

State of Wisconsin \ Government Accountability Board

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MEMORANDUM

DATE: March 9, 2012

TO: Wisconsin Municipal Clerks
City of Milwaukee Election Commission
Wisconsin County Clerks
Milwaukee County Election Commission

FROM: Nathaniel E. Robinson
Election Division Administrator
Government Accountability Board

SUBJECT: Presidential Preference Primary Election Reporting
Implementation of Ward Splits Caused by Acts 43, 44

Introduction

The Government Accountability Board has identified an apparent conflict between Wis. Stat. §8.12(3) requirements regarding reporting results of the April 3, 2012 Presidential Preference Primary Election and Wis. Stat. §5.15(4)(a) regarding a municipalities adoption of a new ward plan by April 10, 2012 to address wards split by a Legislative or Congressional district boundary.

The G.A.B. adopted guidance on October 19, 2011 regarding the effective date of 2011 Wisconsin Act 43, relating to reapportionment of Assembly and Senate districts. In the October 19, 2011 guidance, the Board opined that Act 43 first applies “with respect to regular elections, to offices filled at the 2012 general election.” 2011 Wisconsin Act 43, §10(1). Similarly, 2011 Wisconsin Act 44, relating to reapportionment of Congressional districts, has an identical effective date and initial applicability clause. 2011 Wisconsin Act 44, §4(1). The consequence of these provisions is that the nomination process, primaries, and finally the General Election on November 6, 2012 will occur in the districts established by Acts 43 and 44.

The application of the Act 44 Congressional districts impacts the Presidential Preference Primary Election reporting. The requirement to split certain wards as a result of boundary lines from districts established in Acts 43 and 44 and the statutory timeline for doing so, may impact election set-up for the April 3, 2012 Spring Election, in addition to Presidential Preference Primary Election reporting. The G.A.B. understands and acknowledges that as of the date of this Memorandum, ballot preparation and voting systems programming is likely complete, as ballots will be distributed beginning Monday, March 12, 2012.

This Memorandum shall provide clarification of the Board’s guidance for purposes of reporting the results of the April 3, 2012 Presidential Preference Primary Election and implementation of ward splits caused by Acts 43 and 44. The guidance contained herein shall be applicable until further notice from the G.A.B.

Presidential Preference Primary Reporting (April 3, 2012)

The Presidential Preference Primary Election assists political parties with their determination of the presidential candidates who will appear on the ballot for the November 6, 2012 General Election. Pursuant

to Wis. Stat. §8.12(1), the Presidential Preference Primary Election occurs at the April 3, 2012 Spring Election. No later than May 15 following the Presidential Preference Primary Election, the G.A.B. shall notify each state party organization chairperson of the results within the State and within each Congressional district. Wis. Stat. §8.12(3). Since the offices of President and Vice-President are “filled at the 2012 general election,” the Congressional districts established in Act 44 apply to the Presidential Preference Primary Election. **Therefore, the G.A.B. will establish canvass reporting units to satisfy the requirement to report the Presidential Preference Primary Election results by each Congressional district as established in Act 44.**

Implementation of Ward Splits Caused by Acts 43 and 44

Municipalities are required to split any ward its governing body adopted, if a Legislative or Congressional district line established in either Acts 43 or 44 bisects the ward. Pursuant to Wis. Stat. §5.15(4)(a), these adjusted ward plans must be adopted by the municipal governing bodies in a resolution or ordinance no later than April 10, 2012. Within 5 days of adoption, the municipal clerk must transmit one copy of the resolution or ordinance to the county clerk of each county in which the municipality is contained. Staff believes there were approximately 100 ward splits that were required statewide; however, many municipalities have already adopted new ward plans to effectuate any required splits. In SVRS, these potential ward splits are designated by an “S” appearing after the number of the ward.

The G.A.B. understands that municipal clerks already have many duties to complete redistricting tasks and prepare for the April 3, 2012 Spring Election at which the implementation of portions of the new Voter ID law will apply. Pursuant to Acts 23 and 75, late-arriving absentees and provisional ballots may be counted if received or information is provided up to 4 p.m. the Friday after each election. In addition, canvassing time lines have been altered by Act 115 and municipalities may first be completing their canvass of the Spring Election on April 9, 2012.

In this busy time, municipalities for which split wards are required are reminded to ensure that their governing bodies have sufficient time to adopt an adjusted ward plan prior to the April 10, 2012 deadline.

Conclusion and Guidance

While the G.A.B. will establish canvass reporting units to satisfy the requirement to report the Presidential Preference Primary Election results by each Congressional district as established in Act 44, there may be circumstances where a ward split caused by an Act 44 Congressional district boundary has not been implemented by a municipality in the form of an ordinance or resolution adopted by the governing body.

Staff have been busily working to resolve redistricting incidents to ensure that the April 3, 2012 Spring Election runs as smoothly as possible. These tasks have consumed the staff assigned to the G.A.B. Redistricting Initiative. Any new ward plans adopted pursuant to Wis. Stat. §5.15(4)(a) to adjust prior ward plans for Legislative or Congressional district boundary splits may not be implemented in SVRS until after the April 3, 2012 Spring Election, unless SVRS implementation has already been approved by the G.A.B.

In the past few weeks, several municipalities have had new ward plans adopted and implemented in SVRS. This process may likely resolve many Presidential Preference Primary Election reporting issues and also satisfy the requirement to adjust wards due to a Legislative or Congressional district boundary split.

Probable split wards already exist in SVRS and municipalities may have prepared ballots and programmed voting systems incorporating those splits, even if an adjusted ward plan has not been adopted by the governing body. Substantial costs have been incurred associated with these election preparations. **Therefore, the G.A.B. recommends that municipalities conduct the April 3, 2012 Spring Election and Presidential Primary Preference Election in the manner they have already planned. This will insure that the election can be conducted properly, canvass reporting functions will work correctly, and will avoid unreasonable additional election costs and elector confusion.**

If a municipality has not planned for a ward split and one is present in SVRS, please contact the G.A.B. so that the split can be assigned to the other section of the ward or vice versa. However, it may result in the attribution of some votes to a different Congressional district in the canvass reporting. This result is unavoidable in the context of the conflict between Wis. Stats. §§5.15(4)(a) and 8.12(3).

If you have questions, please continue to report redistricting issues on our Incident Website, <http://wisapps.wi.gov/sites/GAB/Incident/default.aspx>, or contact the Help Desk at gabhlpdesk@wi.gov, or 608-261-2028.

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