

## Dueterbeck, Melodie

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**Subject:** Dane County's Merry Pints  
**Location:** Oaks Golf Course, 4740 Pierceville Rd, Cottage Grove, WI 53527  
**Start:** Tue 12/7/2021 5:00 PM  
**End:** Tue 12/7/2021 8:00 PM  
**Recurrence:** (none)  
**Organizer:** Brandtjen, Janel  
**Categories:** Janel

Janel to be lead guest speaker  
Rolf/Ralph: 608-279-5889

5pm: Doors open  
5:30: Events begin  
6/7: Speakers begin

Discuss election issues

## Dueterbeck, Melodie

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**Subject:** Vicki McKenna  
**Location:** 608-663-7297

**Start:** Wed 12/1/2021 4:35 PM  
**End:** Wed 12/1/2021 5:05 PM

**Recurrence:** (none)

**Organizer:** Brandtjen, Janel

**Categories:** Janel

The reports from WEC and Gableman.

THanks!!

### VICKI MCKENNA

On-air host

iHeartMedia Multi-Platform Group - Madison

2651 S. Fish Hatchery Road

Madison, WI 53711

☎ 608.274.5450

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**From:** Rep.Brandtjen <[Rep.Brandtjen@legis.wisconsin.gov](mailto:Rep.Brandtjen@legis.wisconsin.gov)>

**Sent:** Wednesday, December 1, 2021 9:09 AM

**To:** McKenna, Vicki <[VickiMcKenna@iheartmedia.com](mailto:VickiMcKenna@iheartmedia.com)>

**Subject:** [EXTERNAL] RE: do you have time for radio today?

Hi Vicki,

What will the topic be?

Thanks,  
Melodie

**From:** McKenna, Vicki <[VickiMcKenna@iheartmedia.com](mailto:VickiMcKenna@iheartmedia.com)>

**Sent:** Wednesday, December 01, 2021 8:57 AM

**To:** Rep.Brandtjen <[Rep.Brandtjen@legis.wisconsin.gov](mailto:Rep.Brandtjen@legis.wisconsin.gov)>

**Subject:** do you have time for radio today?

Hi Janel,  
Are you available for radio today at 435?

**VICKI MCKENNA**

On-air host

iHeartMedia Multi-Platform Group - Madison

2651 S. Fish Hatchery Road  
Madison, WI 53711  
O 608.274.5450

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*From: "Rep.Brandtjen" <Rep.Brandtjen@legis.wisconsin.gov>*

*Sent: Tuesday, December 7, 2021, 2:21 PM*

*To: \*Legislative All Assembly <ALLASM@legis.wisconsin.gov>;  
\*Legislative All Senate <ALLSEN@legis.wisconsin.gov>*

*Subject: Hearing published - Assembly Committee on Campaigns and  
Elections*

*Attachments: Public\_Notice\_(Informational2)\_12-8-  
21\_Campaigns\_and\_Elections.docx*

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*Assembly*

**INFORMATIONAL HEARING**  
**Committee on Campaigns and Elections**

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The committee will hold a public hearing on the following items at the time specified below:

Wednesday, December 8, 2021  
2:20 PM  
417 North (GAR Hall)

*Invited Speaker - Erick Kaardal*

**Election Abuses**

---

Representative Janel Brandtjen  
Chair

## Dueterbeck, Melodie

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**Subject:** Campaigns & Elections  
**Location:** GAR  
**Start:** Wed 12/8/2021 1:00 PM  
**End:** Wed 12/8/2021 5:00 PM  
**Recurrence:** (none)  
**Organizer:** Brandtjen, Janel  
**Categories:** Janel

No Spreitzer, Sanfelippo, Subeck, Tusler

At this point, Rep. Tusler isn't planning on coming to Madison on the 8<sup>th</sup> (yes, even with caucus...)

For the 8<sup>th</sup>, Rep. Thiesfeldt can likely do but he may need to leave early.

Assembly Sergeant is inviting you to a scheduled Zoom meeting.

Topic: Campaigns and Elections Committee Zoom Link  
Time: Dec 8, 2021 12:30 PM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/85188820403?pwd=azNzS1RFRFQ3Ni9USVhIcm5JOXhYQT09>

Meeting ID: 851 8882 0403

Passcode: 317107

One tap mobile

+13126266799,,85188820403# US (Chicago)

+16465588656,,85188820403# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 346 248 7799 US (Houston)

+1 720 707 2699 US (Denver)

+1 253 215 8782 US (Tacoma)

Meeting ID: 851 8882 0403

Find your local number: <https://us06web.zoom.us/u/kHGHR2ISr>

**Subject:** Campaigns and Elections Committee  
**Date:** 12/8/2021  
**Time:** 1:00 PM  
**Duration:** 4 hours, 0 minutes  
**Location:** GAR Hall  
**Description:**

*Assembly*

**INFORMATIONAL HEARING**  
**Committee on Campaigns and Elections**

The committee will hold a public hearing on the following items at the time specified below:

Wednesday, December 8, 2021  
1:00 PM  
417 North (GAR Hall)

*Invited Speakers Only*

**Wisconsin Voter Rolls**  
Report - Voter Rolls

---

Representative Janel Brandtjen  
Chair

*Assembly*

**INFORMATIONAL HEARING**  
**Committee on Campaigns and Elections**

The committee will hold a public hearing on the following items at the time specified below:

Wednesday, December 8, 2021  
2:20 PM  
417 North (GAR Hall)

*Invited Speaker - Erick Kaardal*

**Election Abuses**

---

Representative Janel Brandtjen  
Chair

## Dueterbeck, Melodie

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**Subject:** Campaigns & Elections  
**Location:** 412 E  
  
**Start:** Wed 12/1/2021 10:00 AM  
**End:** Wed 12/1/2021 2:00 PM  
  
**Recurrence:** (none)  
  
**Organizer:** Brandtjen, Janel  
  
**Categories:** Janel

Rep. Tusler will be testifying on two of his bills on the 1<sup>st</sup> at 10 am, so he will likely be late if that date ends up working out.

Rep. Thiesfeldt can do the 1<sup>st</sup>, but will have to step out for a brief moment in the afternoon.

**Subject:** Campaigns and Elections Committee  
**Date:** 12/1/2021  
**Time:** 10:00 AM  
**Duration:** 4 hours, 0 minutes  
**Location:** 412E  
**Description:**

## Dueterbeck, Melodie

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**Subject:** Campaigns & Elections  
**Location:** 412 E

**Start:** Wed 11/17/2021 10:00 AM  
**End:** Wed 11/17/2021 2:00 PM

**Recurrence:** (none)

**Organizer:** Brandtjen, Janel

**Categories:** Janel

No Thiesfeldt or Tusler

WEC data

Zoom calls – Use Pat’s zoom link below.

Assembly Sergeant is inviting you to a scheduled Zoom meeting.

Topic: Campaigns and Elections Committee 11/17/21

Time: Nov 17, 2021 12:30 PM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/84794265997?pwd=dmlUQ1RXTWxuWDlSS1sZTY1MnZUZz09>

Meeting ID: 847 9426 5997

Passcode: 795522

One tap mobile

+16465588656,,84794265997# US (New York)

+13017158592,,84794265997# US (Washington DC)

Dial by your location

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+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 720 707 2699 US (Denver)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 847 9426 5997

Find your local number: <https://us06web.zoom.us/j/kcUW9YYneM>

**Subject:** Campaigns and Elections Committee

**Date:** 11/17/2021

**Time:** 10:00 AM

**Duration:** 4 hours, 0 minutes

**Location:** 412E

**Description:** Needs TV screens for Zoom.

## Dueterbeck, Melodie

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**Subject:** Campaigns & Elections  
**Location:** 412E  
  
**Start:** Wed 11/10/2021 2:00 PM  
**End:** Wed 11/10/2021 6:00 PM  
  
**Recurrence:** (none)  
  
**Organizer:** Brandtjen, Janel  
  
**Categories:** Janel

Subject: Campaigns and Elections Committee  
Date: 11/10/2021  
Time: 2:00 PM  
Duration: 4 hours, 0 minutes  
Location: 412E  
Description:

*Sgt. Michael J. Luell*  
*Public Information Officer*  
*Racine County Sheriff's Office*  
*717 Wisconsin Avenue*  
*Racine, WI 53403*  
*(262) 636-3102*  
[Michael.Luell@RacineCounty.com](mailto:Michael.Luell@RacineCounty.com)

[chris.schmaling@racinecounty.com](mailto:chris.schmaling@racinecounty.com)

## Duesterbeck, Melodie

---

**Subject:** Vicki McKenna  
**Location:** 608-663-7297

**Start:** Thu 11/4/2021 2:15 PM  
**End:** Thu 11/4/2021 2:45 PM

**Recurrence:** (none)

**Organizer:** Brandtjen, Janel

**Categories:** Janel

Janel,  
Can you join me tomorrow at 215?

### VICKI MCKENNA

On-air host

iHeartMedia Multi-Platform Group - Madison

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Madison, WI 53711

☎ 608.274.5450

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**From:** Rep.Brandtjen <[Rep.Brandtjen@legis.wisconsin.gov](mailto:Rep.Brandtjen@legis.wisconsin.gov)>  
**Sent:** Wednesday, November 3, 2021 11:26 AM  
**To:** Savage, Bill <[Bill.Savage@legis.wisconsin.gov](mailto:Bill.Savage@legis.wisconsin.gov)>  
**Cc:** Duesterbeck, Melodie <[Melodie.Duesterbeck@legis.wisconsin.gov](mailto:Melodie.Duesterbeck@legis.wisconsin.gov)>  
**Subject:** [EXTERNAL] Audit Report Shows Meagan Wolfe is Criminal or Incompetent?

# Audit Report Shows Meagan Wolfe is Criminal or Incompetent?

November 3, 2021

For more information contact:

Rep. Brandtjen (414) 915-8425

MADISON - State Representative Janel Brandtjen (R-Menomonee Falls) issued the following statement regarding the Legislative Audit Bureau's report on the November 2020 election:

"Maintaining voter registration records is the responsibility of Meagan Wolfe and the Wisconsin Elections Commission (WEC). Providing accurate data to clerks is essential to voter integrity. The Department of Transportation (DOT), Department of Corrections (DOC), Department of Health Services (DHS) and the Electronic Registration Information Center (ERIC) provide data for the maintenance of our voter registration rolls. The Legislative Audit Bureau's (LAB) audit makes it clear that WEC is not complying with state statutes. According to the LAB report:

- Only online voters have their information verified through the DOT.
- WEC did not obtain electronic signatures for those who registered online.
- DOT does not provide WEC with any personally identifiable information for voter matches.
- 16,000 registered voters may have had multiple voter registration records in Wisconsin.
- 743 registered voters may have died in other states and received Wisconsin ballots.
- WEC's agreements with DOT, DOC, & DHS are outdated; the DOC contract is over six years old.
- ERIC can provide five types of data; WEC only uses one.

In February 2020, I introduced a bill to address how WEC handles possible double voter information from ERIC, which is a multi-state database. In June of 2021, Senator Jacque and I introduced an expanded version of the bill that describes how WEC should address felons, citizens who are deemed incompetent, and deceased voters (AB 398).

Ms. Wolfe's testimony states, '*Audits designed to detect in-state double voting, as well as voting by persons who have been adjudicated incompetent or who are currently serving a felony sentence, are statutorily required and have been conducted successfully for many years. These audits were conducted long before Wisconsin joined ERIC, and do not depend on its data.*'

Ms. Wolfe implied that the WEC already had these issues under control, contrary to what the Audit Bureau stated in their report. If we are going to restore confidence in Wisconsin's election process, we will need competent people at the helm of our election process".

###



Janel Brandtjen  
Wisconsin State Representative  
22<sup>nd</sup> Assembly District  
Sign up for my [e-updates!](#)

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From: Erick Kaardal <kaardal@mklaw.com>  
Sent: Tuesday, December 7, 2021, 3:33 PM  
To: janel Brandtjen <Rep.Brandtjen@legis.wisconsin.gov>; "Duesterbeck, Melodie" <Melodie.Duesterbeck@legis.wisconsin.gov>  
Subject: 12/8/21 Presentation Email 1 of 2  
Attachments: WI General Assembly Elections and Campaigns Presentation EGK.pptx

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Dear all:

Please find attached my deck to present to the committee. By separate email, I will forward a few handouts. Thanks!

egk

Erick G. Kaardal  
Mohrman, Kaardal and Erickson, P.A.  
150 S. Fifth St., Ste. 3100  
Minneapolis MN 55402  
612-341-1074  
f. 612-341-1076

*From: "Rep.Brandtjen" <Rep.Brandtjen@legis.wisconsin.gov>*

*Sent: Tuesday, November 9, 2021, 7:49 AM*

*To: \*Legislative All Assembly <ALLASM@legis.wisconsin.gov>;  
\*Legislative All Senate <ALLSEN@legis.wisconsin.gov>*

*Subject: Assembly Committee on Campaigns and Elections -  
INFORMATIONAL HEARING*

*Attachments: Public\_Notice\_(Informational)\_11-10-  
21\_Campaigns\_and\_Elections.docx*

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*Assembly*

## **INFORMATIONAL HEARING**

### **Committee on Campaigns and Elections**

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The committee will hold a public hearing on the following items at the time specified below:

Wednesday, November 10, 2021  
2:00 PM  
412 East

*Invited Speakers Only*

#### **Racine Sheriff Special Voting Deputy's Report**

The Racine County Sheriff's investigation of the Wisconsin Election Commission's failure to follow the statutes regarding Special Voting Deputies.

#### **Gableman Report**

Special Counsel and Former Wisconsin Supreme Court Justice Michael Gableman's investigation into the November 2020 election.

*\*Sgt. Michael Luell will be appearing on behalf of the Racine County Sheriff's Department.*

---

Representative Janel Brandtjen  
Chair

From: The Foxes <tvfoxhole@msn.com>

Sent: Monday, December 6, 2021, 4:03 PM

To: "Sen.Agard@legis.wisconsin.gov" <Sen.Agard@legis.wisconsin.gov>;  
"Sen.Ballweg@legis.wisconsin.gov" <Sen.Ballweg@legis.wisconsin.gov>;  
"Sen.Bernier@legis.wisconsin.gov" <Sen.Bernier@legis.wisconsin.gov>;  
"Sen.Bewley@legis.wisconsin.gov" <Sen.Bewley@legis.wisconsin.gov>;  
"Sen.Bradley@legis.wisconsin.gov" <Sen.Bradley@legis.wisconsin.gov>;  
"Sen.Carpenter@legis.wisconsin.gov" <Sen.Carpenter@legis.wisconsin.gov>;  
"Sen.Cowles@legis.wisconsin.gov" <Sen.Cowles@legis.wisconsin.gov>;  
"Sen.Darling@legis.wisconsin.gov" <Sen.Darling@legis.wisconsin.gov>;  
"Sen.Erpenbach@legis.wisconsin.gov" <Sen.Erpenbach@legis.wisconsin.gov>;  
"Sen.Felzkowski@legis.wisconsin.gov" <Sen.Felzkowski@legis.wisconsin.gov>; "Sen.Feyen@legis.wi.gov"  
<Sen.Feyen@legis.wi.gov>; "Sen.Jacque@legis.wisconsin.gov" <Sen.Jacque@legis.wisconsin.gov>;  
"Sen.Jagler@legis.wisconsin.gov" <Sen.Jagler@legis.wisconsin.gov>; "Sen.Johnson@legis.wisconsin.gov"  
<Sen.Johnson@legis.wisconsin.gov>; "Sen.Kapenga@legis.wisconsin.gov"  
<Sen.Kapenga@legis.wisconsin.gov>; "Sen.Kooyenga@legis.wisconsin.gov"  
<Sen.Kooyenga@legis.wisconsin.gov>; "Sen.Larson@legis.wisconsin.gov"  
<Sen.Larson@legis.wisconsin.gov>; "Sen.LeMahieu@legis.wisconsin.gov"  
<Sen.LeMahieu@legis.wisconsin.gov>; "Sen.Marklein@legis.wi.gov" <Sen.Marklein@legis.wi.gov>;  
"Sen.Nass@legis.wisconsin.gov" <Sen.Nass@legis.wisconsin.gov>; "Sen.Petrowski@legis.wisconsin.gov"  
<Sen.Petrowski@legis.wisconsin.gov>; "Sen.Pfaff@legis.wisconsin.gov"  
<Sen.Pfaff@legis.wisconsin.gov>; "Sen.Ringhand@legis.wisconsin.gov"  
<Sen.Ringhand@legis.wisconsin.gov>; "Sen.Roth@legis.wisconsin.gov" <Sen.Roth@legis.wisconsin.gov>;  
"Sen.Roys@legis.wisconsin.gov" <Sen.Roys@legis.wisconsin.gov>; "Sen.Smith@legis.wisconsin.gov"  
<Sen.Smith@legis.wisconsin.gov>; "Sen.Stafsholt@legis.wisconsin.gov"  
<Sen.Stafsholt@legis.wisconsin.gov>; "Sen.Stroebel@legis.wisconsin.gov"  
<Sen.Stroebel@legis.wisconsin.gov>; "Sen.Taylor@legis.wisconsin.gov"  
<Sen.Taylor@legis.wisconsin.gov>; "sen.testin@legis.wisconsin.gov" <sen.testin@legis.wisconsin.gov>;  
"Sen.Wanggaard@legis.wisconsin.gov" <Sen.Wanggaard@legis.wisconsin.gov>;  
"Sen.Wimberger@legis.wisconsin.gov" <Sen.Wimberger@legis.wisconsin.gov>;  
"Sen.Wirch@legis.wisconsin.gov" <Sen.Wirch@legis.wisconsin.gov>; "Rep.Allen@legis.wisconsin.gov"  
<Rep.Allen@legis.wisconsin.gov>; "Rep.Anderson@legis.wisconsin.gov"  
<Rep.Anderson@legis.wisconsin.gov>; "Rep.Andraca@legis.wisconsin.gov"  
<Rep.Andraca@legis.wisconsin.gov>; "Rep.Armstrong@legis.wisconsin.gov"  
<Rep.Armstrong@legis.wisconsin.gov>; "Rep.August@legis.wisconsin.gov"  
<Rep.August@legis.wisconsin.gov>; "Rep.Baldeh@legis.wisconsin.gov"  
<Rep.Baldeh@legis.wisconsin.gov>; "Rep.Behnke@legis.wisconsin.gov"  
<Rep.Behnke@legis.wisconsin.gov>; "Rep.Billings@legis.wisconsin.gov"  
<Rep.Billings@legis.wisconsin.gov>; "Rep.Born@legis.wisconsin.gov" <Rep.Born@legis.wisconsin.gov>;  
"Rep.Bowen@legis.wisconsin.gov" <Rep.Bowen@legis.wisconsin.gov>;  
"Rep.Brandtjen@legis.wisconsin.gov" <Rep.Brandtjen@legis.wisconsin.gov>;  
"Rep.Rob.Brooks@legis.wisconsin.gov" <Rep.Rob.Brooks@legis.wisconsin.gov>;  
"Rep.Brostoff@legis.wisconsin.gov" <Rep.Brostoff@legis.wisconsin.gov>; "Rep.Cabral-  
Guevara@legis.wisconsin.gov" <Rep.Cabral-Guevara@legis.wisconsin.gov>;

"Rep.Cabrera@legis.wisconsin.gov" <Rep.Cabrera@legis.wisconsin.gov>;  
"Rep.Callahan@legis.wisconsin.gov" <Rep.Callahan@legis.wisconsin.gov>;  
"Rep.Conley@legis.wisconsin.gov" <Rep.Conley@legis.wisconsin.gov>; "Rep.Considine"  
<Rep.Considine@legis.wisconsin.gov>; "Rep.Dallman@legis.wisconsin.gov"  
<Rep.Dallman@legis.wisconsin.gov>; "Rep.Dittrich@legis.wisconsin.gov"  
<Rep.Dittrich@legis.wisconsin.gov>; "Rep.Doyle@legis.wisconsin.gov"  
<Rep.Doyle@legis.wisconsin.gov>; "Rep.Drake@legis.wisconsin.gov" <Rep.Drake@legis.wisconsin.gov>;  
"Rep.Duchow@legis.wisconsin.gov" <Rep.Duchow@legis.wisconsin.gov>;  
"Rep.Edming@legis.wisconsin.gov" <Rep.Edming@legis.wisconsin.gov>;  
"Rep.Emerson@legis.wisconsin.gov" <Rep.Emerson@legis.wisconsin.gov>;  
"Rep.Goyke@legis.wisconsin.gov" <Rep.Goyke@legis.wisconsin.gov>;  
"Rep.Gundrum@legis.wisconsin.gov" <Rep.Gundrum@legis.wisconsin.gov>;  
"Rep.Haywood@legis.wisconsin.gov" <Rep.Haywood@legis.wisconsin.gov>;  
"Rep.Hebl@legis.wisconsin.gov" <Rep.Hebl@legis.wisconsin.gov>;  
"Rep.Hesselbein@legis.wisconsin.gov" <Rep.Hesselbein@legis.wisconsin.gov>;  
"Rep.Hintz@legis.wisconsin.gov" <Rep.Hintz@legis.wisconsin.gov>; "Rep.Hong@legis.wisconsin.gov"  
<Rep.Hong@legis.wisconsin.gov>; "Rep.Horlacher@legis.wisconsin.gov"  
<Rep.Horlacher@legis.wisconsin.gov>; "Rep.James@legis.wisconsin.gov"  
<Rep.James@legis.wisconsin.gov>; "Rep.Katsma@legis.wisconsin.gov"  
<Rep.Katsma@legis.wisconsin.gov>; "Rep.Kerkman@legis.wisconsin.gov"  
<Rep.Kerkman@legis.wisconsin.gov>; "Rep.Kitchens@legis.wisconsin.gov"  
<Rep.Kitchens@legis.wisconsin.gov>; "Rep.Knodl@legis.wisconsin.gov"  
<Rep.Knodl@legis.wisconsin.gov>; "Rep.Krug@legis.wisconsin.gov" <Rep.Krug@legis.wisconsin.gov>;  
"Rep.Kuglitsch@legis.wisconsin.gov" <Rep.Kuglitsch@legis.wisconsin.gov>;  
"Rep.Kurtz@legis.wisconsin.gov" <Rep.Kurtz@legis.wisconsin.gov>;  
"Rep.Loudenbeck@legis.wisconsin.gov" <Rep.Loudenbeck@legis.wisconsin.gov>;  
"Rep.Macco@legis.wisconsin.gov" <Rep.Macco@legis.wisconsin.gov>; "Rep.Magnafici"  
<Rep.Magnafici@legis.wisconsin.gov>; "Rep.McGuire@legis.wisconsin.gov"  
<Rep.McGuire@legis.wisconsin.gov>; "Rep.Meyers@legis.wisconsin.gov"  
<Rep.Meyers@legis.wisconsin.gov>; "Rep.Milroy@legis.wisconsin.gov"  
<Rep.Milroy@legis.wisconsin.gov>; "Rep.MooreOmokunde@legis.wisconsin.gov"  
<Rep.MooreOmokunde@legis.wisconsin.gov>; "Rep.Moses@legis.wisconsin.gov"  
<Rep.Moses@legis.wisconsin.gov>; "Rep.Murphy@legis.wisconsin.gov"  
<Rep.Murphy@legis.wisconsin.gov>; "Rep.Mursau@legis.wisconsin.gov"  
<Rep.Mursau@legis.wisconsin.gov>; "Rep.Myers@legis.wisconsin.gov"  
<Rep.Myers@legis.wisconsin.gov>; "Rep.Neubauer@legis.wisconsin.gov"  
<Rep.Neubauer@legis.wisconsin.gov>; "Rep.Neylon@legis.wisconsin.gov"  
<Rep.Neylon@legis.wisconsin.gov>; "Rep.Novak@legis.wisconsin.gov"  
<Rep.Novak@legis.wisconsin.gov>; "Rep.Ohnstad@legis.wisconsin.gov"  
<Rep.Ohnstad@legis.wisconsin.gov>; "Rep.Oldenburg@legis.wisconsin.gov"  
<Rep.Oldenburg@legis.wisconsin.gov>; "Rep.Ortiz-Velez@legis.wisconsin.gov" <Rep.Ortiz-  
Velez@legis.wisconsin.gov>; "Rep.Penterman@legis.wisconsin.gov"  
<Rep.Penterman@legis.wisconsin.gov>; "Rep.Petersen@legis.wisconsin.gov"  
<Rep.Petersen@legis.wisconsin.gov>; "Rep.Petryk@legis.wisconsin.gov"  
<Rep.Petryk@legis.wisconsin.gov>; "Rep.Plumer@legis.wisconsin.gov"

<Rep.Plumer@legis.wisconsin.gov>; "Rep.Pope@legis.wisconsin.gov" <Rep.Pope@legis.wisconsin.gov>;  
"Rep.Pronschinske@legis.wisconsin.gov" <Rep.Pronschinske@legis.wisconsin.gov>;  
"Rep.Ramthun@legis.wisconsin.gov" <Rep.Ramthun@legis.wisconsin.gov>;  
"Rep.Riemer@legis.wisconsin.gov" <Rep.Riemer@legis.wisconsin.gov>;  
"Rep.Rodriguez@legis.wisconsin.gov" <Rep.Rodriguez@legis.wisconsin.gov>;  
"Rep.SRodriguez@legis.wisconsin.gov" <Rep.SRodriguez@legis.wisconsin.gov>;  
"Rep.Rozar@legis.wisconsin.gov" <Rep.Rozar@legis.wisconsin.gov>;  
"Rep.Sanfelippo@legis.wisconsin.gov" <Rep.Sanfelippo@legis.wisconsin.gov>;  
"Rep.Schraa@legis.wisconsin.gov" <Rep.Schraa@legis.wisconsin.gov>;  
"Rep.Shankland@legis.wisconsin.gov" <Rep.Shankland@legis.wisconsin.gov>;  
"Rep.Shelton@legis.wisconsin.gov" <Rep.Shelton@legis.wisconsin.gov>;  
"Rep.Sinicki@legis.wisconsin.gov" <Rep.Sinicki@legis.wisconsin.gov>;  
"Rep.Skowronski@legis.wisconsin.gov" <Rep.Skowronski@legis.wisconsin.gov>;  
"Rep.Snodgrass@legis.wisconsin.gov" <Rep.Snodgrass@legis.wisconsin.gov>;  
"Rep.Snyder@legis.wisconsin.gov" <Rep.Snyder@legis.wisconsin.gov>;  
"Rep.Sortwell@legis.wisconsin.gov" <Rep.Sortwell@legis.wisconsin.gov>;  
"Rep.Spiros@legis.wisconsin.gov" <Rep.Spiros@legis.wisconsin.gov>;  
"Rep.Spreitzer@legis.wisconsin.gov" <Rep.Spreitzer@legis.wisconsin.gov>;  
"Rep.Steffen@legis.wisconsin.gov" <Rep.Steffen@legis.wisconsin.gov>;  
"Rep.Steineke@legis.wisconsin.gov" <Rep.Steineke@legis.wisconsin.gov>;  
"Rep.Stubbs@legis.wisconsin.gov" <Rep.Stubbs@legis.wisconsin.gov>;  
"Rep.Subeck@legis.wisconsin.gov" <Rep.Subeck@legis.wisconsin.gov>;  
"Rep.Summerfield@legis.wisconsin.gov" <Rep.Summerfield@legis.wisconsin.gov>;  
"Rep.Swearingen@legis.wisconsin.gov" <Rep.Swearingen@legis.wisconsin.gov>;  
"Rep.Tauchen@legis.wisconsin.gov" <Rep.Tauchen@legis.wisconsin.gov>;  
"Rep.Thiesfeldt@legis.wisconsin.gov" <Rep.Thiesfeldt@legis.wisconsin.gov>;  
"Rep.Tittl@legis.wisconsin.gov" <Rep.Tittl@legis.wisconsin.gov>; "Rep.Tranel@legis.wisconsin.gov"  
<Rep.Tranel@legis.wisconsin.gov>; "Rep.Tusler@legis.wisconsin.gov"  
<Rep.Tusler@legis.wisconsin.gov>; "Rep.VanderMeer@legis.wisconsin.gov"  
<Rep.VanderMeer@legis.wisconsin.gov>; "Rep.Vining@legis.wisconsin.gov"  
<Rep.Vining@legis.wisconsin.gov>; "Rep.Vorpapel@legis.wisconsin.gov"  
<Rep.Vorpapel@legis.wisconsin.gov>; "Rep.Vos@legis.wisconsin.gov" <Rep.Vos@legis.wisconsin.gov>;  
"Rep.Vruwink@legis.wisconsin.gov" <Rep.Vruwink@legis.wisconsin.gov>;  
"Rep.Wichgers@legis.wisconsin.gov" <Rep.Wichgers@legis.wisconsin.gov>;  
"Rep.Wittke@legis.wisconsin.gov" <Rep.Wittke@legis.wisconsin.gov>;  
"Rep.Zimmerman@legis.wisconsin.gov" <Rep.Zimmerman@legis.wisconsin.gov>

Subject: Concerned Citizen

Attachments: Memo-Re-Decertification-092321.pdf; MFR-Election-Integrity-Statement-v6.pdf

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Dear Wisconsin State Legislature,

Thank you for your response to my email dated November 29, 2021, regarding the importance of supporting House Representative Timothy Ramthun's Resolution to Decertify the 2020 election due to widespread voter fraud.

In your response you communicated that the Wisconsin Legislative Council felt there was no constitutional way to decertify the 2020 election because of fraud. Constitutional Attorney, Matt DePerno, has used his expertise to write up a memo stating that yes, indeed, authorities can constitutionally decertify. I have attached this. Please review his memorandum regarding a state legislature's authority over elections and electors.

Also, Arizona State Senator Wendy Rogers has 186 legislators from 39 states who have signed onto her letter so far calling for a full forensic audit of all 50 states and to decertify where appropriate. I have attached her letter as well for your review.

On top of that, an Orange County Circuit Court judge in Florida decertified and overturned a town council election in Eatonville which took place in March 2020, more than 19 months ago. The judge has ordered that the "winner" be removed from his position due to evidence uncovered that was fraudulent and that the correct elected official be in place. I have included a short news segment from News 6 in Florida with the story. <https://youtu.be/wkH6-GsHjBs>

The overall situation in our country is not trifle. The 2020 election was not stolen from President Trump, but from We the People. It was premeditated and on purpose. And in the meantime, our country is being destroyed. Passing legislation to ensure election integrity is great, but the circumstances and overall picture far outweigh the need for that. It is your responsibility and your plenary power to take back your electors. Do not ignore the will of your constituents, nor the will of the citizens of the United States.

Again, I am asking for you to step up and support Representative Timothy Ramthun's Resolution to Decertify. Please meet with him to discuss this. He is ready and able to have a conversation with each and every one of you. Rep. Timothy Ramthun is a true Patriot and a hero for the people. You can be too!!

Thank you, Valerie Fox, United States Citizen

From: Leanne Villa <leannevilla@yahoo.com>

Sent: Friday, October 29, 2021, 10:55 PM

To: "Rep.Brandtjen@legis.wisconsin.gov" <Rep.Brandtjen@legis.wisconsin.gov>;  
"Rep.Sanfelippo@legis.wisconsin.gov" <Rep.Sanfelippo@legis.wisconsin.gov>;  
"Rep.Tusler@legis.wisconsin.gov" <Rep.Tusler@legis.wisconsin.gov>;  
"Rep.Thiesfeldt@legis.wisconsin.gov" <Rep.Thiesfeldt@legis.wisconsin.gov>;  
"Rep.Murphy@legis.wisconsin.gov" <Rep.Murphy@legis.wisconsin.gov>;  
"Rep.Rozar@legis.wisconsin.gov" <Rep.Rozar@legis.wisconsin.gov>;  
"Rep.Spreitzer@legis.wisconsin.gov" <Rep.Spreitzer@legis.wisconsin.gov>;  
"Rep.Subeck@legis.wisconsin.gov" <Rep.Subeck@legis.wisconsin.gov>;  
"Rep.Emerson@legis.wisconsin.gov" <Rep.Emerson@legis.wisconsin.gov>

Subject: Disband WEC -AND- the legislature should not have certified the election!!

---

Committee on Campaigns and Elections,

I believe the Racine County Sheriff's election investigation was well done, transparent and proved that WEC committed a crime!

The Wisconsin Election Commission knowingly and willfully directed all 72 county clerks to violate state statutes 6.84 and 6.875 regarding absentee voting in certain residential care facilities and retirement homes. This unlawful direction clearly broke state statute 12.13(2)(b)(7) which refers to intentionally violating election laws.

I believe that the WEC directions to all 72 counties led to fraud in all 72 counties. **What are you, the Committee on Campaigns and Elections, going to do about these crimes?**

Disband and/or clean out the WEC!!!

**--ALSO--**

**Enough is enough!** It is MORE THAN abundantly clear that the legislature should not have certified the election.

- I believe the Wisconsinites who came forward with affidavits stating there was Election Fraud in late 2020.
- I believe the [Navarro reports](#).
- The five mayors overstepped their roles and tampered with our elections.

- The AZ audit parallels what we could see here if there was a forensic audit of WI, which should have happened a long time ago.
- Cyber hacks happened our election was interfered with!
- I believe the [Legislative Audit Bureau report](#) that just came out is concerning!
  - o I whole heartedly agree with the [statements made](#) by Rep Ramthun! I added my comments in red and highlighted the key points.
  - o The release of the bi-partisan Legislative Audit Bureau report identified 44,272 voters did not reflect proper voter identification and also revealed the mass increase of indefinitely confined voters from 4,505 in 2019 to 169,901 in 2020. **Tainted or fraudulent**, these alone should be enough to question the legitimacy of the 2020 election results.
- I believe the Racine County Sheriff's investigation was well done, transparent and proved that WEC committed a crime!
  - o The Wisconsin Election Commission knowingly and willfully directed all 72 county clerks to **violate state statutes** 6.84 and 6.875 regarding absentee voting in certain residential care facilities and retirement homes. This unlawful direction **clearly broke state statute** 12.13(2)(b)(7) which refers to intentionally violating election laws.

Therefore, I call upon YOU the Wisconsin Legislature to recognize its duty, obligation, job under Article 2 Section 1 Clause 2 of the United States Constitution, as well as the guidance provided from ss6.84(1), to **decertify Wisconsin's November 2020 election results ASAP** by reclaiming its ten electoral ballots.

Thank you,

Leanne Ketterhagen

Reedsburg, WI

Legislative Audit Committee  
Testimony of Michael Haas  
Madison City Attorney  
November 9, 2021

The LAB's audit of Election Administration is disappointing because of the facts that it ignores or misstates. It is also disturbing because it shades and presents the facts in a way that has encouraged unwarranted and overblown criticism of the Elections Commission staff and local clerks. In many instances it is the omission of facts and context that damages the credibility of the audit.

The audit report acknowledges some big picture realities of Wisconsin elections and ignores some other facts that provide important context to any evaluation of the performance of state and local election officials. For instance, the report notes that Wisconsin elections are conducted at the local level by 1850 municipal clerks with the help of 72 county clerks. And the audit notes that there is significant turnover in the position of municipal clerk every year, requiring hundreds of new clerks to get up to speed to master mountains of information, laws and procedures as elections are happening.

But the audit report and the reaction to it gloss over the enormity of the training challenges in this environment, both for clerks and WEC staff. For starters, municipal clerks, most of whom are part-time employees and are responsible for many tasks in addition to conducting elections, must master the contents of the 250-page Election Administration Manual and the 190-page Election Day Manual. And there are over a dozen other manuals and training resources posted on the WEC website that clerks are expected to understand and implement, including a manual and separate training website for the statewide voter registration system.

Clerks must also keep up with legislative changes and court decisions and WEC actions and other communications from the Elections Commission. The LAB audit focuses only on the requirement that clerks complete the required hours of election training to conduct elections and even there its analysis is flawed. The audit implies that the dates that clerks report training reflect the dates that training was completed when in fact training is often not reported until the end of a training cycle.

The report misses the opportunity to educate the Legislature about the larger point regarding the tremendous amount of work that local clerks do simply to keep up with the knowledge that is required, much less to actually do their jobs. Before judging WEC staff and clerks so harshly I suggest that legislators need to take a look at everything

that clerks must know and do to conduct elections effectively. The individual items you are focused on are just a small sampling of what they are responsible for doing.

Another significant point that is ignored in the LAB audit is the scarcity of time and resources available to the WEC to complete everything that is on its to-do list and its wish list. In every two-year period, 18 out of 24 months are part of an election cycle, which is the period from the time that candidates circulate nomination papers through Election Day and the post-election work. In 2020 the entire calendar year was part of the spring or fall election cycle. That is time that WEC staff has to be laser-focused on preparing for an election and completing scheduled and unscheduled tasks directly related to the election, including assisting candidates, clerks and voters. In addition, while the WEC is directed to meet at least four times per year, in 2020 the Commission met 30 times, including twice a day on two occasions. These meetings require a significant amount of planning and document preparation by the staff.

There is simply not enough time in the day or staff in the agency to focus on longer-term projects such as renewing interagency contracts that are working as intended and drafting administrative rules. The Legislature has created a process of 25 or 30 steps for administrative rules and if the Legislature is serious about the WEC completing more rulemaking, the only way it will get done is if an additional attorney is hired to focus on that work full time. Not to mention that the WEC staff is powerless to work on administrative rules without a majority vote of the Commission, and everyone is aware of how difficult it is for the Commission to reach consensus on any matter of substance or policy.

Wisconsin elections have never been more secure, accurate and transparent. Twenty years ago there was no statewide voter registration system and no data-matching with records of convicted felons or deceased individuals or voters registered in other states. Most communities in Wisconsin were not even required to maintain voter registration lists until 2005. The accuracy and security of the voter registration system and voting equipment continues to improve, as do the processes for voting before and on Election Day and for auditing election results, voting equipment and other election procedures.

With that context, I would like to alert the Committee to just a few examples of assertions of the LAB that are incorrect or woefully lacking context. These items easily could have been corrected or clarified if the WEC had been afforded the opportunity to review the audit report and submit a response, just as every other state agency has been able to do since the beginning of the Legislative Audit Bureau, including the Government Accountability Board and many other state boards and commissions.

1. On a most basic and simplistic level, on pages 10 and 30, the audit report claims that the wording in administrative rules and WEC data-sharing agreements is outdated because it refers to "the former Statewide Voter Registration System"

rather than to WisVote. This ignores the plain fact that WisVote is simply the brand name for the Statewide Voter Registration System. Federal law requires each state to maintain an electronic statewide voter registration database, and each state uses a different name for their system. The fact that we branded the system in Wisconsin as WisVote does not mean that it ceases to be the Statewide Voter Registration System or that it is incorrect to refer to it as such.

2. On page 23, the LAB claims that WEC staff did not comply with laws because it has not obtained from DOT the electronic signatures of electors using the online voter registration system. The audit fails to explain that when the elections agency created the online registration system, it submitted several written reports to the Legislature explaining the design of the system and the reasons why it did not intend to collect and store the signature files from DOT. The two agencies determined it would be both expensive and unnecessary to duplicate storing the signature files when the files would be available to the WEC upon request. It is inexcusable for the LAB report to ignore that the Legislature has had full knowledge of this design for five years and has approved of that approach. Instead the LAB accused the WEC of failing to comply with the law.
3. In bold type on pages 27 and 29 the LAB report declares that municipal clerks did not consistently act on notifications indicating that convicted felons and deceased persons might be registered to vote. But in the fine print and in the footnotes, the report then acknowledges that clerks actually did a phenomenal job updating voter records and terminating registrations of convicted felons and deceased voters. This success was largely due to WEC staff being persistent in emphasizing this task to clerks and assisting them to complete it over several years.
4. While I suspect the WEC will have much more to say about the discussion of voter data supplied by the Electronic Registration Information Center (ERIC), even a cursory reading reveals several false and misleading statements due to the conflation of data sets. The LAB's chart on page 32 also implies that the WEC did not obtain a specific type of report from ERIC related to individuals voting in multiple states for four years when in fact that type of report was not available until September 2019, which is the time that the WEC obtained it. A fair and impartial analysis of the ERIC reports would have included that simple fact.
5. On page 52, the LAB states that the WEC's guidance related to Special Voting Deputies and mailing absentee ballots to voters in nursing homes and adult-care facilities did not comply with the Statutes. As has been reported, these decisions by the Elections Commission were made in open meetings with full transparency and as a response to the COVID pandemic. The Legislature should be thanking the WEC for finding a way to allow those individuals to vote consistent with the Statutes and to do so in a hurry right before the Spring Election.

This action not only protected those voters' rights but also avoided multiple lawsuits against municipalities from voters who would have been unable to vote. The Legislature did not initiate any legislative or legal action to stop this practice and it expressed no interest in changing the practice until it started looking for reasons to question the election. It is a failure of the legislative process that the Legislature did not contemplate how to conduct an election in nursing homes during a pandemic and did not attempt to address it even after COVID happened.

6. The LAB report arbitrarily picks and chooses legislative policies that it recommends the Legislature consider. Out of the blue it recommends the Legislature consider signature-verification for absentee ballots as well as risk-limiting audits, two initiatives that would not be realistic to implement in Wisconsin's decentralized election system and likely would be a poor use of time and resources. The LAB neglects to even hint at the complications that would be involved in those initiatives and does not bother to include any input from WEC about them.

On the other hand, in discussing the severe challenge of counting all absentee ballots after polls close and the WEC's guidance to allow clerks and poll workers to finish counting ballots the day after the election in emergency situations, the LAB lets the Legislature off the hook. It does not recommend that the Legislature develop solutions to allow ballots to be counted in a more efficient and realistic manner.

7. The LAB's analysis regarding the handling of election complaints is at best imprecise and at worst simply false. On page 95 the audit states that WEC staff did not have written policies for considering complaints. The LAB lumps together two separate types of complaints – complaints challenging actions of local election officials and complaints alleging election law crimes by any individual. These complaints are governed by two different statutory frameworks. Complaints against local election officials are governed by both Wis. Stat. § 5.06 and Chapter EL 20 of the Administrative Code. Complaints alleging election law crimes are governed by Wis. Stat. § 5.05 which includes detailed procedural steps. The Statutes and the administrative rules are the written policies that have been approved by the Legislature and no further written policies are necessary. In a world in which the Legislature appears to want the last word, a recommendation that the WEC craft additional unnecessary policies that restate existing law is puzzling, except if the goal is to imply that the agency has failed in some respect.

The lack of rigor and objective analysis in the audit report would be troubling if it existed in a draft report that was submitted to the WEC and then revised based on agency

feedback. It is even more disturbing for the State Auditor to release such a flawed report as the LAB's final product without allowing the WEC the opportunity to provide its input. The obvious question is why did the LAB chose to ignore facts and shade the truth in the light most critical to the WEC and local clerks.

Finally, I would like to amplify one point which the LAB only briefly touches on but which may illustrate the most critical ongoing threat to election administration in Wisconsin and across the country. The LAB audit cited stress on municipal clerks due to the increased rhetoric and misinformation related to elections. Tellingly, the LAB did not include any recommendation to address this development which is driving good and hardworking people from public service. My own recommendation is this: Elected officials need to stop the hostile, untrue and over-the-top accusations about public servants violating the law and trying to punish them for doing their jobs. My own City Clerk has been subjected to serious threats of violence and has had to take steps to ensure her personal safety and that of her family.

That is not an isolated case and it is true for WEC staff as it is for clerks. The WEC has a small, overworked staff that is subjected to harassment and threats from individuals who are egged on by unsupported conspiracy theories and lies. The Elections Commission and the State are fortunate that the WEC staff is made up of dedicated, hard-working, creative and intelligent problem-solvers.

Legislators have no appreciation for how hard WEC staff works – at all hours of the day and on weekends -- to attempt to complete every task assigned by the Legislature in the most professional and competent manner. They do so at the risk of having half of the Commission upset with them no matter what they do. And the thanks they get are abusive phone calls targeting them personally as well as inflammatory and uneducated insults from policymakers.

These officials -- the WEC as well as county and municipal clerks -- are being unfairly harassed and abused and some in the Legislature are enabling that behavior and encouraging it. The LAB missed an opportunity to dive more deeply into these threats and the abuse and the impact they have on WEC staff and clerks.

It is a misguided, incomplete and simplistic narrative to suggest that every human error or every unfinished item on the WEC's to-do list is cause for alarm about the conduct of an election and election results. It is equally naïve to lay full responsibility for items that may have fallen through the cracks at the feet of the WEC staff. There is plenty of responsibility to spread around and that includes the members of the Commission as well as the Legislature which has consistently ignored the added complications and stress placed on election officials, both at the state and local levels.

The LAB audit does not note that the WEC and also the Government Accountability Board submitted to the Legislature dozens of common-sense administrative and technical changes to election laws, some of them for ten years without any legislative action. Many of those suggestions were finally drafted into three bipartisan bills last session but they died again last year after the Senate did not take them up.

While the LAB audit scarcely mentions the impact of the pandemic on elections, the simple fact is that the Statutes fail to anticipate or account for the effects of COVID on election administration, and the Legislature failed to adjust to that reality in order to support Wisconsin's election personnel and processes. The election laws are full of outdated and vague provisions and the failure to update and clarify them is on the Legislature, which did nothing to assist election officials in 2020.

This puts the WEC in the position of having to answer questions of clerks and voters in a way that is consistent with the Constitution and the Statutes, and to do so in a timely manner. It would be another failure of the legislative process to use this flawed audit to continue to slander election officials rather than work with them to implement lessons learned from 2020.



# Wisconsin Elections Commission

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## TESTIMONY OF MEAGAN WOLFE FOR THE NOVEMBER 9, 2021, MEETING OF THE JOINT LEGISLATIVE AUDIT COMMITTEE

### **I. Introduction**

Good afternoon. Thank you to co-chairs Senator Cowles and Representative Kerkman for the invitation to appear today. I am Meagan Wolfe, the non-partisan administrator of the Wisconsin Elections Commission, and I'm pleased to be here today.

Before I dive into the details, I want to take the opportunity to thank the staff of the Legislative Audit Bureau for their thorough and months-long investigation, which showed, once again, that the November 2020 election was accurate, safe, and secure.

I also need to make clear that the testimony I am providing today does not reflect the official response or position of the six-member, bipartisan Wisconsin Elections Commission.

In the interest of cooperation and transparency, I felt it was important for me to provide you with my analysis of the recommendations from the Legislative Audit Bureau. But, as the LAB report indicated, as the non-partisan administrator who does not have a vote on the commission, I cannot provide you with a formal response.

Only the bipartisan Commissioners can offer a formal response to the audit's findings. The chair of the Commission has modified the agenda of the upcoming December 1 quarterly meeting of the Commission to focus on the review of the audit and to consider the Commission's formal response.

Commissioners worked cooperatively to try to find an earlier time to meet to discuss their formal response, but because they are citizen members and face the competing demands of their full-time jobs, they were unable to find an earlier meeting time. The Commissioners consider this review important and recognized that their thoughtful review of the report requires a full day meeting. Other meetings that they scheduled had been pre-scheduled for a very short duration.

The purpose of my testimony today is to provide information to the Committee, as well as answer any questions you may have about the facts in the report, or the agency's related actions. I cannot provide the Commission's formal response, nor can I assume what action the Commission will take on the recommendations.

*Wisconsin Elections Commissioners*

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

I've structured my testimony today in the same way I will provide an overview and my recommendations to the Commission on December 1. I will also be taking note of questions, concerns, and information presented at today's hearing to provide the most comprehensive overview I can to the Commissioners at their December 1 meeting.

Again, I need to emphasize that the Commission may or may not agree with the items I recommend as part of the December 1 meeting. They may also choose to re-prioritize the order in which we address the recommendations.

Many of the audit report's recommendations require Commission action, meaning at least four votes of the six commissioners.

I expect that after the December 1 meeting, we will have a formal response from the Commission. By the date of March 2022 referenced in the LAB report, the Commission will certainly be able to provide an update on actions they have taken relevant to each recommendation.

Overall, my analysis of the report is that it confirms that there was no widespread fraud in the November 2020 election; that the WEC and Wisconsin's 1,922 municipal and county clerks followed required processes and election laws; and that the vote totals were accurate.

It's worth noting again that no major errors were identified that could have changed the outcome of the election.

The report highlights the close and effective collaboration between WEC staff and local election officials. Despite being the most decentralized election administration system in the country, we have provided training, technology, and guidance to our local election partners that they find useful in administering elections consistently across the state.

From my perspective many of the items in question are easy to implement and we are grateful to the LAB for the roadmap. Now, I will turn to the key sections of the LAB report on the 2020 General Election:

## **II. Training**

Regarding training issues, the LAB audit thoroughly reviewed the WEC training program and offered several recommendations. The report identified some areas for improvement but also overlooks essential context or an overview of the full extent of training WEC offered in preparation for the 2020 General Election.

The report provides an overview of in-person training WEC staff conducted at various locations throughout the state prior to the enactment of travel restrictions due to the COVID-19 pandemic. The pandemic limited both staff's ability to travel and the number of in-person training events held by municipal clerks' professional organizations. The report notes that WEC offered virtual

training for the remainder of 2020 but does not quantify those events as it does for the in-person training sessions.

Faced with administering high-turnout elections of intense public interest during a global pandemic, WEC staff worked directly with municipal and county clerks to provide training opportunities in multiple accessible formats. For example, staff presented training at several virtual clerk conferences, conducted 25 live webinars on various election-related topics, issued over 70 informational memos, updated 5 election-related manuals, provided 8 “Clerk Communications” documents that municipal clerks could use to conduct voter outreach, and administered core training required for certification of municipal clerks and chief election inspectors in multiple on-demand formats.

In some instances, training programs were offered at multiple times throughout the day to accommodate clerks who are part-time and have other responsibilities during standard state business hours. Staff also developed a regular conference call schedule for meeting with both county and municipal clerks throughout 2020 so that election officials across the state could be informed of the latest developments in election-related lawsuits that impacted the administration of the 2020 election cycle and have their questions answered.

The LAB report identified several issues with training-related administrative rules and made some suggestions for updating existing rules. Some of these recommendations, such as updating an existing rule to reflect the statutory change made to the training terms for municipal clerks and Chief Election Inspectors, are not controversial or complicated. Others will require staff to work with Commissioners to develop a plan for promulgating other required or suggested rules.

It is true that the WEC did not contact the head elected official for each municipality whose clerk did not meet training requirements prior to the start of the 2020 election cycle. Staff instead posted information regarding each clerk’s training status to the agency website and conducted outreach to non-compliant clerks to inform them of the training requirements and provide suggested training opportunities for them. This oversight will be corrected moving forward. Staff has developed a plan for meeting this requirement and will be contacting municipal officials about missing training hours after the current training deadline ends at the end of this year.

We were pleased to see that LAB’s review of training for election inspectors and Special Voting Deputies pointed out that those materials “contained relevant information.” WEC staff will work with the Commission to determine how they would like to proceed with promulgating any required administrative rules that prescribe the content of this training. I point out LAB’s comments on this training not to downplay the significance of the administrative rule-making process but to highlight that even without the required rule in place, accurate and relevant training was provided for training election inspectors and SVDs.

I would also highlight that clerk satisfaction with WEC-provided training was generally high, and only 1.9% of surveyed clerks felt “somewhat unprepared” to conduct the election. While that number is very low, staff will review the concerns cited by those clerks and update the training

program to account for those concerns. Training of municipal clerks in a decentralized election administration system, such as Wisconsin's, will always be a challenge but we welcome the opportunity to work with the Legislature to identify any additional areas for improvement.

### **III. Maintenance of Voter Registration Records**

The LAB report provides five recommendations regarding the maintenance of voter registration records. Four of the five recommendations suggest closer relationships with our existing partners: Department of Transportation (DOT), Department of Health Services (DHS), Department of Corrections (DOC), and the Electronic Registration Information Center (ERIC). A fifth recommendation suggests a change to the duplicate record identification process. In broad terms, the Voter Registration Records recommendations are very reasonable and largely consist of processes already underway at the agency.

This section of the report begins on page 20 with a discussion of some of the many sources of data within the statewide system. The section begins by stating, "statutes require the WEC to maintain WisVote." The statutes require the agency to maintain a voter registration system, not WisVote. It's worth noting that WisVote is a multifunction system with capabilities far exceeding the statutory minimum requirement.

WisVote is a comprehensive elections management system that provides clerks with tools to plan elections, designate and staff polling places, create wards and districts, manage addresses, and even track the staff training. These are all functions that the WEC developed over time to assist clerks and help standardize administrative processes. Development of WisVote has never stopped and the WEC will continue to implement improvements when needs are identified – whether by the Commission, clerks, auditors, elected officials, or the general public.

There are some errors in the Voter Registration Records section that could cause misunderstandings. This analysis will only highlight the elements that most directly impact the substance of the LAB recommendations.

#### **A. Data Exchange Agreements**

Three of the LAB recommendations are to renew data exchange agreements with partner state agencies (DOT, DHS, DOC). The WEC agrees that data exchange agreements are worthwhile and initiated discussions with all three partner agencies prior to the LAB report. In the interim, all agencies have agreed that the current data sharing mechanisms are satisfactory, but all sides are open to improving the process.

Wis. Stat. § 85.61 requires only that the WEC maintain a written data exchange agreement with the Department of Transportation. This agreement was current and in effect at the time of the November 2020 General Election. Statutes do not require the WEC to maintain written agreements with the Department of Corrections or the Department of Health Services. However, all three agencies are close partners and WEC staff coordinate with them frequently.

## B. Signature Matching

The agency's relationship with DOT is directly relevant to one LAB recommendation that overlooked some critical facts. On page 24 of the report the LAB recommended that the WEC:

- *comply with statutes by working with the Department of Transportation to obtain the electronic signatures of individuals who register online to vote, or request that the Legislature modify the statutory requirement that the Wisconsin Elections Commission obtain them.*

This section is likely referencing Wis. Stat. § 6.30(5) regarding the electronic application process for registration.

The LAB report goes on to state, "WEC's staff indicated that no signatures were obtained from DOT, in part, because a significant amount of electronic space would be needed to store them." (LAB report page 23.) The words "in part," reference the omission of some critical facts.

The online voter registration (OVR) system was developed and implemented in accordance with 2015 Wisconsin Act 261 (Act 261), which amended subsections of Chapter 6 of the Wisconsin Statutes. Pursuant to Act 261, WEC staff provided five quarterly reports to the Wisconsin Legislature regarding the development of the OVR system. The last report, indicating system implementation, was submitted to the Wisconsin Legislature on January 12, 2017. The final requirement under Act 261 was the Commission's determination that the OVR system was complete. The Wisconsin Elections Commission unanimously certified the system on March 14, 2017.

The Act 261 quarterly progress reports for the Wisconsin Legislature, and the Commission's ultimate certification on March 14<sup>th</sup>, repeatedly and very clearly established that the Department of Transportation shall be the custodian of voter signatures. The final implementation report stated:

*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. (WEC Commission Meeting Materials, March 14, 2017)*

Put simply, the Wisconsin Legislature, the Elections Commission, and the Department of Transportation each recognized that there was no rational reason for the State of Wisconsin to spend hundreds of thousands of dollars (ultimately millions over time) to maintain duplicate sets of data that were already: (1) in the State's possession; (2) professionally secured; (3) backed up and (4) readily available to the WEC if needed.

In a subsequent section of the LAB report, on page 41, the LAB appears to imply that election officials should use DOT data to perform signature matching, although there is no basis in law for this assertion.

### **C. Duplicate Records**

Wisconsin clerks are asked to review potential duplicate records that the agency flags for review. Duplicate records are a common and normal circumstance. Each time a person moves within the state and re-registers they may create a duplicate registration record (one at their old address and one at their new). Even moving to a new apartment in the same town will create a new record. In 2020 alone the statewide system efficiently processed over 250,000 duplicate matches.

The LAB identified 70 pairs of driver's license numbers in the statewide system. With few exceptions, these were pairs of entirely unrelated voters where one person had the correct license number and the other had a license number that was one or two characters off. Further analysis by WEC staff showed that 68 of the pairs could be easily confirmed as typographical human errors. The remaining two pairs were further evaluated for any indication of illegal behavior. WEC staff found evidence of possible double voting associated with one of the remaining pairs. Upon contacting the municipality involved, staff learned that this case had been identified and referred for criminal prosecution several months earlier.

All duplicate license numbers have been corrected, and WEC staff are implementing the LAB's suggestion to conduct a periodic review of the system for duplicate driver's license and state identification card numbers.

### **D. Deaths and Felons**

The LAB report included no recommendations regarding the processing of death and felon notices. However, the body of the report included several misleading presentations. Most notable are Tables 3 and 4 on pages 27 and 29, respectively.

Each of these tables includes a bolded line indicating, "Clerks Made No Determinations," and suggests that Wisconsin's clerks were somehow negligent. Nothing could be further from the truth. The LAB hints at the truth with a footnote, revealing that nearly all of the records were *already deactivated*. The overwhelming majority of clerks made no determination because no determination was required – the voter was no longer registered to vote.

On page 26 of the report the LAB stated:

*If a clerk does not act on a potential [death] match for a given individual, WEC's staff are uncertain if a clerk determined whether an individual is still alive and, therefore, whether the voter registration record is accurate. (LAB Report page 26)*

This is incorrect. WEC staff possess a great deal of information about each record – most importantly the record’s active or inactive status. Indeed, the LAB almost immediately acknowledges this in a subsequent sentence:

*Although the data indicated that clerks had not acted on the potential matches, other data provided by WEC’s staff indicated that, in fact, clerks had inactivated the records of 12,406 of the 12,565 individuals (98.7 percent) as of the November 2020 General Election and had inactivated the records of all but 8 of the 12,565 individuals as of June 2021. (LAB Report page 26)*

The data, therefore, very clearly indicates that Wisconsin’s local election officials are incredibly diligent in their duties and expertly managed the enormous volume of data they were forced to contend with ahead of the 2020 General Election.

## **E. ERIC**

The LAB report discusses reports obtained from the Electronic Registration information Center (ERIC) beginning on page 31. This subsection concludes on page 34 with a recommendation that the WEC:

- *work with the Wisconsin Elections Commission to establish a schedule for regularly obtaining each type of data available from the Electronic Registration Information Center and a plan for acting on these data . . . (LAB Report page 34).*

The WEC concurs fully.

Unfortunately, the LABs discussion of ERIC contains numerous inaccuracies. In particular, the ERIC data chart on page 32 (Table 5) implies that Wisconsin missed many opportunities to obtain data. This is absolutely wrong. In fact, the WEC obtains all ERIC data sets when they are made available to Wisconsin, with the full approval of the Elections Commission, and in full compliance with statutory requirements. Each ERIC report has specific periods of availability and several of the reports did not even exist when Wisconsin first joined ERIC. For example, the duplicate records report is a relatively recent creation only made available after a General Election. Likewise, the data analyzing multiple voters was not available to Wisconsin prior to 2018. WEC staff communicate with ERIC almost weekly, actively participate on the ERIC Board of Directors, and fully conform to the ERIC user agreement. The LAB report summary misleadingly implies the agency is noncompliant.

Per the ERIC agreement, members must:

1. Upload data to ERIC at a minimum of every 60 days (WEC does this every 30 days)
2. Request List Maintenance Reports, at least 1 report every 425 days, ERIC recommends at least once a year. (WEC does this quarterly)
3. Act on and certify List Maintenance Reports, initiate contact within 90 days after data sent

4. Request and act on Eligible but Unregistered Reports, initiate contact by Oct. 1 or 15 days before close of registration of the next Federal General Election

Finally, the comparison to other states starting on page 34 is out of place. The LAB could have accurately substituted “Wisconsin” for each of the statements they included.

- ~~Illinois~~ *Wisconsin* indicated that it regularly obtained all types of the available data, as required by its statutes, including some types as frequently as six times per year and other types as infrequently as once every two years (note: Wisconsin exchanges data with ERIC almost monthly);
- ~~Iowa~~ *Wisconsin* indicated that it annually obtained some types of the available data and planned to obtain all types of the available data each month beginning in 2022;
- ~~Michigan~~ *Wisconsin* indicated that it obtained some types of the available data every 18 months to 24 months; and
- ~~Minnesota~~ *Wisconsin* indicated that it obtained all types of the available data each month.

#### **IV. Absentee Ballots**

The increase in absentee voting caused by the COVID-19 pandemic was one of the biggest challenges Wisconsin election officials faced in 2020. The LAB audit provides statistics that demonstrate the incredible increase in absentee voting, but the report does not acknowledge that the cause of the increase in absentee voting was due to public health concerns caused by the COVID-19 pandemic. These concerns caused historic numbers of eligible voters to cast absentee ballots and request secure ways to return their completed ballots. During this unprecedented time, the Commission issued guidance to provide clarity to voters and help election officials conduct a safe, secure, and accurate election during a pandemic. Much of this guidance is reviewed in the report, and the WEC is committed to identifying actionable issues that should be improved.

The LAB report identifies two concerns over the absentee ballot certificate envelope used to return absentee ballots in Wisconsin. The same certificate is used for absentee voters who cast their ballot by mail and for those who vote in-person in their clerk’s office prior to election day. State statute outlines the requirements for the certificate envelope and the WEC prescribes a template form that can be used by municipal clerks when administering absentee voting.

The first concern identified in the audit report addresses the format and requirements of the certificate envelope. Specifically, the LAB recommends that the Commission ensure that the absentee ballot certificate template made available to municipalities requires witnesses to print their names on the certificate. State law provides that the certificate envelope should have a field

for the printed name of the witness. Statute also lists the reasons to reject an absentee ballot. A missing printed name of a witness is not one of them. In 2017, the Commission approved the version of the certificate envelope used for the 2020 General Election and that revision did not include the printed name field for the witness. Staff expect the Commission to review the certificate envelope requirements again and determine if any changes are needed.

The report also discusses guidance issued by the Commission in 2016 in reference to absentee ballots returned to municipal clerks with missing or incomplete witness address information. The requirement for witnesses to provide their addresses was new in 2016 and statute does not define what constitutes a complete address for this purpose. The Commission received concerns from municipal clerks regarding the implementation of this new requirement and, in response, issued guidance directing clerks to add missing witness address information to a certificate envelope if they can obtain that information from the voter or find it through other sources such as the voter rolls or municipal tax records. The guidance remains in place today. Staff will work with the Commission to determine if any changes to this guidance or the promulgation of administrative rules are appropriate for these situations.

The use of secure drop boxes for absentee ballot collection is another area where LAB recommends WEC staff work with the Commission on a potential administrative rule. While drop boxes in various forms have been used in Wisconsin elections for years, they gained popularity last year due to the increase in by mail absentee voting. Clerks and voters were looking for secure ways for absentee ballot return that were convenient and trustworthy. In response to this, the Commission directed staff to provide best practices regarding the establishment, monitoring, emptying and security of drop boxes, which also incorporated recommendations from a resource developed by the U.S. Cybersecurity and Infrastructure Security Agency (“CISA”) and other experts on elections infrastructure. In practice, many clerks repurposed existing drop boxes used for tax collection or municipal billing purposes to collect absentee ballots prior to the general election, while others established drop boxes specific for this purpose. This issue is currently being litigated and staff will work with the Commission to implement any decision issued by the courts when the case is resolved. WEC is also willing to work with the legislature on further legislation that would regulate the use of drop boxes in Wisconsin elections.

The WEC first discussed Special Voting Deputies in relation to the COVID-19 pandemic prior to the April 7, 2020, Presidential Preference Vote and Spring Election. WEC staff received reports from municipal clerks in early March that facilities normally served by SVDs were closed to visitors due to the COVID-19 pandemic and that SVDs would not be granted access. Care facilities stated an obligation to protect their residents from exposure to the virus following reports that COVID-19 had disproportionately impacted nursing home and care facility residents. These issues continued throughout the 2020 election cycle where municipal clerks, public health officials and advocates for the aging and disability communities all provided information to the Commission that SVDs would not be allowed into care facilities to administer voting. Rather than waste precious time that voters in these facilities need to receive, vote and return their absentee ballots, the Commission directed clerks to proceed with the statutory process allowing

absentee ballots to be sent to residents normally served by SVDs if those deputies are not available or unable to access the facility during SVD voting periods. Statute does not provide the Commission, municipal clerks or SVDs the ability to require a facility to grant them access to conduct voting with residents. This reality prompted clerks to request uniform guidance from the Commission in these situations.

LAB recommends that the Commission promulgate an administrative rule that addresses these situations. WEC already undertook the process of drafting an emergency rule regarding this issue in the spring of 2021, but the Commission opted not to further pursue the rulemaking process after the election was completed. The future of that proposed rule's guidelines and procedures may be revisited for future pandemic-impacted elections, or on a longer-term basis for other emergencies. The Commission will have to determine the necessity for such action at its meeting Dec. 1. They have, however, already added an item to their legislative agenda that would define SVDs as essential visitors in situations where public access to these facilities is restricted.

## **V. Ballot Processing**

Agency staff have also reviewed the recommendations on page 62 of the report regarding polling place relocation, the retraction of previous guidance on the topic, and the promulgation of a related administrative rule for future elections. It is important to note that the Commission met March 12, 2020 and approved the polling place guidance based upon the then-emerging pandemic and the issuance of Executive Order #72 by Gov. Evers that same day. The executive order proclaimed a public health emergency, and those orders had not yet been evaluated by a court, or other relevant parties, as the pandemic progressed.

The Commission directed staff to provide additional instruction to clerks regarding necessary process adjustments after the March 12<sup>th</sup> meeting. The following motion was passed by a 6-0 vote in that public session:

In light of Executive Order #72 and directives of the Department of Health Services, the Commission finds that it is impossible or inconvenient for municipalities to conduct Election Day voting at nursing homes, other care facilities, and other facilities as designated by the Department of Health Services or local health officials. The Commission finds that the municipal clerk or municipal elections commission executive director may relocate such polling places without obtaining the prior approval of the local governing body or municipal elections commission.

WEC staff believe the guidance at issue pertained only to the April 2020 election. That said, the concept of guidance retraction will be brought before the Commission at the December 1<sup>st</sup> meeting. Agency staff will also present possible Commission action items relating to the distribution of clarifying memoranda, and also discuss the potential need for a long-term administrative rule or addition to the Commission's legislative agenda to account for future

pandemics, natural disasters, and similar catastrophic events that impact polling place locations or necessitate last-minute changes.

The 12-page memorandum issued to all Wisconsin Election Officials on October 22, 2020, informed clerks and board of canvass members that Wis. Stat. section. 7.51(1) requires canvasses to be continuous – meaning no adjournment until the canvass of all ballots cast and received on or before election day is completed. The single sentence the LAB objected to in the memo was included because local election officials were asking the WEC what to do if election inspectors who had not yet completed the canvas became unable (due to health and emergency conditions) to continue late into the night. This single sentence tried to account for this real, on-the-ground contingency. The rest of the memorandum clearly stated that election officials could not adjourn and had to keep going until the canvass was done.

The issue and any next steps will be discussed with the Commission at its December 1 meeting.

## **VI. Electronic Voting Equipment**

We were pleased to see that LAB's review of the voting equipment certification process did not generate any recommendations for changes to that program. State law and administrative code requires the WEC to act as the certification entity for electronic voting systems. All systems, or equipment, used to tabulate votes must be certified prior to their use in Wisconsin elections. Voting systems used in Wisconsin are certified on the federal level in addition to the state-level certification conducted by WEC.

Voting equipment was required to be used by all municipalities for the 2020 general election and LAB's review did not uncover any anomalies that would call into question how votes were tabulated for that election. Once a voting system is certified for use in Wisconsin, administrative procedures allow for updates to a system that do not require a full certification test campaign and LAB's review did not identify any issues with the process WEC used to approve changes to these systems prior to election day.

The report contains several recommendations for additional, updated or more in-depth training on several areas of voting equipment functionality that are not required by law. While suggestions, such as the one regarding training on the public test on page 73 of the report, are welcome, I would like to point out that multiple options for training on this topic already exist for use by Wisconsin election officials.

These options include references in the election calendar WEC produces, manuals and videos, and Webinars. Public test requirements are often reviewed during a webinar WEC holds prior to each statewide election. Staff, however, acknowledge there is always room for improvement and are currently exploring ways to provide improved training on these topics. Any updated training materials will include an emphasis on the timeline for conducting a public test and a reminder that each test deck used to conduct the test has requirements to include overvoted ballots. A more

comprehensive voting equipment security training is being planned that will also emphasize the review of tamper-evident seals both prior to the opening of polls and at the close of polls.

## **VII. Administrative Rules (Generally)**

Staff will also work with the Commission to determine the scope and contents for the required administrative rule regarding voting equipment security. Commission staff acknowledge that a significant portion of the audit report's recommendations focus on the need to promulgate administrative rules, including several specific areas ripe for administrative rule promulgation. Many of these recommendations, on their face, appear to be quite reasonable. Each recommendation will be brought before the Commission at its December 1<sup>st</sup> meeting.

I will provide some historical context and background information on administrative rulemaking at the WEC. The statutory authority vested in the bipartisan Commission is unique and broad when compared to other state agencies. For instance, certain rulemaking and guidance-based authority is specifically granted in statute:

- Wisconsin Statutes § 5.05(1) provides that, "The elections commission shall have the responsibility for the administration of chapters. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." This authority encompasses several components, ranging from interpretation of elections laws and complaint decision-making functions to the promulgation of administrative rules on the subject.
- Wisconsin Statutes § 7.08(3) adds that 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, together with notes and references to the statutes as the commission considers advisable."

However, Wis. Stat. § 5.05(1e) also dictates that, "Any action by the commission, except an action relating to procedure of the commission, requires the affirmative vote of at least two-thirds of the members." This means that staff cannot unilaterally consider the recommendations found in the audit report, determine whether guidance or administrative rules were/are appropriate, or recommend the submission of a scope statement to begin the rulemaking process. The LAB acknowledged as much in the audit report when it stated that, "...WEC's administrator has limited authority to act without WEC's involvement."

Members of the Commission, and of the Commission's predecessor boards, have often considered the extent to which statute and case law grants them authority to consider and issue guidance on elections statute interpretation. The audit report makes it clear that the Commission will also need to discuss its future approach to guidance and administrative rulemaking in December. I also need to note that several ongoing or potential court cases and complaints are pending on topics that have administrative rule and statutory interpretation implications (for example, the use of drop boxes, ballot return processes, use of special voting deputies, etc.).

Judicial decisions, appeals, and other legislative activity may individually or collectively impact or delay Commission decisions on audit report recommendations and the authority of the Commission itself. WEC staff and Commissioners will continue to assess these matters and ensure outcomes progress as quickly and appropriately as possible.

### **VIII. Administrative Rules On Equipment And Software Security**

WEC staff have begun to examine the recommendations on page 78 of the audit report which detail the need for administrative rule promulgation pertaining to electronic voting equipment and software security. Wisconsin Administrative Code Chapter EL 7 already deals extensively with electronic voting system approval and testing requirements, both in Wisconsin and nationally. Applications for approval of electronic voting systems require, among other things, an itemization of all specifications for hardware/firmware/software, technical manual reviews, independent testing requirements that ensure conformance with all standards required by the federal elections commission, and a listing of other jurisdictions using the systems.

Chapter EL 7 also formalizes the processes for internal WEC staff testing of the voting systems while noting the circumstances under which system approval may be revoked, reconsidered, or otherwise examined. WEC staff will present the audit report's findings relating to election equipment and security to the Commission at the December meeting. The Commission will examine what, if any, additional administrative rules may be necessary, specifically on the topic of software security and voting systems.

This LAB recommendation is particularly relevant, as the topic was previously explored by the Commission several years ago. A motion was passed formally authorizing staff to act and move forward with rule promulgation. A scope statement was submitted that contemplated the addition of a ballot and electronic voting equipment security provision to existing administrative code. This action was part of a larger effort to consolidate the old Chapter GAB 5 into the new administrative code provisions, while also minimizing overlap and bringing sections 5 and 7 together into one. The scope statement for this proposed rule/chapter expired without formal promulgation on March 5, 2020, but the Commissioners may opt to resume promulgation of relevant portions of that prior attempt, while also considering any new components.

### **IX. Post-Election Audit**

The section on the post-election voting equipment audit acknowledges that statute does not provide for how the post-election voting equipment audit is conducted. Instead, it requires a performance audit of the equipment used to tabulate votes in each General Election and leaves the specifics of the audit to WEC to determine.

WEC has made significant changes to the both the sample size and timeline for completion of the audit over the past few general elections to improve the effectiveness of this requirement. The Commission has increased the sample to size to 5% of all reporting units statewide and required that at least one piece of equipment is audited from each county. Prior to the 2018 General

Election the Commission adopted staff recommendation that the audit should be completed prior to the certification of election results and this timeline was also used for the 2020 General Election.

The report discusses an issue identified during the audit where creases on absentee ballots in some instances caused issues with the equipment. Staff were proactive in identifying this issue and requested ballots and election materials from one audited jurisdiction who experienced this problem to verify the reconciliation problem. WEC then expanded this research and requested materials from all jurisdictions who used this equipment and had it programmed the same way for the 2020 General Election. The result of this investigation was an amended certification issued by the Commission of this specific system that will not allow this problem to occur in the future.

The report also indicates that better training can be provided by voting equipment vendors regarding voting equipment ballot jams and determining whether a ballot has been counted when the jam notification screen appears. Staff will work with the Commission to determine how best to address this issue, including additional certification requirements that focus on training.

The final recommendation in this section concerns the calculation of an error rate for each type of equipment used in Wisconsin for a General Election. LAB indicated staff did not provide this information to the Commission as required by statute. The final audit report did contain a discussion of errors identified during the audit and explained the probable cause of each error.

The report also includes a discussion of how the error rate, as defined by statute, is based on 2002 federal standard for initial system certifications and how this standard does not account for anomalies caused by voter marked ballots used during a live election. Staff did not provide a precise error rate for each piece of equipment because statute does not properly define what constitutes an error and does not account for issues when human error complicates the review. Staff will work with the Commission to define an error in future audits and determine whether a precise error rate can be calculated.

## **X. Complaints and Concerns Filed with WEC**

Wisconsin statutes, administrative code provisions, and authority delegated to the Administrator in consultation with the Chair and the full Commission, set forth the procedures for handling Wis. Stat. Section 5.05 and Wis. Stat. Section 5.06 complaints. While the LAB makes recommendations related to concerns that are not filed as complaints, there is no statutory requirement that the Commission provide a section on its website to accept election related concerns, but the WEC uses the “Report a General Concern” section to identify broad trends within the concerns and to triage specific issues that may emerge.

Election concerns are not sworn complaints, and in many instances the information received through the “Report a General Concern” area of the website is opinions from voters or statements about what people may have seen in the news that do not require any action or

response by WEC staff. Items that do require a response from WEC staff are sent out to the appropriate staff members and their supervisor. The WEC is informed of the number of concerns that are received, topic trends, and other issues that the full Commission needs to be aware of to potentially discuss in a meeting. Additionally, requests to send a message to the full Commission on a particular topic are provided on a semi-regular basis.

The acquisition of software to help manage contacts with the public and to help ensure consistent responses to common questions may help with tracking some of the concerns received through the website, but any additional tracking or reporting of these website concerns would need to be decided by the Commission. Commission staff will certainly discuss tracking capabilities within the software with the Commission and decide what additional reporting to the Commission may be needed, if any, to keep them informed.

Updates to administrative rules governing complaints will also be discussed with the Commission at its December 1st meeting. The current administrative rule in place for complaints was superseded by statute for Wis. Stat. Section 5.05 complaints, as the statute provides a detailed set of procedures, including how the complaint must be filed, how soon a respondent must respond, the burdens of proof, the types of decisions the Commission can make in response to a complaint, etc. While the agency staff will discuss this issue with the Commission, it is not clear what additional information should be included in this recommended rule that is not present within the statute itself.

WEC staff complied with required statutes and responded to an unprecedented number of public contacts and sworn complaints during four statewide elections in 2020 conducted during a worldwide public health crisis.

## **XI. Conclusion**

In closing, I will be taking notes from today's hearing and will incorporate feedback and discussion into the staff report and recommendations that go before the Commission on December 1.

I also feel obligated to point out that many of the questions and issues we are dealing with here today could have been avoided had the LAB followed its normal practice of sharing a draft version of the report with the agency being audited before releasing a final version of the report. Had we been given a chance to correct the numerous misunderstandings as part of reviewing a draft report, we could have avoided the spate of incorrect information that has been repeated publicly by legislators, the media, and others.

Related to that point, I want to reiterate our request for clarity regarding opportunities to provide the LAB with the Commission's official response to the audit report. We need to know if the Commission's official response will be included and posted with the report.

We would also ask for clarity on whether we can submit proposed corrections to the LAB report and whether the LAB will make those corrections or include them as an addendum.

Answers to these questions will allow me to ensure that the Commission submits its response and request for corrections in the proper format.

Again, I want to thank Senator Cowles and Representative Kerkman for the opportunity to provide testimony today. I also want to extend my appreciation to Legislative Audit Bureau staff for their hard work compiling the audit report.

The LAB report highlighted several opportunities for us to improve election processes and procedures to continue Wisconsin's legacy of accurate and secure elections for years to come.

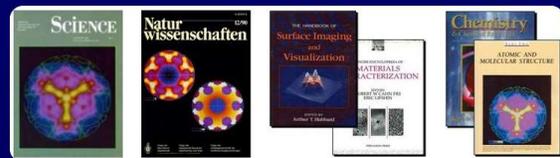
# Voter Registration in Wisconsin

Dr Douglas G Frank  
12/8/2021

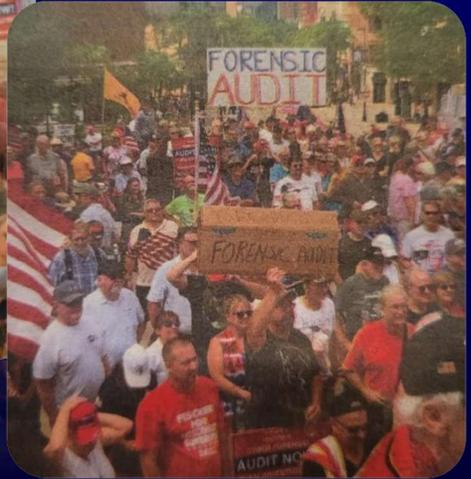
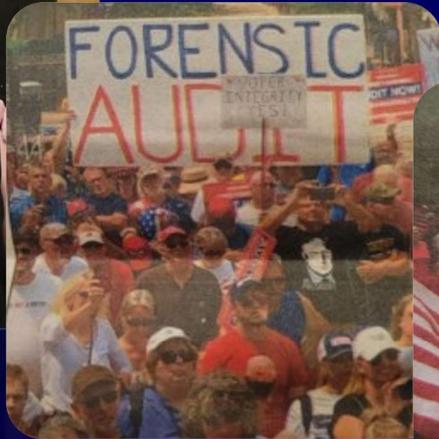
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- *PhD Scientist – Forty Years*
- *Business – Precision Analytical Instruments*
- *Teacher – The Schilling School for Gifted Children*



Dr Douglas G Frank



August, 2020



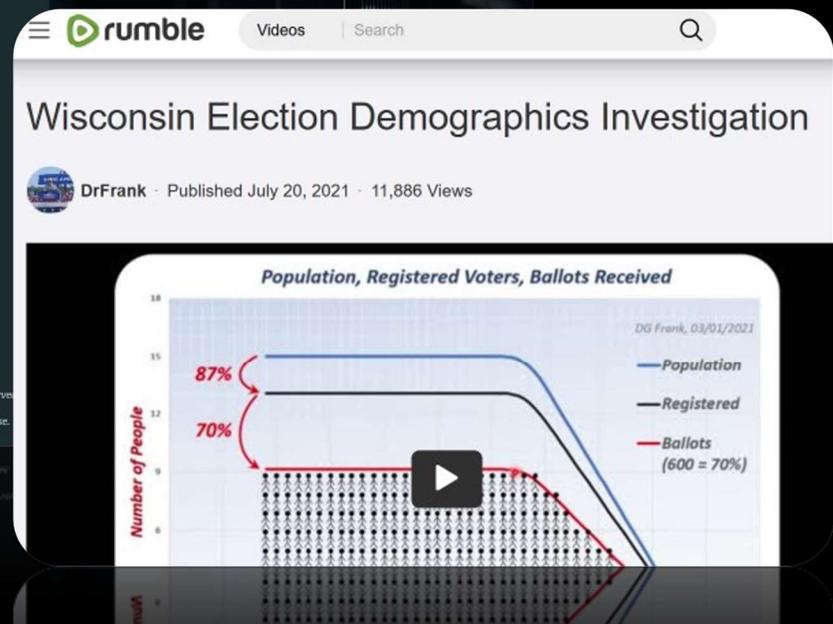
# Wisconsin

## Investigative Analysis of Wisconsin Voter Demographics

Evidence confirming the influence of controlling algorithms during the November, 2020 general election.

Dr Douglas G Frank  
7/17/2021

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Proprietary and confidential analysis.  
Requires prior written permission for use.



## How the Election Was Stolen...

In a Nutshell...

### • Before the Election...

- **Decide** What the Outcome Will Be for Each State
  - Regulated at the County Level (3,142 Counties)
- Inflate the Registration Databases
  - “Credit Line” of Phantom Voters
- Program the Machines

### • During the Election...

- Databases and Machines are Hacked & Tracked
  - Manipulate Votes and Voters
  - Regulate County Outcomes

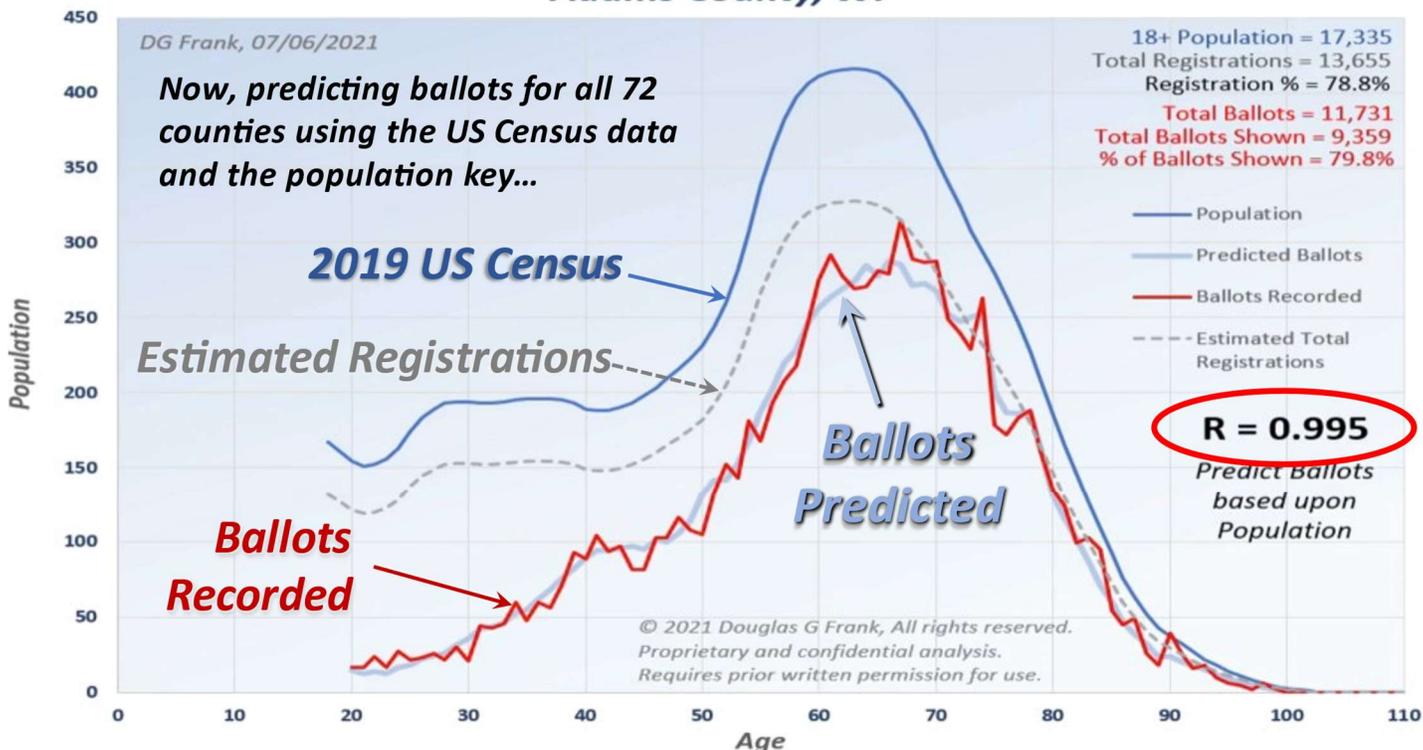
### • After the Election...

- Pair Last Minute Voter ID’s with Phantom Voters
- Clean Up the Evidence
  - Remove Phantom Voters



- Computer Algorithms Deployed **Throughout!**

# Adams County, WI



County	18+ Pop	Registrations Number % of 18+	Ballots Total Shown % Shown	Ballots Total Shown % Shown	Turnout	R	County	18+ Pop	Registrations Number % of 18+	Ballots Total Shown % Shown	Ballots Total Shown % Shown	Turnout	R
Adams	17,335	13,655 78.8%	11,731 9,359 79.8%	85.9%	0.995		Marathon	105,170	87,793 83.5%	76,120 58,471 76.8%	86.7%	0.997	
Ashland	12,068	10,355 85.8%	8,616 6,109 70.9%	83.2%	0.986		Marquette	12,554	10,289 81.8%	9,524 7,220 80.0%	87.9%	0.988	
Barron	35,594	29,329 82.4%	25,054 19,190 76.6%	85.4%	0.992		Menominee	1,001	2,055 68.5%	1,572 961 61.1%	76.5%	0.902	
Bayfield	12,413	12,261 98.8%	10,659 8,039 75.4%	86.9%	0.992		Milwaukee	718,486	571,976 79.6%	451,741 303,808 67.3%	79.0%	0.998	
Brown	202,267	166,243 82.2%	142,879 107,859 75.5%	85.9%	0.988		Monroe	34,654	25,759 74.3%	22,388 16,917 75.6%	86.9%	0.996	
Buffalo	10,338	8,843 85.5%	7,734 5,999 77.6%	87.5%	0.987		Oconto	30,321	26,183 86.4%	23,079 18,648 80.8%	88.1%	0.992	
Burnett	12,715	11,491 90.4%	9,506 7,428 77.8%	86.4%	0.992		Oconto	30,321	26,183 86.4%	23,079 18,648 80.8%	88.1%	0.992	
Calumet	38,514	34,253 88.9%	30,860 24,396 79.6%	89.5%	0.992		Oneida	29,534	26,874 91.0%	23,777 18,690 78.6%	88.5%	0.997	
Chippewa	50,627	43,937 86.9%	35,720 27,816 77.9%	87.3%	0.997		Outagamie	144,259	122,955 85.2%	107,482 80,259 74.7%	87.4%	0.997	
Clark	24,617	16,669 67.7%	14,750 11,777 79.8%	88.5%	0.989		Ozaukee	70,158	67,922 96.8%	61,149 48,161 78.8%	90.0%	0.992	
Columbia	45,508	38,430 84.4%	33,596 26,368 78.5%	87.5%	0.996		Pepin	5,720	4,676 81.7%	4,092 3,154 77.1%	87.5%	0.976	
Crawford	12,897	9,954 77.5%	8,583 6,859 79.8%	86.0%	0.988		Pierce	13,387	26,774 80.2%	22,980 16,849 73.3%	85.8%	0.994	
Dane	435,323	398,680 91.6%	340,308 225,528 67.4%	85.4%	0.997		Potter	34,867	29,878 85.7%	26,035 15,539 75.0%	87.1%	0.995	
Dodge	70,814	54,724 77.3%	48,184 38,431 79.8%	88.0%	0.996		Portage	56,712	46,455 81.9%	40,432 30,873 76.4%	87.0%	0.994	
Douglas	23,170	22,475 97.0%	19,864 15,782 79.5%	88.4%	0.992		Price	10,940	9,535 87.2%	8,442 6,924 82.0%	88.5%	0.992	
Dunn	34,599	28,889 83.5%	24,211 17,931 74.1%	83.8%	0.990		Racine	151,739	123,683 81.5%	105,524 80,005 75.8%	85.3%	0.996	
Eau Claire	35,863	27,275 76.1%	23,575 16,787 71.8%	85.7%	0.993		Richmond	13,490	10,412 77.2%	8,957 7,077 79.0%	86.0%	0.982	
Florence	82,983	68,259 82.3%	57,479 41,778 72.7%	84.2%	0.993		Rock	125,998	100,587 79.8%	84,483 64,391 76.2%	84.0%	0.996	
Fond du Lac	3,641	3,300 90.6%	2,852 2,207 77.4%	86.4%	0.972		Rusk	11,282	8,503 75.4%	7,745 6,082 78.5%	91.1%	0.987	
Forest	11,395	6,425 56.5%	5,623 4,498 79.3%	88.3%	0.988		St. Croix	68,638	64,402 93.8%	55,816 40,591 72.7%	86.7%	0.996	
Grant	7,170	6,024 84.0%	4,991 4,038 80.9%	82.9%	0.984		Sauk	49,962	41,317 82.7%	36,029 27,638 76.7%	87.2%	0.995	
Green	39,918	29,352 73.5%	25,343 18,998 75.0%	86.3%	0.995		Sawyer	13,339	12,204 91.5%	10,323 7,476 72.4%	84.6%	0.987	
Green Lake	28,844	24,003 83.2%	21,242 16,760 78.9%	88.5%	0.994		Shawano	32,233	25,802 80.0%	22,466 17,743 79.0%	87.1%	0.992	
Iowa	14,770	12,192 82.5%	10,553 8,278 78.4%	86.6%	0.994		Sheboygan	90,376	74,660 82.7%	65,469 51,745 79.0%	87.7%	0.998	
Jackson	18,409	15,807 85.9%	13,863 10,974 79.2%	87.7%	0.990		Taylor	15,581	12,106 77.7%	10,599 8,546 80.6%	87.6%	0.983	
Jefferson	4,792	4,565 95.3%	3,934 2,930 74.5%	86.2%	0.978		Trempealeau	22,240	17,651 79.4%	14,938 11,504 77.0%	84.6%	0.992	
Lincoln	16,127	11,898 73.8%	10,081 7,808 77.5%	84.7%	0.986		Vernon	22,858	17,581 76.9%	15,806 12,382 78.3%	89.9%	0.994	
Manitowish	66,768	54,391 81.5%	47,582 36,947 77.6%	87.5%	0.995		Waushara	18,446	17,446 94.6%	15,044 11,358 75.5%	86.2%	0.990	
Manitowish	21,374	15,675 73.3%	13,512 10,095 74.7%	86.2%	0.991		Winnebago	82,443	65,835 79.9%	56,768 40,768 71.8%	86.2%	0.997	
Manitowish	131,144	103,711 79.1%	87,331 62,952 72.1%	84.2%	0.994		Washburn	12,737	11,676 91.7%	10,159 7,889 77.7%	87.0%	0.988	
Manitowish	16,052	13,571 84.5%	12,033 9,544 82.6%	88.7%	0.983		Washington	106,887	97,202 90.9%	87,773 70,769 80.6%	90.3%	0.995	
Manitowish	93,935	80,020 85.2%	67,125 47,689 71.0%	83.9%	0.986		Winchester	318,797	296,544 93.0%	266,836 212,131 79.5%	90.0%	0.995	
Manitowish	12,615	9,544 75.4%	8,471 6,795 80.2%	88.8%	0.986		Winchester	40,782	33,180 81.4%	28,758 22,829 79.4%	86.7%	0.995	
Manitowish	15,456	12,893 83.4%	11,070 8,950 80.8%	85.9%	0.991		Winchester	19,990	15,417 77.1%	13,414 10,802 80.5%	87.0%	0.993	
Manitowish	22,647	18,604 82.1%	16,327 13,113 80.3%	87.8%	0.995		Winnebago	136,450	108,529 79.5%	93,005 70,851 76.2%	85.7%	0.997	
Manitowish	42,937	50,831 80.8%	44,387 35,957 81.0%	87.3%	0.995		Wood	57,357	47,065 82.1%	41,027 32,781 79.8%	87.3%	0.996	

Average Registration = 83%      Average Turnout = 87%      Average Ballots Tracked = 77%      **Average R Value = 0.991**

\*Cells marked in red denote values over 90%

# A Serious Loophole...

- Counties only report their registration database to the state once per month (the beginning).
- Same day registration and voting is permitted.
- A voter can be registered and a ballot cast for them on election day.
- The new “voter” registration record can be removed before the next reporting cycle.
- The only way to catch this is to obtain detailed election records county-by-county. Like this...

SUMMARY REPORT

MARATHON COUNTY, WI  
2020 GENERAL ELECTION  
NOVEMBER 3, 2020

RUN DATE: 11/04/20 08:32 AM

VOTES PERCENT

PRECINCTS COUNTED (OF 109)	109	100.00
REGISTERED VOTERS - TOTAL	84,336	
BALLOTS CAST - TOTAL	76,975	
BALLOTS CAST - BLANK	14	.02
VOTER TURNOUT - TOTAL		91.27
VOTER TURNOUT - BLANK		.02

County	18+ Pop	Registrations		Ballots			Voter	R
		Number	% of 18+	Total	Shown	% Shown	Turnout	Value
Marathon	105,170	87,793	83.5%	76,120	58,471	76.8%	86.7%	0.997

*Serious Issues...*

*Crying for investigation.*



Kurt Olsen  
Attorney At Law  
Thanks-A-Thon

**Summary of The U.S.  
Supreme Court Complaint**

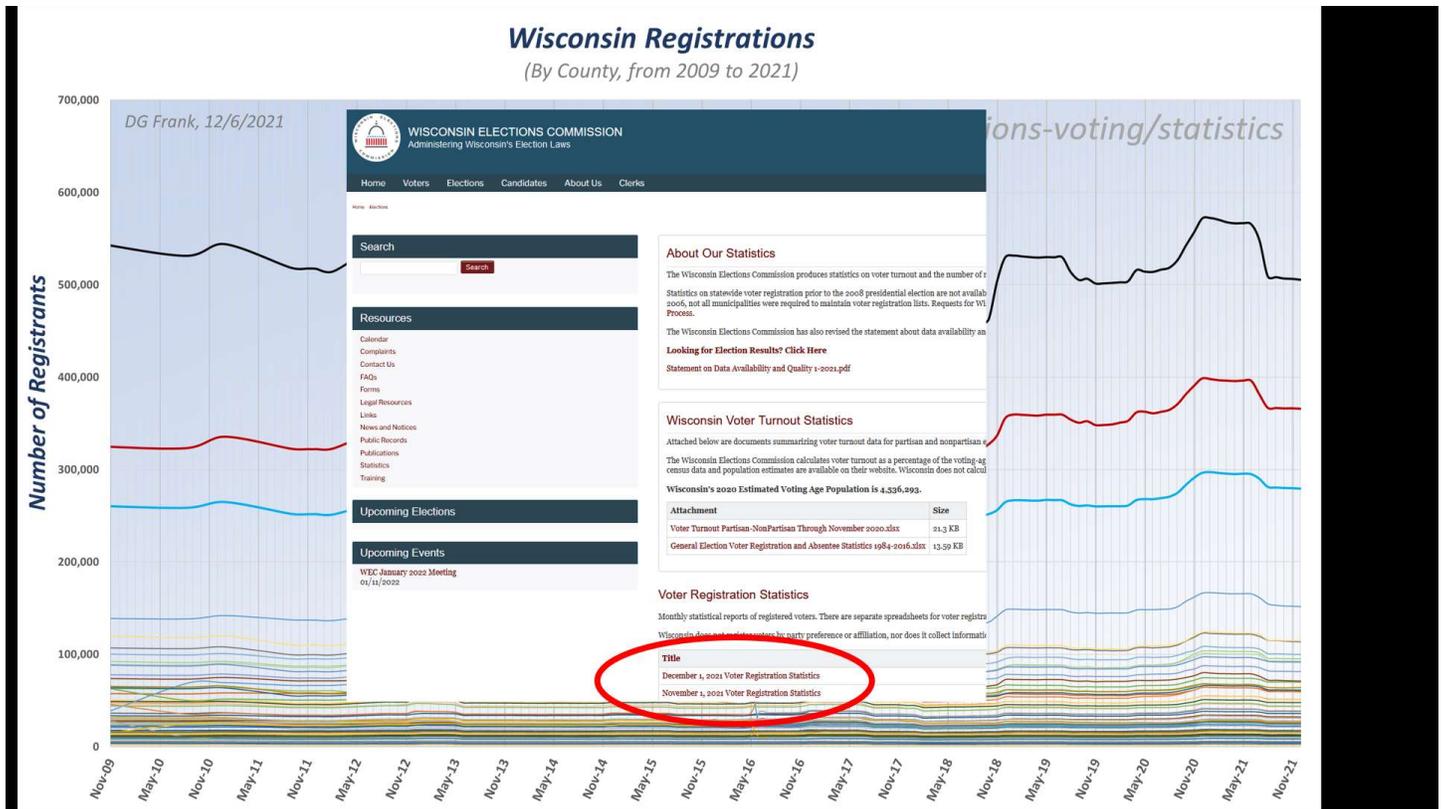
28 November 2021 by [Lindell-TV](#)

[FrankSpeech.com](http://FrankSpeech.com)

# Voter Registration in Wisconsin

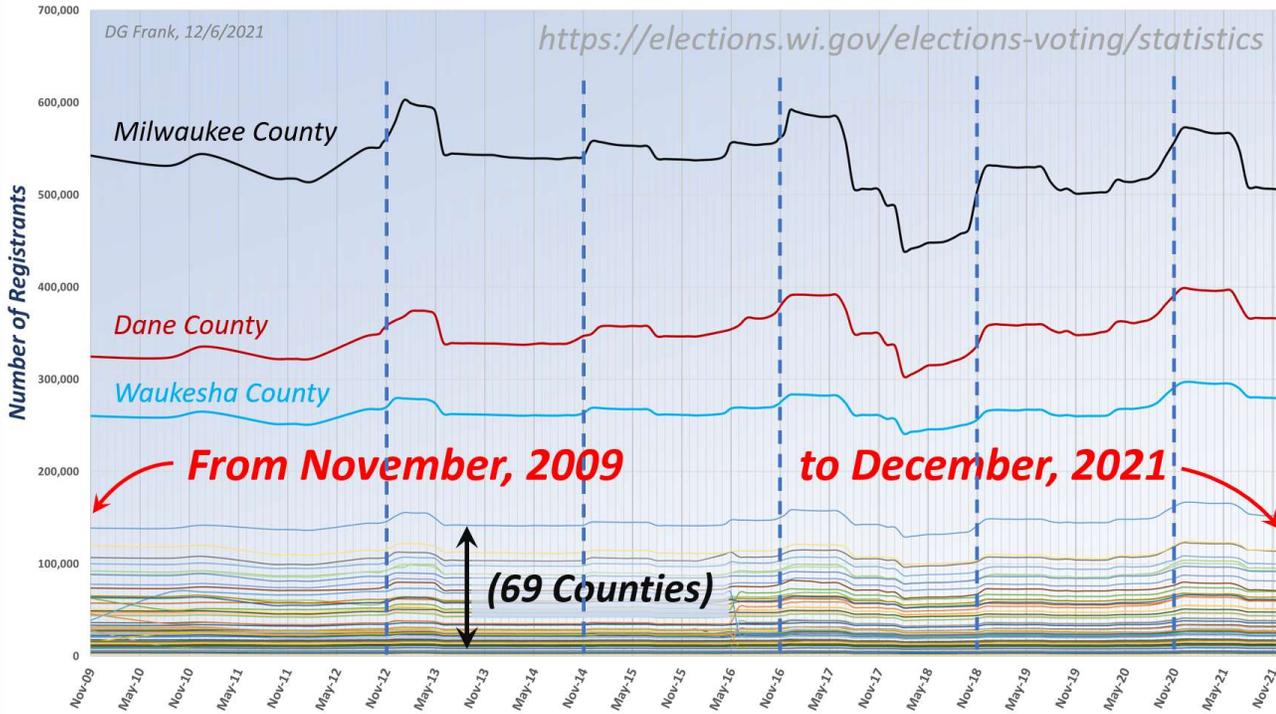
Dr Douglas G Frank  
12/8/2021

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Proprietary and confidential analysis.  
Requires prior written permission for use.



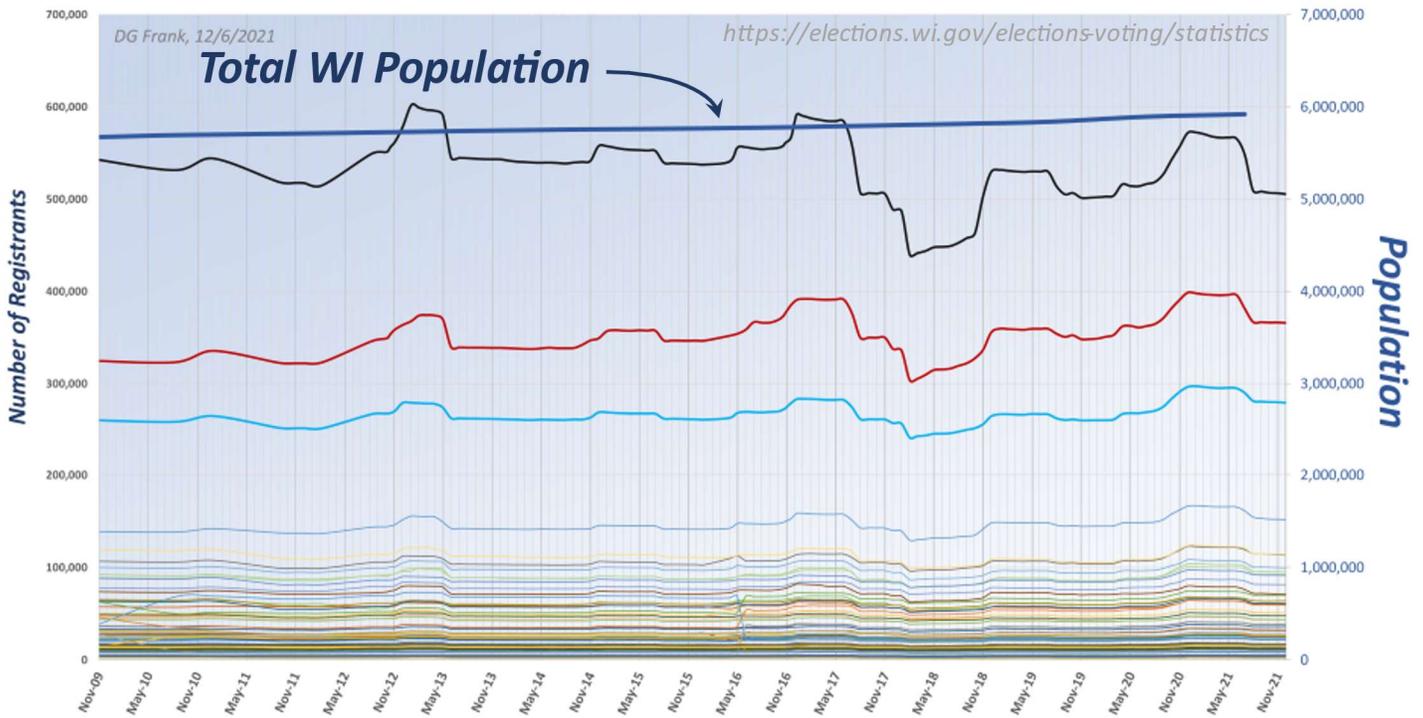
### Wisconsin Registrations

(By County, from 2009 to 2021)



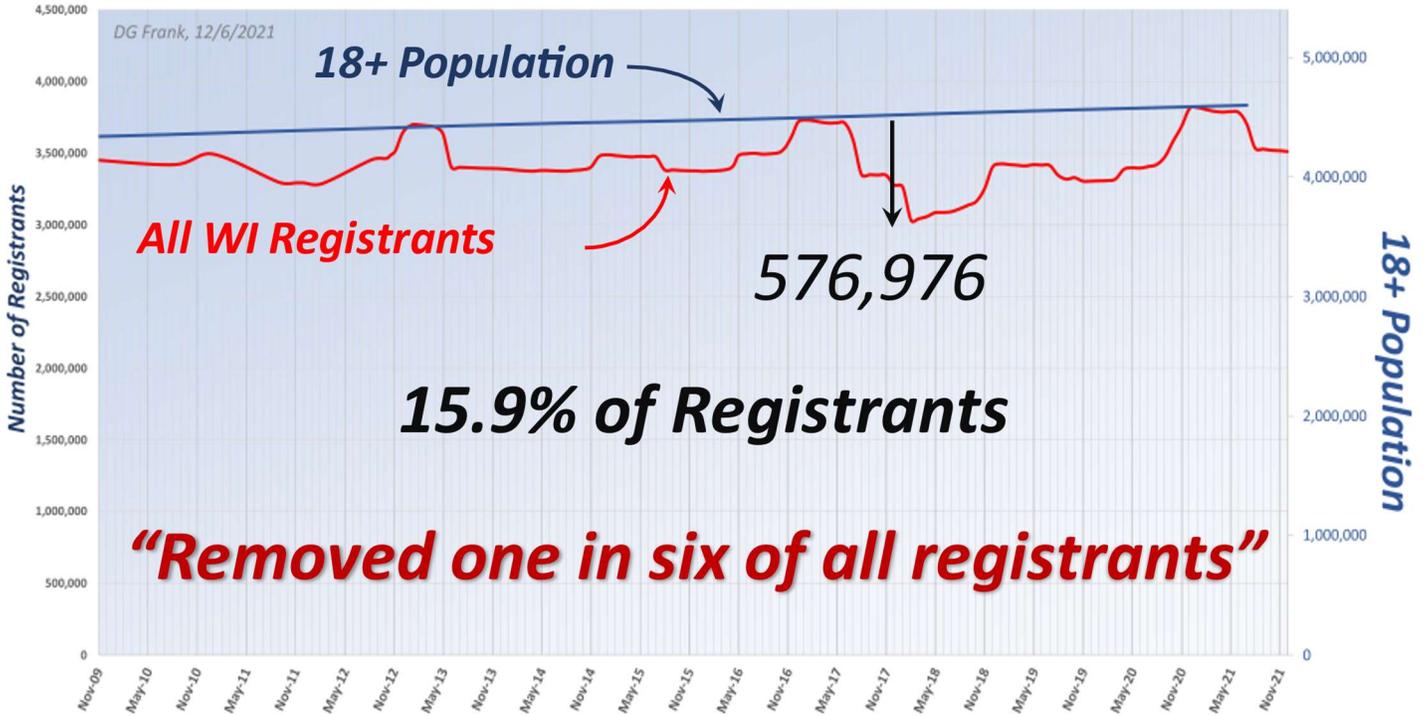
### Wisconsin Registrations

(By County, from 2009 to 2021)



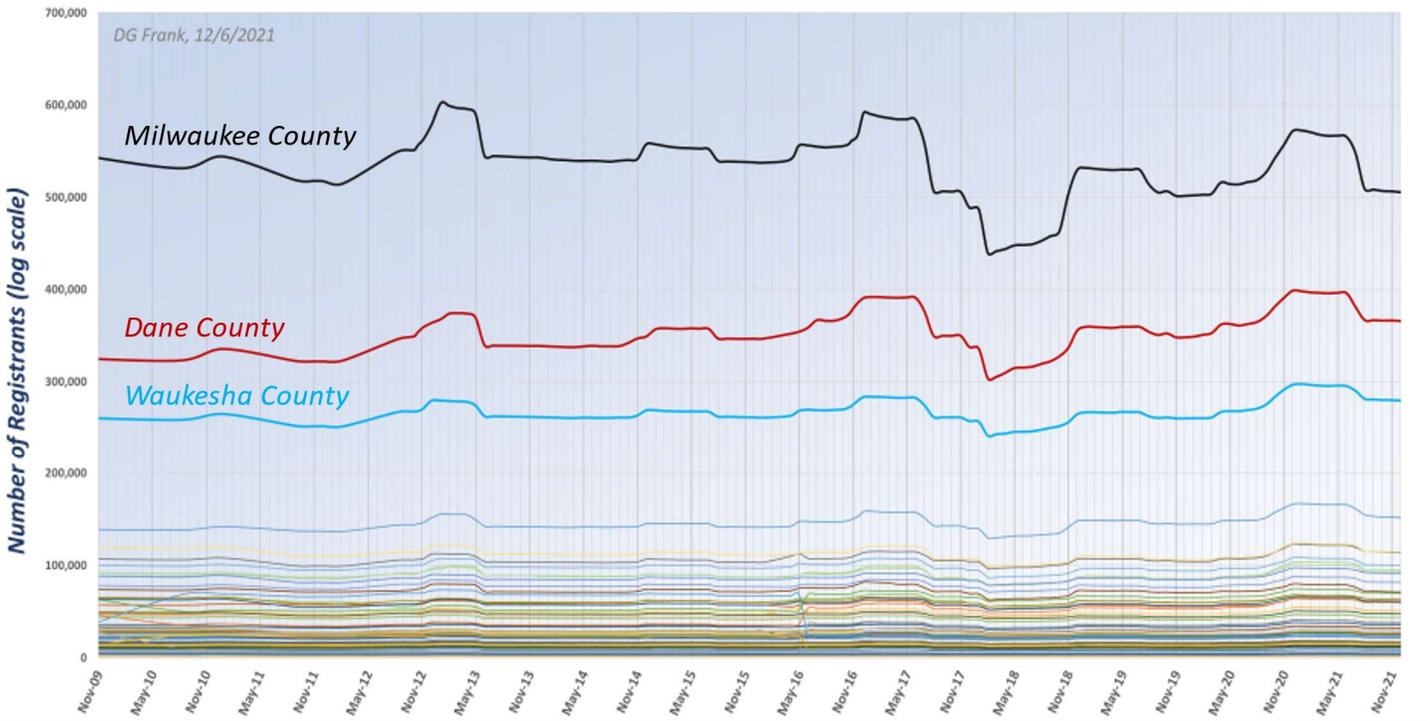
### Wisconsin Registrations

(By County, from 2009 to 2021)



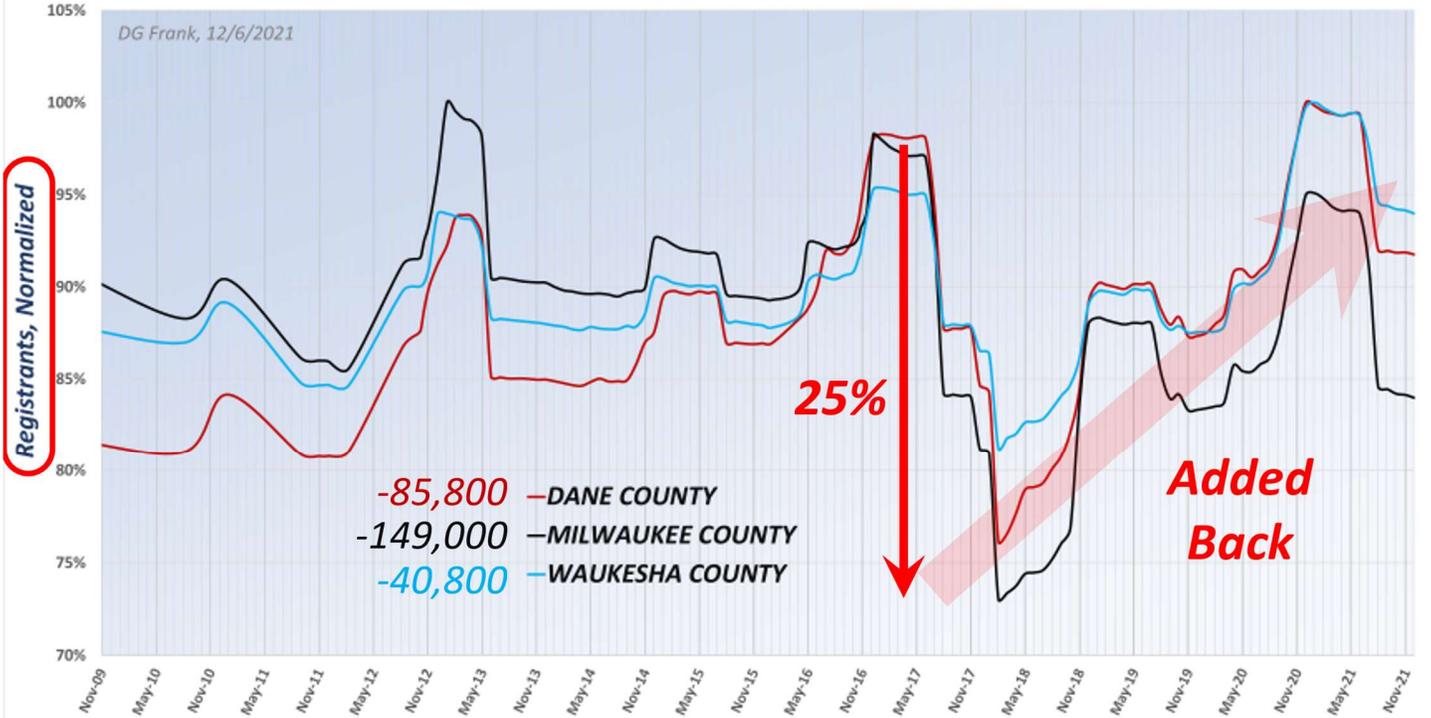
### Wisconsin Registrations

(By County, from 2009 to 2021)



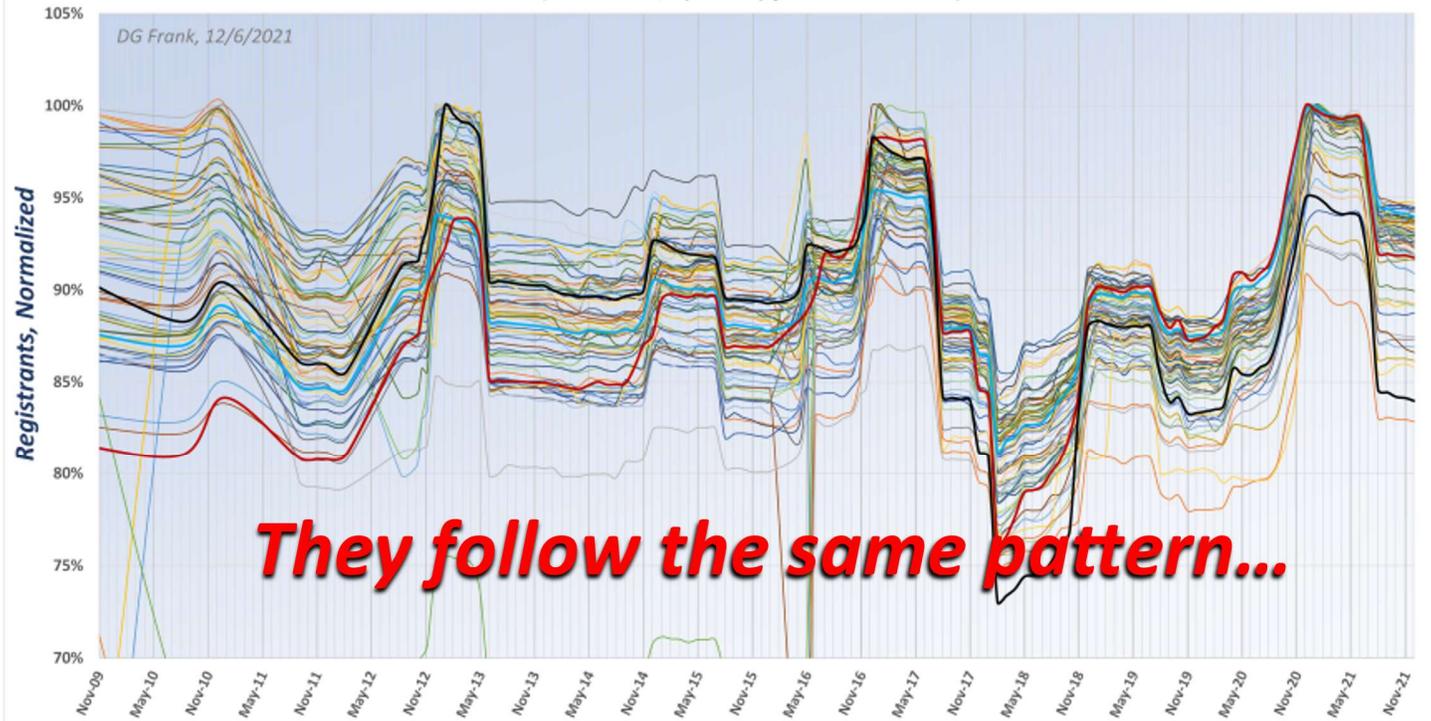
### Wisconsin Registrations

(Normalized, By County from 2009 to 2021)



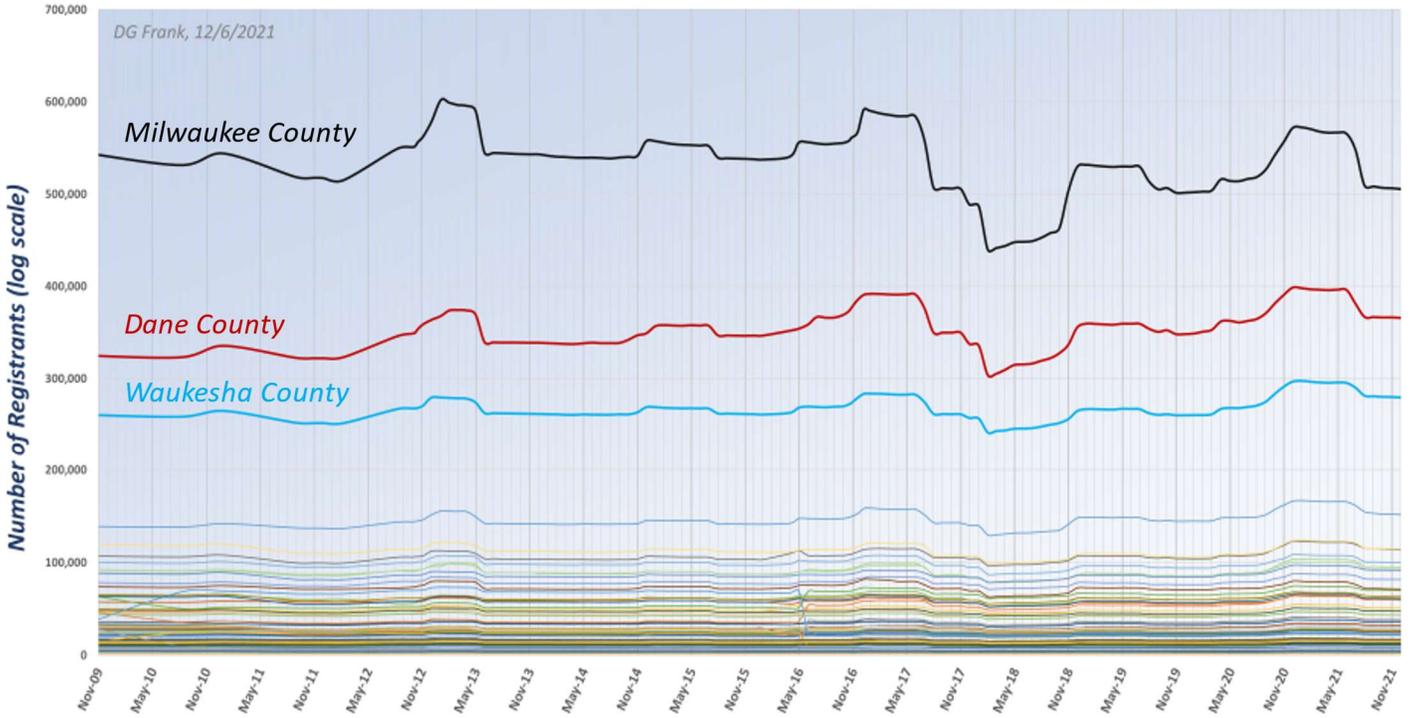
### Wisconsin Registrations

(Normalized, By County from 2009 to 2021)



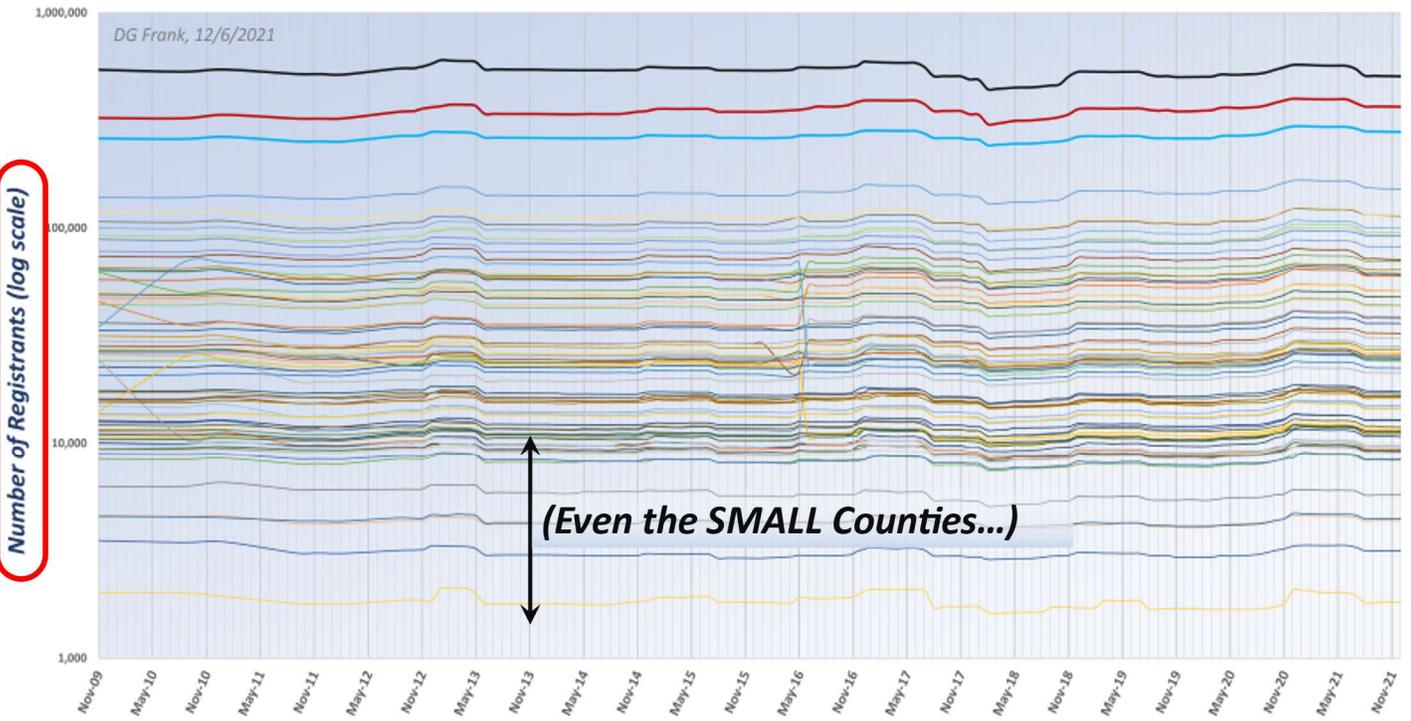
### Wisconsin Registrations

(By County, from 2009 to 2021)



### Wisconsin Registrations

(By County, from 2009 to 2021)



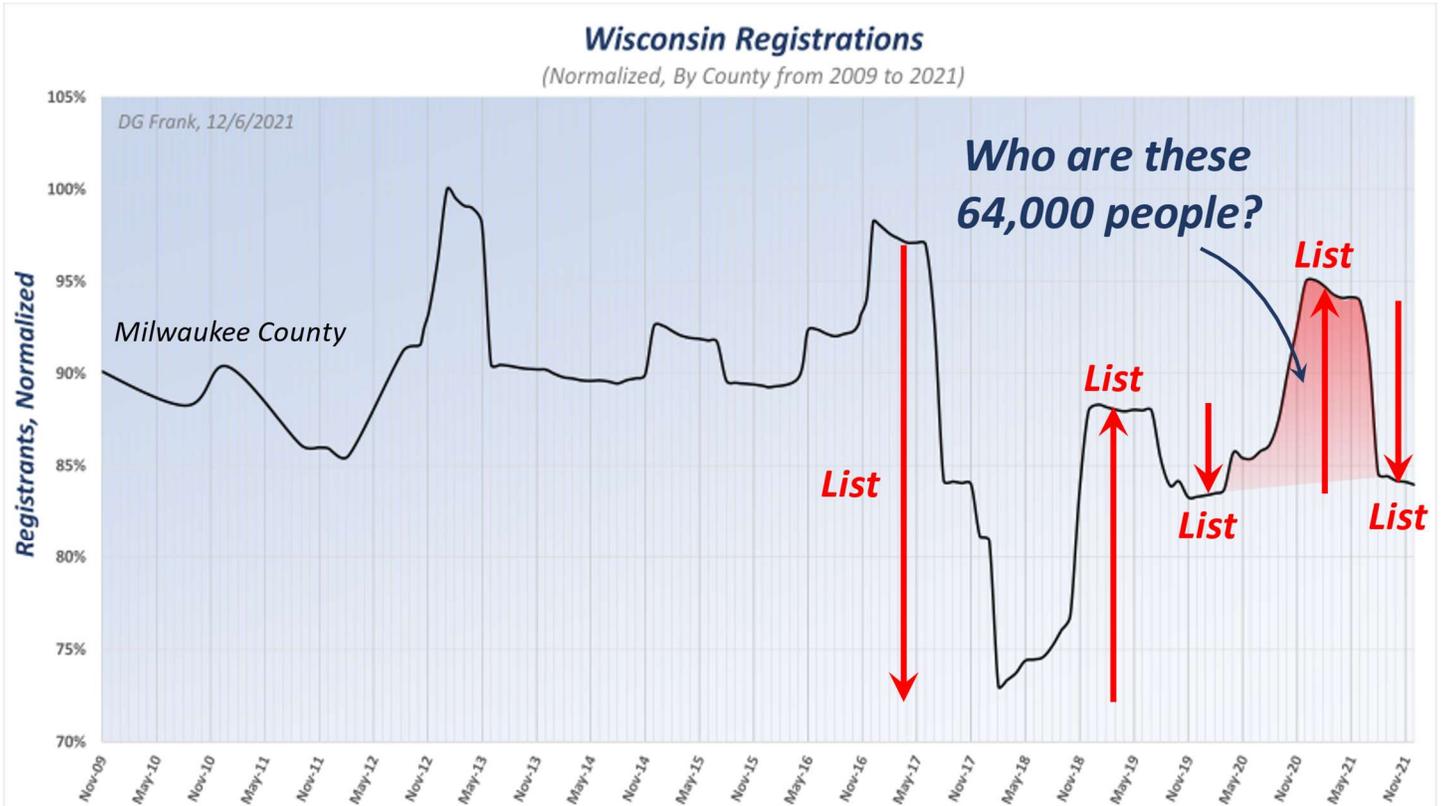
## ***A “Simple” Question...***

***“Can you provide me with a list of everyone who voted in the November, 2020 election?”***

***“Reconciliation.”***

***They can’t.***

***Because voters are removed before the counties report.***



**Conclusion**

**Your elections are not free  
and fair.**

**They are being manipulated  
by computer algorithms.**

***“What do we need?”***

***We need to see a list of the voters.***

***We need an investigation.***



RACINE COUNTY  
SHERIFF'S OFFICE

# ELECTION INTEGRITY

Protecting Vulnerable Voters





## JUDY INVESTIGATED HER MOTHER'S VOTING HISTORY

- Judy went on MyVote Wisconsin ([www.myvote.wi.gov](http://www.myvote.wi.gov)) and discovered her mother, Shirley, voted absentee for the November 3, 2020, election
- Shirley died on October 9, 2020 – Before the election
- According to My Vote Wisconsin, prior to being admitted to the Ridgewood Care Facility, Shirley last voted in 2016



## JUDY CONTACTS RIDGEWOOD CARE CENTER

- Executive Director stated that the WEC gave facility staff the authority to help residents fill out their ballots
- Judy asked how Shirley could have voted without any knowledge of current events or the news
- The Executive Director stated the staff would ask the residents who they voted for in the past and following party lines that would be their choice
- Judy asked, “So if she could only recall JFK as President, Democrat would be their choice?”
- The Executive Director answered “Yes”
- Judy asked about Shirley’s broken glasses and impaired vision – how can we know the staff member assisting filled in the ballot correctly



# ORIGINAL COMPLAINT TO THE WISCONSIN ELECTION COMMISSION - NOVEMBER 24TH, 2020

- Judy filed a sworn affidavit with the Wisconsin Election Commission stating that she believed the Ridgewood Care Facility “took advantage” of her mother’s “diminished mental capacity and filled out ballot(s) in her name.”
- Shirley, Judy's Mother
  - Broken glasses – no interest in reading or keeping up on current events
  - Difficulty recognizing her daughter
  - Could not remember her last meal
  - Would not know what day it is
  - Saw flying objects outside of her room that were not there

# Mount Pleasant Village Hall

- They received letters from the Wisconsin Election Commission (“WEC”) dated March 12, 2020, June 24, 2020, and September 25, 2020, stating that “Municipalities shall not use the Special Voting Deputy process” and should instead mail the absentee ballots
- No notice was posted at any of the facilities because of COVID-19
- 42 Ridgewood residents voted
- 38 Ridgewood residents made a fresh request for an absentee ballot during 2020
- The Voting Clerk stated during a Presidential or non-Presidential election, usually approximately 10 people will vote and 0 to 3 people will make a fresh request for an absentee ballot from the Ridgewood Care Center
- RASO received copies of the Request for Absentee Ballots and the Ballot Envelopes



## Wisconsin Elections Commission

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

**DATE:** For the March 12, 2020 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe, Administrator  
Wisconsin Elections Commission

**SUBJECT:** **Guidance Regarding Election Procedures and Public Health Emergency**

Governor Evers issued Executive Order #72 today proclaiming that a public health emergency exists in the State of Wisconsin as a result of the COVID-19 Coronavirus. The Order designates the Department of Health Services as the lead agency in responding to the public health emergency and directs all state agencies to assist in the State's ongoing response to the emergency. A copy of the Executive Order is attached.

Also today, the Department of Health Services (DHS) issued directives related to public health, vulnerable populations and large public gatherings. The DHS directives included provisions related to nursing homes and other licensed care facilities, including that all "non-essential" individuals be prohibited from visiting such facilities. The directive includes some exceptions such as a visit from one family member per day but all individuals entering care facilities must be screened for coronavirus infection and recent travel.

The Executive Order and DHS directive make it necessary to provide guidance to local election regarding specific election procedures for the Spring Election and Presidential Preference Primary as well as the May 12, 2020 Special Election in the 7<sup>th</sup> Congressional District. The two most immediate issues requiring Commission attention relate to the Special Voting Deputy process and polling places which are currently located at care facilities. WEC staff has received numerous inquiries from local election officials expressing concerns and seeking guidance regarding these issues.

### Special Voting Deputy Process

Wis. Stat. § 6.875 outlines the process for voting by special voting deputy (SVD). SVD's are individuals who are deputized by the clerk of each municipality to not only bring enough ballots to each residential care facility to vote, but to assist the voters with the voting process. Beginning Monday, March 16, municipal clerks are required to begin sending two SVD's to each facility for two visits prior to the election to conduct in-person, on-site voting with the residents.

Sometimes this process happens in a common area in the facility, and sometimes the voting occurs in individual voters' rooms depending on the voter's mobility and health needs. The process also requires that public observers be allowed to watch the voting process in these

Wisconsin Elections Commissioners

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

Administrator  
Meagan Wolfe

# Mount Pleasant Village Hall

1) In light of Executive Order #72 and directives of the Department of Health Services, the Commission finds that Special Voting Deputies are "non-essential" individuals who are not permitted to enter nursing homes and other care facilities without completing a screening process that is not feasible to implement prior to the Spring Election and Presidential Primary. For that election and the May 12, 2020 Special Election in the 7<sup>th</sup> Congressional District, the Commission directs that municipalities shall not use the Special Voting Deputy process to serve residents in care facilities and instead shall transmit absentee ballots to those voters by mail.

AMERICAN OVERSIGHT





# Review of Documents

## **APPLICATION FOR ABSENTEE BALLOTS**

- Pre-filled out by facility staff
- The Certification of being “indefinitely confined” pre-checked by staff

**OR**

- The Certification of being “indefinitely confined” post-checked by the municipal clerk

## **VOTER ENVELOPES**

- Certification of Witness – Facility staff

## **WEC LETTERS TO MUNICIPAL CLERKS**

- Coordinate with the dates of the open meetings by the WEC
- Open meetings can be viewed on WisEye  
[www.wiseye.org](http://www.wiseye.org)





# Review of Documents



Votax 11/2020

Wisconsin Application for Absentee Ballot		(Municipal Clerk) If in-person voter, check here <input type="checkbox"/>	
Absentee ballots may also be requested at <a href="https://myvote.wi.gov">MyVote.wi.gov</a>			
Confidential Elector ID# (BRAD - required) (Official Use Only)		WisVote ID # (Official Use Only)	Ward No.
Instructions	Detailed instructions for completion are on the back of this form. Return this form to your municipal clerk when completed.		
	• You must be registered to vote before you can receive an absentee ballot. You can confirm your voter registration at <a href="https://myvote.wi.gov">https://myvote.wi.gov</a> ⚠ PHOTO ID REQUIRED, unless you qualify for an exception. See instructions on back for exceptions.		
<b>VOTER INFORMATION</b>			
1	Municipality	County	
2	Last Name	First Name	
	Middle Name	Suffix (e.g., Jr., Sr., etc.)	Date of Birth
	Phone	Fax	Email
3	Residence Address: Street Number & Name		
	Apt. Number	City	State & ZIP
4	Fill in the appropriate circle -- if applicable (see instructions for definitions):		
	<input type="checkbox"/> Military	<input type="checkbox"/> Permanent Overseas	<input type="checkbox"/> Temporary Overseas
<b>I PREFER TO RECEIVE MY ABSENTEE BALLOT BY:</b> (Ballot will be mailed to the address above if no preference is indicated. Absentee ballots may not be forwarded.)			
5	<input checked="" type="checkbox"/> MAIL	Mailing Address: Street Number & Name	
	<input type="checkbox"/> VOTE IN CLERK'S OFFICE	Apt. Number	City
	<input type="checkbox"/> FAX	Fax Number	State & ZIP
	<input type="checkbox"/> EMAIL	Email Address	Voter must have a computer and printer when receiving a ballot by fax or email. Voted ballots must be returned by mail.
<b>I REQUEST AN ABSENTEE BALLOT BE SENT TO ME FOR:</b> (mark only one)			
6	<input type="checkbox"/>	The election(s) on the following date(s):	
	<input type="checkbox"/>	All elections from today's date through the end of the current calendar year (ending 12/31).	
	<input checked="" type="checkbox"/>	For indefinitely-confined voters only: I certify that I am indefinitely confined because of age, illness, infirmity or disability and request absentee ballots be sent to me automatically until I am no longer confined, or I fail to return a ballot. Anyone who makes false statements in order to obtain an absentee ballot may be fined not more than \$1,000 or imprisoned not more than 6 months or both. Wis. Stats. §§ 12.13(3)(j), 12.60(1)(b).	
<b>TEMPORARILY HOSPITALIZED VOTERS ONLY</b> (please fill in circle)			
7	<input type="checkbox"/>	I certify that I cannot appear at the polling place on election day because I am hospitalized, and appoint the following person to serve as my agent, pursuant to Wis. Stat. § 6.86(3).	
		Agent Last Name	Agent First Name
		Agent Middle Name	
		<b>AGENT:</b> I certify that I am the duly appointed agent of the hospitalized absentee elector, that the absentee ballot to be received by me is received solely for the benefit of the above named hospitalized elector, and that such ballot will be promptly transmitted by me to that elector and then returned to the municipal clerk or the proper polling place.	
	Agent Signature	X	Agent Address
<b>ASSISTANT DECLARATION / CERTIFICATION</b> (if required)			
I certify that the application is made on request and by authorization of the named elector, who is unable to sign the application due to physical disability.			
	Agent Signature	X	Today's Date
<b>VOTER DECLARATION / CERTIFICATION</b> (required for all voters)			
I certify that I am a qualified elector, a U.S. Citizen, at least 18 years old, having resided at the above residential address for at least 10 consecutive days immediately preceding this election, not currently serving a sentence including probation or parole for a felony conviction, and not otherwise disqualified from voting. Please sign below to acknowledge that you have read and understand the above.			
	Voter Signature	X Shusby	Today's Date
EL-121   Rev 2018-10   Wisconsin Elections Commission, P.O. Box 7984, Madison, WI 53707-7984   608/266-8000   web: <a href="https://elections.wi.gov">elections.wi.gov</a>   email: <a href="mailto:elections@wi.gov">elections@wi.gov</a>			



# 6.84

## WISCONSIN STATUTE

LEGISLATIVE POLICY. The legislature finds that voting is a constitutional right, the vigorous exercise of which should be strongly encouraged. In contrast, voting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place. The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for **fraud or abuse**; to prevent **overzealous solicitation** of absent electors who may prefer not to participate in an election; to prevent **undue influence** on an absent elector to vote for or against a candidate or to cast a particular vote in a referendum; or other similar abuses.



# 6.875

## WISCONSIN STATUTE

### Absentee Voting in Facilities

- This statute is the **“exclusive means”** of absentee voting in residential care facilities
- **Shall** dispatch two Special Voting Deputies (“SVDs”) to the facility
- The SVDs **shall** personally deliver the ballot
- **NO employee (or past employee of the last two years) may be an SVD**
- Notice of the SVDs visit **shall** be posted at the facility
- The SVDs **shall** witness the vote and **may assist** in marking the ballot
- The SVDs **shall NOT** accept an absentee ballot not issued by an SVD
- **No individual** other than a SVD or relative **may assist** the voter
- The SVDs **shall** seal the ballot envelope and deliver it to the clerk



# 6.875

## WISCONSIN STATUTE

### Absentee Voting in Facilities

·§ 6.875(6)(e) – “If a qualified elector is not able to cast his or her ballot on 2 separate visits by the deputies to the home or facility, the deputies shall so inform the municipal clerk . . . Who may then send the ballot to the elector . . .”

*The WEC falsely reasoned that since the Special Voting Deputies could not be allowed into any facilities, the Special Voting Deputies “program” could be “suspended”, and the municipalities could go directly to the mailing process. The WEC also improperly/illegally advised the facilities to have staff members assist the residents in voting.*



# UNITED STATES CONSTITUTION

Article II, Section 1, paragraph 2 – The state legislature is to determine the “Manner” in which the President is elected

Article I, Section 4, paragraph 1 – It is up to the state legislature to determine “the Times, Places and Manner of holding Elections for Senators and Representatives”



# RIDGEWOOD CARE FACILITY

## DECEMBER 18, 2020

- The Executive Director stated he “hoped” his staff was “honest” while marking the voting ballot for the residents
- The Director of Recreational Therapy stated that if a resident could only point to the ballot, her staff would fill in the appropriate dot
- The Director of Recreational Therapy was “confident” Shirley wanted to vote, but then admitted she did not have contact with Shirley – her staff would have contact with the residents
- The Activities Aid stated if the resident did not want to vote, she would come back later
  - The Activities Aid stated she would leave the news channel on for a few days and then come back and see if the resident wanted to vote (List of preferred channels or NBC)
  - The Activities Aid stated she would keep the ballots in her desk drawer when she was waiting for the residents to decide to vote



# RIDGEWOOD CARE FACILITY

## DECEMBER 18, 2020

- The procedure implemented by the facility did not comply with the instructions on the ballot envelope
- The Director of Recreational Therapy and the Activities Aids agreed that:
  - If the resident did or did not vote, the Activities Aid would place the ballot in the envelope (unsealed) and give it to the Director of Recreational Therapy
  - The Director of Recreational Therapy would seal the ballot envelope and mail it to the municipal clerk



# Review of Documents

**OFFICIAL ABSENTEE BALLOT APPLICATION/CERTIFICATION**  
*(Official Use Only) The voter has met or is exempt from the photo ID requirement. Municipal or Deputy Clerk initial here:*

*Note: With certain exceptions, an elector who mails or personally delivers an absentee ballot to the municipal clerk at an election is not permitted to vote in person at the same election on Election Day. Wis. Stat. § 6.86(8).*

Voter: Please complete steps 1 through 5 below, in the presence of your witness.

1 Place your voted ballot inside the envelope and seal it. Do not use tape or glue.

2 Complete the section below if not completed by the clerk.  
Provide your VOTING address.

Date: 11/3/2020 RACINE COUNTY  
Municipality: VILLAGE OF MOUNT PLEASANT - Ward 18  
Precinct: BS 03  
Voter Name: SHIRLEY  
Voter ID: 3733535  
Municipality: 0002114177  
City: INDEFINITE  
City: Ridgewood

Official use only: Ward # District (if applicable) Voted in clerk's office

3 Sign and date this section.  
**CERTIFICATION OF VOTER (Required)**  
I certify, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), that I am a resident of the ward of the municipality in the county of the state of Wisconsin indicated hereon, and am entitled to vote in the ward at the election indicated hereon; that I am not voting at any other location in this election; that I am unable or unwilling to appear at the polling place in the ward on election day, or I have changed my residence within the state from one ward to another later than 28 days before the election. I certify that I exhibited the enclosed ballot, unmarked, to the witness, that I then in the presence of the witness and in the presence of no other person marked the ballot and enclosed and sealed the ballot in this envelope in a manner that no one but myself and any person providing assistance under Wis. Stat. § 6.87(5), if I requested assistance, could know how I voted. I further certify that I requested this ballot.  
X Shirley 09 03 2020  
Signature of Voter (All voters must sign.) Today's Date

REQUIRED OF MILITARY AND OVERSEAS VOTER ONLY: I further certify my birth date is: \_\_\_\_\_

4 Have your witness sign and write their address below.  
**CERTIFICATION OF WITNESS (signature and address of witness are required)**  
I, the undersigned witness, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), certify that I am an adult U.S. Citizen and that the above statements are true and the voting procedure was executed as stated. I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk). I did not solicit or advise the voter to vote for or against any candidate or \_\_\_\_\_ is correct as shown.  
1. \_\_\_\_\_  
Signature of ONE adult U.S. citizen/witness  
2. \_\_\_\_\_  
If witnesses are Special Voting Deputies, both must sign.  
Address of witness or addresses of both SVDs:  
1. \_\_\_\_\_  
2. \_\_\_\_\_  
Provide house number and street name or fire number and street name, city, state and zip code. OR  
If your rural address does not include a house number/fire number and street name, provide rural route number and box number, city, state and zip code.

**CERTIFICATION OF ASSISTANT (if applicable)** - assistant may also be witness  
I certify that the voter named on this certificate is unable to sign his/her name or make his/her mark due to a physical disability and that I signed the voter's name at the direction and request of the voter.  
X \_\_\_\_\_  
Signature of Assistant

5 Mail back your ballot. Allow 4-5 days for delivery to ensure your ballot is received by Election Day. Ballots received after Election Day will NOT be counted.

EL-122 Standard Absentee Ballot Certificate Envelope | (Rev 2017-05)



# Other Concerned Families

DF was adamant that her mother, OF, would not have requested an absentee ballot. She was unable to remember what she ate for breakfast that day. DF stated, “It is so hard to get her to sign something, even things that I need, you know, to conduct business, it is very hard to get her to sign anything. So, she would not have requested a ballot and then sat there and signed it, no. I just don’t believe that.” **According to My Vote Wisconsin (Since 2012), there is no record of OF voting in any other election.**

RP stated that her father, NG, had difficulty recognizing his own grandchildren. He would not know that Trump was the president nor who was elected the new president, and he would not know what the candidates stood for on the issues. RP stated NG only asked about “Doritos” and “Snickers”. According to My Vote Wisconsin (Since 2012), there is no record of NG voting in any other election. When asked if NG would have the mental ability to express his desire for an absentee ballot and exercise his right to vote, RP responded, “No! No, I’m sorry, no!”. **According to My Vote Wisconsin (Since 2012), there is no record of RP voting in any other election.**

# Other Concerned Families

LM stated her mother, RL, is confused, not sure where she is, does not recognize her own children, and is not right in her own mind. LM stated RL would not have known who the candidates were, and someone had to have taken advantage of her. **According to MyVote Wisconsin (since 2012), there is no record of RL voting in any other election.**

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RS stated his mother, FP, is 102-years-old and is experiencing dementia. RS stated that FP is starting to forget to eat; that she cannot recognize her own children; that she is starting to forget to eat; and that she only remembers the past. **According to MyVote Wisconsin (since 2012), FP voted in this election and an election in 2012.**

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TM stated his father, MR, did not have the desire to vote absentee. TM stated MR informed her and her mother that if he cannot vote in person, he did not want to vote. **According to MyVote Wisconsin (since 2012), there is no record of MR voting in any other election.**

# Other Concerned Families

RM is the legal guardian for SL, and RM stated that SL has been determined to be incompetent by a probate court. RM stated she believed SL's right to vote had been taken away. RM stated SL is unable to make any decisions for herself and she has no ability to know what is going on. RM stated SL would not know how to request an absentee ballot. RM stated SL is not allowed to sign any legal documents because she is so impaired. RM stated SL would have no inclination to vote and she would have no idea what she was doing. AS stated, her mother, SL, was suffering from dementia and she did not have the sound mind necessary to request an absentee ballot and to exercise her right to vote. **According to MyVote Wisconsin (since 2012), SL voted in this election and an election in 2012**

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GH stated his mother, BH, would ask him, "Who are you?" and GH would respond, "I'm your youngest boy." GH stated BH believed her own mother died a few weeks ago but her mother actually died in 1965. **According to My Vote Wisconsin (since 2012), BH voted in two elections in 2020 and no other elections.**

# WISCONSIN ELECTIONS COMMISSION



**SECRETARY**

Marge Bostelmann



**COMMISSIONER**

Julie M. Glancey



**CHAIR**

Ann S. Jacobs



**COMMISSIONER**

Dean Knudson



**COMMISSIONER**

Robert F. Spindell, Jr.



**VICE-CHAIR**

Mark L. Thomsen

# Timeline

## MARCH 10, 2020

- The WEC sent a letter to the Governor requesting the “suspension” of “several provisions of Wisconsin election law”
  - Special Voting Deputies
  - Moving the location of polling places
- The Governor’s Office informed the WEC that **the Governor does not have the power to “suspend” parts of Wisconsin’s voting law during an emergency**

## MARCH 12, 2020

- Governor Ever’s issued Executive Order #72
- The WEC issued a directive stating Special Voting Deputies shall not be sent to facilities
- Commissioner Knudsen, “what we are really saying here, is once again, we are saying that, despite what the law says, the election commission is saying, in this instance, we need to have some flexibility, **to not follow the law.**”



# Timeline

## MAY 26, 2020

- Governor's extended "Safer at Home" order expires

## JUNE 24, 2020

- The WEC extended their previous March 12, 2020, orders
- Commissioner Knudson, **"We need to go back to following the law**, but for the Special Voting Deputies, following the letter of the law here would mean putting hundreds and hundreds of nursing home residents' lives at severe risk. There is got to be a way to do this without doing that."
- Commissioner Spindell was concerned **with fraud in nursing homes** and suggests PPE's



# Timeline

## SEPTEMBER 16, 2020

- The WEC extended their previous March 12, 2020 orders
- Commissioner Spindell stated the law stated the WEC is supposed to do something, and the WEC is not doing that task – **Spindell asked where that power came from. He also suggested use of technology to facilitate Special Voting Deputies.**
- Commissioner Knudson stated, “My thinking going back to March on this, from the time I first communicated with the Governor saying I thought that **we should not follow this law during this pandemic.**”
- Chair Jacobs stated the “state law” or “rulings of DHS” would not allow for Special Voting Deputies inside of facilities



# Review of Documents

## How to assist the voter in filling out their absentee ballot

If a voter requests assistance, you may read the ballot, including candidate names, party affiliations and ballot instructions, to the voter or mark the ballot as directed by the voter. If the voter asks questions about individual candidates or their political platform, you cannot answer those questions. You cannot in any way prompt the voter to vote for a particular candidate. If uncertain for whom to vote, the voter may decide to leave a contest unvoted. After assisting the voter, you will sign the ballot in the box that says, "Certification of Voter Assistance."



## Absentee Voting at Care Facilities in 2020

### Your Role as a Care Facility Administrator

In a typical election, Special Voting Deputies (SVDs) may be coming into your facilities and conducting absentee voting with your residents. However, due to safety concerns, SVDs will not be entering your facility for the November election. Instead ballots will be mailed out to individual voters with current requests on file. Many care facility and nursing home residents rely on family members for assistance in voting. Because most care facilities and nursing homes are not allowing guests at this time, some voters may require assistance from care facility staff to vote. We know that this may be difficult for many facilities due to competing priorities and staffing. This document will provide resources to make absentee voting and registering to vote as smooth as possible for your facility and your residents.

As a care facility administrator or staff member, you are able to:

- Assist residents in filling out their ballots or certificate envelopes.
- Assist residents in completing voter registration forms and absentee requests.
- Sign the special certificate envelope (EL-122sp) if necessary (see below for explanation).
- Witness ballots.

### Absentee Voting for Residents of Your Facility

Ballots began being mailed out on September 17 for voters with current absentee requests on file for the November 3 election. Most ballots will be mailed to voters, but some clerks have indicated that they are hand delivering ballots to care facilities in a large envelope or other sealed container. After receiving ballots, you must distribute ballots individually to those voters. If a voter no longer lives in your facility or is deceased, please mark the ballot carrier envelope "moved" or "deceased" and return it to the municipal clerk as soon as possible.

Each absentee carrier envelope should contain the ballot, an instruction sheet and a certificate envelope used to return the ballot (referred to as the EL-122).

### How to assist the voter in filling out their absentee ballot

If a voter requests assistance, you may read the ballot, including candidate names, party affiliations and ballot instructions, to the voter or mark the ballot as directed by the voter. If the voter asks questions about individual candidates or their political platform, you cannot answer those questions. You cannot in any way prompt the voter to vote for a particular candidate. If uncertain for whom to vote, the voter may decide to leave a contest unvoted. After assisting the voter, you will sign the ballot in the box that says, "Certification of Voter Assistance."

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



# Timeline

## JANUARY 15, 2021

- The WEC extended their previous March 12, 2020, orders
- Commissioner Knudson:
  - Expressed his concern that the “policy” of the WEC was **“telling the clerks to break the law”** and he stated, “But I continue to have great discomfort with the idea that our motion is going to direct them, **that we’re the ones directing them to break the law.”**
  - Suggested **the use of technology so that all of the policies “as required by law are being followed”**.
  - The **“SVD law is a law”** and “some of the **prohibitions on visitors at nursing homes . . . was a guidance, a directive.”**



# Timeline

## FEBRUARY 11, 2021

- Legislative Council provided an opinion to the Joint Committee for the Review of Administrative Rules (JCRAR) that **state law does not empower the WEC to waive the Special Voting Deputies, nor does the law contain an exemption for a pandemic**
- **JCRAR notified the WEC to promulgate an emergency rule or cease issuing such directives**

## MARCH 2, 2021

- WEC amends their directive and now calls for Special Voting Deputies to be sent to facilities two times prior to mailing the ballot

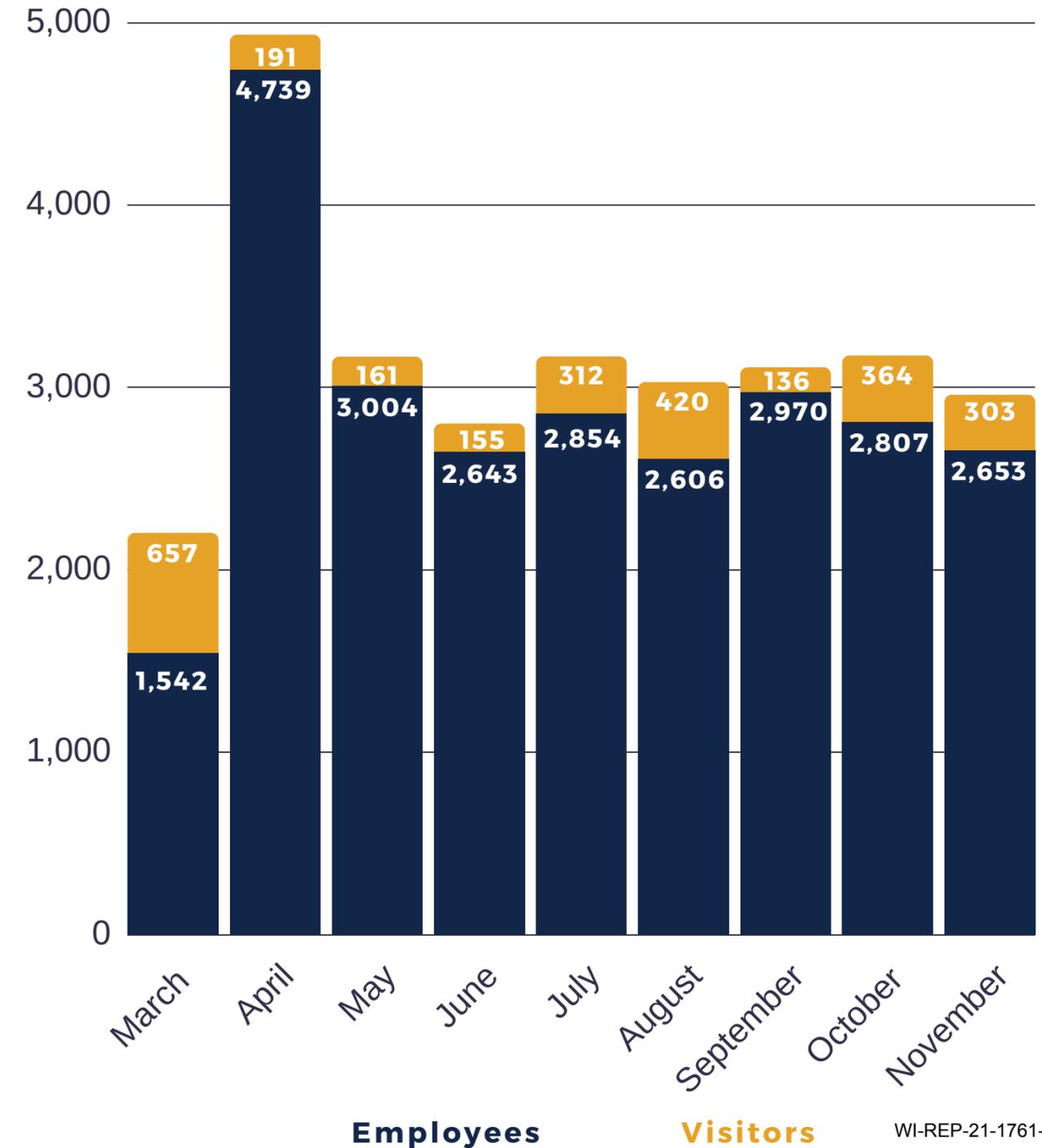


# Ridgewood Care Facility

Employees and Visitors

333 Employees

899 Visitors



# TYPES OF VISITORS

## Interview or Job Interview

24 Times

## Instructor

4 Times and 19 Times with Students

## Orkin Service

19 Times

## Vendor/Vending Machine

17 Times

## Kitchen or Kitchen Repair

17 Times

## Cleaning Fish Tank, Cleaning Tanks, or Tank Maintenance

11 Times

## Elevator

10 Times

## Laundry or Laundry Repair

8 Times

# TYPES OF VISITORS



**Maintenance**

6 Times



**Copier**

4 Times



**Clean Bird Cage**

3 times



**Inspection**

2 times



**Looking for a Job**



**DoorDash Delivery**



# 12.13

## Election Fraud

### WISCONSIN STATUTE

- § 12.13(2)(b)(7) – “In the course of the person's official duties or on account of the person's official position, intentionally violate or intentionally cause any other person to violate any provision of chs. 5 to 12 for which no other penalty is expressly prescribed.”
- § 12.13(3)(n) – “Receive a ballot from or give a ballot to a person other than the election official in charge.”
  - § 12.13(3)(p) – “Receive a completed ballot from a voter unless qualified to do so.”
- § 12.13(3)(s) – “Solicit another elector to offer assistance under s. 6.82 (2) or 6.87 (5), except in the case of an elector who is blind or visually impaired to the extent that the elector cannot read a ballot.”



Madison, WI

# Open Meeting

March 12, 2020

Wisconsin Elections Commission



What are you looking for?



## Wisconsin Elections Commission Special Teleconference Meeting

On June 24, 2020, the Wisconsin Elections Commission held a **special teleconference meeting** to discuss Special Voting Deputies for the August Election.

Categories: Meetings

Recording



@WI\_Elections

Wisconsin Elections Commission

September 16, 2020

Recording



Recording



@WI\_Elections

Wisconsin Elections Commission Meeting

Robert F. Spindell Jr.

September 16, 2020



@WI\_Elections

# Wisconsin Elections Commission

January 15, 2021  
12:45 PM

Special Teleconference Meeting

AMERICAN OVERSIGHT



@WI\_Elections

Dean Knudson

January 15, 2021  
1:24 PM

Commissioner - Wisconsin Elections Commission

AMERICAN  
OVERSIGHT

# Moving Forward

**Wisconsin  
State Legislature**



WISCONSIN STATE LEGISLATURE

**Governor**



**Tony Evers**

Office of the Governor | State of Wisconsin

**Attorney  
General**



262-636-3853



voterintegrity@racinecounty.com

AMERICAN OVERSIGHT

From: Shannon Wenzel <shannonlwenzel45@gmail.com>  
Sent: Saturday, October 30, 2021, 8:40 AM  
To: Rep.Brandtjen@legis.wisconsin.gov  
Subject: Election integrity

---

Rep. Brandtjen,

The integrity of Wisconsin elections has been breached. There are nefarious people in local governments across this state that have taken upon themselves to flagrantly ignore State law and rules put in place by this Great State's people and her representatives.

This must end!

What has happened to the elderly that are incapable of knowing what has happened to their identity, their citizenship and the ability to even help direct the course of this nation is appalling. I purpose that the state legislature start doing the job of protecting this state's people.

Make it a crime to dismiss, purposely ignore and break the law!

The legislature has the power to go line by line in the election codes and laws and make it a financial or imprisonment crime for breaking election law.

What was done in Green Bay should be a crime and the Mayor should get Jail time for forcing his Clerk off the job. She should get fined for walking off and letting it happen.

WEC, ALL should be financially responsible for the flagrant breaking of state election laws.

Strongly worded letters end up in MJS on line and scoffed at.

Let's do something about it.

There are Laws for a reason we want them followed.

Put in place repercussions for those who DO NOT FOLLOW THE LAW!

Thank you for your time.

Shannon Wenzel BSN RN Hospice RNCM.

From: Erick Kaardal <kaardal@mklaw.com>  
Sent: Tuesday, December 7, 2021, 3:45 PM  
To: janel Brandtjen <Rep.Brandtjen@legis.wisconsin.gov>; "Duesterbeck, Melodie" <Melodie.Duesterbeck@legis.wisconsin.gov>  
Subject: Email 2 of 2  
Attachments: Wisconsin Safe Voting Plan 2020 .pdf

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Dear all:

Please find attached a copy of the Wisconsin Safe Voting Plan which the Wisconsin 5 Mayors and CTCL agreed to. This document should be handed out prior to my presentation. Thanks.  
egk

Erick G. Kaardal  
Mohrman, Kaardal and Erickson, P.A.  
150 S. Fifth St., Ste. 3100  
Minneapolis MN 55402  
612-341-1074  
f. 612-341-1076

**To:** Outagamie County Finance Committee

**From:** Lori O'Bright, Outagamie County Clerk

**Date:** April 30, 2018

**Re:** County Clerk Update –Election Management System Project, Special Elections–  
Senate District 1, County Clerk staffing/transition, Election Equipment  
Programming COOP Planning

---

Thank you for the opportunity to update you on the new Election Management System (Election Equipment) Project, Special Elections for Senate District 1, County Clerk staffing/transition, and Election Equipment Programming COOP (Continuity of Operations Plan) Planning. Following is background for each item on the agenda. At your meeting, I will be available to answer questions.

### **Election Equipment Project Update**

- Elections Systems & Software was the selected vendor through procurement in 2017.
- After working with municipalities, the following equipment was purchased:
  - Optical Scanner Tabulators – DS200s – 72 (reads optical scan and ExpressVote ballots (PDFs every ballot image); tabulates results; after election is closed, the DS200 *with* modem, modems unofficial returns to county)
  - Modems for Optical Scanners – 69 – Village of Harrison, Calumet County, did not procure modems as their results are transmitted to Calumet County non-electronically as the county clerk does not have software to receive results via modem.
  - ADA Equipment – ExpressVotes – 76
    - Note: Two DS200s with modems and two ExpressVotes are county-owned and must be county maintained as required by the intergovernmental agreements with municipalities.
    - The county-owned equipment is utilized as: municipal backup on Election Day, during programming to test/verify programming, and during training.
  - Ancillary equipment/supplies - thumb drives, cases
  - Software – ElectionWare - \$37,645 (first year programming costs for a 4-election year cycle would normally be approximately \$100,000 – county costs).
  - Services – Project management, equipment operations training, software training, election on-site support (municipal/county cost share) – Election on-site support will not be procured for special elections May/June.
- Municipal/county agreements:
  - All municipalities within the county agreed to the following (except C. of New London (Dominion equipment and V. of Wrightstown – Brown County procured).
  - Intergovernmental Agreements (IGA) - The initial agreements provided for procurement specifications. Four municipalities assisted with procurement.
  - Once procurement was completed, an addendum was provided each municipality and signed, which detailed payments and cost responsibilities going forward with maintenance.

- The addendum provided a copy of the ES&S contract. Future upgrades were not addressed completely (note modem requirements for Verizon change below).
- The Village of Harrison (mostly in Calumet County) piggybacked on the county’s procurement. The ES&S contract allowed Outagamie County to program for non-county wards including the City of Appleton, Winnebago & Calumet Counties, and Village of Harrison, Calumet County.
- **Modem Information/Election Night**
  - Cellular service - As the county must receive/report returns within two hours of receipt from municipalities, the county assumed responsible for modem costs (cellular service).
  - The Planning Dept. cannot support posting maps of election night results with the new system. Therefore, their labor is no longer utilized for election night reporting (pre-election labor savings).
  - Cellular service must be activated monthly (including back-up equipment – all 69 units), unless there are no election services required. Verizon has changed to not allow de-activation after 2019. County Clerk is de-activating modems in 2018 as able.
  - Verizon Change/Hardware Upgrade – Verizon has announced that they will no longer support 3G modems. Because of their service change, all 3G modems must be activated by June 30 or they will not be supported going forward.
  - ES&S reports they are working through federal certification for 4G modems. There will be upgrade modem requirements and the EMS software system will need to be upgraded (ES&S provided information 4/20/2018).

**Senate District 1 - Special Election**

After judicial order, Governor Walker certified a special election for the 1<sup>st</sup> Senate District, which covers a portion of Outagamie (and Calumet County – our office programs for all of Appleton & the Village of Harrison). Follows are the reporting units:

OUTAGAMIE COUNTY 1ST SENATE DISTRICT SPECIAL PARTISAN ELECTION - REPORTING UNITS									
Tuesday, May 15, 2018									
Total No. Reporting Units: 8			Reporting Units with No Voters: 1						
Units Rptg.			Units Rptg.			Units Rptg.			Units Rptg.
<b>TOWNS:</b>			<b>TOWNS (cont.):</b>			<b>CITIES:</b>			
Buchanan -	W 1-10		<b>VILLAGES:</b>			Appleton -	W 59		
			Combined Locks -	W 1-6		Kaukauna -	W 12 & 13		
			Harrison -	W 1 & 2					
			Kimberly -	W 1-9					
			Little Chute -	W 3, 7, 9, 10 and 11					
			Wrightstown -	W 4					

- Indicates No Voters in Reporting Unit**
- No Voters in:
- T. Buchanan, Ward 10
  - Village of Harrison, Wards 1 & 2
  - Village of Kimberly, Ward 9

**Calumet County Wards:**  
 City of Appleton 12-14, 26, 44-47  
 Village of Harrison 3-18  
 Appleton W 47=no voters

Following is the estimated costs for the 1<sup>st</sup> Senate District elections:

<b>Estimated Costs for Special Elections-2018 - Senate District 1 - Outagamie County</b>			
<b>Item</b>	<b>Estimated Cost - Primary</b>	<b>Estimated Cost - General</b>	<b>Service Provided</b>
Ballots & Programming (Wrightstown W-4)	\$50	\$50	Brown County Clerk
Ballots for County Assembly 3	1,329	2,661	Outagamie County
Election Notices (Primary - Type A, B&D) General type B&D)	1,250	1,000	Outagamie County Clerk
Election Night Coverage to Post Unofficial Returns	150	150	Outagamie County Clerk
Election Board of Canvass 1.5 days for each + mileage for BOC members	300	300	Outagamie County
County Clerk Labor – Canvass & notice preparation, ballot preparation & proofing, equipment programming	1,275	1,150	Outagamie County Clerk
Estimated Municipal Costs (All municipalities) - costs include absentee balloting, municipal labor, Type E notice	7,100	7,100	Municipalities
<b>Total Estimated Costs</b>	<b>\$11,454</b>	<b>\$12,411</b>	
<b>Total Estimated Costs (County &amp; Municipal) – primary &amp; general special elections</b>		<b>\$23,865</b>	
<b>County Portion:</b>	<b>\$4,354</b>	<b>\$5,311</b>	
<b>Total Estimated Costs (County only)</b>		<b>\$9,665</b>	

Municipalities are responsible for absentee processing, Type D & E notices, polling place staffing, and municipal canvassing costs.

Counties are responsible for programming equipment, ballots, the Type A & B notices, election night reporting, and canvassing costs.

The County Clerk’s office will realize some revenue from the special elections from Calumet County, City of Appleton, and Village of Harrison for their programming and ballot costs. Charges for programming will be assessed based upon actual labor utilized. Ballots costs will be fully reimbursed non-Outagamie County ballots.

**Staffing Transitions – Purchase Services Temporary Help; Statutory Duties/Backlog**

As previously reported to you, the County Clerk’s Office is going through a tremendous amount of change with implementation of the approximately \$660,000 Election Management System (EMS), bringing in-house election equipment programming (normally a vendor would be paid \$100,000+ for that programming in a four-election year cycle), and training two new staff (Deputy County Clerk-Programmer started mid-December and the PT Deputy Clerk Assistant started January). Training continues and is ongoing. PT staff training is particularly slow as the person is not exposed continually to their duties.

To assist with the transition, contract staff was utilized while staff training occurs. Contract staff assisted with duties that included distribution of election equipment to municipalities, distribution of election supply ordering (some of which still has not been completed as of the date of the drafting of this memo),

dog licensing receipting, and chipping away at the 2.5 year backlog for Book of Proceedings (last book printed was 2014-15).

Duties that remain include (but are not limited to) the following: transition municipal treasurers and other users to the new Transcendent Pet Licensing software program, printing the 2018-19 Public Officials Directory (brand new for all staff, except County Clerk), invoice municipalities (and Calumet/Winnebago Counties) for programming and supplies (larger supplies than ever experienced due to the new EMS), receipting ballot access documents for the fall Partisan elections, transition another new staff person while handling a special election the weeks of June 11-June 16, distribute to cemeteries care of veterans graves documents, continued training newer staff members, distribute remaining EMS supplies to municipalities, invoice for the special elections, begin 2019 budget preparation, address election security issues being addressed by the state and federal governments (possible audits), manage public transition for marriage licensing with the new building changes, handle open records requests (received first one for the PDFs of ballots; anticipate many more of those requests), and continue completion of the Book of Proceeding backlog.

Our office requested, from administration, continuation of the 10/hour week contract staff for another six weeks while another new staff member transitions, ensuring County Board functions are completed, special elections are handled, and other necessary duties are completed while the busy marriage license season really kicks off. Contract staffing is more cost-effective and provides opportunity for remaining staff to train without interruption.

The administration presented the possibility that another office could take over office duties (as available). However, that office is not constitutionally authorized to conduct county clerk duties and does not have sworn deputies. Since that was presented to this office, a request was made of Corporation Counsel to research statutory duties of this office according to the Wisconsin Statutes. Wis. Stat. 59.23 was revised in 2014 to centralize the duties and conform them in county clerk offices throughout the state. Our office will continue to conduct duties as required in Wis. Stat. 59.23 (appended) and other statutory requirements.

### **Election Equipment Programming – COOP Planning**

The federal government has now designated elections as critical infrastructure. As part of that mandate, Wisconsin is receiving federal funds to update security. County and municipal governments will need to follow protocols and consider their individual requirements. Following is recent information regarding Wisconsin's actions.

The Wisconsin Elections Commission held a special meeting on April 18 to discuss plans to spend nearly \$7 million in federal 2018 Help America Vote Act (HAVA) Election Security Fund grants. The Commission plans to address immediate election security needs. In addition, the State is making plans to seek input from key election security partners such as Homeland Security, the Division of Enterprise Technology, local election officials, and the public on how the majority of the HAVA funds should be spent.

Staff recommendations to WEC included:

- **Multi Factor Authentication (MFA) within Wisvote.** All County Clerk staff (except contract) utilize Wisvote.
- **Additional IT Contractors** - WEC recommended hiring additional IT (two staff) contract development staff to implement elections security best practices and measures. One of the

recommended positions would focus on technical implementation of security measures, like MFA. The other position would focus on quality assurance and IT architecture

- ***Additional Server and Database Environments*** – WEC IT applications are hosted on servers housed at the state Division of Enterprise Technology (DET). Designating an application as critical means that DET architects the server structure for that application in a way that enhances back-ups and redundancies and ensures the function of the application can be restored and recovered quickly in the event of a cyber event or emergency. WEC staff is in the process of exploring the DET hosting tiers and identifying costs associated with moving WisVote and related applications to the highest tier available. After preliminary discussions, WEC staff does not believe moving elections applications to a higher tier will represent a one-time cost of more than \$100,000. However, moving to a higher tier will represent a higher monthly cost to the WEC for DET hosting services. WEC staff will report to the Commission any additional services purchased through DET to accomplish these upgrades.
- ***Additional Security Training for Clerks*** – WEC staff continues to develop in-house, interactive training tutorials for municipal clerks on election and cyber security topics. These trainings will be incorporated into the WisVote learning center and will be required for new users prior to gaining access to the system. However, additional training opportunities for municipal and county clerks is also available through federal partners. WEC staff would like to explore purchasing additional training from federal partners, such as the Center for Internet Security (MS-ISAC/DHS affiliate) that can then be made available to municipal and county clerks.
- ***Applications Management Software*** - WEC staff is exploring options to purchase database behavioral analysis and user activity logging software. These tools will help to establish baseline activity in the WisVote system and related applications and will automate processes to flag unusual activity. There are a number of software applications available either publicly or through the state enterprise that can accomplish these tasks. WEC staff is currently working with DET and other elections security partners to determine the best software solutions to meet agency needs.

### County Level Continuity of Operations Plan–Election Security Issues

The County Clerk has addressed many security issues, but various items are in process of completion and the office will continue to implement federal/state recommendations.

- ***Backup Thumb Drives*** – Part of the EMS contingency funds were utilized to purchase a backup set of thumb drives. Brown County had procured an additional set, and after discussing with administration, Outagamie County purchased a back-up set for programming requirements. These thumb drives will be of particular assistance with special elections that are occurring and will assist with COOP.
- ***County Clerk Staff & Municipal Clerk Training*** – County Clerk staff will comply with all security measures being implemented by WEC. In addition, the County Clerk is becoming a train-the-trainer for municipal clerks/election inspectors (May 31 – Madison training). On June 6, Lori will be a facilitator at an Appleton regional training being planned by WEC.
- ***Equipment Programming Back-Up*** – In discussing redundancy of the county’s system with the EMS vendor, ES&S recommended several items. Back-up of election programming is being stored off-site. An additional item recommended is that a laptop with programming software be stored off-site. The laptop could not be used for any other functions. As this suggestion is very recent, the county clerk will work through details of compliance with administration. Very little contingency remains from the EMS project, so additional funds might be necessary. Due to increased election security risks, the expenditure is warranted.

- Staffing - My primary concern is with staffing. With having a whole new staff as of mid-June (except the county clerk), it is imperative that we have sufficient staffing for ensuring elections compliance (including training municipalities in new security requirements and handling two additional elections), county board duties are completed, and to continue to adequately train current and new staff for marriage licensing and other necessary duties of the office.
- EMS Modem Upgrade – As our office will be working through Election budgeting for 2019 and modem upgrades will need to be installed next year, will the County support full or partial cost for that equipment? Without modems, the county will need to support labor changes to post up unofficial results on the web.
- EMS Backup – If sufficient funds are not available in the EMS contingency, could regular contingency provide a backup laptop for offsite available of election night/equipment programming software?

The above is very detailed memo and provides background to several issues being addressed in our office. Decisions can be completed at your next meeting with the May 1 meeting being informational. The municipalities will be looking to the county for their decision on budgeting, so you may want to consider not delaying further than your next meeting in two weeks. I look forward to our discussion.

Thank you.

## Appendix

### Wisconsin Statutes 59.23(2)

(2) Duties. The clerk **shall**:

- (a) *Board proceedings.* Act as clerk of the board at all of the board's regular, special, limited term, and standing committee meetings; under the direction of the county board chairperson or committee chairperson, create the agenda for board meetings; keep and record true minutes of all the proceedings of the board in a format chosen by the clerk, including all committee meetings, either personally or through the clerk's appointee; file in the clerk's office copies of agendas and minutes of board meetings and committee meetings; make regular entries of the board's resolutions and decisions upon all questions; record the vote of each supervisor on any question submitted to the board, if required by any member present; publish ordinances as provided in s. [59.14 \(1\)](#); and perform all duties prescribed by law or required by the board in connection with its meetings and transactions.
- (b) *Recording of proceedings.* Record at length every resolution adopted, order passed and ordinance enacted by the board.
- (c) *Orders for payment.* Sign all orders for the payment of money directed by the board to be issued, and keep a true and correct account of such orders, and of the name of the person to whom each order is issued; but he or she shall not sign or issue any county order except upon a recorded vote or resolution of the board authorizing the same; and shall not sign or issue any such order for the payment of the services of any clerk of court, district attorney or sheriff until the person claiming the order files an affidavit stating that he or she has paid into the county treasury all moneys due the county and personally collected or received in an official capacity; and shall not sign or issue any order for the payment of money for any purpose in excess of the funds appropriated for such purpose unless first authorized by a resolution adopted by the county board under s. [65.90 \(5\)](#).
- (cm) *Apportionment of taxes.* Apportion taxes and carry out other responsibilities as specified in s. [70.63 \(1\)](#).
- (d) *Accounts.* File and preserve in the clerk's office all accounts acted upon by the board, and endorse its action thereon, designating specifically upon every account the amount allowed, if any, and the particular items or charges for which allowed, and such as were disallowed, if any.
- (de) *Property.* To the extent authorized by the board, exercise the authority under s. [59.52 \(6\)](#).
- (dg) *Dogs.* Perform the responsibilities relating to dog licensing, which are assigned to the clerk under ch. [174](#), and the dog fund specified in ch. [174](#).
- (di) *Marriage licenses, domestic partnerships.* Administer the program for issuing marriage licenses as provided in ch. [765](#) and the program for forming and terminating domestic partnerships as provided in ch. [770](#).
- (e) *Reports of receipts and disbursements.* Record the reports of the treasurer of the receipts and disbursements of the county.
- (f) *Recording receipts and disbursements.* Keep a true and accurate account of all money which comes into the clerk's hands by virtue of the clerk's office, specifying the date of every receipt or payment, the person from or to whom the receipt or payment was received or paid, and the purpose of each particular receipt or disbursement, and keep the book at all times open to the inspection of the county board or any member of the board.
- (g) *Payments to treasurer.* Keep in the manner prescribed in par. (f) a separate account of all moneys paid the treasurer by the clerk.
- (h) *Books of account.* Keep all of the accounts of the county and all books of account in a manner that the board directs. Books of account shall be maintained on a calendar year basis, which shall be the fiscal year in every county.

- (i) *Chief election officer, election duties.* As the chief election officer of the county, perform all duties that are imposed on the clerk in relation to the preparation and distribution of ballots and the canvass and return of votes at general, judicial, and special elections.
- (L) *Duplicate receipts.* Make out and deliver to the treasurer duplicate receipts of all money received by the clerk as clerk, and countersign and file in the clerk's office the duplicate receipts delivered to the clerk by the treasurer of money received by the treasurer.
- (m) *Certified copies; oaths and bonds; signatures.*
  1. Make and deliver to any person, for a fee that is set by the board under s. [19.35 \(3\)](#), a certified copy or transcript of any book, record, account, file or paper in his or her office or any certificate which by law is declared to be evidence.
  2. Except as otherwise provided, receive and file the official oaths and bonds of all county officers and upon request shall certify under the clerk's signature and seal the official capacity and authority of any county officer so filing and charge the statutory fee. Upon the commencement of each term every clerk shall file the clerk's signature and the impression of the clerk's official seal in the office of the secretary of state.
- (n) *Taxes.* Perform all duties that are imposed on the clerk in relation to the assessment and collection of taxes.
- (nm) *Timber harvest notices.* Provide notice to a town chairperson regarding the harvesting of raw forest products, as described in s. [26.03 \(1m\) \(a\) 2](#).
- (o) *Report, receipts and disbursements to board.* Make a full report to the board, at the annual meeting or at any other regular meeting of the board when so stipulated by the board, in writing, verified by the clerk's oath, of all money received and disbursed by the clerk, and separately of all fees received by the clerk; and settle with the board the clerk's official accounts and produce to the board all books, accounts and vouchers relating to the same.
- (p) *Proceedings to historical society.* Forward to the historical society, postpaid, within 30 days after their publication a copy of the proceedings of the board, and of all printed reports made under authority of such board or by the authority of other county officers.
- (q) *County highway commissioner; notify of election.* Notify a county commissioner of highways of the commissioner's election within 10 days thereafter.
- (r) *County tax for road and bridge fund.* Notify the proper town officers of the levy and rate of any tax for the county road and bridge fund.
- (s) *List of local officials.* Annually, on the first Tuesday of June, transmit to the secretary of state a list showing the name, phone number, electronic mail address, and post-office address of local officials, including the chairperson, mayor, president, clerk, treasurer, council and board members, and assessor of each municipality, and of the elective or appointive officials of any other local governmental unit, as defined in s. [66.0135 \(1\) \(c\)](#), that is located wholly or partly within the county. Such lists shall be placed on file for the information of the public. The clerk, secretary, or other administrative officer of a local governmental unit, as defined in s. [66.0137 \(1\) \(ae\)](#), shall provide the county clerk the information he or she needs to complete the requirements of this paragraph.
- (t) *General.* Perform all other duties required of the clerk by law.

**History:** [1995 a. 201](#) ss. [261](#), [263](#), [264](#), [275](#); [1995 a. 225](#) ss. [147](#) to [150](#); [1997 a. 27](#); [1999 a. 9](#); [2013 a. 373](#).

Under s. 59.17 (8) [now s. 59.23 (2) (h)], the clerk keeps only those accounts designated by the board. *Harbick v. Marinette County*, [138 Wis. 2d 172, 405 N.W.2d 724](#) (Ct. App. 1987).

Except for their elected superior's power to appoint and discharge, chief deputies are subject to the Municipal Employment Relations Act, ss. 111.70 to 111.77, and are not excluded from a collective bargaining unit as a matter of law. *Oneida County v. WERC*, [2000 WI App 191, 238 Wis. 2d 763, 618 N.W.2d 891, 00-0466](#).

Statutory powers of the county clerk with respect to budgeting and record keeping cannot be transferred by the county board to a new position of finance officer. 63 Atty. Gen. 196.

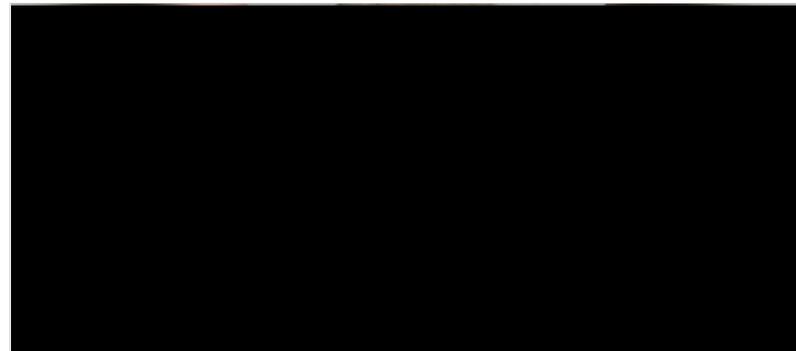
A county board can only grant powers of indirect supervision to a finance director with respect to the accounting or bookkeeping duties of a county clerk. 65 Atty. Gen. 132.

From: Michael Benninger <mbeziac@sbcglobal.net>  
Sent: Tuesday, December 7, 2021, 3:04 PM  
To: "Rep.Brandtjen@legis.wisconsin.gov" <Rep.Brandtjen@legis.wisconsin.gov>;  
"Rep.Sanfelippo@legis.wisconsin.gov" <Rep.Sanfelippo@legis.wisconsin.gov>;  
"Rep.Tusler@legis.wisconsin.gov" <Rep.Tusler@legis.wisconsin.gov>;  
"Rep.Thiesfeldt@legis.wisconsin.gov" <Rep.Thiesfeldt@legis.wisconsin.gov>;  
"Rep.Murphy@legis.wisconsin.gov" <Rep.Murphy@legis.wisconsin.gov>;  
"Rep.Rozar@legis.wisconsin.gov" <Rep.Rozar@legis.wisconsin.gov>;  
"Rep.Spreitzer@legis.wisconsin.gov" <Rep.Spreitzer@legis.wisconsin.gov>;  
"Rep.Subeck@legis.wisconsin.gov" <Rep.Subeck@legis.wisconsin.gov>;  
"Rep.Emerson@legis.wisconsin.gov" <Rep.Emerson@legis.wisconsin.gov>  
Subject: FRICKIN MORONS 5

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Continued frickin morons. Ms. Watkins needs your help. Free the POW's STOP THE SUFFERING UNDER THIS COMMUNIST PEDOPHILE ILLEGITIMATE REGIME. ACT NOW AND DECERTIFY OR TAKE HER PLACE IN PRISON.

["I Have Been Incarcerated for Nearly a Year for Crimes I Did Not Commit" - Courageous Jan. 6 Political Prisoner Jessica Watkins Speaks Out Against the Regime](#)



**"I Have Been Incarcerated for Nearly a Year for Crimes I Did Not Commit"...**

Jim Hoft

Jessica Watkins was arrested in January after she turned herself in to federal authorities and was charged with ...

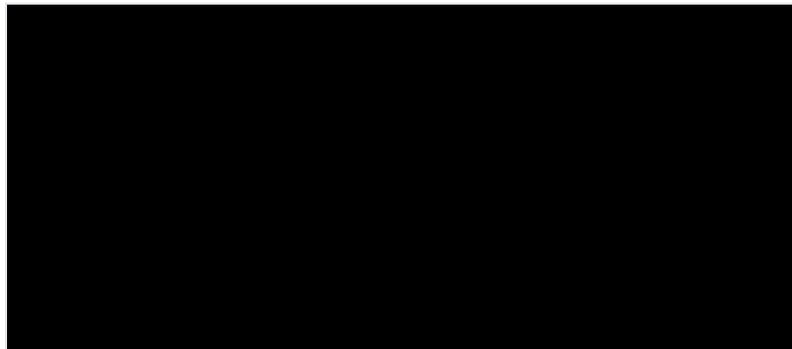
WISCONSIN HAS NOT DECERTIFIED YET. WHY NOT? NOT ONE ONE OF YOU WILL HAVE THE BALLS TO ANSWER THAT QUESTION. IN MY OPINION EVERY DAY YOU STALL IS ANOTHER DAY OF UNNECESSARY SUFFERING UNDER THIS COMMUNIST PEDOPHILE FAKE ILLEGITIMATE REGIME. TODAY IS IT'S 13 MONTHS AFTER THE LARGEST CRIME IN WISCONSIN HISTORY AND YOU'RE

STILL DRAGGING YOUR FEET. THAT MAKES YOU EITHER STUPID OR PART OF THE CRIME. WHICH IS IT? I KNEW OF THIS CRIME ON 11-4-20 WHY IS IT TAKING YOU SO LONG? A MAJORITY OF THE PEOPLE IN WISCONSIN ARE FED UP WITH YOUR BS. EITHER DO YOUR JOB OR RESIGN IN SHAME. DID ANYONE ON THE CURRENT WISCONSIN SUPREME COURT WIN A FAIR ELECTION? IN MY OPINION THE CONTINUED STALLING IS A TREASONOUS EVENT AND SHOULD BE TAKEN CARE OF BY MILITARY TRIBUNAL. WISCONSIN NEEDS TO DECERTIFY IMMEDIATELY. YOU HAVE ALL THE INFORMATION YOU NEED. PLEASE DO YOUR JOB OR GET THE HELL OUT. END THE SUFFERING!

On Wednesday, November 24, 2021, 12:53:32 PM CST, Michael Benninger <mbeziac@sbcglobal.net> wrote:

Now that charges have been filed by the Racine County Sheriff against 5 members of WEC Wisconsin must DECERTIFY THE 2020 ELECTION IMMEDIATELY.

[Racine County Sheriff Files Criminal Charges Against 5 of 6 Members of Wisconsin Elections Commission - First Material Charges Country-wide Related to 2020 Election Theft](#)



**Racine County Sheriff Files Criminal Charges Against 5 of 6 Members of W...**

Jim Hoft

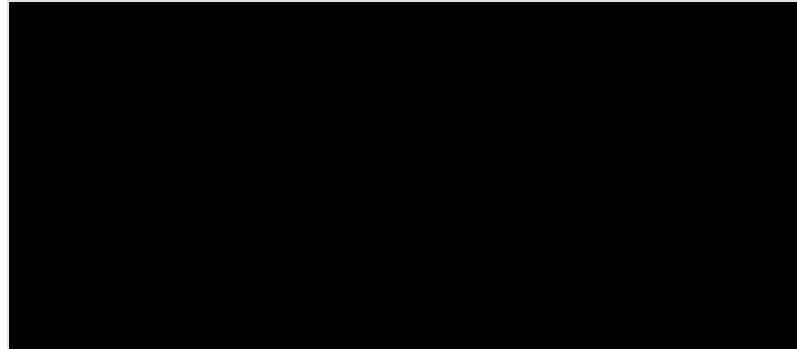
The Sheriff of Racine County Wisconsin has filed charges against five members of Wisconsin's election commission...

Continued Morons,

Rep. Tim Ramthun has introduced a resolution to decertify the 2020 Election. Why isn't this done yet? American continues to suffer under COMMUNIST PEDOPHILE FAKE REGIME. Peter Schwartz is suffering immensely in jail among others due to your inaction. Which one wants to take his place?

[January 6 Protester Sends Letter From Jail, Begs for Help, Says 'Police Repeatedly Tried to Incite a Riot' -- You Can Donate HERE](#)

ALL OF YOU ARE DISGRACEFUL. HOW MANY HAVE DIE FROM THE BIOWEAPON BECAUSE OF YOUR INACTION? IT'S TOTALLY OUTRAGEOUS DECERTIFICATION HASN'T HAPPENED YET. EVERY DAY PETER HAS TO SUFFER IS ON YOU. MANY AMERICANS WILL NOT HAVE A HAPPY THANKSGIVING BECAUSE OF YOUR INACTION. RESIGN AND MOVE TO CHINA.



**January 6 Protester Sends Letter From Jail, Begs for Help, Says 'Police ...**

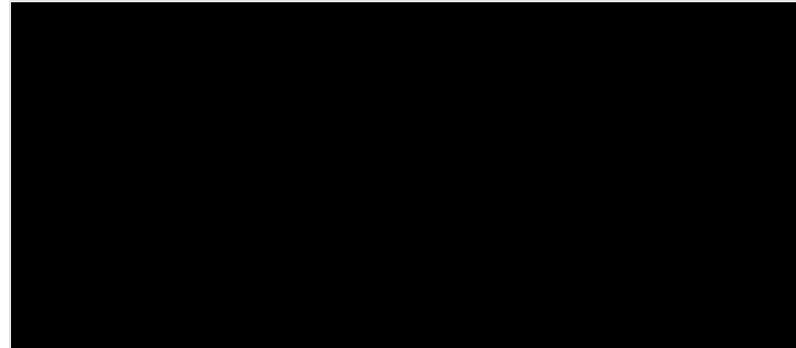
Cassandra Fairbanks

Jailed January 6 protester Peter Schwartz has penned an open letter to the public pleading for help as he does n...

All you FRICKIN MORONS,

A Wisconsin Senate Committee subpoenas absentee ballots and voting machine records from the City of Madison. THE COMMUNIST MAYOR HAS DENIED THE REQUEST. Everyone you needs to resign in shame. You finally did something that should have been done 11-4-20. It's more than a year after the election. THIS IS INSANE. The requested material is public not the property of the mayor. ARREST THE MAYOR FOR TREASON. EVERY MEMBER OF WEC SHOULD BE ARRESTED FOR BREAKING THE LAW. NO ACCOUNTABIITY. YOU HAVE ENOUGH INFO TO DECERTIFY NOW WITHOUT THIS INFO. WHAT ARE YOU WAITING FOR? THIS COMMUNIST REGIME IS ILLEGITIMATE. ARE YOU AFRAID ALL OF YOU ARE ILLEGITIMATE TOO? TOTALLY DESPICABLE. GET YOUR A^^^ IN GEAR.

[BIG NEWS: Wisconsin Senate Committee Subpoenas Absentee Ballots and Voting Machine Records from City of Madison from 2020 Election](#)



**BIG NEWS: Wisconsin Senate Committee Subpoenas Absentee Ballots and Voti...**

Joe Hoft

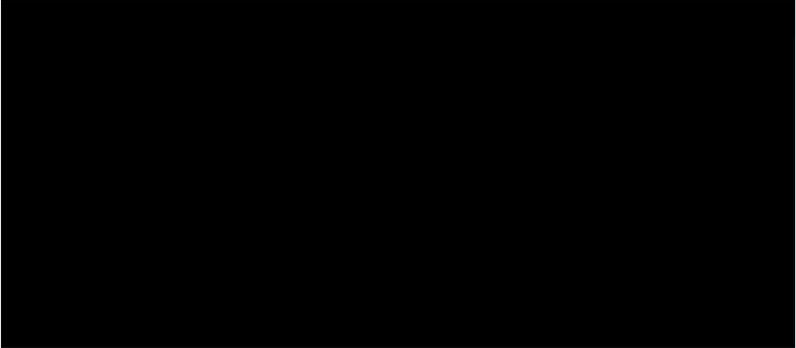
A Wisconsin Senate Committee has subpoenaed absentee and voting machine records from the City of Madison, Wiscon...

SO, NOT ONE OF YOU HAD THE COURAGE TO ANSWER MY QUESTION. GRADE F. FAILURE TO EVERYONE OF YOU. RESIGN IMMEDIATELY FOR NOT DOING THE PEOPLE'S BUSINESS AS YOU WERE ELECTED TO DO. FAILURE TO DO THE PEOPLE'S BUSINESS IS A DISGRACE. THIS MAN AND THE AMERICAN PEOPLE ARE SUFFERING DUE TO YOUR FAILURE. ELECTIONS HAVE CONSEQUENCES. SHAME ON YOU FOR NOT DOING THE PEOPLE'S BUSINESS. FAILURE TO RESTORE ELECTION INTEGRITY. THE AMERICAN PEOPLE DESERVE SOMEONE WHO WILL DO THEIR BUSINESS. RIGHT NOW YOU'RE NOT IT.

On Friday, September 24, 2021, 02:37:05 AM CDT, Michael Benninger <mbeziac@sbcglobal.net> wrote:

WHICH ONE OF YOU WOULD LIKE TO TAKE JONATHAN'S PLACE IN PRISON? THIS HAPPENED BECAUSE OF ELECTION FRAUD.

[Heartbreaking Letter from Jan. 6 Prisoner in Solitary Confinement! DC Gitmo Violates International Codes on Torture](#)



### **Heartbreaking Letter from Jan. 6 Prisoner in Solitary Confinement! DC Gi...**

Cara Castronuova

Jonathan Mellis, a detainee from January 6th, wrote us from solitary confinement last week. Mellis has been det...

On Sunday, June 13, 2021, 05:27:53 PM CDT, Michael Benninger <mbeziac@sbcglobal.net> wrote:

Dear Idiots,

It's going to take more than the "Three Stooges" to audit the WI 2020 Election. The AZ Audit is a more involved process than the "stooges" can do. I would support a lawsuit to recover damages done to Red States and other people because of the policies of the Communist Pedophile Fake regime which was caused by the massive fraud in states like WI For example, you should pay for the wages lost by workers laid off by the closing of the Keystone Pipeline. 143,000 ballots dumped at 3am November 4th, 2020 when the election was over November 3, 2020 7pm. MASSIVE FRAUD CORRUPTION AND TREASON. PRESIDENT WON THE 2020 ELECTION BY A LANDSLIDE.

<https://www.thegatewaypundit.com/2021/06/breaking-six-wisconsin-republican-lawmakers-staff-plan-tour-arizona-audit-floor-friday/>

<https://www.thegatewaypundit.com/2021/06/exclusive-wisconsin-republican-legislative-members-actions-show-believe-143000-biden-ballots-dropped-3am-nov-4-fine/>

<https://www.thegatewaypundit.com/2021/06/wisconsin-election-audit-actions-date-joke-wisconsin-happy-143000-votes-dropped-biden-day-election/>

Michael Benninger

**From:** "Savidusky, Melodie" <Melodie.Savidusky@legis.wisconsin.gov>

**Sent:** Tuesday, January 11, 2022, 2:45 PM

**To:** "Savidusky, Melodie" <Melodie.Savidusky@legis.wisconsin.gov>

**Subject:** FW: Email 1

**Attachments:** FICCommitteeMemo512018EMSCC.pdf; wisconsin election commission presentation for 2018 CTFO.pdf

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**From:** Erick Kaardal <[kaardal@mklaw.com](mailto:kaardal@mklaw.com)>

**Date:** November 10, 2021 at 1:17:42 PM CST

**Subject:** Email 1

“Active directory” is an industry standard microsoft technology and by default it will log everything that happens - users added, deleted, etc. - but you have to get your hands on the log files, which is why backups from the election time period (6 months before, 6 months after) will be key to get your hands on, if indeed that is their "source of truth" for who has access to wisvote.

**From:** "Savidusky, Melodie" <Melodie.Savidusky@legis.wisconsin.gov>

**Sent:** Tuesday, January 11, 2022, 2:46 PM

**To:** "Savidusky, Melodie" <Melodie.Savidusky@legis.wisconsin.gov>

**Subject:** FW: Email 2

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**From:** Erick Kaardal <[kaardal@mklaw.com](mailto:kaardal@mklaw.com)>

**Date:** November 10, 2021 at 1:18:08 PM CST

**Subject:** Email 2

**Subject:** job in wi det for microsoft active directory administrator

<http://www.jobsinhand.com/React-Java-/Jobs-in-FL-JunoBeach/Developer/Microsoft-Active-Directory-LDAP-DFS/Jobs-in-WI-Madison/Administrator/67230.htm>

From: David R Klampert <davidrklampert@hotmail.com>  
Sent: Wednesday, December 22, 2021, 4:37 AM  
To: David R Klampert <davidrklampert@hotmail.com>  
Cc: "david\_r\_klampert@protonmail.com" <david\_r\_klampert@protonmail.com>  
Subject: Fw: Judicial Watch anti-Election Fraud Efforts

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**From:** Loosegoods <Loosegoods@protonmail.com>  
**Sent:** Wednesday, December 22, 2021 1:58 AM  
**To:** Davidrklampert@hotmail.com <Davidrklampert@hotmail.com>  
**Subject:** Judicial Watch anti-Election Fraud Efforts

Howdy Folks, Merry Christmas to all who celebrate! And a happy, prosperous and SAFE New Year's wish for you all.

Tuesday, 21st December 2021

Today, I received my annual membership renewal request from JUDICIAL WATCH President, Tom Fitton, along with a MEMORANDUM TO HIM, BY J.W. SENIOR ATTORNEY, Director of Judicial Watch's Election Law Initiative, Bob Popper, which, due to its' deadly SERIOUS and CRITICAL ISSUE OF ELECTION INTEGRITY vis-à-vis ELECTION CORRUPTION LAWS being made PERMANENT, BY THOSE VERY GLOBALISTS, TRAITORS TO THE UNITED STATES AND IT'S CONSTITUTION. The ISSUE IS CRITICAL TO OUR NATIONS' VERY SURVIVAL AS THE CONSTITUTIONAL REPUBLIC, THAT ALLOWED THE GREATNESS THAT THIS COUNTRY HAS BEEN, AND MAY NEVER BE AGAIN. THIS, by the way, is occurring as I receive, also today, from the HERITAGE FOUNDATION, a notice of "HOUSE VOTES IN FAVOR OF ILLEGAL ALIEN VOTING". Read along, please AS SUCH, I am taking the liberty of reposting and sharing this MEMORANDUM along to the American Public, these sixteen brief paragraphs for people's awareness of the issue, their cognizance, and understanding of these bills proposed and favored the Globalists, doing all in their power to Socialize this bastion of hope and opportunity for all people while destroying the world's greatest model for Democracy and Personal Freedom that has ever existed and is being fought for by those Patriots' noble and grand efforts, to preserve our historical Constitutional Republic. It is a SERIOUS ISSUE, FOLKS; I recommend that people READ THIS and then SHARE IT ALONG PLEASE, so that others too, will understand the consequences of all that is at stake

Memorandum to Tom Fitton, dated December 1, 2021:

From: Bob Popper, Judicial Watch Senior Attorney

Re: Our 2022 Legal, Investigative, and Education Plan for Free and Fair Elections:

Based on what I'm seeing across the country, a coalition of well-funded partisans on the Left is pushing harder than ever to radically alter U.S. election procedures. Their clear intention is to demolish any safeguard designed to ensure election integrity. And, they have the full support of the Biden White House and Justice Department.

Some conservatives I speak with believe we've weathered the storm of anti-integrity measures, but they could not be more mistaken, Radical partisans on the Left, both inside and outside the Biden administration, are acting now to change our election laws for the worse – and in ways that can never be fixed – forever. A succession of recent federal bills from this past year – HR 1, HR 4, and most recently the badly miss-named "Freedom to Vote Act" – have included provisions we do not like:

Impairing popular and essential state laws requiring voter ID by subjecting them to hostile federal review; putting a racial "thumb on the scale" by imposing race-conscious legal requirements when drawing districts for Congress and state legislatures; making permanent and legal everywhere formerly temporary COVID-related accommodations, like unrestricted mail-in balloting and diminished signature requirements; and crippling the

list maintenance provisions of the Nation Voter Registration Act of 1933, the only federal law we have that requires states to keep their voter rolls clean.

These measures have not passed yet, but it remains touch-and-go as to whether they will. Democrats, after all, control the presidency and both houses of Congress. Even worse, this same hard-Left coalition supports a dangerous new push to allow non-citizens to vote. Two towns in Vermont recently joined San Francisco and nine towns in Maryland in allowing non-citizens to vote in local elections. Similar laws are being considered in Massachusetts, Washington, DC, Illinois, and New York City.

The same hard-Left coalition favors a federal law that would override all contrary state laws and allow ex-felons to vote. These risks to our electoral system are enormous. Remember that if any one of these measures are adopted, as a practical matter they will never be repealed because they automatically create new partisan constituencies in their favor. On top of that, the Biden Justice Department and its hard-Left allies are rolling in money, including overseas money, and can sustain litigation all the way to the Supreme Court, They are in courtrooms across the country opposing every recently passed, common sense state election law reform that we are helping to defend and many patriotic and conservative groups support.

Incredibly, we hear from Joe Biden – and the media dutifully report – that these common-sense state election measures are “restricting the right to vote.” He and his allies say that states restricting mail-in voting laws as COVID retreats are engaged in “voter suppression” and claim that these actions represent a new form of “Jim Crow”

These claims are preposterous, as you know. At best, they reveal a startling historical ignorance. The grandfather laws, absurd literacy tests, poll taxes, intimidation, and terroristic violence that were, in fact, part of the Jim Crow era have nothing whatever to do with, say, a recent Ohio law that restricted early voting from 5 weeks to 4 weeks, or a recent Texas law limiting same-day registration, or a recent Arizona law forbidding ballot harvesting. Nor do they have anything to do with regulating absentee ballots, out-of-precinct voting, or voter ID requirements, all reasonable electoral integrity measures researched and approved by the bipartisan Carter-Baker commission over 15 years ago. Of course, that was before the Left went radical. All of these common sense laws are now slandered by the Left as “Jim Crow

Incredible, but the radical Left is now calling the shots in Washington, DC, They have assembled massive legal and media firepower. Per our discussions over the past months about how Judicial Watch stands in the breach for honest elections, we’ve moved our voter Integrity Initiative front-and-center at both the federal and state court levels. Our court actions have achieved a series of successes, leading several states and counties to take appropriate steps under federal law to keep their voter registration lists accurate. Right now, we’re litigating for more accurate voter rolls in Colorado, Illinois, North Carolina, and Pennsylvania. Per past agreements and court orders, we will continue to monitor voter list maintenance efforts in California and Kentucky.

We’re also wrapping up our review and expert analysis of state voting records data. In a few weeks, we will be announcing evidence that will show many states and counties are probably out of compliance with federal laws requiring that they clean their voter rolls. Our plan is to first warn problem states to clean up their act and, if necessary, file lawsuits in federal court. We’re also developing our legal strategies to assist other states like Florida and Texas being attacked by the Biden Justice Department and a well-funded radical network of “legal bomb-throwers.” I’m certain these attacks will increase as the clock runs down to the November 2022 elections. We’ve already sued the Biden Justice Department to expose any collusion with leftist groups to oppose even the modest election security measures recently instituted by Georgia.

The stakes could not be higher. But our Judicial Watch election law team is ready., I believe 2022 will be a decisive year in determining if fair and honest elections will persevere in America, or whether the Left will succeed in so corrupting our electoral processes as to destroy public faith in them, I ask that as you communicate and educate other Americans around the country, you impress upon them just how critically important Judicial Watch’s work fighting through the courts and the legal system for clean elections is going to be in 2022 and beyond, The threats to the integrity of our elections are existential. Indeed, I believe that our nation’s continued survival as a constitutional republic is at stake.

(End of Memorandum.)

Judicial Watch: Join JWTV | Join Judicial Watch | [subscribe.judicialwatch.org](https://subscribe.judicialwatch.org)

Sent with [ProtonMail](#) Secure Email.

**From:** "Savidusky, Melodie" <Melodie.Savidusky@legis.wisconsin.gov>

**Sent:** Tuesday, January 11, 2022, 2:45 PM

**To:** "Savidusky, Melodie" <Melodie.Savidusky@legis.wisconsin.gov>

**Subject:** FW: Liu v. Wolfe, Case EL 21-33

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**From:** Erick Kaardal <[kaardal@mklaw.com](mailto:kaardal@mklaw.com)>

**Date:** October 25, 2021 at 3:42:45 PM CDT

**Subject:** FW: Liu v. Wolfe, Case EL 21-33

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**From:** Haas, Michael R <[MHaas@cityofmadison.com](mailto:MHaas@cityofmadison.com)>

**Sent:** Monday, October 25, 2021 12:50 PM

**To:** 'jpa@dewittllp.com' <[jpa@dewittllp.com](mailto:jpa@dewittllp.com)>; 'Deborah C. Meiners' <[dcm@dewittllp.com](mailto:dcm@dewittllp.com)>

**Cc:** Erick Kaardal <[kaardal@mklaw.com](mailto:kaardal@mklaw.com)>; 'Bellavia, Thomas C.' <[bellaviatc@DOJ.STATE.WI.US](mailto:bellaviatc@DOJ.STATE.WI.US)>; 'Vanessa Chavez' <[Vanessa.Chavez@greenbaywi.gov](mailto:Vanessa.Chavez@greenbaywi.gov)>; 'Lindsay Mather' <[Lindsay.Mather@greenbaywi.gov](mailto:Lindsay.Mather@greenbaywi.gov)>; 'Lindsey Belongea' <[Lindsey.Belongea@greenbaywi.gov](mailto:Lindsey.Belongea@greenbaywi.gov)>; 'Ed Antaramian' <[eantaramian@kenosha.org](mailto:eantaramian@kenosha.org)>; 'Bryan Charbogian' <[bcharbogian@kenosha.org](mailto:bcharbogian@kenosha.org)>; 'Scott Letteney' <[Scott.Letteney@cityofracine.org](mailto:Scott.Letteney@cityofracine.org)>; Brist, Steven <[SBrist@cityofmadison.com](mailto:SBrist@cityofmadison.com)>; Lauten, Patricia <[PLauten@cityofmadison.com](mailto:PLauten@cityofmadison.com)>; 'Carroll, James' <[jmcarr@milwaukee.gov](mailto:jmcarr@milwaukee.gov)>; 'Block, Kathryn' <[kblock@milwaukee.gov](mailto:kblock@milwaukee.gov)>; 'Kilpatrick, Steven C.' <[kilpatricksc@doj.state.wi.us](mailto:kilpatricksc@doj.state.wi.us)>

**Subject:** RE: Liu v. Wolfe, Case EL 21-33

Attorneys Axelrod and Meiners,

I am inquiring into the status of the above WEC complaint as I had a note on my calendar to check after a month from the time of final submissions. Could you advise me of your expected timeline for issuing a decision in this matter or if a recommended decision has been submitted to the Elections Commission? Thank you.



*Michael Haas*

City Attorney ~ City of Madison  
210 Martin Luther King Jr. Blvd, ~ Room 401  
Madison, WI 53703  
608-266-6598 Direct Line  
FAX: 608-267-8715  
[mhaas@cityofmadison.com](mailto:mhaas@cityofmadison.com)

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**From:** "Savidusky, Melodie" <Melodie.Savidusky@legis.wisconsin.gov>

**Sent:** Tuesday, January 11, 2022, 2:45 PM

**To:** "Savidusky, Melodie" <Melodie.Savidusky@legis.wisconsin.gov>

**Subject:** FW: PRN Associates LLC v. State, Dept. of Admin.--Sovereign Immunity Defense

**Attachments:** PRN Associates LLC v State Dept of Admin.rtf

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**From:** Erick Kaardal <[kaardal@mklaw.com](mailto:kaardal@mklaw.com)>

**Date:** October 25, 2021 at 3:54:26 PM CDT

**Subject:** PRN Associates LLC v. State, Dept. of Admin.--Sovereign Immunity Defense

Dear Janel:

The attached case indicates that "sovereign immunity" as a defense for government defendants exists for governmental defendants sued under Wisconsin's uniform declaratory judgment act. The Supreme Court stated in the attached PRN Associates LLC v. State, Dept. of Admin. decision:

As discussed above, the State cannot be sued without its consent, and the legislature directs the manner in which suits may be brought against the State. See *Kenosha*, 35 Wis.2d at 322, 151 N.W.2d 36; *Lister v. Board of Regents*, 72 Wis.2d 282, 291, 240 N.W.2d 610 (1976). A suit against a state agency constitutes a suit against the State for purposes of sovereign immunity. *Lister*, 72 Wis.2d at 291, 240 N.W.2d 610. If the legislature has not specifically consented to the suit, then sovereign immunity deprives the court of personal jurisdiction over the State, assuming that the defense has been properly raised. *Id.* at 291, 240 N.W.2d 610.

*PRN Associates LLC v. State, Dept. of Admin.*, 766 N.W.2d 559, 573, 317 Wis.2d 656, 683–84, 2009 WI 53, ¶ 51 (Wis. 2009).

Notably, other state investigators, including party-plaintiff WEC and the AG office representing WEC, would be surprised when they were investigating individual or businesses if they could sue the investigators in circuit court under the declaratory judgment act in order to challenge the investigation. It's just not a type of lawsuit that the Wisconsin state legislature has waived sovereign immunity for.

Importantly, generally, when the circuit court denies a motion to dismiss based on sovereign immunity, the circuit court decision on sovereign immunity is immediately appealable. The different treatment here is justified because the

defendant should not have to go through the expense of trial to determine the merit of the sovereign immunity defense on appeal. If the circuit court denies the motion to dismiss based on sovereign immunity, it should be appealed on an expedited basis all the way to the Wisconsin Supreme Court.

Thanks.

egk



Office of the Special Counsel

First Interim Report

Delivered to the Wisconsin State Assembly November 10, 2021

“I am writing this, as I feel my mother was taken advantage of in her mental state. Parents and loved ones should be protected, not exploited, for an ink mark on a piece of paper and questionable agenda.” *Judy Weshphal-Mitchell, discussing how actions of the Wisconsin Election Commission affected her family*

Elections in the United States are the bedrock of our constitutional republic. They are subject to the law, including the fundamental laws found in the Constitutions of the United States and the State of Wisconsin. But fair elections are not a mere checkbox exercise. To secure republican government it is important not just that the law is followed, but that the citizens have confidence the law is followed. In the run up to the election of November 3, 2020, polling showed a majority of Americans did not have confidence their vote would count. In a democracy, this is as untenable as it is unacceptable.

To help address these concerns, the state Assembly established a new office, the Office of the Special Counsel, to investigate the recent elections in our state. As head of this new office, I am authorized by law to take all reasonable steps to investigate what happened in regard to the November 2020 election, what should have happened, why there was a difference between the two, and to recommend steps to enhance the transparency of our elections as well as restore public confidence in elections going forward.

This interim report is a first step in discharging that mission.

While this report does not definitively answer all questions that might be asked about the November 2020 election, it takes an important step in collating those questions and presenting them in a structured manner.

Over the approximately sixty days since my office was created and has been funded, we have spoken with, and listened to, everyone who has wanted to talk. This open-door policy will remain throughout the entirety of this investigation, and any future investigation with which this office is charged. We have drawn some criticism from those in the media who would suggest my discussions with various individuals or groups implies an endorsement of their views. This is not the case. I do not apologize for this open-door policy: the views of all Wisconsinites matter and sidelining or even laughing

at serious concerns of any citizen of this state would call into question whatever may be discovered by my investigation.

In the short time the Office of the Special Counsel has been funded, we have not only met with many individuals and groups, but we have collected, and in some cases compelled by law, the production of relevant information. Further, our investigation has gone beyond, and will continue to go beyond, the investigation recently conducted by the Legislative Audit Bureau (LAB). One purpose of this interim report is to lay out for the public how my Office's investigation differs significantly from the LAB investigation.

Notwithstanding lawsuits and threats of more lawsuits supported by high-priced, out-of-state lawyers, my office expects to depose government officials, under oath, to determine whether state and federal law were followed in our elections, whether good management held, and if not, who might have been responsible. If necessary, we stand prepared to refer all relevant information to appropriate state and federal law enforcement authorities. The wagon-circling by government entities in our state is concerning and is not limited to my investigation: the City of Madison, the City of Milwaukee, and the town of Little Suamico all refused to fully cooperate even with the LAB investigation, cooperation to which our legislature and the people are entitled by our State Constitution.

Make no mistake: I sincerely hope the law was followed in Wisconsin. It would give me the greatest satisfaction to deliver to the speaker of the Assembly and the public a final report which analyzes the November 2020 election in a complete and thorough manner, concludes no major overhaul of our laws or practice are necessary, and the election was administered in a legal and appropriate manner. And yet, as the following interim report demonstrates, many important questions remain unanswered. These questions include: were all lawful votes, and only lawful votes, counted? Did the machines work as advertised and expected? Were all election processes followed to the letter? Did clerks and other election officials have all the tools they needed to deal with the unprecedented

challenge posed by the COVID lockdowns and historic levels of absentee voting? Did outside corporate money unduly influence the election and/or the administration of the election? Above all, what changes can the state of Wisconsin make to ensure our future elections are not only secure, but as important, widely known to be secure?

In the coming weeks, my Office will continue to collect and analyze information about the November 2020 election, because the public has a right to know what happened. I have no partisan agenda: I am not running for office, and I do not know of any lawful remedy in the state of Wisconsin to change the certification of its electors from our current President Joe Biden to former President Donald Trump. Furthermore, I do not come with preconceived answers to any questions. Why were so many voter registrations at a single address? Why were so many voter registrations given under a single phone number? Why was there a “blip” at 4:00 a.m. in the reported statewide returns the morning after the election? All of these questions may have innocent explanations. My investigation intends to discover facts which will allow the legislature and the people of Wisconsin to draw their own conclusions about the integrity of the November 2020 election.

Many of these answers might have already been obtained were it not for unjustified obstruction of this investigation. Specifically, I requested information from the Wisconsin Elections Commission (WEC) and certain clerks about election procedures and information they possessed. With a large degree of political theater, some of this information has been withheld. I issued subpoenas, as I am lawfully authorized to do as part of my Office’s investigation as a function of legislative oversight. Rather than simply provide the information, WEC has filed a lawsuit in an attempt to quash the subpoenas and avoid providing governmental data and information to my office. I am aggressively defending the subpoenas in our state courts—courts which I once helped to oversee in my capacity as a Justice—but WEC’s actions beg the question: What are WEC and the recalcitrant city clerks hiding from the public and our legislature?

Nevertheless, I have had many productive conversations with government officials. In fact, in the many discussions my Office has had with the fine public servants in the state of Wisconsin, I have learned that complicated questions may have simple answers. But many complicated questions deserve honest answers that take time to process and report. I ask each reader of this interim report to take this as a jumping-off point for learning about the administration of elections in Wisconsin. And again, please reach out to my office if you have any information of relevance. Your voice matters.

Michael J. Gableman

Special Counsel

## What is the OSC Investigation?

November 3, 2020, was election day nationwide, and was, in our State of Wisconsin, the culmination of months of work by dedicated election workers and volunteers. It was a monumental and expensive undertaking which is critical to our representative democracy. However, it is beyond debate that questions remain about the integrity of that election. In discharging its duty under both the Federal and State Constitutions, the Wisconsin State Assembly saw fit, on June 26, 2021, to appoint a Special Counsel, establish the Office of the Special Counsel to investigate the election, make findings, and report those findings and recommendations to the Assembly. This report is a first step in fulfilling that duty.

The Office of the Special Counsel is an authorized agency of the State of Wisconsin. Its staff, including and especially the Special Counsel himself, take care to abide by all applicable state and federal laws, including open records laws and regulations relating to the practice of law. My Office will abide by the highest ethical standards to maintain a commitment to transparency, inclusion, and accountability. As such, the Office has established various internal policies, continues to maintain records, and commits to full disclosure of all public records upon the conclusion of the present investigation.

To-date, my Office has already collected and reviewed thousands of governmental and other documents. My Office has interviewed numerous witnesses and will continue to do so until the conclusion of the present investigation. The Office has been allocated a comparatively modest budget and has relied heavily upon volunteers and input by citizens' groups: the vast majority of the Office's budget, while allocated, has not been spent.

The Office may be reached at (262) 202-8722 or online at [www.wifraud.com](http://www.wifraud.com). As noted below, testimony compelled by this Office bears with it the promise, mandated by Wisconsin law, that any information so compelled may not be used in a criminal

proceeding against the individual from whom it was provided. See Wis. Stat. § 13.35. This Office has already been in contact with certain whistleblowers and commits to taking all steps to protect their interests and those of future whistleblowers.

### Constitutional Authority

Pursuant to the federal Constitution, Article I, Section 4, it is state legislatures who are authorized to set “The Times, Places and Manner of holding Elections for Senators and Representatives...” The Supreme Court of the United States has clarified that this means the Wisconsin legislature bears primary responsibility for establishing rules regarding things like voter registration, poll watching, penalties, ballot counting, and certification. This primacy of the state legislature is ratified by the Wisconsin Constitution, which in Article IV, Section 1 declares “The legislative power shall be vested in a senate and assembly.” Whether this means the state Assembly and Senate may, by joint resolution and without gubernatorial signature, tighten up or loosen election security for federal elections, and whether there are limits on how much of this constitutional responsibility can and should be delegated to other state actors (such as the Wisconsin Elections Commission), is an open question in state law.

There is some debate that the Elections Clause of the United States Constitution authorizes states to regulate legislatures alone to dictate the time, places, and manner of elections. While the word “legislature,” is used several times in the federal constitution, its meaning differs according to the context in which it appears, dependent upon the character of the function which the legislature is called upon in each respective instance to exercise. *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 808 (2015) (citing *Atlantic Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427, 434 (1932)). Even if the constitution authorizes the Assembly and Senate to jointly amend parts of our election code without gubernatorial signature, the Wisconsin constitution provides that the legislature should create bills of law which become effective only when signed by the governor. Wis. Const. Art. 4, Section 17; Article 5, Section 10. It may be the case that the

Senate and Assembly can change election regulations in the absence of a statute on the books, indeed Wisconsin law appears silent on this question, but it would be another matter for the Senate and Assembly to seek to repeal an extant portion of the election code.

This brings up a second, equally important issue—certification of the vote. There are serious and legitimate questions that the certification of Wisconsin’s election results may have been undertaken in an unlawful and unconstitutional manner. While the Wisconsin legislature has specified how presidential electors are selected, that statute does not empower the governor or WEC to certify the results of the election. The acceptance of electors by the governor while recount challenges were pending deprived the legislature of the right to certify the vote pursuant to Article II of the United States Constitution. Hasty certification of electors in a tightly contested election may disenfranchise voters to the same extent as missing a deadline and failing to certify electors at all. While hasty certification may violate the state constitutional duties of the legislature, delaying certification of electors until resolution of relevant issues does no such violence to our legal system.

### Statutory Authority

The authority of the Legislature brings with it the legislative prerogative to gather information, debate bills, and pass laws. In discharging these duties, the legislature bears the constitutional obligation and has the authority to conduct oversight, including the ability to compel production of documents and testimony. Under Wis. Stat. § 13.31, the legislature has the authority to subpoena information from individuals. Because this legislative subpoena is a part of common law legislative authority which holds that without access to all available information a legislature cannot properly legislate—and because this subpoena does not directly relate to or contemplate criminal proceedings, criminal due process rights are not implicated. *See* Wis. Stat. § 13.35. To this end, § 13.35 expressly provides that documents and testimony provided by a witness pursuant to a

legislative subpoena cannot “be used in any trial or criminal proceeding against such person in court.” This does not preclude this Office from turning over information to relevant law enforcement agencies, or by talking with this Office any given individual is somehow immune from criminal prosecution.

This office has, to-date, issued seventeen subpoenas for documents as well as testimony for governmental information from sitting government officials and has obtained some voluntary compliance. These subpoenas, properly issued pursuant to and in furtherance of the legislature’s core oversight function, have nevertheless been attacked by the media, are subject to pending litigation, threats of more litigation, and have involved nationwide attention and the work of out-of-state partisan attorneys. Given the substantial recent history of municipal non-compliance with the LAB investigation and the plenary authority of the legislature, the Assembly and this Office are defending these subpoenas. The legislature, and the public, have a right to all available information and the testimony of election officials about elections administration in Wisconsin.

#### A. How This Investigation Differs from the LAB’s Investigation.

The LAB, established in 1971, is authorized by Wisconsin statutes to “conduct...audits of the accounts and other *financial* records of departments to assure all *financial* transactions have been made in a legal and proper manner.” Wis. Stat. § 13.94(1) (emphasis added). LAB has a large staff and a laudable history of working with all state instrumentalities, but its relatively narrow mission is to ensure taxpayer money is well-spent. Its report issued October 22, 2021, notes up-front that it is concerned with “audits and evaluations of public finances and the management of public programs.” As such, its interest is neither in addressing policy concerns nor the concerns of the full legislature, but of responding to directed audits of the “records of each department” of the state of Wisconsin. Further, as the recommendations in the LAB report suggest, its ability to make recommendations is statutorily limited to the four corners of current Wisconsin law and it does not generally make recommendations to improve the law. When it does, as

in the case of the current report, these changes are extraordinarily modest, perhaps recognizing its limited authorization. Finally, its sole product is a “detailed report” to the legislature, which includes discussion of any “illegal or improper expenditures.” To the extent illegal or improper conduct does not implicate the state fisc, that conduct is beyond the purview of LAB inquiry.

By contrast, my Office’s investigation has a wide mandate to investigate elections in Wisconsin, beyond mere “waste, fraud, and abuse,” as well as the authority to gain access to necessary testimony and documents, even when recalcitrant individuals or municipalities are not otherwise inclined to “cooperate.”

#### Can Private Groups be Involved in Running Wisconsin Elections?: Delegation and Undue Corporate Influence

While this Office draws no conclusions yet, initial interviews and discussions with clerks suggest there is widespread and substantial confusion about the appropriate role of outside money in the administration of Wisconsin elections. Evidence is already in this Office’s possession indicates undue influence by well-funded private groups, who leveraged large grants to certain Wisconsin cities in order to co-opt our election apparatus to their benefit. The recent LAB investigation did not comprehensively investigate or address these concerns by clerks and the public, concerns which led to frustration and untimely resignation of at least one long-serving clerk and numerous unanswered complaints to WEC. Indeed, contracts made between outside groups and certain municipalities led directly to actions contrary to Wisconsin state law, which some clerks noted harmed both election security and the physical safety of voters. The public has a right to know if there was a *quid pro quo* arrangement between outside groups and cities, and if so, what the terms of that agreement were.

How much authority can clerks contract away to private organizations? As the LAB report contends: “Statutes do not specify the actions and responsibilities that consultants

are allowed to take at polling places and central count locations on Election Day.” Nevertheless, for the purposes of legislative inquiry, this is not, and cannot, be the end of the story. Whether certain organizations and individuals operated within a grey area in state law does not preclude obtaining all relevant facts and attempting to draw fine distinctions to facilitate legislative oversight, dialogue with the public, present legislative recommendations, and restore confidence in Wisconsin’s system of elections. We need to gather all facts so the legislature can address any problems.

Oblique reference to at least one major issue is made in the LAB report which bears mentioning. Specifically, the LAB report notes the following:

“We asked the clerks of all thirty-nine municipalities [that used central count locations] whether consultants worked at central count locations during the November 2020 General Election. Clerks indicated consultants associated with private organizations worked at the central count locations in two of the thirty-nine municipalities. Specifically:

- One municipality indicated a consultant attended the August 2020 primary as an observer, helped to modify the municipality’s election training materials from August 2020 until October 2020, and was at the central count location on Election Day in November 2020 to provide technical assistance for electronic voting equipment. The municipality indicated at least five poll workers monitored such assistance at all times.
- A second municipality indicated a consultant provided logistical support and offered elections administration recommendations but did not have the authority to make decisions and did not count ballots. The municipality indicated the consultant initially wore a city employee identification badge at the central count location on Election Day in November 2020 but subsequently became an observer after the deputy clerk spoke with WEC’s administrator about this individual.”

This cursory reporting is concerning, because it substantially waters down already-public information relating to the involvement by a number of private groups in election administration, and it suggests problems were raised and adequately resolved by clerks and WEC.

In fact, in both instances, evidence is already available to this Office that is inconsistent with the LAB's report, and which indicates a more widespread and deeper issue. For example, one private organization referred to in the LAB report was directly involved in all aspects of management of election officials, was entrusted with the only sets of physical keys to the city's central count location, managed the transportation of ballots, and instructed the counting of unlawful ballots that had arrived at the central count location beyond the lawful time window.

Furthermore, under Wis. Statutes § 7.41, there are express rules for "members of the public" to exercise their right to observe Wisconsin elections, which include limitations on the ability of observers to obtain confidential voter information or to communicate with election officials. Individuals are, under Wisconsin law, either election officials or members of the public, and do not "become" observers, as the LAB report suggests. Finally, issues involving possible unauthorized access to election materials or impersonation of a municipal employee cannot be remedied by *ex parte* discussion with a single bureaucrat at WEC. None of these issues are directly addressed by the LAB report.

The LAB report also fails to address to what degree state instrumentalities may properly contract with private groups for purposes of administering public elections. Clerks have already raised concerns to this Office that there are certain election administration functions which they are simply unable to perform. Clerks and the public have raised concerns about the ability of outside contractors to legally bind election officials with onerous contractual terms.

Contracts with private groups for election administration and management.

This Office is reviewing contracts between municipalities and private groups which gave preferential access to voter data to those private groups and prohibited contracting municipalities from exercising their legal right to change election procedures, lest they be on the hook for paying substantial sums of money back to those groups. Clerks have also raised concerns about technical contracts which limit their ability to review the inner workings of equipment and software related to voter registration and vote tabulation.

A major concern raised by numerous members of the public is whether outside contractors abided by all applicable state and federal antidiscrimination laws, a question not addressed in the LAB report.

This Office has also already uncovered evidence of selective targeting of voters by these private groups, raising questions as to what extent nonpartisan government agencies were turned into partisan get-out-the-vote operations, or whether this targeting was performed on any other unlawful basis. Some of this targeting was apparently in the context of recommending ballot “drop boxes” in certain locations, but not others, a violation of Wisconsin Stat. § 6.855 (see below). Each of these facts, if true, are concerning, and this Office continues to investigate the extent of this entanglement. Furthermore, without statutorily mandated training for clerks, the possibility of undue outside influence in our elections increases. In the vacuum created by WEC, understaffed and overworked clerks can find it all-too-easy to take money and personnel from private groups that might not have compliance with the law as their top priority.

Some clerks have noted to this office the complexity and scope of Wisconsin elections will *always* and *necessarily* require delegation of at least some election functions to private companies. But clerks have suggested a line must be drawn somewhere and many express concern over the 2020 election. Indeed, one current clerk specifically recommended to this Office that private money be prohibited. This Office continues to

investigate precisely how much authority was ceded to private entities and whether that subservience hindered the fair administration of elections and/or diminished public confidence in that fairness.

## Who Runs Wisconsin Elections? Finger-Pointing and the Wisconsin Elections Commission

### *Clerk Authority*

The core of the constitutional and statutory responsibility for election administration in Wisconsin resides with county and municipal clerks. Under Wisconsin Statute § 7.15(1), the municipal clerk has “charge and supervision” of not only state, but also federal elections within a municipality. In turn, these municipal clerks report electoral results to the county clerk and provide county clerks with all materials the county clerks need to discharge their lawful duty to administer elections in their county. While municipal clerks are appointed by political officials such as mayors, county clerks in our state are directly elected.

### *Government Accountability Board Scandal and Creation of Wisconsin Elections Commission*

To assist with developing best practices, the Wisconsin Elections Commission (WEC) was established in 2016. Prior to 2016, a large, opaque, politically partisan, and unaccountable agency, the Government Accountability Board (GAB), was charged with administering vast swaths of statewide ethics and election law. In the wake of a major statewide scandal that drew national attention, the John Doe investigations, the legislature and Governor took the unprecedented step of abolishing that agency and amending state election laws. However, rather than returning the state to a system of clear delegations of authority and broad clerk autonomy, those amendments created WEC, drawing criticism from many quarters, including Kevin Kennedy, the outgoing Director of GAB, who remarked that

the new system would have essentially no changes, and that the new system would be “no more transparent” than the old one.

One example of Kennedy’s fulfilled prophecy is the abundance of inconsistent information relating to voter data in the registration database. In its waning days of 2015, the GAB was confronted with 28,906 voters whose information about their name and address as reported to the DMV was inconsistent with information for the same voter in the voter registration database. The GAB dismissed those concerns. However, as of 2021, those same numbers not only continue to exist and have never been adequately explained but increased in number under WEC’s tenure.

Pursuant to Wisconsin law, WEC is tasked with certain portions of “the administration of...laws relating to elections.” Wisconsin Statutes § 5.05(1). Precisely how far this delegation goes is an open question. WEC authority as expressly laid out in that section contemplates public rulemaking, investigation, and enforcement. However, the election code sections over which WEC has regulatory authority include numerous provisions which expressly delegate authority to individual actors, such as county and municipal clerks. In fact, Wisconsin law delegates to the “board” the duty to certify the state’s electors in a presidential election, a job fulfilled in 2020 solely by the Chairperson of WEC, without board vote. *Compare* Wis. Stat. § 7.70(5). The LAB report does not make an effort to systematically review these delegations but does note in several places the “shared” election administration responsibilities.

#### *Confusion about WEC Authority*

While this Office draws no conclusions yet, initial interviews with clerks suggest there is widespread confusion about the lawful role of WEC in the state, and concern that WEC has acted outside its lawful purview. There is evidence numerous complaints by clerks to WEC were ignored. This problem is exacerbated by a lack of clarity as to the legal status of WEC guidance: some clerks are convinced compliance with WEC guidance

provides them with a legal “safe harbor” in the event the Clerk’s directives consistent with the guidance are challenged in court. In a recent statement, WEC expressly disavowed that its actions could provide a basis for a defense but instead opined that it is the clerks who bear all the responsibility for election related litigation.

Additionally, WEC guidance, such as online FAQs, are apparently issued without a full Commission vote. Other documents, as the LAB report notes in the case of the March 2020 Commission-approved guidance regarding Special Voting Deputies are flatly contrary to law. As noted above, much authority is delegated to the WEC administrator. Importantly, under Wisconsin law, there is slight legal recourse other than a petition to WEC to challenge such unlawful behavior. When WEC implicitly or explicitly authorizes actions contrary to Wisconsin law, such as enabling poor security for access to statewide voter registration data systems or authorizing “shortcuts” such as issuing absentee ballots without applications or enabling widespread ballot curing, voters and candidates are left with no choice but to file expensive and time-consuming lawsuits. The LAB report, consistent with the LAB mission discussed above, did not investigate these issues, which this Office continues to investigate and collate.

#### *Lack of Legal Remedies*

Furthermore, the LAB did not investigate various decisions WEC and others made in the run-up to the 2020 election, some of which appear designed to prevent the Wisconsin courts, including the Wisconsin Supreme Court, from weighing in. Specifically, the decision by WEC to quickly issue ballots without a Green Party candidate was the determining factor in the Wisconsin Supreme Court declining to address the merits of that exclusion. WEC’s action was of dubious legality. In the 2020 case of *Hawkins v. Wisconsin Elections Commission*, the 4-3 majority held that because WEC had claimed it had already issued an unknown number of ballots, there was no time to properly address the claims of the excluded Green Party candidate. In other words, WEC’s own actions operated to neuter the ability of our state’s highest court to address whether WEC’s

actions were lawful and to provide a remedy if they were not. Then Chief Justice Patience D. Roggensack wrote a forthright dissent, noting “The court's silence not only affirms lawless conduct by the Commission, but also provides no directive for the required treatment of nomination papers in the future.” This Office continues to formulate legislative options to ensure this remedial gap in Wisconsin law is repaired.

### *Absentee Balloting*

A second action has evaded both LAB and state judicial review and involves the issue of absentee balloting. Precisely what rules govern the requirements for mail-in and in-person absentee voting in the state of Wisconsin? It is clear in some instances the safeguards mandated for the protection of honest absentee ballots were ignored by WEC.

Many of these safeguards were apparently abrogated by WEC and municipalities in 2020, with COVID-19 as a proffered excuse. One issue involved the illegal mass self-certification of individuals as “indefinitely confined” under the statute, a category which enables a voter to evade state voter ID requirements, but which is intended to apply to physically or physiologically immobile residents confined to their home because of their condition. Presented to the Wisconsin Supreme Court, again the majority ducked a ruling on the merits, prompting then Chief Justice Roggensack to note that it appears the Court “cannot be bothered with addressing what the statutes require to assure absentee ballots are lawfully cast.” It is up to the state legislature to investigate if, how, and why state law was not followed and take legislative action.

One major issue identified involves “Democracy in the Park,” which were citywide events in Madison before the election exclusively related to absentee ballots. The LAB report mentions this issue in passing as a “Special Event” occurring in a “specified outdoor setting.” Without explaining the issue, the report recommends the Legislature “clarify” statutes so individuals know whether or not they can engage in absentee ballot activities contrary to the procedures laid down in Wis. Stat. § 6.855. In other words, the

LAB report implicitly notes the statutes were violated by Democracy in the Park and recommends the law be changed.

What was Democracy in the Park, and why has it been the subject of numerous citizen complaints, lawsuits, and legislative inquiries apart from this Office's investigation?

While this Office draws no conclusions, we possess evidence that the events, which occurred on September 26 and October 3, 2020, involved numerous possible violations of state law, calling into question the validity of over 17,000 absentee ballots. Specifically, these involved large outdoor gatherings where purported designees of the City Clerk's office assisted with absentee ballots that yielded over 17,000 votes. Furthermore, it is not clear that all of the workers at those events were properly deputized and trained, swore and filed the mandatory oath of office, or documents related to absentee ballots were properly handled. Finally, this Office also seeks to review the processing of those ballots. Each of these fact-intensive avenues of inquiry are crucial for determining what was improper and how to prevent future impropriety in absentee voting.

### *Clerk Training*

In addition, this office has obtained evidence that WEC failed to complete its statutorily mandated training duties. As the LAB report notes, Wisconsin Statutes § 12.01 *et seq.*, lays out training protocols for clerks. But county clerks are politically accountable to their voters, and WEC certification or lack of certification does not affect a clerk's legal rights. However, if a clerk is *not* certificated by WEC, such as for failing to be properly trained, WEC is required by law to notify the "governing body" of that clerk's county or municipality. In other words, WEC is mandated by law to train clerks, and clerks who fail to complete training are reported by letter to the mayor or county board. Yet, as the LAB found, at least 17.5% of clerks were not properly trained, and no letters from WEC went out notifying cities and boards about the failure to complete training. This Office continues to review the issue. Moreover, this Office already has ample evidence that in

the absence of this legally mandated training, certain private groups filled the vacuum, perhaps for their own, self-interested purposes, providing some municipalities with incorrect and even unlawful advice. In a statement, at least one clerk has noted outside advice negatively impacted the security of the vote and the physical safety of voters.

### *Exploitation of Elders*

This Office continues to review the issues involving WEC more generally, as well as other plain rules that are apparently without remedy in Wisconsin law, such as the editing of ballot applications by clerks and voting procedures at nursing homes. A recent investigation and report by the Racine County Sheriff's Office highlighted the exploitation of some of our most vulnerable citizens. Furthermore, complaints were apparently made to WEC and ignored, in a system which the sheriff described as leading to our election system being "not just broken, but shattered." I believe many Wisconsinites share the Sheriff's sentiment. It is my hope a continued investigation and final report from this Office will help change those perspectives and sentiments.

In the run-up to the November 3, 2020, election, clerks and WEC took numerous steps to alleviate public fears about COVID-19. But in this perceived crisis there was the opportunity for electoral partisan advantage. For example, Wisconsin law mandates individuals in various types of communal living facilities may have special access to absentee voting in person, but only subject to the rules of § 6.875. These rules govern the "Special Voting Deputies" that a municipality may, in turn, train and authorize to collect absentee votes in person: this is the *only* lawful method for collecting absentee ballots outside normal procedures, as Special Voting Deputies swear an oath and become duly authorized "election officials." Without the availability of Special Voting Deputies under the statute, it would be much more difficult for many senior citizens or those in assisted living facilities to vote. Yet in 2020, at the recommendation of its top administrator, WEC voted to unilaterally prohibit the use of Special Voting Deputies, explaining that COVID-19 made it too dangerous to allow for Special Voting Deputies to enter these facilities.

This Office has evidence that WEC and some clerks instructed residential care employees to act in a manner prohibited by law, collecting and assisting in completing ballots for individuals in these group facilities, including those with dementia. This led to record-high voting by individuals who had not voted for nearly a decade and may have lacked the cognitive ability to vote.

On its face, this type of activity could lead to criminal referral for the residential care employees, as the Chairperson of WEC has suggested. But residential care staff represent the “little fish” in this alleged criminal enterprise. This Office is reviewing the relevant Wisconsin statutes to facilitate the criminal referral process and make legislative recommendations. This includes reviewing legal methods for ensuring our senior citizens are not bullied or taken advantage of, and neither nursing homes nor their residents are used for any unlawful election activity, merely because these citizens are vulnerable, easy targets for partisan predators.

#### *WEC: Self-Policing and Self-Serving*

Numerous members of the public, as well as the clerks, have questioned the independent authority clerks have to administer an election consistent with state law in light of WEC’s guidance, which in several instances was contrary to those voting laws. Some clerks feel WEC may legally bind the clerks in granular decisions about their local needs. Other clerks are concerned about repercussions for not following WEC guidance. Many clerks have expressed disagreement with WEC conclusions, and some have done so publicly. Numerous members of the public have raised concerns about WEC’s ability to police itself: the discretionary nature of WEC intake, review, and response to complaints, and the fact that complaints about WEC are handled—or not handled, as the case may be—by WEC itself.

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This Office continues to interview clerks and expects to discuss with WEC staff precise nature of WEC's role in future Wisconsin elections.

### How can the Public be Confident in Our Elections? The Black Box

As former GAB Director Kevin Kennedy noted, the new WEC system is, apparently, "no more transparent" than the old one which he ran. Without robust legislative oversight, many Wisconsinites are at risk of feeling their vote does not count, or that there is widespread election fraud in the state. Worse, their fears may be well-grounded. Two major areas of inquiry are being looked at by my Office, both dealing with the appropriate level of transparency for our election systems. First, my Office is reviewing the laws and procedures relating to the use of technological tools in administering elections: the "voting machines" and the various election databases used by WEC. Second, my Office is reviewing barriers to public access to information, such as excessive charges for public access to public registration data.

While this Office draws no conclusions, interviews with clerks, citizens, and other groups suggest there is widespread concern about the inability of an average citizen to track how elections are run. This inability has huge downstream consequences, as citizens are often presented with snippets of information reminiscent of the "confusopoly" in health insurance. Presented with outdated data sets of dubious accuracy, citizens seeking to use public information to confirm election results are unable to do so, while those with money and access (or preferential contracts, as noted above) can access better data, more quickly. Further, the precise operations of voting machines are not readily accessible or understood by the public, or by commissioners on WEC itself. As with health insurance, the system operates on autopilot, with the insured praying their bill is accurate, and with voters praying the system is working as it is supposed to.

Election systems in Wisconsin are governed by state and federal law. Specifically, the federal Election Assistance Commission (EAC) created under the Help America Vote Act

of 2002 (HAVA) is tasked with approving all voting systems used in federal elections, and with approving all modifications of voting systems used in federal elections. 52 U.S.C. § 20971. As a part of this, voting systems vendors submit their proposed systems to the EAC for approval. Typically, once a system is tested and approved by the EAC, the vendor will make a similar application to WEC, which may approve the system for sale and use within the state of Wisconsin. However, beginning in 2015 the state of Wisconsin allowed GAB (and now WEC) to approve systems for use in the state which are not approved by the EAC. Wis. Stat. § 5.591. While there is thus wide discretion vested in WEC to approve changes to voting systems, federal law mandates that “all records and papers... relating to any application, registration, payment of poll tax, or other act requisite to voting in such election” be preserved by the State for twenty-two months following the election. 52 U.S.C. § 20701.

But as was made eminently clear in a recent WEC meeting held after a preservation request issued by this Office, WEC officials and staff are not at all clear as to what “modifications” to voting machines require WEC approval, which modifications can lawfully be made, or what certain software updates actually entail. Further, WEC approval of actions that might violate federal record keeping laws are no guarantee of legal immunity for clerks with final say over what happens to voting machines in their locales. In fact, as one machine vendor noted during that open meeting, in order to install a software update, that company would be obliged to entirely “wipe” a machine. That is, to delete all information from election hardware. Whether this technical process destroys election records in contravention of federal law is a question that WEC has yet been unable to answer.

In order to address this and related questions, this Office has been allocated a budget to engage neutral, certificated data security experts, and has already taken steps to initiate an open and full technical audit of various voting systems to understand and report on the security of these systems. Whatever the results, various clerks have already suggested they themselves do not know precisely how the voting machines work and

rely entirely upon private contractors to assure them of system integrity. This in and of itself may be a problem. The problem is further exacerbated in that WEC, who is responsible for training the clerks on the machines, may not itself know how the machines work.

Prior to the establishment of this Office, the Special Counsel did personally engage with various outside individuals relating to various voting machine concerns. This Office neither endorses the views of any particular outside individual nor has this Office yet uncovered any evidence of foreign hacking of elections in the state of Wisconsin. Nevertheless, the opacity of elections systems has given rise to numerous theories and concerns about the 2020 election.

A second issue related to the transparency of our election system in the state is the public availability of voter data. While this Office as yet draws no conclusions, there is already evidence that security surrounding the WisVote (SVRS) system is lax. This statewide system enables clerks to track absentee ballot requests and includes highly sensitive personal information. As such, it is supposed to be subject to a high level of security laid out in WEC guidance. Nevertheless, there is already some evidence of unauthorized access to this database. Further, several clerks have complained that they were provided by WEC with numerous, unrequested access keys, leading to a security headache and concerns that the statewide system was not secure.

In addition to concerns about too much access, concerns have been raised about not enough access, or about unequal access, to voter registration information. This is important because access to this data is necessary for tracking the accuracy of reported election results. WEC does provide statewide voter registration data for a fee up to, and usually, \$12,500. This fee is set by WEC administrative rule, and it is mandated by statute that the fee be set “at an amount estimated to cover both the cost of reproduction and the cost of maintaining the list at the state and local level.” Wis. Stat. § 6.36(6). Nevertheless, it is apparently the case that the fee is charged for each reproduction, no matter the actual

cost, and that subsequent individuals requesting a list that has already been produced are charged the same rack-rate. Further, there is some evidence that outside groups were provided privileged access to this data without fee, and on an expedited basis. This Office continues to investigate this matter, and again, this issue is not addressed in the LAB report.

### Conclusion

The people of the state of Wisconsin have a right to know how our elections are run. The legislature has the common law and constitutional right and obligation to investigate how our state laws are being administered. Without adequate information and oversight, citizens in a democracy justifiably lose confidence that their vote counts and their system of government is working properly.

This Interim Report seeks to build upon the good work of many citizens and government officials including the vast majority of county and municipal clerks, and to shine a light on issues and concerns of interest. It is a healthy exercise in good government, not an attempt to overturn any election. As this investigation continues, my Office will vigorously seek out and obtain all available truthful information, so that it can present this information to the public and to the Assembly.

If, in the course of this investigation, the Office obtains information that could be used in a criminal prosecution, this Office will cooperate fully with all appropriate law enforcement entities.



*From: "Rep.Brandtjen" <Rep.Brandtjen@legis.wisconsin.gov>*

*Sent: Monday, December 6, 2021, 11:00 AM*

*To: \*Legislative All Assembly <ALLASM@legis.wisconsin.gov>;*

*\*Legislative All Senate <ALLSEN@legis.wisconsin.gov>*

*Subject: Hearing Published - Assembly Committee on Campaigns and  
Elections*

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*Assembly*

## **INFORMATIONAL HEARING**

### **Committee on Campaigns and Elections**

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The committee will hold a public hearing on the following items at the time specified below:

Wednesday, December 8, 2021

1:00 PM

417 North (GAR Hall)

*Invited Speakers Only*

#### **Wisconsin Voter Rolls**

Report - Voter Rolls

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Representative Janel Brandtjen

Chair

From: Tony Urso <tonyeurso@gmail.com>  
Sent: Monday, December 6, 2021, 2:48 PM  
To: undisclosed-recipients;  
Subject: HOT update

---

Below is H.O.T.'s update regarding the election fraud. The same fraud the entire legislature can't find (except Reps Brandtjen and Ramthun). More importantly, those same legislators **SWEAR TO GOD** there is no way to decertify an election .... even with fraud! Not possible. Go away grassroots. Now we have more evidence being released indicating...fraud!

And we still don't have ONE senator that will co-author the Ramthun Decertify Resolution. Not one!

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While it hasn't hit the WisEye schedule yet, H.O.T. is getting reports there will be a Hearing this Wednesday, 12/8 @ 1 PM held by Representative Janel Brandtjen (Chair) and the Assembly Committee on Campaigns and Elections.

Topics purported to include recently discovered evidence including documented phantom voters by the thousands in certain counties.

H.O.T. will keep you posted and will share the link when it appears.

<https://wiseye.org/schedule/>

Thanks,

Tony Urso  
608-338-8776 cell

Sent from my iPhone

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you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please immediately notify us by return e-mail.

State	Net Grant Amount
Pennsylvania*	\$13,260,000
Michigan	\$11,939,365
New Jersey	\$6,180,001
Georgia	\$5,591,800
New York*	\$5,000,000
Arizona	\$4,788,444
Illinois	\$2,762,777
Connecticut	\$2,100,000
Kentucky	\$1,600,000
Minnesota*	\$1,500,000

From: Robert Maziasz <rlm\_nxp@outlook.com>  
Sent: Monday, December 6, 2021, 7:24 PM  
To: "Rep.Brandtjen" <Rep.Brandtjen@legis.wisconsin.gov>; " Rep.Sanfelippo@legis.wisconsin.gov" <Rep.Sanfelippo@legis.wisconsin.gov>; " Rep.Tusler@legis.wisconsin.gov" <Rep.Tusler@legis.wisconsin.gov>; " Rep.Thiesfeldt@legis.wisconsin.gov" <Rep.Thiesfeldt@legis.wisconsin.gov>; " Rep.Murphy@legis.wisconsin.gov" <Rep.Murphy@legis.wisconsin.gov>; " Rep.Rozar@legis.wisconsin.gov" <Rep.Rozar@legis.wisconsin.gov>  
Subject: Independent Transparent FULL FORENSIC Audit of ALL Physical Ballots NOW !!!!!

---

Representative,

An **Independent Transparent Full Forensic Audit NOW** of **ALL Physical Ballots** is needed of the Nov 2020 election !!!!!

**Only those who clearly support a TRANSPARENT full forensic audit will get my vote!**







# Campaigns & Elections Committee

December 8, 2021

# eMail Communication Summary

## **The following is a set of communications between**

Claire Woodall-Vogg

Milwaukee Elections Commission Director

Michael Spitzer-Rubenstein

National Vote at Home Institute (WI Lead)

## **Pertaining To**

Data acquisition/database development activities

## **Time Period**

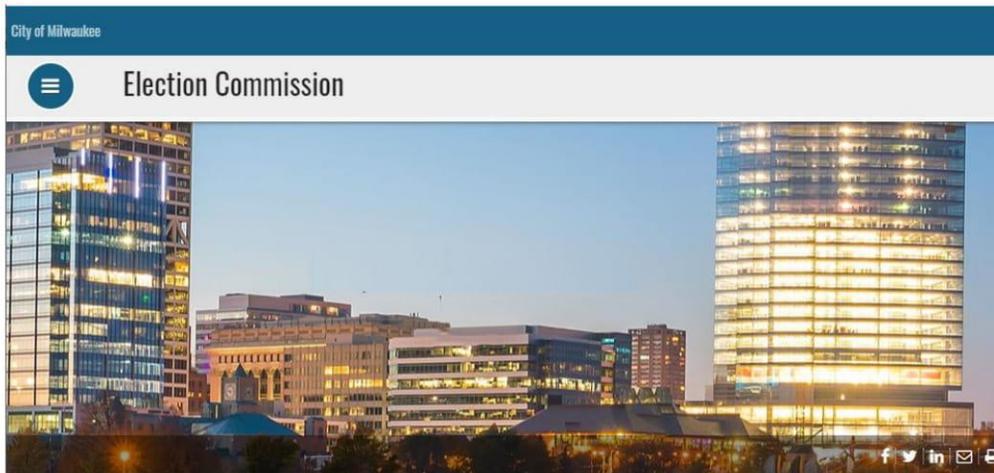
Aug 2020 – Nov 2020



Claire Woodall-Vogg, Executive Director



Michael Spitzer-Rubenstein



NATIONAL VOTE AT HOME INSTITUTE

FOR ELECTION OFFICIALS • FOR POLICYMAKERS • FOR PRESS • FOR THE PEOPLE •

Our 2021 State Profiles are out now! Learn more about the vote at home options in your state. [CLICK HERE FOR MORE >>>](#)

**VOTING AT HOME IS**

- Accessible
- Reliable
- Secure
- Transparent
- Equitable
- Fair

**From:** Wolfe, Meagan - ELECTIONS <Meagan.Wolfe@wisconsin.gov>  
**Sent:** Tuesday, March 24, 2020 7:49 AM  
**To:** Woodall-Vogg, Claire  
**Cc:** Elections HelpDesk; Rydecki, Richard H - ELECTIONS  
**Subject:** Re: WisVote Logins Update?

Thanks Claire, I followed up with the team and they should be getting back to you this morning.

Meagan

On Mar 24, 2020, at 7:07 AM, Woodall-Vogg, Claire <cwooda@milwaukee.gov> wrote:

Good Morning,

Any update on when we could expect to receive logins that were sent yesterday? I sent some over the weekend and would ask that yesterday's be prioritized for the City of Milwaukee. We literally have 10 people sitting at home with their FIDO keys ready to enter 200 apps a day for us. I know you guys are swamped, but we get more swamped here the longer it takes!

Thanks for all you are doing! This email isn't to nag, but just to stress that you are about to be our saviors when you send me those logins. 😊

Who knew we would all be considered essential workers during a pandemic?!?!?!?

Thanks again,

Claire

Aug 2020

From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Date: Friday, August 21, 2020 at 5:19 PM  
To: cwooda@milwaukee.gov <cwooda@milwaukee.gov>  
Subject: Update + Questions: QuickBase, Drop boxes, Voter Instructions, Processes

Hi Claire,  
Following up on yesterday, I have an update and a few questions. Apologies that this is a longer email; feel free to answer in parts if that's easier.

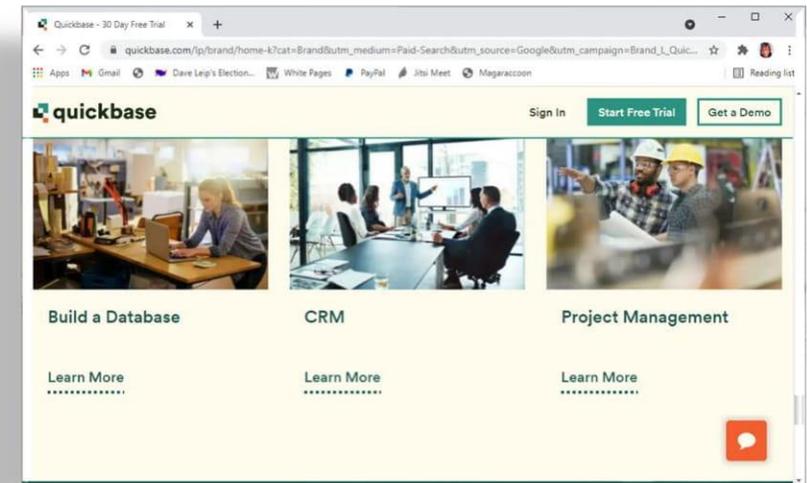
- Quickbase: their data analysis should be done Monday and I'll get the information to you as soon as we have it.
- Dropbox Siting: either before or after your tour, do you want me to run any numbers? We generally look at distance from voters (both maximum and average) and density (how many voters per dropbox), as well as how they fit into existing neighborhood and transportation patterns. If you're evaluating a few different sites or need to justify locations, I'm happy to provide my statistical skills.

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- Voter Instructions/Marketing Materials: do you have any existing marketing materials that we should review in advance of the call on Wednesday? Hillary thought any voter instruction sheets would be good but if anything else seems useful, we're happy to take a look.
- Mail Ballot Processing: Do you have any benchmarks for how long each step should take or how many ballots a given worker should be able to do? e.g., the machine that opens envelopes can handle 400/minute, it takes 15 seconds on average to check a ballot in and verify the signature, etc. If you don't have these already, we can talk through it on Thursday.

Thanks, Claire, and have a good weekend!

Michael



From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent: Friday, August 28, 2020 10:17 AM  
To: Woodall-Vogg, Claire  
Subject: Ops Meeting Follow-up

Claire,

Great talking to you yesterday. Just a few notes on follow-ups:

- Can you connect me to Reid Magney and anyone else who might make sense at the WEC?
- Would you also be able to make the connection with the Milwaukee County Clerk?
- If you could send the procedures manual and any instructions for ballot reconstruction, I'd appreciate that.

|  
On my end:

- By Monday, I'll have our edits on the absentee voter instructions.
- We're pushing Quickbase to get their system up and running and I'll keep you updated.
- I'll revise the planning tool to accurately reflect the process.
- I'll create a flowchart for the VBM processing that we will be able to share with both inspectors and also observers.
- I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed.

Thanks,  
Michael

From: Woodall-Vogg, Claire <cwooda@milwaukee.gov>  
Sent: Friday, August 28, 2020 10:55 AM  
To: Magney, Reid - ELECTIONS <Reid.Magney@wisconsin.gov>; Wolfe, Meagan - ELECTIONS <Meagan.Wolfe@wisconsin.gov>; Rydecki, Richard H - ELECTIONS <Richard.Rydecki@wisconsin.gov>  
Cc: Michael Spitzer-Rubenstein <michael@voteathome.org>; Hillary Hall <hillary@voteathome.org>  
Subject: Introduction to Vote At Home

Hi Meagan, Richard, and Reid,

I just wanted to reach out and connect you with Michael Spitzer-Rubenstein and Hillary Hall from the Vote at Home Institute in case you think other clerks or the WEC staff would find working with them useful.

I have been working with Hillary since early May... She was a tremendous resource in helping me decide to seek out a vendor to automate our absentee assembly process, as well as selecting drop boxes early on that were secure and met all of the requirements the WEC put forth last week.

I have been working with Michael to create inputs and outputs to help us determine staffing needs and staffing responsibilities at Central Count based on actual quantitative data... They have created a tool that is extremely useful in visualizing the time certain processes take... They will also be helping the Election Commission with our voter education communications around absentee voting and the messaging we will use... They have an extremely useful [communications toolkit](#) for clerks with zero resources to those that are hiring communication firms.

Hillary used to be a clerk in Colorado, so she also understands all of the other work we are doing and how precious and valuable time is.

All in all, they have essentially made my life much easier with the absolutely free technical assistance they are offering.

Claire

Michael Spitzer-Rubenstein <michael@voteathome.org>

Friday, August 28, 2020 12:42 PM

Woodall-Vogg, Claire; Wolfe, Meagan - ELECTIONS; Magney, Reid - ELECTIONS; Rydecki, Richard H - ELECTIONS

Cc:

Hillary Hall

Subject:

Re: Introduction to Vote At Home

Thank you, Claire! Good to meet you, Meagan, Reid, and Richard.

We already have meetings scheduled about working with Madison, Green Bay, Kenosha, Racine, Eau Claire, Wauwatosa but are certainly interested in other jurisdictions, as well.

We're working on a Wisconsin-specific version of our [communications toolkit](#) with language about voter ID and absentee witness requirements informed by behavioral science. It would be great to do Zoom trainings for clerks about communications/voter education, operational planning, and could also facilitate sessions on more technical issues like curing absentee ballots, signature verification, etc.

Do you have any time to talk next week about how we can support your work? Right now, it looks like Monday morning, Wednesday, or Friday morning are probably best for us but we can work around your schedules.

Michael

From: Woodall-Vogg, Claire <cwooda@milwaukee.gov>

Date: Friday, August 28, 2020 at 12:01 PM

To: Wolfe, Meagan - ELECTIONS <Meagan.Wolfe@wisconsin.gov>, Magney, Reid - ELECTIONS <Reid.Magney@wisconsin.gov>, Rydecki, Richard H - ELECTIONS <Richard.Rydecki@wisconsin.gov>

Cc: Michael Spitzer-Rubenstein <michael@voteathome.org>, Hillary Hall <hillary@voteathome.org>

Subject: RE: Introduction to Vote At Home

Absolutely! They should reach out to Michael and I am happy to provide a reference. They are extremely respectful of time, are not "selling" anything, and have incredible resources.

Hi Claire,

Monday, August 31, 2020 3:30 PM

Woodall-Vogg, Claire

Voter Instructions + QuickBase + Drive-Thru

2020 November Instructions DRAFT\_comments.docx

I'm attaching the voter instructions with our edits and comments (using track changes). Let me know if anything is unclear or you want to talk through it.

As far as QuickBase, I have a call with them tomorrow morning--really hoping you'll be able to start using it after that.

We also have a video from Harris County about drive-thru voting. Do you want me to connect you with folks there to speak more about it?

<https://www.youtube.com/watch?v=3m27Q8F6PM4&feature=youtu.be>

Hope you're having a decent start to the week,  
Michael

From: Michael Spitzer-Rubenstein <michael@voteathome.org>

Sent: Tuesday, September 1, 2020 3:00 PM

To: Woodall-Vogg, Claire

Cc: Xanthe Thomassen; Hillary Hall

Subject: Quickbase - Talk Tomorrow?

Hi Claire, we just got the Quickbase access; expect an email to create an account and login momentarily.

However, I think it's going to need some work before it's really useful. Do you have a few minutes to talk tomorrow (10:30-12 or after 3 PM)? I want to nail down what we should prioritize.

Sep 2020

Thursday, September 3, 2020 11:34 AM  
Woodall-Vogg, Claire  
Re: Voter Instructions + QuickBase + Drive-Thru

Hi Claire! You've gotten a lot of great news hits lately. Congrats!

I wanted to follow up on these:

1. Let me know if you need any more eyes on the voter instructions or anything else.
2. Happy to connect you with the Harris County, Texas election administrators about drive-thru voting.
3. You should have received a login to Quickbase. It's not done yet (we're still working on building out all the reporting and some of the features) but quickly getting there.

Also had a couple other questions for you:

4. Are you using unique intelligent mail barcodes (IMB) to track each ballot or just standard ones?
5. How did you end up getting dropboxes? Middleton is trying to get a new outdoor dropbox and was hoping you could point them to a source.

Thanks!  
Michael

From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent: Thursday, September 10, 2020 4:59 PM  
To: Woodall-Vogg, Claire  
Cc: Boushell, Molly; Hersch, Harrison; Hillary Hall-Hinshaw, Alice; MacIntyre, Jacob; Xanthe Thomassen  
Subject: Re: Call: Vote At Home & Quick Base  
I can do 12-12:30 (central, 1-1:30 Eastern) 2:30-3 (3:30-4) or after 4 (5 PM Eastern).

Quick Base team, do any of those other options work for you all?

From: Boushell, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>

Sent: Thursday, September 10, 2020 4:38 PM

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To: Boushell, Molly; MacIntyre, Jacob; Hersch, Harrison; Hinshaw, Alice; Michael Spitzer-Rubenstein

Cc: Hillary Hall; Xanthe Thomassen

Subject: Fwd: Call: Vote At Home & Quick Base

When: Friday, September 11, 2020 2:00 PM-2:30 PM (UTC-05:00) Eastern Time (US & Canada).

Where: <https://quickbase.zoom.us/j/97352085354?pwd=MjU1ZmdMdENISmdoTnB6RlFESm5XUT09>

Hi Claire, we have a VAH - Quick Base call scheduled for tomorrow afternoon at 1 PM Central. Would you happen to be free then to explain some of the data questions we have?

1 1<sup>th</sup>

From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent: Friday, September 11, 2020 9:59 AM  
To: Woodall, Vogg, Claire  
Subject: Scheduling Follow-Ups

Claire, love the dropbox news stories! They look great.

Wanted to check about scheduling a meeting with CMR to go over working together. We should also do another meeting to go over operations: the process flow-chart I put together, the VBM time calculations, and the reconstruction instructions (I want to get Ideas42's feedback on that, as well).

Here's our availability for next week (all times Central).

Monday: 2-5:30 PM

Tuesday: 1:30-3

Wednesday: 8:30-10, 12-1, 1:30-2:30, 3:30-4:30

Friday: before 10 AM

Can we get two meetings on the calendar, one with CMR (for comms), and one with you (about ops)?..

Thanks and speak later today about Quick Base and the data.

Michael

From: Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Sent: Friday, September 11, 2020 4:56 PM  
To: GIS <[GIS@milwaukee.gov](mailto:GIS@milwaukee.gov)>  
Subject: Census Tracts Question

Hi,

I wasn't sure whether this would be RITS-ticket-worthy or not. I was wondering if the City has any type of database file that lists the city address with census tract. We are trying to overlay our voting data with census tracts and addresses seems to be the most efficient way. The group I am working with says that the census data for this info is less than accessible. I thought that since Map Milwaukee has Census 2010 data, it might exist in a CSV file or something similar.

Thanks!

Claire

14<sup>th</sup>

From: Bubacz, Hannah <[hbabac@milwaukee.gov](mailto:hbabac@milwaukee.gov)>  
Sent: Monday, September 14, 2020 8:23 AM  
To: Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Subject: Re: Census Tracts Question 151

No problem that this is not a RITS ticket at this time. Can I ask what program you are trying to use this data

using takes in this format...

#### ArcGIS REST Services Directory

[Home](#) > [services](#)

[JSON](#) | [SOAP](#)

**Folder: /**

Current Version: 10.71

View Footprints In: [ArcGIS Online Map Viewer](#)

Folders:

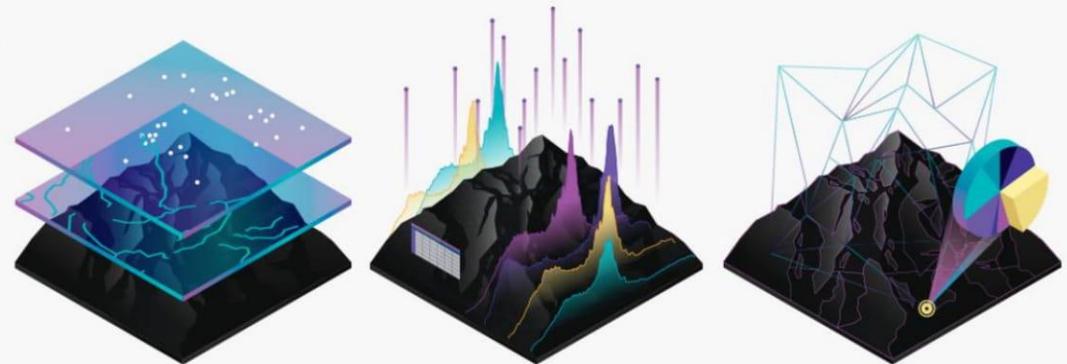
- [Accela](#)
- [AGO](#)
- [assessor](#)
- [census](#)
- [DPW](#)
- [ECO](#)
- [election](#)
- [GeoEventFleet](#)
- [Locator](#)
- [MFD](#)
- [MPD](#)
- [MPDTritech](#)
- [planning](#)
- [property](#)
- [reference](#)
- [regulation](#)



**Hannah Bubacz**  
GIS Analyst at City of Milwaukee  
Milwaukee, Wisconsin, United States · 114 connections

## How Does GIS Work?

GIS technology applies geographic science with tools for understanding and collaboration. It helps people reach a common goal: to gain actionable intelligence from all types of data.



From: Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>  
Sent: Monday, September 14, 2020 9:22 AM  
To: Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>; Bubacz, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>  
Cc: Boushell, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>; MacIntyre, Jacob <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>;  
Hinshaw, Alice <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; Michael Spitzer-Rubenstein <[michael@voteathome.org](mailto:michael@voteathome.org)>  
Subject: RE: Census Tracts Question

Hi Hannah!

Can you send me that REST URL? I can take a look. In short, we are looking for a 1-to-1 mapping of a street address and Census Tract.

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Harrison Hersch

From: Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Sent: Monday, September 14, 2020 9:51 AM  
To: Bubacz, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>  
Cc: Boushell, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>; MacIntyre, Jacob <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>; Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>; Hinshaw, Alice <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; Michael Spitzer - Rubenstein <[michael@voteathome.org](mailto:michael@voteathome.org)>  
Subject: FW: Census Tracts Question

Hi Hannah,

I'm looping in a whole bunch of people who are working on the tool from Quickbase that can likely answer the question about what we are looking for more accurately than I can. In short, they are building a tool that overlays voting data with census data so we can get a better picture of trends and demographics within voting (which surprisingly doesn't exist already!).

Thanks!

Claire

From: Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>  
Sent: Monday, September 14, 2020 9:59 AM  
To: [Bubacz, Hannah](mailto:hbubac@milwaukee.gov) <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>; [Woodall-Vogg, Claire](mailto:cwooda@milwaukee.gov) <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Cc: [Boushell, Molly](mailto:rboushell@quickbase.com) <[rboushell@quickbase.com](mailto:rboushell@quickbase.com)>; [MacIntyre, Jacob](mailto:jmacIntyre@quickbase.com) <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>;  
[Hinshaw, Alice](mailto:ahinshaw@quickbase.com) <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; [Michael Spitzer-Rubenstein](mailto:michael@voteathome.org) <[michael@voteathome.org](mailto:michael@voteathome.org)>  
Subject: RE: Census Tracts Question

Thanks. It looks like a lot of this content is intended for the visualization layer. We aren't quite there yet. Is there somewhere in this data that we can find a more streamlined set of data? Or is what you are suggesting that we would need to take the coordinates from the Census boundaries and correlate that to the coordinates of address boundaries?

Another way to ask the question would be, how would you use this data to find out the Census Tract associated with this address: 726 W GALENA ST APT 103, MILWAUKEE, WI 53205-2203

Harrison Hersch

Monday, September 14, 2020 10:31 AM  
Woodall-Yogg, Claire  
10 Min Later Today? County Collaboration

Claire,

Hope you had a good weekend and thanks for connecting the Quickbase team with Hannah Bubacz.

Do you have 10 minutes to talk this afternoon (1 PM or later)? Have been talking with George and Julietta with the County and want to run some ideas past you about working together.

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310-980-2872

Michael

From: Bubacz, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>  
Sent: Monday, September 14, 2020 10:50 AM  
To: Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>; Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Cc: Boushell, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>; MacIntyre, Jacob <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>;  
Hinshaw, Alice <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; Michael Spitzer-Rubenstein <[michael@voteathome.org](mailto:michael@voteathome.org)>  
Subject: **Re: Census Tracts Question**

The REST URL is <https://milwaukeeemaps.milwaukee.gov/arcgis/rest/>

You will have to bring in the layers yourself using this URL. Are you able to join the layers within the program that you are using to get the map layer that you want?

Hannah Bubacz

From: Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>  
Sent: Monday, September 14, 2020 2:54 PM  
To: Bubacz, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>; Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Cc: Boushell, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>; MacIntyre, Jacob <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>;  
Hinshaw, Alice <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; Michael Spitzer-Rubenstein <[michael@voteathome.org](mailto:michael@voteathome.org)>; Enos,  
John <[jenos@milwaukee.gov](mailto:jenos@milwaukee.gov)>  
Subject: RE: Census Tracts Question

Hi Hannah –

I'll try and do a better job clarifying the current need. We are not actually using anything visual right now (though will in the future). In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How

many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?". To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either.

So, we are looking for a single file that has all addresses and Census Tracts. We could then keep those stored in the application and do the joins. Does that help?

Harrison Hersch

John <[jenos@milwaukee.gov](mailto:jenos@milwaukee.gov)>  
Subject: Re: Census Tracts Question

Hey Harrison,

Yes, I think I understand what you need. I will start working on getting you the files and then ask you to please check and make sure all is good. The files I will provide will be addresses joined with what census tract they are in and give a CSV and shapefile. Does that work for you?

Thanks,

Hannah Bubacz

From: Bubacz, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>  
Sent: Monday, September 14, 2020 3:30 PM  
To: Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>; Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Cc: Boushell, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>; MacIntyre, Jacob <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>;  
Hinshaw, Alice <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; Michael Spitzer-Rubenstein <[michael@voteathome.org](mailto:michael@voteathome.org)>; Enos,  
John <[jenos@milwaukee.gov](mailto:jenos@milwaukee.gov)>  
Subject: Re: Census Tracts Question

Hey Harrison,

Have you used our Map Milwaukee web apps? Found here [https://web-maps1.milwaukee.gov/Html5Viewer\\_2\\_10/Index.html?configBase=https://web-maps1.milwaukee.gov/Geocortex/Essentials/REST/sites/MKE\\_Parcels\\_Lite/viewers/HTML5\\_Viewer/virtualdirectory/Resources/Config/Default](https://web-maps1.milwaukee.gov/Html5Viewer_2_10/Index.html?configBase=https://web-maps1.milwaukee.gov/Geocortex/Essentials/REST/sites/MKE_Parcels_Lite/viewers/HTML5_Viewer/virtualdirectory/Resources/Config/Default)

147

I was able to add the census tract layer, search for the address in questions, and then look up information for various layers (screenshot below). If no, I would be happy to provide some direction on how to use these tools. Would this work for you for now? Also, when do you get to the point of combining layers/making maps, what program will you be using?

I was able to add the census tract layer, search for the address in questions, and then look up information for various layers (screenshot below). If no, I would be happy to provide some direction on how to use these tools. Would this work for you for now? Also, when do you get to the point of combining layers/making maps, what program will you be using?

**Map Milwaukee: PROPERTY INFORMATION**  
City of Milwaukee, WI

File Getting Around Maps & Data Sources Tasks Analysis

Layer Drawing Order Layer List Query Filter Add Layers Upload Data Linked Maps

Layers Query Data Add Data External Maps

2010 census tract boundaries, ... x I want to...

Details

OBJECTID  
140

TRACTCE10  
186000

TRACT  
186000

STATEFP10  
55

COUNTYFP10  
079

GEOID10  
55079186000

COLORCAT  
3

SHAPE  
M/A

Page 148 of 294 47431 words

Focus 100%

15<sup>th</sup>

From: Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>

Sent: Tuesday, September 15, 2020 11:19 AM

To: ~~Bubacz~~, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>; Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>

Cc: ~~Boushell~~, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>; ~~MacIntyre~~, Jacob <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>;

Hinshaw, Alice <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; Michael Spitzer-Rubenstein <[michael@voteathome.org](mailto:michael@voteathome.org)>; Enos,

John <[jenos@milwaukee.gov](mailto:jenos@milwaukee.gov)>

Subject: RE: Census Tracts Question

One other question – what data would be in the CSV vs the Shapefile?

Harrison Hersch

From: Bubacz, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>  
Sent: Tuesday, September 15, 2020 11:25 AM  
To: Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>; Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Cc: Boushell, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>; MacIntyre, Jacob <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>;  
Hinshaw, Alice <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; Michael Spitzer-Rubenstein <[michael@voteathome.org](mailto:michael@voteathome.org)>; Enos, John <[jenos@milwaukee.gov](mailto:jenos@milwaukee.gov)>  
Subject: Re: Census Tracts Question

Let me make sure on the apartment numbers/suffixes before I let you know.

The two files would be the same data-wise. Using ArcMap, I can export the joined files to an Excel/CSV table. So the shapefile could be loaded to see it visually into whatever system you are using and the Excel/CSV would be a table of all the same fields without shapes. Does that help?

Hannah Bubacz

GIS Technician II

From: Hersch, Harrison  
Sent: Tuesday, September 15, 2020 11:57 AM  
To: [Bubacz, Hannah <hbubac@milwaukee.gov>](mailto:hbubac@milwaukee.gov); [Woodall-Vogg, Claire <cwooda@milwaukee.gov>](mailto:cwooda@milwaukee.gov)  
Cc: [Boushell, Molly <mboushell@quickbase.com>](mailto:mboushell@quickbase.com); [MacIntyre, Jacob <jmacIntyre@quickbase.com>](mailto:jmacIntyre@quickbase.com);  
[Hinshaw, Alice <ahinshaw@quickbase.com>](mailto:ahinshaw@quickbase.com); [Michael Spitzer-Rubenstein <michael@voteathome.org>](mailto:michael@voteathome.org); [Enos, John <enos@milwaukee.gov>](mailto:enos@milwaukee.gov)  
Subject: RE: Census Tracts Question

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That... would... be... amazing!

If you want to send me a couple of sample records, I can check in advance too. One quick question, how will the permutations of things like apartment numbers work?<sup>6</sup>

From: [Bubacz, Hannah](mailto:hbubac@milwaukee.gov) <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)> 142  
Sent: Tuesday, September 15, 2020 12:47 PM

To: [Hersch, Harrison](mailto:hhersch@quickbase.com) <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>; [Woodall-Vogg, Claire](mailto:cwooda@milwaukee.gov) <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Cc: [Boushell, Molly](mailto:nboushell@quickbase.com) <[nboushell@quickbase.com](mailto:nboushell@quickbase.com)>; [MacIntyre, Jacob](mailto:jmacIntyre@quickbase.com) <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>;  
[Hinshaw, Alice](mailto:ahinshaw@quickbase.com) <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; [Michael Spitzer-Rubenstein](mailto:michael@voteathome.org) <[michael@voteathome.org](mailto:michael@voteathome.org)>; [Enos, John](mailto:Enos, John) <[jenos@milwaukee.gov](mailto:jenos@milwaukee.gov)>  
Subject: **Re: Census Tracts Question**

Hey Harrison,

Here is the setup of our data for apartments/multiple units. The main address is in a field called HouseNumber (first red box). When they are letter based, it will be in the Suffix field (second red box) and the units with numbers in the Unit field (third field).

Publication.Parcel.ParcelPolygonAddress

	FK_Tax	FK_LandUse	HouseNumber	Suffix	Direction	StreetName	StreetType	Unit	FK_Zip	Plu:
	2061401000	8830	4821	<Null>	N	22ND	ST	3105	53209	
	2061401000	8830	4821	<Null>	N	22ND	ST	3106	53209	
	2061401000	8830	4821	<Null>	N	22ND	ST	3107	53209	
	2061401000	8830	4821	<Null>	N	22ND	ST	2411	53209	
	2061401000	8830	4821	<Null>	N	22ND	ST	2412	53209	

16<sup>th</sup>

Wednesday, September 16, 2020 2:13 PM

Woodall-Vogg, Claire

WisVote data - Walkthrough with USDR?

Hi Claire!

We're bringing on US Digital Response to help with the Quick Base dashboard project. (They're also a CTCL technical assistance partner).

We're hoping there's an easier way to get the data out of WisVote than you having to manually export it every day or week. To that end, we have two questions:

1. Would you or someone else on your team be able to do a screen-share so we can see the process for an export?
2. Do you know if WisVote has an API or anything similar so that it can connect with other software apps? That would be the holy grail (but I'm not expecting it to be that easy).

Thanks,  
Michael

# About

U.S. Digital Response (USDR) is a nonprofit, nonpartisan organization that helps governments and organizations respond quickly and efficiently to support the critical needs of the public.

Leveraging a network of pro-bono technical expertise and modern, resilient technology, USDR addresses and uncovers solutions for common, systemic challenges that public servants are facing, leaving them better equipped to deliver services and support to millions of people nationwide.

We operate with humility and deep respect for our partners and believe that modern and resilient technology applied in the public interest can deliver people-centered services at the speed of need.

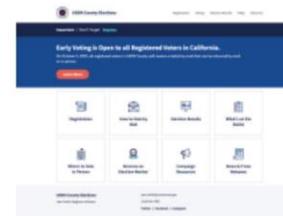
As of May 2021, USDR has partnered with more than 230 government and nonprofit partners on 300+ projects, impacting more than 42 million people across 36 states and territories, and we've built a dedicated community of nearly 7,000 pro bono specialists driven to serve in a time of need.

# Templates and Graphics



## [COVID-19 Vaccine Website Template](#)

USDR created a vaccine website template, designed for communication and development teams to launch their own vaccine website or webpages in hours.



## [Election Website Template](#)

Our elections website template has been built in partnership with the Center for Tech and Civic Life, based on research from the Center for Civic Design. In just a few hours, you'll set up a modern, user-friendly site that works on desktops and mobile phones. Your new website comes pre-built with a navigational home-page and over 20 pages of content, featuring the most important election resources voters care about.

---

Woodall-Vogg, Claire

From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent:  
To:  
Subject:

That sounds like a real pain. It would be helpful to just understand the system and maybe the USDR folks can figure out a way to simplify something for you.

Would any of these times work?  
Friday 10-1 CT  
Tuesday after 3 CT

If it's okay with you, they'd also like to record the screen-share to refer back to, if needed.

Thanks,  
Michael

On Wed, Sep 16, 2020 at 3:40 PM Woodall-Vogg, Claire <cwooda@milwaukee.gov> wrote:

Our export process is so cumbersome that I am the only person on staff that can do it with the confidence that it is accurate and includes everyone. Sad, right? There isn't even a way to set up the system to have a report that automatically runs on a nightly basis. I have to go in every single night to remember to run the report that generates our current absentee application number...

I'm going to guess it is a definite no to the API and hesitate to involve the WEC staff on any more external projects right now...

From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent: Wednesday, September 16, 2020 4:21 PM  
To: Woodall-Vogg, Claire  
Subject: Re: WisVote data - Walkthrough with USDR?

I completely understand. Will just ask them to work on other aspects of the project.

On Wed, Sep 16, 2020 at 5:13 PM Woodall-Vogg, Claire <cwooda@milwaukee.gov> wrote:

While I completely understand and appreciate the assistance that is trying to be provided, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.

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While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces.

Thanks,

Claire

17<sup>th</sup>

From: Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>  
Sent: Thursday, September 17, 2020 11:44 AM  
To: Bubacz, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>; Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Cc: Boushell, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>; MacIntyre, Jacob <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>; Hinshaw, Alice <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; Michael Spitzer-Rubenstein <[michael@voteathome.org](mailto:michael@voteathome.org)>; Enos, John <[jenos@milwaukee.gov](mailto:jenos@milwaukee.gov)>  
Subject: RE: Census Tracts Question

Hi Hannah –

Unfortunately we don't have any sort of visualization/GIS software to open this or leverage as we are a database/application platform.

Are you able to export in chunks or is that too much work? Could you give us a JSON file? We could take virtually any sort of file that has the relational data like csv, tsv, xls, json, xml, etc.

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Harrison Hersch

From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent: Thursday, September 17, 2020 11:48 AM  
To: Hersch, Harrison  
Cc: ~~Bubacz, Hannah; Woodall-Vogg, Claire; Boushell, Molly; MacIntyre, Jacob; Hinshaw, Alice; Enos, John~~  
Subject: Re: Census Tracts Question

Harrison, I'm going to bring in our partners with US Digital Response to work on this.

Thank you for your help with this project, Hannah.

Michael

From: Bubacz, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)>  
Sent: Thursday, September 17, 2020 12:15 PM  
To: Hersch, Harrison <[hhersch@quickbase.com](mailto:hhersch@quickbase.com)>; Woodall-Yogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)>  
Cc: Boushell, Molly <[mboushell@quickbase.com](mailto:mboushell@quickbase.com)>; MacIntyre, Jacob <[jmacIntyre@quickbase.com](mailto:jmacIntyre@quickbase.com)>;  
Hinshaw, Alice <[ahinshaw@quickbase.com](mailto:ahinshaw@quickbase.com)>; Michael Spitzer-Rubenstein <[michael@voteathome.org](mailto:michael@voteathome.org)>; Enos, John <[jenos@milwaukee.gov](mailto:jenos@milwaukee.gov)>  
Subject: **Re: Census Tracts Question**

Hey Harrison,

Attached is a zip file of parcel point address with census information joined as a shapefile. I cannot export it to a CSV as there are too many records. I also could not do polygons at this time but let me know if you need those in the future when you do need these as a visual representation. Does this work?

Thanks,

Hannah Bubacz

From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent: Thursday, September 17, 2020 12:42 PM  
To: Bubacz, Hannah  
Cc: Hersch, Harrison; Woodall-Vogg, Claire; Boushell, Molly; MacIntyre, Jacob; Hinshaw, Alice; Enos, John  
Subject: Re: Census Tracts Question

Give me a day or so. I'm waiting to hear back about whether USDR can make this all easier and save you from more work, Hannah.

Thanks,  
Michael

On Thu, Sep 17, 2020 at 12:50 PM Bubacz, Hannah <[hbubac@milwaukee.gov](mailto:hbubac@milwaukee.gov)> wrote:  
Ah, I see. Yes, I could break the city into chunks and export as a CSV, if needed.

Michael, please let me know if that is the route you want to go.

Hannah Bubacz

Oct 2020

Sent: Michael Spitzer-Rubenstein <michael@voteathome.org>  
To: Tuesday, October 6, 2020 4:01 PM  
Woodall-Vogg, Claire  
Cc: Hillary Hall  
Subject: Data Analysis + Check-In

Hi Claire,  
We (finally) have a first  
pass of our data analysis

project, with a ranking of wards that could benefit from the most focus: [map](#) and [Excel list](#). We're still  
working on adding demographic data from the Census but should have that soon.

Are you available in the next few days to check-in, go over this, and our next steps? Thursday morning is probably best on my [end](#) but I can obviously be flexible around your schedule.

Michael

Friday, October 9, 2020 11:04 AM

Woodall-Vogg, Claire

Update & Data Questions

Hi Claire,

In order to get the data by ward, are you able to run a summary in WisVote or do you have to download all the active voters, absentee applications, etc. and then do an Excel pivot table or something similar?

We added Census data and zip codes to the map and so now we're moving to figure out how we'll update this.

Also, if you can send these reports (whether in summary form or just the raw data), we can put them in:

- Active voters
- Absentee applications
- Ballots received
- Ballots rejected/returned to be cured

Thanks!

Michael

Friday, October 9, 2020 11:12 AM

Woodall-Vogg, Claire Re:

Update & Data Questions

Thank you!

In that case, then, we can just use the raw data. We already have the code from dealing with the previous export, so we'll just need to test and make sure it works for this and future exports.

Thanks,  
Michael

On Fri, Oct 9, 2020 at 12:06 PM Woodall-Vogg, Claire <[cwooda@milwaukee.gov](mailto:cwooda@milwaukee.gov)> wrote:

I have to run the full report and then sort it to get the ward data. Sadly.

I forgot to take my security key home with me last night, so I didn't have a chance to run the absentee stats...I will already ran them this morning and will also run active voters. Thank you!

The map keeps looking more amazing!

Claire

From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent: Monday, October 12, 2020 10:52 AM  
To: Woodall-Vogg, Claire  
Subject: Re: Ballot Stats by Ward

Thank you, Claire! Here's the updated map:

<https://voteathome.carto.com/builder/501807d9-7657-4d0f-8d7b-5649468b0a91/embed>

How difficult was it to set up and run this report? This will be very easy to update on my end but there might be the things we can do to make it easier for you.

Michael

On Sun, Oct 11, 2020 at 1:26 PM Woodall-Vogg, Claire <cwooda@milwaukee.gov> wrote:

Claire Woodall-Vogg

19<sup>th</sup>

Monday, October 19, 2020 12:13 PM

Woodall-Vogg, Claire

Quick Q: Update and Share Map?

Hi Claire, question about the [map of voting data](#):

1. Through partners, we should be able to access the voter file to update the map without you needing to pull the data from [WisVote](#).
2. They'd want to be able to share the map internally.

Is that okay with you or should we create a separate map for them?

Thanks,  
Michael

On Mon, Oct 19, 2020 at 5:59 PM Woodall-Vogg, Claire <cwooda@milwaukee.gov> wrote:

Additionally, would you be okay if we actually shared the map on our website? I think it is fascinating data all around that media might love... We could promote the partnership and that this has been available through Vote at Home... Let me know!

Michael Spitzer-Rubenstein <michael@voteathome.org>

Monday, October 19, 2020 7:46 PM

Woodall-Vogg, Claire

Subject: ~~Re: Question: Map data and share link?~~

Attachments: Carto Map Embed Code.txt

Sure, feel free to share it! I'm attaching code so that you can embed it in your website.

And I can update this daily going forward if it's not too much hassle to send the data. Should we have separate layers for in-person absentee versus mail ballots or do you just want to combine that data?

Michael

30<sup>th</sup>

From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent: Friday, October 30, 2020 5:43 PM  
To: Woodall-Yogg, Claire  
Subject: Re: Green Bay central count consult

Hi Claire! Sorry about the delay—lots of schedules to coordinate. Would Monday work instead? If not, 4 PM tomorrow works and I can send a Zoom link around.

Thank you so much for your generosity!!

Michael

P.S. Will send a separate email but bringing in another person from Vote at Home to help with assigning wards to machines and any other data needs that come up.

Nov 2020



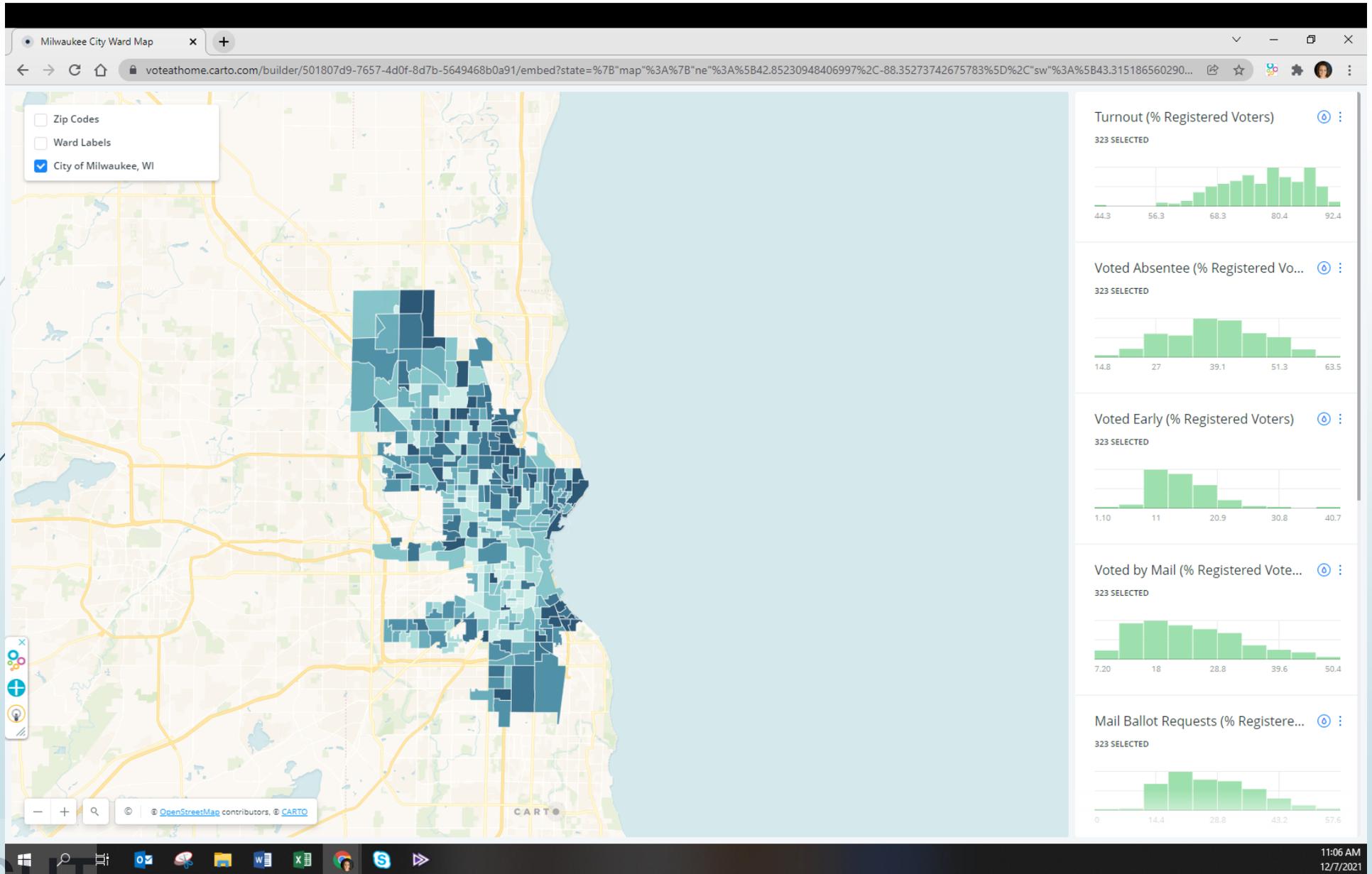
From: Michael Spitzer-Rubenstein <michael@voteathome.org>  
Sent: Monday, November 9, 2020 4:46 PM  
To: Woodall-Yogg, Claire  
Subject: Wrap-up call Thursday or Friday?  
Claire,

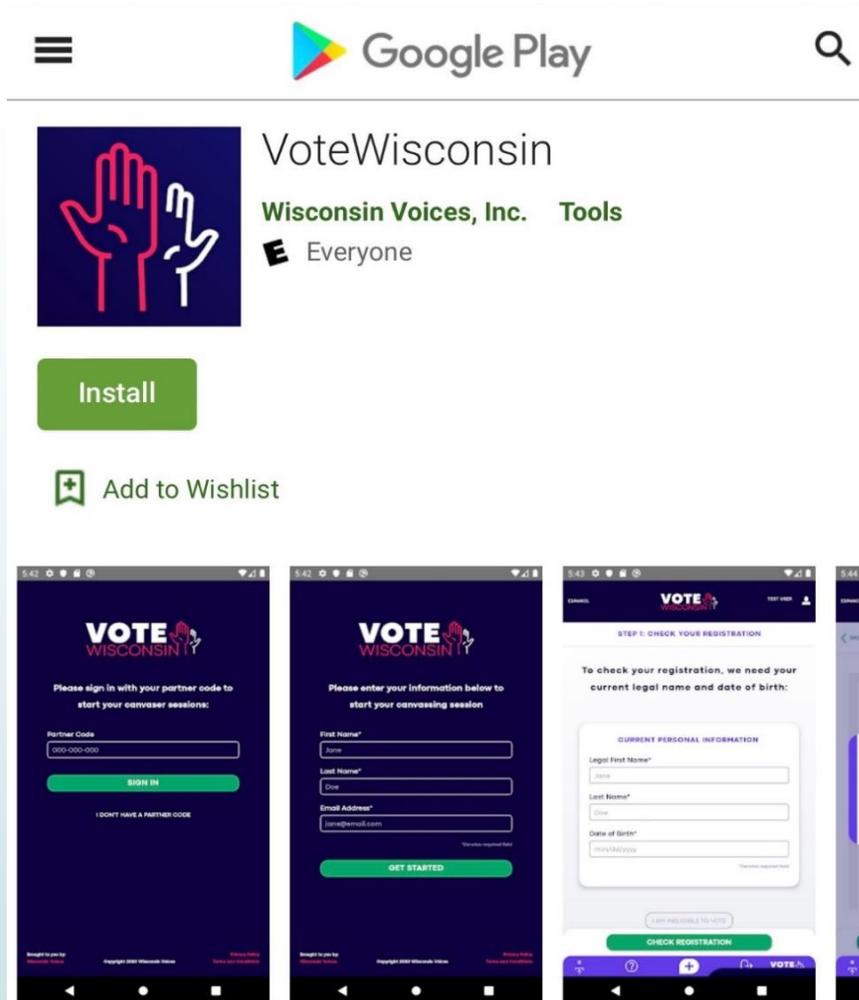
I'm glad we could support Milwaukee in this election and it was a relief that Election Day was generally smooth, albeit long.

**My term with Vote at Home ends on Friday.** Before I go, do you want to do a final wrap-up call Thursday or Friday? Morning would be better or could do early afternoon either day before 2 PM.

It would be helpful to discuss how everything went from your perspective and if there are additional areas where the National Vote at Home Institute could support you and other cities, whether in the recount or future elections.

Michael





This application checks Wisconsin voter registration status, and allows a user to complete a new registration or even modify an existing registration at the Wisconsin State site. By the end of the process, a user will be registered to vote in the State of Wisconsin. The application can be used as an official canvasser tool, or by anyone that wants to register people in Wisconsin to Vote.



Please sign in with your partner code to  
start your canvaser sessions:

Partner Code

**SIGN IN**

I DON'T HAVE A PARTNER CODE

AMERICAN  
OVERSIGHT

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Wisconsin Voices

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[Privacy Policy](#)  
[Terms and Conditions](#)

WI-REP-21-1761-A-000207



Please enter your information below to  
start your canvassing session

First Name\*

Last Name\*

Email Address\*

\*Denotes required field

**GET STARTED**



STEP 1: CHECK YOUR REGISTRATION

To check your registration, we need your current legal name and date of birth:

CURRENT PERSONAL INFORMATION

Legal First Name\*

Jane

Last Name\*

Doe

Date of Birth\*

mm/dd/yyyy

\*Denotes required field

I AM INELIGIBLE TO VOTE

CHECK REGISTRATION



[← BACK](#)

**STEP 5: ONLINE REGISTRATION**

NAME: Test User

WI ID #: 111111111

Now that we've gathered all your info, we are going to auto-fill it into the state site and let you review.

**GET STARTED**

process, we need to first check to be sure that you are not already registered to vote. Please enter your name and date of birth.

Already Registered?

**CHECK STATUS**

COULDN'T COMPLETE  
ONLINE



[BACK](#)

### STEP 5: MAIL IN REGISTRATION

NAME: Test User

WI ID #: 111111111

1. VERIFY YOUR INFORMATION

2. CERTIFY & SIGN REGISTRATION

3. SUBMIT PROOF OF RESIDENCE

**SIGN HERE USING YOUR FINGER OR TABLET**

**PEN:**

**ACCEPT SIGNATURE**

CLEAR SIGNATURE

**NEXT STEP**



### Canvasser Log Out

Thanks for all your hard work today!

SHIFT TIME 00:01

MAIL IN REGISTRATIONS 0

ONLINE REGISTRATIONS 0

[START NEW SESSION](#)

[PARTNER SIGNIN](#)

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[Terms and Conditions](#)

AMERICAN  
OVERSIGHT

WI-REP-21-1761-A-000212



Google Play



## Additional Information

### Updated

September 18, 2020

### Size

56M

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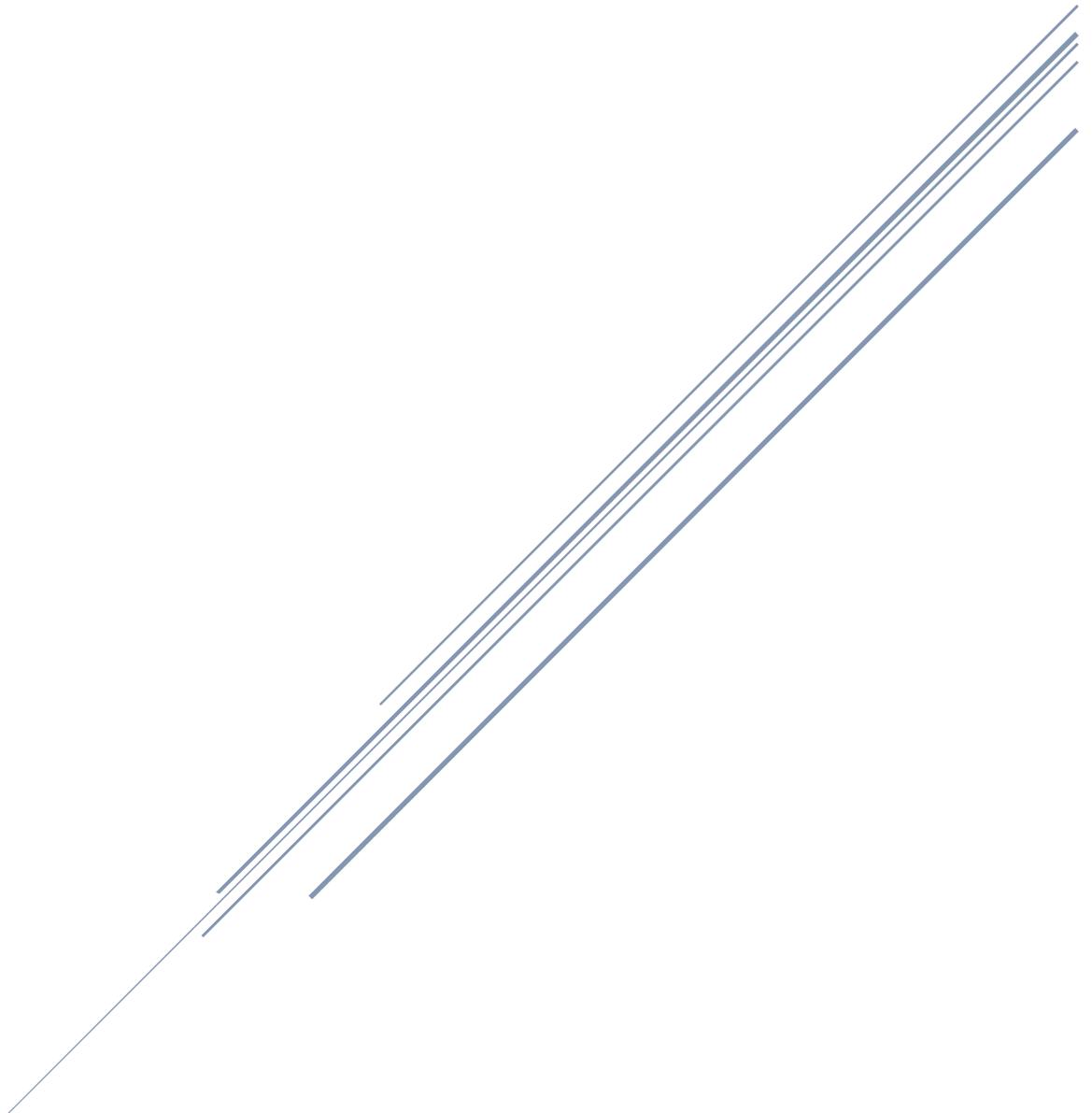


## Our Purpose

Wisconsin Voices provides essential resources to neighborhoods and community partners.

# WISCONSIN VOTER FILE ANALYSIS

Jeff O'Donnell



12/4/2021

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## About the Author

Jeffrey O’Donnell has been a professional software and database engineer for 40 years. During that time, he has worked or consulted for numerous Fortune 500 companies, including Rockwell International, Westinghouse Electric, Mellon Bank, and U.S Steel. He has been working with Microsoft SQL Server since its inception and has designed and worked with software data systems containing hundreds of millions of data points.

## Introduction

An analysis of the Wisconsin voter file revealed significant “red flags” in the data, some in concert and some in addition to the issues identified in the report authored by Jay Valentine (the “Valentine Report”). These anomalies are summarized below, but generally center around the use of non-“best practices” in the database design, and non-standardized processes by which voters are added. As a result, highly suspicious issues have been found in the data.

## General Information and Observations

Data from the August version of the Wisconsin Voter Roll and History export has been used to create this report. The file contains 7,098,448 separate voter records. According to World Population Review, the population of Wisconsin is currently approximately 5,852,490. Based upon these numbers, it seems probable that voters are never actually removed from the database, but rather a status field is used to set them to “Inactive”.

The Wisconsin Elections Commission’s site lists the number of “of age” Wisconsin citizens at the time of the 2020 General election as 4,536,417.

In the file, 3,529,835 are listed as “active” voters. This indicates that approximately 60% of Wisconsin citizens are registered as active voters.

In the November 2020 election, the voting method used by Wisconsin Voters broke down as:

Absentee	1,970,059
At Polls	1,338,575
Total	3,308,634

If there are 4,536,417 of-age voters, and 3,308,634 of them voted, then the state-wide turnout for the national election would calculate as 72.9%. The percent of active voters who cast a vote was 93.7%.

The Wisconsin Elections Commission’s site reports the presidential vote total as 3,297,352. The number of votes reported for the various U. S. House Races in Wisconsin totals only 3,238,051. Thus, the state undervotes / unreported Write-In totals would have to be 10,593 for the Presidential race, and 70,583 for the House races in order to make the numbers from the two sources match. Because Wisconsin does not disclose total vote or card counts, an investigation is necessary to determine if these numbers reconcile.

## Registration Number Dangerous Practice Summary

As outlined in the Valentine Report, the registration number field is a string rather than an actual number, with inconsistent “0” paddings, i.e. zeros have been added at the beginning of the registration number field. This is a dangerous practice to employ in a database because duplicate numeric values can exist with differing numbers of zeroes as padding. This caused duplication of the “numeric” values of registered voters.

My findings on the duplicates are:

157,758 voters have the same registration number if the “zero padding” is disregarded and they are interpreted numerically.

In 62,175 of these cases, multiple voters with the same numeric registration number are listed as active

In 52,720 of these cases, multiple voters with the same numeric registration number voted in November 2020

It is also found that these registration numbers are not sequentially allocated. For instance, if the last registration given was 10, database best practices would dictate that the next voter added would automatically be assigned 11. This method of automatically allocating sequential identification numbers eliminates human error and removes the possibility of intentionally placing new records between two existing records, which happens regularly in the Wisconsin Registration System. Because of how registration numbers are allocated, it is impossible to determine the actual entry order of voters into the system, which makes investigation of the sequence in which voters were entered impossible.

Wisconsin’s method of registration number creation also allowed 16 records with non-numeric registration numbers to exist in the system.

## Registration Number Length Analysis

In most database systems which use an identification field that is not numeric, there is a standardized field length. For instance, driver’s license numbers in most states are not numeric, but all have the same number of characters.

The registration number strings in the Wisconsin Voter file show a variety of lengths. For analysis purposes, here are each “length of registration number”, the number of occurrences, and the earliest and latest application dates of each length.

Length	Occurrences	Earliest Application Date	Latest Application Date
1	13	2006-04-04	2012-06-05
2	24	2005-11-08	2020-04-07
<b>3</b>	<b>54</b>	<b>2006-04-04</b>	<b>2020-11-03</b>
4	1	2007-04-03	2007-04-03
6	3	2008-05-28	2008-10-01
7	1	2006-04-04	2006-04-04
<b>8</b>	<b>61783</b>	<b>1917-10-29</b>	<b>2021-08-16</b>
<b>9</b>	<b>1596226</b>	<b>1918-01-01</b>	<b>2021-11-03</b>
<b>10</b>	<b>5440341</b>	<b>1900-01-01</b>	<b>2021-11-18</b>
11	1	2006-03-29	2006-03-29
15	1	2006-11-07	2006-11-07

*Note: Lengths of registration numbers assigned in 2020 or 2021 are indicated in **bold***

This indicates that registration numbers of lengths 8, 9, and 10 are still being commonly used, and the reason that they are not standardized is not known. It could be understood if the registration number length used in different counties or precincts was not the same when they were merged together, but the recent use of three different lengths would remove that possibility. This is another “red flag”, because the differing lengths could indicate that multiple entities are creating these records, and not

just the Election Commission. The WEC procedure manuals which dictate how registration numbers are created should be made public in order to provide public confidence in the procedure.

## Sequential Voter Registration ID Analysis – Supplemental Analysis

As noted in the Valentine Report, there were consistent sequential gaps in voter registration IDs. Although gaps themselves could be remnants of voters moving out of state, it's very unusual that these consistent gaps span thousands of voter registration IDs. Registration IDs where gaps of 10 sequential numbers were present appear to be very prevalent with voter IDs that started with a 7. Also, there is no definable pattern between the sequences and the application dates. This is further proof that the numbers are **not** assigned sequentially, nor are they being auto-assigned by a computer as expected.

## Application Date Analysis (Active Voters Only)

The voter file contains the application date for each voter. An analysis of these dates shows the following ranges of years that currently active voters have been registered:

<b>Years Registered</b>	<b>Voters</b>
120+	9
110-119	121,251
100-109	12
90-99	41
80-89	491
70-79	6,884
60-69	18,658
50-59	60,501
40-49	95,840
30-39	186,846
20-29	815,882
10-19	2,176,300
0-9	47,067

Please note that these are not ages of voters. The Wisconsin voter file did not contain Birth Dates, for an unknown reason. These numbers represent how many years the active voters have been registered. Thus, each voter in a category is at least 18 years older than yearly figures identified above.

The most obvious “red flag” in this table is the 120K+ voters who have, according to the system, been registered between 100 and 119 years. This is explained by the following table, which lists the 5 dates in history where, according to the voter file, the most people were registered who are still active:

<b>#</b>	<b>Date</b>	<b>Voters (still active)</b>
1	2020-11-03	205,355
2	2018-11-06	181,047
3	2004-11-02	176,022
4	2016-11-08	136,190
5	<b>1918-01-01</b>	<b>119,283</b>

Sitting in 5<sup>th</sup> place all time is the improbable date of 1/1/1918, with 119,283 voters. The most likely reason for this would seem to be some date-type incompatibility in a merge. However, analyzing the application source field (where merges are listed) revealed it to be empty in more than 112,000 cases. This is a red flag because these records are obviously inaccurate. Should there be some reason that the records were created with those incorrect dates, then the next question is why no steps were taken to correct them.

It should be noted that the total count of voters with the 1/1/1918 application date, active or inactive, is 569,277. This is far too large a number to be explained simply.

November 3, 2020 was the single most significant registration date in Wisconsin's history with 205,355 people registering to vote that day. Given the findings of the Legislative Audit Bureau ("LAB") detailed in their October 2021 Report, and the use of API's granting third parties access to Wisconsin's registration database, such numbers raise a number of significant red flags.

For example, the LAB Report detailed the WEC's and other elections officials' lack of cooperation noting that the City of Madison refused to let the LAB auditors handle absentee ballots despite their county (Dane County) having the highest percentage of absentee ballots in the state at 74.4 percent of ballots. [LAB Report at 6] The LAB also stated that county clerks for Milwaukee County and the Town of Little Suamico refused access to their ballots. Combined, these areas accounted for 623,700 of the 3.3 million ballots cast in the November 2020 election. (18.9 percent). Lab Report at 7. The LAB also noted that three WEC members refused to speak with the auditors. *Id.* at 5.

The LAB also found that, nearly 220,404 voters said they were indefinitely confined in the 2020 election—thereby avoiding statutory voter identification requirements—including 169,901 individuals (77.1 percent) who indicated for the *first time* that they were indefinitely confined. [LAB Report at 50]. Moreover, according to WEC's data, 48,554 of those first-time individuals (22.0 percent) had not previously voted by methods that required them to have provided photo identification or did not have photo identifications on file with clerks. [LAB Report 51].

Lastly, according to the LAB Report, in 2020, 957,977 Wisconsinites registered to be a new voter. Of that figure, 45,665 new voters registered with driver's license information that did *not* match DMV records or 4.8% of registrants. Of the 45,665 total non-matches, 63.1 percent were from a name non-match, meaning the name submitted by the new voter on the ballot application did not match the name on file at the DOT. [Lab Report at 21-22]

All of the above issues, raise significant red flags as to whether Wisconsin's registration database contains a material number of illegal voters or voters who are not who they say they are.

## Voters Who Voted in November 2020 but are now inactive

Focusing on 2021, the data shows that 779,237 voters, around 10% of the total voter roll and 22% of all active voters, registered within the six months prior to and including November 3, 2020. Of those, 31,872 (about four percent) are now listed as inactive. These 31,872 voters should be investigated to determine why they were removed. Wisconsin Public Radio reported on August 4, 2021, that the WEC had removed 174,307 voters from the rolls that had not voted in four years, and another 31,854 who

were on a 2019 voter list because of a lawsuit. None of these 31,872 people would seem to be on either of these lists of removals.

Perhaps partially because of this anomaly, Wisconsin lists 42,114 voters currently marked as “inactive” who voted in the 2020 Election. This is another “reg flag” because there would be few reasons to remove a voter from the rolls when they had voted just ten months earlier. The number of voters involved would seem to be more than can be explained by any known reason.

## Inactive Voters Registered Prior to 2016 and Have Not Voted in at least Four Years

When reviewing the voter registration database, it was noted that just under 2.8M inactive voters were registered prior to 2016 but hadn’t voted in 4 years. Given the known vulnerabilities with the Wisconsin registration database API, it would be possible to switch these voters to active at any time as needed by a nefarious actor to vote those individuals without their knowledge. An investigation into whether that event occurred could be undertaken by examining the computer log files for the Wisconsin registration database.

Additionally, 9,749 active voters who were registered prior to 2016 and voted in November 2020, had not participated in any election since at least November 2015. Going back even farther, 1,578 voters who had been registered prior to 2011 and had **never voted** in any election since and including 2011 are recorded as having voted in 2020. These are additional “red flags” because it may indicate that votes were cast in their name as they were not considered likely to vote for themselves.

## Conclusion

The irregularities and red flags found by both this report and the “Valentine Report” indicate a huge potential for nefarious actors to access the Wisconsin voter registration system and allow them to manipulate any voter’s status. There needs to be an investigation by competent outside database experts to explain the causes of the specific anomalies stated in the reports. This investigation needs to determine the complete database structures, hosting locations, access lists, and to examine the system log files for evidence of external intrusion. The investigation also needs to determine if third party voter organizations have been granted access to the system to create, manipulate, or improperly utilize voter records in contravention of state law.

In addition, the procedures and standards for creating and updating voter registration records must be determined, published, and rigorously followed. Only by these actions can we assure the public that their duly appointed election officials, have been, are being, and will be faithful executors of the duties with which they are entrusted.

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# Memorandum

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**Date:** September 23, 2021  
**To:** Sen. Wendy Rogers  
**From:** Matt DePerno  
**Subject:** Final Memo regarding Authority Over Elections and Electors

***Can a State Legislature recall the state electors or decertify a national election upon proof of fraud in the election? The Answer is "Yes."***

On August 14, 2021, I presented a memo to Sen. Wendy Rogers titled "Preliminary Memo regarding Authority Over Elections and Electors." That memo concluded that a State Legislature has the authority to recall the state elector or decertify a national election upon proof of fraud in the election. Importantly, this does not require proof of "all of the fraud."

On September 16, 2021, Ken Behringer prepared a memo to Sen. Michelle Ugenti-Rita that asked the question "*Is there a mechanism to decertify a presidential election?*" (the "Behringer Memo") The Behringer memo concluded there is no mechanism to decertify a presidential election outside of 3 U.S.C. §§ 5 and 15.

This memo disagrees with the Behringer Memo for the following reasons: (1) Sec. 5 is limited to the controversy of any appointment of electors and does not address decertification of an election; (2) Sec. 15 is limited to the counting of electoral votes and objections on January 6 and does not address decertification of an election based on fraud; (3) the Behringer Memo does not address decertification of an election upon proof of fraud; and (4) the Behringer Memo relies on *Trump v Kemp*, 511 F. Supp. 3d 1325 (N.D. Ga. 2021) which deals only with court authority to decertify an election (and only in the context of Secs. 5 and 15) but which does not deal with the State Legislature's authority to decertify an election.

In light of the Behringer Memo, we ask again whether a State Legislature can recall the state electors or decertify a national election upon proof of fraud in the election? **After again considering the constitutional authority of the State Legislature, the Constitution itself, and U.S. Supreme Court authority and precedent, the answer is definitively "Yes."**

States have authority over their elections, including national elections. "Congress has never undertaken to interfere with the manner of appointing electors, or, where (according to the new general usage) the mode of appointment prescribed by the law of the State is election by the people, to regulate the conduct of such election, or *to punish any fraud in voting for electors*; but has left these matters to the control of the States." *In re Green*, 134 U.S. 377, 380 (1890) (emphasis added).

The United States Supreme Court opinions discussed herein are based on the overarching principles that the Constitution reserves to the national government only those expressly enumerated powers in Article I. All other powers not specifically reserved are delegated to the States and to the People. Indeed, "[a]ll powers that the Constitution neither delegates to the Federal Government nor prohibits to the States are controlled by the people of each State." See *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 848 (1995).

The Ninth and Tenth Amendment work in tandem to consecrate this broad delegation of power to the States. In *Chiafalo v. Washington*, 591 U.S. \_\_\_\_\_, 140 S. Ct. 2316, 2324-25 (2020) "**Nothing in the Constitution expressly prohibits States from taking away presidential electors' voting discretion.**" (emphasis added). Specifically, the Supreme Court noted that the Constitution's text and the Nation's history both support allowing a State to enforce an elector's pledge to support his party's nominee – **and the state voters' choice** – for President. Indeed, the Behringer Memo discusses this authority in broad strokes through the discussion of sections 5 and 15. However, Sec. 5 deals only with the controversies as to the appointment of presidential electors and does not address issues of fraud that subsequently arise. Likewise, Sec. 15 deals only with counting of electoral votes and objections as of January 6 and again, does not address issues of fraud that is subsequently demonstrated. To suggest that all issues of fraud in the November 3, 2020 election must be presented to Congress by January 6, 2021 pursuant to sections 5 and 15 in order to be considered fails to recognize the complexity of the issue. It also suggests that all issues of fraud related to elections are somehow codified in sections 5 and 15, which is not only false, but also fails to give proper weight to the authority presented in the Constitution and U.S. Supreme Court authority and precedent.

As we know, the Constitution is "barebones about electors." *Chiafalo, supra* at 2324-35. As it should be. The residual powers are left to the States. The Behringer Memo addresses Article II (only in the context sections 5 and 15). However, Article II includes only the instruction to each State to appoint, in whatever way it likes, as many electors as it has Senators and Representatives. There are no restrictions or limitations.

The Twelfth Amendment then tells electors to meet in their States, to vote for President and Vice President separately, and to transmit lists of all their votes to the President of the United States Senate for counting. "Appointments and procedures and . . . **that is all.**" *Chiafalo, supra* at 2315 (emphasis added).

In prior cases, the Court has stated that Article II, §1's appointments power gives the States **full authority over presidential electors**, absent some other constitutional constraint. The Court has described that clause as "conveying the broadest power of determination . . ." *McPherson v. Blacker*, 146 U. S. 1, 27 (1892). See also *Chiafalo, supra* at 2324.

It would be meaningless if after giving full authority to the States over presidential electors, the State Legislature could not, upon a proper showing, recall those electors to decertify a fraudulent election. It would be equally meaningless to suggest that all fraud must be discovered and presented by January 6. As the Supreme Court said in *Chiafalo, supra*, the State has full authority absent some other constitutional constraint.

As far as the national government (and Constitution) is concerned, i.e., *federal law*, there are no such constraints. "Congress . . . has left these matters to the control of the States." *In re Green*, *supra* at 380. Therefore, each State Legislature has the power to recall electors and decertify their vote upon demonstrable proof of fraud. Indeed, this is the only way the State can guarantee that the People are represented. The Federal Government "is acknowledged by all to be one of enumerated powers." *McCulloch v. Maryland*, 17 U.S. 316 (1819). "[T]he powers delegated by the . . . Constitution to the federal government are few and defined," while those that belong to the States "remain . . . numerous and indefinite." The Federalist No. 45, p. 292 (C. Rossiter ed. 1961) (J. Madison). Thus, "[w]here the Constitution is silent about the exercise of a particular power[,] that is, where the Constitution does not speak either expressly or by necessary implication," the power is "either delegated to the state government or retained by the people." See *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816) (stating that the Federal Government's powers under the Constitution must be "expressly given, or given by necessary implication").

For an added measure of assurance in the latter regard, it is declared that "[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage *others* retained by the People." U.S. Const., amend. IX (emphasis added). It was universally agreed by the Framers that there are *additional* fundamental rights, protected from governmental infringement, which exist alongside those specifically mentioned in the first eight amendments. "The [Ninth] Amendment . . . was proffered to quiet expressed fears that a bill of specifically enumerated rights could not be sufficiently broad to cover all essential rights and that the specific mention of certain rights would be interpreted as a denial that others were protected." I Annals of Congress 439 (Gales and Seaton ed. 1834). See also II Story, Commentaries on the Constitution of the United States (5th ed. 1891), pp. 626-627. As "it cannot be presumed that any clause in the constitution is intended to be without effect . . . effect should be given to all the words it uses." *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 174 (1803). See also *Myers v. United States*, 272 U.S. 52, 229 (1926). And, indeed, a right to political affiliation and political choice has been addressed as protected, at least in part, by this amendment. *United Pub. Workers v. Mitchell*, 330 U.S. 75, 94-95 (1947). This includes, of course, the fundamental right to vote. *Id.* See also *Reynolds v. Sims*, 377 U.S. 533, 560 (1964).

The Behringer Memo ignores this long history of cases, but instead focuses on *Trump v Kemp*, *supra*, by quoting "this Court finds no grounds upon which to independently order the decertification of Georgia's election results" (relying again on Sec. 15). However, the Behringer Memo fails to recognize that *Trump v Kemp* focused exclusively on a court's role (*i.e.* the judicial branch) in enforcement of the rules for appointment and objection to electors. Indeed, *Trump v Kemp* did not address in any way either the court's role or the State Legislature's role in recall of electors or decertification of an election upon a showing of fraud subsequent to January 6.

Indeed, this memo address that issue. That the right to vote is *the* fundamental and primary right among all other fundamental rights, enumerated or not, is evident in the fact it is self-executing. Infringement upon it *cannot* occur under the Constitution if the government is, in fact, one that is duly and *legally* chosen by the People. Any government that asserts a mandate to rule on the basis of fraud or illegality effectuates an instant infringement on the sovereign's will, of necessity, has no legitimacy. It is as violent a usurpation as would be the direct use of force to suppress the People. Only, it is more sinister and insidious. It is at once an uncontestable rejection of the values and ideals of the People and a silent assassination of their collective right to express them.

To countenance a fraudulent election is to deny the inherent sovereignty retained by the People to govern themselves. To allow one such as this to pass as valid with the level of skullduggery and fraud evident to everyone who cares to look and who is not blinded by the conspired obfuscation foist upon them by bureaucratic functionaries, technocrats, subversives in both political parties, and their corporate *and* foreign donors, and those who control, to the great detriment of public debate and discourse, the information from social media all the way to the transmission of the "news" to households across the nation, is to leave the sovereign citizens of this country little choice. Ignoring this treasonous crime destroys any remnants of faith in the proper and orderly functioning of a government that is *supposed* to serve them.

If the choice of the People has been adulterated by fraud, the Legislative branch and the People have a right, an obligation, and, indeed, a duty to call it out to ensure preservation of the Republic that is guaranteed to them by the Constitution; or indeed, to dissolve and abolish it altogether. The Declaration of Independence, Second Paragraph (July 4, 1776) (emphasis added). Indeed, the Behringer Memo suggests that fraud must be ignored and the Republic destroyed if such fraud is not discovered prior to January 6. Such a conclusion ignores the principles of the Founders and precedent of federal law as described herein.

Preservation of the Republic *can* be done by legislative decertification under the principle of the Tenth Amendment and the Supreme Court's interpretation of the broad discretion states have over electors. The state constitutions give broad authority to the People to recall all publicly elected officials. Of course, this extends to any public official charged with a duty to represent their will. And, this *must* be done, for under the Ninth Amendment, if the fundamental right to vote is to be protected, every illegally cast or counted vote must not be allowed to unconstitutionally disenfranchise the legal voter's fundamental, constitutional rights.

These rights that reside in the People are necessarily delegated to the State Legislature in the event that the latter must act *sua sponte* to correct a fraudulently held election. After all, the Legislature is the lawmaking authority in the state. Absent any restraints in the state or federal constitution (and there are none), it must act in the stead of the people where there is no actuating power given to the People under state law. In other words, the Legislature itself does not have to pass a state law to exercise its constitutional (both state and federal) authority.

**A legislature's determination to decertify the votes cast by the electors or to otherwise decertify an election on demonstration of fraud in the election itself is nothing more than the Legislature's use of its reserved sovereign powers under the Tenth Amendment to protect those fundamental rights and privileges reserved to the People by the Ninth Amendment.**

**Indeed, the failure to do so would be a violation of the Legislature's role as a co-equal branch of government.**

Subject: Letter from State Legislators to the American People Reference the 2020 Election

To the citizens of the United States of America,

We the undersigned state legislators of the United States are vested with the plenary power by our US Constitution (Article 2 Section 1 Clause 2) to oversee the election of the president of the United States.

It has come to our attention from an audit of 2.1 million ballots in Arizona complemented by an in-depth canvass of votes in Arizona, as well as through multiple different data reviews of voting by independent experts; that our representative republic suffered a corrupted 2020 election.

In addition to Arizona, sworn affidavits have accumulated from many states detailing rampant corruption and mismanagement in the election process. Fraud and inaccuracies have already been shown through multiple audits and canvasses in multiple states, as well as through lawsuits challenging the validity of election results in several counties in multiple states.

We have come to the conclusion that all 50 states need to be forensically audited. Voter rolls should be scrubbed with a canvass of the voters to ensure future integrity of our elections.

If results from these measures prove an inaccurate election was held, as has been shown in Arizona, and is being shown in many other states; then it is clear that certification of many electors was improperly rendered in January 2021 of the November 2020 United States presidential election.

We call on each state to decertify its electors where it has been shown the elections were certified prematurely and inaccurately.

If it is shown that either Joe Biden would receive fewer than 270 tallied electoral votes, or Donald Trump would receive more than 270 electoral votes, then we call for the US House of Representatives to convene and vote per the US Constitution by means of one vote per state to decide the rightful winner of the election in accordance with the constitutional process of choosing electors.

This is our historic obligation to restore the election integrity of the vote as the bedrock of our constitutional republic.

If we do not have accurate and fair elections, we do not have a country.

Signed,

1. Senator Wendy Rogers, Arizona
2. Senator Sonny Borrelli, Arizona
3. Senator Kelly Townsend, Arizona
4. Representative Mark Finchem, Arizona
5. Representative Leo Biasiucci, Arizona
6. Representative Joseph Chaplik, Arizona
7. Representative Jacqueline Parker, Arizona
8. Representative Brenda Barton, Arizona
9. Representative Beverly Pingerelli, Arizona

10. Representative Kevin Payne, Arizona
11. Representative John Fillmore, Arizona
12. Representative Jake Hoffman, Arizona
13. Representative Judy Burges, Arizona
14. Representative Kevin McCabe, Alaska
15. Senator Lora Reinbold, Alaska
16. Representative Tommy Hanes, Alabama
17. Senator Alan Clark, Arkansas
18. Senator Trent Garner, Arkansas
19. Senator Gary Stubblefield, Arkansas
20. Senator Dan Sullivan, Arkansas
21. Representative Rick Beck, Arkansas
22. Representative Mary Bently, Arkansas
23. Representative Mark Lowery, Arkansas
24. Representative Clint Penzo, Arkansas
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26. Representative Brandt Smith, Arkansas
27. Representative Ron Hanks, Colorado
28. Representative Richard Holtorf, Colorado
29. Representative Dave Williams, Colorado
30. Representative Stephanie Luck, Colorado
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45. Representative Karey Hanks, Idaho
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47. Representative Ron Mendive, Idaho
48. Representative Dorothy Moon, Idaho
49. Representative Ron Nate, Idaho
50. Representative Tammy Nichols, Idaho
51. Representative Doug Okuniewicz, Idaho
52. Representative John Jacob, Indiana
53. Representative Curt Nisly, Indiana
54. Senator Alicia Straub, Kansas
55. Senator Mark Steffen, Kansas
56. Representative Tatum Lee, Kansas
57. Representative Trevor Jacobs, Kansas
58. Representative Randy Garber, Kansas
59. Representative Les Mason, Kansas

60. Representative Rhonda Butler, Louisiana
61. Representative Kathy Edmonston, Louisiana
62. Representative Dodie Horton, Louisiana
63. Representative Phillip Devillier, Louisiana
64. Delegate Dan Cox, Maryland
65. Delegate Mark Fisher, Maryland
66. Delegate Jeff Ghrist, Maryland
67. Representative Abigail Griffin, Maine
68. Representative Heidi Sampson, Maine
69. Representative Peggy Jo Stanley, Maine
70. Representative Steve Carra, Michigan
71. Representative Daire Rendon, Michigan
72. Representative Matt Maddock, Michigan
73. Senator Bruce Anderson, Minnesota
74. Representative Steve Drazkowski, Minnesota
75. Representative Glenn Gruenhagen, Minnesota
76. Representative Shane Mekeland, Minnesota
77. Representative Erik Mortensen, Minnesota
78. Representative Jeremy Munson, Minnesota
79. Representative John Poston, Minnesota
80. Representative Mitch Boggs, Missouri
81. Representative Jeff Coleman, Missouri
82. Representative Derek Grier, Missouri
83. Representative Ann Kelley, Missouri
84. Representative Chris Sander, Missouri
85. Representative Cheri Toalson-Reisch, Missouri
86. Senator Michael McLendon, Mississippi
87. Representative Steve Hopkins, Mississippi
88. Representative Brady Williamson, Mississippi
89. Senator Theresa Manzella, Montana
90. Senator Cary Smith, Montana
91. Senator Carl Glimm, Montana
92. Senator Bob Brown, Montana
93. Representative Steve Gunderson, Montana
94. Representative Bob Phalen, Montana
95. Representative Paul Fielder, Montana
96. Representative Ed Hill, Montana
97. Representative Mark Noland, Montana
98. Representative Brad Tshida, Montana
99. Representative Jerry Schillinger, Montana
100. Representative Steven Galloway, Montana
101. Representative Lola Sheldon-Galloway, Montana
102. Senator Ted Alexander, North Carolina
103. Senator Bob Steinburg, North Carolina
104. Representative Jay Adams, North Carolina
105. Representative Mike Clampitt, North Carolina
106. Representative Edward Goodwin, North Carolina
107. Representative Bobby Hanig, North Carolina
108. Representative Kelly Hastings, North Carolina
109. Representative Keith Kidwell, North Carolina

110. Representative Donnie Loftis, North Carolina
111. Representative Jeff McNeely, North Carolina
112. Representative Tim Moffitt, North Carolina
113. Representative Larry Pittman, North Carolina
114. Representative Wayne Sassar, North Carolina
115. Representative Mitchell Setzer, North Carolina
116. Representative Harry Warren, North Carolina
117. Representative Sam Watford, North Carolina
118. Representative Donna McDowell White, North Carolina
119. Senator Oley Larsen, North Dakota
120. Representative Jeff Magram, North Dakota
121. Representative Robert Clements, Nebraska
122. Representative Tim Baxter, New Hampshire
123. Assemblyman Jim Wheeler, Nevada
124. Representative Jennifer Gross, Ohio
125. Senator George Burns, Oklahoma
126. Senator Jake Merrick, Oklahoma
127. Senator Warren Hamilton, Oklahoma
128. Senator Nathan Dahm, Oklahoma
129. Representative Kevin McDugle, Oklahoma
130. Representative Avery Frix, Oklahoma
131. Senator Dennis Linthicum, Oregon
132. Senator Kim Thatcher, Oregon
133. Representative Lily Morgan, Oregon
134. Representative Vikki Breece Iversson, Oregon
135. Senator Doug Mastriano, Pennsylvania
136. Representative Stephanie Borowicz, Pennsylvania
137. Representative Russ Diamond, Pennsylvania
138. Representative David Zimmerman, Pennsylvania
139. Senator Elaine Morgan, Rhode Island
140. Representative Justin Price, Rhode Island
141. Representative Robert Quattrocchi, Rhode Island
142. Senator Tom Corbin, South Carolina
143. Senator Rex Rice, South Carolina
144. Representative Stewart Jones, South Carolina
145. Representative Ryan McCabe, South Carolina
146. Representative RJ May, South Carolina
147. Representative Vic Dabney, South Carolina
148. Representative Bill Chumley, South Carolina
149. Representative Mark Willis, South Carolina
150. Representative Cal Forrest, South Carolina
151. Representative Mike Burns, South Carolina
152. Representative Steven Long, South Carolina
153. Representative Josiah Magnuson, South Carolina
154. Representative Ashley Trantham, South Carolina
155. Representative John McCravy, South Carolina
156. Representative Melissa Oremus, South Carolina
157. Representative Julie Frye-Mueller, South Dakota
158. Representative Taffy Howard, South Dakota
159. Senator Janice Bowling, Tennessee

160. Representative Bruce Griffey, Tennessee
161. Representative Todd Warner, Tennessee
162. Representative Kyle Biederman, Texas
163. Representative Jeff Cason, Texas
164. Representative Bryan Slaton, Texas
165. Representative Tony Tinderholt, Texas
166. Representative Steve Toth, Texas
167. Representative James White, Texas
168. Representative Steve Christiansen, Utah
169. Representative Phillip Lyman, Utah
170. Representative Mike Petersen, Utah
171. Representative Mike Schultz, Utah
172. Representative Rob Sutherland, Washington
173. Representative Brad Klippert, Washington
174. Representative Vicki Kraft, Washington
175. Representative Tim Ramthun, Wisconsin
176. Delegate Guy Ward, West Virginia
177. Delegate Roger Conley, West Virginia
178. Delegate Joe Jeffries, West Virginia
179. Delegate Dean Jeffries, West Virginia
180. Delegate Riley Keaton, West Virginia
181. Delegate Todd Longanacre, West Virginia
182. Delegate Phil Mallow, West Virginia
183. Delegate Pat McGeehan, West Virginia
184. Delegate Tony Paynter, West Virginia
185. Delegate Chris Phillips, West Virginia
186. Senator Bo Biteman, Wyoming
187. Representative Chuck Gray, Wyoming
188. Representative Dan Laursen, Wyoming

 KeyCite Yellow Flag - Negative Treatment  
Declined to Extend by [North Twin Builders, LLC v. Town of Phelps](#),  
Wis.App., May 3, 2011

317 Wis.2d 656  
Supreme Court of Wisconsin.

[PRN ASSOCIATES LLC](#) and [PGN Associates LLC](#),  
Plaintiffs–Appellants–Petitioners,

v.

[STATE of Wisconsin DEPARTMENT OF  
ADMINISTRATION](#), Defendant–Respondent.

[PRN Associates LLC](#) and [PGN Associates LLC](#),  
Plaintiffs–Appellants–Petitioners,

v.

[State of Wisconsin Department of Administration](#),  
Defendant–Respondent.

Nos. 2007AP476, 2007AP751.

Argued March 5, 2009.

Decided June 17, 2009.

**Synopsis**

**Background:** Unsuccessful bidder on state university construction contract filed petition for judicial review of decision of Department of Administration (DOA) denying its appeal of university’s decision denying bid protest, and for declaratory judgment. Actions were severed. The Circuit Court, Ozaukee County, [Paul V. Malloy, J.](#), dismissed petition as moot. The Circuit Court, Dane County, [Maryann Sumi, J.](#), dismissed declaratory judgment action for lack of personal jurisdiction based on sovereign immunity. Plaintiff appealed both decisions, and the Court of Appeals, 313 Wis.2d 263, 756 N.W.2d 580, and 2008 WL 2051042, 312 Wis.2d 812, 754 N.W.2d 254, affirmed both decisions. Plaintiff appealed. Cases were consolidated.

**Holdings:** The Supreme Court, [Ann Walsh Bradley, J.](#), held that:

[1] unsuccessful bidder was not entitled to money damages arising out of its loss of contract for project;

[2] petition for judicial review was moot;

[3] defense of sovereign immunity applied to bar declaratory judgment action; and

[4] statute establishing claims procedure for actions against the state did not apply to waive state’s sovereign immunity to declaratory judgment action.

Decisions of the Court of Appeals affirmed.

**Procedural Posture(s):** On Appeal; Motion to Dismiss for Lack of Personal Jurisdiction.

West Headnotes (33)

[1] **Administrative Law and Procedure** → Mootness

A petition for judicial review of an administrative agency decision can be dismissed if it is moot.

1 Cases that cite this headnote

[2] **Pretrial Procedure** → Vexatious or fictitious suit; mootness

A motion to dismiss for mootness does not request a determination on the merits.

1 Cases that cite this headnote

[3] **Pretrial Procedure** → Adjudication on merits

When a case is dismissed because the issues therein have become moot, the rights of the parties are not adjudicated, and neither party is entitled to judgment.

[4] **Pretrial Procedure** → Operation and Effect

All that is involved when a case is dismissed upon ground of mootness is a conclusion by the court that the determination sought cannot have any practical effect upon an existing controversy.

12 Cases that cite this headnote

[5] **Action** → Moot, hypothetical or abstract questions

An issue is “moot” when its resolution will have no practical effect on the underlying controversy.

29 Cases that cite this headnote

[6] **Appeal and Error** → Mootness, ripeness, finality, and prematurity  
**Appeal and Error** → Free, independent, or de novo review

Mootness is a question of law that the Supreme Court reviews independently of the determinations rendered by the circuit court and the Court of Appeals.

7 Cases that cite this headnote

[7] **Pretrial Procedure** → Insufficiency in general

Whether a complaint states a claim upon which relief can be granted is a question of law.

[8] **Pretrial Procedure** → Insufficiency in general

A motion to dismiss for failure to state a claim tests the legal sufficiency of the complaint.

1 Cases that cite this headnote

[9] **Pretrial Procedure** → Presumptions and burden of proof  
**Pretrial Procedure** → Matters Deemed Admitted

For purposes of assessing a complaint’s legal sufficiency, a court accepts as true all facts as set forth in the complaint, and reasonable inferences that may be drawn from such facts.

[10] **Pretrial Procedure** → Availability of relief under any state of facts provable

A complaint should not be dismissed for failure to state a claim unless it appears certain that no relief can be granted under any set of facts that a plaintiff can prove in support of the allegations.

[11] **Appeal and Error** → Plenary, free, or independent review  
**Appeal and Error** → Free, independent, or de novo review

Supreme Court reviews a grant or denial of a motion to dismiss for failure to state a claim independently of the determinations rendered by the circuit court and the Court of Appeals, but benefiting from their analyses.

1 Cases that cite this headnote

[12] **Action** → Moot, hypothetical or abstract questions

General rule is that the court will not determine

abstract principles of law.

[13] **Appeal and Error** → Mootness

Appellate courts generally decline to reach the merits of an issue that has become moot.

[10 Cases that cite this headnote](#)

[14] **Action** → Moot, hypothetical or abstract questions

A court may decide a moot issue if it is of great public importance or arises frequently enough to warrant a definitive decision to guide the circuit courts.

[3 Cases that cite this headnote](#)

[15] **Education** → Bidding and bid protests  
**Public Contracts** → Judicial Remedies and Review

Unsuccessful bidder on state university construction project was not entitled to money damages arising out of its loss of contract for project, for purposes of determining whether bidder's petition for judicial review of Department of Administration's (DOA) decision upholding university's ultimate decision to award contract to another bidder was properly dismissed as moot on basis that there was no remedy available to bidder; a damages remedy would thwart purpose of underlying procurement statutes because it would require taxpayers to pay twice for just one completed project, and stated purposes of procurement regulation was to protect taxpayer from unnecessary expenditures.  W.S.A. 16.75; Wis.Admin. Code § 10.15(2) (Adm).

[16] **Public Contracts** → Constitutional and statutory provisions

Procurement statutes and regulations are designed to prevent fraud, collusion, favoritism, and improvidence in the administration of public business, as well as to ensure that the public receives the best work at the most reasonable price practicable; as such, these regulations are intended for the benefit and protection of the public and not of the individual bidder. Wis.Admin. Code § 10.01 et seq. (Adm).

[1 Cases that cite this headnote](#)

[17] **Public Contracts** → Parties; standing

Even though protection for an aggrieved bidder on a public contract is not within the purposes of a procurement regulation, a bidder has standing to contest an administrative agency's decision to award the contract to another bidder, because a bidder is in a particularly good position to challenge the bidding authority's action and thereby protect the rights of the public; the bidder has a valuable business interest at stake and it is expected that the bidder will zealously protect the public interest as well as its own. Wis.Admin. Code § 10.01 et seq. (Adm).

[2 Cases that cite this headnote](#)

[18] **Education** → Bidding and bid protests  
**Public Contracts** → Judicial Remedies and Review

Unsuccessful bidder on state university construction project was not entitled to award of contract for project, for purposes of determining whether bidder's petition for judicial review of Department of Administration's (DOA) decision upholding university's ultimate decision to award contract to another bidder was properly

dismissed as moot on basis that there was no remedy available to bidder; by the time bidder filed its petition for judicial review of DOA's decision upholding university's ultimate decision to award contract to another bidder, contract had already been signed, project had been finished and building had been fully in use for nearly three years, and, thus, as a practical matter, bidder could not perform contract.

1 Cases that cite this headnote

[19] **Injunction** → Administration; property, contracts, and liabilities

Injunctive relief was available to unsuccessful bidder on state university construction contract to prevent university and Department of Administration (DOA) from awarding contract to another bidder pending a decision on merits of unsuccessful bidder's protest, as protest, filed before contract was signed with successful bidder, asserted that university and DOA were acting without authority in rescinding initial award of contract to unsuccessful bidder, issuing a second proposal, and disclosing information from unsuccessful bidder's first bid. [W.S.A. Const. Art. 4, § 27](#); Wis.Admin. Code § 10.01 et seq. (Adm).

[20] **Education** → Bidding and bid protests  
**Public Contracts** → Judicial Remedies and Review

Petition for judicial review filed by unsuccessful bidder on state university construction project challenging Department of Administration's (DOA) decision upholding university's ultimate decision to award contract to another bidder was moot, as bidder failed to seek injunction to prevent contract from being awarded to successful bidder, despite the nearly six weeks that elapsed between date unsuccessful bidder was put on notice that there would be no automatic stay and date that contract with

successful bidder was signed.

[21] **Public Contracts** → Parties; standing

It is expected that an aggrieved bidder on a public contract will zealously protect the public interest and the public purse by taking legal action to ensure that a contract is not awarded to the wrong bidder.

3 Cases that cite this headnote

[22] **States** → Declaratory judgment

Defense of sovereign immunity applied to bar declaratory judgment action brought by unsuccessful bidder on state university construction contract against Department of Administration (DOA), as state did not consent to suit, and declarations sought by bidder all related to DOA's past actions, such as failing to award contract to bidder, rather than anticipatory or preventative relief, such that, in effect, bidder sought declaration that its rights were violated during procurement procedure so that it could pursue damage remedy against state. [W.S.A. 806.04, 806.06](#).

1 Cases that cite this headnote

[23] **States** → Conditions and restrictions  
**States** → Necessity of Consent

The state cannot be sued without its consent, and the legislature directs the manner in which suits may be brought against the state. [W.S.A. Const. Art. 4, § 27](#).

4 Cases that cite this headnote

[24] **States**↔What are suits against state or state officers

A suit against a state agency constitutes a suit against the state for purposes of sovereign immunity.

5 Cases that cite this headnote

[25] **States**↔Necessity of Consent

If the legislature has not specifically consented to the suit against the state, then sovereign immunity deprives the court of personal jurisdiction over the state, assuming that the defense has been properly raised.

6 Cases that cite this headnote

[26] **Declaratory Judgment**↔Nature and scope of remedy  
**Declaratory Judgment**↔Statutes as substantive or procedural

Declaratory judgment provides prospective rather than remedial relief.  W.S.A. 806.04.

2 Cases that cite this headnote

[27] **Declaratory Judgment**↔Object and purpose of statutes  
**Declaratory Judgment**↔Jurisdiction and Venue

The purpose of declaratory relief and the Uniform Declaratory Judgments Act is to enable controversies of a justiciable nature to be brought before the courts for settlement and determination prior to the time that a wrong has been threatened or committed; the purpose is facilitated by authorizing a court to take jurisdiction at a point earlier in time than it

would do under ordinary remedial rules and procedures.  W.S.A. 806.04.

1 Cases that cite this headnote

[28] **Declaratory Judgment**↔Nature and scope of remedy

Declaratory judgment provides a remedy which is primarily anticipatory or preventative in nature.  W.S.A. 806.04.

1 Cases that cite this headnote

[29] **Declaratory Judgment**↔State officers and boards

A declaration which seeks to fix the state's responsibility to respond to a monetary claim is not authorized by the Declaratory Judgments Act.  W.S.A. 806.04.

[30] **States**↔Declaratory judgment

Statute establishing claims procedure for actions against the state did not apply to waive state's sovereign immunity to declaratory judgment action brought by unsuccessful bidder on state university construction contract against Department of Administration (DOA), as bidder failed to comply with conditions precedent set forth in statute, and even if bidder had complied with these conditions, damages bidder sought, i.e., cost of preparing its initial winning bid and value of the contract, could not be maintained in action brought under the statute.  W.S.A. 806.04, 806.06, 775.01.

[31] **States** → Nature of claims required to be presented

Statute establishing claims procedure for actions against the state is limited to claims which, if valid, would render the State a debtor to the claimant. *W.S.A. 775.01*.

1 Cases that cite this headnote

[32] **States** → Statutory provisions; waiver of immunity

Statute establishing claims procedure for actions against the state does not authorize tort claims against the state. *W.S.A. 775.01*.

[33] **Declaratory Judgment** → Appeal and Error

Supreme Court would decline to address on appeal of dismissal of declaratory judgment action brought by unsuccessful bidder on state university construction contract against Department of Administration (DOA) issue of whether Takings Clause of State Constitution was an exception to sovereign immunity that applied to permit bidder to maintain declaratory judgment action DOA, as bidder’s brief spent less than one page discussing takings exception before moving on to other issues, it cited just one case relating to law of eminent domain and real estate law, and its amended complaint did not even assert a takings claim. *W.S.A. Const. Art. 1, § 13*.

**Attorneys and Law Firms**

\*\*563 For the plaintiffs-appellants-petitioners there were briefs by *Joseph R. Cincotta* and the Law Offices of *Joseph R. Cincotta, Milwaukee*, and oral argument by

*Joseph R. Cincotta*.

For the defendant-respondent the cause was argued by *Richard E. Braun*, assistant attorney general, with whom on the brief was *J.B. Van Hollen*, attorney general.

**Opinion**

¶ 1 *ANN WALSH BRADLEY, J.*

\*663 The petitioner, Prism,<sup>1</sup> seeks review of two decisions of the court of appeals: (1) affirming the dismissal of Prism’s petition for judicial review of an agency decision; and (2) affirming the dismissal of Prism’s amended complaint for \*664 declaratory judgment.<sup>2</sup> These consolidated cases arise out of a dispute over a state procurement. Prism submitted a bid, but the contract was ultimately awarded to another developer. The Wisconsin Department of Administration (“DOA”) denied Prism’s \*\*564 protest, concluding that Prism was not entitled to the contract.

<sup>1</sup> Plaintiffs PRN Associates LLC and PGN Associates LLC are collectively referred to as “Prism” throughout this opinion.

<sup>2</sup> See *PRN Associates v. Wis. Dep’t Admin.*, 2008 WI App 103, 313 Wis.2d 263, 756 N.W.2d 580, affirming orders of the circuit court for Ozaukee County, Paul V. Malloy, Judge; *PRN Associates v. Wis. Dep’t Admin.*, No. 2007AP751, 2008 WL 2051042, unpublished slip op. (Ct.App. May 15, 2008), affirming a judgment of the circuit court for Dane County, Maryann Sumi, Judge.

¶ 2 Prism asserts that its petition for judicial review of the DOA’s determination was erroneously dismissed as moot. Specifically, Prism contends that it is entitled to relief—either money damages or the award of a state contract. It argues that the circuit court erroneously determined that Prism was required to enjoin the DOA from awarding the contract to another bidder in order to preserve its remedies.

¶ 3 Prism also contends that its amended complaint for a declaratory judgment was erroneously dismissed because sovereign immunity is not a bar to the action. In addition, it argues that the type of relief it seeks can be maintained as a declaratory action and that the legislature has

consented to suit under [Wis. Stat. § 775.01](#) (2007–08).<sup>3</sup>

<sup>3</sup> All subsequent references to the Wisconsin Statutes are to the 2007–08 version unless otherwise indicated.

¶ 4 We conclude Prism’s petition for judicial review of the DOA’s decision was properly dismissed. Even assuming that all of Prism’s allegations are true, there is no relief that Prism can receive at this point. Although Prism could have sought an injunction to protect its interest, it failed to do so. Therefore, we \*665 determine that resolution of Prism’s protest cannot have any practical effect on this existing controversy and it is therefore moot.

¶ 5 We further conclude that Prism’s amended complaint for declaratory judgment was properly dismissed. [Wis. Stat. § 775.01](#) does not waive sovereign immunity in this case because Prism has not complied with the statutory conditions precedent for initiating an action. Even if it had, a claim for the damages Prism seeks cannot be maintained in an action under [§ 775.01](#). Accordingly, we affirm the decisions of the court of appeals.

I

¶ 6 These consolidated cases originated with a document Prism filed in Ozaukee County entitled “Petition for Review Pursuant to [Wis. Stats. § 227.52](#) and [§ 227.53](#) and/or for Declaratory Judgment Pursuant to [Wis. Stat. § 806.04](#).” The action was subsequently split into two separate cases, which have been reconsolidated for our review. The facts recounted below are primarily taken from the petition for review of the agency decision filed in Ozaukee County and the amended complaint for declaratory judgment filed in Dane County.

¶ 7 In October 2002, the University of Wisconsin–Milwaukee (“UWM”) and the University of Wisconsin System (“the System”) sought a developer to completely renovate the Kenilworth Building, located on Milwaukee’s east side. They issued a request for proposals (“the first RFP”) pursuant to [Wis. Admin. Code Adm Ch. 10](#).<sup>4</sup> In addition and also pursuant to [Adm \\*\\*565 Ch. 10](#), they established an evaluation committee to review the proposals.

4

[Wis. Stat. § 16.705\(2\)](#) authorizes the DOA to promulgate rules regulating “the procurement of contractual services.” These rules are contained in [Wis. Admin. Code Adm Ch. 10](#).

In relevant part, [Adm § 10.15](#) states:

(1) Right to protest. Any bidder or proposer ... who is aggrieved in connection with a solicitation or a notice of intent to award a contract may protest to the procuring agency....

(2) Authority to resolve protests. The head of the procuring agency, or designee, shall have the authority to settle and resolve a protest of an aggrieved bidder or proposer concerning the solicitation or intent to award a contract.

...

(5) Appeal. The protester may appeal a decision of the procuring agency ... to the secretary....

(6) State of procurements during protests. In the event of the filing of a timely notice of intent to protest, protest, or appeal ... the state shall not proceed further with the solicitation or with the award of the contract until a decision is rendered in response to the protest or appeal, or unless the secretary, after consultation with the head of the contracting agency, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.

\*666 ¶ 8 Prism submitted a bid which was selected by the evaluation committee. The Vice Chancellor of UWM sent Prism a letter which stated in part:

I am pleased to inform you that, after careful review and consideration of the final proposals, the University and the Evaluation Team has selected Prism Development Company as the developer UWM would like to pursue negotiations with regarding the Kenilworth redevelopment project.

On September 5, 2003, a resolution was passed granting the System the authority to negotiate a contract with Prism. Because of a lease-back provision in Prism’s proposal, the State Building Commission’s approval was

also required.

¶ 9 A developer who had submitted a losing bid protested the selection of Prism pursuant to Adm Ch. \*667 10. The developer argued that the selection process had been faulty. At the Building Commission's February 18, 2004 meeting, the System withdrew its request for approval. Subsequently, the System sent a letter to Prism explaining that the request had been withdrawn because "it became apparent that there was no support by [the State Building Commission]. That body's approval was essential to moving forward." The letter invited Prism to participate in a second round of bidding.

¶ 10 In March 2004, a second request for proposals ("the second RFP") was issued by the DOA Division of State Facilities at the direction of the State Building Commission. Prism again submitted a bid. At the same time and pursuant to [Wis. Admin. Code Adm § 10.15](#), Prism filed Notices of Intent to protest the decision to withdraw consideration of the first RFP.

¶ 11 Prism's protest was denied and it appealed to DOA Secretary Mark Marotta. He denied the appeal as untimely, stating in part:

You have also indicated that you believe [s. Adm 10.15\(1\)](#), Code, allows you to both protest and appeal the decision of the University not to proceed further with the procurement. Section Adm 10.15, Code, allows a protest to be filed within 10 days after the issuance of a solicitation or after issuance of the letter of intent to award a contract. The solicitation in this matter was issued in October, 2002. Thus, your opportunity to protest and appeal decisions relating to the issuance of the solicitation are passed. No letter of intent [for the second RFP] has been issued.

Prism did not seek judicial review of this decision.

¶ 12 Prism alleges that it was "lulled into a belief that a Letter of Intent pursuant to Adm § 10.08 would be forthcoming" to alert those who had submitted bids \*668 that a developer had been selected. It believed that this

letter was necessary to trigger its right to protest the selection of another developer. As Prism awaited the issuance of a letter of intent, it simultaneously participated in the second RFP.

¶ 13 In response to a January 26, 2005 letter requesting information, the DOA informed Prism that another developer, WEAS, had been selected as the winning bidder. The DOA's letter explained that \*\*566 Adm Ch. 10 did not apply to the second RFP process because the State Building Commission, a legislative body, authorized the RFP. Therefore, it concluded Prism was not entitled to protest the award under Adm Ch. 10.

¶ 14 Prism viewed the DOA's assertion that Adm Ch. 10 did not apply as "incorrect and incredible." In February 2005, Prism filed a Notice of Intent to Protest and a Protest pursuant to Adm § 10.15. The protest made the following claims: (a) Adm Ch. 10 did not permit the initial award to Prism to be rescinded, and by rescinding the award the System acted ultra vires;<sup>5</sup> (b) the System's withdrawal of the award to Prism was arbitrary and therefore void; (c) the issuance of the second RFP was contrary to law, ultra vires, and void; (d) the State should award the contract to Prism because it submitted the best proposal; and (e) the disclosure of Prism's initial bid was a violation of Adm Ch. 10, rendering the selection process for the second RFP void.

<sup>5</sup> "Ultra vires" is defined as: "Unauthorized; beyond the scope of power allowed or granted by a corporate charter or by law." *Black's Law Dictionary* 1525 (7th ed. 1999).

¶ 15 The System denied Prism's protest on March 25, 2005. It determined that the protest did not fit within the requirements of Adm Ch. 10 and that \*669 Adm Ch. 10 does not prohibit a procuring agency from abandoning a RFP prior to the issuance of a contract. It further determined that the second RFP, issued by the Building Commission, was not covered under Adm Ch. 10 and therefore could not be protested.<sup>6</sup> Prism appealed to the Secretary of the DOA pursuant to Adm § 10.15(5).

<sup>6</sup> The DOA continued to advance the position that Adm Ch. 10 was inapplicable to the circuit court, the court of appeals, and in its brief to this court. Prism argues that even if Adm Ch. 10 was an inappropriate procedure to use, the State initiated the second RFP under Adm Ch. 10 and was bound to follow the Adm Ch. 10 procedures when Prism filed its protest.

At oral argument, counsel for the DOA acknowledged: “Judge, I couldn’t make a cogent argument that [the State did not initiate the second RFP under Adm Ch. 10]. Does it apply in these types of cases? No. I think it applies here [however] because that’s the way [the DOA initially] treated it.”

¶ 16 On June 6, 2005, DOA Secretary Mark Marotta issued a seven-page decision denying Prism’s appeal. This decision is the subject of Prism’s petition for judicial review, and it was attached to the petition.

¶ 17 Secretary Marotta’s decision concluded that the System had the authority to withdraw its letter of intent to award Prism the project during the February Building Commission meeting. It further determined that because Prism did not appeal this decision on time, it had waived its right to object to the first RFP process. Additionally, it concluded that the second RFP was not governed by Adm Ch. 10 because it was issued by the Building Commission, which is a legislative rather than an executive commission.

¶ 18 Meanwhile, on March 15, 2005, the State and WEAS signed the contract. At no point did Prism seek an injunction in circuit court alleging that the \*670 DOA was acting beyond its authority. The parties acknowledge that the contract was subsequently executed by WEAS and the redeveloped Kenilworth Building was completed in August 2006.

¶ 19 On July 6, 2005, Prism filed a “Petition for Review Pursuant to  Wis. Stats. § 227.52 and § 227.53 and/or for Declaratory Judgment Pursuant to  Wis. Stat. § 806.04.” Prism asserted that it was entitled to a remedy because the System and the DOA’s actions to abandon the first \*\*567 RFP process and then award the contract to WEAS were “ultra vires of their delegated power under Ch. 16 stats. and Adm. 10.”

<sup>7</sup> Prism sought the following relief in paragraph 24 of its petition:

- a. a determination that the State was estopped from arguing that “Prism is precluded, for any reason, from challenging ... [the actions of UWM and the System] to withdraw and/or rescind the award of the Kenilworth contract to Prism”;
- b. a determination that the procedures used

in both RFPs were irregular and not in compliance with law;

c. a determination that the DOA’s conclusion that the matter is not governed by Adm Ch. 10 was erroneous;

d. a determination that it was improper to rescind the initial selection of Prism because Adm § 10.08 provides that the contract shall be awarded to the bidder selected by the evaluation committee;

e. a determination that the actions of the System and the DOA were ultra vires;

f. a determination that Prism is entitled to a remedy—either the award of the contract or economic damages.

¶ 20 The Ozaukee County circuit court severed Prism’s petition into two independent actions—one for judicial review of the DOA’s administrative decision under Wis. Stat. Ch. 227, and one for declaratory judgment. The Ozaukee County court retained jurisdiction \*671 of the Chapter 227 case (“the Ozaukee County case”). The court granted the State’s motion for a change in venue in the declaratory judgment action and transferred it to Dane County circuit court (“the Dane County case”).

¶ 21 In Ozaukee County, the DOA filed a motion to dismiss for failure to state a claim. It asserted that even if all of the allegations contained in the petition for judicial review of the agency’s decision were true, the case was moot because there was no relief that could be granted.

<sup>[1] [2] [3] [4]</sup> ¶ 22 After a hearing on the merits, the circuit court granted the DOA’s motion to dismiss.<sup>8</sup> The court stated, “in a Chapter 227 proceeding the question has to \*672 become what practical effect would a favorable decision to the plaintiffs have.” It concluded that injunctive relief was not available—the contract had already been let to another bidder and performed. It further concluded that a wronged bidder was not entitled to a monetary (damages) remedy from the State under the relevant statutes, administrative code provisions, and the common law. Therefore, even if \*\*568 everything that Prism alleged was correct, the court concluded that there was no relief that could be granted and the claim was moot. Prism’s motion to reconsider this decision was denied.<sup>9</sup>

<sup>8</sup> The circuit court granted the DOA’s motion to dismiss for failure to state a claim upon which relief can be granted. It is unclear whether dismissal for failure to state a claim is an

appropriate procedure for dismissing a petition for judicial review of an agency decision.

In [Wisconsin Env'tl. Decade Inc. v. Pub. Serv. Comm'n](#), we determined that the summary judgment procedure was inapplicable to proceedings for judicial review of an administrative decision. [79 Wis.2d 161, 170, 255 N.W.2d 917 \(1977\)](#). We explained that Chapter 227 provides for review of an agency decision rather than a new trial of the merits of a new claim. [Id.](#) (“[J]udicial review of administrative decisions under ch. 227 envisages a review upon the [agency] record, and there is no trial de novo in the circuit court during such proceedings.”) The summary judgment procedure was inapplicable in a Chapter 227 review because there were no new facts to be tested.

Nevertheless, a petition for review of an agency decision can be dismissed if it is moot:

A motion to dismiss for mootness ... does not request a determination on the merits. When a case is dismissed because the issues therein have become moot, the rights of the parties are not adjudicated, and neither party is entitled to judgment. All that is involved ... is a conclusion by the court that the determination sought cannot have any practical effect upon an existing controversy.

[Id.](#) at 171, 255 N.W.2d 917.

We proceed to examine the circuit court’s determination that Prism’s protest is moot because it is the essence of the circuit court’s decision.

<sup>9</sup> Under [Wis. Stat. § 227.55](#), the agency under review must transmit the record to the reviewing court. Yet, in this case the agency’s record was never transmitted to the circuit court and is therefore not part of the record on appeal. Normally, the absence of the agency’s record would foreclose our ability to review the agency’s decision. Here, however, the basis for the circuit court’s dismissal of the case, mootness, is a legal determination that does not address the merits of the agency’s decision. The circuit court commented, “The record should be here. But, legally, the matter would be moot, whether or not the record is filed.”

dismiss Prism’s amended complaint for declaratory judgment for failure to state a claim. Among other arguments, it asserted that Prism’s amended complaint should be dismissed for lack of personal jurisdiction \*673 because of sovereign immunity. The DOA argued that [Wis. Stat. § 775.01](#), which permits some claims to be brought against the State, did not constitute consent to this suit. The circuit court concluded, “the state’s motion to dismiss for lack of personal jurisdiction based on its immunity from suit must be granted because the state has not consented to this declaratory judgment action.”<sup>10</sup>

<sup>10</sup> After oral argument in this court, Prism filed a motion to supplement the record with the Department of Justice’s investigation into Secretary Marotta and the Kenilworth Building Project. We granted Prism’s motion over the objection of the DOA. The investigation concluded that “[t]here is no evidence, either from the investigation and interviews or from the case documents, to substantiate Prism’s allegations against Marotta.” We do not further discuss the facts contained in the investigation because they do not illuminate our task of determining whether Prism’s petition for judicial review and amended complaint were properly dismissed.

## II

¶ 24 These consolidated cases require us to address whether Prism’s petition for judicial review was properly dismissed as moot. We are also required to address whether Prism’s amended complaint for declaratory judgment was properly dismissed for failure to state a claim upon which relief can be granted.

<sup>[5] [6]</sup> ¶ 25 An issue is moot when its resolution will have no practical effect on the underlying controversy. [State ex rel. Riesch v. Schwarz](#), 2005 WI 11, ¶ 11, 278 Wis.2d 24, 692 N.W.2d 219. Mootness is a question of law that we review independently of the determinations rendered by the circuit court and the court of appeals. [Cornucopia Inst. v. U.S. Dep’t Agriculture](#), 560 F.3d 673, 675 (7th Cir.2009).

<sup>[7] [8]</sup> \*674 ¶ 26 Whether a complaint states a claim upon which relief can be granted is also a question of law.

[Meyers v. Bayer AG](#), 2007 WI 99, ¶ 21, 303 Wis.2d

¶ 23 In Dane County, the DOA also filed a motion to

295, 735 N.W.2d 448. A motion to dismiss for failure to state a claim tests the legal sufficiency of the complaint. *Id.*

[9] [10] [11] ¶ 27 We accept as true both the facts in the complaint and the reasonable inferences that may be drawn from such facts. *Id.* “A complaint should not be dismissed for failure to state a claim unless it appears certain that no relief can be granted under any set of facts that a plaintiff can prove in support of [the] allegations.” *Watts v. Watts*, 137 Wis.2d 506, 512, 405 N.W.2d 303 (1987). We review a grant or denial of a motion to dismiss for failure to state a claim independently of the determinations rendered by the circuit court and the court of appeals, but benefiting from their analyses. *Shannon E.T. v. \*\*569 Alicia M. V.M.*, 2007 WI 29, ¶ 31, 299 Wis.2d 601, 728 N.W.2d 636.

### III

#### Ozaukee County Review of an Agency Decision

[12] ¶ 28 We turn now to the question of whether the circuit court properly dismissed as moot Prism’s petition for judicial review. “The general rule is that the court will not determine abstract principles of law.” *City of Racine v. J-T Enters. of Am.*, 64 Wis.2d 691, 700, 221 N.W.2d 869 (1974).

[13] [14] ¶ 29 An issue is moot when the court concludes that its resolution cannot have any practical effect on the existing controversy. *Riesch*, 278 Wis.2d 24, ¶ 11, 692 N.W.2d 219. \*675 The court of appeals has explained that “a moot question is one which circumstances have rendered purely academic.” *State ex rel. Olson v. Litscher*, 2000 WI App 61, ¶ 3, 233 Wis.2d 685, 608 N.W.2d 425. Appellate courts generally decline to reach the merits of an issue that has become moot.<sup>11</sup> *Riesch*, 278 Wis.2d 24, ¶ 12, 692 N.W.2d 219.

<sup>11</sup> A court will make an exception and consider a moot issue under certain circumstances. For instance, a court may decide a moot issue if it is of great public importance or arises frequently enough to warrant a definitive decision to guide the circuit courts. *State ex rel. Riesch v.*

*Schwarz*, 2005 WI 11, ¶ 12, 278 Wis.2d 24, 692 N.W.2d 219. Prism does not contend that this case falls under one of these exceptions. Rather, Prism argues that the issue is not moot.

¶ 30 The State argues that even if Prism is correct on the merits of its protest, a court resolution would have no effect on the existing controversy because there is no remedy that can be granted to Prism at this point. It contends that the petition for judicial review is therefore rendered moot. Thus, the question we must answer is: even if Prism’s protest was improperly denied, is there any relief that it can receive now, almost three years after the project has been completed?

¶ 31 To determine whether the resolution sought can have any practical effect on the existing controversy, we do not address the factual and legal issues implicated in Prism’s petition for judicial review. For purposes of this review, we assume that Prism would be able to prove every fact and support every legal allegation in its protest and petition for judicial review. Rather, we examine Prism’s requested relief. In its petition for judicial review, Prism requested two distinct remedies: money damages for “the value of its \*676 winning proposal” in the first RFP or award of the contract. We address each potential remedy in turn.

#### A

[15] ¶ 32 Prism asserts that it is entitled to money damages because it should have been awarded the contract under Adm Ch. 10, and the agency acted improperly when it instead let the contract to WEAS. Prism asserts that Adm § 10.15(2), which gives the DOA the authority to “settle and resolve” a protest, envisions a damages remedy for wronged bidders.<sup>12</sup> Yet, a money damages remedy would be contrary to the explicit purposes of Adm Ch. 10.

<sup>12</sup> Adm § 10.15(2) provides: “The head of the procuring agency, or designee, shall have the authority to settle and resolve a protest of an aggrieved bidder or proposer concerning the solicitation or intent to award a contract.”

¶ 33 Adm Ch. 10 provides rules governing the State’s

procurement of contractual services. The purposes of the rules are, in part, “[t]o ensure that contracts for contractual services are entered into only in **\*570** the best interests of the state,” and “[t]o ensure that the state will procure at the lowest possible price, without sacrifice in quality, the contractual services required[.]” Adm § 10.02. Further, [Wis. Stat. § 16.75](#) provides that with certain limited exceptions, contracts should be awarded to the “lowest responsible bidder.”

<sup>[16]</sup> ¶ 34 It is an established proposition that procuring statutes and regulations such as Adm Ch. 10 “are designed to prevent fraud, collusion, favoritism and improvidence in the administration of public business, as well as to ensure that the public receives the best **\*677** work ... at the most reasonable price practicable.” [Aqua-Tech, Inc. v. Como Lake Prot. & Rehab. Dist.](#), 71 Wis.2d 541, 550, 239 N.W.2d 25 (1976). As such, these regulations “are intended for the benefit and protection of the public and not of the individual bidder.” *Id.*

<sup>[17]</sup> ¶ 35 Even though protection for an aggrieved bidder is not within the purposes of a procurement regulation, a bidder has standing to contest an agency’s decision to award the contract to another developer. This is because a bidder “is in a particularly good position to challenge the bidding authority’s action and thereby protect the rights of the public.” [Id.](#) at 553, 239 N.W.2d 25. The bidder has a valuable business interest at stake and it is expected that the bidder will “zealously protect” the public interest as well as its own. *Id.*

¶ 36 A damages remedy, however, thwarts the purpose underlying the procurement statutes because it would require the taxpayers to pay twice for just one completed project. The court of appeals addressed a similar situation in [D.M.K., Inc. v. Town of Pittsfield](#), 2006 WI App 40, 290 Wis.2d 474, 711 N.W.2d 672. In that case, D.M.K. was the lowest bidder on four municipal projects. [Id.](#), ¶ 3. The town, however, concluded that D.M.K. was not a responsible bidder, and it offered only two of the projects to D.M.K. [Id.](#), ¶ 7.

¶ 37 D.M.K. sued the town for lost profits. [Id.](#), ¶ 9. The circuit court granted summary judgment in favor of the town, and the court of appeals affirmed. After recognizing that the regulations were intended to protect the public, not the individual bidder, the court of appeals concluded that requiring the town to pay twice for the same project is contrary to the public interest:

**\*678** If D.M.K. were successful in [recovering its purported damages], the Town and its taxpayers would pay D.M.K.’s \$216,000 in lost profits *in addition* to the contract price paid to the contractor who performed the work. On its face, this result fails to benefit or protect the public.

[Id.](#), ¶ 26.

¶ 38 Prism argues that because *Aqua-Tech* and [D.M.K.](#) both involved lawsuits against municipalities, they have no application to lawsuits against the State. This argument is unavailing. Like the statutes discussed in *Aqua-Tech* and [D.M.K.](#), the stated purpose of Adm Ch. 10 is to protect the taxpayer from unnecessary expenditures. Taxpayers are not protected when any governmental body pays twice for the performance of one contract—regardless of whether that governmental body is a municipality or the State. We conclude that the reasoning in *Aqua-Tech* and [D.M.K.](#) applies to this case and that Prism is not entitled to a damages remedy.

## B

<sup>[18]</sup> ¶ 39 Prism also seeks as a remedy the award of the contract. It contends that as the winning bidder of the first RFP **\*571** process, it is entitled to the contract.<sup>13</sup> By the time Prism filed its petition for judicial review of the agency decision, however, the contract had already been signed.<sup>14</sup> In [State ex rel. Hron Bros. Co. v. City of Port Washington](#), 265 Wis. 507, 509, 62 N.W.2d 1 (1953), we stated, “[T]he fact that the contract has actually been awarded to another is sufficient to induce the courts to decline to interfere to further complicate the matter, even though they might otherwise have done so.” (quoting [State ex rel. Phelan v. Bd. of Educ.](#), 24 Wis. 683, 684 (1869)).

<sup>13</sup> As authority for this proposition, Prism cites Adm § 10.08(7), which states: “Award shall be based on the evaluation committee recommendation....”

<sup>14</sup> The contract was signed on March 15, 2005, and Prism filed its petition for review with the circuit court in Ozaukee County on July 6, 2005.

¶ 40 Moreover, as the parties acknowledge, the Kenilworth redevelopment project is finished and the Kenilworth Building has been fully in use for nearly three years. We cannot unravel a contract when it has already been fully performed. As a practical matter, Prism cannot perform this contract. It makes no sense to award a contract for building a project which has already been completed.

<sup>[19]</sup> <sup>[20]</sup> ¶ 41 Because Prism cannot receive either money damages or an award of the contract at this point, there is no remedy that Prism can receive even if all of its factual and legal allegations are true. This does not mean, however, that Prism was always without a remedy.

¶ 42 It is undisputed that the DOA informed Prism that it was going ahead with contract negotiations with WEAS and that it did not intend to stay the negotiations to permit for resolution of Prism's protest.<sup>15</sup> Nearly six weeks elapsed between the date Prism \*680 was put on notice that there would be no automatic stay and the date that the contract with WEAS was signed. Yet Prism did not seek an injunction to prevent the contract from being awarded to WEAS.<sup>16</sup>

<sup>15</sup> Adm § 10.15(6) provides that the DOA will impose a stay in a procurement proceeding while a protest is pending:

In the event of the filing of a timely notice of intent to protest, protest or appeal ..., the state shall not proceed further with the solicitation or with the award of the contract until a decision is rendered in response to the protest or appeal, or unless the secretary ... makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.

<sup>16</sup> Prism asserts that under Adm Ch. 10, a stay should have been automatically imposed and that a stay would have relieved it of the necessity of seeking an injunction to prevent the award of the contract. However, Prism acknowledges that it was put on notice that the DOA did not plan to impose a stay. At oral argument, counsel for the

DOA explained: "February 3 of 2005, before the contract is signed, the DOA sends a letter to Prism.... The DOA's position—right or wrong—was that Adm 10 did not apply and therefore there would be no automatic stay. This was six weeks before the contract was signed. It was four months, five months before Prism ever started an action, and even then it did not seek injunctive relief."

<sup>[21]</sup> ¶ 43 It is expected that an aggrieved bidder will "zealously protect" the public interest and the public purse by taking legal action to ensure that a contract is not awarded to the wrong bidder. See [Aqua-Tech](#), 71 Wis.2d at 553, 239 N.W.2d 25. If Prism believed that it was entitled to the contract, Prism was required to seek a temporary injunction to prevent the award of the contract to WEAS. In so doing, Prism would have preserved any entitlement it had to the contract.

\*\*572 ¶ 44 Prism asserts that an injunction would not have been available because sovereign immunity precludes a lawsuit against the State unless the legislature consents to the suit.<sup>17</sup> Here, there is no statute giving legislative consent for a suit to enjoin the State from awarding a contract to another bidder.

<sup>17</sup> See Wisconsin Constitution art. IV ("The legislature shall direct by law in what manner and in what courts suits may be brought against the state.").

\*681 ¶ 45 However, there is a "general exception to the rule of state immunity" that would have been applicable here. See [City of Kenosha v. State](#), 35 Wis.2d 317, 323, 151 N.W.2d 36 (1967). In *Kenosha*, we explained:

A general exception to the rule of state immunity for agencies or arms of the state, however, is that courts may entertain suits to enjoin state officers and state agencies from acting beyond their constitutional or jurisdictional authority. These suits are permitted because they are suits against individuals acting in excess of their authority.

 *Id.* at 323–24, 151 N.W.2d 36.

¶ 46 In Prism’s protest, filed before the contract was signed with WEAS, Prism contended that the System and the DOA were acting “ultra vires” because they did not follow the provisions of Adm Ch. 10 when they: (1) rescinded the initial award of the contract to Prism; (2) issued a second proposal; and (3) disclosed information from Prism’s first bid. That is, Prism asserted that the DOA was acting without authority, which would have allowed Prism to seek an injunction against the agency. *See id.* Yet it did not do so.

¶ 47 It appears that Prism was aware of the necessity of seeking an injunction to preserve its interest in the contract. Instead of filing for an injunction, however, Prism sought assurances from attorneys for the DOA that it need not seek an injunction and would be permitted to seek a damages remedy.<sup>18</sup> Based on the correspondence provided by Prism, these assurances were not given. Ultimately, Prism attained neither an \*682 assurance that a damage remedy was available nor an injunction that could have preserved its interest in the contract.

<sup>18</sup> This allegation does not appear in either the petition for judicial review or the amended complaint. Prism attempted to submit correspondence in support of this argument in the Ozaukee County case. Although the correspondence between Prism and the DOA was stricken from the record by the circuit court, both parties relied on this correspondence in their arguments here.

¶ 48 It should have been apparent to Prism that under Wisconsin law, a damages remedy likely was unavailable and that an injunction was required to protect any interest it had in the Kenilworth contract. In *Aqua-Tech*, the court stated that a temporary injunction might be necessary to “avoid rendering ineffective a possible judgment” in the aggrieved bidder’s favor.  71 Wis.2d at 552, 239 N.W.2d 25. An injunction would prevent the procuring agency from awarding the contract to another bidder pending a decision on the merits of the protest.  *Id.* *Aqua-Tech* stands for the proposition that a disappointed bidder must seek a temporary injunction before the issue becomes moot.<sup>19</sup>

<sup>19</sup> Prism requests that we send the case back to the DOA to ask the Secretary to “settle and resolve”

its protest under Adm § 10.15(2). We fail to see how this action would accomplish anything other than to further extend this already protracted dispute. The DOA cannot award the contract to Prism when it has been let to another bidder and fully performed. Further, awarding Prism money damages would be contrary to the purposes of the procurement regulations as discussed above.

Under these circumstances, sending the case back for the DOA to “settle and resolve” a protest that it has already denied would amount to an exercise in futility.

**\*\*573** ¶ 49 We conclude that the Ozaukee County circuit court properly dismissed as moot Prism’s petition for judicial review of the DOA’s decision. Even assuming that all of Prism’s allegations are true, there is no \*683 relief that Prism can receive at this point. Prism is not entitled to money damages. Further, the DOA cannot be enjoined to award the contract to Prism because the contract has already been fully performed. Although Prism could have sought an injunction to protect any interest it had in the contract, it did not do so. Therefore, we conclude that resolution of Prism’s protest cannot have any practical effect on this existing controversy.

#### IV

#### Dane County Declaratory Judgment Action

<sup>[22]</sup> ¶ 50 We turn next to the action for declaratory judgment under Wis. Stat. § 804.06, which was dismissed on the grounds of sovereign immunity. Prism filed an amended complaint in Dane County seeking the following relief: (1) a declaration that the DOA should have awarded the contract to Prism and violated Adm Ch. 10 by not doing so; (2) a declaration that the DOA prevented and denied Prism the opportunity to protest under Adm Ch. 10; (3) a declaration that as the winning bidder of the first RFP, Prism had either a contract or an exclusive right to negotiate for a contract; (4) a declaration that the DOA violated Adm Ch. 10 by releasing the contents of Prism’s first proposal to the public; and (5) a declaration that the DOA acted ultra vires by authorizing and conducting the second RFP.

<sup>[23]</sup> <sup>[24]</sup> <sup>[25]</sup> ¶ 51 As discussed above, the State cannot be

sued without its consent, and the legislature directs the manner in which suits may be brought against the State. See [Kenosha](#), 35 Wis.2d at 322, 151 N.W.2d 36; [Lister v. Board of Regents](#), 72 Wis.2d 282, 291, 240 N.W.2d 610 (1976). A suit against a state agency constitutes a suit against the **\*684** State for purposes of sovereign immunity. [Lister](#), 72 Wis.2d at 291, 240 N.W.2d 610. If the legislature has not specifically consented to the suit, then sovereign immunity deprives the court of personal jurisdiction over the State, assuming that the defense has been properly raised. [Id.](#) at 291, 240 N.W.2d 610.

¶ 52 Like other lawsuits, actions for declaratory relief can be dismissed on the grounds of sovereign immunity. Nonetheless, there are occasions when a suit for declaratory judgment against a state agency is permissible. In *Lister*, we explained:

[T]he court has [ ] recognized that the declaratory judgment procedure is particularly well-suited (in cases where such relief is otherwise appropriate) for resolving controversies as to the constitutionality or proper construction and application of statutory provisions. As a result, it has been necessary to engage in a fiction that allows such actions to be brought against the officer or agency charged with administering the statute[.]

[Id.](#) at 303, 240 N.W.2d 610.

<sup>[26]</sup> <sup>[27]</sup> <sup>[28]</sup> ¶ 53 Declaratory judgment provides prospective rather than remedial relief. The purpose of declaratory relief and [Wis. Stat. § 806.04](#), the Uniform Declaratory Judgments Act, is:

to enable controversies of a justiciable nature to be brought before the courts for settlement and determination *prior to the time that a wrong has been threatened or committed*. The purpose is

facilitated by authorizing a court to take jurisdiction *at a point earlier in **\*\*574** time than it would do under ordinary remedial rules and procedures*.

[Id.](#) at 307, 240 N.W.2d 610 (emphasis added). Declaratory judgment “provides a remedy which is primarily anticipatory or preventative in nature.” *Id.*

**\*685** ¶ 54 In *Lister*, a group of students brought suit against the University of Wisconsin Board of Regents. The students argued that they had been classified as non-residents contrary to the Wisconsin Statutes and therefore had to pay tuition at a higher rate. Among other remedies, they sought a declaratory judgment of their right to have been classified as residents. [Id.](#) at 305, 240 N.W.2d 610.

¶ 55 This court concluded that the action for a declaratory judgment could not be maintained. We said:

*A court cannot close its eyes to the purpose which a declaration of rights will serve in the particular case. It is not a sufficient ground for declaratory relief that the parties have a difference of opinion as to the proper construction and application of a particular statute. No anticipatory or preventative relief is sought in this action. To the extent that the complaint attempts to state a claim to relief under state law, the only consequence which the desired declaration of rights could have would be to settle the plaintiffs’ rights to recover the amounts paid in nonresident tuition. The action is, in effect, one for damages.*

[Id.](#) at 308, 240 N.W.2d 610 (emphasis added); *see also* [Brown v. State](#), 230 Wis.2d 355, 382, 602 N.W.2d 79 (Ct.App.1999) (“We acknowledge that sovereign immunity does not bar a suit for a declaratory ruling that an individual state official or agency has violated a statute *when there is an anticipatory or preventative purpose for the ruling*.... It is therefore not apparent from the complaint ... that there is any purpose for the declaratory judgment other than to establish the State’s liability for damages on a claim barred by sovereign immunity.” (emphasis added)).

¶ 56 The situation here is analogous to the situation in *Lister*. The declarations Prism seeks all relate to the DOA’s past actions, such as failing to award the contract to Prism, rescinding the first RFP, and issuing **\*686** a second RFP. None relates to the State’s future conduct. In

effect, Prism seeks a declaration that its rights were violated during the procurement procedure so it can pursue a damage remedy against the State.<sup>20</sup>

<sup>20</sup> In its brief, Prism stated: “The ultimate objective is a money judgment against the State,” and that “The declaratory judgment is prefatory to further action for actual relief.”

At oral argument, Prism’s attorney clarified that it sought a declaratory judgment so it could ultimately receive money damages: “[Damages] are contemplated strongly in [Adm Ch. 10]. There is really no other meaningful relief that can be granted.... What I would cite to is 775 certainly contemplates money being paid to contracting parties who lose out and their contract is breached.” Counsel later continued: “What I need the court to say is Adm 10 applies; Adm 10.08 says the contract shall be awarded to the winner[.] ... and [the court] should I think—I hope it does—address the issue of the type of relief available in the Adm 10.15 protest and appeal proceedings.”

<sup>[29]</sup> ¶ 57 “A declaration which seeks to fix the state’s responsibility to respond to a monetary claim is not authorized by Wisconsin’s Declaratory Judgments Act.”

<sup>[30]</sup> <sup>[31]</sup> <sup>[32]</sup> <sup>[33]</sup> <sup>[34]</sup> <sup>[35]</sup> <sup>[36]</sup> <sup>[37]</sup> <sup>[38]</sup> <sup>[39]</sup> <sup>[40]</sup> <sup>[41]</sup> <sup>[42]</sup> <sup>[43]</sup> <sup>[44]</sup> <sup>[45]</sup> <sup>[46]</sup> <sup>[47]</sup> <sup>[48]</sup> <sup>[49]</sup> <sup>[50]</sup> <sup>[51]</sup> <sup>[52]</sup> <sup>[53]</sup> <sup>[54]</sup> <sup>[55]</sup> <sup>[56]</sup> <sup>[57]</sup> <sup>[58]</sup> <sup>[59]</sup> <sup>[60]</sup> <sup>[61]</sup> <sup>[62]</sup> <sup>[63]</sup> <sup>[64]</sup> <sup>[65]</sup> <sup>[66]</sup> <sup>[67]</sup> <sup>[68]</sup> <sup>[69]</sup> <sup>[70]</sup> <sup>[71]</sup> <sup>[72]</sup> <sup>[73]</sup> <sup>[74]</sup> <sup>[75]</sup> <sup>[76]</sup> <sup>[77]</sup> <sup>[78]</sup> <sup>[79]</sup> <sup>[80]</sup> <sup>[81]</sup> <sup>[82]</sup> <sup>[83]</sup> <sup>[84]</sup> <sup>[85]</sup> <sup>[86]</sup> <sup>[87]</sup> <sup>[88]</sup> <sup>[89]</sup> <sup>[90]</sup> <sup>[91]</sup> 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¶ 63 The court of appeals interpreted a long line of cases to determine whether Koshick could maintain a breach of contract claim under § 775.01 for lost profits and expenses incurred. Relying on a 1952 case, *Trempealeau County v. State*, 260 Wis. 602, 51 N.W.2d 499 (1952), the court concluded that § 775.01 authorizes suits to recover “a specific sum of money which is due or owing from [the State] to another.” *Koshick*, 287 Wis.2d 608, ¶ 11, 706 N.W.2d 174. The court concluded that Koshick could not maintain an action under § 775.01 because he was not seeking “an amount due for goods or services that he has sold or delivered to the State” or \*\*576 “money that the State has received that he asserts he is entitled to.”<sup>21</sup> *Id.*, ¶ 12.

<sup>21</sup> See *Trempealeau County v. State*, 260 Wis. 602, 51 N.W.2d 499 (1952) (permitting the county to bring an action under the predecessor to the current § 775.01 to recover money mistakenly paid to the State for hunting and fishing licenses issued by the county); *Boldt v. State*, 101 Wis.2d 566, 568, 305 N.W.2d 133 (1981) (permitting a claim for recovery of certain Social Security payments the State had received on the plaintiff’s behalf).

¶ 64 The facts in this case are similar to the facts in *Koshick*. As in *Koshick*, Prism claims that it had a contract with the State and it seeks damages for the \*689 cost of preparing its winning bid and for “the value of the contract.”<sup>22</sup>

<sup>22</sup> At oral argument, one of the justices commented, “What you’re asking for here as I understand it is the money damages for the cost of putting together a proposal.” Prism’s counsel responded, “We want at least that. We also want the value of that proposal. Which is—I mean, don’t say lost profits, but I think there is some value to that proposal that is substantial.”

¶ 65 Prism does not assert that its ch. 775 action can be maintained under the holding of *Koshick*. Instead, it contends that *Koshick* was wrongly decided. In essence, Prism concedes that we must overrule *Koshick* to permit Prism’s claim under Section 775.01 to go forward.

<sup>[33]</sup> ¶ 66 We decline to do so here. It is the role of the legislature, rather than that of the court, to consent to suit

against the State. The *Koshick* court relied on the text of the statute and existing case law when it concluded that a breach of contract action for lost profits and expenses incurred could not be maintained under § 775.01.<sup>23</sup>

<sup>23</sup> Prism also argues that the takings clause of the Wisconsin Constitution is an exception to sovereign immunity that applies in this case. See Wis. Const. art. I, § 13. Its brief spends less than one page discussing the takings exception before moving on to other issues. It cites just one case relating to the law of eminent domain and real estate law. See *Zinn v. State*, 112 Wis.2d 417, 334 N.W.2d 67 (1983). More importantly, Prism’s amended complaint did not even assert a takings claim. Under these circumstances, we decline to address the argument. See *State v. Franklin*, 2004 WI 38, n. 5, 270 Wis.2d 271, 677 N.W.2d 276 (noting that we generally decline to address issues that are not fully presented by the parties).

¶ 67 We conclude that Prism cannot maintain a declaratory action against the DOA because Prism is \*690 seeking money damages rather than anticipatory or preventative relief. We further determine that Wis. Stat. § 775.01 does not waive sovereign immunity in this case because Prism has not complied with the statutory conditions precedent of that section and because even if it had, the damages Prism seeks cannot be maintained in an action under § 775.01.

V

¶ 68 In sum, we conclude Prism’s petition for judicial review of the DOA’s decision was properly dismissed. Even assuming that all of Prism’s allegations are true, there is no relief that Prism can receive at this point. Although Prism could have sought an injunction to protect its interest, it failed to do so. Therefore, we determine that resolution of Prism’s protest cannot have any practical effect on this existing controversy and is therefore moot.

¶ 69 We further conclude that Prism’s amended complaint for declaratory judgment was properly dismissed. Wis. Stat. § 775.01 does not waive sovereign immunity in this case because Prism has not complied with the statutory

conditions precedent for initiating an action. Even if it had, a claim for the damages Prism \*\*577 seeks cannot be maintained in an action under § 775.01. Accordingly, we affirm the decisions of the court of appeals.

**All Citations**

317 Wis.2d 656, 766 N.W.2d 559, 2009 WI 53

The decisions of the court of appeals are affirmed.

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*Assembly*

## **INFORMATIONAL HEARING**

### **Committee on Campaigns and Elections**

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The committee will hold a public hearing on the following items at the time specified below:

Wednesday, November 10, 2021  
2:00 PM  
412 East

*Invited Speakers Only*

#### **Racine Sheriff Special Voting Deputy's Report**

The Racine County Sheriff's investigation of the Wisconsin Election Commission's failure to follow the statutes regarding Special Voting Deputies.

#### **Gableman Report**

Special Counsel and Former Wisconsin Supreme Court Justice Michael Gableman's investigation into the November 2020 election.

*\*Sgt. Michael Luell will be appearing on behalf of the Racine County Sheriff's Department.*

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Representative Janel Brandtjen  
Chair

*Assembly*

## **INFORMATIONAL HEARING**

### **Committee on Campaigns and Elections**

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The committee will hold a public hearing on the following items at the time specified below:

Wednesday, December 8, 2021  
2:20 PM  
417 North (GAR Hall)

*Invited Speaker - Erick Kaardal*

#### **Election Abuses**

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Representative Janel Brandtjen  
Chair

# Avoiding 2022 Election Abuses in Wisconsin

Remedying the “Wisconsin 5” Cities’ 2020 Safe Voting Plan

**Erick Kaardal**  
Attorney

MOHRMAN, KAARDAL & ERICKSON, P.A.

# Objectives

This presentation will summarize the following

- Preventing election abuses in 2022 election and beyond
- Using Election Bribery Statute as a catalyst for discussion
- Wisconsin 5 Safe Voting Plan background
- Safe Voting Plan provisions
- Legal analysis of Election Bribery Statute
- Wisconsin Election Commission response
- Recommendations

# Wisconsin Election Bribery Statute: Relevant Sections

## Wisconsin Statutes § 12.11

- **Definition of “anything of value”** Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds \$1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message.
- **Whether anything of value is “given” to a “person”** Violators of this statute must offer or give anything of value to another person. The word “person” is not defined in this section; so, it could have a broad definition for enforcement purposes including municipalities and their public officials.
- **The offer or provision of anything of value must induce an elector to go to polls, to vote or not to vote** Anything of value given to another person must influence electors in regard to going to the polls, or their voting decision or who they will vote for while filling out their ballot.

# Wisconsin Election Bribery Statute: Relevant Sections

## Wisconsin Statutes § 12.11

### ➤ Exceptions (subsection 3)

Certain activities are exempt from being violations of the Election Bribery Statute. These include:

- 1) candidates pledging support for any other candidate running on the same ballot;
- 2) authorized election related legal expenses;
- 3) uniform paid holidays offered by employers;
- 4) free transportation of people to polling stations; and
- 5) candidate promises to reduce government taxes or expenditures

# Wisconsin Safe Voting Plan: Background

## ➤ **Chan Zuckerberg Initiative**

In 2020 the Chan Zuckerberg Initiative provided over \$400 million dollars to the Center for Tech and Civic Life and the Center for Election Innovation and Research.

## ➤ **Center for Tech and Civic Life (CTCL)**

After the 2020 spring primaries, CTCL solicited the City of Racine to apply for a \$100,000 grant to recruit other cities to apply for grants offered by CTCL.

## ➤ **City of Racine recruits the other four cities of the Wisconsin 5**

The City of Racine Mayor's Office recruits the Mayors from Milwaukee, Madison, Green Bay, Racine, and Kenosha to develop a grant proposal eventually titled the "Wisconsin Safe Voting Plan" (WSVP). The Wisconsin 5 submitted the WSVP as a group.

## ➤ **CTCL approves WSVP Grant - Sends Wisconsin 5 cities \$8.8 million for election purposes**

CTCL approves the grant, subject to certain requirements, and eventually gives \$8.8 million to the Wisconsin 5 cities. This private funding represented 87% of all CTCL funding in Wisconsin. The private grant included numerous provisions for increasing absentee and in-person voting opportunities, as well as access to several CTCL preferred partner organizations.

# Wisconsin Safe Voting Plan: Racine Recruits

## ➤ City of Racine acted as CTCL Recruiting Agent

On or about May 28, 2020, the Racine Common Council approved, and signed, the CTCL conditional grant in the amount of \$100,000 to recruit cities to join in a “Safe Voting Plan” to submit to the CTCL.

## ➤ Racine Focused on five Largest Cities in Wisconsin

CTCL utilized Racine for recruitment and information to prepare the WSVP grant in advance of distribution of the offered funds.

## ➤ Meetings between Mayors and Staff of the Wisconsin 5

Hosted by the Mayor of Racine, the Wisconsin 5 Mayors met virtually on May 16, 2020, June 13, 2020, and August 14, 2020. The mayors and their staff were invited to the meetings, but Common Council members apparently were not informed of the meetings, nor was the public informed of the meetings. The Common Council members of Racine were later asked to vote to approve what was decided at the meetings. It is believed that the Common Councils of the other four cities of the Wisconsin 5 were not asked to vote on the \$100,000 grant, except perhaps long after they had already received the money and committed to accepting the larger grant and its conditions.

# Wisconsin Safe Voting Plan: Racine Recruits

## ➤ City of Racine Distributes \$10,000 to other 4 Cities

Each Wisconsin 5 city was provided \$10,000 for preparing the WSVP. Racine received an additional \$50,000 for recruiting the other cities.

## ➤ CTCL's offer of conditional grants is accepted- \$6.3 Million

On July 6, 2020, CTCL emailed Racine city employee Vicky Selkove stating CTCL intends to fund each of the Wisconsin 5 Cities for election purposes:

Green Bay--\$1,093,400

Kenosha--\$862,779

Madison--\$1,271,788

Milwaukee--\$2,154,500

Racine--\$942,100

TOTAL: \$6,324,567

# Wisconsin Safe Voting Plan: CTCL Partners

## ➤ CTCL Directs Wisconsin 5 Cities to Organizations

On July 10, 2020, Racine employee Vicky Selkove started contacting each of the Wisconsin 5 cities to let them know CTCL will contact each of the Wisconsin 5 Cities to introduce CTCL's "partners" and to start engaging the services of CTCL's "partners" on behalf of the Wisconsin 5 Cities.

"Tiana and her team have arranged for extensive expert technical assistance from fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan." ➤

## ➤ First Time Cities were aware of the conditions attached to the Grant

In the July 10<sup>th</sup> E-mail, Ms. Selkove notes, "Tiana will send a draft grant agreement for the city's review and approval on Monday."

## ➤ By the end of July, the Wisconsin 5 cities agreed to the CTCL private monetary grants and the attached conditions

# Wisconsin Safe Voting Plan: Grant Conditions

- To keep grant money, the Wisconsin 5 Cities promised to keep CTCL's Conditions
- And, to use CTCL's "partners" for election administration.
- And, to report on the city's use of the CTCL funds for election administration

# Wisconsin Safe Voting Plan: Grant Conditions

## ➤ No budget reductions for Election Administration

On July 24, 2020, Dennis Granadas of CTCL wrote Celestine Jeffreys of Green Bay:

“Please find attached the revised grant agreement for review and signature. Please note that we made a few edits to clean up language, but this did not change the substance of the agreement, unless an update was requested. If you have any concerns please let me know. In addition, we also updated Section 7 for clarity to the following (changes highlighted in bold): **"The City of Green Bay shall not reduce or otherwise modify planned municipal spending on 2020 elections..."**”

## ➤ No sub-recipients of Grant Funds

The Wisconsin 5 cities were prohibited to pay any part of the grant money to another organization “unless CTCL agrees ... in advance, in writing.”

## ➤ NOT Boilerplate

CTCL provided a grant tracking form the Wisconsin 5 cities to keep track of their expenditures, which they would later have to report to CTCL. After the election in November 2020, CTCL demanded that the grant recipient cities, i.e. the Wisconsin 5, submit forms to CTCL to prove they complied with the grant conditions by January 31, 2021.

# Wisconsin Safe Voting Plan: Analysis

## ➤ **WSVP Not Just About Safe Voting in a Pandemic: Government Runs Private GOTV**

Documents and personal testimony indicate the WSVP and the justification to provide voting in accordance with public health requirements in the midst of the COVID-19 epidemic was a Trojan Horse. Once funding was approved, the WSVP allowed CTCL to lend or engage the services of other private corporations, through the use of the \$8,800,000 on behalf of the Wisconsin 5 cities, to increase voter turnout in their respective cities and target “communities of color.”

# WSVP Provisions: Government Run Private GOTV

## ➤ **Wisconsin Safe Voting Plan Provisions**

The WSVP included 8 provisions for increasing access to absentee and in-person ballots during the COVID-19 epidemic.

## ➤ **Provision #1: Intentional Voter Targeting**

The WSVP's first provision commits the Wisconsin 5 to “be intentional and strategic in reaching our historically disenfranchised residents and communities; and, above all, ensure the right to vote in our dense and diverse communities”

## ➤ **Problems: Government Run Private GOTV prioritizes targeted voters of Wisconsin 5 Cities**

WSVP fails to provide equal access or resources to non-Wisconsin 5 voters or even voters within the same city. In addition, the WSVP commits the Wisconsin 5 cities to target specific communities to increase turnout.

# WSVP Provisions: Government Run Private GOTV

## ➤ **Provision #2: Government Action to Promote Turnout**

The WSVP's second provision commits the Wisconsin 5 to “be an opportunity to plan for the highest possible voter turnouts...”

## ➤ **Problems: Government Run Private GOTV prioritizes targeted voters of Wisconsin 5 Cities**

WSVP fails to provide equal access or resources to non-Wisconsin 5 voters or even voters within the same city. In addition, the WSVP commits the Wisconsin 5 cities to target specific communities to increase turnout.

# WSVP Provisions: Government Run Private GOTV

## ➤ **Provision #3: Target GOTV to Disenfranchised City Residents**

The WSVP's third provision commits the Wisconsin 5 to devote one-half of the grant money to “encourage and increase ... in-person” voting and “dramatically expand strategic voter education & outreach efforts”—“particularly to historically disenfranchised residents”

## ➤ **Problems: Government Run Private GOTV prioritizes targeted voters of Wisconsin 5 Cities**

WSVP fails to provide equal access or resources to non-Wisconsin 5 voters or even voters within the same city. In addition, the WSVP commits the Wisconsin 5 cities to target specific communities to increase turnout.

# WSVP Provisions: Government Run Private GOTV

## ➤ Provision #3: Target GOTV to Disenfranchised City Residents

Recommendation	Green Bay	Kenosha	Madison	Milwaukee	Racine	Totals
Encourage and Increase Absentee Voting By Mail and Early, In-Person	\$277,000	\$455,239	\$548,500	\$998,500	\$293,600	\$2,572,839
Dramatically Expand Strategic Voter Education & Outreach Efforts	\$215,000	\$58,000	\$175,000	\$280,000	\$337,000	\$1,065,000
<b>Totals:</b>	<b>\$1,093,400</b>	<b>\$862,779</b>	<b>\$1,271,788</b>	<b>\$2,154,500</b>	<b>\$942,100</b>	<b>\$6,324,567</b>

# WSVP Provisions: Government Run Private GOTV

## ➤ **Provision #4: Voter Education and Outreach to Specific Communities**

Dramatically Expand Voter & Community Education & Outreach, Particularly to Historically Disenfranchised Residents”

## ➤ **Problems: Government Run Private GOTV prioritizes targeted voters of Wisconsin 5 Cities**

Examples Include:

**Green Bay** – Intentional targeting of organizations serving African immigrants, LatinX residents, and African-Americans.

**Kenosha** – Social Media Advertising, targeted radio and print advertising, graphic posters.

**Milwaukee** – Target Felons, LatinX and African-American communities with a communications effort.

**Madison** - Publications serving communities of color such as Spanish language newspapers and radio and African-American print and online publications.

**Racine** – Purchase of a Mobile Voting Precinct (government owned RV) to enable people to vote at targeted community centers and partner locations.

# WSVP Provisions: Government Run Private GOTV - Milwaukee CTCL Worksheet

- **Milwaukee intended to utilize protests and citizen unrest to drive private GOTV**
  - “...we would like to find a marketing consultant who could create an edgy but non-partisan and tasteful campaign *to harness current protests that are highlighting inequity.*”
  - “focus on appealing to a variety of communities within Milwaukee, including LatinX and African American voters.”
  - “focusing on the re-enfranchisement of voters who are no longer on probation or parole for a felony.”
- For example, there is no mention of driving or encouraging all Milwaukee residents to the polls or of informing all Milwaukee residents of the importance of exercising rights.
- \*Notably, there is nothing wrong with getting out the vote; but, here, instead of government-funded policy, private offers of promised money are given to government officials to induce targeted residents to go to the polls or vote.

# WSVP Provisions: Government Run Private GOTV - Green Bay CTCL Worksheet

- **Green Bay city government committed to racial GOTV goals**
  - “...we’d like to...increase voter participation in underrepresented groups by 25% for November...reach out to the Hmong, Somali and Spanish-communities with targeted mail, geo-fencing, posters (billboards), radio, television and streaming PSAs, digital advertising, robo calls and robo texts, as well as voter-navigators. We would also employ our voter navigators to have town halls, registration drives in trusted locations and conduct virtual events.”
  - “We believe this would establish trust and encourage voters from underrepresented groups to participate in greater numbers....”
  - \*Notably, there is nothing wrong with getting out the vote; but, here, instead of government-funded policy, private offers of promised money are given to government officials to induce targeted residents to go to the polls or vote.

# WSVP Provisions: Government Run Private GOTV - Madison CTCL Worksheet

## ➤ **Madison city government prioritized race to target GOTV**

“...we’d like to...run ads on Spanish language radio and in our municipality’s Spanish language newspapers. We would also like to run ads on our local hip hop radio station, in our local African-American print publications, and in our online publications run by and for communities of color.”

\*Notably, there is nothing wrong with getting out the vote; but, here, instead of government-funded policy, private offers of promised money are given to government officials to induce targeted residents to go to the polls or vote.

# WSVP Provisions: Government Run Private GOTV - Kenosha CTCL Worksheet

## ➤ Kenosha city government prioritized race in public transportation to the polls.

“...Care-a-vans, team up with a local van service, would provide much more affordable and practical transportation for the elderly, people of color and disabled voters who prefer to vote in person. The vans could also be used to transport the voters before election day to the municipal building to early vote, or to a library to request a ballot.”

\*Notably, there is nothing wrong with getting out the vote; but, here, instead of government-funded policy, private offers of promised money are given to government officials to induce targeted residents to go to the polls or vote.

# WSVP Provisions: Government Run Private GOTV - Racine CTCL Worksheet

- **Racine City Government targeted large increases in early voting and new registrations.**

- “...Billboards, voter ambassadors, and social media outreach. I believe this will greatly increase our number of early voters, especially new registered voters.”

\*Notably, there is nothing wrong with getting out the vote; but, here, instead of government-funded policy, private offers of promised money are given to government officials to induce targeted residents to go to the polls or vote.

# WSVP Provisions: Absentee Ballot Promotion

## ➤ **Provision #5: Encourage Voters to Vote Absentee as part of GOTV Plan**

The WSVP states the following for the Wisconsin 5 cities:

Absentee Voting (By Mail and Early, In-Person)

- ▶ Provide assistance to help voters comply with absentee ballot requests & certification requirements
- ▶ Utilize secure drop-boxes to facilitate return of absentee ballots
- ▶ Deploy additional staff and/or technology improvements to expedite & improve accuracy of absentee ballot processing
- ▶ Expand In-Person Early Voting (Including Curbside Voting)

## ➤ **Problems: Government Run Private GOTV prioritizes targeted voters of Wisconsin 5 Cities**

WSVP fails to provide equal access or resources to non-Wisconsin 5 voters or even voters within the same city. In addition, the WSVP commits the Wisconsin 5 cities to target specific communities to increase turnout.

# WSVP Provisions: Absentee Ballot Assistance

## ➤ **Provision #6: Government Guidance to Fill Out Absentee Ballots**

The WSVP commits the Wisconsin 5 cities to “provide assistance to help voters comply with absentee ballot request & certification requirements” within the Wisconsin 5 cities.”

## ▶ **Problems: Privately-funded and prioritizes specific communities of voters in Wisconsin 5 cities**

Examples Include:

**Green Bay** – Bilingual “Voter Navigators,” and Create Social Media and print advertising to advise on filling out absentee ballots

**Kenosha** – Train library staff to help residents complete absentee ballots

**Milwaukee** – Train library staff to help residents complete absentee ballots

**Madison** – Pay for technology and promotional materials for “Get your ID on file” events so voters could register and vote all at once.

**Racine** – Employ and train “Voter Ambassadors” who would assist with absentee ballot requests at Community Centers.

# WSVP Provisions: Unsecured Drop Boxes

## ➤ **Provision #7: “Secure” Drop Boxes**

The WSVP commits the Wisconsin 5 cities to “Utilize Secure Drop-Boxes to Facilitate Return of Absentee Ballots.” These boxes were not subject to constant surveillance or monitoring.

## ▶ **Problems: Privately-funded, unsecured and prioritizes specific communities of voters in Wisconsin**

Examples Include:

**Green Bay** – Unsecured Drop Boxes at Transit Center, Fire Stations, Libraries, Police Buildings and other locations like grocery stores or the University of Wisconsin-Green Bay along with City Hall.

**Kenosha** – 4 Unsecured Drop Boxes at libraries and the Water Utility

**Milwaukee** – 24 hour unsecured drop boxes at all public libraries.

**Madison** – One unsecure drop box for every 15,000 voters.

**Racine** – 3 unsecure Drop Boxes.

# WSVP Provisions: Expand Early In-Person Voting

## ➤ **Provision #8: Expand Early In-Person Voting**

The WSVP commits the Wisconsin 5 cities to , “Expand In-Person Early Voting (Including Curbside Voting)”

## ▶ **Problems: Privately-funded and prioritizes specific communities of voters in Wisconsin**

Examples Include:

**Green Bay** – Establish three new early in-person voting sites.

**Kenosha** – City Hall Drive Through Voting.

**Milwaukee** – Three in-person early voting locations for August Primary and 15 in-person early voting locations and 1 drive through location for General Election.

**Madison** – 18 Early In-Person Absentee ballot locations. Begin 4 weeks before election.

**Racine** – Three Early In-Person locations for a week before the August Primary and 4 two weeks for the general election as well as one at the Clerk’s office 6 weeks before.

# Legal Analysis - WSVP

## ➤ Three Questions Regarding WSVP and the laws such as the Bribery Statute

- 1) Whether the CTCL transfer of \$8,800,000 to the Wisconsin 5 Cities would satisfy “anything of value” requirement under Wisconsin Statutes § 12.11 (1)?
- 2) Whether the CTCL transfer of \$8,800,000 to the Wisconsin 5 Cities would satisfy “given” to “another person” requirement under Wisconsin Statutes § 12.11 (1m)?
- 3) Whether the CTCL transfer of \$8,800,000 to the Wisconsin 5 Cities would satisfy “induce electors” to “go to the polls” and to “vote” requirement under Wisconsin Statutes § 12.11 (1m)?

# Election Bribery or other Exceptions?

- **The CTCL money does not fall under any of the exceptions to the Bribery Statute because they are narrowly defined and limited.**

# First Amendment exception

- **The WSVP does not fall under protection of the First Amendment because CTCL was transferring private money to the Wisconsin 5 cities. Thus, there is no private speech, protected by the First Amendment, involved.**

# Legal Analysis - Issue of First Impression?

- **No case law precedents under the Election Bribery Statute exist to analyze WSVP.**

# Wisconsin Election Commission: not involved with WSVP and “up to the Legislature to decide”

From Wisconsin Election Commission website (<https://elections.wi.gov/node/7533>):

## Grant Funding in the Election Process

On the matter of grant funding in elections, the Wisconsin Elections Commission Administrator provided written and in-person testimony on this topic to the Wisconsin Assembly Committee on Campaigns and Elections on March 31, 2021.

WEC also complied with a Committee request to produce all emails and documents related to this matter prior to the hearing... In brief, the Commission Administrator testified that the agency was not involved in municipalities applying for or receiving private grant funds. WEC did not inform clerks about the private grants and did not promote them. Acceptance of grant funds by a municipality is a municipal decision that is subject to a municipality's approval structure, be it by the clerk's supervisor, mayor, City Council, or Town or Village Board. Whether statutes should regulate private election grants in the future is up to the Legislature to decide...

# Recommendations

- **The Legislature needs to lead on prohibiting private money directing public election administration.**
- **If that doesn't work, the counties and cities need to lead on prohibiting private money directing public election administration.**

# Contact

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**Wisconsin Safe Voting Plan 2020**  
**Submitted to the Center for Tech & Civic Life**  
**June 15, 2020**

The State of Wisconsin found itself in the midst of an historic election in April of 2020 when statewide elections occurred in the midst of the COVID-19 pandemic. These elections included not only the presidential preference vote, but also local races for city councils, county boards, school board, and mayors, a statewide election for a seat on the Wisconsin Supreme Court, and numerous district-wide school referenda.

Municipalities were required to make rapid and frequent adjustments to ensure compliance with the rapidly changing Supreme Court, Wisconsin Supreme Court, and Wisconsin Election Commission (WEC) rulings about the election. (The April 2020 Election may go down in history as the only election in which the Wisconsin Supreme Court and the US Supreme Court weighed in on the same day on how the election would be conducted.)

The shifting legal landscape was also complicated by the extraordinary lengths municipal clerks went to to ensure that both voting and election administration were done in accordance with prevailing public health requirements.

As mayors in Wisconsin's five biggest cities - Milwaukee, Madison, Green Bay, Kenosha, and Racine - we seek to work collaboratively on the two remaining 2020 elections (August 11th and November 3rd) to: safely administer elections to reduce the risk of exposure to coronavirus for our residents as well as our election officials and poll workers; identify best practices; innovate to efficiently and effectively educate our residents about how to exercise their right to vote; be intentional and strategic in reaching our historically disenfranchised residents and communities; and, above all, ensure the right to vote in our dense and diverse communities.

**Table 1: Summary of Municipalities' Electorate Data, June 2020**

	<b>Green Bay</b>	<b>Kenosha</b>	<b>Madison</b>	<b>Milwaukee</b>	<b>Racine</b>
<b>Estimated Eligible Voters</b>	71,661	73,000	213,725	430,000	56,000
<b>Registered Voters</b>	52,064	47,433	178,346	294,459	34,734
<b>2020 Election Budget</b>	\$329,820	\$205,690	\$2,080,283	\$2,986,810	\$409,529

All five jurisdictions share concerns about how to best facilitate voter participation and limit exposure to coronavirus. All five jurisdictions spent all or most of the budgeted resources for all of 2020 on the extraordinary circumstances this Spring. If no plan is approved, it will leave communities like ours with no choice but to make tough decisions between health and the right to vote; between budget constraints and access to fundamental rights. The time that remains between now and the November Election provides an opportunity to plan for the highest possible voter turnouts in the safest possible ways.

We are collectively requesting a total of \$6,324,527 as summarized in Table 3 below and detailed extensively in the plan.

### **Review of the April 2020 Election**

The April 2020 election placed two sacred duties of cities in conflict: keeping our residents safe and administering free and fair elections. Since Wisconsin's elections are administered at the municipal level, each municipality was on its own to deal with these dynamics. Our Municipal Clerks and their staff are all remarkable public servants, who responded nimbly and effectively to marshal the resources needed to run these elections under exceedingly challenging circumstances. In this election, all five of our municipalities faced:

- Precipitous drop-offs of experienced poll workers;
- A scramble to procure enough PPE to keep polling locations clean and disinfected and to mitigate COVID-19 risk for election officials, poll workers, and voters;
- A never-before-seen increase in absentee ballot requests;
- High numbers of voters who struggled to properly submit required photo ID and/or provided insufficient certification of absentee ballot envelopes; and
- Voters who, understandably, were completely confused about the timeline and rules for voting in the midst of a pandemic and required considerable public outreach and individual hand-holding to ensure their right to vote.

See Table 2, below, for detailed data on all five municipalities' April 2020 absentee mail and in-person early voting experiences.

**Table 2: Summary of Municipalities' Experiences in April 2020 Election**

	<b>Green Bay</b>	<b>Kenosha</b>	<b>Madison</b>	<b>Milwaukee</b>	<b>Racine</b>
<b># of voters who requested absentee ballots for April election</b>	15,509	16,017	89,730	96,712	11,615
<b># of absentee ballots successfully cast in April</b>	11,928	13,144	77,677	76,362	9,570
<b># of absentee ballot requests unfulfilled due to insufficient photo ID</b>	Unknown	Unknown	1,840	2.5%	Estimated hundreds
<b># of absentee ballots rejected due to incomplete certification</b>	312	196	618	1,671	368
<b># of secure drop-boxes for absentee ballot return</b>	1	2	3	5	1
<b># of days of early voting</b>	12	10	19	14	13
<b>Use curbside voting for early voting?</b>	✓	✗	✓	✓	✓
<b># of voters who voted in-person early absentee</b>	778	85	4,930	11,612	1,543
<b># of additional staff enlisted for election-related efforts</b>	86	60	225	95	20
<b>\$ spent on PPE</b>	\$2,122	\$13,000	\$6,305	Unknown	Unknown
<b># of polling locations</b>	2	10	66	5	14
<b>Use drive-thru or curbside voting on Election Day?</b>	✓	✗	✓	✓	✓

## **Comprehensive Election Administration Needs for 2020**

In early June 2020, all five municipal clerks and their staff, with review and support from all five cities' Mayors and Mayoral staff, completed a detailed, multi-page template (attached) providing both data and information about the municipalities' election plans and needs. This Wisconsin Safe Voting Plan 2020 is based on that comprehensive information. All five of our municipalities recommend the following four strategies to ensure safe, fair, inclusive, secure, and professional elections in our communities for the remaining 2020 elections:

### **Recommendation I: Encourage and Increase Absentee Voting (By Mail and Early, In-Person)**

1. Provide assistance to help voters comply with absentee ballot requests & certification requirements
2. Utilize secure drop-boxes to facilitate return of absentee ballots
3. Deploy additional staff and/or technology improvements to expedite & improve accuracy of absentee ballot processing
4. Expand In-Person Early Voting (Including Curbside Voting)

### **Recommendation II: Dramatically Expand Strategic Voter Education & Outreach Efforts, Particularly to Historically Disenfranchised Residents**

### **Recommendation III: Launch Poll Worker Recruitment, Training & Safety Efforts**

### **Recommendation IV: Ensure Safe & Efficient Election Day Administration**

As detailed in this plan, our municipalities are requesting **a total of \$6,324,567** to robustly, swiftly, comprehensively, and creatively implement these four strategic recommendations in each of our communities. That request is summarized as follows in Table 3, below, and detailed extensively in the remainder of this plan.

**Table 3: Summary of Resources Needed to Robustly Implement All Four Recommendations**

<b>Recommendation</b>	<b>Green Bay</b>	<b>Kenosha</b>	<b>Madison</b>	<b>Milwaukee</b>	<b>Racine</b>	<b>Totals</b>
<b>Encourage and Increase Absentee Voting By Mail and Early, In-Person</b>	\$277,000	\$455,239	\$548,500	\$998,500	\$293,600	<b>\$2,572,839</b>
<b>Dramatically Expand Strategic Voter Education &amp; Outreach Efforts</b>	\$215,000	\$58,000	\$175,000	\$280,000	\$337,000	<b>\$1,065,000</b>
<b>Launch Poll Worker Recruitment, Training &amp; Safety Efforts</b>	\$174,900	\$145,840	\$507,788	\$800,000	\$181,500	<b>\$1,810,028</b>
<b>Ensure Safe &amp; Efficient Election Day Administration</b>	\$426,500	\$203,700	\$40,500	\$76,000	\$130,000	<b>\$876,700</b>
<b>Totals:</b>	<b>\$1,093,400</b>	<b>\$862,779</b>	<b>\$1,271,788</b>	<b>\$2,154,500</b>	<b>\$942,100</b>	<b>\$6,324,567</b>

## **Recommendation I: Encourage & Increase Absentee Voting By Mail and Early, In-Person**

Of all the things that need to be done to ensure access and safety at the polls, this is perhaps the most important and timely. It is time, resource, and labor intensive but results in the voter being able to vote by mail or from the relative safety of their car or at a socially distanced and carefully planned early voting site.

### **Overview of Absentee Voting in Wisconsin**

Before discussing our strategies and plans to encourage and increase absentee voting, both by mail and in-person, early voting, it's important to first understand the absentee voting context in Wisconsin.

There are two ways to vote early in Wisconsin: in-person and through the mail. Both are technically called "absentee voting," a phrase held over from a time when absentee voting required you to affirm that you were over 80, ill, or going to be out of the municipality on Election Day. Those requirements no longer exist in the statutes, and people can vote early, or absentee, for any reason. The April 2020 election saw dramatic increases in the number of absentee ballot requests over previous elections.

While for many regular voters, absentee voting - whether completed by mail or early, in-person - is a relatively easy process, our five cities understand that absentee voting does not work easily for all voters. Our communities of color, senior voters, low-income voters without reliable access to the internet, people with disabilities, and students all have legitimate concerns about the absentee voting process.

Voting absentee by mail has been complicated by the fairly recent imposition of state law requiring voters to provide an image of their valid photo ID prior to first requesting an absentee ballot. While this works relatively easily for voters who have valid photo IDs and the technology necessary to upload an image file of that valid ID into the state's myvote.wi.gov website, it does not work well or easily for other voters who do not have valid photo ID (complicated by closure of DMVs due to the pandemic), lack access to reliable internet (also complicated by coronavirus-related closures or reduced hours at libraries and community centers, leaving those residents without regular public internet access that our municipalities normally provide), those who don't have smart phones to take and upload photos, and those who need additional education about what constitutes a valid photo ID. (For example, countless voters in our municipalities attempted to submit "selfies" as valid photo ID. Explaining to them that this was not a valid form of photo ID and instructing them on how to properly submit valid ID took considerable staff time and resources.)

Once the absentee ballot is received, it must be completed correctly to be successfully cast, and there are numerous certification requirements on the absentee ballot envelope; if not correctly completed, the ballot could be rejected. Prior to this April's

election, very small numbers of voters had traditionally chosen to cast ballots by mail. Municipal clerks' offices simply were not prepared and do not have the staffing or technological resources needed to quickly process dramatically higher numbers of absentee ballot requests, troubleshoot problems, answer voter questions, provide information and to expedite the processing of thousands of received absentee ballots on Election Day.

In-person early absentee voting also poses challenges for voters and election administrators. While all of our communities had previously offered early voting locations and hours, April's election required election officials to creatively and quickly expand in-person early voting opportunities, including curbside voting, all while prioritizing necessary COVID-19 precautions.

As indicated by Table 4, below, all five of our municipalities are already experiencing dramatic increases in the number of voters requesting to vote absentee, compared to pre-pandemic, and must procure resources to enable voters in our communities to meaningfully access absentee voting.

**Table 4: Absentee Ballots in All Municipalities as of June 2020**

	<b>Green Bay</b>	<b>Kenosha</b>	<b>Madison</b>	<b>Milwaukee</b>	<b>Racine</b>
<b># of voters on permanent absentee list prior to 2/18/20</b>	1,628	1,856	2,062	6,252	613
<b># of voters on permanent absentee list as of 4/7/20</b>	4,306	3,469	8,665	23,374	2,684
<b># of voters who have already requested absentee ballots for August 2020</b>	5,162	9,450	36,092	53,438	3,389
<b># of voters who have already requested absentee ballots for November 2020</b>	4,859	9,123	34,164	50,446	3,204

We are committed to making voting accessible via mail, in-person prior to Election Day, and at the polls on Election Day. Particularly in the midst of a global pandemic when many voters are rightfully apprehensive about in-person voting, we want to ensure that voters in our communities know they have options and we are committed to conducting the necessary voter outreach and education to promote absentee voting and encourage higher percentages of our electors to vote absentee.

Increasing the number of voters who cast votes prior to Election Day minimizes the risk of spreading COVID-19 on Election Day from in-person contacts at our polling locations, and it reduces the chance for lines and delays in voting on Election Day.

The Wisconsin Election Commission (WEC) has approved a proposal to mail all registered voters absentee ballot request forms, which allows our five communities to focus on helping voters overcome the barriers to successfully returning those forms so they can obtain, and then successfully submit, their completed absentee ballots. This measure will provide absentee request information directly to voters, alleviating the need for municipalities to expend the cost to send the mailing. However, it is unclear how this measure will affect the workload of municipal clerks. Although the WEC has directed that the forms be returned to the WEC for entry, municipal clerks must still review each record, process, mail, record receipt and canvass each absentee ballot.

All of our municipalities anticipate continued large increases in absentee voting based on the April 2020 trends. Milwaukee, for example, anticipates that 80% of residents will vote absentee by mail for both the August primary and the November general election.

All five cities have identified numerous barriers to successful absentee voting, including: voters facing numerous challenges to successfully submitting valid photo ID; voters needing assistance complying with absentee ballot certification requirements, including obtaining the required witness signature on the absentee ballot return envelope; the labor-intensive process faced by all of our clerks' offices of processing absentee ballot requests; and U.S. Postal Service errors and mail delays. All of these are challenges for our municipalities in normal elections, but they are all compounded by the coronavirus pandemic, and made exponentially more difficult by the unprecedented volume of absentee voting requests. This puts tremendous strain on municipal election clerks and their staff.

Our five cities share the desire to assist as many residents as possible with casting ballots before Election Day, serving as the greatest opportunity we have to mitigate the spread of COVID-19 in our communities. We have identified several strategies to help voters in each of our communities overcome these barriers to successful absentee voting, both by mail and in-person early voting.

Overall, our five communities are requesting **\$2,572,839** in resources related to enabling our municipalities to overcome these particular barriers and ensure that our voters can meaningfully access absentee voting, both by mail and in-person early voting. These strategies and resource needs are broken down into four distinct component recommendations, within the overall umbrella of increasing and encouraging absentee voting:

**1. Provide assistance to help voters comply with absentee ballot requests & certification requirements**

- **Green Bay:** The City would like to employ bilingual LTE “voter navigators” (\$45,000) to help residents properly upload valid photo ID, complete their ballots and comply with certification requirements, and offer witness signatures. These voter navigators can assist voters prior to the elections and then also be trained and utilized as election inspectors. They would also like to utilize paid social media and local print and radio advertising to educate and direct voters in how to upload photo ID and how to request and complete absentee ballots. (\$2,000)  
**Total: \$47,000**
- **Kenosha:** The City would like to have Clerk’s staff train library staff on how to help residents request and complete absentee ballots, would like to produce (\$3,000) and mail (\$26,200) a bilingual absentee ballot instruction sheet with all absentee ballots to increase correctly completed and submitted ballots. The City would like to hire a trainer for seasonal election workers, volunteers and poll workers. This employee would also coordinate assignments to polling locations, the early driver up voting site, the Clerk’s office for assistance in processing, data entry and filing of absentee requests and the Absentee Board of Canvassers (approximately \$50,000). The increase in absentee ballots due to COVID-19 has tremendously increased the workload of the department. In order to properly serve the citizens and voters additional LTE employees are needed (approximately \$175,000). **Total: \$254,200**
- **Madison:** Plans to hold curbside “Get your ID on File” events with the Clerk this summer utilizing volunteers or paid poll workers (\$15,000) equipped with PPE (estimated \$5,000) and digital cameras (\$4,500) to capture voter ID images for voters who are unable to electronically submit their IDs to the Clerk’s office. They also need large flags to draw attention to these curbside sites (\$4,000). Would also like mobile wifi hotspots and tablets for all of these sites (\$100,000) so voters could complete their voter registration and absentee requests all at once, without having to wait for staff in the Clerk’s office to follow up on paper forms. (These mobile wifi hotspots, tablets, and flags, could all then be repurposed for early in-person voting closer to the election.) **Total: \$128,500**
- **Milwaukee:** The City notes that the biggest obstacle to Milwaukee residents, particularly those in poverty, to applying for an absentee ballot in April was access to the internet and securing an image of their photo ID. To address this, the City will be promoting and utilizing Milwaukee Public Library branch staff (\$90,000 for both elections) for 3 weeks prior to each election to assist any potential absentee voters with applying, securing, and uploading images of their valid photo ID. **Total: \$90,000**
- **Racine:** The City will recruit and promote (\$1,000), train (\$3,000), and employ paid Voter Ambassadors (\$8,000) who will be provided with both PPE and

supplies (\$4,000) and set up at the City's community centers to assist voters with all aspects of absentee ballot request, including photo ID compliance. Due to the increase of absentee mailed requests the City of Racine will need an additional 2 full time staff members in the Clerk's Office in order to have a reasonable turn-around time for absentee requests (\$100,000). Total: **\$116,000**.

**Total: \$635,700**

## 2. Utilize Secure Drop-Boxes to Facilitate Return of Absentee Ballots

Our five communities all share a desire to expand voters' ability to easily return absentee ballots to the municipality without having to rely on the postal service, since, after April's election, many voters are (rightfully) apprehensive that putting their completed ballot in the mail does not guarantee it will be received and counted by the municipality by statutory deadlines. Voters also need to have confidence that they are returning their completed absentee ballots into secure containers that are not at risk of tampering. All five cities need resources to purchase additional secure drop-boxes and place them at key locations throughout their cities, including libraries, community centers, and other well-known places, to ensure that returning completed ballots is as secure and accessible to voters throughout our cities as possible.

- **Green Bay:** The City would like to add secure (security cameras \$15,000) ballot drop-boxes (approximately \$900 each) at a minimum of the transit center and two fire stations, but if funding were available would also install secure drop boxes at Green Bay's libraries, police community buildings, and potentially several other sites including major grocery stores, gas stations, University of Wisconsin Green Bay, and Northern Wisconsin Technical College, in addition to the one already in use at City Hall. **Total: \$50,000**
- **Kenosha:** The City currently has two drop-boxes that are checked throughout the day, and would like to install 4 additional internal security boxes at Kenosha libraries and the Kenosha Water Utility so that each side of town has easy access to ballot drop-boxes. **Total: \$40,000**
- **Madison:** The City would like to have one secure drop box for every 15,000 voters, or 12 drop boxes total (\$36,000). The City would also like to provide a potential absentee ballot witness at each drop box, utilizing social distancing and equipped with PPE (staff costs unknown): **Total: \$50,000**
- **Milwaukee:** The City would like to install secure 24-hour drop boxes at all 13 Milwaukee Public library branches, staffed with socially distanced volunteers to serve as witnesses. **Total: \$58,500**

- **Racine:** The City currently has one secured drop box for absentee ballots, and would like to have 3 additional drop boxes, each equipped with security cameras, to install at key locations around the City. **Total: \$18,000.**

**Total: \$216,500**

### **3. Deploy Additional Staff and/or Technology Improvements to Expedite & Improve Accuracy of Absentee Ballot Processing**

The process of assembling and mailing absentee ballots is labor-intensive, slow, and subject to human error. Absentee ballot requests must be approved and entered into the statewide system, labels must be printed and applied to envelopes, ballots must be initialled, folded, and inserted into the envelope along with instructions. Ballots must be logged when received back from the voter. Undeliverable ballots must be reviewed, reissued or canceled. When voters make mistakes on ballots the requests to reissue must be completed. These tasks are time-consuming and utilizing existing clerk's office staff pulls them away from all of the other service requests, phone answering, and tasks handled by busy municipal clerks' offices.

The tremendous increase in absentee ballot requests in April was unprecedented, and municipal clerks and their staff were unprepared for the volume. They responded remarkably well - particularly since many of their staff were, by late March and early April, working remotely or, at a minimum, all needing to adhere to social distancing and masking precautions when working together in the same room - but all five municipalities need additional resources to accurately and swiftly process absentee ballot requests.

- **Green Bay:** The City needs 45 additional staff to process absentee ballot requests before the election, to open and verify envelopes on Election Day, and insert them into the tabulators. After the election, staff are needed to enter new voter registrations and assist with all election certification tasks (\$140,000 for staffing) The City would also like to purchase a ballot opener and ballot folder to expedite processing (\$5,000). **Total: \$145,000.**
- **Kenosha:** The City needs resources for absentee ballot processing, to staff and process early, in-person absentee requests, and to answer voters' questions (approximately \$100,000). Additional workers are also needed to canvass absentee ballots (approximately \$11,000) **Total: \$111,000**
- **Madison:** Based on data from April, the City estimates it will need additional staffing (\$110,000) for hourly election clerks for the fall elections, and will incur

additional overtime costs (\$100,000) for staff processing of absentee ballots and other election-related tasks. **Total: \$210,000**

- **Milwaukee:** Given its tremendous volume of absentee ballot requests and processing tasks which far exceeds that of the other municipalities, Milwaukee would like to completely automate and expedite the assembly and mailing of requested absentee ballots. The City would like to purchase a high-speed, duplex printer, a top-of-the-line folding machine, and a high quality folding and inserting machine. This would reduce staff costs and eliminate the use of absentee labels, by enabling the City to print directly onto inner and outer envelopes. This would also allow the City to have a small 2D barcode that the inserter machine would be able to scan to ensure that the outer envelope is for the same voter; increasing quality controls. This automation would enable the City to eliminate the assembly delay no matter the volume of daily absentee requests, allowing experienced election workers and previously trained election temporary employees to be re-deployed to early voting sites as supervisors and lead workers. **Total: \$145,000**
- **Racine:** To process absentee ballot requests in April, the City estimates that it will need seven additional full-time employees to process fall election requests. These employees will be needed full-time for one month prior to the August Election (approximately \$17,000) and seven weeks prior to the November election (approximately \$30,000). **Total: \$47,000**

**Total: \$658,000**

#### **4. Expand In-Person Early Voting (Including Curbside Voting)**

For a variety of reasons, many voters in our municipalities do not want to vote by mail and prefer to vote in-person. As a result of the coronavirus, far more voters are interested in early, in-person absentee voting (EIPAV) than we've seen in previous elections, wishing to avoid lines or crowds on Election Day. All five municipalities would like to have resources to accommodate these early, in-person voters. Expanding access to early, in-person voting also will lessen lines at polling places on Election Day and allow for proper social distancing and other pandemic precautions to be uniformly implemented.

Curbside and drive-thru voting have been very popular with residents of our municipalities, particularly for those with health concerns who can remain in the cars and have a virtually contact-less voting process. For example, Milwaukee previously operated in-person early voting for one week leading up to the April election at three sites and then transitioned to one site of drive-thru voting. 11,612 cast ballots through these options: 5,571 via in-person and 6,041 at drive-thru, and these numbers represent a 46% increase over April 2016 "early voting" totals. However, it is slow-moving and

labor-intensive. Additionally, particularly in the larger cities among us, it requires law enforcement and traffic control assistance to help manage traffic.

- **Green Bay:** The City would like to expand and establish at least three EIPAV sites in trusted locations, ideally on the east (potentially UWGB) and west sides (potentially NWTC or an Oneida Nation facility) of the City, as well as at City Hall. The City is planning to offer early voting starting two weeks before each election, with several weekdays available until 6:30pm and Saturdays 10am-4pm. They would like to staff these early voting sites with election inspectors who are bilingual and would like to increase the salary rate for these bilingual election inspectors to assist with recruitment and retention, as well as in recognition of their important role at these sites. The City also will need to print additional ballots, signage, and materials to have available at these early voting sites. **Total: \$35,000.**
- **Kenosha:** The City plans to have one early voting location, at City Hall, and plans to hold early voting two weeks before the August election, with no weekend or evening hours planned, and 4 weeks before the November election, with access until 7pm two days/week and Saturday voting availability the week before the election. If City Hall is still closed to the public, they will explore offering early drive thru voting on City Hall property. Resources are needed for staffing (approximately \$40,000), PPE (\$1,050), signage (\$200), laptops, printers, and purchase of a large tent (\$8,789) to utilize for drive thru early voting. Staff could see voters' ID, print their label, hand them their ballot, and then collect the completed envelope. This would also allow staff to help voters properly do certification and provide witness signatures if necessary. The City could do this for one full week before elections. **Total \$50,039.**
- **Madison:** The City would like to provide 18 in-person absentee voting locations for the two weeks leading up to the August election, and for the four weeks leading up to the November election. Their original plan was to offer in-person absentee voting at all nine library locations, the City Clerk's Office, a city garage, Edgewood College, two Madison College locations, and four UW-Madison locations. Due to weather uncertainties, they will need to purchase and utilize tents (\$100,000) for the curbside voting locations in order to protect the ballots, staff, and equipment from getting wet and will also need large feather flags to identify the curbside voting sites. (Additional staff costs covered by the earlier question re. Absentee ballot processing.) The City would also like to get carts (\$60,000) for our ExpressVote accessible ballot marking devices so we can use the ExpressVote for curbside voting to normalize the use of ExpressVote to help voters with disabilities feel less segregated during the voting process. **Total: \$160,000.**
- **Milwaukee:** The City would like to set up 3 in-person early voting locations for two weeks prior to the August election (\$150,000) and 15 in-person early voting

locations and 1 drive-thru location, potentially at a central location like Miller Park, for four weeks prior to the November election (\$450,000). (Establishing this many EIPAV sites requires a significant investment in IT equipment, an additional ballot printer, tents, signage, and traffic control assistance. Milwaukee would also like to offer evening and weekend early voting hours which would add additional costs for both August (\$30,000) and November (\$75,000). **Total: \$705,000.**

- **Racine:** The City would like to offer a total of 3 EIPAV satellite locations for one week prior to the August election, as well as offering in-person early voting - curbside, if City Hall is still closed to the public - at the Clerk's office for 2 weeks prior to the August election. For the November election, Racine would like to offer EIPAV at 4 satellite locations two weeks prior to the election and at the Clerk's office (again, potentially curbside) 6 weeks prior. The City would need to obtain PPE, tents, supplies and cover staff time and training (\$40,000). Racine would also like to have all satellite locations available for half-day voting the two Saturdays (\$17,000) and Sundays (\$17,000) prior to the November election, and the library and mall locations would be open until 8pm the week prior to the Election. Additional resources needed include one-time set-up fee per location (\$7,500), laptops and dymo printers (\$10,000), training (\$1,100), and signage (\$12,000.) As well, the City would like to host at least one drive-thru Voter Registration Day, where City Hall would be set up for residents to come get registered, curbside, and get their voting questions answered by Clerk's staff. Newly registered voters could also get assistance requesting absentee ballots for upcoming elections while they're there. (\$8,000) **Total: \$112,600**

**Total: \$1,062,639.00**

**Recommendation I Total for All Strategies to Encourage and Increase Absentee Voting by Mail and Early, In-Person: \$2,572,839.00**

## **Recommendation II: Dramatically Expand Voter & Community Education & Outreach, Particularly to Historically Disenfranchised Residents**

All five municipalities expressed strong and clear needs for resources to conduct voter outreach and education to their communities, with a particular emphasis on reaching voters of color, low-income voters without reliable access to internet, voters with disabilities, and voters whose primary language is not English. This outreach is particularly necessary given the voter confusion that ensued in the lead-up to the April election, and voters' concerns and questions about voting during the COVID-19 pandemic. We understand that our communities of color do not necessarily trust the voting process, and that we need to work to earn that trust. We want to be transparent and open about what happens behind the scenes in elections, and what options are available for casting a ballot. We also want to make sure we are listening to groups that have historically been disenfranchised and groups that are facing obstacles with voting during this pandemic, and working with them to effectively respond to their concerns.

Voter outreach and education is also needed to encourage and explain new voter registration, and to encourage voters to verify and update their address or other voter registration information to do so prior to the Election. None of our communities have sufficient resources budgeted or available for the strategic, intentional, and creative outreach and education efforts that are needed in our communities over the summer and into the fall.

We all want our communities to have certainty about how the voting process works, trust in our election administration's accuracy, and current, accurate information on what options are available to vote safely in the midst of the pandemic. Significant resources are needed for all five municipalities to engage in robust and intentional voter education efforts to reduce confusion; encourage and facilitate new voter registration and registration updates; provide clear, accessible, and accurate information; address voters' understandable pandemic-related safety concerns; reassure voters of the security of our election administration; and, ultimately, reduce ballot errors and lost votes and enhance our residents' trust and confidence in our electoral process.

- **Green Bay:** Would like to reach voters and potential voters through a multi-prong strategy utilizing "every door direct mail," targeted mail, geo-fencing, billboards, radio, television, and streaming-service PSAs, digital advertising, and automated calls and texts (\$100,000 total). The City would also like to ensure that these efforts can be done in English, Spanish, Hmong, and Somali, since roughly 11% of households in the Green Bay area speak a language other than English. Ideally, the City would employ limited term communications staff or engage communications consultants (\$50,000) from August through the November election to design these communications and design and launch paid advertising on Facebook, Twitter, and Instagram, also in multiple languages. The City would also like to directly mail to residents who are believed to be eligible but not registered voters, approximately 20,000 residents. It would require both

considerable staff time to construct that list of residents and directly mail a professionally-designed piece (in multiple languages) to those voters. (\$50,000 total for staffing, design, printing, and postage). To assist new voters, the City would also like resources to help residents obtain required documents (i.e. birth certificates) which are needed to get a valid state ID needed for voting. These grant funds (\$15,000) would be distributed in partnership with key community organizations including churches, educational institutions, and organizations serving African immigrants, LatinX residents, and African Americans.

**Total: \$215,000**

- **Kenosha:** Would like to directly communicate to all Kenosha residents via professionally-designed targeted mail postcards that include information about the voter's polling location, how to register to vote, how to request an absentee ballot, and how to obtain additional information. The City would have these designed by a graphic designer, printed, and mailed (\$34,000). The City would also like resources for social media advertising, including on online media like Hulu, Spotify, and Pandora (\$10,000) and for targeted radio and print advertising (\$6,000) and large graphic posters (\$3,000) to display in low-income neighborhoods, on City buses, and at bus stations, and at libraries (\$5,000).  
**Total: \$58,000**
- **Madison:** Would like to engage the City's media team to produce videos to introduce voters to the election process, voting options, and to explain the safety precautions taken at polls and early voting sites. These videos would then be shared in numerous ways, including through partner organizations and on the City's social media platforms. The City would also like to partner with community organizations and run ads on local Spanish-language radio, in the Spanish-language newspapers, on local hip hop radio stations, in African American-focused printed publications, and in online publications run by and for our communities of color (advertising total \$100,000). Additionally, the City has many poll workers who are from historically disenfranchised communities. The City would like to pay those poll workers (\$75,000) to conduct voter outreach and additional poll worker recruitment activities. **Total: \$175,000.**
- **Milwaukee:** Would like to partner with other City divisions to develop mailings and door hangers (\$10,000) that could accompany water bills, be distributed by the Department of Neighborhood Services, or hung on trash receptacles by sanitation staff. The City would also like to revamp current absentee voting instructions to be more visual, address issues specific to the pandemic such as securing a witness signature, prepare it in English and Spanish, and print 150,000 color copies (estimated total \$15,000). The Election Commission would also like to produce a short video (\$5,000) with visuals showing voters how to apply for an absentee ballot and how to correctly complete and return the ballot. Additionally, the Election Commission would like to hire a communications firm to prepare and implement a comprehensive voter outreach communications plan

(\$250,000). This communications effort would include numerous voter education ads and PSAs on radio, billboards, buses, with some using local celebrities like Milwaukee Bucks players. This communications effort would focus on appealing to a variety of communities within Milwaukee, including historically underrepresented communities such as LatinX and African Americans, and would include a specific focus on the re-enfranchisement of voters who are no longer on probation or parole for a felony. Additionally, this campaign would include an edgy but nonpartisan and tasteful communications campaign to harness the current protests' emphasis on inequity and ties that message to voting. The video, the ads, and the PSAs could all also be placed on social media, the Election Commission and City websites, and GOTV partner websites and social media. **Total: \$280,000**

- **Racine:** The City would like to retain a communications firm to design and implement a comprehensive voter outreach communications plan (\$80,000). This would include ads on Facebook, Instagram, and Snapchat. The City would also like to rent billboards in key parts of the City (\$5,000) to place messages in Spanish to reach Spanish-speaking voters. The City would also like to do targeted outreach aimed at City residents with criminal records to encourage them to see if they are not eligible to vote; this outreach will be accomplished with the production, editing, and sharing of a YouTube video (\$2,000) specifically on this topic shared on the City's website, social media channels, and through community partners. Racine would also like to purchase a Mobile Voting Precinct so the City can travel around the City to community centers and strategically chosen partner locations and enable people to vote in this accessible (ADA-compliant), secure, and completely portable polling booth on wheels, an investment that the City will be able to use for years to come. (Estimated cost \$250,000). **Total: \$337,000**

**Recommendation II Total For All Strategies to Dramatically Expand Strategic Voter Education and Outreach Efforts, Particularly to Historically Disenfranchised Residents: \$1,065,000.00**

### **Recommendation III: Launch Poll Worker Recruitment, Training, and Safety Efforts**

The pandemic made conducting Election Day activities extremely challenging. Most poll workers in Wisconsin are retirees doing their civic duty to help facilitate the election. Given the increased risk for the elderly if exposed to COVID-19, many experienced poll workers opted out. Milwaukee had so many poll workers decline to serve that the City went from 180 polling locations to five polling locations. Green Bay, facing a similar exodus of poll workers, went down to two polling locations. Racine usually relies on nearly 190 poll workers for a spring election; only 25 of those experienced poll workers were under the age of 60.

As fears about the coronavirus increased in mid-late March and early April, poll workers in all five municipalities declined to work the election, leaving cities scrambling to quickly recruit enough bodies to keep polling locations open. All cities were appreciative of the last minute assignment of hundreds of Wisconsin National Guard members to assist with Election Day activities, and all of our cities re-assigned City staff from other departments to serve as poll workers and election officials and to assist with the myriad of tasks related to Election Day administration. The remainder of positions were staffed by high school students, college students, and members of the National Guard. Many of our poll workers had never worked an election before.

- **Green Bay:** The City needs to hire a total of 380 workers per election (total \$112,660). The City would like to pay poll workers more than they have previously received, to signify their importance in the process and to acknowledge the extra challenge it represents to serve as an election official during a pandemic. The City would like to increase poll worker salaries by 50% (additional \$56,330). All poll workers will be trained through the Wisconsin Elections Commission website and the City's own training manual (\$6,000). **Total: \$174,900**
- **Kenosha:** The City needs to hire 350 poll workers per election (\$100,000). They would like to offer hazard pay to increase pay to \$160/worker and \$220/chief inspectors (\$10,840). To aid in recruitment efforts, the City would like to hire a recruiter and liaison position for poll workers (\$35,000). **Total: \$145,840.**
- **Madison:** The City utilizes the election toolkit available through the MIT Technology Project to determine the staffing levels needed to ensure that voters will not have to wait in line for more than 15 minutes. In addition to the one Chief Inspector per polling location, Madison also has additional election officials who are certified as the Absentee Lead at each polling location. Madison estimates that if 75% of votes cast are absentee, the City will need 1,559 election officials at the polls in August. The City envisions a robust and strategic poll worker recruitment effort, focusing on people of color, high school students, and college students. The City would like to have resources for hazard pay for poll workers this fall at a rate comparable to what the U.S. Census is paying in the area

(\$369,788). The City has also found it challenging to convince facilities to host a polling location in the midst of a pandemic, and would like to provide each facility with a small amount of funds to compensate for their increased cleaning and sanitization costs (\$750/location, \$138,000 total). **Total: \$507,788**

- **Milwaukee:** The City plans to have 45 voting locations in August and to keep open as many of the normal 180 polling places as possible in November. August will require 3 chief inspectors per site and 20 election workers per site, for a total of 1200 election workers minimum and 150 chief inspectors. The City has a goal of recruiting 1,000 new election workers. The City would like to add an additional \$100 per worker in hazard pay to the poll workers' stipends of \$130 (\$460,000 additional for both elections) and \$100 hazard pay to chief inspector stipends of \$225 (\$87,750 additional for both elections). Additionally, the City of Milwaukee utilizes a Central Count of absentee ballots, which necessitates 15 chiefs and 200 election workers per election at Central Count (\$50,000/day for 2- days each election for a total of \$200,000). Total payroll for both elections will reach \$750,000 based upon these calculations. The City will launch a recruitment campaign for a new generation of election workers to sign up and be involved in their democracy, and hopes this effort can be included in the above request for resources for a marketing firm. Recruiting new and younger poll workers means that the Election Commission will need to innovate in election training. The Commission would like to produce polling place training videos (\$50,000) with live small-group, socially distanced discussions and Q&A sessions. These videos will augment existing training manuals. **Total: \$800,000**
- **Racine:** The City needs approximately 150 poll workers for August and 300 for November, in addition to 36 Chief Inspectors, and would like to pay all workers a \$100/election hazard pay (\$118,000 total payroll for both elections). City notes that its desire to have more early voting locations and hours is directly impacted by its ability to hire and train election officials. To that end, the City would like to launch a recruitment campaign that includes radio ads (\$1,000), ads on social media platforms (\$10,000), billboards in strategic City locations (\$5,000), and film videos for high school students in history/government classes (\$500). The City would also like to enlist a communication firm to: create a training video for election officials, develop an online quiz, detailed packets for election officials, and a PPE video filmed by a health professional about necessary COVID-19 precautions during all voting operations (\$22,000 total). Racine would also like to hire a liaison position to schedule, training and facilitate poll workers. (\$35,000) **Total: \$181,500.**

**Recommendation III Total for All Strategies to Launch Poll Worker Recruitment, Training and Safety Efforts: \$1,810,028.00**

## Recommendation IV: Ensure Safe & Efficient Election Day Administration

It is no small task to mitigate risk of a lethal pandemic at all polling locations and throughout all required Election Day processing. Municipal clerks must ensure they have done everything possible to comply with public health guidelines and mitigate the risk of COVID-19 for all of the election officials, poll workers, observers, and voters. Our five municipalities are in need of numerous resources to both ensure seamless processing of voters on the upcoming Election Days, procure Personal Protective Equipment (PPE), disinfectant, and cleaning supplies to protect election officials and voters from the coronavirus, and to aid in processing of an expected high volume of absentee ballots. Additionally, as several of our municipalities move to add or expand drive-thru voting on Election Days, those expansions come with additional unbudgeted expenses for signage, tents, traffic control, publicity, and safety measures. All of our municipalities need resources to ensure that the remaining 2020 Election Days are administered seamlessly and safely.

- **Green Bay:** Green Bay would like to purchase 135 electronic poll books (\$2,100/each for a total of \$283,500) to reduce voter lines, facilitate Election Day Registrations and verification of photo ID. The City would also like a high speed tabulator (\$62,000) to count absentee ballots on Election Day, a ballot opener and ballot folder (\$5,000), and additional staff to process absentee ballots on Election Day (\$5,000). The City also needs masks, gloves, gowns, hair nets, face shields (\$15,000), cough/sneeze guards (\$43,000), and disinfectant supplies (\$3,000). **Total: \$426,500**
- **Kenosha:** The City would like to purchase automatic hand sanitizer dispensers for all polling locations (\$14,500) as well as PPE (gloves, masks, disinfectant, etc.) for all poll workers and voters (\$15,200). Kenosha would also like to be able to offer elderly residents and people with disabilities who wish to vote in person on Election Day two-way transportation, utilizing a local organization such as Care-A-Van (\$2,000). The City also needs resources for technology improvements to include a ballot opener, a ballot folder, 12 additional laptops and dymo printers, and high-speed scanner tabulators (\$172,000 total) to expedite election day processing and administration. **Total: \$203,700**
- **Madison:** The City needs hand sanitizer for all poll workers and voters, disinfectant spray, plexi-glass shields to allow poll workers to split the poll books, face shields for curbside election officials, and face masks for all poll workers and observers (\$20,000) as well as renting additional space to safely and accurately prepare all supplies and practice social distancing at the public test of election equipment (\$20,000) If the new voter registration form is not translated by the state into both Spanish and Hmong, Madison plans to translate the form (\$500). **Total: \$40,500**

- **Milwaukee:** The City will be purchasing 400 plexiglass barriers (\$55,000) for election workers at all polling location receiving and registration tables. Additionally, the Milwaukee Election Commission will need to acquire 400 face shields for workers not staffed behind plexiglass (\$4,000), gloves for all poll workers (\$3,000), masks on hand for election workers and members of the public (\$5,000), hand sanitizer (\$2,000) and disinfectant (\$2,000). Additionally, since Milwaukee also plans to offer curbside voting as an option at all polling places, updated, larger, more visible signage is necessary (\$5,000). **Total: \$76,000**
- **Racine:** Racine plans to issue all 36 wards its own PPE supply box which will each include masks, cleaning supplies, pens for each voter, gloves, hand sanitizer, safety vests, goggles, etc. (\$16,000). The City also needs large signs to direct and inform voters printed in English and Spanish (\$3,000). Additionally, the City would like to deploy a team of paid trained EDR Specialists for each polling location (\$10,000, including hourly pay, training expenses, and office supplies). As well, Racine would like iPads with cellular signal for each polling location to be able to easily verify voters' registration status and ward (\$16,000). The City would like to equip all wards with Badger Books (\$85,000); Racine began using electronic poll books in the February 2020 election and has found they dramatically increase and facilitate EDR, verification of voters' photo ID, expedite election processes, and reduce human error. **Total: \$130,000**

**Recommendation IV Total for All Strategies to Ensure Safe & Efficient Election Day Administration: \$876,700.00**

## Conclusion

As Mayors in Wisconsin's five largest cities, we are committed to working collaboratively and innovatively to ensure that all of our residents can safely exercise their right to vote in 2020's remaining elections in the midst of the COVID-19 pandemic. The April 2020 election placed two of our most sacred duties in conflict: keeping our residents safe and administering free, fair, and inclusive elections. This Wisconsin Safe Voting Plan 2020 represents a remarkable and creative comprehensive plan, submitted collaboratively by all five of our cities. With sufficient resources, all five municipalities will swiftly, efficiently, and effectively implement the recommended strategies described in this plan, to ensure safe, fair, inclusive, secure, and professional elections in all of our communities this year.

# WISCONSIN ELECTIONS COMMISSION

212 EAST WASHINGTON AVENUE, 3RD FLOOR  
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COMMISSIONERS

DEAN KNUDSON, CHAIR  
BEVERLY R. GILL  
JULIE M. GLANCEY  
ANN S. JACOBS  
JODI JENSEN  
MARK L. THOMSEN

INTERIM ADMINISTRATOR MEAGAN WOLFE

## Wisconsin Elections Commission's Presentation

to the

### LEAGUE OF WISCONSIN MUNICIPALITIES Clerks, Treasurers & Finance Officers Institute

Thursday, June 14, 2018

1:00 p.m. – 4:15 p.m.

#### Chula Vista Resort

2501 River Road

Wisconsin Dells, WI 53965

### AGENDA

1:00 p.m. – 4:15 p.m.  
(15 minute break)

#### Greetings

#### 2018 Elections Commission Activities

Richard Rydecki, Elections Supervisor

Diane Lowe, Lead Elections Specialist

Bill Wirkus, Elections Specialist

- Legislative Update
- Election Security
- Counting Votes at the Partisan Primary
- Canvass Process
- UOCAVA Deadlines
- Political Party Election Mailings
- Badger Book Project
- ERIC Supplemental List and Upcoming Mailing



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INTERIM ADMINISTRATOR MEAGAN WOLFE

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**DATE:** April 27, 2018

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

**FROM:** Richard Rydecki  
Elections Supervisor

Robert Williams  
Elections Specialist

**SUBJECT: Wisconsin Act 326: Elected Officials as Election Inspectors**

[Wisconsin Act 326](#) (Act 326) was enacted on April 16, 2018, making changes to statutes related to the standards for election inspectors in Wisconsin Statutes, Chapter 7. Pursuant to a long standing legal opinion from the Government Accountability Board and upheld by the Wisconsin Elections Commission, local elected officials have been prohibited from being appointed as election inspectors.

Under Act 326, the rules regarding this prohibition have been relaxed. Act 326 amends [Wisconsin Statutes, Chapter 7.30\(2\)\(a\)](#) so that local elected officials are now allowed to be appointed as election inspectors without having to vacate the local public office. However, in first class cities, the prohibition remains in effect. Act 326 is effective as of April 18, 2018. On or after that date, clerks may appoint local elected officials as election inspectors at the beginning of a new term or to fill election inspector vacancies in the interim.



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MARK L. THOMSEN, CHAIR

INTERIM ADMINISTRATOR MEAGAN WOLFE

## MEMORANDUM

**DATE:** For the May 24, 2018 Commission Meeting  
**TO:** Members, Wisconsin Elections Commission  
**FROM:** Meagan Wolfe  
Interim Administrator, Wisconsin Elections Commission

Prepared and Presented by:

Tony Bridges

Riley Willman

WisVote Specialist

Election Administration Specialist

**SUBJECT:** Elections Security Staff Update

### I. Introduction

In March 2018, the Wisconsin Elections Commission (WEC) received a \$6,798,318 grant award to improve the administration of elections for Federal office, which includes technology enhancements and election security improvements to its systems, equipment, and processes used in federal elections. State law requires compliance with the §16.54 process for a state agency to accept federal funds and this process involves several steps. An initial step was completed when the agency received written confirmation from the Department of Administration with approval for the acceptance of the grant money on April 24, 2018.

### II. Request for Six Federally-Funded Positions

The Wisconsin Elections Commission granted staff authority to explore and make purchases regarding security-related software and request the creation of six federally-funded positions at its April 18, 2018 meeting (at a cost not to exceed \$600,000 annually). Position authority may be granted through the §16.54 process and the hiring of the six project program positions will allow the WEC to implement and achieve the grant's goals and objectives, and to comply with the terms and conditions of this grant.

The Wisconsin Elections Commission requested the creation of 6.0 full-time equivalent 48-month federal project positions from the Department of Administration (DOA) on May 9, 2018. A draft position description for each position was submitted for consideration as part of the agency's request. If approved, these positions would be federally funded from June 1, 2018 – June 1, 2022. The six requested positions are as follows:

1. Information Technology Project Manager
2. Elections Security Trainer
3. Elections Data Specialist
4. Information Services Technical Services Professional
5. Voting Systems Specialist
6. Grants Accountant

Staff awaits approval of the positions from DOA, and will work to fill the positions in advance of the 2018 fall election cycle if that approval is granted. Once the position authority has been granted, agency management plans to circulate the draft position descriptions and a proposed strategy for incorporating and utilizing new staff for comment and input by commission members and existing staff.

### **III. Technical Implementations**

In addition to the ongoing support that the WEC provides local election officials, staff is also pursuing several different options to improve technical controls that secure access to WisVote and other critical systems. These are combinations of software and hardware that make it more difficult for malicious or simply careless actions to jeopardize the safety of WEC systems and data. The Commission approved the agency incurring expenditures regarding these technical upgrades at its meeting on April 18, 2018 and staff has provided updates on these projects below.

#### **A. Multi-Factor Authentication**

**Multi-Factor Authentication (MFA)** is an important technology in preventing malicious access to user accounts. Proper implementation of MFA can prevent an attacker from gaining access to a user account, even after they have stolen the user's password. The WEC is working to implement MFA as a log-in requirement for WisVote as a means to safeguard the large number of accounts with access to the system. However, the large number of users and lack of central control over those users, as well as the way in which WEC systems integrate with DET systems, present unique technical and logistical challenges for implementation. WEC staff, in discussions with DET to determine the best and most expedient way to implement MFA. DET has assigned WEC a project manager to assist with the implementation of this protocol. They have proposed a solution, but DET does not believe it can be implemented in time for the August Partisan Primary but does believe a solution can be implemented prior to the November General Election. Staff is pursuing that option, while researching short-term alternatives that can be used for the August Partisan Primary.

#### **B. Active Directory Federated Services**

The WEC uses an industry-standard authentication technology called **Active Directory** to manage user accounts and passwords that allow access to WisVote. Active Directory works seamlessly within a network for server access, but to provide access to a website like WisVote, it requires an intermediary service called Active Directory Federated Service (AD FS). Currently, WisVote uses an AD FS server operated by DET. This setup allowed WisVote to launch in accordance with the 2016 deployment schedule, and currently relieves WEC of some development and maintenance requirements. However, it also ties the authentication of WisVote users to the authentication of several other State of Wisconsin systems. This configuration makes it harder for WEC developers to

make any changes to the log-in process for WisVote. WEC staff is investigating the development of a standalone WEC AD FS server which would allow the agency to more readily customize many details of the log-in process from branding to permitted encryption ciphers, and may also simplify MFA implementation and the tracking and maintenance of user agreements. A server request for this project has already been submitted to DET and system testing is planned to determine how challenging the proposed customizations will be.

### C. Clerk Emails

DET manages the email systems for state employees, including all WEC staff. DET employs a number of security controls on those emails, including Cisco Email Security (commonly referred to by its former name of Ironport), which protect users from malicious emails. DET blocks hundreds of thousands of malicious emails each day using this system so that they never reach the end user, and therefore are never able to compromise any systems or users. The majority of clerks, however, do not have this level of protection on their email systems. WEC staff and DET are working on providing a solution that would enable all users of the WisVote system to have an email address that is routed through these security systems, dramatically reducing the risk to clerks and the WisVote system from social engineering and malware. Conversations with DET and clerks on this topic are in the initial stages, and both sides are enthusiastic about this move. Staff expects to communicate options to clerks soon.

### D. Centralization of Web Applications

The WEC provides access to several web applications for clerks and for the general public. Several of these systems have previously been designated as high-security systems and are maintained within the state network on virtual servers provided by DET. This setup affords them a high degree of initial security, including strong perimeter security, protection against bandwidth attacks (DDOS), top-tier endpoint security, third-party penetration testing, and more. However, some sites that had not previously been designated high security have been hosted by a third-party vendor. Based on a number of factors, including a reassessment of the impact of malicious modification of those sites, WEC staff has decided that those sites should be hosted on the state network as well. This change will require a significant amount of coordination with the current service provider to avoid disruptions during the transition, and staff expects to complete the transition this fall.

### E. Vulnerability Scanning

Agency servers exposed to the internet are regularly scanned by the Department of Homeland Security for known vulnerabilities, and servers within the state network are regularly scanned by DET. However, DHS does not do internal scanning, and DET does not currently provide the agency with comprehensive reports regarding the results of scanning efforts. Staff has made arrangements with DET to increase the scope and accuracy of the internal scans, and to provide reports on the results directly to WEC staff for review. The first trial of this scan is expected to be complete by May 24.

#### **IV. Local Election Official Security Training and Communications Update**

Staff is currently in the planning stages of implementing a new and robust election security training program to be rolled out in June 2018. These trainings and materials are being implemented in conjunction with the security training material being prepared by staff for the WisVote Learning Center, as well as agency technological initiatives.

##### **A. Local Election Official Security Training**

In March of 2018, Wisconsin Elections Commission staff attended an election security training and tabletop exercise hosted by the **Defending Digital Democracy project at Harvard Kennedy School of Government's Belfer Center in Boston, Massachusetts. At the event, WEC staff worked with election officials from across the United States to learn about election security best practices, as well as to participate in a tabletop exercise (TTX) that simulated potential real-life security-related events that can occur leading up to Election Day.**

The purpose of a TTX is to provide participants experience in election official roles different from their own and to make participants aware of the various types of potential incidents that could arise on Election Day. These incidents are scripted before being introduced into the simulation and cover a wide variety of topics and severity, ranging from weather-related issues that could potentially impact polling places, to larger cybersecurity incidents that would require working with IT professionals. Throughout the TTX, participants can test their continuity plans against the incident injects in a low-stress environment to determine their efficacy. In addition to creating and improving continuity plans, a goal of the TTX is for participants to see how they can successfully implement measures to prevent election security incidents from occurring.

WEC staff saw value in participating in an election security TTX, and concluded that Wisconsin county and municipal election officials would benefit from both the training and simulation exercise. **WEC staff has created an elections-security train-the-trainer program in partnership with Wisconsin county clerks to reach as many of the 1,853 municipal clerks as possible.** The train-the-trainer program was designed to provide training and experience with election security materials to the county clerks who would then train their municipalities using the materials and staffing resources provided by the WEC. WEC staff has created eight regions throughout the state and has organized a training and TTX opportunity in each region starting in June. This schedule was designed to ensure that all county clerks could attend a regional training and have adequate time to conduct a training of their own with the municipal clerks in their county and region.

WEC staff is conducting a training and TTX event in Madison on May 31 with county clerks from 17 different counties from across the state. After these clerks have participated in the TTX, WEC staff has asked for the participants to help facilitate the trainings occurring in their region for county clerks who did not attend the training and TTX event in Madison. This approach will additionally allow for the facilitating clerks to get experience leading an elections security TTX. WEC staff will also work with the county clerks on how to improve the training and materials to make the regional training as effective as possible. WEC Staff has five regional trainings currently scheduled for June and is working on scheduling additional events ahead of the fall election cycle.

## **B. Communications Plan**

Maintaining communication with key election security officials and the public during an election security incident presents many challenges. Frequently, incident details evolve as more information is learned, and it is vital that local election officials keep key officials and the public updated on developments. WEC staff understands that time is of the essence when handling an election security incident, and is developing a plan to assist local election officials in communicating effectively and quickly in the event of a potential incident.

WEC staff will prepare communication materials and contingency plan templates that will be useful to clerks throughout the election administration process. Feedback from the recent election security survey that was sent to county clerks indicated that clerks have found WEC-produced templates and step-by-step guides helpful and efficient resources. **A security communications template and guide will be created by WEC staff that allows for the local election officials to quickly outline the appropriate contact information for resources in the event of a potential security question or incident. The goal of these guides and templates are to help local election officials have a high-level understanding of best practices when communicating during an incident, as well as to reinforce that WEC staff are a resource for clerks to contact if they have questions or need assistance in resolving an incident.**

## **C. Monitoring and Distributing Security Alert Information**

WEC staff has been partaking in cyber defense webinars from the Multi-State Information Sharing and Analysis Center (**MS-ISAC**) and the Elections Infrastructure Information Sharing and Analysis Center (**EI-ISAC**). These organizations have been identified as a key cyber security resource by the Department of Homeland Security for their ability to bring together election security officials from various states. The updates and information that comes from the MS-ISAC and EI-ISAC webinars assume a large knowledge about information technology and cybersecurity practices. WEC staff has made the decision that the MS-ISAC and EI-ISAC updates will be monitored by staff who will then send pertinent information to the local election officials to ensure that information is getting to all involved officials in a timely and productive manner.

## **V. Collecting Feedback from Key Election Security Partners**

As WEC staff works on implementing security trainings and publishing guides for local election officials before the August and November elections, there are additional plans to implement a second phase to keep Wisconsin's elections safe and secure. WEC staff is currently in the process of creating an avenue for key election security partners such as DHS, DET, county clerks, municipal clerks, and members of the public to provide feedback on how the HAVA security funds should be spent.

**Municipal and county clerks in Wisconsin have differing access to in-office security and IT resources,** and WEC staff will solicit feedback from the local election officials on how to best provide election security assistance. Keeping Wisconsin elections secure will require high levels of collaboration between WEC staff and key election security partners to ensure needs are being met.

In March, WEC staff sent a survey to county clerks to ask for information about their current election security programs before planning a statewide training program. A similar approach will occur after the

WEC staff conducts regional security trainings and tabletop exercises around the state to improve training and to maximize the effectiveness of future elections security communications and events. Feedback will be solicited after every training event so that participants can provide local election official perspective on the WEC-led training programs. Additionally, ideas and input will be solicited from local election officials and key election security partners unable to attend WEC-led trainings on how they believe the WEC can effectively use the HAVA security funds.

To keep local election officials involved in future election security developments, WEC staff plans on inviting county clerks to collaboratively review and provide suggested edits to election security publications to ensure the materials are as useful as possible to a variety of local election officials. Once feedback is received, WEC staff will disperse the security publications for all clerks so that they can work to prevent a security incident from occurring, and understand quick and clear next-steps to take in the event of a potential security incident.

## Personal Computer Security Checklist

### Computer/Laptop Security

<input type="checkbox"/> Is your operating system up-to-date	<p>Windows and Apple operating systems will have settings that allow the automatic download of patches and updates. Allowing automatic installation of the updates is up to you, but at least enable to auto-download and notify.</p>
<input type="checkbox"/> Do you have an antivirus installed	<p>For Windows-based systems, Windows Defender is adequate. Avast is a highly-rated program with versions for multiple operating systems (Mac, Windows &amp; Android). Kaspersky is also highly-rated but has been banned from Federal networks due to security concerns.</p> <p>As with your OS, make sure your antivirus remains up-to-date.</p>
<input type="checkbox"/> Are the applications you use up-to-date	<p>Not all programs have an auto-update option when a newer version is available and you may need to check on your own. If a developer no longer supports a program you use, consider finding a replacement.</p>
<input type="checkbox"/> Have you rebooted your computer recently	<p>While some updates don't require a restart to take effect, a majority will. For updates that require a restart, you will generally get a notification to this effect. If you leave your computer on when not in use, get in the habit of restarting on a regular basis to make sure everything is truly updated.</p>

<input type="checkbox"/> Is your information securely backed-up	<p>A new trend in malware is ransomware. These attacks will encrypt all the data on your hard drive and will demand payment to provide the decryption key. Without this key, your data is lost forever. If you have your data backed-up, you can wipe the hard drive and reinstall. There are online back-up services and you can also buy desktop hard drives to do the same – make sure the back-up is not connected to your computer or it will be encrypted as well.</p>
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### Web Browser Security

<input type="checkbox"/> Do you have an ad-blocker installed	<p>Malicious advertisements are increasingly being used to infect computers. There are multiple, reputable, options for ad-blockers depending on the browser you are using. Adblock Plus is available for Internet Explorer, iOS, and Firefox. uBlock Origin is available for Chrome, Firefox, Safari, Opera, and Edge (Windows 10 browser).</p>
<input type="checkbox"/> Is your web browser up-to-date	<p>Yes, this is a theme. Browsers are updated to fix exploits and improve operation often. Enable automatic downloads of updates and restart your browser after installation.</p>
<input type="checkbox"/> Use private windows	<p>Most browsers will come with a privacy-browsing option: InPrivate browsing for IE, Incognito for Chrome, etc. Familiarize yourself with these options and use them when accessing sensitive information. Private windows prevent malicious code in other tabs from “seeing” or interfering with what you are doing in a private window.</p>

<input type="checkbox"/> Use https:// when available	<p>Https is a secure, encrypted connection from your computer to a website. Many services offer encrypted and unencrypted versions of their website and most will default to secure https when you are on the login screen. You can confirm if you are viewing the encrypted website by the presence of a green lock icon or seeing <b>https</b> in the web address. While https will not protect your information on an already-compromised computer, it will prevent someone from snooping on the connection between your computer and a website. If you do not see the green lock, you can manually enter https:// as part of typing a URL to force the secure connection if it is available. There is also an extension called HTTPS Everywhere that is available for Chrome, Firefox, Opera, and Edge that forces the use of the encrypted option on supported websites.</p>
<input type="checkbox"/> Disable Flash	<p>Flash is a popular vector to attack computers. If you cannot disable Flash, at least set it to “Ask first” – this will prevent flash from running automatically when a webpage loads. In most browsers this is a default setting, but check to make sure it is enabled.</p>

### Password Security

<input type="checkbox"/> Don't reuse passwords	<p>The use of the same password across multiple services means if any of those services are compromised, hackers can get into those other accounts as well. Make sure every password is unique to the service/site you are using it for.</p>
<input type="checkbox"/> Don't answer security questions	<p>Security questions are often publicly available information – mother's maiden name, elementary school, etc. If the information is out there, someone can use it to “recover” your password without needing to place malware on your computer. If a site insists on providing such answers, don't answer truthfully.</p>

<input type="checkbox"/> Use multi-factor authentication when available	<p>Many services are moving towards providing some sort of multi-factor authentication – Facebook and Gmail are such examples. The second authentication factor will prevent someone from accessing your information even if they have your username and password. In some cases, sites will notify you of the attempted login which will alert you to the potential compromise.</p>
<input type="checkbox"/> Use long passwords	<p>Increasing password length from 8 characters to 9 increases the amount of time needed by an automated password cracker from minutes to hours. Adding a 10<sup>th</sup> character will up that time to days. It is highly recommended that you make sure passwords are 12 characters or more. Even if a website or service doesn't require special password security (symbols or numbers), get in the habit of doing so anyway.</p>
<input type="checkbox"/> Consider using a password manager	<p>We choose poor passwords because we need to think of them and make them easy to remember. A password manager removes both of these concerns. There are secure online options like LastPass or 1Password that encrypt your passwords locally before saving them to the cloud. There are local password managers like Keepass that will save everything to your machine so you do not have to worry about cloud security, but you will need it separately on each device you use. You will still need a strong master password for access, it's easier to come up with and remember one strong password than fifteen.</p>

# COUNTING VOTES AT THE PARTISAN PRIMARY

## Statutory Authority

The information in this document was prepared by the staff of the Wisconsin Elections Commission and represents the staff's interpretation of the application of the law set out in Wis. Stat. § 7.50(2), to the general situations described. Election inspectors and candidates should review the law or consult an attorney about any specific application of the law. Any questions about the information contained in this document should be directed to the Wisconsin Elections Commission Help Desk at 608-261-2028 or via email at [elections@wi.gov](mailto:elections@wi.gov).

## Public Counting

Counting votes is always done **publicly** after the polls close at 8:00 p.m. Vote counting is done by the election inspectors. The governing body of a municipality may also appoint tabulators to assist election inspectors with counting votes. Any person, including candidates at the election, may observe the counting of votes.

## Voter Intent

When a voter has marked a ballot in a way that does not clearly indicate his or her voting objective, the election inspectors must attempt to determine the voter's intention. All inspectors must be part of the determination process, and the majority must agree that the voter's intention can or cannot be determined. Even though tabulators may be used to assist in counting, the decision on how to treat a questionable ballot is made by the election inspectors.

One common example of when a determination of voter intent must be made is when it appears an elector has overvoted an office on the ballot. If the majority of the inspectors agree that the voter's intention can be determined, the vote for that office is counted as the majority decided. If the majority of the inspectors agree that a determination of intent cannot be made and the office has truly been overvoted, the ballot is treated as an overvote for that office only. A record is made on the Inspectors' Statement (EL-104) that a vote was not counted for that office because of an overvote. All other offices on that ballot must be counted if voter intent can be determined.

## Defective, Objected-to and Rejected Ballots

Whenever a ballot is found to be defective, is objected to, or is rejected, the ballot must be identified with a number and set aside. A notation must be made on the Inspectors' Statement (EL-104).

Defective Ballot: A ballot that is damaged, overvoted or otherwise difficult or impossible to determine voter intent.

Objected-to Ballot: A ballot on which one or more offices are defective and a minority of inspectors disagree with the intent determination of the majority.

Rejected Ballot: An absentee ballot which does not contain the signature of the voter and the signature and address of a witness. A ballot is also rejected if the certificate envelope contains more than one marked ballot of the same type.

Again, when there is a question on how a vote should be counted because the choice(s) is not clearly marked as prescribed by the instructions on the ballot, the decision is made by a majority of the election inspectors.

### **Counting Paper Ballots**

Accuracy is essential when counting votes, especially when counting is done manually. Election inspectors should familiarize themselves with the proper procedures for counting votes marked on hand-count paper ballots as set out in the Counting Ballots section of the *Election Day Manual for Wisconsin Election Officials*. To alleviate fatigue and assure accuracy, all election inspectors and tabulators should be involved in counting votes. The duties should be rotated among all inspectors and tabulators for each different type of ballot or for each office to be counted. There are examples of marked ballots with a special emphasis on handling write-in votes further on in this manual.

At a partisan primary, a voter may vote only in one party's primary. The voter marks only one party's ballot and deposits it in the locked or sealed ballot box. The unused ballots are placed in a locked or sealed discard box or container. When counting ballots, if two or more party ballots are folded together or a certificate absentee envelope contains more than one party ballot, examine the ballots carefully. If more than one ballot is marked, no ballot may be counted. The ballots are marked "crossover" and placed in the "Original Ballots" envelope. In the case of an absentee voter, the ballots are returned to the certificate envelope and marked "rejected-crossover."

### **Special Considerations Where Optical Scan (OS) Voting Systems are Used**

#### *Write-in Votes*

Since the law does not require a voter to mark a square, arrow or oval to vote for a write-in candidate, care must be taken to assure that write-in votes are counted when the elector fails to mark a square/arrow/oval next to the write-in line, *if* the write-in vote is eligible to be counted. (See the Counting Write-in Votes section of this manual.) Likewise, it is equally important to ensure that write-in votes counted by the equipment are eligible to be counted.

The decision-making capability of optical scan equipment is limited. The voting equipment "decides" a vote based on its assessment of the marks placed on the ballot by the voter. The optical scan voting equipment will not "see" a write-in vote when the square/arrow/oval has not been marked. (Companies currently marketing OS equipment claim the ability to program the equipment to widen the optical eye path to include a name written in, but this feature has not been tested by the WEC). The OS voting equipment cannot differentiate between registered and non-registered write-in candidates, nor is it able to determine whether write-in votes are eligible to be counted. Therefore, inspectors must **examine each ballot** to determine if a write-in vote has been cast and if that vote has been counted properly or improperly. See the "Counting Votes/Optical Scan Ballots" section of the *Election Day Manual for Wisconsin Election Officials*.

#### *Adjusting the Machine Tape*

In a case where a voter has marked the square/arrow/oval next to a ballot candidate and has also written in a name but did not mark the square/arrow/oval next to the write-in line, the equipment will "see" only the vote for the ballot candidate and record that vote. In this case, the

inspectors must adjust the machine tape to subtract one vote from the ballot candidate's total and then determine the eligibility of the vote for the write-in candidate. See the "Counting Votes/Optical Scan Ballots" section of the *Election Day Manual for Wisconsin Election Officials* and the "Write-in Votes" section of this manual.)

#### *Overvoted Ballots – If voter intent **can be determined***

When an optical scan ballot has been overvoted **but the intent of the voter can be determined, the ballot must be remade**. Two election inspectors transfer the votes onto a new ballot, duplicating the votes as they were marked by the voter on the original ballot, except that the office(s) that has been overvoted is marked to reflect the intent of the voter. The original ballot is assigned a serial number, starting with one, and labeled "Original Ballot 1." The duplicated ballot is marked with the same serial number and labeled "Duplicate Ballot 1." The duplicate ballot is put through the electronic equipment and the original ballot is preserved in the Original Ballots envelope.

#### *Overvoted Ballots – If voter intent **cannot be determined***

When an optical scan ballot has been overvoted **but voter intent cannot be determined**, the overvoted ballot is remade\* by two election inspectors exactly as the voter marked the original ballot, except that the overvoted office(s) is left blank. The original ballot is assigned a serial number, starting with one, and labeled "Original Ballot 1." The duplicated ballot is marked with the same serial number and labeled "Duplicate Ballot 1." The duplicate ballot is put through the electronic equipment and the original ballot is preserved in the original ballots envelope.

\*If the optical scan equipment has an "override" feature, and the municipality has been approved to utilize the override feature, a ballot for which intent cannot be determined may be overridden. The voting equipment will not count votes for overvoted contests, but will count votes for all other properly marked contests.

#### *Crossover Ballots*

A crossover occurs when the voter has cast votes in more than one party and has not selected a party preference. No votes are counted for partisan contests in this case and the ballot must be remade or overridden.

The remade ballot is a blank ballot or only contains votes for non-partisan contests. As with overvoted ballots, the original ballot is assigned a serial number, starting with one, and labeled "Original Ballot 1." The duplicated ballot (blank ballot) is marked with the same serial number and labeled "Duplicate Ballot 1." The duplicate (blank) ballot is put through the electronic equipment and the original ballot is preserved in the original ballots envelope.

If the optical scan equipment has an "override" feature, and the municipality has been approved to utilize the override feature, a crossover ballot may be overridden. The voting equipment will not count any votes for partisan contests.

Whenever a ballot is remade or overridden, the action must be recorded on the EL-104 Inspectors' Statement.

For further instructions, see the "Processing Overvoted and Crossover Voted Ballots" section of the *Election Day Manual for Wisconsin Election Officials*.

## WRITE-IN VOTES AT A PARTISAN PRIMARY

### Determining Eligibility of Write-in Votes

Counting votes in an office where write-in votes are present can be complicated and requires a step-by-step approach to systematically separate which write-in votes are “eligible” for counting and which are “ineligible.” The following four principles will assist you in determining write-in vote eligibility and whether also marked ballot candidates can be considered.

#### *The Four Principles of Counting Write-in Votes*

1. If one or more ballot candidates of a specific party are listed under a given office—  
**Only votes for registered write-in candidates are eligible for counting.**
2. If one or more ballot candidates of a specific party are listed under a given office, but one or more are deceased—  
**All write-in votes are eligible for counting.**
3. If there are no ballot candidates of a specific party listed under a given office—  
**All write-in votes are eligible for counting.**
4. If there is at least one write-in vote cast, (*regardless of the eligibility of the write-in vote*)—  
**No votes for ballot candidates may be considered.**

Using this partisan primary ballot example, determine how this office should be counted by answering the four questions that follow the example. (The answers can be found in the four principles listed above.)

Sugar Cookie Party	
<b>Governor</b> <b>Vote for 1</b>	Ballot instructions
<input type="radio"/> Pillsbury Dough Boy	
<input type="radio"/> Betty Crocker	
<input type="radio"/> Cookie Monster	
<input checked="" type="radio"/> <i>Grommet</i>	(Grommet is a registered write-

3 ballot candidates for a 1-seat office.

*Question 1: How many votes is the voter entitled to cast? (Refer to the ballot instructions.)*

- One. The instructions are “Vote for 1.” The voter has marked 4 candidates, which is 3 too many.

*Question 2: Are all write-in votes eligible for counting or only votes cast for registered write-in candidates? (Refer to Principle 1.)*

- There is 1 position to be filled and 3 ballot candidates. Only votes for registered write-in candidates are eligible to be counted.

Question 3: *Is the write-in candidate registered?*

- Grommet is a registered write-in candidate. The vote for Grommet is counted.
- The voter is entitled to no more votes.

Since Grommet’s vote has been counted, the following question is not necessary, but the answer has still been provided.

Question 4: *Regardless of eligibility for counting, are there enough write-in votes to fill the seats up for election? (Refer to Principle 4.)*

- Yes. There is 1 position to be filled and 1 write-in vote.
- Ballot candidates may not be considered.

Final result:

- There are 4 votes marked for this office. The voter is only entitled to one vote.
- Only the write-in vote for Grommet is counted.
- The voting equipment has recorded this office as overvoted—no votes were recorded.
- No adjustment to the tape is required.

**Note:** *If Grommet were not a registered write-in candidate, the vote for Grommet would not be counted. And since there is a write-in vote for this Vote for 1 office, ballot candidates cannot be considered. In this case no votes would be counted.*

Here is another example that involves adjusting the machine tape:

Chocolate Chip Cookie Party	
<b>Governor</b> <b>Vote for 1</b>	Ballot instructions
<input type="radio"/> Missy Fields	
<input checked="" type="radio"/> Chip Ahoy	
<input type="radio"/> Sugar Sprinkle	
<input type="radio"/> <u>Cocoa Bean</u>	(Cocoa is a registered write-in candidate.)

Question 1: *How many votes is the voter entitled to cast? (Refer to the ballot instructions.)*

- One. The instructions are “Vote for 1.” The voter has marked 1 candidate and written in a candidate.

Question 2: *Are all write-in votes eligible for counting or only votes cast for registered write-in candidates? (Refer to Principle 2.)*

- There is 1 position to be filled and 3 ballot candidates. Only registered write-in candidates are eligible to be counted.

Question 3: *Is the write-in candidate registered?*

- Yes. Cocoa Bean is a registered write-in candidate. The vote for write-in candidate Cocoa Bean is counted.
- The voter is not entitled to any more votes.

The following question is not necessary, but the answer has still been provided.

Question 4: *Regardless of eligibility for counting, are there enough write-in votes to fill the seats up for election? (Refer to Principle 4.)*

- Yes. There is 1 position to be filled and 1 write-in vote.

### Final Result

#### Machine Tape

#### Governor

M. Fields 45  
C. Ahoy 33 (-1)  
S. Sprinkle 15  
wr-in 0 (+1)

- The write-in vote for Cocoa Bean is counted.
- The voting equipment has recorded a vote for the ballot candidate, Chip Ahoy.
- The inspectors must adjust the tape by subtracting a vote from Chip's total.
- The reason for the adjustment is recorded on the Inspectors' Statement (EL-104).

More examples of counting vote for offices that contain write-in votes and involve adjusting the tape may be found at the end of this manual.

### Write-in Vote Irregularities

When a voter casts a write-in vote in a manner inconsistent with the ballot instructions for casting a write-in vote, or the write-in vote is deficient to cause the inspectors to question the voter's intent, the vote is described as "irregular." An irregularity can be caused by failure of the voter to follow instructions, less-than-legible handwriting, inadequate erasures, indicating a candidate preference with unconventional or stray marks, etc. *An irregular vote may be counted if the intent of the voter can be determined.*

Below are several general examples of write-in vote irregularities. These examples include, but are not limited to, general situations for all elections. Following the General Situations are examples specific to counting votes at the partisan primary.

### General Situations

*Count Write-in Votes When:*

1. The name of the person is misspelled, but the intent of the voter can be reasonably determined.
2. The name of the person is abbreviated, but the intent of the voter can be reasonably determined.
3. The name of the person contains a wrong initial or an initial is omitted. Example: The write-in candidate is Jonathan L. Seagull. The voter writes in Jonathan T. Seagull or Jon Seagull.

4. Only the last name of a person is written in. Count the vote if--
  - the person is a registered write-in candidate, and/or
  - the intent of the voter can be reasonably determined.
  
5. The voter wrote in a name but did not make an X or other mark, fill in a square or oval, or complete an arrow next to the write-in line--
  - No mark is required next to the write-in line to cast a write-in vote. If the write-in vote is eligible, it is counted.
  
6. A voter writes in the name of a registered write-in candidate **under an office other than the one for which the candidate is registered**--
  - The vote is counted for the office under which the name is written if:
    - The office under which the name is written has no ballot candidates or one or more ballot candidates is deceased, **and**.
    - The office under which the name is written is the same party in which the registered write-in candidate is running.
  
7. A name is written in **the margin**, rather than in an office space--
  - If the person whose name is written in is a registered write-in candidate, the name counted as a vote for the write-in candidate in the office and party in which he or she is registered.
  - If the name is that of a ballot candidate, the vote is counted for the candidate in the office and party for which he or she is registered.
  
8. The voter **marks the ballot for a name that is printed on the ballot and writes in another person's name for the same office**--
  - If the write-in vote is deemed eligible, the write-in vote is counted. The vote for the ballot candidate is not counted. (*See Principles 1 and 4 in the Determining Eligibility of Write-in Votes section.*)
  
9. The name of a Party X registered write-in candidate is written in under Party X, but for an office other than the one for which the candidate registered.
  - The write-in vote counts for the person for the office where the name is written, if there are no ballot candidates for the office or one or more ballot candidates is deceased. (*See Principles 2 and 3 in the Determining Eligibility of Write-in Votes section.*)

*Do Not Count Write-in Votes When:*

1. A name is misspelled or abbreviated and the intent of the voter cannot be reasonably determined.
2. A name is written on the endorsement (back) side of a paper ballot.
3. The instruction on the ballot is "**Vote for one**," and the name of more than one person has been written in for a single office--
  - This is an overvote. No votes are counted for that office.

4. The instruction on the ballot is "**Vote for One**," and the name of more than one person has been written in and a vote has also been cast for a candidate whose name is printed on the ballot for the same office--
  - This is an overvote. No votes are counted for that office.

### **Ballot Candidates as Write-ins**

A write-in vote for a ballot candidate is always counted if it is written in under the office where the name is printed on the ballot. If a voter marks a ballot candidate's name and writes in the same ballot candidate's name for the same office, one vote is counted for the ballot candidate.

When a ballot candidate's name is written in under an office other than where the name is printed on the ballot, *the vote may be counted if the office where the name is written—*

<b>Election Type</b>	Has fewer ballot candidates that positions to be filled, or one or more ballot candidates is deceased.	Is under the same party where the name is printed on the ballot.
<b>Nonpartisan</b>		
Spring Primary	<b>X</b>	
Special Primary	<b>X</b>	
Spring Election	<b>X</b>	
Special Election	<b>X</b>	
<b>Partisan</b>		
Partisan Primary	<b>X</b>	<b>X</b>
Special Primary	<b>X</b>	<b>X</b>
General Election		
Special Election		

### **PARTY PREFERENCE**

Each ballot-status party in Wisconsin holds a primary on the 2<sup>nd</sup> Tuesday in August of an even-numbered year. Though the primaries are conducted on the same day, each party's primary is considered a separate election event. At the partisan primary, a voter may choose ONE party's primary in which to vote. By voting in a party's primary, the voter is participating in the nomination process for candidates of that party.

There are several methods by which a voter selects the party in which he or she will vote.

Where hand-count paper ballots are used, the voter identifies their party preference when he or she chooses **one** party ballot on which to vote. The voted ballot is placed in the ballot box and the remaining un-voted ballots are placed in a locked "discard" box.

Where optical scan voting systems are used, the voter identifies their party preference either by voting in only one party or by marking a party preference. Selecting the party preference will not prevent crossover voting, but it is a safeguard so that a voter will not lose all votes if he or she does crossover. Selecting a party preference preserves the votes cast in the preferred party, while not counting votes cast in another party.

Voters do not always vote in the manner prescribed by law and as provided in the instructions on the ballot. A voter will often vote in more than party, either by mistake, misunderstanding or in a deliberate attempt to frustrate the purpose of the primary.

Before we get to examples of crossover voting and how to treat them, let's first review several rules regarding counting votes at a partisan primary.

- A. Selecting a party preference will preserve the votes cast in the preferred party even if the voter crosses over and votes in another party.
- B. Casting votes for candidates of only one party, is the same as selecting a party preference.
- C. If no party preference is selected, and the voter **marks more than one party's ballot**, no votes will count.
- D. If no party preference is selected, and the voter **marks only one party's ballot**, but on that same party ballot writes in the name of a ballot candidate or registered write-in candidate of another party, all votes are counted except the write-in vote.
- E. **Regardless if a party preference is selected**, the name of a ballot candidate or registered write-in candidate of Party X written on a Party Y ballot will never count.
- F. **Within the same party**, a voter may write in the name of a ballot candidate or registered write-in candidate for an office under a different office.

*Count Write-in Votes at a Partisan Primary When:*

(The following scenarios presume a write-in vote is eligible to be counted.)

1. **The voter has selected a party preference.** The voter casts votes in the preferred party and then marks candidates in another party--
  - The votes cast in the preferred party are counted. **Rule A**
2. **The voter has selected a party preference.** The voter casts votes for ballot candidates in the party selected and writes in, on the that same party ballot, the name of a person who appears as a ballot candidate on a different party ballot--
  - All votes are counted except for the write-in vote. **Rules A, B and E**  
*The voter has not physically voted on more than one party's ballot.*  
*The voter benefits from the party preference safety net.*
3. **The voter has selected a party preference.** The voter casts votes for ballot candidates in the selected party and then writes in a name on another party's ballot--
  - The votes cast in the selected party are counted. **Rules A and E**
  - The name written in on the other party ballot does not count.  
*Although the voter has physically voted on more than one party's ballot, he has benefitted from the preferred party safety net.*
4. **The voter has not selected a party preference** but has voted for candidates of only one party. The voter writes in, on that same party ballot, the name of a person who appears as a ballot candidate in a different party--
  - All votes are counted except for the write-in vote. **Rules B, D and E**  
*The voter has not physically voted on more than one party's ballot.*

5. A candidate's **name is printed on a party ballot** for one office, and the voter writes in that candidate's name for a different office **on the same party ballot**—
  - The vote is counted for the person for the office where the name is written. **Rule F**
6. The name of a registered write-in candidate is written in under an office other than the one for which the candidate registered, but in the same party for which the candidate registered--
  - The vote counts for the write-in candidate for the office where the name is written. **Rule F**
7. The name of a registered write-in candidate is written in under the office for which the write-in candidate is running, but in a different party--
  - The write-in vote is not counted. **Rule E.**

*Do Not Count Write-in Votes at a Partisan Primary When:*

1. **The voter has selected a party preference.** On the face of the ballot, in no party or office space, the voter writes the name, office and political party of a ballot candidate or registered write-in. The political party the voter has written is **different from the preferred party the voter selected** --
  - The vote is not counted. Any votes cast in the preferred party are counted. **Rules A and E**  
*The voter has voted on more than one party's ballot but has benefitted from the party preference safety net.*
2. **The voter has not selected a party preference.** The voter casts votes for candidates on one political party's ballot, and then votes for a candidate on another party's ballot or writes in a name on another party's ballot—
  - No votes are counted. **Rule C**  
*The voter has physically voted on more than one party's ballot without the benefit of the party preference safety net.*
3. The name of a registered write-in candidate is written in under a party other than the one indicated on the campaign registration statement--
  - The vote is not counted. **Rule E**
7. A candidate's name is printed on a party ballot for an office and the voter writes that candidate's name under a different office on a different party ballot. --
  - The vote is not counted. **Rule E**

Here are a few more ballot examples:

### Partisan Primary Write-in Vote Examples

All write-in names are assumed to be eligible to count.

<p><b>Example 1</b></p> <p><b>Party Preference</b></p> <ul style="list-style-type: none"><li><input type="radio"/> Country</li><li><input checked="" type="radio"/> Motown</li><li><input type="radio"/> Rock 'n Roll</li></ul> <p><b>Country Party</b> <b>Representative to the Assembly</b> Vote for 1</p> <ul style="list-style-type: none"><li><input type="radio"/> Tammy Wynette</li><li><input type="radio"/> Donna Fargo</li><li><input checked="" type="radio"/> <del>Robert Plant</del></li></ul> <p><b>Motown Party</b> <b>Representative to the Assembly</b> Vote for 1</p> <ul style="list-style-type: none"><li><input type="radio"/> Diana Ross</li><li><input checked="" type="radio"/> <del>Levi Stubbs</del></li><li><input type="radio"/> <del>Tammy Wynette</del></li></ul> <p><b>Rock 'n Roll Party</b> <b>Representative to the Assembly</b> Vote for 1</p> <ul style="list-style-type: none"><li><input checked="" type="radio"/> <del>Eddie Vedder</del></li><li><input type="radio"/> Robert Plant</li><li><input type="radio"/> _____</li></ul>	<p>The voter has chosen Motown as the party preference. Choosing a party preference preserves votes cast in that party.</p> <p>Analysis:</p> <p>The write-in vote in the country party is not counted because the voter chose Mowtown as the preferred Party and because voter wrote in a ballot candidate from the Rock 'n Roll Party.</p> <p>In the Mowtown party, the voter has written in a Country Party ballot candidate (Tammy Wynette). The vote is not counted. Choosing a party preference preserves votes cast in that party, but not when a voter tries to force a Country singer to sing Motown.</p> <p>The vote for Motown ballot candidate Levi Stubbs is not counted either because of the write-in, even though the write-in wasn't counted.</p> <p>The vote for Rock 'n Roll Party ballot candidate, Eddie Vedder is not counted because the voter chose Motown as the preferred party.</p> <p>Result: No votes are counted.</p> <p>Effect on machine tape: Because the voter chose a party preference, the OS equipment scanned the only the Motown Party section. The equipment recorded a vote for Levi Stubbs, which must be subtracted on the tape.</p>
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## Example 2

### Party Preference

- Country
- Motown
- Rock 'n Roll

### Country

#### Representative to the Assembly

Vote for 1

- John Smith

### Motown Party

#### Representative to the Assembly

Vote for 1

- Smokey Robinson
- Diana Ross
- \_\_\_\_\_

### Rock 'n Roll Party

#### Representative to the Assembly

Vote for 1

- Eddie Vedder
- Robert Plant
- \_\_\_\_\_

The voter has chosen the Rock 'n Roll Party. Choosing a party preserves votes cast in that party.

Analysis:

### Country Party

No votes are counted in the Country Party because the Rock n' Roll Party has been selected.

There were no votes cast in the Motown Party.

The vote for Rock 'n Roll ballot candidate Eddie Vedder is counted.

**Result:** Only Eddie's vote for Rock 'n Roll Assembly is counted.

**Effect on machine tape:** None. The Rock 'n Roll party was selected as the voter's preference. The OS machine only scanned the preferred party and recorded the vote for Eddie.

### Example 3

#### Party Preference

- Country
- Rock 'n Roll

#### Country Party

##### Representative to the Assembly

Vote for 1

- Miranda Lambert
- Tammy Wynette
- Donna Fargo
- Jim Morrison

##### State Senator

Vote for 1

- Tammy Wynette

#### Rock 'n Roll Party

##### Representative to the Assembly

Vote for 1

- Shirley Allston Reeves
- ~~Patty LaBelle~~
- Jim Morrison
- Keith Moon

##### State Senator

Vote for 1

- Roger Daltrey
- Keith Richards
- Jay Black
- 

(Keith Moon is a registered write-in candidate.)

The voter has chosen the Rock 'n Roll Party. Choosing a party preference preserves votes cast in that party.

Analysis:

#### Country Party

No votes are counted in the Country Party, because the Rock 'n Roll Party has been chosen as the voter's preference.

#### Rock 'n Roll Party (The preferred party)

##### Office of Rep. to the Assembly:

There is a write-in candidate for Assembly (registered write-in candidate Keith Moon). Keith's vote is counted, and the vote for Keith cancels the vote for ballot candidate, Patty.

##### State Senator

The voted for ballot candidate Roger Daltrey is counted.

**Result:** The write-in vote for write-in candidate Keith Moon for Assembly is counted. The vote for Patty LaBelle is not counted. The vote for Roger Daltrey for Senate is counted.

**Effect on machine tape:** The OS equipment scanned only the preferred party (Rock 'n Roll) and counted the vote for Patty LaBelle for Assembly. The write in vote for Keith Moon was not recorded. In the office of Rep. to the Assembly, subtract a vote from Patty LaBelle and add a write-in vote for Keith Moon.

## Example 4

### Party Preference

- Country
- Rock 'n Roll

### Country Party

#### Representative to the Assembly Vote for 1

- Miranda Lambert
- ~~Tammy Wynette~~
- Donna Fargo
- ~~Jim Morrison~~

#### State Senator

Vote for 1

- Tammy Wynette

### Rock 'n Roll Party

#### Representative to the Assembly Vote for 1

- Shirley Allston Reeves
- Patty LaBelle
- Jim Morrison
- \_\_\_\_\_

#### State Senator

Vote for 1

- Roger Daltrey
- Keith Moon
- Jay Black
- \_\_\_\_\_

## The voter has not chosen a party preference.

The voter has marked candidates in only one party (**Country**).

Analysis:

Jim Morrison, a Rock 'n Roll Party ballot candidate for assembly has been brought over to the Country Party as a write-in candidate to masquerade as a Country singer (yeah, right). Jim Morrison's vote for Congress in the Country Party is not counted.

The presence of a write-in vote in an office means a vote for a ballot candidate in that office cannot be counted, even if the write-in cannot be counted either. The vote for Tammy for Assembly is not counted.

Tammy Wynette is a Country Party ballot candidate for Assembly. Her name has been written in for State Senator in the Country Party. Since the voter has written in Tammy for a different office but in the Same Party, Tammy's vote in the office of State Senator is counted.

No votes were cast in the Rock 'n Roll Party

Result: No party preference was selected, but the voter's marks are confined to the Country Party; no marks were made in any other party. The voter's attempt at making a country singer out of Jim Morrison backfired. Not only could the write-in vote for Jim be not counted, but it also cancelled out Tammy's vote in that office.

**Effect on machine tape:** None. In the Country Party Assembly contest, the ovals of a ballot candidate and a write-in were marked. The OS equipment saw it as an overvote and did not record a vote. The write-in vote for Country Party Senator was picked up by the equipment.

## Example 5

### Party Preference

- Country
- Rock 'n Roll
- Opera

### Country Party

#### Representative to the Assembly

Vote for 1

- Miranda Lambert
- Tammy Wynette
- Donna Fargo
- 

### State Senator

Vote for 1

- 

### Rock 'n Roll Party

#### Representative to the Assembly

Vote for 1

- Shirley Allston Reeves
- Patty LaBelle
- Jim Morrison
- 

### State Senator

Vote for 1

- Roger Daltrey
- Keith Moon
- Jay Black

### Opera Party

#### Representative in Congress

Vote for 1

- Beverly Sills
- Enrico Caruso
- Placido Domingo
- Beverly Sills

### State Senator

Vote for 1

- Luciano Pavarotti
- Maria Callas
- Renee Fleming
- Beverly Sills

The voter has not chosen a party preference.

No votes were cast in the Country Part.

The voted primarily in the Opera Party, but crossed over by writing in a name on the Rock 'n Roll ballot.

#### In the Opera Party:

In both offices, an Opera Party ballot candidate has been written in both offices. Had the voter not crossed over to write in on the Rock 'n Roll party ballot, the vote for Beverly Sills for Congress would have counted (once). The vote for Beverly for Senate would not have been counted because Beverly is not a registered write-in candidate for that office.

**Result:** No votes count because no party preference was selected and there are votes in two parties.

**Effect on machine tape:** The OS machine saw only the votes in the Opera Party because the oval was not filled in next to Jay's name in the Rock 'n Roll Party. Jay's write-in vote was not recorded.

The OS equipment would have seen the two filled in ovals for Opera Party Congress as an overvote and no votes would have been recorded for that office.

For Opera Party State Senator, a write-in vote would have registered on the tape. Adjust the tape to subtract the write-in vote.

## Example 6

### Party Preference

- Country
- Opera
- Rock 'n Roll

### Country Party

#### Representative to the Assembly

Vote for 1

- Miranda Lambert
- Tammy Wynette
- Donna Fargo
- \_\_\_\_\_

#### State Senator

Vote for 1

- ~~Shirley Reeves~~

### Rock 'n Roll Party

#### Representative to the Assembly

Vote for 1

- Shirley Allston Reeves
- Patty LaBelle
- Jim Morrison
- ~~Robert Plant~~

#### State Senator

Vote for 1

- Roger Daltry
- Keith Moon
- Jay Black
- ~~Jimmy Page~~

*(Robert Plant is a registered write-In candidate. Jimmy Page is not.)*

The voter has chosen the Country Party. Choosing a party preserves the votes cast in that party.

### Country Party

The Country Party is the preferred Party. The vote for Donna Fargo for Assembly in the Country Party is counted.

Once again, an effort to convert a Rock 'n Roller (Shirley) to a Country singer fails. Since the office of Senator has no ballot candidates, ordinarily any a write-in vote would be counted, but not when it is a candidate of another party.

### Rock 'n Roll Party

The Country Party is the preferred party, so no votes are counted in the Rock 'n Roll Party. If the preferred party were the Rock 'n Roll party, The write in vote for Robert Plant for Assembly would have counted. The write-in vote for Jimmy Page would not because he is not a registered write-in.

**Result:** Only the vote for Donna Fargo for Assembly is counted.

**Effect on machine tape:** None. The OS equipment scanned only the preferred party (Country) and recorded the vote for Country Party Assembly candidate, Donna Fargo. No votes were counted in the Rock 'n Roll Party because it is not the preferred party.

## Example 7

### Party Preference

- Country
- Rock 'n Roll
- Opera
- Motown

### Country Party

#### Representative in Congress

Vote for 1

- Miranda Lambert
- Tammy Wynette
- Donna Fargo
- 

#### State Senator

Vote for 1

- 

### Rock 'n Roll Party

#### Representative in Assembly

Vote for 1

- Shirley Allston Reeves
- Patty LaBelle
- Jim Morrison
- 

#### State Senator

Vote for 1

- Roger Daltrey
- Keith Moon
- 

### Opera Party

#### Representative to the Assembly

Vote for 1

- Beverly Sills
- Enrico Caruso
- Placido Domingo
- ~~Freda Payne~~

#### State Senator

Vote for 1

- Enrico Caruso

*Freda Payne and Enrico Caruso are not registered write-ins.*

### Motown Party

#### Representative to the Assembly

Vote for 1

- Smokey Robinson
- Freda Payne
- Gladys Knight
- 

#### State Senator

Vote for 1

- Barry Gordy
- Stevie Wonder
- Marvin Gaye
- 

### The voter has chosen the Opera Party.

Analysis:

The voter has voted for an Opera Party ballot candidate for Assembly, (Beverly) and has also written in Freda Payne.

Freda's vote cannot be counted because she is not a registered write-in and there are ballot candidates. Because of the vote for Freda, Beverly's vote cannot be counted either.

Opera ballot candidate for Assembly (Caruso) has been written in for Opera Senate. Enrico's write-in vote is counted because he is a candidate for the Opera Party and there are no ballot candidates for Opera Senate, so Enrico doesn't need to be a registered write in for Senate.

**Result:** The write-in vote for Enrico Caruso is the only vote that counts on this ballot.

**Effect on machine tape:** In the Opera Party, the ovals next to Beverly Sills and write-in Freda Payne have been filled in. The OS equipment sees this as an overvote and no votes are recorded.

The oval next to write-in Enrico Caruso was not filled in and was not picked up by the equipment. A vote should be added to the write-ins for Opera Senator.



# Canvass Process

## Purpose of the Canvass

- The purpose of the canvass process is to review and certify the results of primaries and elections and to make the official determination of the outcome of state, county or local election events.
- The canvass process should be designed to identify incorrect vote totals and correct those results before certification
- Results should be proofed before submission so that errors can be identified and corrected before certification.
- Recounts should not be the mechanism where election results are corrected!

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## Duties of the Municipal Clerk

- ▶ Publish a 24-hour open meeting notice and notify the MBOC of the time and location of the meeting
- ▶ Publish a 24-hour open meeting notice for the meeting of the Local Board of Canvassers (LBOC) to perform certain duties, such as reconciling poll lists and counting votes

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## Duties of the Municipal Clerk

- ▶ Provide MBOC with all necessary materials
- ▶ Enter provisional ballot information into the Provisional Ballot Tracking System (or deliver to WisVote provider)
- ▶ Post the number of provisional ballots on the Internet
- ▶ Take minutes of the MBOC meeting or delegate this duty
- ▶ Transmit the EL-123r to the clerks of any affected level of government
- ▶ After the 4 pm Friday deadline, transmit the final EL-123r forms to the clerks of any other affected level of government

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## Municipal Board of Canvassers (MBOC)

- ▶ Election results are not complete until certified by the Board of Canvassers
- ▶ Required only for municipal offices or referenda
- ▶ Municipalities with only one reporting unit
  - Election inspectors constitute the Board of Canvassers
- ▶ Municipalities with more than one reporting unit
  - Municipal clerk and two other qualified electors of the municipality appointed by the clerk



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## Timeline of the MBOC

- ▶ Municipalities where the election inspectors comprise the MBOC
  - When municipal offices and/or municipal referenda are on the ballot, must conduct the canvass on election night
  - Inspectors must reconvene as the MBOC no later than 9 am the Monday following the election to process any provisional ballots
- ▶ Municipalities where the clerk and two others comprise the MBOC
  - When the clerk and two other electors appointed by the clerk serve as the MBOC, the canvass must begin no earlier than the time that the MBOC receives all returns from all polling places on election night and no later than 9 am the Monday following the election

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## Canvass Report

- ▶ The MBOC must complete the Canvass Report (EL-106)
- ▶ Tabular Statement
  - Lists all votes received by each municipal reporting unit for a particular office
- ▶ Summary Statement
  - List vote totals cast for each office
- ▶ Certification Statement
  - Signed by the MBOC that all canvass documents are true and correct



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# EL-106

**Tabular Statement of Votes Cast**

\_\_\_\_\_, WI  
(insert municipality and county, if county cases insert county only)

(type of election) \_\_\_\_\_ Election - \_\_\_\_\_ (date of election)

(If no County Use Only)  
For a Partisan Primary, insert political party \_\_\_\_\_

Office:		
Reporting Units:	Candidates:	Scattering <small>(for Counties only)</small>

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## Verify Tamper-Evident Seals

- ▶ The MBOC shall verify that the tamper-evident serial numbers from the voting equipment have been recorded on the Inspectors' Statement (EL-104)
- ▶ Members to verify five (5) Inspectors' Statements or 10% (whichever is greater) of the total statements that have been initialed by the Chief Election Inspector.
- ▶ Noted in minutes

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## Processing Provisional Ballots

- ▶ The MBOC must meet to tally any provisional ballots
  - This must occur no later than 9:00 a.m. the Monday following the election, but may begin as soon as all outstanding provisional ballots are accounted for.
  - If there are no outstanding provisional ballots, the MBOC proceeds normally to certify tallies or canvass as required.
  - The MBOC does not need to reconvene if the clerk certifies that no provisional ballots were received from the time of the initial canvass and 4 pm the Friday after the election.
- ▶ Municipalities with only one reporting unit may use a "mini-MBOC" to tally provisional ballots
  - This mini-MBOC consists of the clerk, chief inspector and one other inspector
- ▶ A Canvassers' Statement is NOT required unless you are determining local offices

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## EL-106P

**STATEMENT OF THE MUNICIPAL CLERK  
IF NO PROVISIONAL BALLOTS WERE REHABILITATED BETWEEN 6 P.M.  
ELECTION NIGHT AND 4 P.M. ON THE FRIDAY AFTER THE ELECTION**

Reconciliation of Provisional Ballots Processed

(Name of Primary or Election) Reporting Unit: (If only in Reporting Unit)

No provisional ballots were rehabilitated. Election night results stand.

**\*CERTIFICATION OF MUNICIPAL CLERK**

I, the undersigned, certify that I am the Municipal Clerk for

I certify that no provisional ballots were rehabilitated after the close of the polls and before 4 p.m. on the Friday after the election. I further certify that the results of the municipal election certified on Election Night by the Municipal Board of Canvassers are the official election results.

(Name of Municipal Clerk) Clerk (Date)

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## Routing Materials



Materials should be separated as follows:

### Municipal Clerk

- Municipal Ballots
- Tally Sheet original and copy of voting machine tape, if any
- Record of Activity (EL-104P)
- Absentee Ballot Log (EL-124)
- Provisional Ballot Reporting Form (EL-123r)
- Statement of the MBOC (EL-106P)
- Statement of the Municipal Board of Canvassers (EL-106), if required.

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## Routing Materials (con't)

### School District Clerk

- School District Ballots (if separate ballots)
- Tally Sheet original of any school district offices and copy of voting machine tape, if any
- Certified copy of the Inspectors' Statement (EL-104)
- Copy of the Provisional Ballot Reporting Form (EL-123r)
- Copy of the Absentee Ballot Log (EL-124)
- Certified copy of the signed poll list

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## Routing Materials (con't)

### County Clerk

- Ballot Containers with all federal, state, county and tech college ballots
- Cured Provisional ballots sealed in a separate container
- Election night provisional ballots resealed in the original ballot bag
- Rejected Absentee Ballots Envelope (EL-102)
- The Used Absentee Certificates Envelopes Envelope (EL-103)
- The Used Provisional Certificate Envelope
- Original tally sheet of federal, state, county and tech college offices and/or referenda and one copy of the voting machine tape, if any
- Certified copy of the Record of Activity (EL-104P)
- Copy of the Provisional Ballot Reporting Form (EL-123r)
- Copy of the Absentee Ballot Log (EL-124)
- Certified copy of the Statement of the MBOC (EL-106P)

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## Reporting and Posting Election Night Unofficial Results

- ▶ The county clerk's office must remain open to receive and post results on election night
- ▶ The county clerk should develop and document procedures for making results public
- ▶ Election results must be posted on the county website by reporting unit
- ▶ Other suggestions for making results public
  - Posted outside of office or in media area using tally sheets, machine tapes, etc.

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## Delivery of Election Materials to the County Clerk

- ▶ The municipal clerk ensures that materials are delivered to the county clerk no later than 4 pm the day following the election.
  - Municipal Returns Checklist sample
- ▶ Before the canvass meeting, sort materials, examine for completeness and flag any errors
- ▶ If any returns are so informal or defective that the board will not be able to intelligently canvass them, direct the municipality to remedy defects

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# WISCONSIN ELECTIONS COMMISSION

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(608) 261-2028  
ELECTIONS@WI.GOV  
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COMMISSIONERS

DEAN KNUDSON, CHAIR  
BEVERLY R. GILL  
JULIE M. GLANCEY  
ANN S. JACOBS  
JODI JENSEN  
MARK L. THOMSEN

INTERIM ADMINISTRATOR MEAGAN WOLFE

**DATE:** June 13, 2018

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

**FROM:** Meagan Wolfe, Interim Administrator  
Richard Rydecki, Elections Supervisor  
Michael Haas, Staff Counsel

**SUBJECT:** **Important Ballot Deadlines, Changes to Overseas Voting and Webinar Announcement**

This memorandum outlines two immediate changes that local election officials are required to make pertaining to temporary overseas electors, reviews important absentee ballot deadlines, and outlines additional training resources.

## **Changes Related to Temporary Overseas Electors**

Effective for the 2018 Partisan Primary, temporary overseas electors have the right to receive an absentee ballot electronically and they may also use the Federal Write-In Absentee Ballot (FWAB) to cast their votes. The U.S. Department of Justice has authorized a lawsuit against the State of Wisconsin due to differences in the federal and state statutes related to the definition of overseas electors. To resolve the discrepancy and the litigation, the Wisconsin Elections Commission and the Wisconsin Department of Justice are executing a consent decree with the federal government to permit temporary overseas electors to receive a ballot electronically and to use the FWAB to cast their votes. This will not affect the current statutory distinction which allows temporary overseas electors to vote for all offices while restricting permanent overseas electors to vote only in contests for federal offices.

Additional information regarding recent developments and the legal issues involved is contained in the attached Commission staff memo to the Commission. In short, Wisconsin Statutes create a distinction between Wisconsin voters who are overseas permanently and have no intent to return to Wisconsin, and those who are out of the country on a temporary basis and do intend to return to the state. Temporary overseas electors may be traveling overseas on a short vacation or working on a short- or long-term basis in another country. Regardless of the length of their stay overseas, these voters are considered temporary overseas electors if they have an intent to return to Wisconsin. They may cast votes for all offices on the ballot, unlike permanent overseas electors who may vote only in contests for federal offices.

Temporary overseas electors are currently treated the same as regular absentee voters. There is no space on the voter registration application or the absentee ballot request form to identify themselves as temporary overseas electors and they are not categorized separately in WisVote. Clerks may not even realize these voters are overseas if they have asked for a ballot to be transmitted by fax or email. Under Wisconsin Statutes, clerks may not transmit a ballot to temporary overseas electors electronically, although the federal court order in the *One Wisconsin Institute* case has modified that rule so that clerks have the option to transmit ballots electronically to any absentee voter. Also, they have not been tracked as part of the absentee ballot data that the Commission has collected and transmitted to the U.S. Department of Justice to ensure that military and overseas electors have sufficient time to obtain and return absentee ballots.

Under the new federal court consent decree, if a voter self-identifies as a temporary overseas elector (having an intent to return to Wisconsin), the municipal clerk must transmit an absentee ballot electronically if the elector has requested that method of transmission. Please note that absentee ballots cannot be transmitted to temporary overseas electors through MyVote and WisVote because these voters remain subject to the Photo ID requirement which requires the clerk to first review the photo identification or confirm that one is already on file for that elector. Therefore, absentee ballot can be electronically transmitted to temporary overseas electors only by email or fax.

The second change required by the new federal court consent decree is that temporary overseas electors may now use the Federal Write-In Absentee Ballot (FWAB) to cast their votes, just as permanent overseas electors may now do. The FWAB is a backup ballot which overseas electors may download, write in candidates, and submit to their municipal clerk, and which is counted if the elector does not have time to obtain and return an official ballot. Wisconsin clerks typically receive relatively few FWAB's and temporary overseas electors are currently permitted to use them as an absentee ballot application, but not as an actual ballot. The FWAB may be viewed on the website of the Federal Voting Assistance Program in the U.S. Department of Defense at this link: <https://www.fvap.gov/uploads/FVAP/Forms/fwab2013.pdf>.

Finally, because the federal government's definition of overseas electors includes temporary overseas electors, the requests and absentee ballots of temporary overseas electors must be tracked for federal elections in the same way that ballots for permanent and overseas electors have been tracked in recent elections cycles. The reporting process is outlined below.

Please note that the rules regarding the type of ballot issued to permanent and overseas electors are not changing. Permanent overseas electors are still restricted to the federal-only ballot, while temporary overseas electors and military electors are entitled to vote for all offices.

As part of the consent decree, the WEC will provide guidance to clerks and voters, alter forms and instructions, and publicize the changes on the agency website and through a press release distributed to organizations which work with overseas electors. The changes required under the consent decree were included in legislation which passed the Assembly but did not pass the Senate in the last legislative session. The Commission will work with the Legislature and expects that the terms of the consent decree will be incorporated into future legislation.

### **Upcoming Ballot Deadlines for Military and Overseas Voters**

Federal and state law require that you send absentee ballots to your military and overseas electors with requests on file in accordance with the deadlines set forth below. Military, Temporary Overseas and Permanent Overseas voters may request to receive their ballot via email or fax and clerks are required to honor those requests. Military and Permanent Overseas voters may also request to receive their ballot online via the MyVote Wisconsin website (myvote.wi.gov). Any requests received after the federal deadline on June 30, must be honored within 24 hours and the ballot must be sent by the method requested by the voter.

#### **Reminder:**

**1) If a Military, Temporary Overseas, or Permanent Overseas voter makes a request for an absentee ballot on or before Thursday, June 28, 2018, you MUST send them the requested ballot no later than**

**Thursday, June 28, 2018.**

**2) If a Military, Temporary Overseas, or Permanent Overseas voter makes a request for an absentee ballot on June 29 or June 30, 2018, you MUST send them the requested ballot no later than**

**Saturday, June 30, 2018.**

In the past, there were lengthy absentee ballot reporting requirements that municipalities and the State were required to complete for the U.S. Department of Justice (USDOJ). The reporting requirements were a result of legal action taken by a federal court due to non-compliance with the deadlines by numerous Wisconsin municipalities. While we are not currently subject to these same reporting requirements, the USDOJ has again asked Wisconsin, along with all other states, to track and report information concerning all military and overseas (both permanent and temporary) absentee ballots to ensure that they are issued in accordance with the federal deadlines. Strict compliance with ballot delivery and ballot tracking deadlines will increase our ability to avoid future legal action.

Whenever any absentee ballot is requested, issued, or received, municipalities must record this information in WisVote within 48 hours. Relier municipalities have 48 hours to forward absentee ballot information to their WisVote Provider, who has an additional 24 hours to record the information. These requirements mean it is no longer sufficient to only enter absentee ballot data into an absentee log. The data must be entered into WisVote within the required timeframes.

### **Military and Overseas Voting Webinar**

Wisconsin Elections Commission staff will be hosting a training webinar on June 20, 2018 to discuss the details of changes made to the Temporary Overseas elector procedures and outline the ballot transmission deadlines for the August 14, 2018 Partisan Primary. The webinar details are as follows:

**August Primary Ballot Deadlines and Changes to Overseas Voting**

**June 20, 2018, 10:00 a.m. – 11:00 a.m.**

**Registration Link:**

<https://attendee.gotowebinar.com/register/3288575898407084033>.

The Partisan Primary is a federal election that requires strict adherence to federal and state laws regarding absentee voting by military and overseas voters. Recent legal action by the federal government now requires clerks to honor requests from voters who are temporarily overseas to receive a ballot via email or fax. Temporary Overseas voters can also use the Federal Write-in Absentee Ballot (FWAB) as both a ballot request and a write-in ballot. This webinar will also discuss clerk responsibilities for the upcoming June 2018 ballot deadlines for military and overseas voters and provide information about ballot delivery methods and instructions for sending ballots via email and fax.

Thank you for your assistance in this matter. We know that you take very seriously your role in ensuring that military and overseas electors can cast their ballots. We feel confident, that with your cooperation, all military and overseas voters from Wisconsin will receive their ballot on or before the deadlines for the August 14, 2018 Partisan Primary and that we will be able to promptly submit the required absentee ballot data to the USDOJ.

If you have any questions about the changes to the requirements, or anticipate any problems with meeting the UOCAVA absentee ballot deadlines, please contact the WEC helpdesk at [elections@wi.gov](mailto:elections@wi.gov) or (608) 266-8005.

## 2018 UOCAVA Ballot Deadlines for August and November Elections

<b>August 14, 2018 Partisan Primary</b>		
	<b>State Deadline for County Clerks</b> to deliver ballots to their municipalities	<b>Wednesday, June 27, 2018</b> (48 days prior to the election)
	<b>State Deadline for Municipalities</b> to send out absentee ballots requested on or before Thursday, June 28, 2018	<b>Thursday, June 28, 2018</b> (47 days prior to the election)
	<b>Federal Deadline for Municipalities</b> to send out absentee ballots requested on or before Saturday, June 30, 2018	<b>Saturday, June 30, 2018</b> (45 days prior to the election)
<b>November 6, 2018 General Election</b>		
	<b>State Deadline for County Clerks</b> to deliver ballots to their municipalities	<b>Wednesday, September 19, 2018</b> (48 days prior to the election)
	<b>State Deadline for Municipalities</b> to send out absentee ballots requested on or before Thursday, September 20, 2018	<b>Thursday, September 20, 2018</b> (47 days prior to the election)
	<b>Federal Deadline for Municipalities</b> to send out absentee ballots requested on or before Saturday, September 22, 2018	<b>Saturday, September 22, 2018</b> (45 days prior to the election)



To help clarify the UOCAVA absentee deadlines for the August 14, 2018 Partisan Primary, we are providing the following scenarios. Please use these scenarios as a reference for sending out absentee ballots to your UOCAVA voters.

## **Scenarios for Thursday, June 28, 2018**

### **Deadline 1: State UOCAVA Deadline**

**Scenario 1:** Military or overseas elector (temporary or permanent) submits a mailed, emailed, faxed, or online request to the clerk asking the clerk to send the ballot by mail, email, or fax for the entire calendar year. The request is received by the clerk on, or prior to June 28, 2018.

**Action by clerk:** You must mail, email, or fax (as requested) the voter's ballot no later than June 28, 2018.

**Scenario 2:** Military or overseas elector (temporary or permanent) submits a mailed, emailed, faxed, or online request to the clerk asking the clerk to send the ballot by mail, email, or fax for the entire calendar year or only for the August 14, 2018 Partisan Primary. The request is received by the clerk after June 28, 2018.

**Action by clerk:** You must mail, email, or fax (as requested) the voter's ballot within one business day of receiving the request. For example, if you receive the request on Tuesday, July 3 at noon you must send the ballot no later than Thursday, July 5 at noon (July 4 is a state holiday). But see the exception under Scenarios 1 and 2 of the Federal Deadlines guide below for requests received on or before June 30, 2018.

**Scenario 3:** Military or overseas elector (temporary or permanent) submits a mailed, emailed, online, or faxed request to the clerk asking the clerk to send the ballot for only the August 14, 2018 Partisan Primary. The request is received by the clerk on, or prior to, June 28, 2018.

**Action by clerk:** You must mail, email, or fax (as requested) the voter's ballot no later than June 28, 2018.

## Scenarios for Saturday, June 30, 2018

### Deadline 2: Federal UOCAVA Deadline

**Scenario 1:** Military or overseas elector (temporary or permanent) submits a mailed, emailed, faxed, or online request to the clerk asking the clerk to send the ballot by mail, email, or fax for the entire calendar year. The request is received by the clerk on, or prior to June 30, 2018.

**Action by clerk:** You must mail, email, or fax (as requested) the voter's ballot no later than June 30, 2018.

**Scenario 2:** Military or overseas elector (temporary or permanent) submits a mailed, emailed, faxed, or online request to the clerk asking the clerk to send the ballot by mail, email, or fax for the entire calendar year. The request is received by the clerk after June 30, 2018.

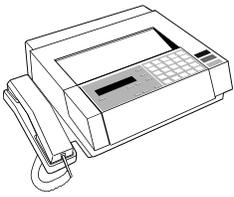
**Action by clerk:** You must mail, email, or fax (as requested) the voter's ballot within one business day of receiving the request. For example, if you receive the request on a Friday at noon, you must send the ballot no later than Monday at noon.

**Scenario 3:** Military or overseas elector (temporary or permanent) submits a mailed, emailed, online, or faxed request to the clerk asking the clerk to send the ballot for only the August 14, 2018 Partisan Primary. The request is received by the clerk on, or prior to, June 30, 2018.

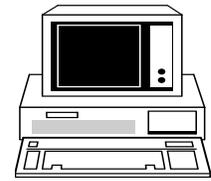
**Action by clerk:** You must mail, email, or fax (as requested) the voter's ballot no later than June 30, 2018.

**Scenario 4:** Military or overseas elector (temporary or permanent) submits a mailed, emailed, faxed, or online request to the clerk asking the clerk to send the ballot for only the August 14, 2018 Partisan Primary. The request is received by the clerk after June 30, 2018.

**Action by clerk:** You must mail, email, or fax (as requested) the voter's ballot within one business day from receiving the request. For example, if you receive the voter's request on a Monday, you must mail, email, or fax the ballot no later than Tuesday.



## Faxing or E-mailing Absentee Ballots



All voters can request to have an absentee ballot emailed or faxed to them. If you receive a request from a voter who would like to receive their ballot by email or fax, follow these instructions when sending the voter their ballot.

### REQUEST

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- **Review the written request for an absentee ballot from a qualified elector.** The absentee application request may be on the form prescribed by the Wisconsin Elections Commission (WEC) (Application for Absentee Ballot EL-121) or may be in the form of a letter, email or fax that contains the information needed for an absentee ballot request. Remember, the request must be in writing, but email and fax requests do not need to include the voter's signature. Voters can also submit their request through the MyVote Wisconsin website: [MyVote.wi.gov](http://MyVote.wi.gov). You will receive an email notification when the voter makes their request through MyVote.
- **All voters may receive their absentee ballot by mail, email or fax.** However, clerks must honor email and fax requests from Military, Temporary Overseas and Permanent Overseas voters. Military, Permanent Overseas, indefinitely confined, and confidential voters do not need to provide a photo ID with their request. Regular and Temporary Overseas voters must provide a photo ID with their absentee ballot request.
- After determining that the elector is qualified to receive an absentee ballot, the municipal clerk may fax or e-mail the ballot to the elector.

### FAXING

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- The municipal clerk should initial the ballot in the endorsement section and initial the face of the ballot.
- Fax the ballot and the face of the [Certification Envelope](#) along with the [Uniform Instructions for Absentee Voters](#).
- The voter should be instructed to vote the ballot in the presence of a witness, fold the ballot and seal it inside a regular, non-window envelope, and complete and sign the absentee certificate. A U.S. citizen, age 18 years or older, must witness, sign, and provide his or her address on the certificate. Military or permanent overseas voters must provide their birthdate. The certificate should be affixed (with glue or tape) to the envelope containing the voted ballot. The envelope with the certificate attached should be placed into another, larger, envelope, sealed and mailed to the municipal clerk. The ballot must be received by 8 p.m. on Election Day.
- When faxing to military and overseas voters (temporary and permanent), follow procedures set out in [Fax & Email Guidelines](#) provided by the Federal Voting Assistance Program.

### E-MAILING

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- The municipal clerk should print their initials in the endorsement section of the ballot and on the face of the ballot and scan the initialed ballot. If you do not have access to a scanner, work with your county or the WEC to determine an alternate way of initialing the ballot before sending it via email.

- Email the initialed ballot and the face of the [Absentee Ballot Certificate](#) along with the [Uniform Instructions for Absentee Voters](#).
- The elector should be instructed to print the ballot, vote the ballot in the presence of a witness, fold the ballot and seal it inside a regular, non-window envelope, and complete and sign the absentee certificate. An U.S. citizen, age 18 years or older, must witness, sign, and provide his or her address on the certificate. Military or permanent overseas voters must provide their birthdate. The certificate should be affixed (with glue or tape) to the envelope containing the voted ballot. The envelope with the certificate attached should be placed into another, larger, envelope, sealed and mailed to the municipal clerk. The ballot must be received by 8 p.m. on Election Day.

## **RETURN**

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- The absentee elector must return the hard copy of the ballot and the completed certificate to the municipal clerk in time so that the clerk can deliver the ballot to the polling place before the close of the polls.
- The elector may choose overnight delivery to assure that their ballot arrives on time. The municipal clerk is not responsible for return postage of a faxed or e-mailed absentee ballot.
- The USPS recommends that ballots be mailed at least one week prior to the date of the Election to arrive on time. If the ballot is returned from overseas, the ballot should be mailed earlier.

## **DOCUMENTATION**

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- The municipal clerk records the date absentee ballots are faxed or e-mailed to voters in WisVote or forwards the information to their WisVote Provider.
- When absentee ballots are returned to the clerk's office, the municipal clerk or their WisVote Provider records the information in WisVote. The clerk ensures the certificate is attached to the envelope holding the ballot. If the certificate is not attached, the clerk uses tape or glue to affix the certificate to the envelope. If the voter did not seal the ballot in an envelope as directed, the clerk encloses the ballot in a certificate envelope and affixes the completed certificate. The clerk delivers the ballot to the appropriate polling place in a carrier envelope.
- At the polling place, the election inspectors follow the procedures for processing absentee ballots. The ballot may be remade by 2 election inspectors so the ballot is accepted by electronic tabulating equipment.

# WISCONSIN ELECTIONS COMMISSION

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MARK L. THOMSEN, CHAIR

INTERIM ADMINISTRATOR MEAGAN WOLFE

**DATE:** March 13, 2018

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

**FROM:** Sara Linski  
WisVote Specialist

**SUBJECT:** Badger Book Pilot Program Details

## Introduction

The Badger Book will be used in 5 polling locations for the Spring Election on April 3, 2018. Staff seek to evaluate the performance and usability of the Badger Book e-poll book software and determine how it interacts with hardware selected by staff. The pilot program will provide the opportunity to gather feedback and make improvements before making the system available statewide for the August and November elections.

## Software Features and Hardware Configurations

Staff determined three main functions that the Badger Book will cover: checking in a voter, processing an absentee ballot, and registering a voter. In addition, the software will support the redirection of voters who attempt to vote at the wrong polling place, capture misspelling notes on a voter record, direct a poll worker to offer provisional voting opportunities in appropriate situations, and allow local elections officials to print necessary reports for post-election activities. These features will be supported by a barcode scanner which will have the ability to search for the voter by name during the check in process and for an absentee ballot by the mailing ID listed on the absentee ballot return envelope.

When the voter data is downloaded from WisVote and transferred to the USB to be loaded onto the Badger Book, all poll book information will become encrypted. Voter data will then only be accessible to those with a login to the Badger Book system. The Badger Book devices will not be connected to the internet on Election Day.

Two configurations for hardware will be used during the pilot in the Spring Election:

1. The City of Brookfield and City of Mequon will use the Point of Service configuration. Each Badger Book station will include:

- ELO PC all-in-one with a 15-inch monitor (election inspector facing)
  - 10-inch ELO touchscreen monitor (voter facing)
  - Printer stand
  - Wireless keyboard
  - Wireless mouse
  - Thermal receipt printer
  - Barcode scanner
2. The Town of Trenton, City of Sun Prairie, and City of Beloit will use the tablet-based option. Each Badger Book station will include:
- HP 2 tablet
  - Swivel base
  - USB hub extender
  - Wireless key board
  - Wireless mouse
  - Thermal receipt printer
  - Barcode Scanner

**Participants**

The pilot will take place in 5 polling locations. Staff has been in regular contact with the selected locations since November 2017. As part of participating in the pilot, clerks agreed to these stipulations:

1. The polling location must be willing to incorporate Election Day Registrations into the regular voter check in line.
2. Absentee ballots sent to the pilot location must not be pre-numbered.
3. Poll workers who will be working the pilot locations must attend Badger Book training the week prior to Election Day.
4. The polling location should be equipped and prepared to run the election as if there were no e-poll books. The polling location and poll workers must be equipped to switch to paper poll book process if needed.
5. For voters registering on Election Day, election inspectors will need to use their existing process to district voters and make sure they are in the correct polling location. The Badger Book will not be able to make that determination.
6. Either the clerk or a designee will need to be on site at the polling location to assist in troubleshooting with poll workers and collecting feedback.
7. Hardware will be provided at no cost for the pilot.

*2018 Spring Election Pilot Sites, April 3, 2018*

<b>Municipality</b>	<b>County</b>	<b>Polling Location</b>	<b>Ward(s)</b>
City of Brookfield	Waukesha County	Brookfield Public Safety Building	Ward 14-17
Town of Trenton	Washington County	Trenton Town Hall	Ward 1-8

City of Beloit	Rock County	First Congressional Church	Wards 16
City of Sun Prairie	Dane County	Colonial Club	Ward 1-5
City of Mequon	Ozaukee County	Pieper Power Education Center	Wards 8-10

### **On Boarding**

As part of being a pilot location, each clerk has agreed to additional training for their poll workers on March 26-29. Clerks will find and secure a training location in which to train their poll workers on the Badger Book. Poll workers will be required to receive training on all three functions: Voter Check In, Processing an Absentee, and Election Day Registration. Additionally, most clerks will hold a voter event to provide voters the opportunity to ask questions and acquaint themselves with the equipment before Election Day. Details about training, voter events, hardware configuration, and the staff resources are found in the table below.

#### *2018 Spring Election Pilot Sites, April 3, 2018*

<b>Municipality</b>	<b>Training Date</b>	<b>Voter Event</b>	<b>Type of Hardware</b>	<b>Assigned Election Day WEC Staff</b>
City of Brookfield	3/27	3/27 2:00pm – 5:00pm	Point of Service	Sara Linski
Town of Trenton	3/26	n/a	Tablet based	Christopher Doffing
City of Beloit	3/28	3/28 11:00am – 12:30pm	Tablet based	Robert Williams
City of Sun Prairie	3/29	3/29 12:00pm – 2:00pm	Tablet based	Mike Nelson
City of Mequon	3/26	3/26 4:00pm – 5:30pm	Point of Service	Michelle Hawley

### **Methods for Feedback**

To evaluate the Badger Book, several strategies will be employed to collect feedback. Timing feedback will be collected using the Voter Wait Time Tool from the Election Tools resources. Voters will be asked to hold scanned cards at the beginning of the line and to hand them back to a poll worker at the end of the check in process where they will be scanned back in. This data will then be sent back to the website TimeStation where we can evaluate the wait time a voter experienced at a site using the tablet-based configuration and the point of service-based configuration. This data will be compared against two paper poll book sites in the Village of Waunakee and City of New Berlin who will also be collecting voter wait time data. Poll worker satisfaction and usability feedback for hardware and software will be gathered by paper survey

completed at the end of their shift. Additionally, feedback will be gathered from voters via optional paper surveys to complete before leaving the polling location. Using these strategies, the pilot will aim to answer the below questions:

#### Hardware and Configuration

- Is the hardware easy and intuitive for a poll worker and voter to use?
- Did scanning and typing to search for a voter move any more quickly than searching for a voter by hand on the paper poll book?
- Did the point of service hardware configuration perform better or worse than the tablet-based configuration?
- How did the consolidation of lines for Check-In and Election Day Registrations impact the voter experience overall?
- Were there any communication lapses or issues between networked Badger Books?

#### Software

- Do poll workers struggle to find the next step in a process?
- Do poll workers struggle to find how to go back a step in the process?
- Was there any information lacking on any screen that impeded a poll worker's ability to perform their job?
- Did any instructions in the poll book conflict with training provided at the municipality level?
- Do poll workers feel more confident in their ability to evaluate a photo ID?
- Were poll workers able to validate voter numbers throughout the day?
- Do poll workers feel it is easier to find the correct voter using the e-poll book versus paper poll book?
- Did any language create confusion for what a poll worker is supposed to do next?
- Did the addition of the statewide voter database for redirection purposes provide any benefit?
- How often does a poll worker require assistance to navigate the system?
- What, if any, scenarios arise that the Badger Book cannot handle?

#### Post-Pilot Activities

After the election, staff will reconvene to share experiences and evaluate poll worker, voter, and clerk feedback to determine what improvements or fixes need to be made to the system before launch. Staff will work with the development team to make these changes and with the PDS team to redesign the hardware configuration, if needed. Beyond that, developers will focus on creating clerk workflows in WisVote to manage their own data download before the election and upload voter participation and voter registration information post-election. Staff will also work to provide additional opportunities for clerks to evaluate the Badger Book for purchasing purposes in summer 2018.

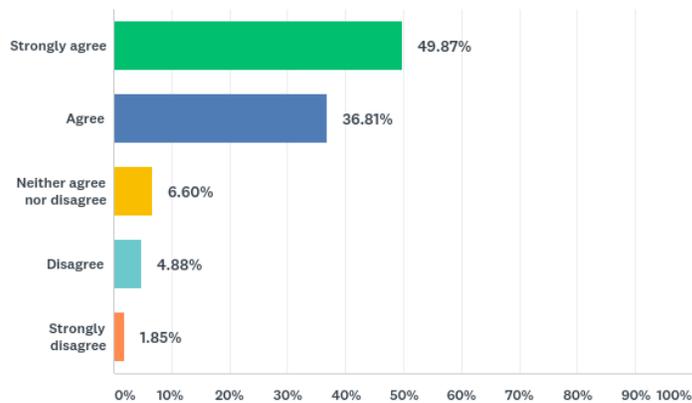
# Badger Book Pilot

## Spring Election 2018 Feedback

Data below is reflective of data collected from 40 poll workers and 760 voters who participated in the Badger Book pilot in Beloit, Brookfield, Mequon, Sun Prairie, and Trenton.

### Voter Experience

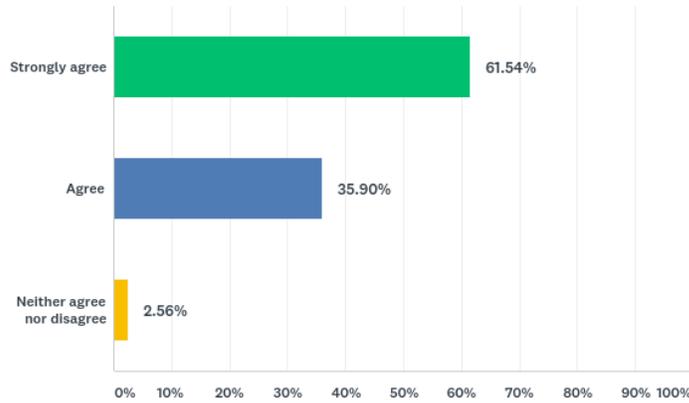
Q2 The electronic poll book was quick and easy for me to use



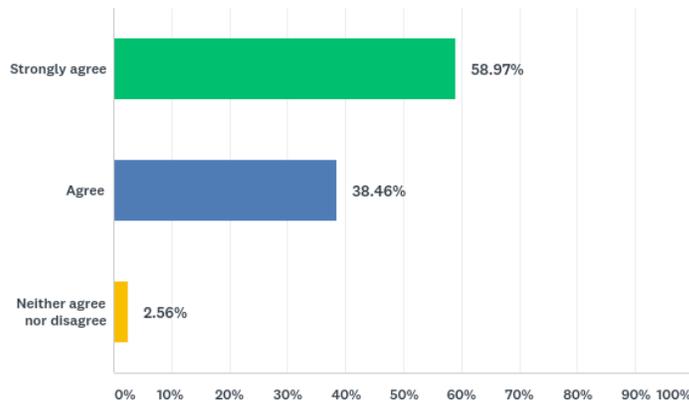
## Poll Workers

### Check In

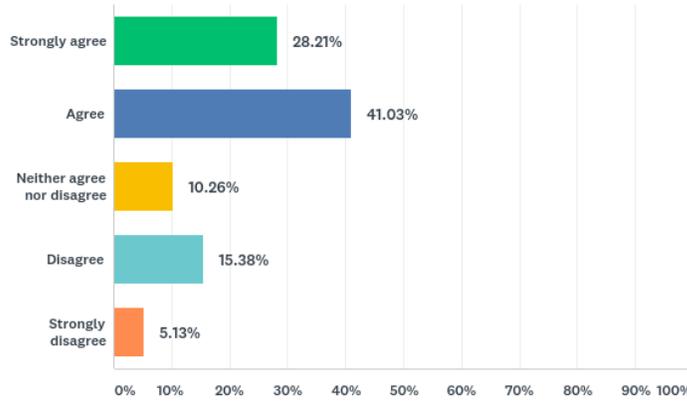
Q12 Overall, I am satisfied with the ease of completing the task of checking in a voter



Q13 Overall, I am satisfied with the amount of time it took to check in a voter

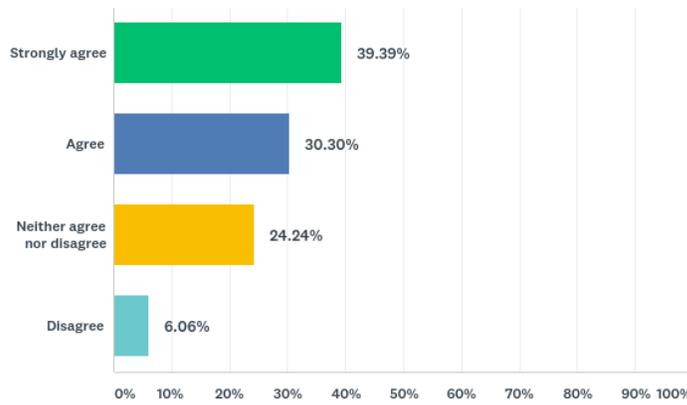


Q46 We had enough devices to manage the lines appropriately

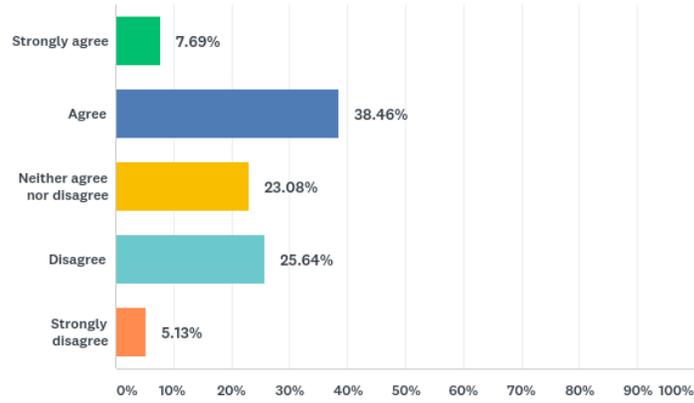


Registration

Q32 Overall, I am satisfied with the amount of time it took to complete an Election Day Registration



Q45 Registering voters in the same line as check in worked well in our polling location



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DEAN KNUDSON  
MARK L. THOMSEN, CHAIR

INTERIM ADMINISTRATOR MEAGAN WOLFE

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**DATE:** April 12, 2018

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

**FROM:** Sara Linski  
**WisVote Specialist**

**SUBJECT:** Badger Book Interest Level and Implementation Plans

The Wisconsin Elections Commission recently conducted a pilot test during the 2018 Spring Election to evaluate the newly developed electronic poll book - the Badger Book. Staff is still in the process of reviewing feedback from clerks, poll workers, voters and voter wait time data. The results of this feedback will be used to update the system before making it available statewide.

To gain perspective on your interest and/or plans to purchase and use Badger Books, staff requests that you [click here to complete the Badger Book Interest Level and Implementation Plans survey](#). Information collected from this survey will not be used as a purchase order for the electronic poll books, but staff will use the results to develop and deploy a roll out strategy for those interested in implementing in 2018. **If you plan on purchasing and using Badger Books in 2018, please complete the survey by April 27.**

If you have questions or concerns related to this request, please contact the Elections Commission Help Desk at [elections@wi.gov](mailto:elections@wi.gov) or (608-261-2028).



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INTERIM ADMINISTRATOR MEAGAN WOLFE

## MEMORANDUM

**DATE:** For the Meeting of May 24, 2018

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Interim Administrator

Prepared and Presented by:  
Sarah Whitt                      Jodi Kitts  
WisVote IT Lead              WisVote Specialist

**SUBJECT:** Update on ERIC Supplemental Poll List Process

This memo provides updates on the ERIC Supplemental Poll List process that was used for the 2018 Spring Election, recommendations for using the same process at the 2018 August Partisan Primary and information concerning the 2018 mailing to voters who are Eligible but Unregistered.

### Background

On October 24, 2017, Commission staff identified approximately 340,000 registered voters who appeared to have moved based on data provided by the Electronic Registration Information Center (ERIC). These voters were then mailed a postcard and encouraged to re-register if they had moved, or were given an option to continue their registration at their current address within 30 days if they did not move. On January 9, 2018 Commission staff deactivated the registration of any voters who did not re-register or did not request continuation at their current address within the 30-day period.

During the 2018 Spring Primary, WisVote staff received an increased volume of calls from voters and/or local election officials indicating that some voters had been deactivated as a result of the ERIC mailing even though the voter indicated at the polls that they had not moved.

At the March 2, 2018 meeting of the Elections Commission, the Commission approved having WEC staff provide ERIC Supplemental Poll Lists for local election officials to use at the 2018 Spring Election. These lists included any voters who were deactivated as part of the ERIC process who had not subsequently re-registered or had not been deactivated for a different reason such as being deceased or being a felon. If a voter appeared at the polls, claimed they had not moved and appeared on the ERIC Supplemental List, the voter was allowed to sign an affirmation that they still lived at the address on the ERIC Supplemental List, and were allowed to vote without having to re-register on Election Day. Clerks were also permitted to contact their ERIC voters ahead of the election, or to investigate their

ERIC voters against other reliable government records available to the clerk to confirm their residency status and reactivate their voter record prior to Election Day.

### **Preparing the ERIC Supplemental Lists**

WEC staff had to make several changes to the WisVote system quickly in order to support the ERIC supplemental poll list process.

First, a new view was added in WisVote so clerks could easily view and print lists of their ERIC voters to research ahead of the election if they chose to. The new view filtered out any ERIC voters who had already been reactivated, had subsequently re-registered, or had been deactivated for a reason other than ERIC, such as being deceased or serving a felony sentence.

The new ERIC Supplemental Poll List report was then created in WisVote. Clerks were instructed to print the new report along with their poll books. The printed report filters out ERIC voters who had been reactivated, re-registered, or were marked as Deceased or as Felons. The report is grouped by reporting unit to match the poll list and has a signature box where the voter signs. The signature area includes confirmation language oriented so the voter can easily read it that confirms the voter still resides at the address listed on the ERIC Supplemental List. New training materials were prepared for the report and distributed to clerks ahead of the 2018 Spring Election.

Clerks were instructed to scan any pages of the ERIC supplemental list where voters signed, and email them to the Help Desk after Election Day. WisVote staff handled the processing of the ERIC supplemental voters, reactivating the voters and recording the votes in WisVote on behalf of the clerks, with an average turnaround time of 24 hours.

### **Election Day Observations**

The implementation of ERIC Supplemental Poll Lists for the 2018 Spring Election appeared to go smoothly. WEC staff did not take any ERIC-related phone calls from either voters or clerks on Election Day. The City of Milwaukee created a support team to assist with ERIC Supplemental List issues and they also reported they did not receive any ERIC-related phone calls on Election Day.

### **Statistics**

Currently, of the 1,853 Wisconsin municipalities, 1,327 municipalities have reported to WEC staff that they did not have any voters sign their ERIC Supplemental Poll Lists for the 2018 Spring Election or they signed in error because they actually did move.

419 municipalities reported to WEC staff that they did have voters use and sign the ERIC Supplemental Poll Lists, which resulted in 1,328 voter records being reactivated. Staff is still awaiting confirmation from the additional 107 municipalities regarding their usage of the ERIC Supplemental List.

### **Recommendations for Upcoming Elections**

The ERIC Supplemental Poll Lists worked well for the 2018 Spring Election, therefore WEC staff believes the same process should be put in place for the upcoming special elections and the 2018

Partisan Primary. Continuing the same process allows eligible voters to vote without having to re-register, while minimizing additional training of election workers. WEC staff wishes to review the process after the Partisan Primary to make sure no other unforeseen issues exist before making a recommendation for the 2018 General Election. Please see the recommended motion at the end of this memorandum.

### **Continuing Cooperation with DMV**

WEC staff has continued to work with the Wisconsin Department of Transportation, Division of Motor Vehicles (DMV), to investigate voters who were flagged as having potentially moved based on DMV data, but who indicated they did not. DMV investigated approximately 100 customers provided by WEC staff and confirmed that the data they provided to ERIC was correct for those customers. There was a range of situations represented by these customers. Some had updated their address on the DMV website. Some had been updated through DMV's National Change of Address process. Some customers listed the new address on a vehicle registration form, changed it at the counter at a DMV Service Center, or listed it at a dealership when they were purchasing a vehicle. DMV was able to provide back-up audit logging and paper forms to confirm that the customers did in fact update their address at DMV (except in the case of National Change of Address processing, which is driven by customers filling out a mover card with the United States Postal Service).

### **2018 Mailing to Eligible but Unregistered Voters**

In June of 2018, WEC Staff will send a mailing to Wisconsin residents that have been identified by ERIC as being eligible to register to vote, but who are not yet registered. The ERIC Eligible but Unregistered mailing is required in the ERIC Membership Agreement to be run a minimum of once every two years, ahead of the November General Election.

The first Eligible but Unregistered mailing under ERIC was performed in the fall of 2016, before online voter registration was available. Staff anticipates that the 2018 mailing will be more successful now that voters can simply go to [myvote.wi.gov](http://myvote.wi.gov) and complete their registration process online. The goal of the mailing is to get voters registered ahead of the 2018 General Election so there are fewer Election Day Registrations that local election officials need to process. This results in direct cost savings for local governments. A sample of the proposed postcard is attached to this memorandum.

### **Conclusion and Motion**

The ERIC Supplemental List process has proven to be an effective way to allow those voters who were removed through the ERIC Movers process but did not move to vote without unnecessary burdens. It also effectively identified voters who do need to re-register and required them to do so. The process was not overly burdensome or confusing to local election officials. The technical changes made in WisVote to support this process have already been made and continued use of the process does not present significant cost increases for Commission Staff.

### **Recommended Motion:**

The Elections Commission approves the staff plan described above to continue use of the ERIC Supplemental List process at the 2018 Partisan Primary.

Our records show you may not be registered to vote  
Save time on Election Day - register to vote now!



Upcoming elections  
August 14, 2018  
November 6, 2018

Wisconsin Elections Commission  
212 E Washington Avenue  
Madison, WI 53703-2855



NONPROFIT ORG  
US POSTAGE  
PAID  
MADISON WI  
PERMIT NO 1369

This postcard is an official mailing from the State of Wisconsin.

**Register to Vote Online - Visit [myvote.wi.gov](http://myvote.wi.gov) and click Register to Vote**

**Or you can register to vote before the election** by mail, at your municipal clerk's office, or at your polling place on Election Day. Don't forget your Proof of Residence document!

**Think you are already registered?** Go to [myvote.wi.gov](http://myvote.wi.gov) to verify your registration.

*MyVote está disponible en español*

To register to vote, you must be a U.S. citizen, at least 18 years of age on Election Day, and not otherwise disqualified for a reason such as currently serving a felony sentence.

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