictionary* 524 (5<sup>th</sup> ed. 1996 Pocket Edition). Reasonable suspicion is a lower standard of objective certainty than probable cause.

appropriate District Attorney, and in other instances, the G.A.B. chose to formally refer the complaint. Regardless of the logistics, Ch. 12 complaints were not investigated by the G.A.B. District Attorneys were aware that this was the G.A.B. policy, and used their own prosecutorial discretion in determining whether a complaint warranted investigation and/or potential charges if a referral was received.

### **Staff Recommendations**

Staff recommends the Commission institute separate processes for dealing with inquiries or questions related to violations of Ch. 12 and for sworn complaints that allege violations of Ch. 12.

#### Ch. 12 Violation Inquiries, Questions or Unsworn Allegations

As discussed in the previous section of this memorandum, for the Commission to investigate alleged violations of the laws it oversees, certain prerequisites must be met. The most basic prerequisite to investigation is that the allegations must be made by a sworn complaint.

If the Commission receives an unsworn complaint, email, inquiry or other questions about Ch. 12 violations, the Commission staff recommends that the following options be provided:

- 1) Inform the individual that they may file a sworn complaint with the WEC and provide instructions on how to do so. Staff should also provide relevant details of what happens once a complaint is filed with the WEC and that ultimately the complaint could be referred to a District Attorney if the Commission finds probable cause that a violation has occurred.
- 2) Due to the “joint and co-equal” authority of the Commission and District Attorneys to investigate criminal violations under Ch. 12 (discussed earlier), inform the complainant that they may file the complaint directly with the appropriate District Attorney who can both investigate and prosecute if warranted.

The majority of the staff’s dealings with violations of Ch. 12 fall into the above category.

**Recommended Motion #1:** Authorize staff to provide the options outlined above to individuals that contact the Commission about potential violations of Ch. 12 but have not filed a sworn complaint.

#### Ch. 12 Sworn Complaints

If the Commission receives a sworn complaint alleging violations of Ch. 12, the staff recommends the following procedures which are consistent with Wis. Stat. §§ 5.05(2m) and 12.60(4):

- 1) Due to the “joint and co-equal” authority of the Commission and District Attorneys to investigate criminal violations under Ch. 12 (discussed earlier), inform the complainant that they may file the complaint directly with the appropriate District Attorney who can both investigate and prosecute if warranted.

- 2) If the complainant wishes to proceed with the complaint at the WEC, Commission staff acknowledges receipt of the sworn complaint and provides notice and a copy of the complaint to the respondent within 5 days of receipt.
- 3) The notice informs the respondent of their opportunity to respond to the complaint in writing within 15 days after receipt of the notice.
- 4) Commission staff provides Commission members a copy of the complaint and the written response and conducts any required research or analysis on the allegations made in the complaint for consideration at the Commission's next meeting.
- 5) The Commission determines if there is a reasonable suspicion to believe that a violation of law has occurred.
  - a. If no reasonable suspicion exists, the Commission shall dismiss the complaint and provide notice to the complainant and the respondent that such action has been taken.
  - b. If reasonable suspicion exists, the Commission may by resolution authorize an investigation to determine if there is probable cause to believe that a violation has occurred (alternatively, if enough evidence and initial analysis has been conducted without further investigation, the Commission may determine there is probable cause without authorizing an investigation)
    - i. If probable cause exists, the Commission may refer the complaint to the appropriate District Attorney for investigation and prosecution. If a referral to the District Attorney has been made, the Commission shall notify both the complainant and the respondent of such action being taken.
    - ii. If upon completion of the investigation it is determined that no probable cause exists, the investigation shall be terminated and notice of such termination shall be provided to the complainant and respondent.

**Recommended Motion #2:** Direct staff to follow the procedures outlined above if the Commission receives a sworn complaint alleging criminal violations of Ch. 12.

# WISCONSIN ELECTIONS COMMISSION

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## MEMORANDUM

**DATE:** For the March 14, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Interim Administrator

Prepared and Presented by:  
Nathan W. Judnic  
Legal Counsel

**SUBJECT:** Administrative Rules Update and Planning

This memorandum is intended to provide the Commission with a recommended plan for accomplishing promulgation of administrative rules that are directed and/or authorized by state statute. Sustained progress on administrative rulemaking is not a new challenge to the state agencies overseeing elections. Staff members of the former Government Accountability Board (“G.A.B.”) assigned to rulemaking encountered the same challenges as the staff of the Commission have encountered: 1) prioritization of rulemaking above other pressing tasks, 2) dedication of uninterrupted blocks of time to administrative rulemaking tasks, and 3) allocating the resources necessary to make substantial progress on navigating the often tedious administrative steps necessary to get a final rule published. These challenges still exist, but Commission staff seeks to make significant progress on administrative rulemaking in calendar year 2017, and will continue to provide progress reports at each Commission meeting.

Commission staff has assigned a priority label to each proposed rule, taking into account many factors, some of which include: the need or desire to have a rule in place for enforcement purposes, the stage at which a particular rule is currently in, whether the Commission has established policies, manuals or procedures that already address the topic, and whether legislation in lieu of rulemaking is possible to address the topic or procedure. The memorandum lists the “High” priority rules first, followed by rules that the staff believes are “Medium” or “Low” priority taking into account the factors listed above.

### **I. Status of Proposed Rulemaking – Assigned Priority, Background and Next Steps**

#### **1) Proposed Rule: Election Observers – Wis. Admn. Code Ch. EL 4**

Priority: High

Background: The administrative rule related to election observers has had a long and tumultuous past. The short version of this history is that the G.A.B. originally approved an order to repeal and recreate Chapter GAB 4 in December 2010. An emergency rule was in place, but subsequently expired. By mid-2013, the G.A.B. approved a final rule to be submitted to the Legislature. The Legislature raised some objections to minor provisions in the rule and chose not to act on the rule within the required 4-year period, so a final permanent rule was never promulgated – essentially requiring the agency to start from scratch and begin the process again. In the interim, the G.A.B. and the Commission have advised observer groups, the public and the Legislature that the rules contained in the proposed Chapter GAB 4 is the agency’s interpretation of how Wis. Stat. § 7.41 must be interpreted in order to maintain order at polling locations. While these rules have been generally accepted as the rules governing the conduct of observers, codification of new Chapter EL 4 should be the Commission’s top rulemaking priority, to provide a more solid legal basis for enforcing the rules which have become the accepted practice.

At the January 13, 2015 G.A.B. meeting, the Board authorized staff to draft a Statement of Scope to be submitted to the Governor’s office to start the promulgation again. On May 18, 2015, a Statement of Scope was submitted to the Governor’s Office for approval. Leading up to the Commission’s August 30, 2016 meeting, staff had conversations with the Governor’s legal staff regarding pending Statements of Scope. The Governor’s legal staff requested that Statements of Scope previously submitted by the G.A.B. be resubmitted as Elections Commission rules (“Chapter EL \_\_\_” vs. “Chapter GAB \_\_\_”). The Commission authorized staff to proceed with resubmitting those statements to the Governor.

Statement of Scope: An updated Statement of Scope for Chapter EL 4 has been resubmitted to the Governor’s Office per the Commission’s August 30, 2016 authorization.

Next Steps: Once the Commission receives approval of the Statement of Scope from the Governor’s Office, it is sent to the Legislative Reference Bureau for publication in the Administrative Register for at least 10 days.

## 2) **Proposed Rule: Procedure – Wis. Admn. Code Ch. EL 6**

Priority: High

Background: During the transition planning from the G.A.B. to the Elections Commission, two chapters of the G.A.B. code were transferred to both the Elections Commission and the Ethics Commission in their entirety. Chapter 6 was one of these chapters because it relates to procedures that neither Commission wanted to ‘lose’ upon transfer. There are certain portions of Chapter EL 6 that no longer apply to the agency, therefore the rule needs to be revised to remove sections that now only apply to the subject matter covered by the Ethics Commission. This rule is one step further than the previous rules reviewed in this memorandum, in that the Governor has approved the Statement of Scope and the Legislative Reference Bureau has published the Statement of Scope in the Register (SS 073-16). The Commission then approved the Statement of Scope at the August 30, 2016 meeting.

Next Steps: Commission staff will draft the proposed amendments to the current rule to remove the sections that are no longer applicable to the Commission, draft an analysis of the proposed amendments including instructions on how public comments on the rule can be submitted for consideration. The Statement of Scope was submitted and approved as an emergency rule and

permanent rule therefore the Commission staff will act to get the emergency rule in place as soon as possible.

**3) Proposed Rule: Practice and Procedure – Wis. Admn. Code Ch. EL 21**

Priority: High

Background: During the transition planning from the G.A.B. to the Elections Commission, two chapters of the G.A.B. code were transferred to both the Elections Commission and the Ethics Commission in their entirety. Chapter 21 was one of these chapters because it relates to practice and procedures that neither Commission wanted to ‘lose’ upon transfer. There is certain language in Chapter EL 21 that no longer apply to the agency, therefore the rule needs to be revised to remove language that now only applies to the subject matter covered by the Ethics Commission. This rule is one step further than the previous rules reviewed in this memorandum, in that the Governor has approved the Statement of Scope and the Legislative Reference Bureau has published the Statement of Scope in the Register (SS 073-16). The Commission then approved the Statement of Scope at the August 30, 2016 meeting.

Next Steps: Commission staff will draft the proposed amendments to the current rule to remove the sections that are no longer applicable to the Commission, draft an analysis of the proposed amendments including instructions on how public comments on the rule can be submitted for consideration. The Statement of Scope was submitted and approved as an emergency rule and permanent rule therefore the Commission staff will act to get the emergency rule in place as soon as possible.

**4) Proposed Rule: Ballot and Electronic Voting System Security – Wis. Admn. Code Ch. EL 5**

Priority: High

Background: Technological advances in voting equipment and the security standards associated with new equipment requires promulgation of Wis. Admn. Code Ch. EL 5. The proposed rule will outline ballot security requirements, standards for determining the validity of votes cast with electronic voting equipment, and provisions for administering statutory requirements for electronic voting machines, electronic voting systems and any other voting apparatus which may be introduced into this State for use at elections. Proposed Wis. Admn. Code Ch. EL 5 overlaps with some of the requirements contained in Wis. Admn. Code Ch. EL 7 (Approval of Electronic Voting Equipment). Chs. EL 5 and 7 will also outline rules for the security, review and verification of software components used with each electronic voting system approved by the commission as required by Wis. Stat. § 5.905 (Software components). Between Chs. EL 5 and 7, Commission staff intend to address both of these important areas of voting equipment security and approval for use in Wisconsin.

Statement of Scope: A draft Statement of Scope for a “GAB” rule has been drafted, but needs to be reexamined and redrafted as an “EL” rule.

Next Steps: Commission staff requests authorization to draft a Statement of Scope for Ch. EL 5 and submit it to the Governor’s Office for approval. The Statement of Scope will be consistent

with the approval process provisions for electronic voting equipment contained in Wis. Admn. Code Ch. EL 7.

**5) Proposed Rule: Approval of Electronic Voting Equipment – Wis. Admn. Code Ch. EL 7**

Priority: High

Background: As technology and methods for testing and approval of voting equipment evolves, so too must the rules that govern that process. Amendments to Wis. Admn. Code Ch. EL 7 are needed to keep up with technological advances. The original rules were first promulgated in 2000 and much has changed since that time. In 2015, the Governor’s Office approved a Statement of Scope to amend the “GAB” version of Ch. 7 (SS 046-15). Since this statement was approved, Commission staff has internally discussed how to best address standards for both the approval of electronic voting systems and ballot and electronic voting system security and how to address the overlap in these concepts. Proposed Wis. Admn. Code Ch. EL 5 (Ballot and Electronic Voting System Security) overlaps with some of the requirements contained in Wis. Admn. Code Ch. EL 7. Chs. EL 5 and 7 will also outline rules for the security, review and verification of software components used with each electronic voting system approved by the commission as required by Wis. Stat. § 5.905(3) (Software components). Between Chs. EL 5 and 7, Commission staff intend to address both of these important areas of voting equipment security and approval for use in Wisconsin.

Statement of Scope: Statement of Scope has been approved by the Governor’s Office.

Next Steps: Commission staff will begin drafting the rule amendments to ensure that new technology and approval processes are accounted for and are consistent with the security measures outlined in proposed Wis. Admn. Code Ch. EL 5.

**6) Proposed Rule: Absentee Ballot Information Subscription Service and Fee Schedule – Wis. Admn. Code § EL 3.60**

Priority: Medium

Background: 2015 Wisconsin Act 261 specifically directed the G.A.B. to establish a subscription service whereby a person could electronically access absentee ballot information provided under Wis. Stat. § 6.33(5)(a), including semiweekly updates of such information. The Act further required the G.A.B. to establish by rule the fee schedule for obtaining access to the absentee ballot information through the subscription service. The original Statement of Scope that was submitted to the Governor’s Office was for both an emergency and permanent rule. The G.A.B. authorized the staff on April 26, 2016 to draft and submit a Statement of Scope for this rule. The need and urgency for an emergency rule is no longer needed, therefore the Commission staff resubmitted the updated Statement of Scope for a permanent rule only. The Commission currently utilizes the BadgerVoters application to facilitate requests for absentee ballot data. Because the absentee data is housed within the WisVote system, the same price structure for data files is currently in place. The system allows for a yearly subscription and allows the user to choose how often they want to be notified of updated absentee data.

The Governor's legal staff requested that Statements of Scope previously submitted by the G.A.B. be resubmitted as Elections Commission rules ("Chapter EL \_\_\_\_" vs. "Chapter GAB \_\_\_\_"). The Commission authorized staff to proceed with resubmitting those rules as requested.

Statement of Scope: An updated Statement of Scope for Wis. Admn. Code § EL 3.60 has been submitted to the Governor's Office per the Commission's August 30, 2016 authorization.

Next Steps: Once the Commission receives approval of the Statement of Scope from the Governor's Office, it is sent to the Legislative Reference Bureau for publication in the Administrative Register for at least 10 days.

**7) Proposed Rule: Training for Election Inspectors and Special Voting Deputies – Wis. Admn. Code Ch. EL 13**

Priority: Medium

Background: Wis. Stat. § 7.315(1)(a) directs the Commission to promulgate rules that prescribe the contents of training that municipal clerks must provide to election inspectors and special voting deputies. The Commission currently has comprehensive manuals that cover election administration, municipal clerk duties, election day processes, voting in residential care facilities conducted by special voting deputies and counting votes, among others. This rule is intended to codify the subjects and contents contained in each of these manuals, and prescribe the training from these manuals that municipal clerks must provide to inspectors and SVDs. As the requirements and laws are constantly in flux, it is difficult to envision a rule that will provide more than broad topics and concepts that must be included in a basic training curriculum. The G.A.B. approved drafting a Statement of Scope for this rule on January 13, 2015.

Statement of Scope: Scope Statement SS 045-15 has already been approved, but it is approved as promulgating a GAB rule.

Next Steps: Commission staff recommends resubmitting the current approved Statement of Scope as an "EL" rule to the Governor's Office to be reapproved.

**8) Proposed Rule: Complaint Procedure – Amendments to Wis. Admn. Code Ch. 20**

Priority: Medium

Background: Current Wis. Admn. Code Ch. EL 20 which relates to complaint procedures has been superseded by Wis. Stat. § 5.05(2m), with the exception of complaints filed against local election officials under Wis. Stat. § 5.06. Ch. EL 20 needs to be amended to more specifically address complaints filed under Wis. Stat. § 5.06. This rule was placed with the Elections Commission during the transition planning. Some remnants of the procedures used to investigate ethics and campaign finance violations still exist in Ch. EL 20 that should be removed. While the rule is workable, the Commission staff believes revisions could be made to more efficiently process complaints filed under Wis. Stat. § 5.06.

Statement of Scope: A Statement of Scope to make the necessary revisions and amendments to ch. 20 was drafted as a "GAB" rule. No statement has been drafted as an "EL" rule on this topic.

Next Steps: Commission staff requests authorization to draft a Statement of Scope for Ch. EL 20 and submit it to the Governor’s Office for approval.

**9) Proposed Rule: Responsibilities of Clerks Maintaining Records in the Statewide Voter Registration System – Additions to Wis. Admn. Code Ch. EL 12**

Priority: Medium

Background: The Legislative Audit Bureau (LAB) conducted audits of the State Elections Board in 2007 ([Report 07-16](#)) and the G.A.B. in 2014 ([Report 14-14](#))<sup>1</sup>. The 2007 audit generated a recommendation that the agency promulgate rules to clarify the responsibilities of local election officials in registering individuals to vote. Current Wis. Admn. Code Ch. 3, titled “Voter Registration” does provide rules for clerks registering individuals to vote – contents of the form, information that must be obtained from election day registrants, etc. The 2014 audit generated a recommendation that the agency promulgate rules that formalize the procedures clerks use to maintain voter registration records, including inactivating the records of individuals who become ineligible to vote and mailing letters to notify these individuals that their records have been inactivated. Attempts to promulgate rules consistent with the recommendations contained in the 2014 audit have been delayed by litigation and statutory changes in this area of the law. Although not formalized in a rule, the former G.A.B. staff and current Commission staff have provided detailed guidance and instructions to local election officials on the procedures for inactivating records of ineligible voters and providing the appropriate notices. The Commission staff believes certain amendments to current Wis. Admn. Code Ch. EL 12 can be made to clarify the role of municipal clerks in voter registration and use of the statewide system, consistent with the LAB recommendations.

Statement of Scope: Commission staff began drafting a Statement of Scope for the “GAB” rule. Work has not commenced updating the statement as an “EL” rule.

Next Steps: Commission staff requests authorization to draft a Statement of Scope for amendments to Ch. EL 12 and submit it to the Governor’s Office for approval.

**10) Proposed Rule: Curbside Voting – Wis. Admn. Code § EL 6.06**

Priority: Low – detailed procedures for curbside voting already exist in Commission manuals

Background: By statute, any elector, who as a result of a disability is unable to enter the polling place, may elect to receive a ballot at the entrance of a polling place. Wis. Stat. § 6.82(1). Electors may receive assistance in marking a ballot, if required, from an election inspector or from any other person of the voter’s choice, with certain restrictions. Wis. Stat. § 6.82(2). Based on these statutes, the former G.A.B. staff established procedures for local election officials to use when a curbside voting situation arose at the polling location. The Elections Commission staff have continued to advise, when asked, using the same procedures established by the G.A.B. Promulgation of a rule will codify the current procedures and allow the Legislature to review the Commission’s procedures. The G.A.B. authorized the staff on April 29, 2015 to draft and submit a Statement of Scope for this rule.

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<sup>1</sup> A follow-up audit was also conducted in 2015 focused solely on complaints considered by the Government Accountability Board, after legislation was passed allowing the Legislative Audit Bureau access to this confidential information. [Report 15-13](#)

The Governor's legal staff requested that Statements of Scope previously submitted by the G.A.B. be resubmitted as Elections Commission rules ("Chapter EL \_\_\_\_" vs. "Chapter GAB \_\_\_\_"). The Commission authorized staff to proceed with resubmitting those rules as requested.

Statement of Scope: An updated Statement of Scope for Wis. Admn. Code § EL 6.06 has been submitted to the Governor's Office per the Commission's August 30, 2016 authorization.

Next Steps: Once the Commission receives approval of the Statement of Scope from the Governor's Office, it is sent to the Legislative Reference Bureau for publication in the Administrative Register for at least 10 days.

**11) Proposed Rule: Filing Documents by Fax or Electronic Methods – Wis. Admn. Code § EL 6.04**

Priority: Low

Background: Chapter EL 6 addresses miscellaneous procedures used by the former G.A.B. and now the Commission. One specific section that should be updated is § EL 6.04 which relates to the process that should be used when filing documents by FAX. This rule is outdated and should be updated to reflect newer technologies such as email. The Commission already allows individuals to file documents by email if they are true and correct copies of the original hard copy. This rule would amend this section to include procedures for filing documents by email, as well as clarify the deadline for receiving a signed original (if required) of documents filed electronically.

Statement of Scope: A Statement of Scope was drafted to promulgate this rule as a "GAB" rule in 2015. No updated "EL" rule has been drafted at this point.

Next Steps: While a low priority given other rules that need to be drafted, this rule could be drafted pretty quickly and have a very low probability of being controversial. The Commission staff requests authorization to redraft a Statement of Scope to amend current Chapter EL § 6.04 and submit to the Governor's Office for approval.

**12) Proposed Rule: Amend Wis. Admn. Code EL Ch. 3 to Remove Special Registration Deputy References**

Priority: Low - due to pending litigation surrounding special registration deputies, and explanatory notes currently present in the online version of this section.

Background: With Online Voter Registration successfully going live in January 2017, Wis. Stat. § 6.26 has been repealed. Special registration deputies are no longer authorized or used in Wisconsin, therefore Wis. Admn. Code §§ EL 3.10, 3.11 and 3.12 will need to be repealed, and other sections amended to remove references to special registration deputies. The Code Editor has placed a note following §§ EL 3.10, 3.11 and 3.12 which states that these sections are unenforceable as a result of the repeal of Wis. Stat. § 6.26 and that they will be repealed in a future rulemaking. The elimination of special registration deputies is also part of the *One Wisconsin* litigation that is currently pending before the 7<sup>th</sup> Circuit Court of Appeals.

Statement of Scope: The Commission has not authorized the drafting of a Statement of Scope for this rulemaking. The Commission staff has not requested authorization to begin drafting a statement.

Next Steps: Commission staff recommends placing any rulemaking to repeal these sections on hold until the *One Wisconsin* case has been resolved. The editorial notes that follow the online version of these code sections sufficiently provide a reader notice that these sections are not enforceable.

## **II. Current Proposed Rulemaking That May Be Accomplished by Legislation**

The Commission staff has been in contact with legislative staff of the appropriate standing committee in the Assembly regarding rulemaking topics currently on the Commission's plate which may be good candidates for legislation, thus removing the requirement to promulgate a rule. Commission staff identified the five proposed rulemaking topics/amendments that they believe are the best candidates. This information has been provided to the legislative staff and there is a possibility that legislation could be introduced in lieu of promulgating rules in these areas. Given this potential, Commission staff would recommend categorizing the following proposed rules as "Low Priority" to allow potential legislation to address these topic areas to be drafted and considered.

### **1) Proposed Rule: Election Notices – Wis. Admn. Code Ch. EL 8**

Priority: Low

Background: Wis. Stat. § 10.01(1) directs the Commission to prescribe the form of the various election notices contained in that chapter to ensure they are uniform. "To accomplish this purpose, the commission shall make rules and draft whatever forms it considers necessary." Wis. Stat. § 10.01(1). This rule will codify the information provided on the notices, and afford the Legislature the opportunity to comment on the proposed content and form of the required election notices under Wis. Stat. Ch. 10. On January 13, 2015, the former G.A.B. authorized staff to draft and submit a Statement of Scope on this rule.

The Governor's legal staff requested that Statements of Scope previously submitted by the G.A.B. be resubmitted as Elections Commission rules ("Chapter EL \_\_\_\_" vs. "Chapter GAB \_\_\_\_"). The Commission authorized staff to proceed with resubmitting those rules as requested.

Statement of Scope: A Statement of Scope for the "EL" version has been drafted to codify the information provided on election notices.

Next Steps: Staff recommends placing this proposed rule on hold until it is clear whether legislation will be introduced in lieu of rulemaking on this topic.

### **2) Proposed Rule: Electronic Proof of Residence for Voter Registration – Wis. Admn. Code § EL 3.015**

Priority: Low

Background: Based on current Commission policy (former policy of the G.A.B.) a voter wishing to register to vote may present either an acceptable hard-copy document or an electronic version

of an acceptable document that establishes proof of residency. The administrative rule is intended to codify this important Commission policy and identify the specific types of electronic identifying documents or records listed in Wis. Stat. § 6.34(3) that are acceptable. On April 29, 2015, the former G.A.B. authorized staff to draft and submit a Statement of Scope for this rule.

The Governor's legal staff requested that Statements of Scope previously submitted by the G.A.B. be resubmitted as Elections Commission rules ("Chapter EL \_\_\_\_" vs. "Chapter GAB \_\_\_\_"). The Commission authorized staff to proceed with resubmitting those rules as requested.

Statement of Scope: A Statement of Scope for the "EL" version has been drafted to codify this policy.

Next Steps: Staff recommends placing this proposed rule on hold until it is clear whether legislation will be introduced in lieu of rulemaking on this topic.

3) **Proposed Rule: Absentee Voting-Procedure for Overseas Voting – Wis. Admn. Code Ch. 17 (previously submitted as Ch. EL 13)**

Priority: Low

Background: This rule covers a very rare absentee voting scenario, nonetheless, on April 29, 2015, the former G.A.B. authorized the staff to submit a Statement of Scope for this rule based on an existing policy established by the G.A.B. The policy allows an overseas voter to have a U.S. citizen witness their absentee voting process via an internet video service, such as Skype or Facetime, if they are unable to locate a U.S. citizen to have the process witnessed in-person.

The Governor's legal staff requested that Statements of Scope previously submitted by the G.A.B. be resubmitted as Elections Commission rules ("Chapter EL \_\_\_\_" vs. "Chapter GAB \_\_\_\_"). The Commission authorized staff to proceed with resubmitting those rules as requested.

Statement of Scope: The previous version of the Statement of Scope inadvertently overlapped with proposed Chapter EL 13 – so a resubmission to the Governor's Office will properly create this rule under Chapter EL 17 – Absentee Voting, if legislation is not initiated.

Next Steps: Staff recommends placing this proposed rule on hold until it is clear whether legislation will be introduced in lieu of rulemaking on this topic.

4) **Proposed Rule: Requiring provision of certain information by election-day registration applicants – Amendment to Wis. Stat. Admn. Code § EL 3.04(2)**

Priority: Low

Background: Current Wis. Admn. Code § 3.04(2) allows for a provisional ballot to be issued to a voter that is unable or unwilling to provide their DOT issued driver license or DOT issued state ID card number on the registration application. The rule allows the individual issued a provisional ballot under this category to provide the number to the clerk no later than 4:00pm on the day after the election. Individuals issued a provisional ballot in all other categories must provide the required piece of information to the clerk by 4:00pm by the Friday after the election. The amendment to this rule corrects and standardizes the date upon which a provisional voter

must provide information to the clerk for their ballot to be counted. The G.A.B. approved drafting a Statement of Scope for this rule on June 18, 2015.

Statement of Scope: A Statement of Scope has been drafted to amend current Wis. Admn. Code § EL 3.04(2).

Next Steps: Staff recommends placing this proposed rule on hold until it is clear whether legislation will be introduced in lieu of rulemaking on this topic.

**5) Proposed Rule: Definition of “Same Grounds” – Wis. Admn. Code § EL 6.07**

Priority: Low

Background: The phrase “same grounds” is used in Wis. Stat. § 6.875(3)(b), and no corresponding definition is provided to inform clerks as to what this phrase could encompass. “If a retirement home that is not a qualified retirement home is located within a municipality on the *same grounds* as one or more residential care facilities to which the municipal clerk or board of election commissioners of the municipality dispatches special voting deputies to conduct voting at an election, the municipal clerk or board of election commissioners shall obtain from the management of the retirement home the names and addresses of the occupants of the home.” Wis. Stat. § 6.875(3)(b). An amendment to Wis. Admn. Code § EL 6.07 would specifically define what is meant by “same grounds” to assist local clerks in applying this statutory section properly.

Statement of Scope: A Statement of Scope for the “GAB” rule was drafted, but an “EL” version has not yet been drafted by the Commission staff.

Next Steps: Staff recommends placing this proposed rule on hold until it is clear whether legislation will be introduced to define “same grounds” in this context in lieu of rulemaking.

**III. Staff Recommendations and Future Commission Updates**

Commission staff seeks general approval from the Commission on the items noted above seeking specific action. Commission staff seeks general approval on the approach and plan to promulgate the rules identified above. Commission staff intends to provide progress updates on administrative rules at each regular meeting of the Commission.

# WISCONSIN ELECTIONS COMMISSION

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ADMINISTRATOR MICHAEL HAAS

MARK L. THOMSEN, CHAIR

## MEMORANDUM

**DATE:** For the March 14, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Administrator, Wisconsin Elections Commission

Reid Magney  
Public Information Officer, Wisconsin Elections Commission

**SUBJECT:** Revised Public Records Notice

Wis. Stat. § 19.34(1) requires the Wisconsin Elections Commission to adopt and post a notice regarding access to public records:

Each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian under s. 19.33 from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. The notice shall also separately identify each position of the authority that constitutes a local public office or a state public office. This subsection does not apply to members of the legislature or to members of any local governmental body.

Staff has drafted a public records access policy for the Commission's consideration, which is attached. Staff based the draft on the prior policy employed by the Government Accountability Board ("G.A.B.") and made updates based on recommendations from the Wisconsin Department of Justice's Office of Open Government.

The most significant recommended change from the public records policy of the G.A.B. is the fee charged for making copies. Historically the G.A.B. charged 25 cents per page for staff-made copies and 20 cents for self-service copies. Staff recommends reducing the fee to 15 cents per copy, in conformance with the prices charged by the Wisconsin Department of Justice. Additionally, the fee charged for scanning paper records to electronic copies is 7 cents per page. Staff believes that updating the fee structure will more closely reflect the actual costs of producing records.

The notice also contains a section explaining the separate cost structure for voter records, which is governed by statute and administrative rule. No changes to this fee structure are recommended.

**Recommended Motion:** Approve the attached draft Wisconsin Elections Commission Public Records Notice and authorize staff to prominently display it at the Commission office and post it on the agency website.

# WISCONSIN ELECTIONS COMMISSION PUBLIC RECORDS NOTICE

## Organization of the Agency

The Wisconsin Elections Commission (WEC) is responsible for administering Wisconsin's election laws. The bipartisan Commission has six appointed members: four by Legislative leaders and two by the Governor. The nonpartisan WEC staff is organized under the Administrator, who holds "state public office" as defined in state statutes.

The Commission has designated the Administrator as the Custodian of Public Records for WEC. Members of the public may obtain access to WEC's Public Records, or obtain copies of these records, by making a request of any WEC staff member, who will direct those requests to the Administrator or the Public Information Officer.

## Record Access Rights

All records retained by the WEC are available for inspection and copying, except as otherwise provided by law. The right to request public records is delineated in Wisconsin law under Wis. Stat. 19.31-19.39. For more information, see the Wisconsin Department of Justice publication "Wisconsin Public Records Law Compliance Guide (2015)."

## Office Hours

Public records requests can be made in person at the WEC office, 212 East Washington Avenue, Third Floor, Madison, or by telephone to 608-266-8005 during normal office hours: 7:45 a.m. to 4:30 p.m., Monday through Friday, except legal holidays. Requests can also be made in writing by postal mail to *Public Records Requests, Wisconsin Elections Commission, P.O. Box 7984, Madison, WI 53707-7984*; or by email to *elections@wisconsin.gov*.

## Costs

The law permits WEC to impose fees for certain "actual, necessary and direct" costs associated with responding to public records requests. If no other copy fee is set by law, WEC may bill requestors \$0.15 for each photocopied page provided and \$0.07/page for content scanned and converted into electronic format. Reproduction costs will not be charged on a per-page basis if the WEC provides electronic copies of records that already existed in electronic format. WEC may charge for staff time and other actual costs to copy records from one electronic format to another electronic format and/or physical media. WEC may charge the actual cost for the physical media such as CD, DVD or thumb drive used to provide electronic records to requesters. The actual cost of postage, courier, or delivery services may be charged. The cost of locating responsive records may be charged if it is \$50.00 or more and will be calculated as hourly pay rate (including fringe benefits) of the lowest-paid employee capable of performing the task multiplied by actual time expended to locate records. The lowest hourly rate is \$21.11, and will not exceed \$30.00 per hour. Requests which exceed a total cost of \$5.00 may require prepayment. Requesters appearing in person may be asked to make their own copies, or WEC may make copies for requesters at its discretion. The WEC will not charge for the cost of reviewing records for possible redaction or removal of confidential information. All requests will be processed as soon as practicable and without delay.

## Voter Data

Voter registration records are subject to a separate fee schedule established by statute and administrative rule. Wis. Stat. § 6.36(6), EL § 3.50, Wis. Adm. Code. The price is \$25 plus \$5 per 1,000 voter records, rounded to the nearest 1,000. The minimum charge is \$30 and the maximum cost is \$12,500 (2.5 million or more voter records). There is no charge for statistical information about voting (e.g., the number of registered voters in a municipality or the number of absentee ballots cast in a particular county during a particular election), unless the request would require creating a custom report. For information about ordering voter data and custom reports, visit <https://gabapps.wi.gov/BADGERVoters>.

### **Questions?**

Questions about requests for public records should be directed to the WEC Public Information Officer at 608-267-7887 or [elections@wisconsin.gov](mailto:elections@wisconsin.gov).

DRAFT

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MARK L. THOMSEN, CHAIR

## MEMORANDUM

**DATE:** For the Meeting of March 14, 2017

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Commission Interim Administrator

Ross Hein  
Elections Supervisor

**SUBJECT:** Election Administration Analysis from the 2016 Presidential Recount

At the December 14, 2016 Commission meeting, staff presented a report detailing the efforts of election officials throughout the state to complete the historic recount of votes for the office of President of the United States. As Commission members have noted, the hard work of many individuals contributed to the success of the first statewide recount for President in Wisconsin. The recount primarily confirmed the accuracy of the original canvass results and, where errors in the process or discrepancies were discovered, recount officials worked meticulously to review each ballot and count each vote in line with the voter's intent.

Since the completion of the recount, staff has reviewed county board of canvassers' minutes to identify common types of errors discovered during the recount so we can learn from them and use them as an opportunity to adjust our training and improve election officials' ability to conduct elections in Wisconsin

Below is a list of issues that occurred statewide during the 2016 presidential election. While the issues identified need to be corrected for future elections, the WEC staff has no evidence that any of them affected the outcome of the election or demonstrated intentional wrongdoing by local election officials.

This analysis focuses on the administration of the election, the certification process and common issues identified across the state, not solely on the administration of the recount.

### Poll Book Reconciliation

- When recording voter numbers in the poll book, election inspectors skipped or duplicated numbers.

### **Ballots/Ballot Containers**

- Election Inspectors inconsistently handled spoiled, damaged and replacement ballots. They marked these ballots inconsistently as damaged or replaced, or did not mark them at all and often put them in incorrect envelopes for delivery to the municipal clerk's office.
- When ballots were not printed with the name of the municipality or reporting unit, election inspectors failed to accurately mark ballots with the name of the municipality or reporting unit in which the ballot was being cast.
- Election inspectors improperly issued provisional ballots.
- Municipal clerks did not track the issuance of absentee ballots in WisVote properly and timely.
- Election inspectors failed to enclose all ballots with the election materials. Additionally, ballot containers were not properly secured in the office of the municipal clerk. On several occasions, the county board of canvassers had to request further investigation of ballots that were not originally provided for review at the recount.
- Many ballots were not properly tabulated on Election Day because electors used incorrect ballot marking devices. In most cases this applied to absentee ballots where election officials failed to recognize the limitation of older voting equipment technology still in use that requires marking devices to produce a mark which contains carbon.
- Election inspectors failed to properly seal, secure or document ballot containers. They incorrectly recorded tamper-evident seal numbers on the Ballot Container Certificate and the Inspectors' Statement.

### **Absentee Process and Absentee Ballots**

- Absentee Certificate Envelopes lacked witness signatures and addresses. Municipal clerks did not follow up appropriately with electors when absentee ballots envelopes were missing required information prior to Election Day.
- Many clerks and deputy clerks failed to initial absentee ballots.
- Some clerks accepted requests for absentee ballots and transmitted them incorrectly. They issued absentee ballots to voters without first obtaining a written request and to voters who were not properly registered to vote and to voters who had not provided photo ID.
- Some clerks and deputy clerks failed to properly sign the witness statement and fill out the address section for absentee ballots completed in the clerk's office.

### **Voting Equipment and Elections Materials**

- Municipalities mixed the test ballots with the official ballots and destroyed test decks prior to the retention schedule deadline.
- Many tamper-evident seal numbers were not recorded on the chain of custody statement or the EL-104 Inspectors' Statement.
- Many election inspectors and clerks were unfamiliar with how to troubleshoot voting equipment issues such as jammed ballots. Additionally, there were many instances where the voter verified paper audit trail was loaded backwards causing candidate selections to not print on the paper receipt properly.
- Some county canvass boards improperly used the drawdown process. Other canvass boards failed to proof their official canvass before certification, leading to reporting errors.
- Election inspectors failed to properly count write-in votes. More than half of the election result changes in the recount were votes for registered write-in candidates that were not properly counted originally by the local board of canvassers.

### **Required WEC Forms**

- Election Inspectors failed to fill out the Inspectors' Statement (EL-104) completely on Election Night. This resulted in tamper-evident seal numbers for ballot containers not being recorded on the Inspectors' Statement or the Ballot Container Certificate. Election inspectors also failed to sign the required forms, clearly explain incidents and remedy poll book reconciliation errors.
- Election Inspectors failed to accurately record statistics regarding absentee ballots or total number of electors and ballots. This led to inaccurate recording of participation statistics.

Overall, the statewide Presidential Recount was handled professionally and efficiently by local election officials. Although it was a difficult task, the recount provided the Wisconsin Election Commission, county and municipal clerks, and the public with a unique opportunity to review election-related business processes.

Many of the issues identified in this report are very similar to the errors reported in the 2011 Supreme Court recount. While we would prefer that those errors were eliminated, it is not surprising to see them continue to occur given the high rate of turnover among local election officials and the large number of election law changes enacted by the Legislature. Lessons learned from the recount will generate new training opportunities for in-person and virtual classroom training conducted by the WEC and our clerk partners.



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MARK L. THOMSEN, CHAIR

## MEMORANDUM

**DATE:** For the Meeting of March 14, 2017

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Commission Interim Administrator

Prepared by:  
Ann Oberle, WisVote Testing Lead

**SUBJECT:** Voter Felon Audit

The Voter Felon Audit is a State required post-election comparison of voters who cast a ballot at an election with the list of persons who were under Department of Corrections (DOC) supervision for a felony conviction at the time the vote was cast. The Voter Felon Audit has a review process of several stages. To summarize our review process, the matches are first reviewed by the Department of Corrections, then by the municipal clerk and finally by Wisconsin Elections Commission Staff before referring to county district attorneys for their own investigation. The process provides the Commission the ability to identify any potential voter/felon matches and it also allows the Commission to identify any discrepancies with the matches. It is the final check in identifying potential felon participation in an election, should such activity not be caught through other statutory required processes, such as the felon list check by election officials at the polls.

Updates for the most recent Voter Felon Audits conducted by the Commission are as follows:

The Voter Felon Audit for the August 9, 2016 Partisan Primary was completed on September 27, 2016; there were initially 4 potential matches and after the review process, 2 were referred to the appropriate district attorney.

The Voter Felon Audit for the November 8, 2016 General Election began on January 26, 2017. The initial comparison identified 93 potential matches. Of the 93 initial matches 23 potential matches have been closed because DOC staff or WEC staff determined that the individual was not a felon or the voter and the felon were not the same person. The remaining 70 potential matches are in various stages of the multi-step review process. At this time no referrals have been made to district attorneys. At the time that the initial comparison was made some municipalities had not completed recording participation in WisVote. A second voter felon comparison will be made after

municipalities have completed recording voter participation for the 2016 General Election. A more complete update for the 2016 General Election will be available for the August biannual comprehensive update.

Staff is also providing its bi-yearly comprehensive update on the status of the past Voter Felon Audits and District Attorney response information. Attachment A contains statistics regarding the number of initial matches between records of voters and records of felons, as well as the disposition of the cases referred to district attorneys that the Commission has been made aware of. Additional details regarding specific cases are included in the Commission's supplemental materials folder.

# ATTACHMENT A

ELECTION	Number of voters matched with felons per Election	Number of matches referred to district attorneys	Number of referrals closed by DA without charges	Number of referrals resulting in a conviction	Number of remaining referrals with current charges filed status	Number of matches or cases referred remaining open or under investigation	Number of matches closed	All matches have reached final disposition	Total number of voters	Referrals as a percentage of total number of voters
11/8/2016 General Election	93	0	0	0	0	0	23			
8/9/2016 Partisan Primary	4	2	0	0	0	0	2			
4/5/2016 Spring Election and Presidential Pref.	33	24	3	0	0	21	10		2,130,221	0.001127%
02/16/2016 Spring Primary	7	3	1	0	0	2	5		578,083	0.000519%
09/29/15 Special Election Assembly 99	0	0	0	0	0	0	0	yes	1,591	0%
09/01/2015 Special Primary Assembly 99	0	0	0	0	0	0	0	yes	3,422	0%
07/21/15 Special Election State Senate 33	0	0	0	0	0	0	0	yes	10,012	0%
06/23/15 Special Primary State Senate 33	0	0	0	0	0	0	0	yes	11,449	0%
11/4/2014 General Election	229	43	10	9	0	24	205		2,420,811	0.001776%
8/12/2014 Partisan Primary	10	1	0	1	0	0	10	yes	638,677	0.000157%
4/1/2014 Spring Election	8	5	2	2	0	1	7		506,566	0.000987%
2/18/2014 Spring Primary	0	0	0	0	0	0	0	yes	4,310	0.000000%
4/2/2013 Spring Election	8	3	2	1	0	0	8	yes	889,008	0.000337%
2/19/2013 Spring Primary	1	0	0	0	0	0	1	yes	374,631	0.000000%
11/6/2012 Presidential and General Election	89	33	15	8	2	8	79		3,085,450	0.001070%
8/14/2012 Partisan Primary	3	2	1	0	0	1	2		851,572	0.000235%
6/5/2012 Recall Election	53	22	8	4	1	9	43		2,516,371	0.000874%
5/8/2012 Recall Primary Election	13	3	1	2	0	0	13	yes	1,360,750	0.000220%
4/3/2012 Presidential Preference Spring Election	13	7	5	1	0	1	12		1,144,351	0.000612%
2/21/2012 Spring Primary	3	2	1	0	0	0	3	yes	139,343	0.001435%
4/5/2011 Spring Election	16	7	3	1	0	3	13		1,524,528	0.000459%
2/15/2011 Spring Primary	5	2	1	0	0	1	4		444,766	0.000450%
11/2/2010 General Election	60	21	9	5	0	7	53		2,185,017	0.000961%
9/14/2010 Partisan Primary	8	3	2	0	0	1	7		930,511	0.000322%
4/6/2010 Spring Election	6	2	1	1	0	0	6	yes	574,130	0.000348%
2/16/2010 Spring Primary	1	0	0	0	0	0	1	yes	152,532	0%
<b>Total for all 26 elections</b>	<b>663</b>	<b>185</b>	<b>65</b>	<b>35</b>	<b>3</b>	<b>79</b>	<b>507</b>	<b>12</b>		



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MARK L. THOMSEN, CHAIR

**DATE:** March 15, 2017

**TO:** The Honorable Scott Walker, Governor of Wisconsin

**CC:** Chief Clerk, Wisconsin State Senate  
Chief Clerk, Wisconsin State Assembly

**FROM:** Wisconsin Elections Commission

**SUBJECT:** 2016 Annual Report

## A. Introduction

The Wisconsin Elections Commission is pleased to submit its 2016 annual report to the Governor and the chief clerk of each house of the legislature, in accordance with Wis. Stat. §§ [15.04\(1\)\(d\)](#) and [5.05\(5e\)](#). This report provides information on the performance and operations of the Commission and projects, goals, and objectives as developed for the agency budget. This report also includes information required specifically of the Elections Commission, as well as information provided at the Commission's discretion. Finally, the report also includes information on matters within the Commission's jurisdiction and recommendations for legislation.

## B. Information All Agencies Are Required to Report under [Wis. Stat. §15.04\(1\)\(d\)](#)

### Mission

The mission of the Commission is to enhance representative democracy by ensuring the integrity of Wisconsin's electoral process through the administration of Wisconsin's elections laws and the dissemination of information, guidance and services to local election officials, candidates, policymakers, voters and the public, utilizing both staff expertise and technology solutions.

### Agency Description

The Elections Commission is comprised of six members, who serve for 5-year terms. One member is appointed by the senate majority leader; one appointed by the senate minority leader; one appointed by the speaker of the assembly; one appointed by the assembly minority leader; and two are members who formerly served as county or municipal clerks and who are nominated by the governor with the advice and consent of a majority of the members of the senate. A detailed description of the appointment of Commissioners is provided in Wis. Stat. §15.61. The transition plan from the Government Accountability Board to the Elections Commission put forth by the

Department of Administration established a rotational term schedule of the Commissioners. The Commission elects a chair and vice-chair from its members by a majority vote.

The Commission Administrator serves as the agency head and the chief election officer of the state. The Commission staff is required to be non-partisan. The agency has a staff of 9.75 GPR and 22.00 PRF full-time employees. The 22 federally funded permanent positions were approved in the 2015-17 biennial budget, although the Executive Budget book indicates the permanent positions will have an end date of June 30, 2017.

The Commission administers and enforces Wisconsin law pertaining to elections (Wisconsin Chapters 5 to 10 and 12). Commission activities fit into four general functions: general administration; education, training and assistance to local election officials, candidates, and officeholders; voter education and outreach; and complaint resolution. Within these functional areas, the Commission implements legislative changes and initiatives, develops policy, issues formal opinions and guidance, promulgates administrative rules, prescribes procedures and forms, carries out investigations, responds to inquiries from local election officials, candidates and the public, and completes related activities.

The Commission's four functional activities are further described below:

#### *Election Administration*

The Agency ensures compliance with federal and state election laws. Commission staff evaluates nomination papers and other documents to recommend to the Commission as to whether state and federal candidates qualify for ballot access. Agency staff completes testing of electronic voting systems and makes recommendations regarding Commission approval of such systems, conducts accessibility audits of polling places, and certifies state and federal election results in Wisconsin. Commission staff also develops and maintains the statewide voter registration system (WisVote) as well as other election management IT systems and applications. Staff also prepares reports and documentation to assist the Commission in making decisions related to election administration at its regular meetings, and works with the Legislature in its development of election-related legislation.

#### *Support for Local Election Officials*

Elections in Wisconsin are conducted by 1,926 local clerks at the town, village, city and county levels. Commission staff provides education, training, and administrative and technical support to local election officials, on both a cyclical and daily basis. Courses and classes for election officials on both election administration responsibilities and tasks involving the statewide voter registration system are available on the Internet through an extensive webinar series. The Agency also offers in-person presentations to various professional associations and other groups. The Agency prepares detailed manuals to assist local election officials in carrying out their election-related responsibilities. Ongoing support to local clerks includes review of ballot formats, providing election forms, and answering inquiries regarding voting equipment and election procedures, as well as completing tasks in WisVote such as printing poll books, tracking ballot issuance and voter participation, updating voter registration records; maintaining candidate lists and polling place

locations, and producing various reports for clerks. Local election officials rely on the WisVote application and Agency staff support to conduct all federal, state and local elections.

### *Voter Information*

Agency staff conducts extensive voter outreach regarding election procedures, voter registration and voting requirements. Agency staff maintains and updates the MyVote Wisconsin website (<http://myvote.wi.gov>), which is linked to the agency website (<http://elections.wi.gov>), which enables voters to check their voter registration status, and locate polling place and ballot information. Data available on the MyVote Wisconsin site is drawn from the statewide voter registration system, WisVote. The MyVote Wisconsin site enables voters to click on a link, complete and print a voter registration application and mail it to their municipal clerk. The information completed by the voter is saved in the WisVote system to expedite the voter's registration. The MyVote site will also house the state's online voter registration system upon completion in early 2017. The site also provides a secure method for military and overseas voters to apply for an absentee ballot and have it delivered to them electronically. Additional resources are available to voters and the public on the agency's website. The agency also assists members of the public with obtaining valid photo identification for voting.

### *Voter and Election Data*

Through maintenance of WisVote, the agency's Election Data Collection System, and the Canvass Reporting System, agency staff collects and analyzes election data, and compiles information for required reports to the federal government and state policymakers. Agency staff also makes the data available to the general public and research organizations through its BADGER Voters website as well as on the agency's main website. Agency staff creates reports to comply with federal statutes and federal grant requirements.

## Programs, Goals, Objectives and Activities

### *Program 1: Administration of Elections*

Goal: Enhance representative democracy by ensuring the integrity of Wisconsin's electoral process through the administration of Wisconsin's elections laws and the dissemination of information, guidance and services to local election officials, candidates, policymakers, voters and the public, utilizing both staff expertise and technology solutions.

Objective/Activity: Administer state-level election responsibilities and provide educational, training and customer service resources to local elections officials, candidates, voters and the general public.

## Performance Measures, Goals, and Performance

The Wisconsin Elections Commission was required to report on goals established by the G.A.B. for fiscal years 2015 and 2016 as a part of its budget request. The table below includes the new performance measures established by the Wisconsin Elections Commission that will be used

beginning with fiscal year 2017 and moving forward. The Commission’s next annual report will include actual measured performance relative to these goals.

<b>Prog. No.</b>	<b>Performance Measure</b>	<b>Goal FY 2017</b>	<b>Goal FY 2018</b>	<b>Goal FY 2019</b>
1.	Monitor the number of contacts the public makes to WEC.	1,300,000	1,300,000	1,300,000
1.	Monitor public satisfaction with agency and local election officials through the agency’s complaint system.	225	175	200
1.	Maintain data and records on the number of educational outreach activities, training and technical assistance provided to local elections partners and the general public.	130	130	130

Statutory Duties of the Elections Commission and the Agency’s Compliance

The table in appendix A outlines the statutory duties of the Wisconsin Elections Commission, as well as provides a summary of the agency’s compliance with those requirements or any unresolved issues related to those duties.

A summary of significant achievements and tasks completed by the staff of the Wisconsin Elections Commission and the Elections Division of the Government Accountability Board in 2016 is attached in appendix B.

**C. Information the Elections Commission is required to Report under [Wis. Stat. § 5.05\(5e\)](#)**

Names and Duties of All Individuals Employed by the Commission

Wisconsin Elections Commission staff members are required to be non- partisan, in accordance with [Wis. Stat. §5.05\(4\)](#).

*Administrator – Michael Haas*

Under the general policy direction of the Elections Commission, the Administrator is responsible for providing the administrative leadership and support necessary to enable the commission to carry out its statutory functions with respect to the administration and enforcement of election laws. The duties and responsibilities of this position are diverse in nature and include such activities as implementation of Commission policies and directives; law and rule interpretations; program planning; staff supervision; public and legislative contacts; and the development and improvement of record keeping and procedural systems.

The Administrator serves as a representative of the Commission and provides administrative leadership and support to the Commission in such areas as processing of complaints; development of formal and informal opinions; administrative rule development; drafting and review of proposed legislation; implementation of federal and state legislation and court rulings; data collection, analysis and dissemination; identification of problems which may require investigation or interpretation; preparation of special reports; administration of contracts and federal grants; preparation for Commission meetings; and any other areas the Commission may assign.

Please see appendix C for a full list of the Administrator's duties.

*Legal Counsel – Nathan Judnic*

Under the general supervision of the Administrator of the Wisconsin Elections Commission, this position is responsible for providing legal advice to the Commission and its staff on the application of election administration laws to the Commission and its staff. This position is responsible for preparing legal opinions, enforcement orders, and administrative rules to implement agency policy and authority.

*Elections Supervisor – Ross Hein*

Under general supervision of the Administrator, the Elections Supervisor provides an array of executive-level policy, administrative and professional services for the Wisconsin Elections Commission and to the Administrator. This position develops policy and procedures, and goals and objectives for information technology support for the agency. This position supervises personnel responsible for information technology and related functions and manages the coordination and portfolios of outsourced information technology services with vendor partners. This position develops policy and procedures, sets goal and performance objectives, and develops and implements program assessment tools for the Commission staff.

*Chief Administrative Officer – Sharrie Hauge*

Under the general supervision of the Administrator, this position is responsible for the development and implementation of the biennial and annual operating budgets, manages financial and office operations, procurement, facilities management, human resources, the agency's Help Desk, Continuity of Operations and Continuity of Government Planning (COOP/COG), coordinates federal grant programs; and prepares special reports and analyses for the Administrator.

*Webmaster/Public Information Officer – Reid Magney*

Under the general supervision of the Administrator of the Wisconsin Elections Commission, this position provides a wide variety of support for Commission operations. This position serves as the agency's webmaster, media spokesperson, and public records officer. This position also provides support to the Commission by taking meeting minutes and planning meetings.

*Training Coordinator – Allison Coakley*

The Training Coordinator is responsible for creating and managing the Elections Commission’s training program for local election officials. This position coordinates the preparation of training materials and events, including Manual updates, written communications, webinars, and in-person presentations. This position also monitors local election officials’ compliance with training requirements.

*Elections Specialists — multiple incumbents*

Seven positions under the Elections Commission are classified as Elections Specialists. Elections Specialists’ responsibilities are mostly related to election administration. Staff in this classification are: Diane Lowe, Lead Elections Specialist; Meagan Wolfe, Voter Services Elections Specialist; Richard Rydecki, Accessibility and Electronic Voting Equipment Elections Specialist; and Jennifer Webb, Elections Specialist. There are currently three vacant Elections Specialist positions.

Under the general supervision of the Administrator of the Wisconsin Elections Commission, these positions provide operational execution of the Wisconsin Elections Commission’s statutory responsibilities, and ensuring compliance with Wisconsin’s elections laws. The individuals in these positions must be able to respond to questions involving complex application of statutes and administrative code, and assist local election officials. The individuals in these positions conduct policy and legal analysis related to the administration of Wisconsin’s elections laws, and review applicable court decisions for potential impact on the Commission’s responsibilities. These positions report to the Administrator and the Commissioners on a regular basis the success of programs, policies, and procedures, and develop and implement more effective, efficient ways to achieve program goals.

*WisVote Specialists — multiple incumbents*

Eleven positions under the Elections Commission are classified as WisVote Specialists or have responsibilities for supporting Wisconsin’s statewide voter registration system, now known as WisVote. This support includes IT development and WisVote user support and training to local election officials who use the system. Staff in this category include Sarah Whitt, IT Lead; Ann Oberle, UAT Lead; Christopher Doffing, Juanita Borton and Michael Nelson, Training Officers; Patrick Brennan, Mai Choua Thao, Jodi Kitts, Tony Bridges, WisVote Elections Specialists.

*Help Desk Support — multiple incumbents*

Two positions under the Elections Commission are classified as Help Desk support positions. Under the supervision of the Chief Administrative Officer, these positions provide a wide variety of technical services to the Commission and its staff and to local election officials and the public. Staff in this category are Steve Rossman, Help Desk Lead, and John Hoeth, Help Desk Support.

*Office Operations Associates — multiple incumbents*

Three positions under the Elections Commission are classified as Office Operations Associate positions. Under the supervision of the Chief Administrative Officer, these positions provide operational support by staffing the front desk, answering telephones, and providing additional support. Staff in this category are Tiffany Schwoerer, Marni Martinson and Jennifer Johnson.

*Accountant – Gamze Ligler*

Under the general supervision of the Chief Administrative Officer, this position creates and maintains the financial statements and general ledger through the use of the Statewide PeopleSoft STAR ERP system, manages expenditures to biennial and annual operating budgets, manages GPR and Federal Grants reporting, implements procurement activities and prepares financial reporting and audits.

*Deputy Administrator – Vacant*

The Administrator of the Wisconsin Elections Commission is authorized to appoint a Deputy Administrator. This position has not yet been filled.

*Paralegal – Vacant*

The Wisconsin Elections Commission is authorized to hire a Paralegal to support the Legal Counsel in promulgation of administrative rules and other legal duties. This position has not yet been filled.

**D. Summary of Determinations and Advisory Opinions Issued Under [Wis. Stat. § 5.05\(6a\)](#)**

The Elections Commission has not issued any formal or informal advisory opinions, nor has it authorized the Administrator or his designee to issue informal written advisory opinions or transmit an informal advisory opinion electronically on its behalf since beginning operations on June 30, 2016.

**E. Summary of Investigations Conducted**

The Elections Commission has not authorized any investigation since beginning operations on June 30, 2016.

**F. Recommendations for Legislation**

The Commission's Legislative Agenda will be attached as appendix D following approval by the Commission at its March 14, 2017 meeting.



# Appendix A

## Statutory Duties of the Wisconsin Elections Commission

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
General Statutory Authority	5.05(1)	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. Wis. Stat. § 5.05(1).
Administrative Rules	5.05(1)(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. § 5.05(1)(f).
Investigations & Enforcement	5.05(2m)(a)	The commission shall investigate violations of laws administered by the commission. Wis. Stat. § 5.05(2m)(a).
Elections Commission Statutory Authority	5.05(2w)	The elections commission has the responsibility for the administration of chs. 5 to 10 and 12. Wis. Stat. § 5.05(2w).
Chief Election Officer	5.05(3g)	The commission administrator shall serve as the chief election officer of this state. Wis. Stat. § 5.05(3g).
Nonpartisan Employees	5.05(4)	All employees of the commission shall be nonpartisan. Wis. Stat. § 5.05(4).
Annual Report	5.05(5e)	The commission shall submit an annual report under s. 15.04(1) (d) and shall include in its annual report the names and duties of all individuals employed by the commission and a summary of its determinations and advisory opinions. Wis. Stat. § 5.05(5e).
Election Officials	5.05(7)	The commission shall conduct regular information and training meetings at various locations in the state for county and municipal clerks and other election officials. Wis. Stat. § 5.05(7).
Education & Information	5.05(10)	The commission shall adopt and modify as necessary a state plan that meets the requirements of P.L. 107-252 to enable participation by this state in federal financial assistance programs authorized under that law. Wis. Stat. § 5.05(10).
Education & Information	5.05(12)	The commission shall conduct an educational program for the purpose of educating electors who cast paper ballots, ballots that are counted at a central counting location, and absentee ballots of the effect of casting excess votes for a single office. Wis. Stat. § 5.05(12).
Education & Information	5.05(13)(a)	The commission shall maintain one or more toll-free telephone lines for electors to report possible voting fraud and voting rights violations, to obtain general election information, and to access information concerning their registration status, current polling place locations, and other information relevant to voting in elections. Wis. Stat. § 5.05(13)(a).
Overseas / Absent Military Voting	5.05(13)(c)	The commission shall maintain a free access system under which a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), who casts an absentee ballot may ascertain whether the ballot has been received by the appropriate municipal clerk. Wis. Stat. § 5.05(13)(c).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Overseas / Absent Military Voting	5.05(13)(d)	The commission shall designate and maintain at least one freely accessible means of electronic communication which shall be used for the following purposes: 1. To permit a military elector or an overseas elector to request a voter registration application or an application for an absentee ballot at any election at which the elector is qualified to vote in this state. 2. To permit a military elector or an overseas elector to designate whether the elector wishes to receive the applications electronically or by mail. 3. To permit a municipal clerk to transmit to a military elector or an overseas elector a registration application or absentee ballot application electronically or by mail, as directed by the elector together with related voting, balloting, and election information. Wis. Stat. § 5.05(13)(d).
Subscription Service	5.05(14)(b)	The commission shall establish a subscription service whereby a person may electronically access the absentee ballot information provided under s. 6.33(5)(a), including semiweekly updates of such information. Wis. Stat. § 5.05(14)(b).
Reporting	5.05(14)(c)	On election night the commission shall provide a link on its Internet site to the posting of each county's election returns on each county's Internet site. Wis. Stat. § 5.05(14)(c).
Registration	5.05(15)	The commission is responsible for the design and maintenance of the official registration list under s. 6.36. Wis. Stat. § 5.05(15).
Registration	5.05(15)	The commission shall require all municipalities to use the list in every election and may require any municipality to adhere to procedures established by the commission for proper maintenance of the list. Wis. Stat. § 5.05 (15).
Poll Lists	5.05(18)	The commission may facilitate the creation and maintenance of electronic poll lists for purposes of s. 6.79 including entering into contracts with vendors and establishing programs for development and testing. Wis. Stat. § 5.05(18).
Elections Division Administrator	5.055	The commission administrator shall, in consultation with the commission, appoint an individual to represent this state as a member of the federal election assistance commission standards board. Wis. Stat. § 5.055.
Elections Division Administrator	5.055	The administrator shall also conduct and supervise a process for the selection of an election official by county and municipal clerks and boards of election commissioners to represent local election officials of this state as a member of the federal election assistance commission standards board. Wis. Stat. § 5.055.
Elections Division Administrator	5.056	The commission administrator shall enter into the agreement with the secretary of transportation specified under s. 85.61 (1) to match personally identifiable information on the official registration list maintained by the commission under s. 6.36 (1) and the information specified in s. 6.34 (2m) with personally identifiable information maintained by the department of transportation. Wis. Stat. § 5.056.

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Complaints	5.06	The commission may conduct a hearing on the matter in the manner prescribed for treatment of contested cases under ch. 227 if it believes such action to be appropriate. Wis. Stat. § 5.06(1).
HAVA Compliance	5.061	The commission shall make a final determination with respect to the merits of the complaint and issue a decision within 89 days of the time that the complaint or the earliest of any complaints was filed. Wis. Stat. § 5.061.
Voting Rights/Impediments	5.25(4)	The commission shall 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. Wis. Stat. § 5.25(4).
Voting Rights/Impediments	5.25(4)(b)	In any jurisdiction that is subject to the requirement under 42 USC 1973aa-1a to provide voting materials in any language other than English, the commission shall ensure that the voting system used at each polling place in that jurisdiction is in compliance with 42 USC 1973aa-1a.
Voting Rights/Impediments	5.25(4)(d)	No later than June 30 of each odd-numbered year, the commission shall submit a report on impediments to voting faced by elderly and handicapped individuals to the appropriate standing committees of the legislature under s. 13.172(3). In preparing its report the commission shall consult with appropriate advocacy groups representing the elderly and handicapped populations. Wis. Stat. § 5.25(4)(d).
Voting Rights/Impediments	5.35(6)(a)4a.	The commission shall prescribe instructions for electors for whom proof of identification is required under s. 6.79 (2) or for whom proof of residence under s. 6.34 is required under s. 6.55 (2). Wis. Stat. § 5.35(6)(a)4a.
Voting Rights/Impediments	5.35(6)(a)4b.	The commission shall prescribe general information concerning voting rights under applicable state and federal laws, including the method of redress for any alleged violations of those rights. Wis. Stat. § 5.35(6)(a)4b.
Ballots	5.60(1)(b)	The elections commission shall certify the candidates' names and designate the official ballot arrangement for candidates for state superintendent, justice, court of appeals judge, circuit judge and for metropolitan sewerage commission commissioners elected under s. 200.09 (11) (am). Wis. Stat. § 5.60(1)(b).
Ballots	5.62(3)	The commission shall designate the official primary ballot arrangement for statewide offices and district attorney within each prosecutorial district by using the same procedure provided in s. 5.60 (1) (b). Wis. Stat. § 5.62(3).
Ballots	5.655(3)	The commission shall prescribe notices and instructions to be given to electors who use a consolidated ballot. Wis. Stat. § 5.655(3).
Ballots	5.72(2)	The commission shall review ballots and proof copies and shall notify the county and municipal clerk of any error as soon as possible but in no event later than 7 days after submission. Wis. Stat. § 5.72(2).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Electronic Voting Systems	5.87(2)	The 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. Wis. Stat. § 5.87(2).
Electronic Voting Systems	5.905(2)	The commission shall determine which software components of an electronic voting system it considers to be necessary to enable review and verification of the accuracy of the automatic tabulating equipment used to record and tally the votes cast with the system. Wis. Stat. § 5.905(2).
Electronic Voting Systems	5.905(2)	The commission shall require each vendor of an electronic voting system that is approved under s. 5.91 to place those software components in escrow with the commission within 90 days of the date of approval of the system and within 10 days of the date of any subsequent change in the components. Wis. Stat. § 5.905(2).
Electronic Voting Systems	5.905(2)	The commission shall secure and maintain those software components in strict confidence except as authorized in this section. Wis. Stat. § 5.905(2).
Electronic Voting Systems	5.905(3)	The commission shall promulgate rules to ensure the security, review and verification of software components used with each electronic voting system approved by the commission. Wis. Stat. § 5.905(3).
Electronic Voting Systems	5.91(intro)	The commission shall certify any ballot, voting device, automatic tabulating equipment or related equipment and materials to be used in an electronic voting system. Wis. Stat. § 5.91(intro).
Electronic Voting Systems	5.93	The commission may promulgate reasonable rules for the administration of electronic voting systems. Wis. Stat. § 5.93.
Electronic Voting Systems	5.95	The commission shall prescribe information to electors in municipalities and counties using various types of electronic voting systems to be published in lieu of the information specified in s. 10.02 (3) in type B notices whenever the type B notice information is inapplicable. Wis. Stat. § 5.95.
Overseas / Absent Military Voting	6.06	The commission is the agency designated by the state of Wisconsin under 42 USC 1973ff-1 to provide information regarding voter registration and absentee balloting procedures to absent members of the uniformed services and overseas voters with respect to elections for national office. Wis. Stat. § 6.06.
Overseas / Absent Military Voting	6.22(4)(d)	For military absentee ballots, the commission shall prescribe the instructions for marking and returning ballots and the municipal clerk shall enclose instructions with each ballot, including supplemental instructions for local elections. Wis. Stat. § 6.22(4)(d).
Overseas / Absent Military Voting	6.24(3)	The commission shall design a form to ascertain the qualifications of overseas electors. The commission shall ensure that the form is substantially similar to the original form under s. 6.33 (1), insofar as applicable. Wis. Stat. § 6.24(3).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Overseas / Absent Military Voting	6.24(4)(d)	The commission shall prescribe a special certificate form for the envelope in which the absentee ballot for overseas electors is contained, which shall be substantially similar to the certificate used for absentee voters domiciled in Wisconsin as provided under s. 6.87(2). Wis. Stat. § 6.24(4)(d).
Overseas / Absent Military Voting	6.24(5)	The commission shall prescribe a special ballot for use by overseas/military voters whenever necessary, limited to national offices and designed to comply with the requirements under ss.5.60(8), 5.62, and 5.64(1) insofar as applicable. Wis. Stat. § 6.24(5).
Overseas / Absent Military Voting	6.24(6)	For overseas ballots, the commission shall prescribe the instructions for marking and returning ballots and the municipal clerk shall enclose instructions with each ballot, including supplemental instructions for local elections. Wis. Stat. § 6.24(6).
Registration	6.275(2)	The commission shall publish registration and voting statistics on its website within 7 days of receipt from local election officials and update this information on a monthly basis. Wis. Stat. § 6.275(2).
Overseas / Absent Military Voting	6.276(2)	Within 30 days after each general election, each municipal clerk shall transmit to the commission a report of the number of absentee ballots transmitted to absent military and overseas electors and the combined number of those ballots that were cast by those electors in that election. Wis. Stat. § 6.276(2).
Overseas / Absent Military Voting	6.276(3)	Within 90 days after each general election, the commission shall compile the information contained in the municipal clerks' reports and transmit the information to the federal Election Assistance Commission. Wis. Stat. § 6.276(3).
Registration	6.29(2)(am)	The commission shall provide to each municipal clerk a list prepared for use at each municipal clerk's office showing the name and address of each person whose name appears on the list provided by the department of corrections under s. 301.03 (20m) as ineligible to vote on the date of the election, whose address is located in the municipality, and whose name does not appear on the registration list for that municipality. Wis. Stat. § 6.29(2)(am).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Electronic Registration	6.30(5)	The commission shall maintain on the Internet a secure registration form that enables the elector to enter the information required under s. 6.33 (10) electronically. The commission shall include on the registration form a place for the elector to give this authorization. Upon submittal of the electronic application, the commission shall obtain from the department of transportation a copy of the electronic signature of the elector. The commission shall maintain the application on file and shall notify the municipal clerk or board of election commissioners of the municipality where the elector resides of its receipt of each completed application. The commission shall also permit any elector who has a current and valid operator's license issued to the elector under ch. 342 or a current and valid identification card issued under s. 342.50 to make changes in his or her registration at the same Internet site that is used by electors for original registration under this subsection. Wis. Stat. § 6.30(5).
Registration	6.33(1)	The commission shall prescribe the format, size, shape and content of registration forms consistent with statutory requirements. Wis. Stat. § 6.33(1).
Registration	6.33(5)(a)	Municipal clerks may update changes to registrations within 45 days after the date of a general election. The commission administrator may, upon request of a municipal clerk, permit the clerk to update registration entries that change on the date of a general election within 60 days after that election. The municipal clerk shall also provide to the commission information that is confidential under s.6.47(2) in such manner as the commission prescribes. Wis. Stat. § 6.33(5)(a).
Absentee Vote Tracking	6.33(5)(a)2	The commission shall maintain a list under s. 6.36 (1) that allows municipal clerks to enter information regarding tracking absentee ballots. Wis. Stat. § 6.33(5)(a)2.
Electronic System	6.34(4)	The commission shall maintain a system that electronically verifies, on an instant basis, information specified under sub. (3) (b) from the information submitted in lieu of proof of residence under sub. (2m), using the information maintained by the department of transportation pursuant to the commission's agreement with the secretary of transportation under s. 85.61 (1). Wis. Stat. § 6.34(4).
Registration List	6.35(2)	The commission shall prescribe, by rule, the procedure and methods by which municipal clerks and boards of election commissioners shall maintain records of registrations that are entered electronically under s. 6.30 (5). Wis. Stat. § 6.35(2).
Registration	6.36(1)(a)	The commission shall compile and maintain electronically an official registration list consistent with statutory requirements. Wis. Stat. § 6.36 (1)(a).
Registration	6.36(2)(a)	The commission shall, by rule, prescribe the space and location for entry of each elector's signature on the poll list which shall provide for entry of the signature without changing the orientation of the poll list from the orientation used by the election officials. Wis. Stat. § 6.36(2)(a)

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Registration	6.36(6)	The commission shall establish by rule the fee for obtaining a copy of the official registration list, or a portion of the list, including access to the subscription service established under s. 5.05 (14)(b). The amount of the fee shall be set, after consultation with county and municipal election officials, at an amount estimated to cover both the cost of reproduction and the cost of maintaining the list at the state and local level. The rules shall require that revenues from fees received be shared between the state and municipalities or their designees under s. 6.33(5)(b), and shall specify a method for such allocation. Wis. Stat. § 6.36(6).
Registration	6.50(1)	No later than June 15 following each general election the commission shall identify each elector who has not voted within the previous 4 years and mail a suspension notice. Wis. Stat. § 6.50(1)
Registration	6.50(2)	The commission shall change the registration status of an elector receiving a notice of suspension who does not apply for continuation of registration within 30 days of the date of mailing the suspension notice. Wis. Stat. § 6.50(2)
Registration	6.50(2g)	The commission may delegate to a municipal clerk or board of election commissioners of a municipality the responsibility to change the registration status of voter suspended under s. 6.50(2). Wis. Stat. § 6.50(2g)
Registration	6.50(2r)	No later than August 1 of an odd-numbered year the commission shall publish on its website specified statistics related to the suspension notice mailing. Wis. Stat. § 6.50(2r).
Registration	6.55(2)(cs)	The commission shall provide to each municipal clerk a list prepared for use at each polling place showing the name and address of each person whose name appears on the list provided by the department of corrections under s. 301.03(20m) as ineligible to vote on the date of the election, whose address is located in the area served by that polling place, and whose name does not appear on the poll list for that polling place. Wis. Stat. § 6.55(2)(cs).
Registration	6.56(3m)	As soon as possible after all information relating to registrations after the close of registration for an election is entered on the registration list following the election under s.6.33 (5) (a), the commission shall compare the list of new registrants whose names do not appear on the poll lists for the election because the names were added after the commission certified the poll lists for use at the election with the list containing the names transmitted to the board by the department of corrections under s. 301.03(20m) as of election day. If the commission finds that the name of any person whose name appears on the list transmitted under s. 301.03(20m) has been added to the registration list, the commission shall enter on the list the information transmitted to the commission under s. 301.03(20m) and shall notify the district attorney for the county where the polling place is located that the person appears to have voted illegally at the election. Wis. Stat. § 6.56(3m).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Registration	6.56(7)	The commission may elect to perform audits of all electors registering to vote at the polling place and all electors registering by agent on election day. Wis. Stat. § 6.56(7).
Absentee Voters	6.869	The commission shall prescribe uniform instructions for municipalities to provide to absentee electors. Wis. Stat. § 6.869.
Special Registration Deputies	6.875(5)	The commission shall prescribe an oath that special registration deputies in nursing homes and care facilities must file as required by s. 7.30(5). Wis. Stat. § 6.875(5).
Registration	6.92; 6.925	The commission may prescribe by rule questions that inspectors or other electors may use to test a person's qualifications in a challenge. Wis. Stats. §§ 6.92, 6.925.
Election Officials	7.03(2)	The commission shall fix the amount to be paid any person employed to perform duties for the state. If the commission employs an individual to perform duties which are the responsibility of a county or municipality, the commission shall charge the expense to the county or municipality. Wis. Stat. § 7.03(2).
Ballots	7.08(1)(a)	In addition to its duties for ballot arrangement under ch. 5 and date and notice requirements under ch. 10, the commission shall prescribe all official ballot forms and revise them to harmonize with legislation and the current official status of the political parties whenever necessary. Wis. Stat. § 7.08(1)(a).
Ballots	7.08(1)(a)	The commission shall include on each ballot form in the endorsement section space for identifying overvoted or damaged ballots as original or duplicate with an identifying serial number. Wis. Stat. § 7.08(1)(a).
Ballots	7.08(1)(b)	The commission shall also prescribe the necessary sample forms and ballot containers to make the canvass, returns, statements and tally sheet statements for all elections the results of which are reportable to the commission under s. 7.60(4)(a), and all other materials as it deems necessary to conduct the elections. Wis. Stat. § 7.08(1)(b).
Registration	7.08(1)(c)	The commission shall prescribe the format, size, and shape of registration forms required by ss. 6.24(3) and (4), 6.30(4) and (5), 6.33(1), 6.47 (1)(am)2. and (3), 6.55(2), and 6.86 (2) to (3). All such forms shall contain a statement of the penalty applicable to false or fraudulent registration or voting through use of the form. Forms are not required to be furnished by the commission. Wis. Stat. § 7.08(1)(c).
Electronic Voting Systems	7.08(1)(d)	The commission shall promulgate 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. Pursuant to such responsibility, the commission may obtain assistance from competent persons to check the machines, systems and apparatus and approve for use those types meeting the statutory requirements and shall establish reasonable compensation for persons performing duties under this paragraph. Wis. Stat. § 7.08(1)(d).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Candidates	7.08(2)(a)	The commission shall transmit to each county clerk a certified list of all candidates on file in its office for which electors in that county may vote. Wis. Stat. § 7.08(2)(a).
Publications	7.08(3)	The 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. Wis. Stat. § 7.08(3).
Publications	7.08(4)	The commission shall publish the election laws and shall sell or distribute or arrange for the sale or distribution of copies of the election laws to county and municipal clerks and boards of election commissioners and members of the public. Wis. Stat. § 7.08(4).
Publications	7.08(5)	The commission shall distribute, upon request and free of charge, to any candidate for representative in Congress, state senator, or representative to the assembly a copy of the map or maps received under s. 16.96(3)(b) showing district boundaries. Wis. Stat. § 7.08(5).
Electronic Voting Systems	7.08(6)	Following each general election, audit the performance of each voting system used in this state to determine the error rate of the system in counting ballots that are validly cast by electors. If the error rate exceeds the rate permitted under standards of the federal election commission in effect on October 29, 2002, the commission shall take remedial action and order remedial action to be taken by affected counties and municipalities to ensure compliance with the standards. Wis. Stat. § 7.08(6).
Election Officials	7.08(11)	The commission shall allocate and assign sufficient members of its staff to coordinate their activities with local election officials and maintain their availability to respond to inquiries from local election officials for each statewide election and each recount in progress. Wis. Stat. § 7.08(11).
Voting Rights/Impediments	7.08(12)	The commission shall engage in outreach to identify and contact groups of electors who may need assistance in obtaining or renewing a document that constitutes proof of identification for voting and provide assistance to the electors in obtaining or renewing that document. Wis. Stat. § 7.08(12).
Voter Fraud	7.15(1)(g)	Report summary of suspected election frauds, irregularities and violations received from municipal clerks annually to the legislature under s 13.72. Wis. Stat. § 7.15(1)(g).
Election Officials	7.31(1)	The commission shall establish requirements for certification of individuals to serve as chief inspectors. The requirements shall include a requirement to attend at least one training session held under sub. (5) before beginning service. Wis. Stat. § 7.31(1).
Election Officials	7.31(3)	The commission shall, upon application, issue certificates to qualified individuals who meet the requirements to be certified as chief inspectors. Each certificate shall carry an expiration date. Wis. Stat. § 7.31(3).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Election Officials	7.31(4)	The commission shall require each individual to whom a certificate is issued under this section to meet requirements to maintain that certification. Wis. Stat. § 7.31(4).
Election Officials	7.31(5)	The commission shall conduct regular training programs to ensure that individuals who are certified by the commission as chief election inspectors are knowledgeable concerning their authority and responsibilities. The commission shall pay all costs required to conduct the training programs from the appropriation under s. 20.510(1)(bm). Wis. Stat. § 7.31(5).
Election Officials	7.315	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.
Election Observers	7.41(5)	The commission may promulgate rules that are consistent with the requirements of the public's right to access to the polling place regarding the proper conduct of individuals exercising the right, including the interaction of those individuals with inspectors and other election officials. Wis. Stat. § 7.41(5).
Canvass	7.60(5)(b)	If the board of canvassers becomes aware of a material mistake in the canvass of an election for state or national office or a statewide or technical college district referendum prior to the close of business on the day the elections commission receives returns from the last county board of canvassers with respect to that canvass, the board of canvassers may petition the elections commission to reopen and correct the canvass. The elections commission shall direct the canvass to be reopened and corrected if it determines that the public interest so requires. Wis. Stat. § 7.60(5)(b).
Canvass	7.70(1)	Upon receipt of the certified statements from the county clerks, the commission shall record the election results by counties and file and carefully preserve the statements. Wis. Stat. § 7.70(1).
Canvass	7.70(3)	The chairperson of the commission or a designee of the chairperson appointed by the chairperson to canvass a specific election shall publicly canvass the returns and make his or her certifications and determinations on or before the 2nd Tuesday following a spring primary, the 15th day of May following a spring election, the 3rd Wednesday following a partisan primary, the first day of December following a general election, the 2nd Thursday following a special primary, or within 18 days after any special election. Wis. Stat. § 7.70(3).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Canvass	7.70(5)	The commission shall record in its office each certified statement and determination made by the commission chairperson or the chairperson's designee. Immediately after the expiration of the time allowed to file a petition for recount, the commission shall make and transmit to each person declared elected a certificate of election under the seal of the commission. For presidential electors, the commission shall prepare a certificate showing the determination of the results of the canvass and the names of the persons elected, and the governor shall sign, affix the great seal of the state, and transmit the certificate by registered mail to the U.S. administrator of general services. Wis. Stat. § 7.70(5).
Nomination Papers	8.07	The commission shall promulgate rules under this chapter for use by election officials in determining the validity of nomination papers and signatures thereon. Wis. Stat. § 8.07.
Nomination Papers	8.12(1)(d)	The commission shall forthwith contact each person whose name has been placed in nomination under par. (b) and notify him or her that his or her name will appear on the Wisconsin presidential preference ballot unless he or she files, no later than 5 p.m. on the last Tuesday in January of such year, with the commission, a disclaimer stating without qualification that he or she is not and does not intend to become a candidate for the office of president of the United States at the forthcoming presidential election. Wis. Stat. § 8.12(1)(d).
Ballots	8.12(2)	The form of the official ballots (Presidential Preference Vote) shall be prescribed by the commission. Wis. Stat. § 8.12(2).
Reporting	8.12(3)	No later than May 15 following the presidential preference primary, the commission shall notify each state party organization chairperson under sub. (1) (b) of the results of the presidential preference primary within the state and within each congressional district. Wis. Stat. § 8.12(3).
Candidates	8.185(2)	The commission may waive the requirement of 8.185(2) but only if the results of the general election indicate that a write-in candidate for the office of president is eligible to receive the electoral votes of this state except for noncompliance with this subsection. In such event, the write-in candidate shall have until 4:30 p.m. on the Friday following the general election to comply with the filing requirements of this subsection. Wis. Stat. § 8.185 (2).
Nomination Papers	8.19(3)	The commission shall not certify nor the county clerk print the name of any person whose nomination papers indicate a party name comprising a combination of existing party names, qualifying words, phrases, prefixes or suffixes in connection with any existing party name. Wis. Stat. § 8.19(3).
Nomination Papers	8.40(3)	The commission shall, by rule, prescribe standards consistent with this chapter and s. 9.10 (2) to be used by all election officials and governing bodies in determining the validity of petitions for elections and signatures thereon. Wis. Stat. § 8.40(3).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Special Elections	8.50(1)(b)	If [a] special election concerns a national or state office, the commission shall give notice as soon as possible to the county clerks. Wis. Stat. § 8.50(1)(b).
Special Elections	8.50(1)(d)	When the election concerns a national office or a special election for state office is held concurrently with the general election, the commission shall transmit to each county clerk a certified list of all persons for whom nomination papers have been filed in its office at least 62 days before the special primary, and in other cases the commission shall transmit the list to each county clerk at least 22 days before the special primary. If no primary is required, the list shall be transmitted at least 42 days prior to the day of the special election unless the special election concerns a national office or is held concurrently with the general election, in which case the list shall be transmitted at least 62 days prior to the day of the special election. Wis. Stat. § 8.50(1)(d).
Recount	9.01(1)(ag)4.	The commission shall deposit all moneys (recount fees) received by it into the account under s. 20.511 (1) (g), and shall pay the fees required for each recount to the county clerks of the counties in which the recount is to be held. Wis. Stat. § 9.01(1)(ag)4.
Recount	9.01(1)(ar)3.	Whenever the commission receives a valid (recount) petition and any payment under par. (ag) 3., the commission shall promptly by certified mail or other expeditious means order the proper county boards of canvassers to commence the recount. Wis. Stat. § 9.01(1)(ar)3.
Recount	9.01(1)(ar)3.	The commission chairperson or the chairperson's designee may not make a determination in any election if a recount is pending before any county board of canvassers in that election. Wis. Stat. § 9.01(1)(ag)3.
Recount	9.01(1)(ar)3.	The commission chairperson or the chairperson's designee need not recount actual ballots, but shall verify the returns of the county boards of canvassers in making his or her determinations. Wis. Stat. § 9.01(1)(ar)3.
Recount	9.01(2)	When the recount concerns an election for a state or federal office, the commission shall promptly prepare a copy of the petition for delivery to each opposing candidate for the same office whose name appears on the ballot. In a recount proceeding for a partisan primary, the commission shall prepare a copy of the petition for delivery to each opposing candidate for the same party nomination for the same office, to each opposing candidate for the party nomination of each other party for the same office and to each independent candidate qualifying to have his or her name placed on the ballot for the succeeding election. Wis. Stat. § 9.01(2).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Recount	9.01(5)(c)	If the commission chairperson or the chairperson's designee receives the recount results, the chairperson or designee shall publicly examine the returns and determine the results not later than 9 a.m. on the 3rd business day following receipt, but if that day is earlier than the latest day permitted for that election under s. 7.70(3)(a), the commission chairperson or designee may examine the returns and determine the results not later than the day specified in s. 7.70(3)(a). Wis. Stat. § 9.01(5)(c).
Recount	9.01(10)	The commission shall prescribe standard forms and procedures for the making of recounts under this section. Wis. Stat. § 9.01(10).
Recount	9.01(10)	The procedures prescribed by the commission shall require the boards of canvassers in recounts involving more than one board of canvassers to consult with the commission staff prior to beginning any recount in order to ensure that uniform procedures are used, to the extent practicable, in such recounts. Wis. Stat. § 9.01(10).
Recall	9.10(3)(b)	Within 31 days after the petition is offered for filing, the commission with whom the petition is offered for filing shall determine by careful examination whether the petition on its face is sufficient and so state in a certificate attached to the petition. Wis. Stat. § 9.10(3)(b).
Recall	9.10(3)(b)	If the commission finds that the amended petition is sufficient, the commission shall file the petition and call a recall election to be held on the Tuesday of the 6th week commencing after the date of filing of the petition. Wis. Stat. § 9.10(3)(b).
Election Notices	10.01(1)	The form of the various election notices shall be prescribed by the commission to standardize election notices. To accomplish this purpose, the commission shall make rules and draft whatever forms it considers necessary. The commission shall also prescribe the provisions for municipal notices which shall be sent to each county clerk who shall immediately forward them to each municipal clerk. Wis. Stat. § 10.01(1).
Election Notices	10.01(1)	Notification or certification lists of candidates or referenda questions sent to the county clerks shall prescribe the form in which the county clerks shall publish the relevant portions of the notice and any additional county offices and referenda questions. Wis. Stat. § 10.01(1).
Election Notices	10.06(1)(a)	On or before November 15 preceding a spring election the commission shall send a type A notice to each county clerk. Wis. Stat. § 10.06(1)(a).
Election Notices	10.06(1)(c)	As soon as possible after the deadline for filing nomination papers for the spring election, but no later than the 2nd Tuesday in January, the commission shall send a type B notice certifying the list of candidates to each county clerk if a primary is required. Wis. Stat. § 10.06 (1)(c).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Election Notices	10.06(1)(e)	As soon as possible following the state canvass of the spring primary vote, but no later than the first Tuesday in March, the commission shall send a type B notice certifying to each county clerk the list of candidates for the spring election. Wis. Stat. § 10.06 (1)(e).
Election Notices	10.06(1)(e)	When there is a referendum, the commission shall send type A and C notices certifying each question to the county clerks as soon as possible, but no later than the first Tuesday in March. Wis. Stat. § 10.06 (1)(e).
Election Notices	10.06(1)(f)	On or before the 3rd Tuesday in March preceding a partisan primary and general election the commission shall send a type A notice to each county clerk. Wis. Stat. § 10.06 (1)(f).
Election Notices	10.06(1)(h)	As soon as possible after the deadline for determining ballot arrangement for the partisan primary on June 10, the commission shall send a type B notice to each county clerk certifying the list of candidates for the partisan primary. Wis. Stat. § 10.06 (1)(h).
Election Notices	10.06(1)(i)	As soon as possible after the state canvass, but no later than the 4th Tuesday in August, the commission shall send a type B notice certifying the list of candidates and type A and C notices certifying each question for any referendum to each county clerk for the general election. Wis. Stat. § 10.06 (1)(i).
Advisory Opinions	5.05(5t)	Within 2 months following the publication of a decision of a state or federal court that is binding on the commission and this state, the commission shall issue updated guidance or formal advisory opinions, commence the rule-making procedure to revise administrative rules promulgated by the commission, or request an opinion from the attorney general on the applicability of the court decision. Wis. Stat. § 5.05(5t).
Advisory Opinions	5.06(6a)	The commission shall review a request for an advisory opinion and may issue a formal or informal written or electronic advisory opinion to the person making the request. Wis. Stat. § 5.05(6a).
Advisory Opinions	5.05(6a)(a)1.	Any individual. Either personally or on behalf of an organization or governmental body, may make a request of the commission in writing, electronically, or by telephone for a formal or informal advisory opinion regarding the propriety under chs. 5 to 10 or 12 of any matter to which the person is or may become a party. Wis. Stat. § 5.05(6a)(a)1.
Advisory Opinions	5.05(6a)(a)2.	To have legal force and effect, each formal and informal advisory opinion issued by the commission must be supported by specific legal authority under a statute or other law, or by specific case or common law authority. Wis. Stat. § 5.05(6a)(a)2.
Advisory Opinions	5.05(6a)(a)4.	At each regular meeting of the commission, the administrator shall review informal advisory opinions requested of and issued by the administrator and that relate to recurring issues or issues of first impression for which no formal advisory opinion has been issued. Wis. Stat. § 5.05(6a)(a)4.

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Advisory Opinions	5.05(6a)(b)4.	The commission may authorize the commission administrator or his or her designee to issue an informal written advisory opinion or transmit an informal advisory opinion electronically on behalf of the commission. Wis. Stat. § 5.05(6a)(b)4.
Advisory Opinions	5.05(6a)(c)3.	Promptly upon issuance of each formal advisory opinion, the commission shall publish the opinion together with the information specified under sub. (5s) (f) on the commission's Internet site. Wis. Stat. § 5.05(6a)(c)3.

**Elections Commission Administrator**  
(Position # 049511)

**POSITION SUMMARY**

Under the general policy direction of the Elections Commission, this individual is responsible for providing the administrative leadership and support necessary to enable the Commission to carry out its statutory functions with respect to the administration and enforcement of elections. The duties and responsibilities of this position are diverse in nature and include such activities as: implementation of Board policies and directives; law and rule interpretations; program planning; staff supervision; public and legislative contacts; and the development and improvement of record keeping and procedural systems.

This individual serves as a representative of the Commission and provides administrative leadership and support to the Commission in such areas as conduct of investigations; development of formal and informal opinions; administrative rule development; drafting and review of proposed legislation; data collection, analysis and dissemination; identification of problems which may require investigation or interpretation; preparation of special reports; preparation for Commission meetings; and in any other areas the Commission may assign.

**Duties and Responsibilities**

**A. Election Administration - Plan, organize and supervise the operation of the election administration responsibilities of the agency.**

1. This individual is responsible for the day-to-day administration of elections for the agency carrying out the agency responsibilities described in Chapters 5–10, and 12, Wisconsin Statutes.
2. This individual is responsible for the carrying out agency responsibilities and ensuring agency compliance under the following federal programs:
  - a. The Help America Vote Act of 2002 (42 U.S.C.15301 et seq.)
  - b. The Voting Rights Act of 1965 (42 U.S.C.1973 et seq.)
  - c. The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.)
  - d. The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.)
  - e. The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.)
  - f. The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)
  - g. The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.)
3. This individual establishes, administers and supervises the internal operating procedures for implementing the state and federal election-related responsibilities of the agency.

4. This individual is responsible for developing and maintaining the Election Administration Plan required by the Help America Vote Act of 2002 and Section 5.05 (10), Wisconsin Statutes to enable participation in federal financial assistance programs.
5. In consultation with the Commission, this individual shall appoint an individual to represent the state as a member of the federal Election Assistance Commission Standards Board. This individual shall also conduct and supervise a process for the selection of an election official by county and municipal clerks and boards of election commissioners to represent local election officials of the state as a member of the federal Election Assistance Commission Standards Board.
6. This individual is responsible for directing the conduct of investigations of citizen complaints filed pursuant to Sections 5.06, 5.061, Wisconsin Statutes. This individual shall prepare a report and recommendations for the resolution of the complaints by the Commission.
7. This individual is responsible for planning, organizing and supervising the preparation and revision of standard forms including ballot forms and forms specifically required pursuant to Section 7.08 Wisconsin Statutes.
8. This individual is responsible for the receipt and review of reports from municipal clerks related to suspected fraud pursuant to Section 7.15 (1)(g), Wisconsin Statutes. This individual shall prepare a report and recommendations for the resolution of the complaints by the Commission.
9. This individual is responsible for planning, organizing and supervising the administration of recounts for state and federal office pursuant to Section 9.01, Wisconsin Statutes. This individual also plans, organizes and supervises agency support for local election officials with respect to recount of local elections. This individual is responsible for the development of standard forms and procedures for the conduct of recounts pursuant to Section 9.01 (11), Wisconsin Statutes.
10. This individual is responsible for planning, organizing and supervising the administration of agency responsibilities with respect to recall efforts of state and federal elective officials pursuant to Section 9.10, Wisconsin Statutes. This individual also plans, organizes and supervises agency support for local election officials with respect to recall of local elective officials.
11. This individual is responsible for making public advisory opinions and records obtained in connection with requests for advisory opinions relating to matters under the jurisdiction of the Elections Commission. Section 5.05 (5s)(f)2.c., Wisconsin Statutes.

**B. Interpretation of Election Laws.**

1. Plan, organize and supervise the preparation of guidance, informal and formal advisory opinions by the on behalf of the Commission. Each advisory opinion shall include a citation to each statute or other law and each case or common law authority upon which the opinion is based, and shall specifically articulate or explain which parts of the cited authority are relevant to the Commission's conclusion and why they are relevant.
2. Upon authorization of the Board, this individual may issue an informal written advisory opinion or transmit an informal advisory opinion electronically on behalf of the Board, subject to such limitations as the Board deems appropriate. Every informal advisory opinion shall be consistent with applicable formal advisory opinions issued by the Board.
3. Plan, organize and supervise the preparation of administrative rules by the agency Legal Team required for promulgation by the agency pursuant to Sections 5.05 (1)(f), (2m)(c)12.; 5.905 (3); 5.93; 6.25 (3); 6.36 (6); 7.08 (1)(d); 7.31 (1); 7.315 (1), (2); 8.07; and 8.40 (3); Wisconsin Statutes.

**C. Investigation and Enforcement of Election Laws.**

1. Plan, organize, supervise and direct the conduct of investigations into possible violations of election laws under the jurisdiction of the Commission pursuant to Section 5.05 (2m)(a), Wisconsin Statutes including:
  - a. Complaints filed by persons alleging a violation of Chapters 5 to 10, 12 Wisconsin Statutes.
2. Pursuant to the conduct of investigations into possible violations election and other e requirements under the jurisdiction of the Commission:
  - a. Require any person to submit in writing such reports and answers to questions relevant to the proceedings as the Commission may prescribe, such submission to be made within such period and under oath or otherwise as the Commission may determine.
  - b. Order testimony be taken by deposition before any individual who is designated by the Commission and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by Section 5.05 (1)(b), Wisconsin Statutes
  - c. Pay witnesses the same fees and mileage as are paid in like circumstances by the courts.
3. Review reports of investigators hired on behalf of the Commission and provide advice with respect to:

- a. Continuation of an investigation.
  - b. Use of subpoena power in furtherance of an investigation.
  - c. Expansion of an investigation.
  - d. Referral of an investigation.
4. Provide the Commission with advice concerning findings of frivolous complaints, reasonable suspicion to proceed with an investigation and probable cause to believe a violation of Chapters 5 to 10, 12 Wisconsin Statutes has occurred.
  5. Supervise and direct the preparation of preliminary written findings of fact and conclusions based on investigations conducted on behalf of the Commission, make a determination of whether or not probable cause exists to believe that a violation has occurred or is occurring. If no probable cause exists, recommend dismissal of the complaint.
  6. Plan, organize, supervise and direct the prosecution of civil enforcement actions for violations of election and other requirements under the jurisdiction of the Commission pursuant to Section 5.05 (2m)(a), Wisconsin Statutes.
    - a. Advise the Commission on the selection and employment of special counsel.
    - b. Provide assistance to the special counsel as may be required by the counsel to carry out his or her responsibilities.
    - c. Provide advice to the Commission with respect to referrals to the appropriate district attorney to prosecute a civil complaint or pursue criminal enforcement for violations of election and other requirements under the jurisdiction of the Commission.
    - d. Review and provide advice to the Commission with respect to reports of special counsel, a district attorney or the attorney general concerning any action taken regarding the referral of a matter by the Commission.
  7. Develop administrative rules prescribing categories of civil offenses which the Commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender.

**C. Training - Plan, organize and supervise the operation of the election-related training responsibilities of the agency.**

1. This individual is responsible for planning, organizing and supervising the implementation of the agency information and training responsibilities to explain

the election laws and the forms and rules of the Commission, to promote uniform procedures and to assure that clerks and other election officials are made aware of the integrity and importance of the vote of each citizen set out in Sections 5.05 (7), 7.31, 7.315, Wisconsin Statutes.

2. This individual is responsible for planning, organizing and supervising the implementation of voter information and education programs on behalf of the agency to inform electors about voting procedures, voting rights, and voting technology and educating electors who cast paper ballots, ballots that are counted at a central counting location, and absentee ballots of the effect of casting excess votes for a single office pursuant to Section 5.05 (12), Wisconsin Statutes.

**C. Voter Registration - Plan, organize and supervise the operation of the voter registration responsibilities of the agency.**

1. This individual is responsible for planning, organizing and supervising the design and maintenance of the official statewide voter registration list pursuant to Section 5.05 (15), Wisconsin Statutes.
2. This individual is responsible for planning, organizing and supervising the implementation of the official statewide voter registration list and ensuring all municipalities use the list in every election and adhere to procedures established by the Commission for proper maintenance of the list pursuant to Section 5.05 (15), Wisconsin Statutes.
3. This individual is responsible for the appointment and training of special voter registration deputies pursuant to Sections 6.26 (2)(b), 7.315 (1), Wisconsin Statutes.
4. This individual shall enter into the agreement with the Secretary of Transportation specified under Section 85.61 (1) Wisconsin Statutes to match personally identifiable information on the official registration list maintained by the Commission under Section 6.36 (1), Wisconsin Statutes with personally identifiable information maintained by the Department of Transportation.
5. This individual is responsible for certifying the poll list for each election pursuant to Section 6.36 (2)(a), Wisconsin Statutes.
6. This individual is responsible for planning, organizing and supervising the implementation of the Department of Corrections list comparison pursuant to Section 6.56 (3m), Wisconsin Statutes.

**D. Ballot Access - Plan, organize and supervise the operation of the ballot access responsibilities of the agency.**

1. This individual is responsible for planning, organizing and supervising the ballot access responsibilities of the agency pursuant to Sections 8.10, 8.15, 8.18, 8.20, 8.50, Wisconsin Statutes.
2. This individual is responsible for establishing internal operating procedures to ensure timely and thorough review of candidate ballot access documents.
3. This individual is responsible for establishing internal operating procedures to ensure timely certification of candidates for state and federal office along with state referenda questions including proposed amendments to the Wisconsin Constitution.
4. This individual shall prepare a report and recommendations for the resolution of any ballot access challenges by the Commission.

**E. Certification - Plan, organize and supervise the certification of election results on behalf of the agency.**

1. This individual is responsible for planning, organizing and supervising the conduct of the canvass of state and federal election results pursuant to Sections 7.60, 7.70, Wisconsin Statutes.
2. This individual is responsible for establishing internal operating procedures to ensure timely and thorough review of county canvass reports along with accurate and timely preparation of the official state canvass of election results.
3. This individual is responsible for planning, organizing and supervising the preparation, signing and distribution of certificates of election for state and federal office to candidates and the appropriate federal officials pursuant to Section 7.70, Wisconsin Statutes.
4. This individual is responsible for planning, organizing and supervising the preparation of reports summarizing election statistics gathered pursuant to Sections 6.275, 6.276, Wisconsin Statutes and the Help America Vote Act of 2002.

**E. Legislation.** At the direction of and in consultation with the Commission:

1. Review legislation and legislative action.
2. Suggest changes in law for remedial legislation.
3. Develop fiscal and technical notes for legislation and bill analysis as required.
4. Appear before legislative committees as required.

**F. Voting Equipment - Plan, organize and supervise agency responsibilities for the approval and security of electronic voting equipment.**

1. This individual is responsible for planning, organizing and supervising the approval of electronic voting equipment used in the state pursuant to Sections 5.40 (7), 5.91. 5.93, Wisconsin Statutes.
2. This individual is responsible for establishing internal operating procedures to ensure timely and thorough testing and review of electronic voting equipment submitted for approval for use in the state.
3. This individual shall prepare a report and recommendations to the Commission for the approval of electronic voting equipment submitted for approval for use in the state.
4. This individual is responsible for the establishment and maintenance of electronic voting equipment software component escrows pursuant to Section 5.905, Wisconsin Statutes.

**G. Disability Access - Plan, organize and supervise agency responsibilities to promote access to the electoral process for individuals with disabilities.**

1. This individual is responsible for planning, organizing and supervising the resources of the Election Commission to ensure access to the electoral process for individuals with disabilities.
2. This individual is responsible for applying for federal funds pursuant to Section 261 of the Help America Vote Act to obtain and utilize financial resources to ensure access to the electoral process for individuals with disabilities.
3. This individual shall prepare a report and recommendations to the Legislature on the impediments to voting faced by the elderly and individuals with disabilities pursuant to Section 5.25 (4)(d), Wisconsin Statutes.

**H. Commission Finances and Operations - Plan, organize and supervise the financial responsibilities and obligations of the Election Commission.**

1. This individual is responsible for planning, organizing and supervising the financial responsibilities of the Election Division to ensure compliance with state and federal budget and procurement requirements.
2. This individual is responsible for establishing internal operating procedures to ensure the proper tracking and recording of all purchases, receipts and other financial transactions of the Election Division in the following budget accounts:
  - a. General program operations, General purpose revenue [20.510 (1)(a)]

- b. Training of chief inspectors, General purpose revenue [20.510 (1)(bm)]
  - c. Voting system transitional assistance, General purpose revenue [20.510 (1)(c)]
  - d. Election administration transfer, General purpose revenue [20.510 (1)(d)]
  - e. Recount fees, Program revenue [20.510 (1)(g)]
  - f. Materials and services, Program revenue [20.510 (1)(h)]
  - g. Election administration, Segregated fund [20.510 (1)(t)]
  - h. Federal aid, Segregated fund- Federal [20.510 (1)(x)]
3. This individual shall prepare the biennial operating budget for the Elections Commission for approval by the Commission.

**I. Staff Supervision and Support - Plan, organize and supervise the activities and responsibilities of the permanent and temporary staff of the Elections Commission.**

1. Hire, supervise training, set goals and objectives, evaluate performance, and manage personnel matters of the Election Commission staff
2. Provide leadership for the effectiveness and improvement of the health and safety program by developing a proper attitude toward health and safety in self and those supervised, and participating in all aspects of the health and safety program.
  - a. Furnish the safeguards and resources required to ensure a healthy and safe workplace.
  - b. Ensure all operations are performed with the utmost regard for the health and safety of all personnel involved.
  - c. Comply with all rules and regulations and continuously practice safety while performing all duties.
3. Advance equal employment opportunity and affirmative action principles in the program operations of the agency and the management of the employees.
  - a. Uphold federal and state equal opportunity laws by recognizing and taking active steps to eliminate work unit discrimination based on an employee's protected status (e.g., race, religion, gender, marital status, sexual orientation, arrest or conviction record, age, political affiliation, national origin or ancestry, creed, disability, or membership in the national guard, state defense force or any other reserve component of the military of the United States or this state).

(January, 2016)

# WISCONSIN ELECTIONS COMMISSION

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MARK L. THOMSEN, CHAIR

## MEMORANDUM

**DATE:** For the Meeting of March 14, 2017

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Commission Interim Administrator

Prepared and Presented by:  
Nathan W. Judnic  
Legal Counsel

**SUBJECT:** Report of Suspected Election Fraud, Irregularities or Violations

Wis. Stat. § 7.15(1)(g) requires municipal clerks to “report suspected elections frauds, irregularities, or violations of which the clerk has knowledge to the district attorney for the county where the suspected activity occurs and to the commission.” The Commission is then required to “annually report the information obtained ... to the legislature under s. 13.172(2).” Wis. Stat. § 13.172(2) directs state agencies to submit reports to the chief clerks of each house of the Legislature who in turn publish notice of the report in the journals of the respective houses and then distribute the report to members of the Legislature upon request.

Municipal clerks typically provide reports of suspected election fraud or irregularities to the Commission by email or letter, and in most cases the report is a copy of the referral they have made to the District Attorney under Wis. Stat. § 7.15(1)(g). Attached to this memorandum is the proposed report to be submitted to the Legislature which summarizes the reports received from local election officials. This report is limited in that it only reports District Attorney referrals made by municipal clerks that the Commission has been made aware of. It is possible that other suspected election frauds, irregularities or violations have been referred without the Commission’s knowledge. It is also possible that citizens or organizations may have filed complaints directly with a District Attorney which the Commission has no way of knowing or tracking.

The timeframe for this report is June 30, 2016 (Commission’s first day of operation) through February 15, 2017. The reports to the Commission cover the tail end of activity in the 2016 Spring Election and the 2016 Partisan Primary and General Election. The next report presented

to the Commission for submission to the Legislature will cover reports received related to the 2017 Spring Elections. There are no regularly scheduled elections in the Fall of 2017.

The report provides the Legislature with four key pieces of information: timeframe of the report, date on which the Commission received information from the municipal clerk about the referral, the county in which the referral was made and a brief description of the suspected election fraud, irregularity or violation. Where the referral was specific, or contained multiple instances of the same type of activity that was referred, the report notes the multiple activity referred in parentheses.

On this report, there are a large number of referrals related to “17 year-old voting.” At the 2016 Spring Election/Presidential Preference Primary, several factors contributed to a large number of 17-year-old voters casting a ballot. The Government Accountability Board (at that time) received many calls and inquiries as to whether a 17-year-old who would be 18 years old by the 2016 General Election was eligible to vote in the primary contest for that election. While the answer is clearly no in Wisconsin, but that is not the case in other states. Additionally, some of the political campaigns were providing false information to voters and social media spread this false information to students who believed they were eligible to vote.

After voter participation was entered into the statewide voter registration system, the G.A.B. staff ran a report of individuals who voted and appeared to be under the age of 18 at the Spring Election/Presidential Preference Primary. This report was sent to the affected municipal clerks. Clerks were instructed to look at the list and verify that there were no typographical errors in the voter information which was entered into the system. If the information was entered correctly, the G.A.B. advised clerks to refer these individuals to the appropriate District Attorney. A clerk communication related to this specific issue can be found on the Commission’s website here: <http://elections.wi.gov/node/3926>

The other referrals are related to more common allegations of a voter who voted in more than one municipality, or voted absentee and at the polls for the same election. Per Wis. Stat. § 6.53(3), clerks are automatically required to make referrals to the District Attorney if an address verification postcard sent to an Election Day registrant is returned to the clerk as undeliverable mail.

For most types of referrals, the Commission has no information about whether the District Attorney found enough evidence to file charges or whether any charges resulted in a conviction.

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

**Recommended Motion:** Direct Commission staff to schedule this report to be submitted to the Commission for review and direction in the spring of each year, with the next report covering referrals made from February 16, 2017 through February 15, 2018.

# WISCONSIN ELECTIONS COMMISSION

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STEVE KING  
DON MILLIS  
MARK L. THOMSEN, CHAIR

ADMINISTRATOR MICHAEL HAAS

March XX, 2017

Sent Via Email Only

Patrick E. Fuller  
State Assembly Chief Clerk  
17 W. Main St., Room 401  
Madison, WI 53703  
[Patrick.Fuller@legis.wisconsin.gov](mailto:Patrick.Fuller@legis.wisconsin.gov)

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Madison, WI 53707  
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**Re: Submission of Report to Legislature – Report of Suspected Election Fraud,  
Irregularities or Violations pursuant to Wis. Stat. § 7.15(1)(g)**

Chief Clerks Fuller and Renk:

Enclosed please find the Wisconsin Election Commission's report to the Legislature of suspected election fraud, irregularities or violations as reported to the Commission by municipal clerks pursuant to Wis. Stat. § 7.15(1)(g). This report is submitted to your offices pursuant to Wis. Stat. § 13.172(2), and notice of this report is to be included in the journals of each respective house, with distribution of the report to members of the Legislature upon request.

Report Notes

The report provides the Legislature with four key pieces of information: timeframe of the report, date on which the Commission received information from the municipal clerk about the referral, the county in which the referral was made and a brief description of the suspected election fraud, irregularity or violation. Where the referral was specific, or contained multiple instances of the same type of activity that was referred, the report notes the multiple activity referred in parentheses.

This report includes notices of referrals received June 30, 2016, the day the Wisconsin Elections Commission commenced its work, through February 15, 2017, and includes referrals from both the 2016 Spring Elections and the 2016 Fall Elections.

This report contains a large number of referrals related to "17 year-old voting." At the 2016 Spring Election/Presidential Preference Primary, a number of factors contributed to a large number of 17 year-old voters that cast a ballot. The Government Accountability Board ("G.A.B.") (at that time) received

many calls and inquiries as to whether a 17-year-old who would be 18 years-old by the 2016 General Election was eligible to vote in the primary contest for that election. While the answer is clearly no in Wisconsin, but that is not the case in other states. Additionally, some of the political campaigns were providing false information to voters and social media spread this false information to students that believed they were eligible to vote.

After voter participation was entered into the statewide voter registration system, the G.A.B. staff ran a report of individuals who voted and appeared to be under the age of 18 at the Spring Election/Presidential Preference Primary. This report was sent to the affected municipal clerks. Clerks were instructed to look at the list, and verify that there were no typographical errors in the information which was entered into the system. If the information was entered correctly, the G.A.B. advised clerks to refer these individuals to the appropriate District Attorney. For additional background on this issue, please see the clerk communication found on the Commission's website here: <http://elections.wi.gov/node/3926>

The other referrals on this report are related to more common allegations of a voter that voted in more than one municipality, or voted absentee and at the polls for the same election. Per Wis. Stat. §6.56(3), clerks are automatically required to make a referral to the District Attorney if an address verification postcard sent to an Election Day registrant is returned to the clerk as undeliverable mail.

Finally, the report is limited in that it only reports referrals to District Attorney made by municipal clerks that the Commission has been made aware of, and it is possible that other suspected election frauds, irregularities or violations have been referred without the Commission's knowledge. It is also possible that citizens or organizations have filed complaints directly with a District Attorney which the Commission has no way of knowing or tracking. For most types of referrals, the Commission has no information about whether the District Attorney found enough evidence to file charges or whether any charges resulted in a conviction.

If you have any questions regarding this report, I can be reached by phone at 608-266-0136 or by email at [Michael.haas@wi.gov](mailto:Michael.haas@wi.gov).

Sincerely,



Michael Haas  
Administrator  
**WISCONSIN ELECTIONS COMMISSION**

Cc: Wisconsin Elections Commission

Enclosure

# WISCONSIN ELECTIONS COMMISSION

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ADMINISTRATOR MICHAEL HAAS

MARK L. THOMSEN, CHAIR

## Report of Suspected Election Fraud, Irregularities or Violations

Pursuant to the requirement contained in Wis. Stat. § 7.15(1)(g), the Wisconsin Elections Commission (WEC) submits to the Wisconsin Legislature the following report of “suspected election fraud, irregularities or violations” based on information submitted to the WEC by municipal clerks. This report is submitted to the chief clerks of each house of the Legislature per Wis. Stat. § 13.172(2).

The timeframe for this report is information the WEC received from June 30, 2016 through February 15, 2017. Please see the transmittal letter to the chief clerks which accompanies this report which describes the contents and limitations of this report.

Date	County	Suspected Election Fraud, Irregularity or Violation
6/30/16	Sauk	Address verification postcard returned to clerk as undeliverable (1 postcard)
7/1/16	Milwaukee	Address verification postcard returned to clerk as undeliverable (49 postcards)
7/7/16	La Crosse	17 year-old voting
7/7/16	Iowa/Lafayette	17 year-old voting (2 individuals)
7/7/16	Dane	17 year-old voting
7/7/16	Rock	17 year-old voting (7 individuals)
7/7/16	Milwaukee	17 year-old voting
7/7/16	Washington	17 year-old voting
7/7/16	Milwaukee	17 year-old voting
7/8/16	Waupaca	17 year-old voting
7/8/16	Milwaukee	17 year-old voting
7/8/16	Waukesha	17 year-old voting
7/8/16	Dane	17 year-old voting
7/8/16	Columbia	17 year-old voting
7/8/16	Milwaukee	17 year-old voting
7/8/16	Waukesha	17 year-old voting
7/8/16	Shawano	17 year-old voting
7/11/16	Waukesha	17 year-old voting
7/11/16	Barron	17 year-old voting
7/11/16	Clark	17 year-old voting
7/11/16	Washington	17 year-old voting
7/12/16	Ozaukee	17 year-old voting
7/12/16	Dane	17 year-old voting
7/12/16	Kewaunee	17 year-old voting (9 individuals)
7/12/16	Dane	17 year-old voting
7/12/16	Wood	17 year-old voting

<b>Date</b>	<b>County</b>	<b>Suspected Election Fraud, Irregularity or Violation</b>
7/12/16	Racine	17 year-old voting (5 individuals)
7/13/16	Chippewa	17 year-old voting
7/13/16	Brown	17 year-old voting (multiple)
7/13/16	Menomonie	17 year-old voting
7/13/16	Dane	17 year-old voting
7/13/16	Green	17 year-old voting
7/14/16	Outagamie	17 year-old voting
7/14/16	Sheboygan	17 year-old voting (2 individuals)
7/14/16	Manitowoc	17 year-old voting
7/15/16	Columbia	Address verification postcard returned to clerk as undeliverable (5 postcards)
7/17/16	Menomonie	17 year-old voting
7/18/16	Kenosha	Voting twice in same election, two different municipalities
7/18/16	Marinette	17 year-old voting
7/19/16	Dunn	17 year-old voting
7/20/16	Washington	17 year-old voting
7/21/16	Outagamie	17 year-old voting
7/22/16	Outagamie	17 year-old voting (3 individuals)
7/25/16	Pierce	17 year-old voting
7/27/16	Kenosha	17 year-old voting (4 individuals)
7/28/16	Polk	17 year-old voting
8/2/16	Washington	17 year-old voting (2 individuals)
8/15/16	Manitowoc	Voting twice in same election, two different municipalities
8/16/16	Brown	Voting twice in same election, absentee and in-person at the polls (2 individuals)
8/23/16	Brown	Voting twice in same election, absentee and in-person at the polls
10/13/16	Sauk	Voting twice in same election, two different municipalities
10/24/16	Brown	Voting twice in same election, in-person absentee and in-person at the polls
11/21/16	Washington	Voting twice in same election, two different municipalities
11/22/16	Washington	Voting twice in same election, absentee and in-person at the polls
11/23/16	Price	Voting twice in same election, two different municipalities
11/28/16	Manitowoc	Voting while still on Department of Corrections supervision (felon voting)
12/8/16	Ozaukee	Voting twice in same election, two different municipalities
12/14/16	Oconto	Voting while still on Department of Corrections supervision (felon voting)
12/27/16	Eau Claire/Barron	Voting twice in same election, two different municipalities
12/27/16	Eau Claire	Voting while still on Department of Corrections supervision (felon voting)
1/9/17	Eau Claire	Voting twice in same election, absentee and in-person at the polls

<b>Date</b>	<b>County</b>	<b>Suspected Election Fraud, Irregularity or Violation</b>
1/9/17	Eau Claire	Voting twice in same election, absentee and in-person at the polls
1/12/17	La Crosse	Voter deemed incompetent for purposes of voting, registered and cast a ballot at the 2016 General Election
1/12/17	La Crosse	Potential stolen vote situation – common name issue
1/12/17	La Crosse	Voting twice in same election, in-person absentee and in-person at the polls
1/23/17	Manitowoc	Address verification postcard returned to clerk as undeliverable (4 postcards)
1/26/17	Brown	Voting twice in same election, in-person absentee and in-person at the polls
1/27/17	Oconto	Voting while still on Department of Corrections supervision (felon voting)
1/30/17	Milwaukee	Address verification postcard returned to clerk as undeliverable (32 postcards)
1/31/17	Rock	Voting twice in same election, in-person absentee via special voting deputy and mail-in absentee ballot
2/1/17	Manitowoc	Voting while still on Department of Corrections supervision (felon voting)
2/6/17	Columbia	Address verification postcard returned to clerk as undeliverable (1 postcard)
2/6/17	Green	Address verification postcard returned to clerk as undeliverable (5 postcards)



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ADMINISTRATOR MICHAEL HAAS

## MEMORANDUM

**DATE:** For the March 14, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Interim Administrator

**SUBJECT:** Legislative Status Update

## FEDERAL LEGISLATION

H.R. 634 has been introduced in Congress, which would eliminate the U.S. Election Assistance Commission (EAC) and reassign some of its functions to other agencies. The EAC is a bipartisan independent agency created as part of the 2002 Help America Vote Act. The agency's mission is to help states improve their voting systems, distribute money to buy new equipment, establish guidelines for voting systems, test and certify voting equipment, and provide assistance and resources to state and local election officials.

The Committee on House Administration has approved the bill on February 7, 2017, which has not yet been scheduled for consideration by the U.S. House of Representatives.

## NEW STATE LEGISLATION

1. *Assembly Bill 33: requiring a municipal judge to be a licensed Wisconsin attorney.*

Sponsors: Minority. Beginning on January 1, 2018, this bill requires a person seeking to be elected or appointed as a municipal judge to be an attorney licensed to practice in this state and a member in good standing of the State Bar of Wisconsin.

Referred to Assembly Committee on Judiciary on January 20, 2017.

2. *Assembly Bill 42 and Senate Bill 15: various changes regarding administrative rules and rule-making procedures and making an appropriation.*

Sponsors: Majority. This bill 1) requires scope statements for proposed administrative rules to be reviewed by the Department of Administration for a determination of an agency's authority to

promulgate a rule; 2) requires agencies to hold preliminary public hearings and comment periods on scope statements for rules if directed to do so by the Joint Committee for Review of Administrative Rules (JCRAR); 3) requires the passage of a bill in order for an agency to promulgate a rule that would result in implementation and compliance costs of \$10 million over any two-year period, subject to certain exceptions; and 4) allows either a cochairperson of JCRAR or JCRAR as a whole, at certain steps in the rule-making process, to request the preparation of an independent economic impact analysis for a proposed rule.

AB 42 referred to Assembly Committee on State Affairs on January 31, 2017. SB 15 referred to Senate Committee on Government Operations, Technology and Consumer Protection on January 26, 2017.

**3. *Assembly Bill 44 and Senate Bill 13: legislative and congressional redistricting.***

Sponsors: Minority. This bill creates a new procedure for the preparation of legislative and congressional redistricting plans. The bill directs the Legislative Reference Bureau (LRB) to draw redistricting plans based upon standards specified in the bill and establishes a Redistricting Advisory Commission to perform certain tasks in the redistricting process. The bill also makes various other changes to the laws governing redistricting.

AB 44 referred to Assembly Committee on Campaigns and Elections on January 31, 2017. SB 13 referred to Senate Committee on Elections and Utilities on January 26, 2017.

**4. *Assembly Bill 64 and Senate Bill 30: state finances and appropriations constituting the executive budget act of the 2017 legislature.***

Sponsors: Majority. This bill is the "executive budget bill" under section 16.47 (1) of the statutes. It contains the governor's recommendations for appropriations for the 2017-2019 fiscal biennium.

AB 64 and SB 30 were referred to Joint Committee on Finance on February 8, 2017.

**5. *Assembly Bill 85 and Senate Bill 66: allowing a local public official to serve as an election inspector.***

Sponsors: Minority. This bill provides that an individual holding a local public office may be appointed to serve as an election official without having to vacate the local public office. Current law prohibits an individual from serving as an election official at an election for which the individual is a candidate. The bill does not change that prohibition.

AB 85 referred to Assembly Committee on Campaigns and Elections on February 24, 2017. SB 66 referred to Senate Committee on Elections and Utilities on February 21, 2017.

**6. *Executive Appointment Gill: Appointment of Beverly Gill, of Burlington, as a Legislative Joint Appointment to the Elections Commission, to serve a term ending May 1, 2019.***

Referred to Senate Committee on Elections and Utilities on January 6, 2017.

- 7. Executive Appointment Glancey: Appointment of Julie Glancey, of Sheboygan Falls, as a Legislative Joint Appointment to the Elections Commission, to serve a term ending May 1, 202.*

Referred to Senate Committee on Elections and Utilities on January 6, 2017.

- 8. Assembly Joint Resolution 2 and Senate Joint Resolution 3: deleting from the state constitution the office of state treasurer.*

Sponsors: Majority. This constitutional amendment, to be given second consideration by the 2017 legislature for submittal to the voters in April 2018, was first considered by the 2015 legislature in 2015 Assembly Joint Resolution 5, which became 2015 Enrolled Joint Resolution 7. If enrolled on second consideration, the proposed constitutional amendment would be scheduled for a statewide referendum at the 2018 Spring Election.

AJR 2 referred to Assembly Committee on State Affairs on January 31, 2017 and public hearing held on February 15, 2017. SJR 3 referred to Senate Committee Financial Services, Constitution and Federalism on January 26, 2017 and public hearing held on February 28, 2017.

- 9. Assembly Joint Resolution 7 and Senate Joint Resolution 10: an advisory referendum on legalization of medical marijuana.*

Sponsors: Minority. This joint resolution calls for an advisory referendum on the question of whether Wisconsin should allow for the use of and safe access to marijuana for medical purposes by individuals with debilitating medical conditions with a written recommendation from a licensed Wisconsin physician. The referendum is to be held at the next general election occurring not sooner than 45 days after adoption of the resolution.

AJR 7 referred to Assembly Committee on Health on February 20, 2017.

- 10. Assembly Joint Resolution 11: to section 12 of article VIII of the constitution relating to funding in bills placing requirements on local governmental units (first consideration).*

Sponsors: Majority. This constitutional amendment, proposed to the 2017 legislature on first consideration, prohibits the legislature from passing any bill that places a requirement on a local governmental unit unless the bill contains an appropriation that reimburses the local governmental unit for the full cost of complying with the requirement. The amendment does not prohibit the governor from vetoing an appropriation contained in a bill that creates such a requirement. A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

Referred to Assembly Committee on Constitution and Ethics on February 27, 2017.



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MARK L. THOMSEN, CHAIR

ADMINISTRATOR MICHAEL HAAS

## MEMORANDUM

**DATE:** For the March 14, 2017 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Michael Haas  
Commission Interim Administrator

Prepared by Elections Commission Staff

**SUBJECT:** Commission Staff Update

Since the last Elections Commission Update (December 14, 2016), staff of the Wisconsin Elections Commission have focused on the following tasks:

### 1. General Activities of Election Administration Staff

#### Spring Primary

The Spring Primary was conducted on February 21, 2017. The only state offices on the ballot were State Superintendent of Public Instruction and Circuit Court Judge in Manitowoc, Polk and Trempealeau Counties. Historically, the Spring Primary is Wisconsin's lowest-turnout election and the 2017 primary was no exception. Call volume from voters and clerks was also low. Clerks were using the slow Election Day to catch up on other tasks.

The subject of election-related contacts included:

- Voter inquiries regarding acceptable proof of residence and voter I.D., green cards, how to register, residency, where to vote
- Disposition of ballots submitted with a missing or incomplete witness address on Certificate Envelope
- Filling a vacancy when winner of election refuses the office
- WisVote questions
- Counting write-in votes
- Processing absentee ballots
- Acceptability of spouse of a candidate working as an inspector
- Drawdown procedure

- There were several reports of voters being allowed to vote two ballots. This usually occurs when there are multiple ballot styles being issued at the polling place and a voter is given the incorrect ballot style. Instead of asking the inspectors why the ballot does not contain a particular office the voter expects to see, the voter casts the ballot and then complains that an office was missing from their ballot. In some cases the inspectors issued the voter another ballot, instructing the voter to only vote in the office that was not on the first ballot.

The deadline for county clerks to submit county canvasses electronically to the WEC was Thursday, March 2, 2017. The last canvass was filed on the deadline. The state canvass was certified on Monday, March 6, 2017.

### Spring Election

The Spring Election is scheduled for April 4, 2017. County clerks began preparing ballots for the Spring Election even before certification of the Primary. In order to facilitate ballot preparation and set up, staff drew for candidate ballot order for those offices that required a primary based on unofficial results. County clerks were warned that the primary was not yet certified, and any clerk deciding to print ballots before certification does so at his or her own risk. Most counties have submitted spring election ballot proofs for review. Official ballots must be in the hands of the municipal clerks for absentee voting no later than March 14, 2017.

## 2. Voter Data Requests

The following statistics summarize voter data requests as of March 6, 2017:

<b>Fiscal Year</b>	<b>Total Number of Requests</b>	<b>Requested Files Purchased</b>	<b>Percentage of Requests Purchased</b>	<b>Total Revenue</b>
<b>FY2017 to date</b>	594	340	57%	\$207,122.35
<b>FY2016</b>	789	435	55%	\$235,820.00
<b>FY2015</b>	679	418	61.56%	\$242,801.25
<b>FY2014</b>	371	249	67.12%	\$125,921.25
<b>FY2013</b>	356	259	72.75%	\$254,840.00
<b>FY2012</b>	428	354	78.04%	\$127,835.00

## 3. WEDCS

Board staff continues to monitor municipal and county clerk compliance with several reporting requirements following the 2016 General and Presidential Election Vote. Pursuant to Statutes, the EL-190F Election Administration and Voting Statistics Report was due to be entered into the Wisconsin Elections Data Collection System (WEDCS) by December 7, 2016. Due to delays associated with the 2016 Presidential Recount, the final EL-190F Election Administration and Voting Statistics Report for the 2016 General and Presidential Election Vote was not posted to the Elections Commission website until February 22, 2017. As of March 6, 2017, eight municipalities do not have a report entered into WEDCS. The EL-190NF Election Administration and Voting

Statistics Report for the 2017 Spring Primary is due to be entered into the Wisconsin Elections Data Collections System by March 15, 2017.

The EL-191 General Election Cost Report was due to be entered into the WEDCS by January 9, 2017. As of March 6, 2017, 211 municipalities do not have reports entered into WEDCS. The EL-192 2016 Annual Cost Report was due to be entered into WEDCS by January 31, 2017. As of March 6, 2017, 421 municipalities do not have reports entered into WEDCS. Staff continues to follow up with clerks to obtain the outstanding reports.

The Election Day Registration (EDR) Postcard Statistics initial report for the 2016 General and Presidential Election was posted to the Elections Commission website on the statutory deadline of February 14, 2017. As of February 22, 2017, 790 municipalities did not have reports entered in WEDCS and therefore are not reflected in the Elections Commission's initial report. A reminder notice was emailed by Commission staff on February 23, 2017 which has reduced the number of outstanding municipalities to 267 as of March 6, 2017. By statute this report is to be updated monthly until there is a full accounting of all EDR postcards for the Spring Primary. Staff continues to follow up with clerks to obtain the outstanding reports.

#### **4. Election Administration and Voting Survey (EAVS)**

The Election Administration and Voting Survey (EAVS) is a biennial survey administered by the US Elections Assistance Commission. The survey collects a wide range of election-related information such as polling locations and poll worker data, voter participation, absentee ballot tracking, and UOCAVA voters. The information was gathered and reported on a municipal level. The 2016 EAVS Survey was a unique experience for Commission staff as it spanned the period which involved the retiring of SVRS and the launch of WisVote.

The survey is divided into six sections and each section required Commission staff to work closely with IT staff to design new query logic to pull the needed data from WisVote, SVRS, and other sources. As each section was completed Commission staff performed checks to validate the data internally and contacted municipal clerks by phone and email to correct data-entry errors and improve overall data quality.

Elections Commission staff submitted the initial 2016 EAVS data to the US Elections Assistance Commission on February 24, 2017. The final survey submission was certified by Elections Commission staff and accepted by the US Elections Assistance Commission on March 1, 2017. This was the culmination of a multi-week process that required close coordination between Commission staff, the WisVote IT Team, and representatives of the U.S. Election Assistance Commission.

#### **5. The Access Elections Accessibility Compliance Program**

##### **A. Polling Place Accessibility Audit Program**

Staff continues to process polling place accessibility audit reports from the 2016 Presidential Election. Over 130 sites were visited on Election Day and detailed reports are being prepared from the data that was collected by auditors. Due to competing staff priorities, no audits were

conducted during the February 21, 2017 Spring Primary and staff are working to determine the feasibility of sending auditors out into the field for the Spring Election.

#### B. Ongoing Accessibility Compliance Efforts

Staff continues to coordinate with municipal clerks to ensure that accessibility problems uncovered during previous audits are resolved as quickly and cost-effectively as possible. Deadlines for submitting plans of action are set at 60 days from receipt of the report, and staff works with local election officials to ensure that problems are addressed in a timely manner. Staff also works with local election officials to ensure that all new polling locations are ADA-compliant before the change is finalized. Polling place accessibility surveys are required to be submitted for review as part of the process to change polling places. This work continues to take place on an ongoing basis.

### 6. **Education/Training/Outreach/Technical Assistance**

Following this memorandum as Attachment 1 is a summary of information regarding core and special election administration training recently conducted by WEC staff. Following the November General Election, the training team and elections specialists are continuing to focus on providing information related to the photo identification requirement, One Wisconsin Now court decision and tasks related to the spring elections.

### 7. **Voter Services and Voter Outreach**

#### Social Media

The WEC's presence on both Facebook and Twitter continues to grow in 2017. The WEC's following on Twitter has increased to over 3,600 followers. From January 1, 2017-March 8, 2017 the WEC's Twitter account generated over 200,000 impressions. In 2016, WEC posts generated more than 3.8 million total user impressions. The WEC's following on Facebook has also increased to over 2,000 followers. From January 1, 2017-March 8, 2017 the WEC's Facebook page generated nearly 150,000 impressions. In 2016, the WEC Facebook posts generated around 3.1 million total impressions, including some paid and targeted Facebook posts.

WEC staff continues to utilize a pre-set social media plan for 2017. The social media plan outlines Facebook and Twitter content in relation to important deadlines and events in the 2017 election cycle. A suggested social media plan for 2017 was also provided to Wisconsin municipal and county clerks as well as to voter groups. The social media plan includes Facebook and Twitter content and images for clerks and voter groups to use on their own social media pages throughout 2017.

#### Outreach Materials and Meeting

WEC staff has updated all voter materials on the agency website, the MyVote website, and the Bring It website. Updates include the new expiration date of November 8, 2016 for some acceptable photo IDs for voting. The acceptable expiration date for some photo IDs for voting, like a driver license or

passport, resets with each November General Election. Other changes that were made to the materials include changes related to the elimination of the position of Special Registration Deputy and the introduction of the new Online Voter Registration system. An updated voter outreach kit, which includes documents like voter handouts, draft press releases and presentation materials, was distributed to municipal and county clerks and to voter groups in February. The updated outreach kit serves as an index of all of materials and resources the WEC has available for voters.

In February of 2017 WEC staff emailed voter groups to inform them of the updated voter materials. Groups who were contacted include the Wisconsin League of Women Voters, One Wisconsin Institute, Wisconsin Voices, and Vote Riders. WEC also met with a representative from Wisconsin Voices, which is an umbrella group for some voter advocacy agencies, to discuss voter outreach plans for 2017. The meeting was an opportunity to discuss the WEC's voter resources and to collect feedback from voter groups regarding the usefulness of WEC resources. The feedback on WEC materials was very positive and Wisconsin Voices and other groups have indicated that they utilize WEC materials and resources in their voter outreach efforts.

## **8. Post-Election Voting Equipment Audit**

Staff continues to review and process results from the 2016 post-election voting equipment audit. The previously approved selection process and procedures were revisited at the December 14, 2016 meeting of the Wisconsin Elections Commission, which was held after the conclusion of the recount of the Office of President. At this meeting, the Commission directed staff to inform municipalities originally selected for audit whose ballots for the 2016 Presidential and General Election were counted by electronic voting equipment during the recount that they would still be responsible for conducting the voting equipment audit. This directive covered thirty reporting units, plus an additional seven reporting units who conducted their audits before the process was suspended during the recount.

All selected municipalities have filed preliminary audit results with the Commission. Staff has reviewed these reports and found the majority of audit outcomes matched the original voting equipment totals from Election Day. Several municipalities had minor discrepancies in their vote totals that require substantive explanations and staff is working with those municipalities to obtain explanations for the differences. Examples of anomalies include simple counting and tabulation errors by the auditors and ballot pools that were altered by the County Board of Canvassers during the recount with no method for local election officials to recreate the original pool of ballots that were tabulated on Election Day.

The audit results from two municipalities who employ the Optech Eagle optical scan electronic voting system have proven difficult to reconcile. Both the Village of Hortonville and the Village of Mount Pleasant had discrepancies between their audit totals and the machine totals from Election Day, and cannot provide a reasonable explanation for these differences. The Optech Eagle requires the voter to use a marking device that produces a carbon-based mark in order for the machine to read votes on a ballot. If a voter marks their ballot using a marking device other than a vendor-approved marker or #2 pencil, such as a regular marker, it is possible that the Optech Eagle will not be able to determine voter intent. The ballot would be read as a blank by the machine and no votes would be counted from that ballot.

Scenarios such as these would lead to a greater number of undervotes represented in the machine totals than would be found during a hand count of the same pool of ballots. In both of these municipalities, more votes for candidates on ballot were counted during the audit process than are reflected in the machine totals from Election Day.

The limitations of the Optech Eagle in regards to marking devices have been acknowledged by the equipment vendor and known by local election officials who utilize the equipment since its introduction to Wisconsin elections. The system has been in use in some municipalities in the state for upwards of twenty years and most local elections officials have procedures in place to address the limitations of the type of marking devices that can be used with this system. It is reasonable to assume that ballots marked in the polling place on Election Day and in the clerk's office during the in-person absentee voting period are marked with a marking device that can be read by the Optech Eagle. Ballots that are marked by absentee voters who return their ballot by mail are likely responsible for the discrepancies in the vote totals identified during the audit.

The ballots from the Village of Hortonville have been reviewed by auditors from the municipality, a second time by the County Clerk's staff and finally by Commission staff. Staff reviewed and tallied all of these ballots with an emphasis on questionable marks on absentee ballots, but was unable to identify a pool of likely votes that reconciled with the machine totals from Election Day.

Staff will present a final report on the 2016 post-election voting equipment audit at the June 20, 2017 meeting of the Wisconsin Elections Commission. This report will detail the results of the audit and discuss any additional issues that were identified during the process.

Staff has begun to gather information on the usage of the Optech Eagle, including the number of municipalities who still use the equipment and any potential timeline for replacing this system. Both vendors who provide support for this system have been consulted about their schedule for discontinuing service to customers who employ these machines. Staff will also compile a comprehensive report for the Commission on the performance of the Optech Eagle and present a timeline for the discontinuation of this system in Wisconsin elections. In the interim, it is recommended that all municipalities who continue to use the Optech Eagle require election inspectors to either remake all absentee ballots returned by mail or hand count those ballots. This procedure will ensure that votes on absentee ballots are tabulated in accordance with the intent of the voter.

## **9. GIS (Geographic Information Systems) Update**

Elections Commission staff continues to work on the process to update municipal, ward and school district boundaries in the new WisVote system. The Legislative Technology Services Bureau (LTSB) publishes updated boundaries twice a year. Staff has been working on the procedural and technical changes that need to be made in order to allow WisVote to use these updates, which will significantly improve mapping accuracy and completeness. In the meantime Commission staff is manually adding new wards without updating the maps in WisVote. Commission staff continues to work with LTSB technical staff as time allows to help develop a technical solution to update the WisVote boundaries.

## 10. WisVote

WisVote staff has been assisting clerks in closing out the 2016 Presidential and General Election in WisVote as well as with election-related tasks for the 2017 Spring Primary and the 2017 Spring Election.

- Staff published Checklist II – Post-Election Activities for the 2016 Presidential and General Election on October 20, 2016. This checklist includes post-election tasks including recording voter participation, entering EDR's, reconciliation and closing out the election.
- Staff published Checklist I – Pre-Election Activities for the 2017 Spring Primary on January 6, 2017. This checklist includes pre-election activities such as reviewing and adding candidates and contests, following up on voter-related data quality, and printing poll books.
- Staff published Checklist II – Post-Election Activities for 2017 Spring Primary on February 14, 2017.
- Staff published Checklist I – Pre-Election Activities for the 2017 Spring Election on March 6, 2017
- Staff actively monitored pre-election tasks in WisVote to ensure that clerks were following all the steps in the pre-election checklist to ensure that MyVote would be able to correctly display polling places and sample ballots, and allow for UOCAVA voters to download ballots.
- Staff actively monitored post-election tasks in WisVote to ensure that clerks were completing the necessary post-election tasks in WisVote, specifically recording election participation and entering EDR's in WisVote, and performing reconciliation to ensure that all election participation was correctly recorded. Recording of participation and reconciliation must be complete before staff can run the Voter Felon Audit. For the 2016 Presidential and General Election, reconciliation was particularly critical for the Election Administration and Voting Survey results submitted to the US EAC in February 2017 as well as for performing the Four Year Voter Record Maintenance that will be completed in June 2017.
- Staff also monitors voter data quality and reaches out to clerks who have voters with address problems, voters who may have matches to death or felon records, and voters who may have duplicate records. These tasks are critical to printing accurate poll books.

Several technical updates were made to the WisVote system since the last Commission Staff Update:

Sprint 10 was installed on September 1, 2016 and included 103 work items. Notable updates included the following:

- Creating a system to clean up absentee records in bulk after an election is complete
- Changing when and how poll books are created

- Making overall improvements to the process of adding candidates and tracking ballot status
- Cleaning up some common address issues and developing reporting tools to make it easier to catch and fix these issues in the future
- Changing the absentee process to allow earlier in-person absentee voting and absentee by email and fax for more classes of voters to comply with the Judge Peterson's ruling in the *One Wisconsin Institute Inc* lawsuit
- Removing the system rule on capitalization in voter's names, allowing clerks and voters who use Online Voter Registration to determine correct capitalization

Sprint 11 was installed on October 6, 2016, and included 96 work items. This was the last sprint installed before the change freeze for the 2016 General Election. Notable updates included the following:

- Changing address validation vendors from ZP4 to Smarty Streets for improved accuracy and performance
- Making sure the Presidential Only ballot logic was ready for the General Election
- Improving general data quality and enacting further safeguards to ensure future data quality

Sprint 12 was installed on November 18, 2016, and included 38 work items. This sprint chiefly included improvements to data quality and performance.

Sprint 13 was installed on December 21, 2016, and included 85 work items. Notable updates included the following:

- Improving reports that clerks use to track and reconcile their elections and absentee data, and to submit their EL-190 Election Voting and Registration Statistics Reports
- Creating necessary changes to allow for Online Voter Registration through MyVote

Sprint 14 is currently in testing and will be applied in early March. This will likely be the last scheduled WisVote update prior to the 2017 Spring Election. Hotfixes can be applied after Sprint 14 as needed to support business needs.

## **11. MyVote Wisconsin**

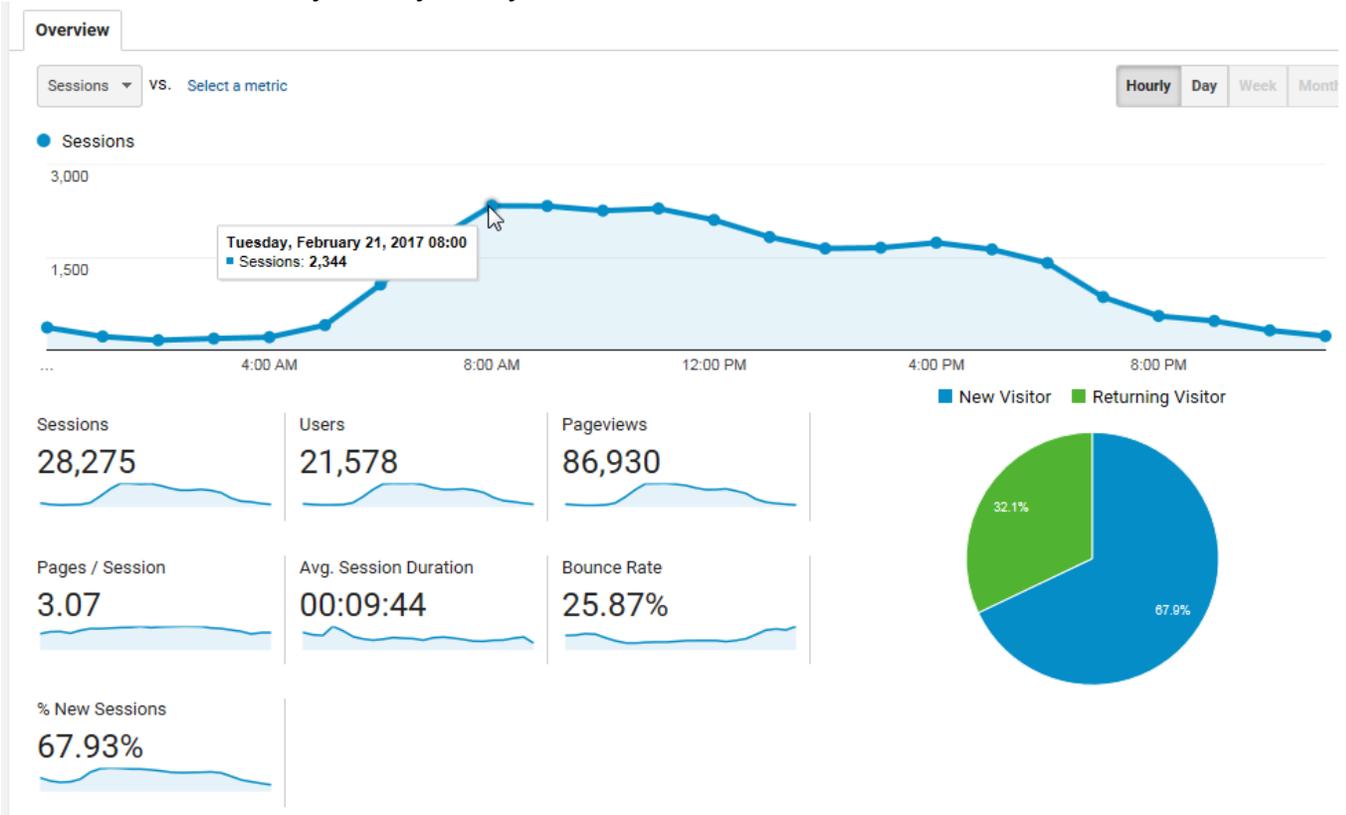
### Continued Improvements

WEC staff continues to make enhancements to the MyVote.wi.gov website. A notable improvement is the option for a voter to email their PDF registration form to themselves. This allows voters the flexibility to print their by-mail registration applications at a later time when they have access to a printer. There have also been changes made to how the MyVote site collects voters' previous, out-of-state address information. The changes allow the previous addresses to be stored in the WisVote system. The previous address information is then used to create a report that the WEC sends to the voter's former state. The voter's former state may then use the previous address information to inactivate the records of voters who have moved. Other additional enhancements to the MyVote site are in progress for 2017. Anticipated changes include the ability for voters to upload a copy of their proof of residence document when they are completing a manual voter registration form.

The WEC is currently in discussions with the ad agency Knupp, Watson & Wallmann (KW<sup>2</sup>) regarding the development of additional materials to support the MyVote website. Additional materials would include voter guides and handouts that can be used by clerks, voter groups, and by the WEC on agency websites and social media platforms. Materials would be developed in both English and Spanish. The WEC would also like KW<sup>2</sup> to develop a video that demonstrates the process for voters to return an absentee ballot. These additional resources will enhance the MyVote site and increase voter awareness of MyVote’s functionalities. The WEC would utilize existing FVAP grant funds for the development of additional MyVote materials. The WEC plans to contract with KW<sup>2</sup> by using the “ride along” procurement process which utilizes an existing contract between the State of Wisconsin and KW<sup>2</sup>. The proposed contract dollar amount will be well under the threshold which requires Commission approval.

### February Primary Performance

The MyVote site continued to perform well for the 2017 election cycle. For the February 21 Primary, the site saw increased traffic with nearly 87,000 page views on Election Day. A chart that summarizes Election Day activity on MyVote is shown below:



### Online Voter Registration

Pursuant to 2015 Wisconsin Act 261, the Online Voter Registration system was implemented through the MyVote Wisconsin website on January 9, 2017. A detailed analysis of the system and its performance is provided as a separate memo in the commission materials. The online voter registration system is available to voters 20 days or more prior to each election. Between January 9 and February 1, 2017 more than 400 voters successfully completed an OVR for the February 21, Primary. The OVR system through MyVote resumed availability after the primary on February 22.

Between February 22, 2017 and March 8, 2017 an additional 724 online voter registrations have been completed through MyVote.

## 12. Elections HelpDesk /Customer Service Center

The Elections HelpDesk staff is supporting over 1,996 active WisVote users, the public, and election officials. The HelpDesk is maintaining the accessibility tablets utilized in polling place surveys along with various training and testing computer systems. Staff is monitoring state enterprise network and data center changes and status, assisting with processing data requests, and processing voter verification postcards. Help Desk staff has been serving on and assisting various project teams such as the Hackett Benchmark Survey and the STAR projects conducted by DOA, also the MyVote 2.0, ongoing WisVote development, ERIC and online registration teams. Staff continues to maintain and update Elections, WisVote clerk contact and Listserv email lists. Staff is processing lists of voters that registered in other states and notifying clerks of the registration cancelation. Staff is coordinating and assisting with upgrade projects initiated by the Department of Administration (DOA) Data Center, and administering Elections & Ethics Commissions Exchange email system.

Help Desk staff are onboarding new clerk users with credentials for the WisVote system and the WisVote Learning Center as they request access, and also assisting clerks with configuring and installing WisVote, CRM and WEDC(GAB-190) on municipal computers. The Help Desk continued to field a wide variety of calls and emails from voters and the public, candidates, political committees, and public officials.

	<u>Elections Help Desk Call Volume</u> (608-261-2028)	<u>Front Desk Call</u> <u>Volume</u> (608-266-8005)
December, 2016	942	687
January, 2017	1,406	602
February, 2017	1,135	408
<b>Total Calls for Reporting Period</b>	<b>3,483</b>	<b>1,697</b>

## 13. Complaint Processing and Tracking

Elections Division staff has continued to process and resolve complaints related to the actions of local election officials. A status report regarding pending and resolved complaints will be included in the Board Members' meeting folders.

## 14. Communications Report

Since August 30, 2016, the Public Information Officer (PIO) has engaged in the following communications activities in furtherance of the Commission's mission:

Voter ID Public Information Campaign: The PIO coordinated with the Administrator, agency staff, local election officials and vendors regarding publicity for the ID Petition Process prior to the November election. These efforts included organizing a news conference in Milwaukee, producing news releases, coordinating production of new voter information literature, and

conducting media interviews. For the Spring Election cycle, the PIO prepared and distributed news releases reminding voters of the photo ID requirement and the availability of IDPP.

Media: Between August 20, 2016 and February 28, 2017, the PIO logged 589 media and general public phone calls and 1,825 media email contacts. There was a great deal of media interest cyber security for the November General Election, recent federal district and appellate court orders regarding Wisconsin's voter photo ID law and other election-related laws, and the presidential recount. The PIO prepared 22 news releases regarding preparations for the election, projected election turnout, court decisions and the presidential recount.

Online: The PIO managed regular updates to the agency website and worked with the agency's webhosting company to monitor traffic and implement a more robust hosting environment that provides increased redundancy and caching in order to handle high traffic spikes on election days. During the presidential recount, the PIO built a new section to provide timely updates about counties' progress and give the public access to daily updated numbers.

Public Records: The PIO continues to lead the agency's response to public records requests received in recent months.

## **15. Financial Services Activity**

- We are continuing to work with the STAR HCM; STAR Finance and STAR Project Costing teams to streamline the Federal Grant Reporting process as it relates to expenditures and revenues.
- Staff continues to monitor and update DOA on allocation issues with the General Services Bill. New Procedures have been added to assist Elections and DOA staff on correct application of the use codes.
- Financial Staff is engaged in on-going meetings with the State Controller's Office to reconcile remaining financial issues between GAB, the Elections Commission and the Ethics Commission.
- Our Accountant is in the process of training the Ethics Commission's new Office Management Specialist in Financial Matters.
- The Finance and IT staff are working with DOA to separate combined billings to more effectively manage the separation of the Elections and Ethics commissions.
- Staff is preparing payroll reconciliations to properly allocate salaries and fringe benefits between federal and state programs. We have had meetings with SCO and the STAR Project Costing team to analyze solutions within the new system.

## 16. Recount Reimbursements

- In conjunction with the Budget Office and State Controller's Office (SCO), financial staff set up accounting and budget journal entries to account for and track the recount funds received from the Jill Stein Campaign.
- After consultations with the State Controller, staff created procedures for each county to process reimbursement requests for county as well as municipality recount costs. Instructions and a form were created based on management decisions regarding allowable reimbursement expenditures.
- Staff compiled each reimbursement, creating processes to account by county. Reimbursements were created as vouchers in STAR, and completed by check or ACH to each county.
- Total reimbursements of \$2,005,603.53 have been processed; the Stein Campaign was refunded \$1,494,085.91 by wire transfer on the statutory date January 13, 2017.
- Staff is working to document recount financial processes for historical purposes.

## 17. Procurements

Purchase Orders related to the election and ERIC mailer for Temporary Staff and Call Center services have been closed out. Staff is processing the most recent invoices related to the election timeframe.

- \$13,380 in Purchase Orders were written for Temporary Staff related to the November Election.
- \$11,000 in Purchase Orders were written for Temporary Staff related to Accessibility Audits during the November Election.
- \$29,400 in Purchase Orders were written for Temporary Staff related additional staffing needs related to the ERIC mailer.

## 18. Staffing

Staffing continues to be a challenge for the agency. We currently have five-vacant Elections Specialist positions – three Election Administration Specialists and two WisVote Elections Specialists. First round interviews were conducted February 15-21, and second interviews were conducted on March 3 and 6, with the goal of having two new staff by late March. The remaining three positions will not be filled unless they are authorized to continue as part of the 2017 – 19 biennial budget.

Jodi Kitts left the WEC as of February 3, 2017, for an opportunity with the Department of Administration. Jodi served as one of the WisVote Specialists since January 2014, and was a valuable team member, assisting with testing new WisVote functions and taking a leadership role in various projects such as the voter felon audit.

Elections Supervisor Ross Hein will be leaving the Elections Commission on March 22, 2017 to accept a position with the Department of Workforce Development managing IT projects. Ross has worked for 11-plus years for the State Elections Board, Government Accountability Board, and Wisconsin Elections Commission. He was an Elections Administration Specialist, led the agency's voting equipment initiatives, and was appointed Elections Supervisor in 2011. Ross supervised our WisVote staff and IT contractors, but was also involved in every aspect of the State's election administration over the years. The agency will miss the expertise and experience of both Jodi and Ross and we wish them well.

## **19. Meetings and Presentations**

Administrator Haas has met with all State Senators as well as Assembly leadership and Assembly members of the Joint Committee on Finance and the Assembly Committee on Campaigns and Elections, totaling over 50 of the 132 members of the Legislature. The meetings were structured as introductory meetings to discuss confirmation of Commission appointments, the agency's budget request, and election-related legislation.

Administrator Haas and Elections Supervisor Hein participated in a meeting with municipal attorneys hosted by the League of Wisconsin Municipalities in December to discuss a large public records request submitted to many municipal clerks related to election documents. After subsequent discussions with the requestor, the public records requests of clerks were withdrawn.

Administrator Haas participated in two teleconference meetings of the ERIC Board of Directors and one in-person meeting of the ERIC Board of Directors regarding adoption of organization bylaws amendments, appointment of a new Executive Director, and other ERIC initiatives.

Administrator Haas, Lead Elections Specialist Lowe, and other Commission staff organized and participated in the meeting of the Republican Party presidential electors on December 19, 2016, during which Wisconsin's electoral votes were cast for Donald Trump.

Administrator Haas spoke at a luncheon meeting of the Milwaukee Rotary Club on January 24, 2017, regarding the operations of the Elections Commission as well as the agency's budget request. The event was broadcast on the Wisconsin Eye website.

Elections Supervisor Ross Hein attended the meeting of the Technical Guidelines Development Committee from February 12 – 14, 2017 in Washington, D.C. The Committee recommends voting equipment testing and certification standards to the U.S. Election Assistance Commission.

Administrator Haas attended the Winter Meeting of the National Association of State Election Directors from February 15 – 18, 2017 in Washington, D.C. The meeting included numerous presentations and discussions related to current issues and development at that federal and state levels related to election administration.

## **20. Delegated Authority**

Administrator Haas took the following actions pursuant to the Commission's delegation of authority:

- A. Communicated with Department of Justice litigation counsel representing the Commission related to pending litigation matters.
- B. Approved a request from the City of River Falls for an exemption from the statutory requirement to use electronic voting equipment at the 2017 spring elections.

**ATTACHMENT #1**

Wisconsin Elections Commission’s Training Initiatives  
12/14/16 – 3/13/2017

<b>Training Type</b>	<b>Description</b>	<b>Class Duration</b>	<b>Target Audience</b>	<b>Number of Classes</b>	<b>Number of Students</b>
WisVote Training	Online training in core WisVote functions – how to navigate the system, how to add voters, how to set up elections and print poll books.	Varies	New users of the WisVote application software.	Online	111
Municipal Clerk	2005 Wisconsin Act 451 requires that all municipal clerks attend a state-sponsored training program at least once every 2 years.	3 hours	All Municipal clerks are required to take the training; other staff may attend.	1	37
Chief Inspector	Instruction for new Chief Inspectors before they can serve as an election official for a municipality during an election.	3 hours	Election workers for a municipality.	3	167
Election Administration and WisVote Training Webinar Series	Series of programs designed to keep local government officials up to date on the administration of elections in Wisconsin.	60 + minute webinar conferences hosted and conducted by Commission staff.	County and municipal clerks, chief inspectors, poll workers, special registration deputies and school district clerks.	1/517: Preparing for the 2017 Spring Elections; 9/6/17: Online Voter Registration for Clerks; 9/11/17: A Review of 2016...and What’s Ahead in 2017; 9/18/17: Wisconsin’s	50 – 400 per webinar; posted to website for clerks to use on-demand.

**ATTACHMENT #1**

Wisconsin Elections Commission's Training Initiatives  
12/14/16 – 3/13/2017

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
Other	<ul style="list-style-type: none"> <li>● Board staff presented election administration and WisVote status information to county and municipal clerks attending the following conferences:                             <ul style="list-style-type: none"> <li>○ WMCA District 4 on March 2, 2017 in Wisconsin Dells;</li> <li>○ Wisconsin County Clerks on March 7, 2017 in Madison;</li> <li>○ WMCA District 5 teleconference on October 6;</li> <li>○</li> </ul> </li> </ul>			Photo ID Law; 2/1/17: Election Day Duties – Special Topics; 9/9/17: WisVote 101 for New Users; 3/7/16: Common Pitfalls in the Spring Election; 3/8/17: Preparing for the April Election	